

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

BETWEEN

GEORGE STEVEN STRANGE

Plaintiff

and

MARK McCULLOUGH

Defendant

SHEIL J

JUDGMENT

[1] The plaintiff in this action is aged 26 having been born on 27 January 1976. On 11 January 1997 he was a front seat passenger in a car being driven along the Larne Road, Ballyclare in the county of Antrim, when a runaway horse ran into it causing the plaintiff personal injury loss and damage.

[2] The only issue before this court is quantum of damages, the defendant having admitted liability on the morning of the trial.

[3] The court had the benefit of medical reports from Mr Brennan FRCS, Consultant Plastic Surgeon, dated 30 January 1997, Dr Davidson, Clinical Psychologist, dated 16 April 1997, Mr Cowie FRCS, Consultant Orthopaedic Surgeon, dated 12 August 1997 and 12 June 2001 together with a short letter dated 21 August 2001, Dr Elliott, Consultant Radiologist dated 12 June 2001 and 6 June 2002, and from the plaintiff's General Medical Practitioner, Dr Bill. The court also had the benefit of oral evidence from Dr Monro, a partner in the plaintiff's general medical practice, and from Mr Cowie FRCS.

[4] The plaintiff was detained for two days in Antrim Hospital following the accident. As a result of the injuries sustained by him the plaintiff has been left with two scars under his chin, which are out of sight normally but which are quite noticeable when he tilts his head backwards. At the time of Mr Brennan's examination on 30 January 1997, he noted a third scar which looked to him like "a mature scar". While the plaintiff denied in evidence any

knowledge of a pre-existing scar, I am satisfied on the evidence which I have heard in this case that the plaintiff did have a scar under his chin prior to the accident on 11 January 1997. He also has a fine but noticeable scar on his right cheek and a small scar at the angle of his left eye which is only noticeable on close examination. As a result of the accident the plaintiff sustained a jolting injury to his neck which gave rise to some musculo-ligamentous sprain in that region, from which he made a full recovery within 6 months.

[5] The main medical issue in contention in this action was whether or not the plaintiff sustained any injury to his back in the accident on 11 January 1997. No such injury was noted on his admission to hospital or during his two day stay therein. The first reference to any back problem following the accident is noted in a referral for physiotherapy by Dr Rafferty on 30 January 1997, 19 days after the accident, which referral appears mainly to have been with reference to the plaintiff's painful neck stating:

"RTA earlier in month - painful neck - restricted extension and rotation - also some LBP (lower back pain) please help."

Mr Wallace FRCS, in his report on behalf of the defendant dated 25 May 2001 states:

"Following such an injury the gradual onset of symptoms as described (by the plaintiff) above would frequently occur. The natural history would then be that of a gradual resolution of symptoms and during the recovery phase symptoms would often be variable in severity. In most cases symptoms would settle within a period of some 12-18 months and more prolonged symptoms would be regarded as unusual. A period off work of 6 months is thought to be unusually long."

[6] In the course of his various medical examinations the plaintiff denied any pre-accident history of back trouble. The records from his general medical practitioner establish that on 1 March 1996, he went to see a doctor in the practice with a sore back, which was diagnosed as being "probably postural (back strain)". In the course of his evidence before this court the plaintiff, while he could not deny the entry in the GP's record with regard to a sore back on 1 March 1996, stated that he had no recollection whatever of this. It is clear from x-ray examination of the plaintiff's lumbar spine carried out by Dr Elliott on 12 June 2001 that the plaintiff had radiological changes in both sacroiliac joints, which pre-dated the accident on 11 January 1997. Mr Cowie FRCS stated that having regard to the underlying condition of the plaintiff's back prior to the accident, he is likely to have had back problems in any event

even if he had not been involved in this accident, and that the condition of his back is being aggravated by the nature of the heavy work in which he is engaged as a maintenance fitter. The plaintiff was off work for a period of 25 weeks following the accident, resulting in a net loss of earnings of £2,805.63. I consider that at most the plaintiff's underlying back condition was temporarily aggravated by his involvement in the accident on 11 January 1997. Most of his back condition after 6 months in my opinion is related to his underlying back condition and the nature of the heavy work in which he is still engaged.

[7] In respect of loss of earnings I allow the plaintiff the £2805.63 claimed in respect of loss of earnings.

[8] In respect of the exacerbation of the underlying back condition I award him the sum of £3,000 for general damages. In addition I award him the sum of £5,000 general damages in respect of the soft tissue injury to his neck and the sum of £7,500 for general damages in respect of his facial scarring giving a total figure for general damages of £15,500. To that sum there has to be added the £900 agreed special damage in respect of the cost of repairing his car. I also award him the sum claimed of £180 in respect of private physiotherapy treatment, giving a total of £19,385.63.

[9] I award interest on the general damages of £15,500 at the rate of 2% per annum from the date of service of the writ of summons until the date of trial and interest at the rate of 6% per annum from the date of service of the writ of summons until the date of trial on the net special damage of £3,885.63.