

THE HIGH COURT

[2017 No. 4797 P.]

BETWEEN

CAOIMHÍN GRIFFIN

PLAINTIFF

AND

DAN HOARE

DEFENDANT

JUDGMENT of Mr. Justice Barr delivered on the 24th day of January, 2020

1. This action arises out of a road traffic accident which occurred on 25th November 2014 at 06:50 hours on the Caherciveen to Killorglin road in County Kerry. The plaintiff was travelling in his Mitsubishi Lancer car going in the direction of Killorglin, when he crashed head-on into the defendant's lorry, which was travelling in the opposite direction.
2. The section of the road on which the accident occurred had a number of bends and was quite narrow. The width of the carriageway on the plaintiff's side was 9'4". To its left there was a gap of 3'6" between the broken yellow lines and the Armco fencing, beyond which there was a sheer drop down to the sea. However, the Armco fencing was embedded in shrubbery, such that the only usable surface on the plaintiff's side was the width of the road carriageway itself.
3. On the defendant's side, the carriageway measured 10'8". There was a margin of 2'3" between the yellow road markings on the side of the road and the mountainside, which rose steeply to the left of the defendant's vehicle. Again, due to vegetation and the proximity of the rock face, the defendant effectively only had the use of the carriageway on his side of the road.
4. The defendant was driving a lorry which was made up of a DAF cab and an articulated trailer attached thereto, which was going to be used to transport a consignment of trees which have been cut into logs. The trailer was empty at the time of the accident, as the defendant was on his way to a forest to pick up the logs. The overall length of the lorry, including the trailer, measured 49 feet.
5. It was common case between the parties that at the time of the accident, it was pitch dark and it was a damp and misty morning. The surface of the road was wet.
6. There is a complete divergence between the plaintiff and the defendant in relation to the circumstances which led to the head-on collision between the vehicles. In summary, it is the plaintiff's case that when he came around a right hand bend, he was met with a "*wall of lights*" which was taking up the entirety of the road. The plaintiff stated that he had no opportunity to take any evasive action but that he kept his vehicle driving in a straight line and collided with the front of the defendant's lorry, and then spun around so that his driver's side was wedged tight up against the front of the lorry, with the front of his car facing out towards the sea. The plaintiff maintains that he was blinded by the lights on the defendant's vehicle because both the dipped headlight bulbs and the full headlights on the front of the vehicle were on, as were the lights above the cab of the lorry. The plaintiff

stated that he was travelling at approximately 75km/h prior to the accident. He stated that the speed limit on the road was 100km/h.

7. The defendant's account is that as he was driving along this stretch of winding road, he could see the oncoming lights from the plaintiff's car before he actually saw the vehicle. He saw the plaintiff's car coming around the bend on its correct side of the road, but at a terrific speed. He states that the plaintiff then lost control of his vehicle, veered over onto his side of the carriageway and then collided head-on with his lorry. The defendant states that when he first saw the approach of the plaintiff's lights, he dipped his headlights which automatically turned off the lights on the roof of his cab.
8. The defendant was adamant that, while the rear wheel of his trailer was partially over the centre white line on the road, the cab itself was always on its correct side of the road. He stated that he was not in any way responsible for the accident, as he had been travelling at approximately 30 – 40km/h and had slowed to approximately 20km/h at the time of the impact. He was of the view that the plaintiff was entirely responsible for the accident, as he had simply lost control of his car due to the fact that he was travelling far too fast having regard to the condition of the road surface and the fact that it was a narrow road with a number of bends.
9. It is common case that after the collision, the plaintiff managed to get out of the front passenger door of his vehicle and was able to move away from the vehicle. Another motorist who had arrived on the scene, Mr. O'Sullivan, came to the plaintiff's assistance and brought him to sit in his van. The defendant had alighted from his lorry and as the plaintiff appeared to be in considerable pain and was shivering with cold, the defendant got a jacket from his lorry and put it around the plaintiff's shoulders. He then returned to his lorry to await the arrival of the gardaí and the ambulance, which had been called to assist the plaintiff. The defendant did not suffer any injury in the accident.
10. The Court heard evidence from the driver who had come to the assistance of the plaintiff. Mr. Dónal O'Sullivan lives in Caherciveen. He was travelling in the same direction as the plaintiff but was a considerable distance behind him. He stated that when he came around the right hand bend as shown in photograph number one of the engineer's photographs, he saw a lot of lights ahead of him. He did not know what it was. He just saw a lot of lights together. He slowed his van and almost came to a stop. He approached quite slowly and then he saw the plaintiff walking on the road.
11. Mr. O'Sullivan stated that he pulled his van in to the right hand side and was parked some 6 feet behind the plaintiff's car which was sideways at the front of the defendant's lorry. He parked on the right, so as not to block the left carriageway of the road. He stated that when he got out of his vehicle all he could see were lights coming from the front of the lorry. He stated that they were very bright. The lights were up high and were on.
12. In cross-examination, Mr. O'Sullivan accepted that in a statement which he had made to the gardaí on 6th January, 2015, he had not mentioned seeing any lights on any of the vehicles. He explained this by stating that he only answered the questions which the

