

Court of Appeal Reduces Personal Injury Award with No Order for Costs

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In *Collins v Parm & Ors [2024] IECA 150*, the Court of Appeal adjusted a High Court damages award for personal injuries, finding the sum awarded disproportionate and not in line with the personal injury guidelines (**Guidelines**). However, the court held that the justice of the case required that there be no order as to the costs of the appeal.

Background

The plaintiff, who was 15 at the time of the accident, sustained multiple injuries in a car accident, including psychiatric injury, spinal injury, dental damage, tinnitus, and scarring.

The High Court had awarded total general damages of

€95,000, with contributory negligence measured at 15% on account of the failure to wear a seatbelt.

Appeal

The Court of Appeal held that the High Court award was so disproportionate that it amounted to an error of law. The High Court failed to reference the Guidelines in its judgment and gave no reason why it departed from them, as required by section 99 of the Judicial Council Act 2019 (**2019 Act**). In this regard, the Court of Appeal noted that neither party made reference to the Guidelines in their submissions to the trial judge.

Multiple Injuries

In cases where a plaintiff has suffered multiple injuries, the Court of Appeal emphasised that the overriding consideration





is proportionality, with the need to be mindful of the risk of overcompensation from valuing each injury separately and simply adding those values together, but also the risk, albeit less likely to arise, of under compensation where the cumulative effect of all the injuries is greater than the sum of its parts.

While the Guidelines refer to the identification of the “most significant” injury in such cases, the Court of Appeal noted that the Guidelines recognise that there will be cases where it is not possible to identify one such injury out of a number of equally serious injuries. The “step back” approach requires the court to look at the overall award in the round, in order to ensure that it is proportionate and this is likely to mean that in most cases where there is no clear single “most significant” injury, a lower level of discount will apply than would be applied to the aggregated “lesser injuries” in other cases.

Court of Appeal Award

The Court of Appeal found that the plaintiff’s psychiatric injury fell within the moderate category of the Guidelines, with €35,000 held to be the appropriate award. In terms of the more minor injuries, €15,000 was the value assigned for the spinal injuries, €5,000 for the dental injury, €3,000 for tinnitus, €5,000 for minor scarring and €2,000 for a head injury, which the court held fell within the “minor brain damage or head injury” category. As such, the total assigned in respect of the non-dominant injuries was €30,000, with the Court of Appeal discounting this by one-third to reflect the temporal overlap of the injuries.

Total general damages of €55,000 were, therefore, awarded. The 15% contributory negligence finding was not appealed and was applied by the Court of Appeal.

Costs

Despite the Court of Appeal having significantly reduced the quantum of general damages awarded by the High Court, it

made no order as to the costs of the appeal. Section 169(1) of the Legal Services Regulation Act 2015 provides that the successful party is entitled to its costs unless the court orders otherwise, having regard to inter alia the manner in which the parties conducted their case. The court found here that the necessity for the appeal might have been avoided had the trial judge “received the assistance he ought to have” from the defendant on the application of the Guidelines.

In addition, the Court of Appeal refused to issue a differential costs order, as the full value before accounting for contributory negligence was close to the Circuit Court’s jurisdictional limit. The High Court was, therefore, a reasonable venue for the proceedings. Accordingly, the plaintiff was held to be entitled to recover her costs in the High Court but on the scale appropriate to a Circuit Court action.

Conclusion

The Supreme Court, in *Delaney v The Personal Injuries Assessment Board, the Judicial Council, Ireland and the Attorney General [2024] IESC10*, upheld the legality of the Guidelines and this Court of Appeal judgment has illustrated the importance of their application in adherence to section 99 of the 2019 Act. While the section refers to the requirement for the court to have regard to the Guidelines, it is clear that there is an onus on the parties themselves to present their cases in this context.

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