



Neutral Citation Number: [2024] EWHC 1403 (KB)

Case No: QB-2022-001653

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL
Date: 11/06/2024

Before :

MRS JUSTICE TIPPLES DBE

Between :

BRS

Claimant

- and -

Paul Francis Gadd

Defendants

The Claimant represented by **Mr Jonathan Metzger** (instructed by Slater & Gordon UK Ltd)
The Defendant not appearing and not being represented.

Hearing date: 27th March 2024

JUDGMENT

This judgment was handed down remotely on 11 June 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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The provisions of the Sexual Offences (Amendment) Act 1992 apply to the defendant's offences referred to in this judgment. No matter relating to the victim whose identity has been anonymised in this judgment shall, during her lifetime, be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with section 3 of the 1992 Act.

The Hon. Mrs Justice Tipples DBE:

Introduction

1. The claimant seeks compensation for sexual abuse perpetrated by the defendant in 1977 when she was 12 years old. The defendant is better known by his stage name “Gary Glitter”, the famous rock singer who achieved huge success in the 1970s and 1980s.
2. The claimant’s claim for compensation is based on the matters for which the defendant was convicted in Southwark Crown Court in February 2015. These were two counts of indecent assault between 31 January 1977 and 31 May 1977 contrary to section 14 of the Sexual Offences Act 1956 and one count of sexual intercourse with a girl under the age of 13 between 31 January 1977 and 31 May 1977 contrary to section 14 of the Sexual Offences Act 1956 (which were counts 3, 4 and 6 on the indictment). The defendant was, at the same time, convicted of other offences against other complainants and is in prison serving a 16-year sentence of imprisonment in respect of his sexual offending.
3. These proceedings were issued on 24 May 2022 and an anonymity order was made on 13 June 2022. On 14 November 2022 the claimant obtained judgment in default as the defendant had failed to file an acknowledgment of service. Directions were made for a trial to assess damages. The trial was listed before me on 5 March 2024, but had to be adjourned as the claimant’s solicitors had failed to produce adequate evidence of service or that the defendant had been given the opportunity to participate in the damages hearing remotely. The trial was re-listed for hearing on 27 March 2024. The defendant had by then been properly served with all the documents in relation to the damages hearing (by both first class post and special delivery), and been given notice how to participate in the hearing remotely from prison if he wished to do so. The defendant failed to provide any response to the documents that had been served on him and I was satisfied that it was appropriate to proceed with the hearing in his absence. Further, Mr Metzger, Counsel for the claimant, was aware of his obligation at the hearing to draw any points to the court’s attention which could have assisted the defendant.
4. The provisions of the Sexual Offences (Amendment) Act 1992 apply to the defendant’s offences. No matter relating to the victim whose identity has been anonymised in this judgment shall, during her lifetime, be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with section 3 of the 1992 Act.

Damages claimed

5. The sexual assaults inflicted upon the claimant by the defendant have caused the claimant to suffer psychological injury and losses. She maintains that she has endured the following pain, suffering and loss of amenity: (a) repeatedly being sexually assaulted and raped by the defendant; (b) being humiliated and coercively controlled by the defendant; (c) consequential complex post-traumatic stress disorder (C-PTSD) and recurrent depressive disorder.
6. The claimant claims damages set out in her schedule of loss dated 22 December 2023:
 - a. General damages for her pain, suffering and loss of amenity to be assessed.

- b. Aggravated damages to be assessed.
 - c. Treatment as recommended by Dr O'Rourke, which will cost approximately £7,800, together with travel costs estimated at £1,300, making a total of £9,100.
 - d. The claimant has suffered education and employment disadvantage by reason of her psychological injuries, which is continuing, and she claims damages for loss of earnings which she maintains should be assessed at £480,000.
7. Further, the claimant claims interest on the damages she is awarded.

