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Judgment: approved by the Court for handing down
(subject to editorial corrections)*

Delivered: 26/10/12

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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QUEEN'S BENCH DIVISION

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BETWEEN

RICHARD ELLIS

Plaintiff

AND

TRANSLINK

Defendant

_____

MAGUIRE J

Introduction

[1] In this case the plaintiff is a man currently aged 47 years, having been born on 2 April 1965. The defendant, at all material times, was his employer. The plaintiff had been employed by the defendant as a bus driver for around 18 years.

[2] These proceedings relate to what is alleged to have been an accident and injury which befell the plaintiff, in the course of his employment, on 20 June 2009.

[3] The plaintiff's case was that he was driving a bus at Tennant Street, Belfast, on the above date when "the suspension of the bus broke causing the bus to drop sharply" (paragraph 3 of the amended Statement of Claim). As a result, the plaintiff says he sustained "a jarring injury to his right wrist" (ibid). A similar description of the accident was provided by the plaintiff in a letter from his solicitors to Translink on 1 July 2009. It asserted that: "our client was driving a Translink bus along Tenant (sic) Street, Belfast, when the bus suddenly dropped sharply causing it to bounce on the roadway".

In the accident report kept by the defendant the plaintiff's account on 25 June 2009 was that he "was travelling along Tennant Street when suddenly and without warning the front suspension rod broke resulting in the bus … collapsing as all the

air rapidly escaped. My hand and wrist (right hand) was severely jolted against the steering wheel resulting in personal injury".

[4] On the day in question it is common case that the plaintiff was performing "private hire" duties. These required him to pick up a bus at the depot (which is in the Short Strand area). In fact the vehicle he picked up was No: 1479. He was then to collect a group of passengers from an address on the Shankill Road and take them to the Taughmonagh area of Belfast. Later he was to take them back to the Shankill Road. And later still he was to transport them from the Shankill Road to an address in the York Road area and then back to the Shankill Road again.

[5] It is not disputed that the plaintiff drove his bus, then empty of passengers, from the depot to the Shankill Road. His route involved going to Carlisle Circus, then up the Crumlin Road and then left onto Tennant Street. The journey along Tennant Street took the bus to Shankill Road, the intention being that the bus would turn left at the Tennant Street/Shankill Road junction. At the Rangers Supporters Club on the Shankill Road the plaintiff picked up his passengers. The incident giving rise to the claim (as noted above) allegedly occurred in Tennant Street on the journey just described.

[6] Notwithstanding the alleged accident the following events on the plaintiff's undisputed evidence occurred:

(i) After the alleged accident the plaintiff picked up his passengers on the Shankill Road and took them to Taughmonagh.

(ii) The passengers left the bus on arrival at Taughmonagh, though some left belongings on the bus.

(iii) The plaintiff later drove the passengers back from Taughmonagh to the Shankill Road.

(iv) After leaving the passengers off on the Shankill Road, the plaintiff drove the vehicle empty back to the depot as the plaintiff considered something was wrong with it.

(v) At the depot the plaintiff was provided with another bus, it being accepted that the first bus had a problem with its front suspension.

(vi) The plaintiff in the replacement bus picked up the passengers again at the Shankill Road and drove them to an address at York Road and later drove them back to the Shankill Road.

(vii) The plaintiff returned to his depot and finished work for the day.

[7] There was no serious dispute that at some point after the plaintiff picked up the bus (No 1479) from the depot the front suspension of it malfunctioned with the result that once the passengers had been collected the bus was giving all of those on board an uncomfortable ride, so much so that the plaintiff returned it prematurely (in terms of the schedule of his work for the day) to the depot so that he could obtain a replacement before carrying on.

[8] At 2146 hours on 20 June 2009 the plaintiff was seen by a doctor at the Ulster Hospital. He was complaining of a jarred right wrist and pain in the right wrist on all movements. Explicitly in the hospital note it is recorded that the doctor was told that this was as a result of a "bus suspension problem". As will be described later, what initially was thought to be a simple wrist strain has given rise to considerable difficulties for the plaintiff.

