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Ref: **HOR9779**

Judgment: approved by the Court for handing down
*(subject to editorial corrections)**

Delivered: **06/11/2015**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

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BETWEEN:

MICHAEL McKEE

Plaintiff;

and

THE SISTERS OF NAZARETH

Defendants.

_____

HORNER J

A. INTRODUCTION

[1] The plaintiff claims damages for personal injuries, loss and damage which he claims to have sustained while in the care of the Sisters of Nazareth ("the defendants") at the Nazareth Lodge on the Ravenhill Road when both his parents were unwell. His claim is based on the negligence of the staff and on the assault, battery and trespass to the person which he claims were inflicted upon him when he resided there in the 1950s.

[2] The three issues for this court are:

(a) Is the plaintiff's claim against the defendants statute barred?

(b) If not, are the defendants liable to compensate the plaintiff for the personal injuries he suffered?

(c) If they are liable, what compensation should be awarded to the plaintiff for the personal injuries, loss and damage he has sustained?

[3] This is a difficult case. It relates to events that took place in the 1950s. There is evidence available from other sources, primarily from the Historical Institutional Abuse Inquiry which is currently hearing evidence. Some of the evidence relates to

those who were in the care of the defendants at Nazareth Lodge and Nazareth House during the 1940s, 50s, 60s and 70s. Many pupils and members of staff have made statements to the Historical Institutional Abuse Inquiry. It will in due course publish its findings on child abuse in Northern Ireland in general and on what took place at Nazareth Lodge in particular. In the meantime the defendants have apologised for physical abuse which was inflicted on some of those in their care during this period.

B. FACTUAL BACKGROUND

[4] This is a case in which the plaintiff's solicitors omitted to send any pre-action letter which they were obliged to do by the protocols which were then in place. The writ of summons was served on 22 June 2012. The statement of claim followed on 25 July 2012. There followed a defendants' Notice for Further and better Particulars dated 6 December 2012 requesting further details of the claim which was being made. The reply to this is dated 15 August 2013.

[5] The case which was originally made was materially different to the one that was made before this court. For example, the plaintiff pleaded that he was taken into the care of the defendants in 1955 aged 5 years of age and that he remained there for a period of 5 months. In fact he went into Nazareth Lodge in 1958 aged 8 years and was there for a total period of 73 days.

[6] The case which is now made by the plaintiff is that the defendants should be made vicariously liable for the acts of those Sisters who looked after the plaintiff and in particular the following:

(a) The physical abuse which the plaintiff received in the classroom for slow learning.

(b) The collective punishment for bedwetting.

(c) The punishment the plaintiff received for wetting his bed.

(d) The threat which hung over the plaintiff for further punishment if he or any other boy in the dormitory wet his bed.

[7] As the case progressed it became clear that there were a number of inconsistencies in the case being made by the plaintiff. These included:

(a) The plaintiff told the court that the decision to bring a claim was provoked by an approach from his nephew to contact his present solicitors. His brother, George, was also placed in care at the same time, as were the rest of his

family. However the plaintiff told Dr Mangan when he saw him that he had decided to bring a claim after watching a television programme about child abuse, which prompted him to contact a solicitor.

(b) The Statement of Claim did not expressly claim that he had been beaten for wetting the bed. The Reply to the Notice claimed that he had wet the bed once. He led Dr Weir to believe that it had occurred more than once, and the impression given to her was that this would have been on a number of occasions. He told Dr Sheehan that he had wet the bed "on a couple of occasions". When he was being examined for medical reasons (as opposed to medico-legal ones) in 1999 by Dr Mangan, he was asked about his past medical history. He told the Consultant Psychiatrist about the manipulations of his nasal bones in the past and about having his tonsils removed as a child. There was no mention of any problem with enuresis, never mind bedwetting which lasted for two years after leaving care as he now alleges. Certainly there was no mention of any bedwetting during his stay in Nazareth Lodge. There is no mention in any medical record whatsoever of any enuresis prior to the institution of these proceedings. A problem with bedwetting is something that another sibling of a similar age is likely to remember. If there had been a problem with the plaintiff wetting his bed, then his brother George, would surely have known about it, especially as it is now asserted that it lasted for 2 years after he left Nazareth Lodge. George was never called to give evidence. This was especially surprising as George had been promised as a witness who could corroborate the plaintiff's complaints. The inference to be drawn was that George was unable to provide support for the sworn testimony of the plaintiff.

