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*(subject to editorial corrections)**

2006/31653

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

Between:

JULIE ANN COOPER

Plaintiff;

And

JACQUELINE BYFORD

And

ABBEY NATIONAL PLC

Defendants.

DEENY J

[1] The plaintiff was born on 24 June 1973 and is now 42 years old.

[2] On 25 July 2003 she was driving her motor vehicle on the A8 dual carriageway in Larne when the first defendant, driving a vehicle owned by the second defendant, pulled out in front of her. This caused a violent impact. The plaintiff had been driving at 40 mph although apprehending that the accident was about to happen braked to some degree before the impact. There was extensive damage to both cars including considerable frontal damage to the plaintiff's car. The plaintiff informed a doctor that the vehicle was written-off for insurance purposes following the accident. Her door was jammed. An ambulance brought her to the A&E Department of Antrim Area Hospital.

[3] This judgment relates to the assessment of damages for the injuries sustained by the plaintiff in that accident. The first defendant was convicted on her own plea of careless driving. Nevertheless, the defence denied liability but this denial was not persisted in at the trial of the action. That trial took place on 15, 16 and 19 March before me.

[4] A very considerable volume of medical reports were put in evidence by agreement between the parties, subject to the right of each side to comment. They were as follows:

(i) Dr R K Jennings, General Practitioner (GP), dated 23/09/03.

(ii) Professor M Cullen, Department of Sports Medicine, Musgrave Park Hospital dated 08/04/04 and 24/05/04.

(iii) Dr Malcolm Crone, Consultant Radiologist, dated 28/04/04; 27/03/06; 22/08/13; 08/11/13 and a joint report with Dr Noel Napier dated 26/12/15.

(iv) Mr Michael Laverick FRCS (Ed), Consultant Orthopaedic Surgeon, dated 13/08/04; 01/09/04; 02/03/05; 19/04/05; 13/09/06.

(v) Dr Brian Mangan MD MRCPsych, Consultant Psychiatrist, dated 18/01/05 and 15/08/07.

(vi) Dr Eoin (sic) Napier, Consultant Radiologist, dated 22/11/06.

(vii) Dr John O'Hanlon FCAI, Consultant in Anaesthetics and Pain Management, dated 07/11/11.

(viii) Mr Richard Wallace MD FRCS, Consultant Orthopaedic Surgeon, dated 15/03/14; 20/05/14 and 22/09/15.

(ix) Dr Noel Napier, Consultant Radiologist, dated 21/11/14; 20/09/15 and the joint report mentioned above with Dr Crone.

(x) Mr E A Cooke FRCS, Consultant Orthopaedic Surgeon, dated 20/02/16.

Those medical reports were all on behalf of the plaintiff.

[5] The defendant's medical reports were as follows:

(i) Mr J W Calderwood OBE FRCS, Consultant Orthopaedic Surgeon, dated 20/12/05; 05/05/06 and 11/11/10.

(ii) Dr Neta Chada MRCPsych, Consultant Psychiatrist, dated 17/10/08.

(iii) Mr Alan Yeates FRCS, Consultant Orthopaedic Surgeon, dated 22/09/15 and 29/02/16.

[6] In addition I was given at the commencement of the hearing a 5 page letter from Mr J W Calderwood to Messrs C & H Jefferson of 21 July 2008. Mr James McNulty Q.C., who appeared with Mr Stephen Ham for the plaintiff, said that it had

only just been disclosed by the defence to him. Mr David Ringland Q.C. appeared with Mr Michael Maxwell for the defendants.

[7] In addition I heard oral evidence from Mr Cooke, Mr Yeates, Dr Mangan and Dr Chada. By agreement the court was provided with 5 lever arch files of various records from her G.P., police, the benefits agency and other sources for five years or more after July 2003.

[8] In the circumstances it is not appropriate to set out or summarise at length all this evidence but I have taken it into account. I will set out so much of it as is necessary with regard to the findings which I have made.