garda had put to him. He had not been asked any questions about lights. He just answered the questions so that he could get out of the Garda Station as fast as he could.

13. It was put to the witness that in a telephone conversation which he had had with the defendant's solicitor on 15th March, 2019, the solicitor had made a memo of the conversation in which he recorded that the witness had said "*he didn't notice anything at all about the lights on the truck*". Mr. O'Sullivan stated that he had merely returned the call to the defendant's solicitor, when he saw that he had received a missed call on his mobile phone. He could not recall making that comment about the lights to the solicitor. However, when pressed on the matter, he conceded that if they defended and the solicitor stated that he had made that comment, he would accept it, but he did not recall making that comment.
14. He accepted that other portions of the memo were correct, in particular that he had not actually seen the collision and that the accident had occurred on a "*dirty morning*". However, he took issue with the memo where it said that "*he was driving behind the car*", as he had not been driving behind the plaintiff's car, he had merely been going in the same direction.
15. Mr. O'Sullivan stated that he had not seen the damage to the plaintiff's car. It was put to him that having regard to the extensive frontal damage to the plaintiff's vehicle, as shown in the Garda photographs, it was implausible for him to say that he was not aware of that damage. The witness stated that when he pulled in his car, he saw the plaintiff walking away from his vehicle in obvious pain. His primary concern was to aid the plaintiff. It had been a very dark morning and he had approached the vehicle from the passenger side. For all of these reasons he had not taken account of the extensive frontal damage to the plaintiff's car.
16. Mr. O'Sullivan stated that while he did not know the plaintiff, he had known the plaintiff's deceased father and also knew the plaintiff's mother.
17. Evidence was given by Mr. James O'Brien, a forensic collision investigator retained on behalf of the plaintiff. He stated that he had been a member of An Garda Síochána for 37 years, until he retired in July 2019. He had spent the first 10 years in Dublin and thereafter he had been the PSV Inspector and the forensic collision investigator (FCI) in County Kerry. In 2001 he had become a specialist forensic collision investigator. He had done a level 7 course in police forensic collision investigating in London. That was done in the City and Guilds Institute and was a four-year long programme. He had also done a mechanical engineering degree in LIT. Since 2001 he had been part of the forensic collision investigation team for Munster. They have regularly examined accident scenes. They would be called out to look at approximately 25 accident scenes per year. This was only in respect of fatal accidents, accidents in which there were life changing injuries, meaning loss of a limb, or accidents involving state vehicles. Since his retirement he had been in private practice as a forensic collision investigator working with a company called Assess Ireland.