[8] I formed the view that the plaintiff was an unreliable historian. I do not think that he was consciously trying to deceive the court. It is not surprising that after some 50 years, his memory is unreliable. Brian Friel, the late playwright, has talked about false memory which lies at the centre of his work (and many other authors). He said:

> "For me it is a truth. And because I acknowledge its peculiar veracity it becomes a layer in my subsoil; becomes part of me; ultimately it becomes me."

[9] I had a good opportunity to view the plaintiff when he gave evidence. I was able to see how he responded to questioning from his own counsel, Mr Underwood QC and from the defendants' counsel, Mr Montague QC. I am satisfied that only where the plaintiff's testimony is supported by independent evidence can the court be confident that it is accurate and can be relied upon. My findings reflect this conclusion.

[10] I find the following facts:

(i) The plaintiff was born in January 1950. He is aged 65 years.

(ii) The plaintiff's father was a Protestant. His mother was a Roman Catholic. This caused a severe family fallout and as a consequence the parents' families had little to do with the plaintiff, his siblings or his parents.

(iii) The plaintiff's family originally lived in the Oldpark area of Belfast. The plaintiff and his brothers and sisters were brought up initially as Protestants. The plaintiff attended a state primary school, the Model PS. In 1955 the plaintiff's father, who was employed at the Shipyard, became seriously ill with Tuberculosis. His mother, who had previously lost a child whether due to it being stillborn or dying shortly after it was born is not clear, suffered severe post-natal depression. She was unable to care for her other children. They were taken into care. The plaintiff and his brother who were of similar ages were placed in Nazareth Lodge. His two sisters and younger brother were put into Nazareth House. The plaintiff was in care for 73 days. During this time he received a few, infrequent visits from his mother, who remained incapacitated by her depression.

(iv) Although the plaintiff and his siblings had been brought up as Protestants, as soon as he entered into care, they were fast-tracked by the defendants for conversion to the Roman Catholic religion. The plaintiff found the religious instruction demanding, having difficulty learning the religious texts and catechisms. He was physically punished for any mistakes that he made. Ultimately he was baptised as a Roman Catholic in December 1958.

(v) During the plaintiff's time at Nazareth Lodge he slept in a dormitory separate from his brother.

(vi) The regime at Nazareth Lodge was spartan and harsh. Love and tenderness were in short supply. The plaintiff was treated with a cold and callous indifference. Corporal punishment was the accepted norm for any breach of the rules. The boys were expected to play outside in all weathers. Bedwetting was punished by physical chastisement and humiliation. However there were some opportunities for football, swimming, dancing and the cinema.

(v) The plaintiff did not wet his bed nor did he suffer from enuresis after he left. He was, however, fearful of wetting his bed because of the public humiliation that was involved should he do so.

(vi) When the plaintiff left Nazareth Lodge in December 1958 he moved to West Belfast. He attended St Brendan's Primary School. He then attended Drumglass Primary School after the family moved to Dungannon. He then attended Dungannon Secondary Modern Intermediate School. He was away from primary school after leaving Nazareth Lodge for a period of some 10 months for no apparent reason. He left school as early as he could at 15 years with no qualifications and ill-equipped for employment. His academic record had nothing to do with his period in care at Nazareth Lodge. On leaving school he immediately cut himself off from any contact with his family and did not renew these ties until his early 20s.

(vii) On leaving school the plaintiff had a number of different jobs with no real settled employment. He married but his first marriage broke up. He has no contacts either with his first wife or his children from that relationship. He married again. There were further marital difficulties largely due to his heavy drinking. He has two children from that marriage and four grandchildren. I do not consider his stay at Nazareth Lodge contributed to his drinking problems, his employment difficulties or his marital issues. This explains why he did not mention his period in care at Nazareth Lodge to either Dr O'Neill who saw him for medical purposes in 1994 or to Dr Mangan whom he saw again for medical purposes when he had developed psychiatric difficulties in 1999. He did not experience flashbacks arising out of his experience at Nazareth Lodge as he now claims. Otherwise he would have reported these to Dr Mangan when he saw him. Dr Mangan took a detailed and comprehensive history from the plaintiff. There was no mention of any psychiatric problems which he attributed to his stay in Nazareth Lodge. In fact his period in care was not mentioned at all.