The plaintiff's evidence in court

[9] In his evidence to the court the plaintiff described how he drove the bus No: 1479 from the depot in Short Strand to the Shankill Road. He said that "initially there was no problem with the bus" but as he proceeded the bus did not feel as it should have done. He noticed this about the time the bus had reached the Mater Hospital, that is shortly after entering Crumlin Road from Carlisle Circus. Thereafter the bus continued to feel strange. As the bus went along Tennant Street towards the Shankill Road, "I had a really big bump. The bus went up and down". The plaintiff said he didn't at the time know what caused this but when he consulted the gauges and dials in the driving compartment all of these indicators showed nothing wrong. When asked about the nature of the road surface in Tennant Street, the plaintiff said that he had no criticism of it. At the time of the bump the road surface was not badly damaged but he felt that the ride was rough. He said that he felt injury to this right hand, but particularly his wrist. It was the wrist which, he said, became increasingly sore later causing him to go to the hospital.

[10] In the course of cross-examination, the plaintiff repeated that he felt something was wrong with the bus after about the point of passing the Mater Hospital. He described the ride as jerky – as if dirty diesel was in the tank – but was reassured by the gauges which showed nothing abnormal. The plaintiff agreed that he did not stop the bus after the accident in Tennant Street or before picking up his passengers on the Shankill Road. Thereafter he had transported his passengers to and from Taughmonagh. He confirmed that in Tennant Street there had been a big bump in which the vehicle went up and down.

The evidence of Mr Donaghy, Consulting Engineer

[11] The only witness called to give evidence in this case, apart from the plaintiff, was Mr Donaghy, an Automotive Consulting Engineer. Three reports prepared by Mr Donaghy were submitted to the court together with various photographs he had taken.

[12] Mr Donaghy's evidence was directed at two issues. The first was the condition of the road at Tennant Street where it was alleged the accident occurred. In respect of this issue his conclusion having inspected the road on 11 October 2011 (over two years after the accident) was as follows:

> "Throughout the section of travel path cited by the plaintiff at the locus I did not find any form of surface defect that would have caused undue force upon a vehicle suspension or a disruption to a passing vehicle."

(Paragraph 4.4 of his report of 13 March.) Later he went on:

> "I found Tennant Street to be a straight uncomplicated street with slight undulations some 350 metres from the junction with the Shankill Road. The road's surface within the area inspected did have evidence of large and small repairs. I cannot exclude the possibility one or more of the now repairs was an open hole on 20 June 2009" (ibid at paragraph 5).

[13] In fact there was no evidence before the court that at the date of the accident there were significant defects on the surface of the road in Tennant Street. Indeed, the plaintiff did not himself make any such case.

[14] Mr Donaghy in his evidence to the court indicated that the construction of Tennant Street was that it consisted of concrete slabs on which there were some repaired areas. Some of the repairs were in asphalt and some in concrete. However, there was nothing when he inspected the road which he would describe as a defect. He opined that the feel of the road would be different as between the concrete parts and the asphalted (repaired) parts, [with the former being likely to cause a harder ride].

[15] There was no dispute about Mr Donaghy's evidence on the first issue.

[16] The second issue on which Mr Donaghy gave evidence related to the nature of the front suspension failure which occurred in respect of bus No: 1479 on 20 June 2009.

[17] To present this evidence in its proper context the court makes it clear that the defendant did not dispute the fact that bus No: 1479 did sustain a front suspension failure on that day and there was little disagreement about Mr Donaghy's evidence on the second issue. It is not necessary for the court to set out and describe in full technical detail what was contained in Mr Donaghy's reports and the detail of his evidence about the suspension failure. It will suffice to provide a description of the highlights of his evidence.

[18] The nature and effect of the front suspension failure on the bus, as related by Mr Donaghy, can be encapsulated as follows:

(i) The immediate cause of the failure was a fault in the rubber joint on what was described as the "link arm". This resulted in the airbags emptying at a steady rate from the system.

(ii) The purpose of the airbags, of which there were four at the front axle was to provide cushioning against the transmission of movements from the front axle to the chassis and the driver/passenger compartment.

(iii) Once the rubber joint failed, air would empty from the airbags at a steady rate. It would take around 3.5 minutes for the airbags fully to deflate.

(iv) During deflation the driver would be unaware this was going on.

(v) Once deflated, the axle – chassis interaction would lose the cushioning effect that the airbags provide. The only "suspension" would be provided at the front axle by two small rubber bars, one on each side.

(vi) As a result of losing the cushioning of the airbags the vehicle height would fall by 85mm (3¼ inches). However this loss of height would be gradual and not abrupt.

