

Quantum in CP and Brain Injury Claims

Giles Mooney QC

A copy of the presentation slides and a further reference paper/handout are available and filed with these minutes.

Case study of ABC v XCC and Churchill Insurance (injury from birth)

- Discussing heads of loss
 - o Loss of earnings for a C who has never worked or started education –who to look at, what evidence to gather
 - o Care and case management – difficulties with separating from but for care. 33% discount of gratuitous care is wrong – demonstrate the case law – the appropriate discount is 25%. Rarely argue for gratuitous case management and we should. No real authority on it but it should be recoverable under care and claimant sols should be pushing for it. Have to pay for 60 weeks a year – that is the case law to include holiday, training etc.
 - o Accommodation – Swift v Carpenter no claim for accomm anymore, being appealed. No credit to be given for parents renting out old home as that benefit the parents not the claimant.
 - o Hydrotherapy – clinical requirement, might improve C’s condition. Does not apply to many cases but has been allowed when psychiatric benefit – do not underestimate video evidence. Same for sensory room.
 - o Educational contingency – risks of being moved by local authority, cost of litigating to keep in particular school is approx.£250k. Obtained a discounted amount as contingency. Education lawyer – witness evidence

EC Update

John McQuatar

A copy of the presentation slides and a further reference paper/handout are available and filed with these minutes.

APIL Strategic Plan:

- Discussing new CEO
- Civil Liability Act –implications on whiplash tariffs, discount rate
- Discount rate in Scotland and Northern Ireland
- April 2020 – whiplash tariffs and small claims. Unlikely.

APIL Manifesto

- Prevention of needless injury
- Fairness for injured people
- Modernise law on redress
- Encouraging delegates to make contact with MPs, information that you need in order to lobby

Fixed costs in clinical negligence claims

- Up to value of £250k suggested – actually looking at £25k
- Concern re fixing costs and not the process
- Gone to MoJ – waiting for update post-election
- Support for the need for NHS to learn from mistakes has not come through

Encouraging APIL delegates to keep in touch via e.g. social media

Closing remarks

Juniors update:

- New LinkedIn Group – can ask questions – send to Laura and Emma anonymously, can be pastoral
- APIL conference – Juniors engagement – needs to be from the partners. Shared room idea. Approach partners about it. Upping profiles etc.
- Junior Litigators stall so that juniors know who else is there.
- Middle group of people – can they join? Yes – how do you identify? If you identify and think you would benefit from junior lawyers group. Make it clearer – includes paralegals, includes solicitors up to 10 years who identify as junior. Grades B, C, D.

- Talks at conference – send suggestions of what you want to learn about.
 - o Training about ATE- majority say no.
 - o Telling APIL theyre interested so they can relay to partners
 - o Day attendance?
 - o Social in January

Author
Date