(viii) During his working life the plaintiff has had regular contact with solicitors. He has had legal advice not only in respect of his matrimonial problems but also in respect of a number of personal injury claims. He has had a local solicitor, first Gus Campbell and then Gerald Maguire, to advise him. I conclude that he did not give any consideration to whether to issue proceedings arising out of his period in care because he did not consider that this had caused him any physical or emotional problems. It was only when he was encouraged to do so by his nephew that he retained the services of another firm of solicitors who now currently represent him. The plaintiff saw this as an opportunity to claim compensation for what on any view must have been a truly horrendous experience – being catapulted from a close family environment, placed in a care home, removed from his friends, converted to a religion of which he had previously been ignorant and deprived of his parents' love and warmth. However, insofar as the plaintiff suffered

emotional upset, it was primarily as a consequence of being placed into care and away from his parents, rather than the nature of the care itself.

C. STATUTE BARRED

[11] Article 7 of the Limitation (NI) Order 1989 provides a time limit for personal injury actions. Article 7(1) states:

> "This Article applies to any action for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of provision made by or under a statute or independently of any contract or any such provision) where the damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to the plaintiff or any other person."

In A v Hoare [2008] 2 All ER 1 the House of Lords overruled Stubbings v Webb in finding that, where the personal injury is based on an intentional trespass to the person, the time limit is an extendable 3 years under this Article. Article 7 goes on to provide at paragraph (4):

> "Except where paragraph (5) applies, that period is 3 years from –
>
> (a) The date on which the cause of action accrued, or
>
> (b) The date of knowledge (if later) of the person injured."

The plaintiff has not alleged or relied upon a delayed date of knowledge. This is not surprising. I find as a fact that the date when the plaintiff first had the necessary knowledge under Article 7 was when he attained his majority. Accordingly, the central issue in this case is whether or not the court should disapply the limitation period of 3 years.

[12] The legal position can be set out with some confidence as there is no disagreement between the legal teams acting for the plaintiff and the defendants.

(a) The plaintiff's action accrued prior to the coming into operation of the Statute of Limitations (Northern Ireland) Act 1958 (which came into force on 1 January 1959). Accordingly, it is necessary to consider the legislative framework prior to 1958. The starting point is the Common Law Procedure

Amendment Act (Ireland) 1853. This imposes the 6 year limitation period for a personal injury claim based on negligence and a 4 year limitation period for a claim based on trespass to the person (see Section 20).

(b) The period in respect of both causes of action was reduced to 3 years by the Law Reform (Miscellaneous Provisions) Act (NI) 1954. It included transitional provisions the effect of which was that, if the limitation period had not already expired by the commencement date, the claimant could take advantage of whichever was the longer period – the period under the 1853 Act or the period under the 1954 Act.

(c) The 1958 Act came into force on 1 January 1959 which was after the plaintiff's cause of action accrued but before it expired. This was a consolidating provision and did not alter the limitation period for a claim for personal injuries.

(d) An earlier version of the "date of knowledge" provision was introduced by the Limitation Act (NI) 1964 and the now familiar date of knowledge and discretion provisions were introduced for the first time by the Limitation (Northern Ireland) Order 1976. This regime was consolidated by the Limitation (Northern Ireland) Order 1989.

(e) The Act that was in force when the plaintiff's cause of action accrued in October to December 1958 was the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1954 which reduced the applicable limitation period to 3 years.

(f) The combined effects of these provisions was considered by Carswell J in Bowman v Harland and Wolff [1991] NI 300. In that case he concluded that:

> "(a) Causes of action which accrued prior to 1 January 1953 (i.e. more than 6 years before the Statute of Limitations (Northern Ireland) Act 1958 came into force on 1 January 1959) were irrevocably statute barred. They were unaffected by the provisions of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1954 and were barred by the authority of Arnold v Central Electricity Generating Board [1988] AC 228.
>
> (b) Causes of action which accrued between 1 January 1953 and 1 December 1954 (the day before the Law Reform (Miscellaneous Provisions) Act (Northern

Ireland) 1954 came into force) were subject to a 6 year period but because that period could have expired before the 1958 Act came into force they became subject to a 3 year period when it did – on 1 January 1959. They were then 3 year claims and not 6 year claims and the date of knowledge and discretion provisions applied to them.

