

Neutral Citation No: [2020] NIQB 42

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

Delivered: 07/04/2020

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

14/111224/1

BETWEEN:

MARY LEONARD

Plaintiff

and

FIONA THEEDOM

Defendant

MAGUIRE J

Introduction

[1] The plaintiff in this case is Mary Leonard. Her date of birth is 2 January 1969. On 1 April 2014 when she was aged 45 she was involved in a road traffic accident when her vehicle was shunted forward having been struck by a car from behind. In turn, the car behind was shunted forward following it being struck by the defendant's car.

[2] In these proceedings the defendant admits liability and the issue before the court is quantum.

[3] Three elements in the damages equation have been agreed. First of all, vehicle repair has been agreed at £3,646.69. Secondly, vehicle hire has been agreed at £949.33. Thirdly, there is an issue about recoupment of salary during the period when the plaintiff was off work due to the accident. If she was reasonably off work for 4 months, as she claims, it is agreed that the figure which would be payable under this head in these proceedings would be £5,904.79. On the other hand, if she was reasonably off work for 6 weeks, as the defendant claims, that figure would be £1,968.

[4] In broad terms the main injuries suffered by the plaintiff in the accident can be described as follows:

- (a) A neck and shoulder injury.
 - (b) An injury to her lower back.
 - (c) A psychiatric reaction in the form of an adjustment disorder.
- [5] The following gave evidence at the hearing:
- (i) The plaintiff.
 - (ii) Mr McCann, a Consultant in Emergency Medicine, who prepared four reports, on behalf of the plaintiff.
 - (iii) Dr Loughrey, a Consultant Psychiatrist, who had prepared a psychiatric report on behalf of the plaintiff.
 - (iv) Dr Chada, also a Consultant Psychiatrist, who had prepared two principal psychiatric reports on the plaintiff, at the instigation of the defendant.
 - (v) Mr Yates, a Consultant Orthopaedic Surgeon, who examined the plaintiff on behalf the defendant, and who provided three reports in respect of her.
- [6] All of the medical experts who gave evidence at the hearing were subjected to extensive cross-examination.
- [7] Likewise the plaintiff was cross-examined by counsel for the defendant.
- [8] The court at the trial had before it a substantial volume of medical records relating to the plaintiff. It also had before it a psychiatric report, on behalf of the plaintiff, prepared by Dr Sharkey, a Consultant Psychiatrist.
- [9] The court has considered all of the above in arriving at its decision. It should not be thought that any omission to refer to any particular aspect of the papers in what follows is an indication that it has overlooked this aspect. This is not the case. What the court will do first is to summarise the medical evidence before going on to consider the plaintiff's own evidence.

Summary of the Medical Evidence

Evidence of Physical Injury

Mr McCann

[10] The evidence of the plaintiff's physical injuries can be traced by reference to the multiple reports prepared by Mr McCann on her condition. Mr McCann is a

Consultant in Emergency Medicine and he first saw the plaintiff about 6 months after the accident. In his report he indicated that the plaintiff had been taken after the accident to the South West Acute Hospital where she was clinically assessed. No x-rays were taken and she was given pain relief and discharged.

[11] Later Mr McCann records that the plaintiff developed stiffness in her neck, shoulders and lower back, radiating down to her left knee. After the accident, she went off work as a nurse to the end of July 2014, a period of some 4 months. Mr McCann notes that she attended her GP in the aftermath of the accident. Initially she was treated by the provision of pain killers and Diazepam, as a muscle relaxant. She was referred by her GP for a course of physiotherapy which she attended in the period from 1 May 2014 to 11 August 2014. At the date of examination, Mr McCann noted that she was still taking medication. The plaintiff at this stage was complaining of discomfort at various locations but, in particular, across the shoulders, while at work. While the physiotherapy had assisted her low back, discomfort at this site had not abated. She had not yet been able to return to hobbies such as walking without discomfort.

[12] In his summary and prognosis Mr McCann indicated that the plaintiff was "still aware of some residual stiffness and soreness in her neck and trapezius muscles. Her neck movements are still somewhat restricted and are more tight than uncomfortable." However, "any residual symptoms should continue to resolve and settle by about 12 months of the accident."

