Neutral Citation Number [2022] EWHC 2417 (KB)

Claim No. F90MA017

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

MANCHESTER DISTRICT REGISTRY

Before Mr. David Allan KC, sitting as a Deputy High Court Judge

B E T W E E N :

MATTHEW RILEY

Claimant

- and –

SALFORD ROYAL NHS FOUNDATION TRUST

Defendant

Mr. Darryl Allen KC (instructed by Potter Rees Dolan)
for the Claimant.

Mr. Neil Davy (instructed by Hill Dickinson LLP)
for the Defendant.

JUDGMENT

Handed down on 13 September 2022

INTRODUCTION

1. The Claimant, Matthew Riley, was born on the 11th April 1995 and is now 27 years old. On the 28th July 2015 he was involved in a road traffic accident when he lost control of his motorcycle and crashed. No other vehicle was involved. He sustained fractures to his right femur, tibia and fibula. He was admitted to Salford Royal Hospital shortly after the accident. He developed a compartment syndrome in his right lower leg. There was a delay in treating this condition. Despite undergoing several operative procedures the lower leg could not be saved and on the 21st August 2015 the Claimant underwent a below knee amputation of his

right lower leg. The Defendant has admitted a breach of duty in respect of the treatment the Claimant received at Salford Royal, and has further admitted that if appropriate treatment had been given an amputation would have been avoided. At the beginning of the trial to determine quantum there remained in dispute issues as to causation in relation to the Claimant's 'but for' condition. In other words, if appropriate treatment had been delivered what would the course of the Claimant's recovery have been and what would the extent of his permanent disability have been. During the trial the area of dispute between the parties on causation narrowed, but it has not been entirely resolved. While some issues on quantum have disappeared, many disputes remain to be determined by the Court.

2. Mr. Darryl Allen KC appeared on behalf of the Claimant, and Mr. Neil Davy on behalf of the Defendant.

3. The Claimant was discharged from hospital on the 2nd September 2015. At this time he was living with his mother in Bolton. His parents are divorced but the Claimant enjoys the support of both his parents. At the date of the accident the Claimant was in a relationship with a young woman, but that relationship came to an end within a few months of his injury. In January 2017 the Claimant met Jasmine Thackeray-Bowker. He was soon spending a good deal of time at her home. In October 2019 a bungalow was purchased for the Claimant at 11 Bridgefield Drive in Bury. The cost was £527,700. The purchase was made through a personal injury trust with the benefit of an interim payment. The Claimant and Ms. Thackeray-Bowker moved into the property together. At the time of trial they were expecting their first child and their son was born on 27th June 2022.

4. The Claimant's recovery from his amputation and his utilisation of prosthetic limbs has not been straightforward. The Claimant initially was provided with prosthetics under the NHS. Since 2018 he has had the benefit of a private provider, PACE. The details of the various prosthetic limbs utilised by the Claimant are dealt with later in this judgment. The Claimant has been greatly troubled by cysts, abscesses and infection affecting his stump. The severity of these problems has varied but they became particularly persistent in 2019, such that the Claimant was unable to use a prosthetic limb. He had to use crutches, an iWalker or wheelchair. He underwent surgery in November 2019 for these problems and his condition has improved since then. The Claimant was due to undergo a myoplasty operation at the end of March 2020 to improve the condition of his stump but the operation was postponed because of the pandemic. Since then the Claimant has chosen to defer this operation and has been able to use a prosthetic limb most of the time. Pain and swelling of the stump have sometimes been a problem for him plus a sensation of pins and needles. Phantom limb problems have only affected him to a limited extent. There have also been psychological effects, with the Claimant suffering from PTSD.

5. Having obtained GCSEs at 16 the Claimant left school and from September 2011 he attended Bury College where he studied for a BTEC Extended Diploma in Sport. He obtained a merit pass in June 2013 but chose at that stage not to study for a degree. He started an apprenticeship in software development. The firm he worked for experienced financial difficulties and he was made redundant. He undertook further courses in activity leadership and work skills, completing these courses in January 2015. In May 2015 he began working for an automotive company, P.F. Jones, in customer services. Shortly before his accident the Claimant decided to pursue a university course in Sports Science with a view to becoming a PE teacher. He had contacted Bolton University and provided details of his qualifications.