(vii) Without the cushioning effect of the airbags – which are designed to absorb undulations on the road and other road generated effects (such as potholes, difference in levels, speed humps etc) – the ride which a person in the bus receives is rougher. Undulations and other road effects would be felt to a greater degree by those in the passenger compartment including the driver.

(viii) While on a smooth road this may only give rise to discomfort if the bus travels over bumps or speed humps or potholes or similar road features the passengers would be likely to suffer seat disturbance ie being moved about the seat.

(ix) The process of deflation described above does not involve a sharp or sudden drop or collapse as the air dissipates. The evacuation of the air in the bags is a slow and steady process.

(x) The driver is in much the same position as the passenger at the front of the vehicle. He would feel the effects of a rough ride as he is steering the vehicle.

[19] In addition to the above, Mr Donaghy was able to give evidence about a reconstruction of the effect of loss of suspension at the front of a bus. This was organised between the parties on 18 September 2012. It involved what was said to be a sister bus to that involved on 20 June 2009 (the actual bus No: 1479 being unavailable). The sister bus travelled a pre-determined test circuit. The circuit had on it three speed humps, an S bend, two straight smooth sections of asphalt and two low speed acute turns. The length of a circuit was .25 of a mile. The first circuit was with the front suspension connected but for the second and third circuits the front suspension was disconnected so causing the front airbags to empty. In respect of these latter circuits Mr Donaghy's evidence was that:

> "Within approximately 1.5 minutes, post disconnection the vehicle suspension experience was notably firmer. At approximately 3 minutes the ride experience as a passenger was not pleasant and position disturbing. It was apparent the roads surface undulations were being transferred directly to the un-sprung upper body structure … the passenger ride experience when positioned directly above the front axle, from normal suspension to without air suspension absorption was notably uncomfortable and when encountering road speed humps position disturbing … the driver of the bus positioned forward of the front axle would have experienced similar disturbance to that described …".

The Parties Submissions

[20] Mr Spence who appeared for the defendant (which called no evidence) did not dispute that if the plaintiff was able to satisfy the court on the balance of probabilities that what he said in the Statement of Claim occurred, the defendant would be liable to pay the plaintiff damages. This stance was based on the fact that the defendant did not dispute that a front suspension failure did occur on bus No: 1479 on 20 June 2009 and on the concession that if such a failure was the cause of the plaintiff's injury this would amount to a breach of statutory duty and/or negligence.

[21] The ground on which the defendant contested the plaintiff's case was that, the onus of proof, being on the plaintiff, it was for him to prove that the accident occurred in the way in which he claimed. Mr Spence contended that the plaintiff had failed to prove his case. In particular, he argued that the accounts of the accident given by the plaintiff (referred to at paragraph 3 above), by which he claimed he sustained his right wrist injury, should not be accepted by the court. There was no sudden or sharp drop of the bus as it went along Tennant Street; there was no collapse and there was no sudden jolt. In his submission the plaintiff's description of the accident was inconsistent with the evidence of Mr Donaghy, the

plaintiff's consulting engineer. Mr Donaghy said that the effect of the fault in the rubber joint was not that as described by the plaintiff but was that of a slow and steady (over 3 minutes) deflation of the airbags. Arising from the fault there simply would not be any instant or violent effect. The deflation of the bags produced a situation in which thereafter there would be no cushioning effect in respect of the passenger compartment of the forces emanating from the interaction between the road and the wheels and axle of the bus. In this case, Mr Spence observed, there was not even a proven defect in the surface of Tennant Street which could itself give rise to an incident of the nature described by the plaintiff. In short, it was contended for the defendant that the plaintiff had failed to establish the necessary causality between the accident alleged and the injury for which damages were sought.

[22] While accepting that there was no evidence before the court to support the suggestion that the plaintiff's bus had hit the kerb, it was argued on behalf of the defendant that in such an accident an injury of the sort the plaintiff received – where in effect the steering wheel jars and twists as a result of an impact – opened up an alternative potential cause of the injury for the court to consider.