Claimant's evidence

8. The claimant gave evidence in support of her claim which was contained in her witness statement dated 6 December 2023. At the hearing she confirmed that the contents of her witness statement were true, and she did not wish to make any corrections or additions to that statement. As the defendant failed to participate in the hearing, she was not cross-examined. I accept the evidence set out in the claimant's witness statement is a true account of the defendant's sexual abuse and the very significant consequences it has had on her. Indeed, there is no reason for me not to accept her evidence.
9. The claimant was born in 1964 and grew up in Leicester. She has three brothers. Her father worked long hours and was seldom home when she was young. Her mother brought her and her brothers up pretty much alone. The claimant was her mother's only daughter and, as a result, they were very close and spent most of their time together. The claimant's mother liked music and was a fan of the defendant and became somewhat obsessed with him.
10. In 1977, when the claimant was 12 years old, her father bought her mother tickets to one of the defendant's concerts in Birmingham with backstage passes. The claimant's mother went backstage at the concert and met the defendant for the first time. That led to the claimant being invited to meet the defendant backstage shortly after that when he was in Leicester. The claimant then met the defendant, and was invited with her mother to meet him at his hotel the following night. The defendant plied them with champagne and, when he got the claimant on her own and away from her mother, the claimant was sexually assaulted by the defendant. He held her head, pushed her neck back and started to kiss her. She touched his hair at which point, "he went mad" as no one was allowed to touch his hair. He then stuck his tongue in her mouth and told her to get undressed. The defendant then began to touch all over the claimant's body including her vagina, and proceeded to have oral sex and sexual intercourse with her, which occurred repeatedly throughout the night. The claimant said that they were drinking bottles of champagne, and he would then spit champagne in her mouth, which she described as disgusting. The defendant told the claimant she was a "good girl" before she got dressed and her mother collected her the next morning. The defendant then asked the claimant to his house in London, and she was raped by the defendant, and there were further sexual assaults. These are the circumstances which gave rise to the convictions which the claimant relies on in these proceedings.

11. The claimant dropped out of school at the age of 13 with no academic qualifications. She had attended the local primary school and did well there academically. She went to senior school and, again, did well to start with. However, as a result of the sexual abuse by the defendant her behaviour rapidly deteriorated, as did her self-esteem. This led to her truanting from school and eventually dropping out of school.
12. The claimant was taken to court three times for not attending school and was also smoking and drinking. Her lack of self-esteem meant that she was unable to go outside without make-up on. The claimant said that she felt totally ashamed and she would scrub herself in the bath daily and this included, on occasion, using a pumice stone to “scrub her face off”, and she did not care what she looked like. The claimant just did not want to look like herself. The claimant did not tell anyone in her family what happened to her as she was worried that she would bring shame on them all and she thought her family would not love her any more if they knew.
13. The claimant managed to get a job in a clothes factory working on the sewing machines, which she enjoyed for a short period. However, this job did not last as she could not cope with it, and left after a few weeks. She then worked for her brother on a market stall, but again that did not last. The claimant wanted to pursue a career in ballet, either performing or teaching, as she had danced from a very young age and did well at it. This initially provided a haven for the claimant as it was all work with very little time to chat, but she was unable to continue with the senior classes as there were more male dancers and she could not interact with men. This, again, did not last.
14. The claimant became pregnant had had her first child when she was 19 and had four further children. She has a good relationship with her children. The claimant changed her name in order to separate her childhood experience of abuse from her adult self. This was because she could hear the defendant’s name in her head saying her old name. The claimant describes herself as very vulnerable and, although she wants to be normal, she says she does not have a normal life. She says that she has difficulty tolerating other people and, once a relationship becomes close, she distances herself because she is fearful that they will want to know too much about her. She says that struggles with intimacy and continues to feel shame about the abuse happening to her, although she understands it was not her fault.
15. When the claimant’s mother was alive she could not talk about the defendant, or what he did to her. However, when her mother died she felt like “the lid had come off the box” and she could not cope with the flood of memories and visions that she was having. The claimant then contacted the rape crisis helpline and they advised her to report what had happened to the police, which she then did. The claimant found the process of the matter going to court as very traumatic, and it took its toll on her health. She has great difficulty sleeping, suffered nightmares, intrusive flashbacks and memories, together with panic attacks and depression. The claimant has ground her teeth down to the point of breaking them, and has often woken up with a sore jaw and bruising. The claimant has no self-confidence and, at times, she has felt suicidal and has taken overdoses and finds it extremely distressing to talk about these issues and she would rather try and block it out, which she finds mostly impossible. The claimant is currently on medication for anxiety, depression and C-PTSD.

