

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

**BETWEEN:**

**ELLEN BEATTIE (A MINOR) BY ANNE BEATTIE  
HER MOTHER AND NEXT FRIEND**

**Plaintiff;**

**-and-**

**ERIC HOLLAND**

**Defendant.**

**McBRIDE J**

**Costs**

[1] Subsequent to handing down judgment in this case counsel asked the court to determine the extent of the costs to be paid by the defendant, in circumstances where the award made to the plaintiff was within the jurisdiction of the County Court.

[2] As appears from judgment in this case the parties had agreed quantum in the sum of £22,500. The court held that this figure should be reduced by 20% for contributory negligence making an award of £18,000 plus interest.

**Legal provisions**

[3] Order 59(2) of the Judicature (Northern Ireland) Act 1978 ["The Act"] provides:-

"Save as otherwise provided by any statutory provision passed after this Act or by Rules of Court, if damages or other relief awarded could have been

obtained in proceedings commenced in a County Court, the plaintiff shall not, except for special cause shown and mentioned in the judgment making the award, recover more costs than would have been recoverable had the same relief been awarded by the County Court.”

Order 62 Rule 17 of the Rules of the Court of Judicature (Northern Ireland) 1980 [“The Rules”] provide:-

“(4) Save as otherwise provided by any statutory provision passed after the Act and save in cases to which paragraph (3) applies, if damages or other relief awarded could have been obtained in proceedings commenced in the County Court, the plaintiff shall not, except for special cause shown and mentioned in the judgment making the award, recover more costs than would have been recoverable had the same relief been awarded by the County Court.”

#### **Defendant’s submissions**

[4] Mr Spence, on behalf of the defendant submitted that pursuant to the 1978 Act and Order 62 Rule 17(4) the plaintiff was only entitled to County Court costs because the award of damages lay within the County Court jurisdiction and no special cause had been shown.

#### **Plaintiff’s submissions**

[5] Mr McCollum QC on behalf of the plaintiff submitted that there was no hard and fast rule about costs. He submitted that special cause in this case could be established because counsel had agreed to quantum thereby narrowing issues and reducing the amount of court time required.

#### **Discussion**

[6] In accordance with Section 59(2) and Order 62 Rule 17(4) I am satisfied that the relief awarded in this case could have been obtained in proceedings commenced in the County Court. The plaintiff therefore is only entitled to recover County Court costs unless “special cause” can be shown.

[7] Special cause is not defined in the Act or the Rules. In Birch v Harland and Wolff [1991] NI 90 the Northern Ireland Court of Appeal held that the special complexity of the health and safety legislation could be treated as a special cause in a

case where personal injuries had been sustained as a result of debris affecting the plaintiff's eyesight.

[8] Further in Quinn v Keenan [2013] NIQB 55 Gillen J held that "complexity or novelty of a legal issue in a case can constitute special cause".

[9] The present case, as appears from the judgment involved factual disputes in relation to a road traffic collision. The case did not involve any complex legal issues and there was no disputed or complex expert evidence. I note that although counsel agreed special damage in the present case the medicals were agreed in any event and medical evidence therefore would not have been called.

[10] In light of the plain intention of the legislation and in light of the circumstances of the present case I do not find that special cause has been shown. Accordingly I award County Court costs.