

10 October 2012

APIL response to Court of Appeal judgment in *Simmons v Castle*

Today's Court of Appeal decision on the way damages should be increased for personal injury cases will introduce unfairness where before there was an even playing field.

The judgment overturns the Court's previous announcement that a ten per cent increase in damages, proposed as part of a package of civil justice reforms, should apply to all cases where judgment is given after 1 April 2013.

Today's announcement, which comes after the Association of British Insurers asked the Court to re-open the case, states that anyone who has signed a conditional fee funding agreement (CFA) before 1 April 2013, when the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act is due to come into effect, will be unable to claim the increase.

"The key difference is that the first Court of Appeal decision meant that anyone who started a claim for compensation before 1 April, but finished it after that date could claim the ten per cent increase," said APIL president Karl Tonks. "In terms of providing a solution to a complex problem it was simple, clear, and fair to all concerned.

"But now someone who starts funding his claim in, for example, March next year but whose case concludes in, for example, November, won't be entitled to the increase, while at the same time someone who starts on 1 April but whose case concludes in November will receive a different sum in damages for his pain and suffering. It could easily mean that two claimants leaving court on the same day, with the same injuries, will receive different



damages just because of the date on which they signed their funding agreement,” he explained.

“Not content with all the extra money it will save from injured people as a result of the LASPO Act, the insurance industry has, once again, put the needs of its shareholders before those of people who are injured through no fault of their own,” he went on. “And once again, the victim loses out.”

And Tonks also called upon the Government to provide clarity and direction about other outstanding aspects of the reforms related to the LASPO Act. “As the Court of Appeal noted in this judgment, the increase in damages is only one aspect of the reforms which remains to be implemented,” he said. “For example, provisions relating to the introduction of qualified one way costs shifting (QOCS) including the implementation date, have still not been decided, making it extremely difficult for solicitors to prepare for the changes ahead.”

-Ends-

Notes to editors:

- APIL (Association of Personal Injury Lawyers) is a not-for-profit organisation whose members are dedicated to campaigning for improvements in the law to help people who are injured or become ill through no fault of their own.
- For more information, contact Chris Birkle, press and communications officer, t: 0115 943 5409, e: chris.birkle@apil.org.uk, or Jane Hartwell, press and communications officer, t: 0115 943 5416, e: jane.hartwell@apil.org.uk.
- Visit the association’s website at www.apil.org.uk.
- Follow us on Twitter: @APIL.