16. The claimant reported the sexual assaults to the police in 2013. The defendant was prosecuted at Southwark Crown Court in February 2015. The claimant was one of a number of complainants who had come forward with allegations of sexual offending by the defendant. The defendant was convicted after trial of the offences against the claimant identified at the start of this judgment. The claimant relies upon the fact of the criminal convictions secured against the defendant in support of her claim for injuries and losses pursuant to section 11 of the Civil Evidence Act 1968.

Expert evidence

17. The claimant relies upon the report of Dr Sue O'Rourke AFBPsS, a consultant clinical psychologist, dated 18 February 2022, which was served with the proceedings. Dr O'Rourke qualified in 1989, and has worked predominantly in the field of mental health and deafness. Most recently Dr O'Rourke has been Head of Psychology in a medium secure unit and a director of services in the independent health care sector developing forensic services for people with complex mental health needs. She has been working as an independent clinical psychologist since July 2011 and throughout her career she has worked with many individuals with a history of childhood trauma. Dr O'Rourke's report contains a statement of compliance in which she confirms that she understands that her primary duty in the preparation of written evidence is to the Court rather than to the party who instructed her. She also confirms that the contents of her report and the opinions expressed are accurate to the best of her knowledge and belief, and they represent her true and complete professional opinion.
18. Dr O'Rourke assessed the claimant at her home, was provided with the relevant police records, and the claimant's medical records, and her witness statement in this case. Dr O'Rourke had read all of those documents.
19. The summary of Dr O'Rourke's conclusions are set out in section 3 of her report. She explains that the claimant meets the criteria for a diagnosis of Complex Post-Traumatic Stress Disorder (ICD-11 6B41) and she also meets the criteria for diagnosis of Recurrent Depressive Disorder (ICD-11 6A71), of varying severity throughout her life.
20. Dr O'Rourke provides her reasons for this diagnosis in section 9 of her report:

“PTSD: [The claimant] meets criteria for a diagnosis of Complex Post Traumatic Stress Disorder (ICD-11 6B41), with symptoms of re-experiencing, avoidance and hyperarousal when triggered.

- Re-experiencing includes flashbacks and nightmares. She has intrusive thoughts and ruminations about the abuse which she tries to manage by avoidance.
- Avoidance is primarily cognitive, with her engaging in behaviours in order to avoid thinking about the abuse. These are at times extreme and involve what she describes as ‘manic cleaning’. There is also an element of avoiding contact with others, as a means of managing her emotional state.

- Hyperarousal when triggered was very evident in the assessment. In talking about the abuse, she became upset and agitated, visibly shaking and requiring frequent breaks.
- She also meets the criteria to meet the diagnosis for complexity include, problems in affect regulation, beliefs related to shame and worthlessness and difficulties in relationships.

PTSD has affected [the claimant] throughout her life to a greater or lesser extent. By her own account she managed to function to some degree until her mother's death, when this became overwhelming, leading to disclosure.

However, even in those years, her avoidance and focus on appearing as normal as possible, was only successful to a degree. Difficulties in her relationships, problems with intimacy, both sexual and more generally are, on the balance of probabilities, linked to the abuse suffered.

From her mother's death and the subsequent disclosure to the police, symptoms of PTSD have been more difficult to manage and affect her on a daily basis, dictating her routine and what she is and is not able to do. She is plagued by thoughts of shame and self-blame, which despite an understanding of the nature of the abuse, she finds she cannot shake off. She continues to avoid triggers, which in essence means that she avoid many aspects of ordinary and fulfilling life, such as friendships and engaging in activity outside the home.

Her anxiety out of the home presents as agoraphobia; however this is primarily due to the PTSD and does not warrant a separate diagnosis.

