

Kingsley Napley

**APIL Northern Forum  
14 June 2011  
PI Practice Developments:  
Latest on Damages**

Case Law Update

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Kingsley Napley

**Case Law Update**

- *G -v- The Royal Bournemouth and Christchurch Hospitals NHS Foundation Trust (2010) LTLPI 23/3/2010*
- Male Claimant (26 yrs old).
- Failure to diagnose appendicitis resulting in a ruptured appendix.
- Claimant required emergency laparoscopic appendectomy.
- Prognosis: Risk of developing adhesions and future bowel obstructions.
- Total damages £35,000 -
  - > PSLA estimated at £34,000 (current RPI uplift £36,110)
  - > Special damages £1,000

## Kingsley Napley

### Case Law Update

- *Lisa Bennett -v- Sophie Wentworth* (2010) LTLPI 4/5/2010
  - Female Claimant (37 yrs old).
  - The Claimant collided with a car driven by the Defendant.
  - Thrown from her motorcycle over the Defendant's car and off the road.
  - Claimant sustained multiple injuries.
  - Liability admitted – Defendant 80%, Claimant 20%.
  - Prognosis – Wheelchair dependant, ongoing need for prosthetics and an adapted vehicle.

## Kingsley Napley

### Case Law Update

- *Lisa Bennett -v- Sophie Wentworth* (2010) LTLPI 4/5/2010 (continued ... )
  - Total Damages £1,035,000 *less* 20% = £828,000
    - > PSLA £120,000 (current RPI uplift £127,449)
    - > Special damages £115,000
    - > Future loss of earnings and pension £320,000
    - > Future care, medical treatment and transport £147,000
    - > Future cost of prosthetics £175,000
    - > Future accommodation £160,000



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### Case Law Update

- *Laura Davies -v- Direct Line Insurance Plc* (2010) LTLPI 5/5/2010 (Bristol County Court)
- Female Claimant (34 yrs old).
- The Claimant sustained a whiplash and bruising to knee and thigh.
- Total Damages £2,856 -
  - > PSLA £2,250
  - > Special damages £606
- Claimant's costs assessed on an indemnity basis as she had beaten Defendant's Part 36 Offer.
- Indemnity interest on costs @ 5.5%.

## Kingsley Napley

### Case Law Update

- *Gibbons -v- Dorset County Hospital NHS Foundation Trust* (2009) LTLPI 14/1/2011
- Male Claimant (54 yrs old).
- Claimant was a QC and part-time Recorder.
- Sustained ruptured spleen and subsequent brain injury.
- Permanent cognitive impairments.
- Physical injuries as well – mild truncal ataxia, right upper limb dystonia and upper limb extra-pyramidal movement disorder.
- Claimant argued he could not return to work.
- Defendant argued the Claimant had a duty to mitigate his loss.

## Kingsley Napley

### Case Law Update

- *Gibbons -v- Dorset County Hospital NHS Foundation Trust* (2009) LTLPI 14/1/2011 (continued ... )
- Case settled at a Round Table Meeting.
- Total Damages £1,000,000 -
  - > PSLA £30,000 (Current RPI uplift £32,465)
  - > Interest on general damages £1,278
  - > Special damages (travel expenses and loss of earnings) £318,722
  - > Future losses (primarily loss of earnings and pension) £650,000

## Kingsley Napley

### Case Law Update

- *Emma Treloar -v- King* (2011) LTLPI 9/5/2011
- Female Claimant (29 yrs old) knocked over by a dog.
- Claimant had reduced left knee flexion and permanent 21cm scar.
- Required three surgical procedures and 8 months of physiotherapy.
- Claimant was unable to kneel and squat.
- Experienced pain while using stairs.
- Used a brace when out of the house for long periods.
- Total Damages £42,100
  - > Pain suffering and loss of amenity £35,000 (Current RPI uplift £35,975)
  - > Special damages £7,100