Consideration

[9] It can be seen from the evidence that the interpretation of the results of this road traffic accident is not straightforward. It is not disputed that the lady sustained whiplash type injuries to her neck and shoulders in the accident. She complained of those at the time and for a considerable period thereafter. She underwent physiotherapy.

[10] Beyond that the picture here is a complex and difficult one. Nevertheless, the court must reach a conclusion in arriving at an award of fair and reasonable compensation to the plaintiff for her personal injuries loss and damage arising from the accident. If this were confined to personal injuries it may be that the parties could have resolved the matter as so frequently happens in the personal injury list of the Queen's Bench Division. It may be that the matters may have been made more fraught because of the very substantial financial loss claimed by the plaintiff. The plaintiff's advisers put forward a scenario on the basis that the plaintiff would have remained a police constable fit to do her duties for a full 5 years were it not for this accident. On that scenario she suffered a loss of £374,649. They put forward an alternative scenario with a slightly greater loss on the basis that she would have been promoted to Sergeant.

[11] By agreement the accountancy evidence was not called at the hearing before me but the court was invited to not only make an award for general damages but to fix the length of time that she was unfit to be a police officer as a result of the negligence of the first defendant.

[12] The competing propositions are epitomised in the view of Mr E A Cooke FRCS and the view of Mr Alan Yeates FRCS. It is perhaps simplest to quote the height of the plaintiff's case as summarised by the concluding paragraph of Mr Cooke's report. He had not only seen the plaintiff, albeit at a late stage, but had reviewed the earlier medical reports and, to a degree records. He concluded as follows:

> "I would accept that she suffered an injury to the left sacroiliac joint resulting in an abnormality in the mid portion of the joint on the iliac side which has been described as revealing minimal sclerosis in the scans of 28 April 2004 and 27 March 2006 but would have expected symptoms in this area to have resolved through time. It is my opinion that her further pregnancies have led to increased injury to this joint and her current symptoms are more likely to relate to changes relating to her pregnancy rather than to be directly attributable to the subject incident. I would allow a period of gradually decreasing pain of approximately 5 years as being directly attributable to the subject incident. I accept, on the balance of probabilities, that the plaintiff's injuries sustained as a result of the subject incident have led to her inability in carrying out her normal employment up to March 2005 and have therefore led to her medical retirement from work on a premature basis."

[13] I address a number of issues in that helpful summary. She was told in March 2005 that she would be compulsorily retired as a police officer. This took effect in May 2005. Having heard the plaintiff give evidence and read the medical reports I am satisfied that that was a major blow to her. She enjoyed her work as a police officer and is entitled to say that she considered herself as having a secure job for life. Given the nature of her duties it was a job that also made up a large part of her social life, she said and I accept.

[14] Mr Cooke refers to two scans. As indicated above there was radiological evidence considered by both Dr Crone and Dr Napier as Consultant Radiologists. Unhappily, there was a divergence initially in their analysis of what was to be seen. Mr McNulty QC then wisely directed a joint report from them. That found minimal sclerosis in relation to the mid portion of the left sacroiliac joint on the iliac side of the joint. Sclerosis means some thickening of the bone. In the joint report of 26 December 2015 both doctors agree that the minimal sclerosis was still present on 27 March 2006 but not present, or observed at least, in two later scans. The radiologists do not say but Mr Cooke observes that it is possible it was still there on 22 November 2006 but that that particular scan was not best placed to detect that.

[15] Senior Counsel for the defendant repeatedly tried to go back to the earlier scans but as I said this was unhelpful and a waste of time. The best evidence is clearly the final joint conclusions reached by the radiologists.

[16] In favour of the plaintiff, therefore, is that there was objective clinical evidence of a measure of injury to the sacroiliac joint consistent with the road accident. Mr Yeates expressed surprise at that given the nature of the accident but I find convincing the evidence of Mr Cooke that considerable force could be

transmitted through the foot and left leg, depressing the clutch just before the accident, into that joint causing injury to it. He said there was literature to that effect. I am satisfied on the evidence that she did sustain such an injury.