[The claimant] describes dissociative phenomena linked to the abuse suffered. At the time of the abuse and in subsequent sexual relationships, she describes dissociating as a means of coping. She talks of herself as several 'parts', which can be termed 'alters'. This is not a true/complete Dissociative Identity Disorder (in which the alters are not aware of each other), but considering dissociation on a continuum, it expresses how she experiences the struggle to have a coherent identity and sense of self.

Depression: Depression is often part of CPTSD which is the case here. However, at times she is likely to have warranted a separate and additional diagnosis of depression. She is currently low in mood linked to the case, but also to her situation and lack of rewarding activity in her life. She meets criteria for a diagnosis of recurrent Depressive Disorder of varying severity throughout her life since the abuse (ICD-11 6A71). She is at moderate risk of self-harm and suicide, with the strong protective factor of her children and grandchildren."

21. In relation to causation Dr O'Rourke was asked to identify to what extent any damage diagnosed had been caused by the alleged abuse. In answer to this, and other questions she was asked on causation, Dr O'Rourke explained that:

“[The claimant's] self-report of life before she met [the defendant] was nevertheless that she was doing reasonably well at school and was a happy child. By contrast, after the abuse by [the defendant] there appears to have been a high level of disturbance and

an inability to engage in previous activities such as going to school, focussing on lessons and mixing with peers. The impact of the abuse on her self-esteem was profound: she scrubbed her face and body with pumice stone and ‘hid’ under clothes and make-up. I would state that the abuse suffered and her efforts to avoid thinking about this and appear ‘normal’ shaped her development from that point and has had a profound effect on her subsequent life and mental health. On the balance of probabilities, the abuse perpetrated by [the defendant] is the primary and most significant cause of her CPTSD, with the initial and earliest incidents being most damaging, due to her young age, the seriousness of the abuse and the complexity of the situation involving her mother. The content of her re-experiencing is related to the abuse by [the defendant]. Her young age and vulnerability at the time and the trauma of this being linked to her mother, add to the complexity and severity, with a profound impact on her developing personality... The abuse suffered has affected her view of herself, causing low self-esteem and self-loathing, which feeds into depression. Her view of the world and her difficulties in relationships when younger, and avoidance of these when older, are factors relevant to her depression. Although other life events, such as domestic violence and coping with her son’s challenging behaviours have been triggers for low mood in the past, the abuse by [the defendant] is highly significant and, on the balance of probabilities, the primary cause.”

22. Dr O’Rourke was asked to express her opinion as to the relevance of the abuse as regards the claimant’s studies, examinations and career. In relation to this question, Dr O’Rourke expressed her opinion in these terms:

“[The claimant] presents as an intelligent woman. Her school achievements and record of employment do not reflect this. Her own account is that, following the commencement of abuse by [the defendant], she was unable to attend to her schoolwork and in fact found being at school too difficult altogether. She stopped attending and did not take any O-levels as a result. This was not truancy in the sense of a teenager losing motivation and becoming rebellious but was a response to trauma. She clearly describes conversations with peers acting as a trigger to distress and thoughts that her peers would know about the abuse by looking at her. Avoidance of school established a pattern of coping with her negative emotions. This was repeated in a work setting, when a peer from school was employed, meaning she had to stop attending work. In my opinion, the major reason for [the claimant] not achieving in education and not being able to work has been avoidance, associated with PTSD caused by the abuse suffered.”

23. Dr O’Rourke therefore concludes that in terms of causation, the abuse perpetrated by the defendant is the primary and most significant cause (paragraph 3.7). Dr O’Rourke then explains that:

“[3.8] The abuse suffered has had a significant impact on relationships and intimacy.

[3.9] The abuse suffered and resultant CPTSD is, on the balance of probabilities, causal in her under achievement educationally and lack of employment.

[3.10] [The claimant] would benefit from psychological treatment, focussed on CPTSD, namely Eye Movement Desensitisation and Reprocessing (EMDR).

[3.11] In the event she engages in this therapy, the prognosis is cautiously optimistic, and she is likely to experience a reduction in post trauma symptoms and reduced vulnerability to depression.”

24. I accept all the findings and conclusions of Dr O’Rourke set out in her expert report. Indeed, there is no reason for me not to do so.