18. Mr. O'Brien stated that the Garda photographs were "*live*" in that they had been taken at the scene of the accident in the immediate aftermath thereof. It was clear from photograph number two that the rear right wheel on the defendant's trailer was over the centre white line. He was of the view that on close inspection of photograph number one, it was just about possible to make out the centre white line directly in front of the damaged portion to the front of the plaintiff's car as shown in that photograph. That indicated that at that point the front of the defendant's lorry was some 8 – 10 inches on the plaintiff's side of the road.
19. Based on photographs one, two and three, he was of the view that the defendant's lorry was slightly at an angle pointing to its left, towards the mountainside. This indicated to the witness that the lorry had been in the process of moving to its left, into its correct lane, in the moments prior to and at the time of the impact between the vehicles. The direction of travel of the lorry was back in towards the left margin.
20. In relation to the lights on the defendant's lorry, there were four lights at the front of the cab. These were made up of the dipped beams which would point downwards onto the road surface and slightly to the left. There were also the full headlight beams which would point directly straight in front. On this lorry there were also four lights mounted on the roof of the cab. These were activated by a switch on the steering column, which meant that they could be turned off completely so that they would never come on, e.g. when one is travelling in a city or built-up area, or they could be switched on such that they would become operational whenever the full headlights were put on. The lights mounted on the cab would point downwards onto the road so as to illuminate an area of approximately 100m in front of the vehicle.
21. It was also necessary to have regard to the wet surface of the road which will act in a reflecting manner such that the lights from the vehicle would also be reflected back from the road surface itself, as could be seen with the Garda vehicle shown in photographs number six and seven.
22. In relation to the respective weights of the vehicles, he estimated that the defendant's lorry weighed approximately 20 tonnes and the plaintiff's car weighed approximately 1 tonne.
23. Mr. O'Brien stated that if the plaintiff had been travelling at the speed stated by him of 75 km/h and the defendant had been travelling at approximately 40 km/h, reducing to 20 km/h at the time of the impact, that would give a closing impact at the point of collision of approximately 100 km/h. Having viewed the Garda photographs showing the damage to the plaintiff's vehicle, it was clear that the overall damage had been caused by a combination of two impacts. The first impact had been between the front of the plaintiff's car and the front of the defendant's lorry, with the damage thereto being primarily in the centre of the front of the lorry extending to its left. The secondary damage to the plaintiff's car had been caused to the driver's door and was due to the spinning of the car after the initial impact and it becoming wedged against the front of the defendant's lorry.

24. He was satisfied that the estimate of a closing speed of approximately 100 km/h at the point of impact was accurate having regard to the damage done to the vehicles, and in particular the damage done to the plaintiff's car. In this regard it was important to note that all of the initial impact had been absorbed by the frontal zone of the car which had crumpled and had been extensively damaged, as shown in the photographs. However, the A pillar holding the windscreen had not been extensively damaged, nor had there been extensive damage to the driver's compartment of the car, nor had the windscreen shattered. He was satisfied that the damage to the plaintiff's vehicle was consistent with the speed as described by the plaintiff in his evidence. He would not estimate the plaintiff's speed as being any greater, because if it had been greater he would have expected to have found damage to the A pillar, damage to the floor of the plaintiff's vehicle and damage to the front passenger door.
25. Mr. O'Brien stated that if the lights on the defendant's vehicle, including the cab lights, had been fully illuminated, that would have been dazzling and disorientating for the driver of an oncoming vehicle, particularly as such lights would also have been reflected from the wet road surface.
26. In cross-examination Mr. O'Brien accepted that the accident had happened on the plaintiff's incorrect side of the road. He accepted that the plaintiff had hit the portion of the defendant's lorry that was on its correct side of the road as the impact had occurred to the centre and left side of the front of the lorry. He did not accept that the end position of the lorry was straight, but was nosed slightly to the left. He accepted that he had not mentioned that in his report. He confirmed that he had visited the location in advance of giving his report.
27. He accepted that each of the vehicles would have had a sight distance of in or about 100m given the locus of the accident as identified by the plaintiff in photograph number two of the engineer's photographs. He accepted that on a dark morning one would be aware of the lights of an oncoming vehicle before one actually saw it. He thought that the lights might have been visible up to 150m. He confirmed that there had been no break marks at the scene from either vehicle, but that was not significant, given that the road surface had been wet. He accepted that the plaintiff was incorrect when he stated in his evidence that he thought that he had at all times stayed on the correct side of the road. He believed that the plaintiff had veered to his right in an effort to avoid the oncoming vehicle as he knew that he had the ocean to his left.
28. Mr. O'Brien did not accept that there was plenty of room for the plaintiff to pass the defendant's lorry had he stayed on the correct side of the road. He did not accept that such proposition was feasible having regard to the position of the oncoming cars as shown in Garda photographs number two and three. He pointed out that those cars were proceeding at a slow pace and in a controlled environment under Garda supervision.
29. He did not accept that the plaintiff would have been aware of the approach of the defendant's vehicle from seeing its headlights, because given the contour of the road as shown in photograph number two of the engineer's photographs, the headlights of the