[13] There was also reference to discomfort in the lower back and to some pain radiating down the left leg with numbness in the outer aspect of the left thigh. Mr McCann thought this may have been what he described as a degree of mild femoral nerve irritation. He was of the view that back symptoms should resolve within a timeframe of 12 months from the date of the accident.

[14] Mr McCann thought that the plaintiff should be able with time to return to normal activities of daily living, including leisure activities. He described the plaintiff at this time as being "somewhat anxious driving" but he thought this would settle.

[15] At a period of just over a year from the accident Mr McCann further examined the plaintiff and prepared a second report. In this he notes that the plaintiff was still having significant problems with her left trapezius, with difficulty rotating to the left. This caused her some discomfort at work. She was continuing to take various painkillers. She had, she said, been referred again for physiotherapy. There were, however, areas of improvement, such as in respect of her low back and left leg. She said she remained nervous and easily startled and hypervigilant when driving.

[16] Mr McCann summarised the position as follows:

“... since I saw her last, her neck has improved somewhat but she still has some restriction of movement of the neck. It may take up to 18 months to 2 years from the time of the accident for her neck symptoms to settle. She has significant restriction of neck movements but less discomfort than before and she should ultimately make a full recovery.”

[17] Later he went on:

“She is aware of ongoing problems with her lower back, but some of nerve root type pain has settled and MRI examination has not shown anything of great consequence...her back movements have not changed a great deal and the restriction of straight leg raising on the left persists. This may take a little longer to improve, and it may be in the order of another year before the symptoms in this area resolve.”

[18] He ended by remarking that the plaintiff still remained somewhat nervous and anxious when driving but that that should resolve with the passage of time.

[19] Mr McCann prepared a supplementary report dated 7 March 2016, some 2 years and 2 months from the date of the accident. This report was based on him seeing medical records in relation to her and not upon any further examination. He did not change the conclusions which he hitherto had reached as a result of having seen these records.

[20] The next report from Mr McCann was based on an examination some 2 years and 8 months post-accident. By this time, she had received further physiotherapy, which appears to have taken place in 2015/16. Thereafter, she had had back care classes but these do not appear to have been successful and to have exacerbated her problems. The plaintiff was still continuing to complain of ongoing symptoms, including intermittent discomfort in the right upper arm; some discomfort in the right trapezius (on activities such as cutting a roast); and discomfort in the lower back on prolonged walking.

[21] Mr McCann's view was that:

“She has had ongoing significant symptoms but at this stage I feel that they have improved somewhat. She has reasonably good neck movements and little in the way of discomfort, other than a little tightness in the back of her neck. She also describes a slight niggling sensation down the right arm. At this stage, I think any symptoms which were solely due to the accident have largely resolved and

that she may have some ongoing discomfort, possibly due to underlying minor degenerative change being made symptomatic.

I would not expect symptoms from an accident of this sort to last in to the long term and any symptoms solely due to the accident would have settled in most cases, within about 2-2½ years of the accident at most. With regard of her back, she has better back movements on flexing forward than she had when I saw her last. Straight leg raising is about the same.”

[22] Of importance he went on:

“She describes a niggling discomfort in the lower back, which again I think is probably more to do with underlying degenerative change than the accident itself. There is a point, in many of these cases, when symptoms due to the accident have to be considered as resolved and that ongoing longer symptoms may be due to an acceleration of an onset of symptoms due to degenerative change, which maybe would not have occurred for another 5 to 10 years in a lady of this age.”

[23] In the course of cross-examination Mr McCann affirmed, when asked, that the injuries received by the plaintiff were soft tissue injuries. He accepted that healing would ordinarily begin speedily after the injuries were sustained and that usually there would be a gradual lessening of symptoms. It was suggested to him that the alleged absence of improvement after just less than a year, as expressed by Mr Yeates, was likely to be untrue. He accepted that he would have expected improvement. He accepted that the description the plaintiff had provided to Mr Yeates of a sore neck every day and her being never without neck pain was difficult to reconcile with the nature of the injury. He agreed that the plaintiff would not be likely to have neck pain all the time. The same applied to her low back pain. When pressed Mr McCann accepted that it was unlikely that the plaintiff’s injuries would have stopped the plaintiff, as she claimed, from lift heavy pots, a point the plaintiff had made to Mr Yeates in the context of her explaining that her husband, as a result of the accident, did all the cooking.