Judicial College Guidelines

25. Mr Metzger directed my attention to the *Judicial College Guidelines* (17th Edition; published 12 March 2024 (“*the Guidelines*”)), Chapter 4, Part (C) which deals with cases of sexual and/or physical abuse. The introduction to Chapter 4 explains that in such cases:

“in addition to psychological injury and the physical injuries inflicted, awards often include an element for injury to feelings caused by the abuse itself and by any denial of the offences and the need for the injured person to relive the abuse in court or other proceedings”.

26. Part (C) provides that:

“The cases in this section include damages for the sexual and/or physical abuse itself as well as any psychiatric injury caused to the injured person... In many cases there is also an element in the award of general damages for the indignity, mental suffering, humiliation, distress, or anger caused by such an attack. This is sometimes characterised as aggravated damages, but more properly is injury to feelings and is included in the brackets below. Where the element for injury to feelings has been broken down in reported cases, which is usually where there is significant injury, the range is usually in the region of **£18,310 to £30,510**.

The factors to be taken into account in valuing general damages for the abuse and the psychiatric injury in claims of this nature are as follows:

- (i) the nature and duration of the abuse and any physical injuries caused;
- (ii) the nature and duration of the psychological injury and its effect on the injured person’s ability to cope with life, education, and work;
- (iii) the effect on the injured person’s ability to sustain personal and sexual relationships;
- (iv) abuse of trust;
- (v) the extent to which treatment would be successful;
- (vi) future vulnerability;
- (vii) prognosis for psychological injury.

Aggravating features which would lead to an additional sum for injury to feelings include:

- (i) the nature of the abuse;
- (ii) the level of abuse of trust;
- (iii) any manipulation following the abuse to stop reporting of the abuse, or to seek to put blame on the injured party;
- (iv) the need for the injured party to give accounts and evidence of the abuse in criminal or civil proceedings, or in any other relevant investigation.”

27. In terms of categories, the *Guidelines* provide:

“**Severe: £109,830 to £183,050.** In these cases the injured person will have suffered both serious abuse over a prolonged period and severe or moderately severe and prolonged psychiatric injury. At the upper end the abuse will have had serious effects on their ability to cope with education, work and to sustain personal and sexual relations. There may be elements of false imprisonment.”

Moderately Severe: £54,920 to £109,830. In these cases the injured person will have suffered serious abuse and/or severe or moderately severe and prolonged psychiatric injury. Cases in this category will not have both serious and prolonged abuse and severe or moderately severe and prolonged psychiatric injury but may have one of those features. At the upper end the abuse will have had serious effects on their ability to cope with education, work and to sustain personal and sexual relations. There may be elements of false imprisonment. Where, despite the seriousness of the abuse and problems caused, the prognosis is good, the lower end of the bracket is appropriate.”

28. There is no need for me to set out the description of the “moderate” or “less severe” categories as they are not relevant in the present context. The category “moderately severe” is, as I understand it, new in the 17th edition of the *Guidelines*.

29. The introduction to the *Guidelines* explains that “For the avoidance of doubt, of course, these guideline figures should be increased by the appropriate index for inflation between August 2023 and the date of any assessment of damages”. Mr Metzger submits that, in order to make the appropriate adjustment for inflation, the court should adopt the approach advanced by the Professional Negligence Bar Association, namely: “To calculate the equivalent value of a lump sum, divide by the RPI at the time and multiply the result by the current RPI. Thus £460 in June 1990 would be calculated as $460 \times (\text{current RPI}/126.7)$ to show the relative value of that amount in “today’s money”.” (Facts and Figures 2023/2024, Section E1 (Retail Prices Index), Note). The increase in inflation can be found in the data published by the Office for National Statistics at <https://www.ons.gov.uk/economy/inflationandpriceindices>, under the table in the section *RPI All Items Index: Jan 1987=100* (taken from the Source data set *Consumer price inflation times series (MM23)*). The inflationary factor in August 2023 was 376.6. The inflationary factor as of April 2024 (which is as far as the table goes at present) is 385.