oncoming lorry would have been pointing into the mountain until it rounded the right hand bend which it made before coming to the portion of the road shown in photograph number two.

30. In re-examination, Mr. O'Brien stated that having regard to the length of the lorry, and the position that it was in, as shown in the Garda photograph number 12, he was of the view that it was pointing in towards its left at the moment of impact. This suggested that the direction of travel of the lorry in the seconds prior to the impact had been bringing the lorry from the incorrect side over onto the correct side of the road. This suggested that approximately 15m back, the lorry would have been more out onto the incorrect side than at the point of impact.
31. Evidence was also given by Mr. Vincent Kelly, consulting engineer. He confirmed the widths of the carriageways on either side of the road as outlined earlier in the judgment. He confirmed that each vehicle would have had a sight line of the other of approximately 120m. He stated that Garda photograph number two showed that the rear of the defendant's vehicle was approximately 1 foot over the centre white line. He was not sure about the wheel of the cab of the lorry. It may have been inside the centre white line.
32. He felt that the core issue in this case was whether the plaintiff had been blinded by the lights on the defendant's lorry. If they had been illuminated, then an oncoming driver could have been blinded, such that a person's decision-making would be taken out of sync because they would not be prepared for such an eventuality. It was an uncertain situation because the driver would not know what was behind the wall of lights. In such circumstances they were likely to make errors. Their capacity to deal with the emergency would have been reduced.
33. In cross-examination he accepted that some of his evidence-in-chief had not been contained in his report. He accepted that he had not commented on the position of the lorry, but he had only had black and white photographs of poor quality at the time that he made his report. He had since been furnished with colour copies of the Garda photographs. Even with the benefit of these photographs he could only say that the rear wheel of the lorry appeared to be outside the centre white line. He could not say definitively where the front wheel was located on the road surface. He could not say whether there was a white line visible in Garda photograph number one. He accepted that it was not possible for him to give an opinion as to what speed the vehicles were travelling at the time of the impact from the photographs that have been supplied to him. He was not able to understand how Mr. O'Brien could give such an opinion.
34. Having considered carefully all of the evidence given by the plaintiff and the defendant, together with the evidence given by the independent witnesses and having regard to the photographs that have been furnished to the Court, together with the reports which have been handed into the Court, it has been possible for the Court to reach a decision in this case. There is no real controversy as to the point of impact between the two vehicles. This was a head-on collision between the front of the plaintiff's car and the front of the defendant's lorry, primarily to the centre of the front of the lorry and extending to its left.

It is clear from Garda photograph number one that the right-hand portion of the front of the defendant's lorry was not damaged. In particular the front headlight appears to have been undamaged and was working after the impact.

