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GHATTAORYA v BAILEY (2009)

Total Damages: £1,400
Trial/settlement date: 27/5/2009
Judge: DJ Atkinson
Age at trial: 35

PSLA: £1,400 (£1,506.58 RPI)
Type of Award: Court Award
Court: Leicester County Court
Age at injury: 31
Sex: Female

The claimant, a 35-year-old woman, received £1,400, for the neck injury sustained in a road traffic accident in December 2004. A claim for miscellaneous expenses was dismissed and the court discouraged such claims.

Claimant: Female: 31 years old at date of accident; 35 years old at date of award.

Road Traffic: On December 12, 2004, the claimant (C) was travelling in a vehicle when it was hit in a rear-end shunt by a vehicle driven by the defendant (D).

C sustained injury and brought an action against D alleging that he was negligent in hitting her.

Liability admitted.

Injuries: C sustained whiplash injuries to her neck and lumbar spine.

Effects: The accident exacerbated C's pre-existing back problems. She was unable to carry out routine shopping or heavy lifting by herself and had to be assisted by her husband and mother. She also suffered pain when driving or sitting for long periods.

C experienced travel anxiety which was particularly bad during the first two months after the accident but it continued for approximately two years.

A GP's report indicated that C would recover within between 24 and 28 months after the accident. However, a later examination conducted by a consultant orthopaedic surgeon found that the accident had only caused the injuries she suffered for the first six months and other injuries had been caused by her pre-existing condition.

Court Award: £1,400 total damages.

Background to damages: The judge found that C had been suffering from back problems before the accident. He dismissed the whole claim for the back injury and claims for special damages which the medical evidence indicated were related to her pre-existing condition. The judge also dismissed the claim for miscellaneous expenses and said that claiming for miscellaneous expenses was a bad habit that claimant solicitors had acquired and he commented that the costs of telephone calls was now relatively low.

The judge was dissatisfied with C's evidence and as a result he considered whether he should reject the claim for the neck injury. However, he found that although C had exaggerated her symptoms and was unreliable, she was not so dishonest that she would have entirely fabricated the information about the injury to her neck.

Breakdown of General Damages: Pain, suffering and loss of amenity: £1,400.

Erol Topal instructed by Leech & Co for the claimant. Sarah Robson instructed by Patrick McCarthy of Horwich Farrelly for the defendant.

LTLPI 5/10/2009

This Quantum Report was provided courtesy of [Sarah Robson](#), counsel for the defendant.

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