[23] For the plaintiff, Mr Keenan QC (who appeared with Mr McNulty QC) invited the court to assess the honesty of the plaintiff. It was submitted that the plaintiff was an honest and straightforward witness and that it was open to the court simply to accept his account without more. In the alternative, if the court found itself unable to accept the plaintiff's account, in view of Mr Donaghy's evidence, it was contended that the court could and should approach the claim on a broader footing. The injury had been received on 20 June 2009 and it was clear that on the same day the front suspension system of the bus failed. The court could infer that the first had been caused by the second even if the precise mechanism of causation could not be established. No other explanation for the injury existed, which pointed in the direction of the injury resulting from the suspension system failure, just as the plaintiff had said when attending the hospital on the very same day.

Conclusions on the Liability Issue

[24] The court has given careful consideration to the plaintiff's account given in evidence and has concluded that the plaintiff was an honest and straightforward witness who was not seeking to embellish or otherwise improve on what was a simple narrative. At the heart of his evidence was his claim to have received the injury to his wrist when driving a defective bus along Tennant Street en route to picking up passengers at the Shankill Road. There is no dispute between the parties that at that time the bus would have been giving the driver a hard and uncomfortable ride. The dispute rather is whether such a hard and uncomfortable ride was the cause of the plaintiff's injury. The court has concluded that it was. First of all, the plaintiff has said that his injury resulted from the bus's journey along Tennant Street and he impressed the court as a witness of truth. Secondly, there is no doubt that there is a central coincidence in this case between the plaintiff receiving his injury and that injury being received on the very day the bus he was

originally driving lost its front suspension. Thirdly, there is the contemporary record of the plaintiff attending at hospital that evening and giving a consistent account with the accident having occurred as a result of the loss of the bus's front suspension. Fourthly, no doubt has been expressed in any of the medical reports on the plaintiff prepared subsequently or in the hospital records that his injury was related to the loss of the suspension. Fifthly, if the plaintiff was a dishonest witness he could easily have added in details to support his claim. For example, he could have criticised the road surface in Tennant Street which he did not do. Sixthly, there is no evidence whatever to support the proposition that his injury was received in a manner other than the way he described.

[25] The defendant's argument is that the plaintiff has failed to prove causality. It turns on the proposition that the court should reject the plaintiff's account as being in irreconcilable conflict with the evidence of his expert, Mr Donaghy. It is argued that the plaintiff's description of the event which he says occurred at Tennant Street simply cannot be squared with the engineering evidence. In particular it is the defendant's case that there was no collapse or sudden drop of the vehicle or any big bump.

[26] When considering the plaintiff's evidence about the incident the court does not approach it requiring a perfect account. It must pay due regard to the nature of what it is that is being expressed. Expressions like "dropped sharply" or "bounced" or "collapsed" are all relative and should be read with due allowance for context. The bus was already running hard and the witness is seeking to find words to recall *ex post facto* the specifics of what occurred at a particular point in an already fraught journey.

[27] The evidence of Mr Donaghy it seemed to the court had its limitations. He did not inspect the actual bus in which the breakdown of the suspension occurred and he did not inspect the surface of Tennant Street until long after the accident. The court is prepared to accept the description given by Mr Donaghy of how the suspension of the vehicle was lost as set out above at paragraph [18] above. The likelihood is that the loss of the front suspension probably began shortly after the bus left the depot at Short Strand. While the plaintiff said the bus was running smoothly initially, by the time it entered onto Crumlin Road the plaintiff was aware of a problem. At this stage the loss of the airbags was either partial or complete. If partial, the loss would have been complete within a short period of time. By the time the bus was travelling towards the Shankill Road along Tennant Street the cushioning effect of the airbags would have significantly been reduced if not lost altogether. By this point the ride being given by the bus to the driver would have been hard and at the very least uncomfortable. The road surface was concrete apart from areas of repairs effected in asphalt. No road surface is perfect. There were joints between the concrete slabs and patching in places sometimes using asphalt. There were also some undulations, according to Mr Donaghy, as the bus travelled along the road. The court reads Mr Donaghy's evidence as being that as the bus went along Tennant Street the ride which the driver would have experienced would

at the least have been hard and uncomfortable. The likelihood is that at this time the suspension would have consisted of no more than two small rubber bars one at each side at the front axle.

