

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

BETWEEN:

SHANE O'NEILL

Plaintiff;

-and-

ACRO CONTRACTORS LIMITED

Defendant.

SHEIL J

[1] The plaintiff in this action is now aged 31, having been born on 28 March 1971 and is a joiner by trade. On 16 August 2000 while in the course of his employment with the defendant as a joiner he was dismantling a scaffold on which he was standing when it collapsed and he thereby sustained personal injury, loss and damage.

[2] Liability is now admitted in the action and there is no issue of contributory negligence.

[3] Special damage has been agreed in the sum of £423 in respect of the three week period while the plaintiff was off work following his accident.

[4] The plaintiff, who is right handed, sustained a fracture of the coronoid process of his left ulna with some displacement. Immediately following the accident the plaintiff attended Antrim Area Hospital Accident and Emergency Department, where it was noted that he had a swollen elbow and

decreased range of movement, being particularly tender over the lateral aspect and radial head. At that time no fracture was seen on x-ray. The plaintiff re-attended to the hospital on 19 August 2000 with ongoing swelling and pain. The fracture of the coronoid process of the left ulna was seen on re-examination by x-ray. The injury was treated by way of a collar and cuff and analgesia. When the plaintiff re-attended the fracture clinic on 31 August 2000 he was noted to have a 30 degree extension lag. When he was re-examined on 5 October 2000 the lag had reduced to one of five degrees and, as it was felt that there was no further specific treatment which could be given to him, he was discharged from the clinic.

[5] There is now no question of osteo-arthritis developing in the left elbow in the future. The plaintiff has however been left with an elbow which is slightly sub-standard, as appears from the various agreed medical reports which were placed before the court.

[6] Mr Craig FRCS in his report dated 7 November 2001 of his examination of the plaintiff carried out on that day states:

"I feel that he is entirely reasonable in describing some residual weakness and soreness around the left elbow. He is a right handed joiner but would have to use the left hand in a forceful manner many times per day. He is coping with his work despite residual discomfort."

[7] On the plaintiff's initial return to work with the defendants, he had some difficulty in some aspects of his work such as lifting, carrying, reaching out, or pushing a door but he was accommodated by the defendant in relation to these problems. According to his own evidence he returned to his full duties within one year of the accident although he still experienced some discomfort on occasions. He became a self-employed joiner in November 2002. He stated that he still has occasional difficulty with some aspects of work as a joiner eg. working with a plane and that his elbow gives rise to occasional discomfort in cold weather.

[6] Bearing in mind that the plaintiff is still a relatively young man with most of his working life still ahead of him as a joiner, I consider that the appropriate award for general damages for pain and suffering is one of £15,000, to which there has to be added the agreed special damage of £423. I award interest on the figure for general damages of £15,000 at the rate of 2% per annum from the date of service of the writ of summons until the date of trial and on the £423 agreed net special damage in respect of loss of earnings at the rate of 6% per annum from the date of service of the writ of summons until the date of trial.