Bolton University had indicated there was a place available on the course the Claimant wished to pursue. The accident intervened and the Claimant was unable to take up a place on this course.

6. Since the accident and amputation, the Claimant has undertaken a limited amount of computer software work. This has been carried out at his home. The work has consisted of zero hours contracts and has only provided him with a few hours of work. He has so far not pursued further studies. The Claimant has found it difficult to combine his rehabilitation and the many appointments for prosthetics with full-time study or work. The employment opportunity he described in his evidence was employment with his father who is intending to open a night club in a few weeks. The Claimant would be a manager at the night club. The Claimant also intends to pursue a course with the Open University in order to obtain qualifications in IT work.

7. Prior to the accident and amputation the Claimant's main interest was sport, particularly football but also racket sports, swimming and attending a gym. In his home the Claimant has created a gym to try and improve his fitness. He has taken up golf and would like to try wheelchair basketball. He has had a trial of skiing at an indoor ski centre in Manchester and has expressed an interest in taking up snowboarding.

The Lay Witness Evidence

8. The Claimant gave oral evidence. He confirmed the contents of his three written statements. He was cross-examined at some length. He appeared to be doing his best to be accurate in his evidence. He was assisted in recalling his condition at various times by reference to a number of foreign holidays he had taken. These trips were to Gran Canaria in

September 2016, Disneyland in April 2018, Amsterdam in April 2019 and Majorca in June 2019. The last three holidays were all taken with Jasmine. He said that he had been affected by depression for the first two years after the amputation. He gave the impression of being a private individual. An example of this was that he was unwilling for a personal trainer to come to his home. He has had some difficulty accepting his disability and its appearance. He has been unwilling to go to a gym. He agreed there had been a substantial improvement in the condition of his stump since the operative treatment in November 2019. He still gets some pain and swelling of the stump if he uses a prosthesis for too long. He has had a few sores and spots on the stump since the operation. In the last year there had been about 4 weeks when he was not able to wear a prosthesis. He had then relied on crutches or a wheelchair. Kneeling caused some discomfort and when getting up from a kneeling position there was discomfort and a tendency for the prosthesis to become displaced.

9. As far as the prospect of employment with his father was concerned, I was left with the impression that the night club is rather a speculative venture. The Claimant's father is an upholsterer by trade and as far as one can tell has no prior experience of running a night club. The Claimant has no such experience. It appears much more likely that the Claimant's best prospects of employment lie in obtaining some qualifications in IT work and then finding work in this sector, which he has long been interested in.

10. The only other lay witness to give oral evidence was Siobhan Holmes. She is a case manager and acted in this capacity for the Claimant from January 2019 to May 2020, and then from September 2020 to July 2021. She had clearly provided much useful support for the Claimant. She had arranged counselling and psychological support. This had been during 2019 when the Claimant was having major problems with his stump. She arranged

appointments which led to the operative treatment in November 2019. She comments that the Claimant is often resistant to new ideas or new methods of coping, but with support this resistance can be overcome leading to an improvement in the Claimant's condition. She also commented that the Claimant felt overwhelmed when he contemplated getting back to employment. He had fears about how he would manage his working day given his problems with fatigue. Ms. Holmes arranged appointments with an occupational therapist to help the Claimant improve his business skills. Ms. Holmes stated in her oral evidence that the Claimant was well-motivated. However, he does get easily stressed and has difficulty planning ahead. The Claimant's home has been a source of stress because of defects due to mould and dampness. Extensive repairs have been required.

11. The Claimant's mother, Julie Riley, and his partner, Jasmine Thackeray-Bowker, both provided witness statements but were not required for cross-examination.

The Expert Evidence

12. I heard oral evidence from the following experts:

Mr. Simon Britten/Mr. Nick Kenny (orthopaedic surgeons).