[17] Mr Ringland also cross-examined her at some length to try and show there was a lack of complaint about the pelvis, which this joint can be said to form a part of, in the early days after the accident. I did not find this helpful. There are undoubtedly complaints about the lumbar spine. As was said in evidence a complaint relating to that area might well be reflective of an injury to the sacroiliac joint. Indeed, I note that the defendant's own surgeon who examined the plaintiff referred to the 'lumbosacral spine' in his report of 21 July 2008. It is not disputed by anyone that she had a soft tissue impact to the lower back and I am satisfied, despite some variation in history, that this was coupled with an injury to the sacro left joint. That is the opinion of the doctors who saw her in the years immediately after the accident including Professor Cullen, to whom she was referred by the police, and the defendant's own surgeon, the very experienced Mr J W Calderwood.

[18] Equally well the radiologists are satisfied that some other changes seen on the scans are not to be attributed by the court to the accident. It may be that they contribute to the plaintiff's continuing complaints.

[19] Apart from a very limited amount of voluntary counselling the plaintiff has not worked since the accident. Her counsel could not argue for any loss of earnings after July 2008. It is then that she found, to her happiness, that she was pregnant after many years of wanting to have a baby. A second child followed.

[20] Her counsel points out that the clear consensus of the doctors who saw her in the years after the injury, despite some variation in history was that she was suffering from back pain.

[21] It is common case that her whiplash injury resolved in about six months. She is entitled to compensation for that.

[22] There is a claim for damages for depression and anxiety based on the report of the consultant psychiatrist, Dr Mangan. This is contested by the defendant on the basis of the report in evidence of Dr Neta Chada FRCP. Both these doctors gave candid and helpful evidence to the court. Dr Chada was persuasive in arguing that all the plaintiff had was a mild adjustment disorder for 12 or 18 months after the accident with perhaps some recurrence of that later after she was discharged from the police. Although that was a label that Dr Mangan resisted it does not seem to me that there is in fact that much between these two witnesses. Dr Mangan was pointing out that the anxiety which she suffered affected her sensation of pain. This is relevant to the issue of the veracity of her complaints to which I will turn in due course. He points to the multiple strong opiate pain killers that she was taking, for example in September 2005. They included tramadol and kapake. He said it was well-known that depression and anxiety altered the patient's perception of pain so

that they felt physical pain more than a well person might do. He had not seen her since 2007 but Dr Chada only saw her in November 2008. Both had read the notes. He did not think that this could be described as a mild adjustment loss or that it only lasted six months. He noted that she seems to have been referred by the police to a psychologist and received a number of counselling sessions. In a thoroughly professional cross-examination Mr Michael Maxwell put to Dr Mangan the record of the plaintiff's complaint to the relevant social security agency for the purpose of obtaining several categories of disability benefits. The doctor acknowledged that the complaints made were very different to the complaints that were being made to him. One of the complaints was in a form completed on her behalf of 5 August 2005 which said she was 'virtually unable to walk', Dr Mangan acknowledged that though she had complained of pain in her back to him he had no note or recollection of her ever using a stick or anything of that kind. Nor had she complained of dizziness although that is something that might have been affected by her medication. He acknowledged that she was an inaccurate historian, for example claiming that she had been taking fertility treatment drugs before the road accident, when in fact although they had been mooted she had not begun a course between the prescription of them in February 2003 and the accident in July 2003.

[23] It was put to him that she commenced an Open University course in 2007 which would be inconsistent with the claim of lack of concentration etc. Dr Mangan agreed with that but pointed out that many under-graduates did suffer from depression and anxiety. He pointed out and I take into account that in his view she improved between 2007 and 2008 viz the difference between his report on her and that of Dr Chada.

[24] He had to acknowledge that on examining the records it does not appear that her general practitioner did prescribe for her any psychotropic or other drugs for depression and anxiety. The diazepam appears to be related to the back condition. He acknowledged that in her past history there had been a number of stressors. He was impressed by the number of treatments which she had sought out to assist her e.g. cognitive behaviour therapy and eye movement desensitisation reprocessing. Dr Mangan agreed with counsel that her complaints to the benefits agency were either exaggerated wildly or meant that she was very disabled.