35. In relation to the point of impact on the road, the Court is satisfied that contrary to the plaintiff's evidence the collision occurred on the defendant's side of the road. It is clear that after the frontal collision occurred the plaintiff's car spun around and came to rest with its driver-side wedged against the front of the cab. It is clear from the Garda photographs that the plaintiff's side of the road remained largely, though not completely, clear.
36. The Court is satisfied that the defendant's lorry was partially on the incorrect side of the road. This is clear from photograph number two of the Garda photographs, which shows the rear of the trailer extending over the centre white line onto the incorrect side of the road. Indeed, the defendant himself accepted that that was likely having regard to the fact that he had just made a right hand turn coming around a bend and due to the fact that the vehicle was an articulated lorry. However, the Court does not accept the defendant's evidence that at all time the cab remained on its correct side of the road and was so positioned at the time of the impact. The Court is satisfied that from a close examination of photograph number one, the centre white line can be seen running almost continuously under the cab and proceeding towards the camera under the front right headlamp and in front of the damaged portion of the plaintiff's car. While that is not entirely clear from photograph number one, such position is clear from photographs 12 and 13, which were taken in daylight hours and show the white line immediately in front of the damaged portion of the plaintiff's car.
37. That being the case, the Court accepts the evidence of Mr. O'Brien that the direction of travel of the defendant's lorry was probably proceeding from a position that was more on the incorrect side of the road to a position on the correct side at the time of the impact. Accordingly, the Court accepts the view put forward by Mr. O'Brien that in the seconds prior to the impact, the defendant's vehicle was, on the balance of probabilities, more on the incorrect side than at the time of the collision.
38. The Court is satisfied that neither vehicle was going excessively fast at the point of impact. The Court accepts the evidence of the defendant that he was travelling circa 30 – 40km/h, slowing to circa 20km/h at the time of impact. The Court also accepts the plaintiff's evidence that he was travelling at circa 75km/h as he came around the bend as shown in photograph number one, and proceeded onto the slight straight stretch in photograph number two. In this regard, the Court accepts the evidence of Mr. O'Brien. He is a witness with specialist forensic collision investigation skills. He has been trained to a very high degree in this area and has many years' experience investigating such accidents. It seems to the Court that he is correct when he states that the entirety of the initial damage, which is caused by the initial impact, was to the frontal portion of the plaintiff's car. The Court accepts his evidence that there does not appear to be significant damage either to the A pillar, or to the driver's compartment, or to the floor thereof, or to

the front passenger door, and that the absence of such damage is indicative of the fact that the plaintiff was not travelling at a speed greater than that stated by him. The Court is satisfied that the damage to his vehicle is consistent with his evidence in relation to his speed.

39. The only evidence in relation to the applicable speed limit on this road, was that given by the plaintiff, which was to the effect that the applicable speed limit was 100km/h. That evidence was not contradicted.
40. In these circumstances the Court is satisfied that the plaintiff was not travelling at an exceedingly fast speed as he rounded the corner as maintained by the defendant. It is also significant that the defendant accepted that the plaintiff was on his correct side of the road when he first saw the plaintiff's vehicle. Both parties are in agreement that the locus of the collision was somewhere on the road as shown in photograph number two of the engineer's photographs at approximately the point from which the photographs were taken in photographs number three and four.
41. The question which therefore arises is: if the plaintiff was not travelling at an excessive speed and was on his correct side of the road when first seen by the defendant, what caused him to veer across the road onto his incorrect side and collide head-on with the defendant's lorry? It seems to me that the only rational explanation is that he was blinded by a wall of light emanating from the front of the defendant's lorry, due to the fact that the full headlights were on, together with the lights on the roof of the cab, and that those lights were also being reflected from the wet surface of the road. Accordingly, I accept the plaintiff's evidence that he was met with a "*wall of light*" when he rounded the bend as shown in photographs number one and two of the engineer's photographs.
42. I accept the evidence of Mr. O'Brien and Mr. Kelly, which indeed was accepted as a proposition by the defendant, that if his full headlights and cab lights were on, an oncoming driver would be dazzled and would become disorientated and could possibly lose control of his vehicle. I am satisfied that this was the most likely explanation for why a car that was not travelling at excessive speed should veer across the road and collide head-on with an oncoming lorry.
43. While there was no specific evidence given on this, my rough calculations would suggest that if the plaintiff was travelling at 75km/h and the defendant was travelling at 40km/h, reducing to 20km/h at the point of impact, and given that they had a sight line of approximately 120m, the two vehicles would have met one another in a time of in or about four seconds.
44. The plaintiff's account of the full lights being on on the defendant's vehicle as he rounded the bend, is supported by the evidence of Mr. O'Sullivan. His clear evidence was that the cab lights on the lorry were illuminated when he came upon the scene. While it is certainly true that Mr. O'Sullivan is known to the plaintiff's mother and was known to his deceased father and while he appears to have been recorded as having said something to the contrary to the defendant's solicitor in a telephone conversation on 15th March, 2019,

