



Neutral Citation Number: [2023] EWHC 1760 (KB)

Case No: QB-2020-000410

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11 July 2023

Before:

HHJ RAJEEV SHETTY
(Sitting as a Judge of the High Court)

Between:

**QXB (a child, suing by her mother and litigation
friend RXM)**

Claimant

- and -

**UNIVERSITY HOSPITALS PLYMOUTH NHS
TRUST**

Defendant

Cara Guthrie (instructed by **Clarke Wilmott**) for the **Claimant**
David Evans KC (instructed by **Bevan Brittan LLP**) for the **Defendant**

Hearing dates: 11th July 2023

Approved Judgment

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HHJ SHETTY

HHJ Shetty:

1. The purpose of today's hearing has been for me to consider whether the proposed compromise of the claimant's claim for damages is in the best interests of the claimant who is aged 7. Her mother is her litigation friend and she has attended Court today for which I am grateful. Due to a previous order in respect of publicity, I will not refer to the name of the claimant in open court.
2. The subject of the litigation is clinical negligence that arises from a delay in the diagnosis of pneumococcal septicaemia and meningitis when the claimant was 11 months old. As a consequence the claimant suffered a very severe brain injury and now suffers from a severe form of quadriplegic cerebral palsy which affects every aspect of her life and development.
3. Liability has previously been compromised at 87.5% in favour of the claimant and this has previously been approved by the Court.
4. As is common and sensible in this kind of litigation, both parties have attended a without prejudice round the table meeting on 1st March 2023. After that took place, the defendant subsequently accepted the claimant's Part 36 offer. This comprised a lump sum of £4.2million; and three stepped Periodical Payments. The capitalised value of the offer is £13.4million.
5. The claimant's mother will no doubt have been advised that the function of the court is to ensure amongst other things, that any compromise of the claimant's claim is to protect the interests of the claimant and to ensure that any damages are properly looked after and wisely applied.
6. I have read the various reports available to me; the updated Schedule of Loss and Counter-Schedule; and the witness statements.
7. I have read the very detailed advice of Ms Guthrie, dated June 2023. Without revealing the confidential detail within it, it is clear that Ms Guthrie has considered the claimant's claim in detail, and has considered the potential litigation risks of proceeding to an assessment of damages hearing. There are several heads of damages with real issues that could have been litigated. Some of the arguments may well have gone in favour of the claimant or the defendant. There is a very full analysis of the position which has been of immense assistance to me when undertaking my role as a safeguard for the claimant's best interests.
8. I have no hesitation in approving the proposed settlement. In my judgment it represents a very good outcome for a desperately sad situation. By virtue of the structure of the settlement, I am satisfied under CPR, Rule 21.10(4) that the parties have considered whether the damages in part should comprise of periodical payments. Under Practice Direction 41B I am satisfied that periodical payment orders would be in the claimant's best interests as they will ensure that the claimant will not be under compensated in the future in light of the uncertainty of life expectancy. The periodical payments have been coupled with a significant lump sum which provides the claimant and her family with some degree of flexibility. I am satisfied that the source for the continuing payment is reasonably secure.

9. I hope the claimant's parents and family do not mind me paying tribute to their levels of devotion. I appreciate that the financial remedy may not remove the feeling in her stomach that the claimant's mother vividly describes in her witness statement that she has every day. The level of energy put into the claimant's care is a testament to the strength of character of the family.
10. This settlement at least will ensure that the claimant has appropriate financial security to assist her life and those who look after her, and I wish them all the very best for the future.

HHJ Shetty

11th July 2023.