Mr Yeates

[24] Mr Yeates saw the plaintiff on 16 March 2015 just short of one year from the date of injury. He said that at the time of his examination the plaintiff was denying any overall improvement in her symptoms and that she found her neck sore every day and she was never without neck pain. She also talked about a weakness in the upper arms and an ache. Cutting beef, she said, was painful. In respect of her lower

back he notes her as saying it was sore every day and again without improvement. Her leisure activities had been curtailed, as had been his role at home where her husband was doing the cooking and performing other household tasks.

[25] In the opinion section of his report, Mr Yeates referred to the impact at the time of the accident. He described this as being towards the moderate end of the range, with the probability being that any complaints around her neck or back would resolve by the 6 to 9 months stage. In particular, he stated that:

“A reasonable timescale off work would have been no more than some 6 weeks as by then, given the normal powers of healing of the human body, her symptoms would have reduced to a level as to have allowed her to return to her job as an occupational health sister.”

[26] He finally offered the view that the probability was that she would not suffer any long term physical problems with respect to the accident.

[27] In his second report dated 9 November 2017, which was not based on any re-examination of the plaintiff, Mr Yeates was critical of Mr McCann’s final report. He noted that:

“Mr McCann now examined this lady 2 years and 8 months after the subject accident. His original estimate for recovery was one year which he then extended up to two years by the time of his second report although he did not give precise medical reasons as to why that should be the case. ... He now gives an even longer timescale for recovery of up to 2½ years but this lady has not had any significant pre-accident history with regard to her neck or back for that to be the case.”

[28] Mr Yeates also noted that Mr McCann felt that her discomfort in his latest report was due to degenerative change rather than the accident itself. He thought that the period of acceleration of the symptoms of such change of 5 to 10 years mentioned by Mr McCann was just speculation on his part.

[29] Mr Yeates maintained his view that it was reasonable to allow a period of up to some nine months for recovery after this particular accident and in his view it was improbable that the accident had the potential for causing pain for up to 2½ years as suggested by Mr McCann.

[30] In the course of cross-examination, there was significant controversy engendered over what was said to be an unduly negative picture which the witness said he had been provided with by the plaintiff. This related to Mr Yeates’ examination of the plaintiff just short of one year after the accident. In essence, it

was suggested to the witness that the plaintiff had accepted that there had been improvement in her condition by this stage, both in respect of her neck and low back, a point Mr Yeates denied.

[31] In this context Mr Yeates produced the written note he had made of the plaintiff's examination. This became the subject of detailed examination. However, the court is bound to say that it seemed generally in line with his written report of the examination. Mr Yeates specifically denied a suggestion that he had tailored or slanted his report against the plaintiff. On this point, the court doubts that there was any evidential substance in this suggestion. It seems to the court to be clear that in both his written report and in his note of the examination the only reference to improvement on the plaintiff's part was made within the context of the effect upon her of the course of physiotherapy she had taken.

Evidence of Psychiatric Upset

Dr Sharkey

[32] The first psychiatric report in the papers on the plaintiff in time was that of Dr Sharkey. He saw her some 14 months after the accident. She had been referred to him by the plaintiff's solicitors. Dr Sharkey noted that the plaintiff had given him an account of hyper vigilance in the car as well as psychological upset and anxiety which persisted, including nervousness in a vehicle. She startled with unexpected sounds and movements. He also noted that she had said her sleep was disturbed by discomfort. She had expressed the view that she had thought her condition would have improved but that it had not.

[33] In his opinion Dr Sharkey stated as follows:

"Mary Leonard was involved in a frightening road traffic accident following which she appears to have developed a number of psychological symptoms. Her symptoms result in a considerable distress and inconvenience and adverse impact on quality of life; however, they fall short of the threshold required for formal psychiatric diagnosis."