I am satisfied on the balance of probabilities that this witness has done his best to tell the truth in his evidence to the Court. Having seen and listened to this witness, I am satisfied that he has not told a series of untruths with a view to assisting the plaintiff in making an unfounded claim against the defendant. I accept his account of what he saw when he came on the scene.

45. Having watched and listened to the plaintiff give his evidence I am satisfied that he is an honest gentleman and that his account of being met with a "*wall of light*" was a truthful statement of evidence and correctly described the situation with which he was confronted as he rounded the bend on the morning in question.
46. Taking all of these matters into account, I am satisfied that this accident was caused by the negligence of the defendant in driving partially on the incorrect side of the road and more importantly, in driving with his full headlights and roof lights on at a time when it was unsafe and dangerous to do so, having regard to the presence of oncoming traffic on the road at that time. Accordingly, liability for this accident must rest with the defendant.
47. As I've already found that the plaintiff was not travelling at an excessive speed at the time of the accident and as I am satisfied from the evidence given by Mr. O'Brien and Mr. Kelly that once the plaintiff was dazzled by the lights coming from the defendant's vehicle, the ensuing consequences, whereby he veered across the road and collided into the defendant's vehicle, was not due to any negligence on the part of the plaintiff. Accordingly, I do not find any contributory negligence against him.
48. I turn now to consider the plaintiff's injuries. The plaintiff is a young man of 27 years of age, having been born on 27th December, 1992. At the time of the accident he was nearing the end of his apprenticeship as an electrician. On the day of the accident he was travelling to Cork Institute of Technology for a final lecture, before an exam on the following day. Notwithstanding the injuries sustained in the accident, he managed to complete his apprenticeship and qualified as an electrician in Spring 2015.
49. As a result of the accident, the plaintiff suffered a comminuted fracture of his left patella, a fracture of his right clavicle and multiple abrasions and soft tissue contusions. He was admitted to Kerry General Hospital, where he was admitted for four days. During this period he was brought to the operating theatre, where the knee fracture was stabilised with open reduction and internal fixation. The clavicle fracture was treated conservatively by immobilising the shoulder in a sling.
50. On 24th April, 2015, the plaintiff was brought to theatre for removal of the tension band wiring. His knee was also manipulated under general anaesthetic. A left knee arthroscopy with debridement was carried out on 6th May, 2015. He had a further manipulation under anaesthetic in November 2016. His knee was also injected on one location.
51. The plaintiff has experienced significant pain and disablement as a result of the fractures and in particular as a result of the patellar fracture. Prior to the accident he had been a keen footballer playing with his local club, St Michael's/Foilmore GAA Club. He has not

been able to play Gaelic football since the accident. Of perhaps more concern to him, is the fact that he has been unable to pursue his chosen career as an electrician as a result of the injuries sustained in the accident.