30. In these circumstances the relevant bracket *Guidelines* should be updated to take account of inflation as follows: severe: £112,280 to £187,133; and moderately severe: £56,145 to £112,280. Likewise, the bracket for injury to feelings should be updated to £18,718 to £31,191.

Assessment of damages

General damages

31. There is no doubt that the claimant was subject to sexual abuse of the most serious kind by the defendant when she was only 12 years old and that has had very significant adverse impact on the rest of her life.
32. The claimant maintains that the consequences of the defendant's abuse on her have been severe, profound and long-lasting and should be assessed at the upper end of the "severe" bracket in the *Guidelines*. This is particularly so given the claimant's age at the time of the abuse; the association between the abuse and the claimant's mother and the emotional fall out this created; the severe, on-going long lasting psychiatric injuries suffered by the claimant as a result of the abuse; the wider impact on the claimant's life over many decades, including on her education, career prospects and subsequent relationships (including intimate relationships); and the fact that the case had to go to trial many decades later and the defendant pleaded not guilty and was convicted.
33. In support of this submission Mr Metzger drew my attention to four cases which he maintained provided relevant comparables: *LCX v DXA* (on behalf of X, Deceased; 2 February 2016); *DE v Wilson* (2016; 9 August 2016); *AMX v JCMS* (2018; 24 May 2018); *JX v The Royal Alexandra and Albert School* (2019; 10 September 2019). Mr Metzger does however recognise that each case turns on its own facts, and these cases are of limited assistance, particularly as the *Guidelines* have been recently updated. He submitted in his skeleton argument (which pre-dated the 17th Edition of the *Guidelines*) that general damages should be assessed between £95,000 and £130,000 and, at the hearing, updated this to £130,000 or more in the light of the publication of the 17th Edition of the *Guidelines*.
34. The abuse on which the claimant relies took place in the period 31 January 1977 to 31 May 1977 and, as Mr Metzger made clear to me in the hearing, her case is based on the three convictions in 2015 which relate to her. In my view this is a case which falls within the moderately severe category. This is because there is no doubt that the claimant suffered serious abuse. However, given the circumstances relied on, I do not think it is correct to describe this serious abuse as having taken place over a prolonged period. It is nevertheless plain based on Dr O'Rourke's evidence that, as a result of the defendant's abuse, the claimant has severe and prolonged psychiatric injury. Further this is a case which falls in the upper end of this category because it is clear from Dr O'Rourke's evidence that the defendant's abuse of the claimant had very serious effects on her education and ability to work, and to sustain personal and sexual relations. That, however, needs to be slightly tempered by the fact that Dr O'Rourke is cautiously optimistic that with the benefit of psychological treatment focused on CPTSD, namely EMDR, the claimant's post-trauma symptoms and vulnerability to depression are likely to be reduced. Balancing all these factors I assess the general damages in the sum of £100,000.

Injury to feelings: aggravated damages

35. The claimant maintains that damages for injury to feelings (or aggravated damages) should be assessed at £15,000 to £20,000 (although needs to be adjusted upwards in the light of the publication of the 17th Edition of the *Guidelines*). This is because, amongst other things, the defendant was in “breach of trust given that he was at all material times relying upon his position as a famous rock singer used his position in order to groom the claimant and the sexually assault and rape her as he did” and “the sexual assaults have caused her to suffer injury to her feelings, stigma, humiliation, loss of pride and feelings of confusion, chronic anger and resentment towards the defendant, all of which are separate to the basis for the compensation to which she asserts she is entitled by way of general damages”.
36. This is a case where it is appropriate to award the claimant an additional sum of injury to feelings. This is particularly in the light of the nature of the sexual abuse, the fact the defendant took advantage of his very significant fame to abuse the claimant and the fact the claimant had to give evidence in the criminal proceedings and in these civil proceedings. In the light of the updated figures in the *Guidelines*, I assess these damages in the sum of £20,000.