Dr. Sooriakumaran/Professor Kulkarni (rehabilitation medicine).

Ms. Helen Dunley /Mrs. Liz Utting (care and occupational therapy).

Ms. Dawn Crofts/Mr. Abdo Haidar (prosthetics).

Mr. James Nocker/Mr. Stephen Fisher (accommodation).

In addition there were reports from Dr. Stephen O'Brien, Consultant Psychiatrist, and Ms. Charlotte Langley, Physiotherapist, who were both instructed on behalf of the Claimant.

Orthopaedic Evidence

13. Mr Britten was instructed on behalf of the Claimant and Mr Kenny on behalf of the Defendant. At the beginning of the trial there were a number of issues on causation, in particular whether, absent a breach of duty, the Claimant would have suffered non or delayed union of the tibial fractures, the length of recovery time and the extent of ongoing pain and disability. Part way through Mr. Britten's cross-examination the Defendant conceded the issue on non or delayed union of the tibial fractures. In the Defendant's written closing submissions it was accepted that Mr. Britten was a more impressive expert than Mr. Kenny and it was stated that the Defendant had quantified the claim on the basis of Mr. Britten's evidence "save where that does not withstand logical analysis or is inconsistent with other evidence."

14. Mr. Britten was a most impressive expert. The Claimant suffered a complex tibial fracture. Mr. Britten specialises in treating such fractures. He has presented research at national and international conferences on the treatment of complex tibial fractures. He is the co-author of papers on this subject. Mr. Kenny does not have the same level of expertise in dealing with complex tibial fractures. The Defendant was realistic in accepting that the Court would prefer the evidence of Mr. Britten. Insofar as there was dispute between Mr. Britten and Mr. Kenny, I accept the evidence of Mr. Britten.

15. It follows from accepting the evidence of Mr. Britten that in the absence of breach of duty the following findings of fact can be made:

(a) The Claimant would largely have recovered from his injuries within about 12 months.

(b) The tibial fracture was likely to have healed without delayed union and without the need for further operative treatment.

(c) The Claimant would always have been self-caring and would have been capable of carrying out all save the heaviest of domestic tasks. Mr. Britten gave the example of moving a delivery of paving slabs as a job which would have been beyond the Claimant.

(d) The Claimant would not have been capable of being a PE teacher and would have needed to avoid employment involving prolonged standing, walking or heavy lifting.

(e) Mr. Britten drew a distinction between undertaking domestic activities, where one can take a rest when required, and employment where such rests would not be acceptable.

(f) The Claimant would have been able to work to normal retirement age.

(g) The Claimant would not have been at increased risk of degenerative change.

(h) He would have been capable of running short distances.

(i) He would have been able to crouch or kneel with some mild discomfort on rising.

(j) The Claimant would have been largely pain-free save that in cold/damp weather he might have had mild pain.

16. Mr. Davy, Counsel on behalf of the Defendant, in his written final submissions Appendix 1, by reference to Mr. Britten's evidence, sought to draw an equivalence between the 'but for' condition of the Claimant and his actual current position. I did not understand Mr. Britten's evidence to be to this effect, which I summarise as follows:

(a) The Claimant has significant ongoing symptoms with his stump which are worse when he attempts to use a prosthesis for prolonged periods. He does not have a normal gait.

(b) For several weeks a year the Claimant will be unable to use a prosthesis because of the condition of his stump.

(c) With ageing the Claimant will develop muscle atrophy in the right leg which will impede the wearing of a prosthesis.

(d) The Claimant is fit to undertake sedentary work from home or at a place of work with facilities such as a wheelchair access and disabled parking. By age 60 to 65 the Claimant will find it increasingly difficult to work full-time.

(e) The Claimant has a 10 to 20% risk of requiring a myoplasty in the short to medium term. In the longer term he will need such an operation by his late 50s or early 60s.