52. He was able to manage the completion of his apprenticeship due to the fact that he was working with his uncle, who was aware of his injuries and was accommodating in relation to his work requirements. The plaintiff gave evidence to the Court that he had tried on a number of occasions to return to work with his uncle as an electrician. He had only managed to do a few days here and there, but had had to desist from such efforts due to severe knee pain. In particular, he is not able to squat or kneel without experiencing severe knee pain. This makes work as an electrician almost impossible for him. In addition, he has difficulty using ladders and is fearful when working with them due to instability in his knee.
53. The plaintiff did two periods of bar work, the first lasting for 6 – 7 months and the second lasting for approximately 8 months. He was able to manage the work, but he found it difficult due to prolonged periods of standing. In 2016, the plaintiff did some farming when he rented a neighbour's farm, which was 50 acres, but much of that was bog. In 2017 he took over working his mother's farm. He finds that he is able for this work because he can manage what jobs he does and he can take breaks as necessary. In addition, he uses a quad bike and tractor to get around the farm. The farm consists of dry cattle and sheep, so the work is not too strenuous. He brings in a contractor to do the sheep shearing.
54. In relation to his present condition, the plaintiff stated that his right shoulder was relatively good. He has a full range of movement in it. He gets occasional pain in the shoulder, which can come on spontaneously, or if he does overhead work.
55. The plaintiff stated that his knee was still very bad. It would be painful when standing or sitting for a long time. He had had more than 20 sessions of physiotherapy, but was not having any treatment at present. He was not taking any medication. He has been discharged from medical care and has been told that with the exception of possible future injections to the knee, no further surgical treatment is anticipated.
56. He has difficulty lying in certain positions in his bed and the knee can stiffen if he is sitting watching television for too long. The knee can be stiff when getting up in the morning. He has been told that arthritis will be a problem for him.
57. The Court had the benefit of two medical reports, being a report from Mr. Kieran Barry, consultant orthopaedic surgeon in Cork, based on an examination on 5th July, 2018, and a report from Mr. Tony Higgins, consultant orthopaedic surgeon at University Hospital Kerry, who was the treating surgeon and who examined the plaintiff on 19th December, 2018. Both reports confirm the injuries as outlined above and the surgical treatment as previously described.

58. Mr. Higgins noted that the plaintiff was unable to kneel on his left side. He was of the opinion that the plaintiff will not be able to work as an electrician which will obviously require squatting and kneeling on a regular basis. He noted that further treatment in the form of injections to the knee may be indicated. Both doctors were in agreement that as there had been disruption of the articulating surface of the patella, the plaintiff was placed at risk of developing post-traumatic patella femoral osteoarthritis in the longer term.
59. The Court was impressed with the plaintiff in his account of his injuries. He did not attempt to exaggerate either the level of his symptoms nor the extent of his ongoing disablement. The Court is satisfied that he has given a truthful account both of his injuries to date and as to his present condition. This young man suffered a serious injury to his left knee together with a less serious fracture to his right clavicle.
60. He has been disabled in the work aspects of his life, in that, while he can pursue some forms of employment such as farming, he has been deprived of the ability to pursue his chosen career as an electrician. In fairness to the plaintiff, he did not make a great deal about that, but the Court appreciates that it must be a source of some sadness or disappointment to him. The Court is also mindful that as a young man, he has been deprived since the accident of the ability to pursue his sporting career as a Gaelic footballer. In a rural community, that is a serious loss to a young man who was engaged in sporting activity with his local club. The Court is satisfied that the plaintiff continues to experience the pain and suffering which he described in his evidence. The medical evidence before the Court is that he will experience symptoms in his knee into the future and is likely to develop post-traumatic osteoarthritis in the future.
61. Taking all of these matters into account, the Court awards the plaintiff the sum of €85,000 for pain and suffering to date and the sum of €70,000 for pain and suffering into the future, together with agreed special damages of €5,968 giving a total award in favour of the plaintiff of €160,968.