[25] I pause to observe that that applies to complaints that went on for some years past a time when any of the doctors would so describe her leaving the inevitable inference that she was indeed exaggerating wildly.

[26] In answer to questions from the court the doctor thought that given her family history she was constitutionally and biologically vulnerable to an accident of this kind. She was also more likely to have a protracted recovery given her own past personal history, into which it is not necessary to go in detail in this judgment.

[27] He was followed in the witness box by Dr Neta Chada. Her evidence was in accordance with her report. She commented on the willingness of the lady to start a

further counselling course in September 2006 which led to the successful award of a diploma in June 2008. Depression and anxiety, if present, would normally cause a lack of motivation especially if her sleep was poor as she claimed it was at that time. She had told her that she had started an earlier course in October 2005 i.e. just a few months after her discharge from the police.

[28] Her attention was drawn to a number of the DLA records. There were many complaints that had not been made to her in October 2008 but were nevertheless being made by the plaintiff in May 2008. Reference was made in her examination to the records to be found at file 5 / 42. This was a discharge from physiotherapy after 29 treatments between May 2004 and April 2005. The physiotherapist recorded that the plaintiff had had 'major benefit' from this course of treatment. Dr Chada said that such a record would normally be an agreed outcome between the physiotherapist and the plaintiff. The plaintiff was subsequently reluctant to accept that.

[29] This witness made reference to a number of personal and family issues as contributing to the plaintiff's difficulties in the period between 2005 and 2008. It must be borne in mind however that she also referred to the loss of her job as a negative factor. The loss of the job was caused by the first defendant's negligence. The witness laid evidence on the absence of treatment by the general practitioner for any alleged depression or anxiety.

[30] The witness, in cross-examination by Mr McNulty, adhered to a view that she had only an adjustment disorder that was probably about 12 to 18 months in duration and that anything subsequent to that was unhappiness rather than a diagnosable illness within ICD 10. She was firm in believing that there was no one diagnosable mental illness by 2006 on the basis of the record she had seen and the history given. In answer to questions from the court she said that while she could understand the very extreme complaints made to the social security agency in 2004 and perhaps 2005 she had more difficulty with anything after that and no explanation at all for the complaints being made in 2008.

[31] I accept counsel's submission that one should not over emphasise the issue of labelling here. This lady did suffer at least an adjustment disorder. It was effectively not treated by the GP who obviously knew her well. The basis of its duration is very dependent on the plaintiff's own complaints. As outlined above the completion of the records to the social security agency to which I must return indicate that the plaintiff is at least a poor historian. I can only be satisfied, on the balance of probabilities, that she suffered psychological effects of a moderate but compensatable kind for up to two years after the accident.

[32] The greater claim for general damages and the principal justification for being unfit for work for so long relates to her complaints of lumbo-sacral pain. With regard to that an important factor in favour of the plaintiff is that she was prepared in the first years after the accident not only to seek help from a wide variety of

clinical sources but to undergo injections to the sacroiliac joint which, Mr Yeates accepted, were very painful. Either she was suffering from back pain or she believed she was, I conclude.

[33] The opinion of Mr Cooke FRCS was that her symptoms from the accident lasted up to 5 years, as he said in his evidence but he also said that there was some improvement from 2006 on.

[34] The defendants relied on the opinion of Mr H Alan Yeates. He had replaced Mr Calderwood as their surgeon during the very long lead up time to the trial in this action. He saw the plaintiff on 8 June 2015. He saw some documents then and then some further reports on which he commented in a letter of 29 February 2016. He gave evidence at the hearing. In commenting on the report of Mr Cooke Mr Yeates said:

> "He does not adequately explain as to why it would have taken so long for pain to have resolved. Even if it were to be accepted that there was initially a slight change in the appearance of the sacroiliac joint that was minimal, given the subsequent radiological evidence it would not have led to a situation of procrastination of pain for a full 5 year period. It is more likely than not that reasonable symptoms on a diminishing basis due to the after effects of the accident have resolved by the 18-month stage."

