

**IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND**

**QUEEN'S BENCH DIVISION**

**BETWEEN**

\_\_\_\_\_  
**JOHN LESLIE STEWART**

**Plaintiff**

**and**

**MARK McCULLOUGH**

**Defendant**

\_\_\_\_\_  
**SHEIL J**

**JUDGMENT**

[1] The plaintiff in this action is now aged 26, having been born on 28 May 1976. On 11 January 1997 the plaintiff was driving his Renault car along the Larne Road, Ballyclare in the county of Antrim, when a runaway horse collided with it causing the plaintiff and his front seat passenger, George Strange, personal injuries loss and damage.

[2] The only issue now in this action is that of quantum of damages, the defendant having admitted on the morning of the trial that he was guilty of negligence causing this accident.

[3] The plaintiff at the time of this accident was employed by J O W Tyres as a lorry driver. With that firm he was allowed to drive a 7½ ton lorry on his ordinary driving licence. As he had not yet reached the age of 21, he could not obtain a heavy good vehicle licence. He eventually did obtain one in May 1998, a year later than he would otherwise have done so but for the injuries sustained by him in this accident.

[4] The plaintiff, who sustained a serious head injury, has no recollection of the accident itself. His first recollection after the accident is a rather vague one approximately one week later when he was in hospital.

[5] Anybody who saw and heard Mr Stewart give evidence in the course of this trial could not but be impressed with him as a very fine young man

who in no way sought to exaggerate the consequences of the injuries sustained by him.

[6] The court had before it medical reports from his General Medical Practitioner, Dr Monro dated 24 March 1997 and 30 November 2001, Dr Lyons, Consultant Psychiatrist dated 7 April 1997, Dr Davidson, Clinical Psychologist dated 14 April 1997 and 22 May 2001, Louise Chadwick FRCS dated 10 April 1997, Mr Fannin FRCS, Consultant Neurosurgeon dated 17 April 1977, Mr Ramsay-Baggs, Consultant Oral Surgeon dated 9 April 1997, Mr Sharkey FRCS, Consultant Ophthalmic Surgeon dated 11 January 1997, and Mr Primrose FRCS, Consultant ENT Surgeon dated 25 March 2002. The court also heard oral evidence from Mr Fannin FRCS and from Dr Monro, in addition to evidence given by the plaintiff and his mother.

[7] On admission to the Antrim Hospital, the plaintiff was in a very serious state and had to be put on a ventilator. The following day Ms Louise Chadwick FRCS, who had travelled up from the Royal Victoria Hospital in Belfast, performed a craniotomy and evacuation of the haematoma. Later that day the plaintiff's condition had stabilised sufficiently to enable his transfer to the Royal Victoria Hospital where he was kept on a ventilator and an intracranial pressure monitor inserted. The plaintiff, no doubt partly due to his own efforts, made an excellent recovery from what is often a fatal head injury. He has no residual brain damage and, if anything, his personality has improved as a result of the accident in that he is now more philosophical about life and more easygoing. The plaintiff also sustained a displaced fracture of his right cheekbone and of the middle third of the facial skeleton and some displacement of his nasal bones. On 20 January 1997 under general anaesthetic his fractured right cheekbone was reduced and fixed with small metal bone plates, which are still in place, his upper jaw was disimpacted and the upper and lower arch bars were placed to allow the teeth to be fixed into the normal anatomical relationship once the fractures had been reduced; the nasal bones were manipulated. He has been left with facial scarring and an asymmetry of his face in that he has a slightly more prominent right cheekbone and some degree of drooping of the level of the right eye. While he suffered soft tissue injuries around the right eye, subsequent ocular examination established that he had no damage to the eye itself. As a result of the fracture to the right side of his head, he now suffers from a minor degree of sensorineural hearing loss which the plaintiff stated was more of an inconvenience than a serious problem, eg while he is right-handed, he has to put a phone to his left ear.

[8] The plaintiff has been left with considerable and noticeable scarring. He has a large curved scar on his right temple as a result of the craniotomy, which scar is very noticeable and disfiguring as the plaintiff wears his hair cut very closely as is the common fashion with young men. He also has a noticeable and a disfiguring scar along the front of his hairline and a scar on

the top of his left forehead. In addition he has a scar on the back of his head, which is less disfiguring but still noticeable having regard to the current hair fashion. He also has two small scars which are hardly noticeable, one beside his right eye and the other on his cheek. He also has some deviation of his right nose, which is not particularly noticeable and is not disfiguring. He also has a slight scar on his right forearm. Overall, looking at the plaintiff one would realise that he had sustained fairly serious injuries to his face, particularly having regard to the prominence of his right cheek, the lower level of his right eye, not to mention the scars.

[9] The plaintiff was detained in hospital for a total of 11 days. It is accepted that his period off work as a lorry driver was reasonable, being a period of 7-8 weeks resulting in a net loss of earnings of £7,573.58.

[10] While the plaintiff himself made little of his injuries, he did state that he is caused some embarrassment in public by his scars, eg bouncers at nightclubs and hotels regularly stop him and search him as they consider that he is "a rough type" when they see his scars, some people call him "scar face", and people who do not know him ask him what happened to him to cause his scarring. While the plaintiff has had some girlfriends since the accident, facial scarring understandably causes some problems in striking up a relationship with a girl, although the plaintiff did not attempt in any way to make a great issue of this. It was yet another example of the way in which the plaintiff rather played down the injuries sustained by him and the subsequent very noticeable scarring.

[11] He is now in secure employment as a lorry driver with a local firm whom he regards as a good employer, giving him the proper rest periods required by law for HGV drivers.

[12] In respect of the head injury itself, I award the plaintiff the sum of £15,000, having regard to the excellent recovery made by him from the fracture of his skull. In respect of the facial injuries, scarring and facial asymmetry, I award him the sum of £37,500, as these are now permanent and he will carry them with him for the rest of his life. In respect of the reduced hearing loss in his right ear I award him the sum of £5,000. This gives a total of £57,500 for general damages, to which there has to be added the agreed net special damage in respect of loss of earnings of £7,573.58, giving a total of £65,073.58.

[13] I award interest on the sum of £57,500 at the rate of 2% per annum from date of service of the writ of summons until the date of trial. I award interest at the rate of 6% per annum on the agreed figure for loss of earnings of £7,573.58, from the date of service of the writ of summons until the date of trial.