[28] In the light of all of the above should the plaintiff's claim should be dismissed on the basis that he, upon whom rests the onus, has failed to prove that his wrist injury was caused by the loss of the bus's front suspension? While the court acknowledges that the language used by the plaintiff to describe the incident in Tennant Street sits uneasily with Mr Donaghy's description of what occurs within a bus when there is a loss of front suspension, it is not satisfied that it should reject the plaintiff's account for this reason. The court's starting point is that it has reached the view that the plaintiff gave honest testimony before it. On the issue of the plaintiff's credibility it seems to the court that it must make a considered assessment. It observes the witness and reaches a view. It cannot sit on the fence. The court has to decide whether it believes that the plaintiff's injury was received as the bus travelled along Tennant Street as a result of the loss of the front suspension. The answer is that it does even though the language the plaintiff used to describe the occurrence can be said when placed against Mr Donaghy's technical evidence to overstate the effects of the evacuation of the airbags would have on the bus. In the court's view Mr Donaghy's overall evidence is not irreconcilable with the plaintiff's account, in view of the matters recounted above. But, even if it was, the court would, if necessary, be prepared to infer causality given the proven negligence of the defendant, the plaintiff's injury and the probability that such an injury could be caused by this form of negligence even if it is not possible to be sure of the precise mechanism: see paragraph [28] of Toulson LJ's judgement in Drake v Harbour [2008] EWCA Civ 25.

[29] On the liability issue the court finds that the defendant is liable to the plaintiff for the injuries received by him.

Quantum

[30] The court turns now to the issue of quantum. At paragraph [8] above, it is noted that the diagnosis when the plaintiff appeared at the Ulster Hospital on the evening of 20 June 2009 with that of a wrist sprain. It is clear, however, from the medical reports before the court that the condition of the plaintiff's wrist has given rise to considerable problems for him since.

[31] Mr Sean J McGovern, a consultant in accident and emergency medicine, has provided three reports on the plaintiff's condition based on examinations on 1 October 2009, 2 November 2010 and 25 May 2011.

[32] Initially at the Ulster Hospital the plaintiff had been advised to rest his right wrist then to try to mobilise it. The injury did not, however, settle down and the plaintiff continued to experience pain in the wrist and restriction of wrist movement. The plaintiff attended his GP and further attended the Ulster Hospital. After a

month or so there remained ongoing tenderness over the right scaphoid area. By the time the plaintiff first saw Mr McGovern he still had significant pain in the wrist and restriction of movement. On examination Mr McGovern noted "marked restriction of active wrist movements in all plains". There was markedly reduced power grip in his right hand and generalised swelling of all fingers and thumbs. In Mr McGovern's opinion the plaintiff had sustained a jarring type injury. There was no fracture. In his view the plaintiff was suffering from complex regional pain syndrome. The prognosis was guarded and Mr McGovern indicated he wished to review the plaintiff in order to expedite investigations and provide appropriate treatment.

[33] Mr McGovern's second report on the plaintiff is dated nearly 16 months after the injury. By this stage the plaintiff was on a variety of medications but was still complaining of pain in or around the right wrist and swelling with his fingers being cold, occasionally waking him from his sleep. The plaintiff had also by this stage undergone nerve block treatment on two occasions. This had been helpful. However, progress was described as being "slow". At this stage Mr McGovern noted that the plaintiff was hoping to have some modifications made to a bus so he could return to driving.

[34] Mr McGovern's third report is dated nearly two years after the accident. At this stage the plaintiff was reporting little change in his symptoms. By this stage he was attending Dr Hill, a pain specialist. The plaintiff had not returned to work and had been learning how to write with his left hand and generally to adapt to the condition of his right hand. Mr McGovern notes that the plaintiff reported intermittent swelling of the fingers of the right hand. The plaintiff had undergone a course of physiotherapy. While there was intermittent improvement, Mr McGovern notes that it always appeared to be a case of one step forward and then one step back. Again the prognosis, he viewed, as guarded as regards a full recovery.

[35] In addition to Mr McGovern's reports there were three substantive reports within the papers from pain specialists: two from Dr Hill on behalf of the plaintiff and one from Dr Cooper on behalf of the defendant. Dr Hill treated the plaintiff as a result of a referral to him by Dr McGovern. He first saw the plaintiff in October 2009. On examination at that time the plaintiff had allodynia all over his right hand and was guarding the hand and wrist against movement. He had a decreased range of movements at the wrist and his grip was not of full strength. The diagnosis was, in Dr Hill's provisional view, that of complex regional pain syndrome. The plaintiff received two sympathetic blocks. At the date of a further examination on 1 October 2010 Dr Hill records improved flexion and extension of the right wrist. He noted the plaintiff was able to supranate and pronate. Grip was rated at 2 out of 4. The allodynia had largely resolved. His opinion was that the plaintiff had sustained a musculo-ligamentous injury in the form of a wrist sprain. Recovery had been complicated by the development of neuropathic pain syndrome with persistent pain and lack of function of the right hand and wrist. He was, in the light of the

treatment being received, making a good improvement and Dr Hill anticipated this would continue.

