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*(subject to editorial corrections)**

2003 No. 017861

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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QUEEN'S BENCH DIVISION

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BETWEEN:

KW (a minor), by LW,
his sister and next friend
[and Four Others]

Plaintiff;

-and-

KENNETH BOLTON
and
DW

Defendants.

_____

McCLOSKEY J

I INTRODUCTION

[1] While the history of this litigation and the many issues which it raises are moderately cumbersome and complex, this judgment determines a single issue, of comparatively substantial importance in the context of the litigation as a whole, relating to one of the five Plaintiffs, KW (a minor). In very brief compass, the issue relates to whether the Plaintiff, a rear seat passenger in his father's private vehicle at the material time, was properly restrained by a lap belt.

[2] There are five claims for damages in total. All of them arise out of the same accident and all of the Plaintiffs are members of the W family. One of the Plaintiffs is DW, father of the four W children, who are the remaining four Plaintiffs. The present judgment is concerned with the claim brought by KW (a minor), who is

seventeen years old. The road traffic accident giving rise to these various claims occurred on 1st December 2000, when this Plaintiff was aged eight years.

[3] During much of the history of these proceedings, the only Defendant was Kenneth Bolton. Until 19th January 2009 (proceedings having been commenced on 24th November 2003), all five Plaintiffs were proceeding against Mr. Bolton only. On that date, with the permission of the court, the Writ of Summons was amended to the effect that the present Plaintiff (only) was thereafter pursuing his claim against both Mr. Bolton and DW (his father). Next, on 28th April 2009, Girvan LJ gave judgment for all five Plaintiffs against Mr. Bolton, with costs and leaving damages to be assessed. He further ordered that Mr. Bolton's counterclaim be dismissed. There is a single order to this effect. I was informed that this order was made following an undefended hearing in which liability was established against Mr. Bolton. This left outstanding the present Plaintiff's claim against his father, which is concerned with the question of whether his father is liable, as a joint tortfeasor, to contribute to this Plaintiff's damages, when assessed.

[4] The issues determined by this judgment are:

(a) Whether, at the time when the subject accident occurred, this Plaintiff was properly secured by a lap belt fitted for the exclusive use of the middle passenger in the rear seat of the second Defendant's Renault 21 vehicle.

(b) If the court finds that this Plaintiff was not so secured, whether, on the balance of probabilities, this contributed to this Plaintiff's injuries and, if so, to what extent.

(c) If the court finds that this Plaintiff was not so secured, whether this is attributable to negligence on the part of the second Defendant.

Reflecting these issues, the essence of this Plaintiff's claim against his father is that he was travelling as an unrestrained rear seat passenger at the material time, that this lack of restraint made a substantial contribution to his injuries and that his father was negligent in permitting this to occur.

II EVIDENTIAL MATRIX

[5] The facts bearing on the lap belt issue are controversial. However, there is no real dispute about the basic factual matrix, which may be summarised thus. The accident generating this litigation occurred (per the police report) at 20.53 hours on 1st December 2000 on the A21 Dungannon Road, proximate to its intersection with the Strifehill Road. DW, father of the family and second Defendant, was driving his privately owned Renault 21 at the material time, proceeding from Dungannon towards Cookstown. The mother of the family, who died in consequence of the

accident, was travelling as a front seat passenger. In the rear of the vehicle were three of their four children. LW was positioned in the rear passenger seat directly behind her mother. KW, the present, Plaintiff was positioned in the middle. DSW, then aged sixteen years, was positioned behind his father. The fifth of the Plaintiffs, JW, the oldest of the four children, was not travelling in the vehicle.

[6] The accident did not involve any other vehicle. Rather, it occurred when there was an impact between the Renault 21 and a horse. This is encapsulated in the verbal statement attributed to the second Defendant in the aftermath:

> "*I was driving towards Cookstown when the horses ran out in front of me. I couldn't avoid them.*"

And in his written statement compiled during the police investigation, the second Defendant recounted:

> "*As I approached the Strifehill Road where it joins the A29 on my left I remember Mary my wife who was beside me in the front say 'What's that'. I looked to my left and saw horses, I'm not sure how many run from the Strifehill junction out into the road in front of me. I didn't get the chance to brake to avoid them and I struck one.*"

The parties' counsel confirmed that it is common case that there was an impact between the second Defendant's vehicle and a horse.