(c) Causes of action which accrued after 2 December 1954 (the day that the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1954 came into force) but before 1 January 1956 (i.e. 3 years before the Statute of Limitations (Northern Ireland) Act 1958 came into force on 1 January 1959) were time barred by 1 January 1959 and therefore remained time barred."

(g) In his analysis Carswell J does not deal with the position of a claim where the cause of action accrued after 1 January 1956 but before 1 January 1959 (as the plaintiff's did) but it seems clear from his reasoning that if Carswell J had considered such a claim he would have concluded that the date of knowledge and discretion provisions applied to it. This is because such a claim is a 3 year claim from the outset under the 1954 Act, and this is unaffected by the provisions of the 1958 Act.

[13] In those circumstances the plaintiff is entitled to ask the court to disapply the limitation period and exercise its discretion in his favour, if the circumstances warrant pursuant to Article 50 of the Limitation (Northern Ireland) Order 1989.

D. DISAPPLICATION OF THE PRIMARY LIMITATION PERIOD?

[14] Article 50(1) of the Limitation (Northern Ireland) Order 1989 provides:

> "50(1) If it appears to the court that it would be equitable to allow an action to proceed having regard to the degree to which
>
> (a) The provision of Article 7 .. prejudices the plaintiff …
>
> the court may direct that those provisions do not apply to the action, or do not apply to any specified cause of action to which the action relates."

Article 50(4) states:

> "In acting under this Article, the court is to have regard to all the circumstances of the case and in particular to –
>
> (a) the length of, and the reasons for, the delay on the part of the plaintiff;
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> (b) the extent to which, having regard to the delay, the evidence adduced or likely to be adduced by the plaintiff or the defendant is or is likely to be less cogent than if the action had been brought within the time allowed by Article 7 ..;
>
> (c) the conduct of the defendant after the cause of action arose, including the extent, if any, to which he responded to requests reasonably made by the plaintiff for information or inspection for the purpose of ascertaining facts which were or might be relevant to the plaintiff's cause of action against the defendant;
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> (d) the duration of any disability of the plaintiff arising after the date of the accrual of the cause of action;
>
> (e) the extent to which the plaintiff acted promptly and reasonably once he knew whether or not the act or omission of the defendant, to which the injury was attributable, might be capable at that time of giving rise to an action for damages;
>
> (f) the steps, if any, taken by the plaintiff to obtain medical, legal or other expert advice and the nature of any such advice he may receive."

It will be noted that Article 50(1) provides the court with a discretion to allow an action to proceed outside the limitation period and requires the court to weigh in the scales the prejudice to the plaintiff which will arise from the limitation period being applied against the prejudice to the defendants in permitting the action to proceed outside that period. This involves a balancing exercise which has to be performed taking all the circumstances into account. Article 50(4) does not place a fetter on the

discretion given by Article 50(1). This is made clear by requiring the court to have regard "to all the circumstances of the case". Instead Article 50(4) requires the court to pay special attention to those factors which "past experience has shown are likely to call for evaluation in the exercise of the discretion and which must be taken into consideration by the judge"; see Donovan v Gwentoys Ltd [1990] 1 WLR 472 at 477H–478A and A v Watchtower Bible and Tract Society (Trustees of) and Ors [2015] EWHC 1722 (QB) at [54].

[15] In Ellam v Ellam [2015] EWCA Civ 287 the Court of Appeal in England said at paragraph [58]:

> "… The question for the court under Section 33 (the English equivalent of Article 50) is whether it *would be equitable to allow the action to proceed*, notwithstanding the expiry of the primary limitation period. That question is to be answered by having regard to all the circumstances of the case, including in particular the factors identified in Section 33(3) (the equivalent of Article 50(4)).
>
> [59] Whether it is *equitable* to allow an action to proceed is no different a question, in my judgment, than asking whether it is fair in all the circumstances for the trial to take place – the same question as the judge asked at the part of the criticised paragraph [29] of the judgment. That question can only be answered by reference (as the section says expressly) to *all the circumstances*, including the particular factors picked out in the Act. No factor, as it seems to me, can be given a priori importance; all are potentially important. However, the importance of each of those statutory factors and the importance of other factors (specific to the case) outside the ones spelled out in Section 33(3) will vary in intensity from case to case."

