

Hassam and another (Appellants) v Rabot and another (Respondents)

Case ID: UKSC 2023/0025

Case summary

Issues

How is the court to assess damages for pain, suffering and loss of amenity ("PSLA") where the claimant suffered a whiplash injury which comes within the scope of the Civil Liability Act 2018 (the "2018 Act") and attracts a tariff award stipulated by the Whiplash Injury Regulations 2021 (the "Regulations"), but also suffers additional injury which falls within the scope of the 2018 Act and does not attract a tariff award?

Facts

This appeal arises from two claims in the County Court in Birkenhead, both involving road traffic accidents as a result of which the claimants suffered whiplash and other injuries. The 2018 Act and the Regulations provide a framework and the corresponding level of compensation (or "tariffs") payable for PSLA caused by whiplash under certain conditions. The dispute arises as to the approach a court should take to compensation for PSLA where the claimant has suffered mixed injuries: i.e. injuries which are covered by the tariffs in the 2018 and Regulations, but also injuries which are not (or "non-tariff injuries"). The extent to which, if at all, the usual principles of common law damages should be applied to the non-tariff injuries is a point of contention.

The County Court at Birkenhead held that, in these "mixed injury" cases, the proper approach is to: (a) determine what each injury is; (b) value each injury in accordance with the appropriate scheme/regime (which may include either the statutory scheme or the common law); (c) add them together and then step back, exercising the type of judicial discretion that judges have been doing over many years; and (d) reach a final figure by making an appropriate deduction (if any). The common law method of assessing damages in relation to the non-tariff injuries was not therefore excluded by the 2018 Act. The Court of Appeal dismissed the appeal. The appellants now appeal to the Supreme Court.

Judgment appealed

[\[2023\] EWCA Civ 19](#)

Parties

Appellant(s)

- (1) Charlotte Victoria Hassam
- (2) Boluwatife Laditan

Respondent(s)

- (1) Yoann Samuel Rabot
- (2) Matthew David Briggs

Intervener(s)

Association of Personal Injury Lawyers and Motor Accident Solicitors Society

Appeal

Justices

Lord Reed, Lord Lloyd-Jones, Lord Hamblen, Lord Burrows, Lady Rose

Hearing start date

20 February 2024

Hearing finish date

20 February 2024

Watch hearing

20 February 2024 [Morning session](#) [Afternoon session](#)