[7] For the purposes of elucidation only, I record that the first Defendant (Kenneth Bolton) is sued on the basis that he was the keeper of the offending horse. This was one of several horses normally kept in a compound forming part of the first Defendant's farm premises, located a short distance from the accident locus. The court was informed, without objection, that the first Defendant was outside the jurisdiction at the material time, with schoolchildren having been left to care for the horses. Furthermore, several horses escaped from the first Defendant's premises during the evening in question, giving rise to more than one accident of this kind. All of the Plaintiffs have secured judgment against the first Defendant. This judgment is in no way concerned with *his* liability to any of the Plaintiffs.

Inspector Wylie

[8] Mr. Wylie is the police officer who investigated the accident. He was in attendance at the scene prior to the arrival of the rescue and ambulance services. He emphasized that the locus was very dark. While it had been raining previously, the rain had stopped, though the road surface was wet. He proved a rough sketch prepared by him. This illustrates that the terminal position of the Renault 21 was on the hard shoulder of the Cookstown bound side of the road, just over 100 feet from the nearest corner of the Strifehill Road, a minor road positioned at right angles to

the A29 Dungannon Road. A horse was positioned on the Dungannon bound carriageway, some 56 feet from the rear offside corner of the Renault 21. The point of impact between the vehicle and the horse was determined to be roughly in the centre of the Cookstown bound carriageway, parallel with the middle of the Cookstown side of the Strifehill Road. The distance between the point of impact and the horse was measured at 78 feet.

[9] Inspector Wylie gave evidence about the post-impact condition of the Renault 21. This evidence was illuminated by a series of police photographs, adduced by agreement [see photographs 13-18 especially]. Inspector Wylie testified that the front windscreen was collapsed and shattered, though not fragmented. On the front passenger side, the roof was pushed down and backwards. The front passenger side pillar was not ruptured, but had been damaged and was pushed inwards. He made observations about the respective positions of the occupants, as follows:

(a) MW, the front seat passenger, remained seated, with her head arched backwards over the seat, approximating to a reclining position.

(b) This Plaintiff was in a kneeling position on the floor of the vehicle, adjacent to the area separating the front seats from each other and separating the front seats from the rear seat [as depicted in photograph No. 18]. No part of this Plaintiff's body was positioned on the rear seat. He was facing towards the dashboard, with his back to the rear passenger seat. He was in an upright, kneeling position. His face was covered in blood. He was inert and appeared conscious, though unresponsive. This witness had an unobstructed view of this Plaintiff through the substantial gap caused by the collapse of the front windscreen. His position was unaltered until the advent of the paramedics.

(c) LW remained seated in the rear passenger bench, directly behind the front passenger seat. She was trapped inside the vehicle by the roof, which had been pushed backwards and downwards. Her head was back towards the rear parcel shelf. She was conscious and not complaining of injury.

Inspector Wylie further testified that prior to the arrival of the paramedics, this Plaintiff received some attention from an unidentified female person.

[10] The damage to the roof of the vehicle did not expose its interior. Rather, the opening which facilitated this witness's view of this Plaintiff was caused by the shattering and collapse of the front windscreen. It was necessary for the rescue services personnel to cut back the roof in order to free the occupants. The arrival of the rescue services occurred prior to that of the ambulance service. The rear seat was fitted with two standard inertia reel three point seatbelts, one positioned on each side and a lap belt in the middle. The latter is depicted in one of the police

photographs taken just under two weeks following the accident. In the photograph, it can be clearly identified as stretching from the base of the rear of the back seat, extending across the intervening floor, where it appears slightly twisted to a point between the front two seats, in close proximity to the driver's seat. It also seems to be covered at this point by some of the many particles of glass strewn throughout the rear passenger compartment. The evidence was that these originated from the shattered sun roof of the vehicle. Inspector Wylie testified that the lap belt, as configured in photograph 18, would not have been effective to restrain this Plaintiff securely, due to its length and his size. (Ultimately, this was common case). The witness had no recollection of seeing the lap belt in the aftermath of the accident.

[11] In his capacity of investigating officer, Inspector Wylie, in addition to commissioning the photographs mentioned above, compiled the police report. This records that rear seat belts were fitted, but were not in use. It further records that rear child restraints were fitted, but not in use. Unsurprisingly, perhaps, no evidence was adduced about either the source or the reliability of this information.