[16] A useful summary of the proper approach was set out in E L v Children's Society [2012] EWHC 365 (QB) which stated:

> "The principles to be derived from these cases as to the approach to be adopted by the Court when applying section 33 can be summarised as follows:
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> (1) The court must consider each of the circumstances listed under sub-section 33(3)(a) to (f) of the Limitation Act 1980. The list is, however, not exhaustive and the

court may have in mind the opening words of sub-section 33(3) which require the court to *have regard to all the circumstances*.

(2) Key considerations are likely to be –

(i) The reasons or excuse for the delay and

(ii) The effect of the delay on the defence's ability to investigate or defend the claim. In determining the reason for the delay, the court is entitled to take into account the effect of any adverse psychiatric reaction or condition caused by the abuse.

(3) The length of the delay, of itself, is not a deciding factor.

(4) The court must consider whether the defendant has suffered any evidential or other forensic prejudice by reason of the delay and whether the defendant will have fair opportunity to defend himself against the claim.

(5) Basic tests of whether it is *fair and just in all the circumstances* to expect the defendant to meet this claim on the merits, notwithstanding the delay (per see Smith LJ in Cain v Francis [2009] QB 754 at paragraph [73].(sic)

(6) Each case depends on its own facts."

(i) Length of and reasons for delay.

[17] There has been a very substantial delay on any account between the expiry of the limitation period and the trial, that is a period of over 40 years. There has been a delay of more than 5 years from when the solicitors were instructed belatedly in 2009 by the plaintiff. There has been no urgency displayed by the plaintiff or his solicitors at any stage. There is no good reason offered to the court for the substantial delay either in respect of the period from when the plaintiff first attained 21 years or from when he instructed solicitors in 2009/2010. It is impossible not to conclude that there has been excessive and inordinate delay on the part of the plaintiff for which no good reason has been offered.

(ii) Cogency of the evidence of the plaintiff and the defendants.

[18] There can be no doubt that the cogency of the evidence offered by both the plaintiff and the defendants has been seriously and adversely compromised. The plaintiff's memory has played tricks on him, so that he thinks that he entered Nazareth Lodge as a 5 year old. It is very difficult for him to remember exactly how he was treated and to divorce that from the circumstances in which he was placed in Nazareth Lodge. He identifies two nuns as being primarily responsible for the physical abuse he received. He does not remember their names. If these nuns had behaved as alleged one would have expected the boys in the dormitory, including the plaintiff, to have at least had a nickname for them. It is difficult to accept that the plaintiff could have forgotten the names of those nuns who had behaved, he claims, so brutally towards him. Their identities should be engraved upon his memory. He cannot even remember the name of the boy who he says kept wetting his bed and who brought the wrath of one of the nuns down not only upon his head but also upon the rest of the dormitory. There is general corroborative evidence from other boys who were in care at the same time at Nazareth Lodge of regular corporal punishment being administered, of spartan conditions, of emotional coldness, of a climate of fear unleavened by love or affection and of physical and mental humiliation administered to boys who wet their beds.

[19] The defendants' evidence has undoubtedly been seriously prejudiced by the excessive delay. None of the nuns who looked after boys of this age are alive. The defendants are not in a position to challenge the evidence of the plaintiff by calling any witnesses. The excessive delay on the part of the plaintiff has deprived the defendant of evidence from these eyewitnesses. The plaintiff's senior counsel told the court that we would hear from the plaintiff's brother who as I have observed was also in care at the same time at Nazareth Lodge. His evidence was to provide support and corroboration for the plaintiff's case both in respect of liability and quantum. For a reason which has not been explained he did not give evidence. I infer from this that he was not in a position to support the plaintiff's evidence.

(iii) The conduct of the defendants.

[20] There is no suggestion that the defendants have in any way impeded the plaintiff by refusing to provide information or inspection for the purposes of ascertaining facts which might be relevant to the plaintiff's claim.

(iv) The conduct of the plaintiff.

[21] The court has to consider the extent to which the plaintiff acted promptly and reasonably. There can be no debate in the present circumstances that the plaintiff

acted neither promptly nor reasonably. There has been serious delay right from the start of the process, compounded by further delay from 2009/2010 when the plaintiff first approached solicitors and again following the institution of proceedings in 2012. Both the plaintiff and his legal advisors have failed to prosecute this claim with the degree of expedition that could reasonably have been expected. The plaintiff's failure to institute proceedings and prosecute them promptly has not been satisfactorily explained.