(f) Due to the amputation the Claimant is likely to develop degenerative changes such that he has a 5 to 10% risk of (i) a left hip replacement by 55 to 60, (ii) a need for revision by 70 to 75, and (iii) a second revision by 82 to 87. He also has a 5 to 10% risk of left knee replacement by 55 to 60 with similar risks of revision and a second revision.

Rehabilitation Expert Evidence

17. Dr. Sooriakumaran was instructed on behalf of the Claimant, and Professor Kulkarni on behalf of the Defendant. Both are very experienced rehabilitation consultants and both were impressive witnesses. There was a large measure of agreement in the opinions they advanced. Insofar as there were differences of view, this often reflected a legitimate range of opinion. Both experts referred to the SIGAM mobility grades when estimating the Claimant's current and future level of disability. Dr. Sooriakumaran, in his report of February 2021, set out the table indicating the various grades of disability in lower limb amputees as published in a paper in 2003 which are referred to as SIGAM. The range of grades is from F to A, with F being capable of normal or near normal walking, and A being an amputee who has abandoned the use of an artificial limb. Both experts agree that the Claimant is currently grade F. Professor Kulkarni estimates the Claimant will remain at this grade until age 60, and Dr. Sooriakumaran suggests to age 55 to 60. After this age the Claimant will drop to grade E where he will need the use of a walking aid for longer distances outdoors and in inclement weather. Occasionally he will need to use a wheelchair and there will be an increased need for assistance. From 70

to 80 Professor Kulkarni believes the Claimant will be Grade D/E and will be using a prosthesis indoors and for short distances outdoors. For longer distances he will be reliant on a wheelchair. Dr. Sooriakumaran estimates from 70 to 80 the Claimant will be grade D needing bilateral walking aids from age 75. From age 80 the experts agree the Claimant will be grade C or possibly grade B. He will be heavily reliant on a wheelchair for all ambulation. For the last 2 to 3 years of his life the Claimant will need assistance with transfers.

18. Dr. Sooriakumaran assessed the risk of the Claimant requiring further surgery for folliculitis/abscesses at about 30%, whereas Professor Kulkarni assessed this risk somewhat lower at 10 to 15%. Both experts agreed that the Claimant will develop some muscle atrophy of the stump. In the experts' joint statement Professor Kulkarni assessed the risk of myoplastic surgery at 20 to 25%, but in his oral evidence he referred to the limitation of a zoom assessment and accepted that the Claimant will require myoplasty at some stage. Dr. Sooriakumaran agreed that such surgery was likely to be required.

19. When asked to estimate the period each year when the Claimant will be unable to use a prosthesis because of swelling/discomfort of the stump, Dr. Sooriakumaran suggested 4 to 6 weeks, and Professor Kulkarni 4 weeks.

20. Whilst agreeing that the Claimant will have an increasing need for care and assistance, the rehabilitation experts preferred to leave the detail of care and equipment aids to the care/occupational therapy experts.

21. In respect of the Claimant's ability to work and the likely duration of his working life, the rehabilitation experts expressed similar views. Professor Kulkarni considered that in IT the

Claimant will be able to work initially part-time, building up his hours and aiming for full-time work with a tolerant employer. This will depend on his employer allowing the Claimant time off for prosthetic interventions, stump issues and future stump surgery. Both experts agree that the Claimant would be assisted by the employment having facilities such as wheelchair access and disabled parking. Professor Kulkarni considers that the onset of osteoarthritis will lead the Claimant to retire 3 to 5 years earlier than normal. Dr. Sooriakumaran considers the Claimant's ability to work full-time to retirement is adversely affected. This is due to stump problems and complications, plus fatigue and age-related changes that will reduce an amputee's work capacity.

Experts on Prosthetics

22. The Claimant was initially provided with one prosthesis on the NHS. He then attended at PACE in Cheadle for private prosthetic provision. He has been provided with three prostheses by PACE. The first was a microprocessor Elan foot. The Claimant did not like the function of this foot. He found that it destabilised his gait so that he was leaning forward more than required. He only used this foot for a period of about 6 months. The Claimant was then provided with an Echelon VT foot which has been his main day-to-day prosthesis. The third prosthesis was a sports/waterproof prosthesis fitted with an Ossur Xplore foot. He was happy with the function of this foot.