Denis Black

[12] This witness is one of the members of the Northern Ireland Fire and Rescue Services who attended the scene of the accident. The time of their arrival was 21.04 hours. The ambulance arrived subsequently, at 21.10 hours. The witness described the roof of the car as "*down in*" on the front passenger side. In the rear, the "*young lad*" (clearly this Plaintiff) was positioned on the floor. Both the driver's door and rear offside passengers' door were open. The gap left by the shattered sunroof was duly clamped and the roof of the vehicle was then cut back using appropriate equipment. Then the two nearside doors of the vehicle were forced open.

David McKeown

[13] This witness, a consulting engineer, testified that the lap belt in question had a maximum length of 105.4 cms. If adjusted properly for a child aged eight years, its length should have been approximately 68 cms. This was based on an experiment, or reproduction, carried out with the assistance of an eight-year-old child. If the lap belt had been applied, fully extended, the collision could have caused a forward movement of this Plaintiff over a maximum distance of 24 cms. The fundamental distinction between a conventional seatbelt and a lap belt is that the former restrains the head and upper body, whereas the latter does not, restraining the pelvic area only in the event of sudden deceleration.

[14] The dimensions of the lap belt in question, fully extended, are such that it would not have properly secured a normal adult: indeed, it would not have been effective to properly secure 95% of the population. Plainly, fully extended, it would have been hopelessly ineffective in securing this Plaintiff. Furthermore, this type of lap belt must be individually customised for the passenger in question. In other words, in contrast with a normal seatbelt, it does not self-adjust automatically. The

adjustment is not an unduly awkward or difficult manoeuvre. If secured, the lap belt is released easily, by pressing the button: in this discrete respect, the three passenger restraining mechanisms are the same.

Mr McGovern FRCS

[15] This witness is a Consultant in Accident and Emergency Department, a post in which he has practised for nineteen years, during which he has accumulated extensive experience of road traffic accidents. He compiled a report, and gave evidence on behalf of, this Plaintiff. The source materials considered by him included a record of the Northern Ireland Ambulance Service, which documents that this Plaintiff was travelling as a rear seat passenger with "*no seatbelt*" at the material time. This witness also consulted the records of the two hospitals where this Plaintiff was treated. He was conveyed to the Mid Ulster Hospital, Magherafelt initially. This hospital's records make no mention of whether the Plaintiff was restrained at the material time. He was then transferred to the Royal Victoria Hospital in Belfast. The records of this hospital, in contrast, document in three separate places that the Plaintiff was "*unrestrained*" at the time of the accident. This includes an initial entry in the clinical notes, dated 2nd December 2000 and bearing the time 00.15 hours, in these terms:

> "*Transfer from Mid Ulster Hospital.* ***Back seat passenger – unrestrained***".

[Emphasis added].

[16] Mr. McGovern testified that this Plaintiff sustained a very serious head/brain injury. Its site was the area of the left forehead. The injury took the form of a depressed skull fracture, with bruising to the anterior lobes of the brain. He suffered no injury in the pelvic or abdominal areas. The presence of bruising or abrasions in these zones would have been "*strongly suggestive*" of the Plaintiff having been restrained. However, the absence of such injuries did not "*necessarily*" indicate that he was unrestrained. How was this major head injury caused? Mr. McGovern testified that the Plaintiff was probably thrown forwards, with his head making contact with something. In both examination-in-chief and cross-examination, four possible points of contact were identified:

(a) The impact could have been with the rear of either of the front passenger seats which, though padded and upholstered, would have a firm interior frame. The impact could have been sufficient to cause the Plaintiff's head to indent the fabric, striking the firm frame.

(b) The second possibility was an impact between the Plaintiff's head and the roof, having been thrown forwards and upwards.

(c) The third possibility was an impact between the Plaintiff's head and part of the horse. The thrust of Mr. McGovern's evidence was that this was at best a remote possibility, albeit this would have been a harder impact than one with the frame of either of the two front seats.

(d) The fourth possibility was an impact between the Plaintiff's head and the rear of his mother's head. Based on his review of the autopsy report, Mr. McGovern appeared to consider this a relatively slender possibility.