[34] He later noted that lack of recovery of the symptoms she was experiencing in a vehicle was unusual. He indicated that in his opinion she should consider approaching her GP for onward referral to a suitable psychological treatment centre. He thought that trauma focussed cognitive behavioural therapy or EMDR would be the most appropriate choice should she chose to go down this path.

[35] In Dr Sharkey's report there is a passing reference to the circumstances of the accident and, in particular, to the fact that the car that struck the plaintiff's car had been struck from behind. Having indicated this Dr Sharkey records as follows:

“She told me that there was a loud bang. She told me that SWAT team police arrived at the scene of the accident as Prince Charles was due to land at the airport later that day.”

Dr Loughrey

[36] The next psychiatric report on the plaintiff was that of Dr Loughrey. This was commissioned by the plaintiff’s solicitor. It is dated 8 February 2017, that is some 2 years and 10 months after the accident. In his summary and opinion he refers to the impact itself being essentially a rear end shunt but he then notes that it was preceded by a very loud bang as two cars had collided behind her. He then said this:

“Then, she found herself terrified by the sight of a black clad policeman, whom she was sure, from the circumstances of his presence there, was armed approaching her at speed. Not knowing that the first bang she heard was an accident, she feared that something more violent was unfolding and that she might be killed on the spot. Of course she was promptly reassured about this.¹”

[37] In Dr Loughrey’s opinion the plaintiff:

“describes an adjustment disorder, which reflects the entirety of her experiences at the scene, and also the stressful impact of her injuries. Her problems include anxious pre-occupation, sleep disturbance, generalised emotional disturbance and travel anxiety. The travel anxiety is still persistent, which reflects the shock of what happened, though it does not appear to be disabling at this time. Her generalised emotional disturbance appears to have settled completely.”

[38] In respect of sleep disturbance Dr Loughrey referred specifically to this being caused by her recollection of the approach of the police officer. He comments, however, that this had now settled.

[39] Under the heading ‘Treatment Received’, Dr Loughrey acknowledges that the plaintiff had at one point in 2015 been referred by her GP to a Psychological Therapist for a period, though he notes that her problems at that time had been

¹ There is a later reference in his report to this incident which provides some explanation of events. He notes that “As it happens, Prince Charles was visiting the airport on this day and there was a substantial police presence...She now knows that the [officer] was on his way to help her, which indeed he did, but at the time she feared that he might shoot her...”.

compounded by the death of a close friend and other significant losses. Her attendance with the Therapist principally occurred during 2016

[40] Dr Loughrey thought that there would be no long term psychiatric effects of the accident other than a persistent sensitivity to reminders. His diagnosis was that the plaintiff had suffered an adjustment disorder. Under cross-examination, he said he viewed the duration of the disorder as being in the region of 6 to 12 months, on a diminishing basis.

[41] It is clear that Dr Loughrey at the time he compiled his report had not been provided with the report of Dr Sharkey. Though it is mentioned in the body of the report in passing, it appears that Dr Loughrey did not ask to see it.

Dr Chada

[42] While Dr Chada has produced two reports for the court, she only examined the plaintiff once – on 19th April 2018 – just over 4 years from the incident. The court will, however, concentrate on her opinion as given in her second report – some 4 years and 6 months after the incident - which was written at a stage after she had fully been able to consider the plaintiff's GP notes and records.

[43] It is clear from her second report that the first time any significant issue was raised by the plaintiff with her GP of a psychologist nature in relation to the accident was in the aftermath of her examination by Dr Sharkey. This was in August 2015. At that time, the GP referred her to the Psychological Therapist referred to above. Thereafter, she appears to have undergone a course of Cognitive Behavioural Therapy (CBT). Part of the context was the accident but part was also the death of a good friend. Attendances with the therapist occurred in the period from the end of 2015 to the end of the first half of 2016.

[44] When Dr Chada examined the plaintiff when compiling her first report she found her to be well-presented, warm and reactive. Her mood appeared good and she indicated that her sleep was reasonable, her appetite was fine and she had no problems with concentration.