(v) Steps taken to obtain expert evidence.

[22] A report was obtained from Dr Mangan on 12 April 2010 by the plaintiff's solicitors. Despite the fact that it must have been obvious that there was very considerable delay at this stage, it still took over a further two years for a writ of summons to be issued and three further years for the case to be heard. I can understand that the search for legal aid may account for some of the delay, but it cannot be entirely responsible.

(vi) Conclusion on the limitation issue.

[23] This is not a stale claim. It is an historic one. One of the reasons why the primary limitation period is 3 years is to ensure that the matters which are under consideration are still relatively fresh in the minds of those giving evidence. The plaintiff's memory is unreliable. The defendants' witnesses are dead. The institution of proceedings was delayed by 40 years. Then, when proceedings were instituted, they were not pursued with any vigour. No satisfactory explanation has been offered for the delays. It is simply not equitable in all the circumstances to allow this action to proceed.

E. LIABILITY

[24] If I am wrong and the claim is not statute barred, I conclude that there is sufficient evidence to support the plaintiff's claims that the corporal punishment administered to pupils under care, and to the plaintiff in particular, especially when he was undergoing religious instruction, went beyond what could be described as "reasonable and controlled and suitable to the child's age and strength" even by the standards of 1955: see Ryan v Fildes [1938] 3 All ER 517. I am also of the view that while the plaintiff did not suffer enuresis while at Nazareth Lodge or after Nazareth Lodge he was fearful of being beaten and humiliated if he wet his bed, as this was the punishment which was handed out. In the circumstances, this constituted an assault and he is entitled to be compensated for the additional fear that will have been induced in a boy in a highly vulnerable condition. The plaintiff is able to prove his case to the requisite standards because not only is there independent evidence from other boys in care at Nazareth Lodge at the time to support these claims but

also because due to delay there is no contradicting evidence now available from the defendants, those Sisters with the necessary first-hand knowledge having died in the interim.

F. QUANTUM

[25] I consider that it is appropriate that I should give my view on quantum should this case be appealed given that I have had the opportunity to hear Dr Weir and Dr Sheehan. There can be no doubt that the plaintiff, as I have said, was in a very vulnerable state, taken as he was out of the safe and loving family environment and placed into the cold and hostile atmosphere at Nazareth Lodge. I note that he did not seek any medical treatment for the consequences of the corporal punishment he received. There was medical treatment available. This suggested he received low level physical abuse which would be consistent with his description of having his hair pulled and being hit with a strap or ruler. He is also entitled to be compensated for the emotional distress he undoubtedly suffered as a consequence of fearing what would happen to him if he wet his bed. I consider that overall he suffered some modest physical soft tissue injuries and emotional upset consequent upon the fear of what would happen to him if he wet his bed. I consider that Dr Sheehan is correct given my findings of fact and that the plaintiff did not suffer a childhood emotional disorder as a result of any tortious activity on the part of the defendants. I do not consider that his alcoholism or his subsequent psychological or psychiatric difficulties or employment problems or matrimonial upsets can be attributed to his short stay at Nazareth Lodge. In the light of my findings of low level physical abuse and upset, the proper award of damages lies in the range of between £5,000/£7,500. In the circumstances, if I had found that the plaintiff's claim was not statute barred, I would have awarded him £6,500.

G. CONCLUSION

[26] The plaintiff's claims against the defendants which arose from a period of less than 2½ months in care at Nazareth Lodge nearly 60 years ago are statute barred. If I had not found the plaintiff's claims to be statute barred, I would have considered that the plaintiff should have been able to establish liability on limited grounds, given the absence of any first hand contradicting evidence from the defendants, namely that he had received excessive physical chastisement during the course of lessons and that he had also been put in further fear of what would happen if he wet his bed (which he did not) causing him emotional distress and upset. I reject any claim that the plaintiff's stay in Nazareth Lodge caused him the long lasting psychological or psychiatric problems which have subsequently blighted his life. Consequently, if the plaintiff had been entitled to an award of damages, it would

have been for a modest sum to reflect the nature of the harsh and brutal regime which was in place at Nazareth Lodge during his short stay there.