**UPPAL v DAUDIA (2012)**

**Lawtel: This Quantum Report was provided courtesy of** [**Sarah Robson**](http://www.sarahrobsonbarrister.co.uk/) **of** [**Alpha Court Chambers**](http://www.alphacourtchambers.co.uk)**, counsel for the defendant.**

**Date of Award/Settlement**

14 May 2012

**PSLA Damages**

£2,200 (£2,883.42 RPI)

**Total Damages**

£2,909 (£3,812.66 RPI)

**Kemp Classification**

F Spine and ribs

**Kemp Sub-classification**

F9 Back and neck: whiplash injury: no previous condition

**Award Type**

Court Award

**Judge**

Deputy District Judge Matthews

**Court**

County Court (Leicester)

**Age at Injury**

20

**Age at Award/Settlement**

22

**Gender**

Male

**Legal Representative**

Your Lawyers for the claimant. Sarah Robson instructed by Berrymans Lace Mawer for the defendant.

The claimant, a 22-year-old man, received £2,909, for the whiplash injury to his neck and lower back sustained in a road traffic accident in September 2010. It was anticipated that his injuries would resolve with eight to nine months from the date of the accident.

Most significant injury:  WHIPLASH

Total injury duration: 9 months

Road Traffic: On September 24, 2010, the claimant (C) was travelling along a road at around 20-30 mph when his car was hit twice from behind by a vehicle driven by the defendant (D).

C sustained injury and brought an action against D alleging that he was negligent in failing to stop in time.

Liability admitted.

C suffered whiplash injuries to his neck and lower back.

C was thrown backwards and recoiled forwards in the accident. He gradually developed pain in his neck and lower back a few hours after the accident. He visited his GP three days after the accident where whiplash was diagnosed and he was advised to take painkillers. C had constant pain in his neck and lower back for the first few weeks before becoming intermittent, and both areas were very stiff. He also suffered from headaches for a few months. C was referred for nine sessions of physiotherapy.

C’s pain was worse when he sat in front of his computer for a prolonged period of time. On examination six months post-accident he was still taking occasional painkillers when the pain was bad. He was unable to play football and cricket, or attend the gym for a few days and he was restricted in these for a few months. C was a student and he missed a few days of lectures immediately after the accident. Domestic activities were also initially restricted.

Prognosis: It was anticipated that C’s injuries would have fully resolved by eight to nine months after the accident.

Court Award and Out of Court Settlement: £2,909 total damages

Background to damages: The claim started in the MOJ RTA Portal; however solicitors acting for C removed it during the negotiation period of Stage 2, claiming that D had an obligation to make a counter-offer to C’s second offer made after the initial consideration period. C claimed that pursuant to the MOJ RTA Protocol para.7.33 they were then entitled to remove the claim from the Portal and to commence Part 7 proceedings, which they did. D claimed that the only obligation to make a counter-offer was to C’s first offer, and, in any event, as C’s second offer was made less than five days before the end of the total consideration period they were prohibited from making a further offer under para.7.30. D also relied on [*Jaykishan Patel v Fortis Insurance Ltd (2011)*](http://uk.westlaw.com/Document/IE2BBBDF03CD911E188709326961EEBEC/View/FullText.html?originationContext=document&transitionType=DocumentItem&vr=3.0&rs=PLUK1.0&contextData=(sc.Search)). The judge rejected the argument that D’s failure to respond to C’s second offer on the basis that para.7.33 clearly referred to a response within the initial consideration period and that para.7.30 did not permit further offers being made by either party during the further consideration period.

The judge held that C had acted unreasonably in removing the matter from the Portal, disallowed their Part 7 costs of £20,851.48 and restricted their costs to Portal costs only per CPR 45.36(2)(b)(i). Having made a finding that C had acted unreasonably, the judge held it followed there ought to be an order for costs for the wronged party, D, on an indemnity basis.

The case was settled on a global basis with no particular breakdown of damages. However, the following breakdown was estimated by counsel for the defendant:

Breakdown of General Damages: Pain, suffering and loss of amenity: £2,200.