[35] I have indicated above his dispute with Mr Cooke about the lumbosacral strain and my view of that. Mr Yeates had noted that the airbags had not opened in the car and concluded therefore it was not a very violent collision but I am not persuaded that is a safe assumption to make, particularly when the car was written-off by the defendant's insurance company. In evidence he made the very valid point that the sacroiliac joint was not disrupted by whatever injuries she may have suffered at the time of the accident – there was only a thickening of bone as the joint report found. Given that the radiologists in turn missed it on two different scans he made the valid point that it must have been very minimal. In cross-examination he had to accept that not only the doctors already mentioned but Mr Laverick FRCS who saw her in August 2004 thought her a pleasant and co-operative lady. Furthermore, he acknowledged that Professor Cullen had recommended injections for her. He pointed out however that it was recorded in September 2006 that she had made 'significant progress'. She reported to Mr Laverick in 2006. She had recommenced physiotherapy which I take into account. The effect of his evidence was that she could have returned to work with the police but that owing to her complaints they concluded that she was unfit.

[36] He was cross-examined about Mr Calderwood's report of 2010 but pointed out that an injection she got at that time was for lumbar pain where degenerative

changes have been identified. When pressed with the fact that Professor Cullen, Mr Laverick and Mr Calderwood all had accepted the genuineness of at least some injury he referred to the views of Mr Richard Wallace who saw the plaintiff as her medical adviser in 2014 and 2015. Clearly this is long after the period on which I have to rule.

[37] It is right to say that his view does support that of Mr Yeates to some degree but is expressed somewhat differently. Mr Wallace puts it thus in his report following an examination of 20 May 2014:

> "One would reasonably accept that after a severe impact, symptoms could trouble someone for a period of some 12 to 18 months or occasionally up to 2 years, but more prolonged symptoms would become increasingly difficult to explain, purely on the basis of a musculoligamentous strain injury affecting the lower back."

[38] He pointed out that psychological factors can affect an individual's perception of systems and their ability to cope with such symptoms. This is in accord with the other views expressed to the court. The court must reach a conclusion on whether that affect was a genuine effect caused by psychological impairment or was an exaggeration on the part of the patient and plaintiff.

[39] Mr Cooke said there was literature to the effect that while most soft tissue injuries did indeed recover in the timescale described by Mr Yeates and Mr Wallace some 5-10 per cent did not. I give that evidence appropriate weight. It accords with common sense in that there is in life an exception to almost everything. It also accords with the experience of the court ie that somebody with no claim for compensation may still be suffering from a soft tissue back injury years after they sustained it.

[40] I will return in a moment to the disability living allowance forms on which the defendant relied. It is convenient to mention at this moment that Mr Cooke cautioned that "maladaptive" complaints could be made by patients. He had written on this topic himself and had found it to be quite common amongst patients in his clinic. He did not accept that it automatically meant a lack of veracity.

[41] As stated above one issue that arose was the plaintiff's attempts to requalify as a counsellor or psychologist. She said that began in September 2005 ie only four months after she was discharged from the police. She said it was only two hours every Monday and it was at Newtownabbey College of Education which is only 6 miles from her home. In order get there on time she has to drive in the rush hour. She was still taking the painful injections after that date.

[42] On the other hand, Dr Chada in particular laid stress on the fact that she did go on and obtain a Diploma in counselling. She said that was only obtained by June 2008 but it does infer a course of steady studying leading up to that time. In fact she

had started at the Open University, she said by late 2007, although I do not think that any documents relating to that have been discovered. Certainly they were not shown to the court.

[43] In cross-examining her Mr Michael Maxwell for the defendant elicited that she had a good relationship with her general practitioner although she did not always see the particular one she favoured. Contrary to part of the history she had given she does not seem to have received any medication from her doctor at the time of a number of upsetting incidents in the past, one of which was the death of a colleague. She accepted that was the case. She was inclined to quibble with the physiotherapist's note in 2005 that she had sustained "major benefit" from the course of treatment.