[17] Mr. McGovern's evidence was that impact between the Plaintiff's head and the frame of the rear of the front passenger's seat was the most likely cause of the injuries. The issue regarding the Plaintiff's loss of consciousness was explored in a little detail. Mr. McGovern agreed with the suggestion that this was a very significant head injury, which must have been precipitated by a substantial impact between the Plaintiff's head and a firm object. The ambulance service records described the injury as "massive". Mr. McGovern espoused the view that this injury would probably have caused immediate loss of consciousness. Alternatively, at most, the Plaintiff might have had *some* level of consciousness immediately following the collision: however, the scale of his injury was such that he would have been rendered unconscious almost immediately. At most, any residual consciousness would have been followed by a rapid decrease to the point of loss of consciousness. Based on this assessment, Mr. McGovern had reservations about the accuracy of the descriptions of the Plaintiff post-accident contained in the written statements of the second Defendant and DSW, the Plaintiff's sibling (see *infra*).

Dr Stephen Battenbury

[18] This witness testified on behalf of the Defendant. He is a member of the Society of Automotive Engineers. His credentials as an expert witness in the realm of seatbelts were not challenged. In this respect, he described in a little detail the research carried out by him and certain other group members in connection with his PhD research degree. His source materials were the booklet of police photographs, an insurance accident investigation report (incorporating a written statement made by the second Defendant) the police report, certain medical reports and some documents emanating from a vehicle assessor.

[19] Dr. Battenbury described the damage to the front of the vehicle as relatively minor. He identified two visible dents in the bonnet as possibly having been caused by two of the horse's legs. This damage was indicative of minor contact. In his words, he "*suspected*" that these were the two front legs of the animal. Based on this hypothesis, he agreed that the impact with the vehicle would "*take the horse's legs away,*" with the vehicle "*under-running*" the horse. He was unable to say what would become of the animal's legs in these circumstances. He further agreed that there is nothing in the police report or its constituent witness statements suggesting

that any part of the horse's anatomy had invaded the interior of the vehicle. Upon impact, if the lap belt had been properly secured, the Plaintiff's head would have moved forwards, then beginning to arc down towards his knees. Thus any impact with a horse's hoof would have to have occurred at a point proximate to the front seats. When invited to do so, Dr. Battenbury was unable to devise any thesis of the mechanics of a horse hoof entering the interior of the vehicle.

[20] According to Dr. Battenbury, if the lap belt had been fully secured it would not have been possible for the Plaintiff's head to make contact with the rear of either of the front passenger seats. In contrast, if the lap belt had been adjusted as illustrated in photograph No. 18, this would have been inadequate to restrain the Plaintiff. His theory about impact with a horse hoof was based on invasion of the cabin through the gap caused by the detached windscreen: this was more likely than entry through the aperture of the shattered sunroof. There was nothing to suggest that the hoof had struck anything else or anyone else inside the vehicle. Dr. Battenbury accepted that the Plaintiff's head injury could have been caused by impact with the frame of either of the two front seats or one of the structures located between the two front seats. A further possibility was impact between the Plaintiff's head and the curved radius of the horse's hoof. He suggested that this was a more likely explanation than impact between the Plaintiff's head and the rear of either of the front seats, on account of the upholstery and padding with which these are fitted. He did not elaborate on this suggestion. The damage to the roof suggested that this had been in impact with the horse.

The Defendant

[21] DW testified that the "rule" in the family was that everyone had to fasten their seatbelts when they got into the car. The rule was "*always clunk click*" and "*fasten seatbelts*". He testified that "*to my memory*" the Plaintiff fastened his lap belt as DW entered the vehicle. When they set out from the family home, the Plaintiff's lap belt was secured. He then added that "*I checked and saw the Plaintiff clicking it …*". On account of his size and age, the Plaintiff always travelled in the centre of the rear passenger seat, if it had three occupants. All of the children had their seatbelts secured. He agreed that his statement to the police makes no mention of either the lap belt or the seatbelts. He further accepted that he did not see any part of the horse enter the vehicle. He confirmed that en route from the family home to the accident location, he had stopped at a Credit Union for a period of five to ten minutes. There only he alighted from the vehicle. The total journey length was some three to four miles. When questioned about the aftermath of the accident, DW testified that having disembarked from the vehicle, at one stage he looked in "*through the top of the roof*" and observed the Plaintiff on his knees in the rear of the vehicle. He asked "*Are you OK?*", following which the Plaintiff lifted his head and looked towards him. He did not offer any explanation for the Plaintiff's kneeling position.