[36] In February 2012 Dr Hill examined the plaintiff and wrote a further report. He noted that the plaintiff had ongoing bother with pain around the right thumb area and wrist. There had been improvement albeit that the plaintiff complained of pain a daily basis some days being better than others. The plaintiff reported as avoiding the use of the right hand. By this stage the plaintiff had received five sympathetic blocks of the right arm with good effect. On examination there was a small amount of allodynia around the thenar eminence. Grip remained reduced (1 out of 4). There was no wasting, however, of the small muscles of the hand. In Dr Hill's view, there was no guarantee of a complete recovery.

[37] Dr Cooper saw the plaintiff in May 2012 (just short of 3 years from the date of the accident). He noted that the plaintiff was guarding his right wrist. There was on examination at this time no obvious swelling or any reduction in capillary blood flow. Grip in the right hand was noted to "subjectively reduced" as compared to the left but there was no obvious muscle wasting in the small muscles of the right hand. Dr Cooper's view was that he expected that the functioning of the right hand would continue at the same level for the foreseeable future and gradually improve but that it would be unlikely to make a full recovery.

[38] From the above survey of the medical evidence, when taken with the plaintiff's oral evidence, the court concludes as follows:

(i) That initially the injury to the plaintiff appeared no more than a wrist sprain.

(ii) That in fact the injury did not resolve.

(iii) That since the date of injury the plaintiff has suffered from a variety of symptoms in the right hand and wrist including reduced grip in the hand, soreness of the wrist area, swelling in the fingers and general discomfort.

(iv) That the plaintiff has since the accident suffered from complex regional pain syndrome.

(v) That with treatment and time the condition has eased and improved.

(vi) That consequently the plaintiff is now able to make much greater use of his right hand and wrist than before.

(vii) That there will remain some loss of functionality in the right wrist but not a major loss of functionality.

[39] The court having considered the contents of page 27 of the Guidelines for Assessment of General Damage in Personal Injury Cases in Northern Ireland (3rd Edition) would place the injury within Category (c) of Section 8 dealing with hand injuries. The range there stated for an injury in this category is one between £15,000-£36,000. The court has concluded that its valuation of the injury in this case is one of £27,500.

Special Damage

[40] It is clear that as a result of the injury the plaintiff was unable to continue for a period as a bus driver. In fact he was off work altogether from the date of the accident until October 2011. At this later date the plaintiff did not resume work as a bus driver but began work as a cleaner. He has continued since in this role.

[41] The parties have helpfully been able to agree that his loss of earnings until the date of the hearing can be quantified at £22,500.

Future Loss of Earnings

[42] As a cleaner the plaintiff earns less than he would have earned as a bus driver. In these circumstances the plaintiff has advanced a claim for future loss of earnings. This claim if it is to be made out depends on evidence that he will not be able to drive a bus in the future.

[43] While evidence is before the court that as of 2010 the Bus Driver Licensing Authority was of the view that the plaintiff could drive a bus only with adaptations there is no evidence before the court of the up to date position. The absence of such evidence must be placed in the context that:

(i) The plaintiff is now driving his own automatic transmission car without difficulty and buses have automatic transmission.

(ii) The medical evidence shows a considerable improvement in his condition today as against 2010.

(iii) The plaintiff maintained in the witness box that he saw no reason why he could not drive a bus without adaptations.

[44] In these circumstances the court is not satisfied that any future loss claim turning on the plaintiff's inability to drive a bus has been proved on the balance of probabilities.

[45] Overall, therefore, the court views the quantum of the claim as £27,500 in general damages plus £22,500 in special loss which produces an overall figure in damages of £50,000.

Conclusion

[46] For the reasons set out above the court awards the plaintiff the sum of £50,000 in damages and awards costs against the defendant.