[45] The plaintiff described to her that after the accident she was nervous driving and was hypervigilant.

[46] She said she had ruminated on events and referred to the police officer running towards her after the accident and her fears about this, though she was assured by the passenger in her car that the officer was coming to help, as proved correct.

[47] In the 'Opinion' section of her first report Dr Chada, having reviewed the reports of Dr Sharkey and Dr Loughrey, expressed the view that "symptoms from

the road traffic accident appear to have contributed to an adjustment disorder for a total of some six months”.

[48] In the Opinion section of her second report, Dr Chada commented that Dr Sharkey, Dr Loughrey and herself were all in agreement that this was not a case of post traumatic distress disorder.

[49] She went to say that “[t]he relative lack of entries [in the medical records] in relation to psychological symptoms is surprising given that [the plaintiff] has presented to her GP with psychological symptoms in the past...[t]here are no significant psychological symptoms in relation to the index accident”. However, she accepted that the plaintiff may well have had some travel anxiety but wasn’t mentioning this to her GP. She also accepted that some adjustment symptoms were also likely. Any adjustment disorder was ‘multi-factoral’. She thought that the accident had not played any significant role beyond 6 months in total. She felt that other factors also played a part.

[50] In her concluding remarks she indicated that she could allow for an adjustment disorder and a travel anxiety (not set at a particularly disabling level) in the region of some 6 months in total.

The plaintiff’s evidence

[51] At the time the plaintiff gave her evidence she was aged 50.

[52] She described the accident as having occurred out of the blue and as involving a mighty bang. Police were present because, as she learnt later, Prince Charles, was due to visit the area and she recalled that immediately after the accident a police officer ran towards her. Initially she thought that there may have been an explosion.

[53] After the accident, she said she was shaken. She was brought to hospital but discharged later on the same day with painkillers. At this stage the injury she was complaining about was of pain at the bony prominence of her neck. Later, within the next few days, she felt that both her neck and shoulders were painful with pain radiating down her left leg.

[54] The plaintiff reported to her GP after about 3 days. She was treated mainly with pain killers but also with anti-inflammatories and Diazepam. She said these medications provided limited help.

[55] In broad terms, the course of her condition followed the path described principally in Mr McCann’s reports. At an early stage she was referred for physiotherapy. She was off work for 4 months. However, when she returned to work she continued to experience restrictions in neck movements. Seeing clients

exacerbated the situation and she said she often had pain at the end of the day. The affected areas included her neck and lower back.

[56] The plaintiff indicated to the court that during this period work within her household was affected and her husband had to help with heavier work.

[57] As time passed, she said she adjusted the medication she was taking but she claimed that it was not until August 2018 that she had come off all the medication which had been prescribed.

[58] She did, however, accept that her condition had improved in the last year before the hearing.

[59] The plaintiff described to the court that she had been a keen walker, swimmer and dancer before the accident but she said that since the accident she either had to stop the activity altogether (in the case of swimming) or had to scale it down (in relation to walking and dancing).

[60] In terms of her psychiatric reaction, her main concerns were with post-accident anxiety; worry about driving; being stressed while in a car; and hyper-vigilance. She said she didn't take medication for anxiety initially but that as it had been a continuing problem she went to her GP who arranged for her to engage in CBT. CBT sessions, she said, assisted her and benefitted her mood, but anxiety persisted right up to the present time.

[61] The plaintiff was cross-examined over an extensive period. While the court has considered all of the points canvassed in the course of the examination, it is proposed only to mention here the key points which arose.

[62] These were as follows:

- (i) It was suggested to her that by the end of a period of 6 months from the date of the accident her complaints were of discomfort more than pain as this is the way she had expressed her complaints at the time when Mr McCann first examined her. This she denied, though she did say that she could not recall what exactly she had said to Mr McCann.
- (ii) She had to accept that in her accounts to Mr McCann she had not specifically referred to dragging her left leg, an expression she used in her evidence in chief. She offered no explanation for not using this language to Mr McCann. She also accepted that she had not made this specific complaint to her GP, when this was put to her.
- (iii) It was suggested to her that when she was examined by Mr Yeates just short of a year after the accident she deliberately had painted a picture of no or little improvement in her post-accident condition and that in doing so, she has

sought to mislead him. To this she said that she did accept that there has been some improvement following the course of physiotherapy she had undertaken and that Mr Yeates must have got things wrong, a point which Mr Yeates denied.