DSW

[22] This witness, the second oldest of the four children, corroborated his father's evidence in its general respects. The sequence in which his evidence unfolded is of some significance. Initially, he did not claim to have seen the Plaintiff secure his lap belt. Nor did he claim to remember observing the Plaintiff with his lap belt secured. Rather, he simply testified that the Plaintiff's lap belt was secured at the material time. However, in cross-examination, there was a notable expansion of his evidence about this crucial issue. First, he added that he *heard* the Plaintiff clicking his lap belt. Then he claimed that he remembered looking around, as if to suggest that he had also seen this occur. In re-examination, he made the further claim that he actually saw the Plaintiff "*reaching around*". Finally, he suggested that if the Plaintiff's lap belt had been improperly secured, he would have rectified this. He confirmed that the Plaintiff was occupying a kneeling position on the floor of the rear of the vehicle, essentially as described by Inspector Wylie. He could not provide any explanation for this. This witness also testified that his recollection of events during the second "leg" of the journey was better than as regards the first phase.

III CONCLUSIONS

[23] Neither DW nor DSW claimed to have observed the Plaintiff unfasten a secured lap belt following the collision. I consider that both were honest witnesses. However, I find that DW does not have a clear recollection of what he claimed to have observed at the beginning of the journey, as summarised in paragraph [21] above. Moreover, significantly, having parked his vehicle for up to ten minutes, he made no claim of having checked the Plaintiff's lap belt before beginning the journey afresh. I consider the evidence of DSW unreliable and unpersuasive, having regard to the way in which it was given, as highlighted in paragraph [22] above and taking into account his demeanour, which was not that of a reliable, persuasive witness. Furthermore, Mr. McGovern's evidence about the Plaintiff's loss of consciousness supports a finding that the Plaintiff did not unfasten a properly restrained lap belt after the collision.

[24] I fully accept that the relevant entries in the ambulance and hospital records, coupled with that in the police report, must be treated with circumspection. However, these document, consistently, that the Plaintiff was unrestrained at the material time. Having regard to the contemporaneous nature of the ambulance and hospital records and based on their likely sources, who include paramedics in direct contact with the Plaintiff soon after the collision, I find that, in the particular circumstances of this case, they are reliable, in the absence of any specific evidence of inaccuracy or unreliability. I also take into account the absence of any injury to the areas of the Plaintiff's upper thigh, pelvis and abdomen. While I acknowledge the qualified nature of Mr. McGovern's evidence about this matter, I find that this is indicative of the absence of any effective restraint.

[25] Applying the civil standard of the balance of probabilities, I consider, firstly, the fundamental factual question of whether the Plaintiff was restrained by a secured lap belt at the time when the vehicle collided with the horse. I consider that there are two factors of particular importance in this respect. The first is that, in the immediate aftermath of what was plainly a heavy collision, at relatively high speed and entailing violent force, the Plaintiff was observed by his father to be kneeling in the rear of the vehicle, in the position described in the evidence summarised above. I find that the Plaintiff's father made this observation very quickly after the collision. It is clearly to be expected that, as a concerned and responsible parent, he would have done so, in circumstances where he did not describe any serious injury to himself. His evidence was corroborated in this respect by Inspector Wylie. This evidence suggests to me strongly that the Plaintiff was not secured by the lap belt just beforehand, when the collision occurred. This conclusion is supported by a second factor, namely the depiction of the lap belt in the photograph of the interior of the vehicle taken by the police almost two weeks later. There is no direct evidence of interference with the lap belt at any time between the moment of the collision and the taking of the photograph and I find no grounds for thus inferring. I am duly fortified in this view by the evident presence of extensive glass splinters on the surface of the lap belt, clearly visible in the photographic evidence, which seems to me consistent with no interference during the intervening period. I also consider it extremely unlikely that the Plaintiff was in some way secured by the fully extended lap belt – which would have been an ineffective restraint in any event. I find that the Plaintiff was unrestrained by the lap belt when the collision occurred.

[26] The second question is whether, on the balance of probabilities, this lack of restraint contributed to the Plaintiff's injuries. Firstly, I consider that Dr. Battenbury's "horse hoof" theory was effectively dismantled in cross-examination, to the point where he did not seem to me to be advancing it with any real conviction. The most likely point of contact was the rear of the front passenger seat and, in thus finding, I observe that Dr. Battenbury accepted that this was a possibility, while Mr. McGovern FRCS appeared to me to espouse this as the most likely scenario. Mr. Ringland QC, appearing (with Mr. Maxwell) on behalf of the second Defendant, accepted, correctly and realistically, that it is not incumbent on the Plaintiff to establish the minute mechanics of his head injury. Thus the Plaintiff need not prove, on the balance of probabilities, the *precise* cause of the injury. I have already found that the Plaintiff was unrestrained at the material time. I find further that, as a matter of probability, his head injury was caused by impact with the rear of the front passenger seat.