[44] She thought the course had ended because the budget for it had expired. She had to accept, when taken over the records by counsel, that she had inaccurately recorded her own history with regard to attempting the examinations for Sergeant. When taxed about the much exaggerated complaints in the DLA form to be found, for example, at File 4/291, she said that she had attended the surgery of a local politician who had helped her to fill in the first form. The Citizens' Advice Bureau had filled in the second form she said; she did not have a copy. The form was not in her writing. Her complaints included having dizzy spells and stumbling some 3 times a day, which was never a case made to the doctors. She then claimed that this had been written by the benefit adviser of the local politician following questions to herself. It was then pointed out that virtually the same words had been used in the forms completed in 2008. She thought it was quite possible that the 2004 form had been copied but her symptoms were the same. Counsel asked how that could be so when she told the physiotherapist that she had had major benefit from physiotherapy by April 2005. She said that was the view of the physiotherapist. I bear in mind Dr Chada's evidence that that was likely to be an agreed view. When pressed with further exaggerated claims in the forms she acknowledged that she was hoping to get benefit and that she would mimic the adviser's language in completion of the form but that it did reflect her state. She had to admit, because she had been the subject of surveillance, that on several occasions as early as 2004 she was seen going to the shops, the bank, to a picture framing shop and pushing a trolley on her own and driving a car. When counsel asked her a neutral question about how often she suffered the dizziness she replied by asking what he had in the DLA form i.e. a willingness to be combative and not to answer frankly and candidly. She was taken to the claim that she was virtually unable to walk but had no satisfactory explanation for that. She tried to blame the adviser who said that she should describe her worst day. She acknowledged that the time periods were excessive but was guided by the adviser. She accepted it was her responsibility and apologised.

[45] I pause there to say that this would be a poor excuse but an understandable one in a simple and uneducated person. But this lady had achieved 3 A levels and a place at University to read psychology, which she had given up after one year. She was now well on the way to a degree at the Open University. She had been a

serving police officer for nearly a decade. The willingness to exaggerate in a way that I find quite blatant makes it difficult for the court to place any reliance on her word unless otherwise corroborated. She admitted that she had got some £35,000 in benefits over the years. Her husband worked as a mechanic, the loss of her earnings as a police officer must have made a considerable difference to the household even though they had no children at that time. That gave her a motive to exaggerate, I find. Theae were not "maladaptive complaints" to a doctor but studied exaggeration.

[46] She had denied that she had a care component in her benefits but when presented by the statement from the social security agency she had to admit that in fact she had. That was part of the sum of about £160 per week she had received in the period between 2005 and 2008.

Conclusion

[47] On reviewing the papers for the purposes of writing my reserved judgment I came on some entries to which I had not been taken by counsel. They are in the general practitioner's notes and records. Dr McCleary recorded as follows on 20 September 2006:

> "Motor vehicle traffic accidents (MVTA) hit passenger side 13.30 today by lorry. Numbness left leg. Advice."

[48] I then note that 5 days later she is complaining of leg pain and flashbacks and was going to contact a physiotherapist. On 10 November of the same year she is asking for tramadol, the strong medication she had previously been having, but had stopped taking. On 4 December 2006 it is noted that she was due to attend the Dufferin theatre as a day case for lumbar facet joint injection but "unfortunately she has had to cancel". I do not see a further reference to injections after that period. This implies a real level of recovery despite the second traffic accident. There are references to various other matters which may have prayed on her mind at this time unrelated to the 2003 accident, in particular the desire to receive fertility treatment.