- (iv) She was asked about having told Mr Yeates of problems with her upper arms when she had not mentioned this some 6 months before to Mr McCann. She was unable to account for this.
- (v) It was pointed out to the plaintiff than in evidence she had said that her husband since the accident had to help her with household tasks but that when she was seen by Mr Yeates she told him that her husband was doing all the cooking and had to shop with her. She appeared to accept that there was a difference between these statements.
- (vi) It was put to her that she told Dr Sharkey that her sleep had been disturbed by discomfort but she had not said this to other medical/legal witnesses. For example, she had told Dr Loughrey that her sleep was disturbed by recollections of the incident with the police. She had no explanation for this.
- (vii) The role of her encounter with the police immediately after the accident was interrogated at length. It was put to her that she had not referred to this at all at the hospital or when she initially attended with her GP and, in addition, she had not referred to it in her contacts with Mr McCann. All of this she had to accept. She also accepted that when the matter was mentioned to Dr Sharkey it was referred to only in passing and that she had not suggested to him that the police has caused her to fear that she would be shot. The plaintiff was confronted with the proposition that she had used this issue belatedly in an attempt to enhance her claim, a proposition she denied.

Assessment of the plaintiff

[63] The court has given careful consideration to its assessment of the plaintiff's evidence. The context within which this assessment is carried out is self-evident. There is no dispute that she was the victim of an accident or that, coincidentally, the location of the incident was one at which at that time on the day in question police had assembled in a team or teams awaiting the arrival of a VIP who could have been a target for terrorists. The likelihood therefore was that they would be armed.

[64] The issue the court has to decide is the quantum of damages. In respect of this issue, the plaintiff is not an impartial by-stander, as it is obvious that the way and manner in which she gives evidence is bound to have an effect on the court's consideration of the issue before it.

[65] Likewise, how the plaintiff projected her account of what happened to her to professional witnesses will be important as they later have to report and give

evidence to the court. They are, the court acknowledges, dependant, to a substantial degree, on what the plaintiff tells them, though as experienced professionals they, no doubt, guard against the risk of a plaintiff being economical with the truth.

[66] The court's assessment of the plaintiff depends on what it has read in the documents before the court; on the evidence of, in this case, professional witnesses; on its own experience of life and of litigation; and principally on how it sees the individual before it in the witness box. It will take into account that often a witness will be, for the first time, giving evidence in public under oath, within the relatively foreign environment of the courtroom.

[67] The court will also bear in mind the assistance it can receive from the legal authorities in the sphere of witness assessment. In this regard, it brings to mind the often cited judgment of Gillen J in *Thornton v Northern Ireland Housing Executive* [2010] NIQB 4, especially at paragraphs [12] and [13]. In the latter paragraph, the Judge said in connection with assessing credibility:

“...the Court must pay attention to a number of factors which, inter alia, include the following:

- The inherent probability or improbability of representations of fact.
- The presence of independent evidence tending to corroborate or undermine any given statement of fact.
- The presence of contemporaneous records.
- The demeanour of witnesses e.g. does he equivocate in cross-examination.
- The frailty of the population at large in accurately recollecting and describing events in the distant past.
- Does the witness take refuge in wild speculation or uncorroborated allegations of fabrication?
- Does the witness have a motive for misleading the court?
- Weigh up one witness against another.”

[68] In this case the court did not form the view that the plaintiff was seeking to mislead the court or was an untruthful witness. But, at the same time, it considers that there were aspects of her evidence which were unsatisfactory. The plaintiff appeared, in the court's estimation, to have become pre-occupied with this litigation and consumed with every detail. She appears to have lost the ability to see the wood for the trees and to keep matters in perspective. Instead, she appeared to fixate on every point without distinguishing between those matters which were important and those which were less important.