[27] Next, I turn to consider the medical evidence about the severity of the Plaintiff's head injury (about which there was no dispute) and the engineering evidence, in particular the testimony of Mr. McKeown that if the Plaintiff's lap belt had been properly adjusted, the maximum forward projection of the Plaintiff occasioned by the collision would have been measured at 9 inches. This would have been insufficient to bring his head into contact with any of the interior vehicle structures or his mother's head. Taking into account also the absence of any other

significant injury to the Plaintiff and the absence of any head injury to the other two rear seat passengers, who I find were properly restrained by seatbelts at the time, it is plain that a properly secured lap belt, as a matter of probability, would have prevented – and would not have merely diminished - the Plaintiff's head injury.

[28] Where the court makes such a finding, it is well established that the percentage contribution should normally (though, I acknowledge, not invariably) be measured at 25%: see ***Froom –v- Butcher*** [1975] 3 All ER 520 and the helpful exposition of this topic in the judgment of Higgins J in ***Elliott (a minor) –v- Laverty*** [2006] NIQB 97, paragraphs [17] – [22] Higgins J adopted the approach of the English Court of Appeal in ***Jones –v- Wilkins*** (*infra*) and I refer particularly to the conclusion in paragraph [18]:

> "*[18] It follows that, while in principle there could be exceptional cases which fall outside the range suggested, one would expect such cases to be rare. That indeed has proved to be the situation. There is value in having clear guidelines normally applicable, so as to aid parties in arriving at sensible settlements.*"

The decision in ***Jones*** also establishes the consonance between the approach to be applied in a typical ***Froom –v- Butcher*** case and a case where the issue is one of apportionment of liability under the Civil Liability (Contribution) Act 1978, as here. Neither party suggested that, in the present case, there should be any departure from the established guidelines and I find no reason for straying from them. Accordingly, the appropriate contribution will be one of 25%, subject to the court's resolution of the final issue of whether the second Defendant was guilty of negligence.

[29] Finally, I must address the third, and final, issue, which overlaps to some extent with the first issue. I refer firstly to my findings in paragraphs [23] - [25] above. As appears from those findings, I have rejected DW's claim that he actually saw the Plaintiff securing his lap belt at the beginning of the initial journey or saw it secured. I found his evidence to this effect unpersuasive. A further finding is readily made. DW did not claim to have conducted any further check, even of a cursory nature, when he re-entered the vehicle following the interlude at the Credit Union premises and before beginning the second limb of the journey. I readily find that no such check was carried out.

[30] The acts and omissions of DW are to be measured by the barometer of the hypothetical reasonably prudent parent. Parental responsibility in law for a failure to ensure that an eight-year-old child is properly secured is not absolute: see the analysis in paragraph [22] of the judgment of Keene LJ in ***Jones –v- Wilkins*** [2001] PIQR 179, P 12. Rather, the parent must take reasonable steps and precautions and regard must be had to the particular context and circumstances. I consider that the hypothetical reasonably prudent parent would have conducted a simple check at the

beginning of both journeys on the night in question. I have found that DW did not do so. These failures were exacerbated by a further culpable failure to make an appropriate check or enquiry en route before the collision occurred. A finding of negligence against the second Defendant follows inexorably.

IV DISPOSAL

[31] In summary, I determine the three issues formulated in paragraph [4] above as follows:

(a) When the collision occurred, the Plaintiff was not secured at all by the lap belt fitted for use by the centre rear seat passenger.

(b) A properly fitted lap belt would have prevented the Plaintiff's injuries.

(c) This failure was attributable to negligence on the part of the second Defendant, DW, rendering him liable to contribute to the Plaintiff's damages, when assessed, to the extent of 25%.

[32] Finally, I must acknowledge the responsible and reasonable manner in which the parties ensured that certain items of documentary and photographic evidence were submitted to the court without formal proof, thereby saving time and expense. Furthermore, the articulate, focussed and economic submissions of Mr. Ringland QC and Miss Moran at the conclusion of the trial were a model of the form and content to which closing submissions should aspire in a non-jury action of this kind and confirmed the enduring value of skilled advocacy in the Queen's Bench Division.