23. Ms. Crofts, instructed on behalf of the Claimant, and Mr. Haidar, instructed on behalf of the Defendant, provided a succinct joint statement and both gave oral evidence. The main point of dispute between them is over the provision of a microprocessor Kinnex 2 foot. The Claimant has trialled this foot, which he liked. When trying out the foot it was commented that this foot improved the Claimant's posture and confidence in his mobility. Mr. Haidar is not in

favour of this foot, believing that its heavier weight and requirement for charging outweigh any advantages. Ms. Crofts considers that this foot improves the Claimant's posture, enables him to stand more upright on a slope, and has greater movement when compared to the Echelon VT. She believes it will also reduce socket pressures which is a particular advantage to the Claimant given his problems with his stump. Ms. Crofts recommends provision of this prosthesis up to the age of 75.

24. A further issue is whether the Claimant should be provided with a prosthesis for snow sports. As already indicated, the Claimant has undertaken one session of skiing at an indoor ski slope. He does not wish to pursue skiing but has expressed an interest in snowboarding. He sees advantages of the fixed position of the feet on a single board, rather than being fixed on two skis. In the joint statement the experts agreed that the Claimant should trial snowboarding using his day-to-day prosthesis before trialling a dedicated foot such as an Ottobock Pro Carve foot.

Care and Occupational Therapy Experts

25. Counsel for the Defendant, in his written closing submissions, accepted that overall Ms. Dunley, instructed on behalf of the Claimant, was a more impressive witness than Mrs. Utting who was instructed on behalf of the Defendant. A difficulty for Mrs. Utting is that she had prepared her report and made her recommendations on the basis of Mr. Kenny's opinion as to the Claimant's condition absent any breach of duty. Given the Defendant's acceptance that the opinion of Mr. Britten should prevail, this placed Mrs. Utting at a disadvantage. At a late stage Mrs. Utting provided some additional written evidence. However, the Defendant was realistic in its written final submissions when it stated that it had relied on the evidence of Ms. Dunley 'to quantify the claim save where it does not withstand logical analysis or is inconsistent with

other evidence.' In contrast Ms. Dunley carried out her assessment relying on the opinion of Mr. Britten and, as will be seen in due course, I have generally accepted the assessment of Ms. Dunley in preference to that of Mrs. Utting in those instances when they disagree.

Accommodation Experts

26. The Claimant relies on the opinion of Mr. Nocker, and the Defendant on Mr. Fisher. There is agreement that as a result of the amputation the Claimant reasonably requires ground-floor accommodation. There is further agreement that it was reasonable to purchase the bungalow at 11 Bridgefield Drive in Bury. There is agreement between the experts that in the absence of amputation the Claimant and his partner would have purchased a property costing £225,000 to £250,000. The experts agree that it is reasonable to carry out works of adaptation at the bungalow so that it is suitable for the needs of the Claimant, in particular that it is adapted for wheelchair use, which will be required in the future. There is some disagreement between the experts as to the works required and as to their likely cost. There is also considerable disagreement as to the likely running costs of 11 Bridgefield Drive and the running costs the Claimant would have incurred in the 'but for' property.

Psychiatric Evidence

27. The Claimant relies on the reports of Dr. Stephen O'Brien, a consultant psychiatrist. In his first report dated 28th February 2017 Dr. O'Brien concludes that the Claimant is a person of a normal robust personality. He further concludes that as a result of clinical negligence the Claimant suffered psychiatric injury. This took the form of Post Traumatic Stress Disorder which was now mild in severity. For a period the Claimant had suffered flashbacks every night or every other night and would wake up screaming. The Claimant was still suffering from this condition when interviewed by Dr. O'Brien in early 2017. In the absence of the amputation the

Claimant might have suffered an adjustment disorder as a result of his leg injuries, but Dr. O'Brien says this is by no means certain and any such condition would have probably resolved within 6 months. By the date of Dr. O'Brien's second report in March 2021 the PTSD had resolved. The Claimant had some minor residual symptoms but such symptoms did not amount to a psychiatric illness. Dr. O'Brien states that there is a risk of the Claimant developing further mental health difficulties if there was a significant deterioration in his general situation. Dr. O'Brien gives the example of complications leading to an inability to mobilise normally. Dr. O'Brien recommends provision for psychological treatment in the future.