Special damages

(a) Lost earnings

37. The claimant maintains that, as a result of the abuse, she has suffered long-term psychiatric injuries which meant that she was not properly able to engage with her education, obtain meaningful employment or pursue a career. The claimant relies on the evidence of Dr O’Rourke and, in particular, Dr O’Rourke’s opinion that the major reason she failed to achieve in education and has been unable to work is because of the serious sexual abuse she was subjected to by the defendant. The claimant’s case is that she has lost out on earnings which it is reasonably expected that she would have earned, had she been able to work throughout her life to date.
38. Mr Metzger submits that the claimant should, so far as possible, be placed in the position she should have been in had it not been for the defendant’s abuse of her. The claimant’s claim for lost earnings is based on the approximate average annual earning for female full-time employees in the UK between 1999 and 2023 of £23,494.79, which Mr Metzger submits is the approximate equivalent of £20,000 net of income tax. The claimant claims net earnings for a period of 40 years but accepts that this should take into account periods when she would not probably not have been in work, for example when she would probably have had to take time out of work to raise children (and she has five children). Mr Metzger submits that this is reasonable and is probably a conservative estimate, as the claimant’s earning capacity may well have proven to be above average if it had not been for the abuse she has suffered. Alternatively, Mr Metzger submits that if the court considers that a different approach to quantifying the claim fits the evidence better then a substantial lost earnings claim should be allowed in any event in the light of the evidence of Dr O’Rourke and the claimant.
39. The claimant is now 60 and, although she has not yet reached the average female retirement age, she does not make a claim for future loss of earnings.

40. In relation to the claim for loss of earnings the calculation advanced by the claimant is 40 years x £20,000, which is £800,000, which she maintains should be discounted by 40% “to reflect that the reasons the Claimant not being able to work are multifactorial”. That gives rise to a claim for loss of earnings of £480,000 in the claimant’s schedule of loss, which was signed by the claimant with a statement of truth on 22 December 2023.
41. The quantification of the claimant’s loss of earnings claim is not straightforward and the approach advanced by Mr Metzger is one that is rough and ready. I am quite satisfied that the claimant has been unable to obtain any meaningful employment throughout her life as a result of the consequences of the serious sexual abuse she suffered by the defendant at such a young age. Her education was ruined and she has suffered severe psychiatric injury for the rest of her life. However, as the claimant recognises she has had five children, and she accepts that she would have had time out of the workplace to raise her children. In addition to that she was 18 in 1982 and the figures for average annual earnings provided by Mr Metzger only start some 17 years later in 1999.
42. Doing the best I can, and adopting the approach advanced by the claimant, it seems to me that the claimant could have started work when she was 18, she would have had say 8 years’ out of the work place raise her children (in the period 1982 to 1999), and she could have worked until she was 60. I will allow £15,000 as the average net income for the period 1982 to 1999, and I will allow £20,000 as the average net income for the period 1999 to date. I will, as Mr Metzger suggests, then discount this figure by 40%. That gives rise to damages for loss of earnings in the sum of £381,000, namely £635,000 (ie (9 x £15,000) + (25 x £20,000) discounted by 40%).

(b) Future therapy and treatment

43. The claimant seeks the cost of future therapy and treatment (together with anticipated travel expenses) in the sum of £9,100. She does so on the basis of the expert evidence of Dr O’Rourke (see paragraphs 3.10 to 3.12 of her report). This sum is comprised of 12 months of EMDR at £150 per session, which totals £7,800, together with estimated travel expenses of £25 per session. However, Dr O’Rourke’s evidence is that the claimant can attend this treatment remotely, and recognises that there is a greater chance she will be participate if she is able to do so remotely. In this context, the claimant does not pursue her claim for travel costs.
44. In the light of the claimant’s evidence, and Dr O’Rourke’s evidence, I am find that this is treatment that the claimant needs in the light of the abuse she suffered by the defendant, She is entitled to this claim of £7,800 for the EMDR treatment in full.

Conclusion

45. Therefore, for the reasons set out above, the damages in this claim are assessed in the sum of £508,800. That is the total of:
- a. General damages: £100,000.
 - b. Injury to feelings/aggravated damages: £20,000.
 - c. Special damages: £388,800.

- i. Loss of earnings: £381,000
- ii. Future therapy & treatment: £7,800.

46. Once this judgment has been handed down I will hear from Counsel in relation to interest and costs.