[49] It can be seen that there are real difficulties in assessing this matter. I am satisfied on the weight of the medical evidence and the up to date radiological evidence that this plaintiff was enduring pain and suffering for longer than the 12-18 months that would normally be expected. I conclude on the balance of probabilities that she was continuing to suffer, particularly because she was continuing to seek treatment and especially these painful injections. Equally well it is clear that there is evidence of progress between 2005 and 2006 as all the doctors expected. As Mr Cooke put it any pain arising from the original road traffic accident was gradually decreasing over this period. However, for the purposes of assessing a figure for financial loss it seems to me that I have to fix on a date when the consequences flowing from the negligence of the first defendant ceased to render her unfit for employment. I pause to point out that her claim for loss of earnings would

exist to a degree even after such a date if the alternative occupation such as a full-time counsellor or psychologist would have paid less well than that of a police officer. In this case we are concerned about her rank as a police constable. Given that she pulled out of doing the Sergeant's exams on several occasions, as Mr Maxwell established, I am not satisfied that that was a realistic career move for her by 2003. I feel she was quite content to be a constable even if she had occasionally taken on higher responsibilities.

[50] I find that her dealings with the social services agency were disingenuous to the extent of being untruthful. The court must, in accordance with the decision of the Supreme Court in Fairclough Homes Ltd v Summers [2012] UKSC 26, bear this in mind. It is not, however, in my view, such an exceptional case as to warrant refusing her compensation. It is important to bear in mind that the plaintiff does have other degenerative changes in her back which could justify continuing complaints of pain, particularly in somebody who was, in the opinion of her consultant psychiatrist, vulnerable to a poor outcome from an accident.

[51] Doing the best one can with the evidence which one has one can see that 2006 is a period of recovery. But the parties desire to have a firm ruling and a definite date. The onus is on the plaintiff. I consider that I am only satisfied on the balance of probabilities that the plaintiff's inability to work as a result of the accident of 25 July 2003 lasted for 3 years and 2 months from the date of the accident. She commenced her second and successful course of study just after that date, 24 August, 2006. I am not satisfied that she was unfit for work thereafter but if she was it was due to other factors not caused by the defendant, whether psychological, or related to her degenerative changes or her own functional overlay.

General Damages

[52] The plaintiff sustained a whiplash injury to her neck typical of an accident of this kind. Mr Maxwell and Mr McNulty both made helpful submissions on quantum with regard to this and the other heads of personal injury. I take into account that there must, to some degree, be an overlap of the pain and disability arising from one aspect of an accident with the pain and disability arising out of another aspect of the accident. In the light of the evidence and counsel submissions I make an award of £5,000 under this head.

[53] The evidence relating to her psychological state is set out above. She is entitled to be compensated for it to the extent that it was an illness caused by the accident or by the loss of her job which arose from the accident. At the same her general practitioner with whom she got on well does not seem to have ever felt the need to prescribe for her. Furthermore other factors, such as her unhappiness at remaining infertile prior to 2008 will have played a part in lowering her mood. I agree with Mr Maxwell that she falls into the category of minor psychiatry damage addressed at page 12 of the 4th Edition of Guidelines for the Assessment of General Damages in Personal Injury Cases in Northern Ireland, 2015. I award £7,500.

[54] With regard to her major complaints I have taken into account the submissions of counsel. Mr McNulty relied on the decision of Gillen LJ in Belkovic v DSG International Plc [2014] NIQB 139. I observe, however, that the Lord Justice's award of £30,500 for an advancement of significant back trouble by a period of two years did include something for psychological impact. The plaintiff's own greatly exaggerated complaints to DLA and the other factors that made up part of her history over the relevant period of time, now a decade ago, make this a difficult case to value. I have concluded that a figure of £32,500 is appropriate compensation in all the circumstances. The total figure for general damages will therefore be £45,000 with interest at 2% from the date of the writ.

[55] One hopes that the parties will now be able to agree the financial loss on the basis found by the court of three years two months unfitness for work arising out of the careless driving of the defendant. Although I was not expressly addressed on this point it does seem to me that the plaintiff is entitled to some diminution in earnings even after that date if the earnings of a police officer at that time were greater than those of a counsellor or therapist which the plaintiff would have become in this period, were it not for various other factors unconnected with the original accident. If necessary I will hear the parties at a future date to resolve the matter if they are unable to do so.