[69] In these circumstances the court will have to, in its overall judgment, seek to ensure that it appropriately moderates the plaintiff's claim by its own exercise of objective judgment, taking into account the matters referred to above.

The court's findings

[70] The court makes the following findings in this case:

- (a) The plaintiff was the victim of the road traffic accident described above. This involved two loud bangs which could reasonably have given rise to the thought that there had been an explosion.
- (b) There was in the aftermath of the accident an incident in which an armed police officer ran towards the plaintiff. This potentially could cause concern on her part but, if it did, any concern was short lived as the officer was seeking to lend assistance to her.
- (c) The court does not consider that the plaintiff's encounter with this police officer gave rise to any significant psychiatric upset. The complete absence of any reference to this matter for a considerable period after the accident makes it unlikely that this episode has any real relevance to the court's task.
- (d) The court accepts that the plaintiff was shaken by the accident. She was, however, treated appropriately in this regard at the hospital.
- (e) Thereafter the court accepts she did develop pain in the neck and back with radiation into the left leg.
- (f) This properly required her to remain off work and to undertake, as occurred, a course of physiotherapy.
- (g) The court considers that her period off work of 4 months was not unreasonable and declines to follow Mr Yeates' view that she ought to have returned to work within a period of 6 weeks.
- (h) The court is of the opinion that her return to work is an important landmark.
- (i) The court can understand and accepts that, given the plaintiff's position as a nurse administering to clients, she, probably on a tapering basis, will have had discomfort in the neck and back for a period thereafter.
- (j) The court has no difficulty in accepting that in the aftermath of the accident the plaintiff will have become anxious about driving and have become, at times, stressed and hypervigilant when travelling in a car.

- (k) The court is of the view that there was a psychiatric upset in the form of an adjustment disorder which arose in this case. However, this disorder was not long lasting and the court broadly accepts the evidence of Dr Loughrey and Dr Chada to this effect. It does not view this disorder as encompassing the plaintiff's encounter with the police officer after the accident and does not view the plaintiff's later involvement in CBT sessions as significant in this regard or as causally related to the accident. The adjustment reaction, in the court's mind, would have ended after about 9 months.
- (l) The tapering nature of the symptoms in relation to the plaintiff's physical injuries, the court accepts, may have continued beyond the period of 1 year initially predicted by Mr McCann in his first report but the court believes that Mr McCann's later reports extend the period beyond what is objectively reasonable. On the other hand, the court does not accept Mr Yeates' view that the duration of such injuries did not exceed his initial view of 6 months or his revised view of up to 9 months. The court determines that the outer limit temporally under this head should be set at around 18 months.
- (m) After the period of 18 months, the court is of the view that the plaintiff's complaints in the sphere of physical injuries are not to be related to the accident.
- (n) The court is not persuaded that Mr McCann is correct when he sought causally to relate, the onset of symptoms of degenerative change and their advancement temporally by a period of 5-10 years, to the accident.
- (o) In the end, this claim is related, in the court's view, essentially to soft tissue injuries which, did not settle just as quickly as was originally expected. It also relates to an adjustment disorder of relatively limited duration.
- (p) The court accepts that this case involves a loss of amenity in terms of an interference in the plaintiff's ability to take part and enjoy activities such as walking, swimming and dancing. The court approaches this interference in the same way as it has approached the physical injuries in this case, i.e. that there will have been an acute phase in terms of its effects but thereafter the impact it has had on the plaintiff tapers to the point of extinction. In this case the outer limit is viewed by the court as around 18 months from the date of the accident.

Decision

[71] Using today's values and having consulted the 'Green Book', bearing in mind that it is to be viewed as guidance and not a straight-jacket, and having considered each party's view of the quantum of the claim (which varied significantly), the court will award the following sums:

(i) Physical injuries primarily to the neck and back - £20,000
with associated loss of amenity

(ii) Adjustment Disorder - £10,000

[72] To these figures there will have to be added the figures referred to in paragraph [3] above. These are:

(iii) Vehicle repair - £3,646.69

(iv) Vehicle hire - £949.33

(v) Recoupment - £5,904.79

[73] The court will hear the parties in relation to the costs and any other ancillary issue.