Physiotherapy Evidence

28. Ms. Charlotte Langley, a specialist musculoskeletal physiotherapist, carried out an assessment of the Claimant in December 2017 and reassessed him in February 2021. She noted a significant improvement in his condition between the two assessments. She concluded that the physiotherapy and prosthetic programme which the Claimant was following was working well for him. She has made recommendations regarding future physiotherapy.

THE ISSUES

Life Expectancy

29. I heard oral submissions from counsel part way through the expert evidence. I was invited by counsel to make a finding on life expectancy so as to assist and simplify the final submissions on quantum. Following oral submissions I announced my conclusion that the Claimant should be treated as an individual with an average life expectancy, without reduction. I did not provide reasons at that stage for my conclusion on life expectancy, but now do so.

30. The Defendant contended for a reduction in life expectancy of 3 years. In support of this submission the Defendant relied on the evidence of Professor Kulkarni. In his oral evidence Professor Kulkarni stressed that he was not an expert on life expectancy. He confirmed in evidence that there was no reliable study of below-knee amputees indicating that the amputation resulted in a loss of life expectancy. In his report of February 2021 Professor Kulkarni referred to what he called 'a guesstimate' which was a decrease in life expectancy of 4 to 6 years. He relied on two factors supporting a decrease, namely impaired mobility and an excessive BMI. In the joint statement of April 2021 Professor Kulkarni again referred to his opinion on life expectancy being a 'guesstimate' and suggested a decrease of 3 to 4 years. In his oral evidence Professor Kulkarni conceded that to carry out a proper assessment of life expectancy one would need to consider both plus and minus factors. This was not an exercise he had carried out as he did not hold himself out as an expert on life expectancy. In the medical records the Claimant's BMI is recorded at various times as being in the region of 30. Mrs. Utting, in her assessment of January 2021, referred to the Claimant having a BMI of 31, placing him in the 'obese' category. Professor Kulkarni referred in his oral evidence to an Oxford study where a BMI of 30 or above was classed as moderate obesity and had an effect of reducing life expectancy by 3 years. When asked why he had not produced a copy of the Oxford study Professor Kulkarni stated that it was because he was not putting himself forward as an expert on life expectancy.

31. Dr. Sooriakumaran, in the joint statement, commented that he would not regard a BMI of 30 as significant for the Claimant's life expectancy. In young individuals with above average muscular build, BMI is often not diagnostic of body fatness or overall health. He accepted that he was not an expert on life expectancy but in giving an opinion he relied on his experience over many years in rehabilitation and his reading of the literature. He said one should not focus

just on one factor. It is necessary to look at all relevant factors when considering life expectancy. The fact that the Claimant has always been a non-smoker and that his alcohol intake is moderate, are positive factors to be taken into account.

32. No witness claiming to have expertise on the issue of life expectancy has given evidence in the present case. Professor Kulkarni concedes that his various estimates of a reduction in life expectancy are not based on his having expertise on this issue. He accepts, and Dr. Sooriakumaran agrees, that to produce an estimate of life expectancy on which the court can rely would require an expert to weigh up both negative and positive factors in an individual case. That has not been done. At various times the Claimant's BMI has been recorded at below 30. For example in March 2020 it was recorded in his medical records as being 27.9. This would be in the overweight category but there is no evidence that this level of BMI indicates a reduction in life expectancy.

33. My conclusion is that there is no satisfactory evidence to suggest the Claimant should be treated as someone with a reduced life expectancy. There is no reliable epidemiological evidence that below-knee amputation leads to a reduction in life expectancy. No expert in life expectancy has assessed the relevant factors, both positive and negative, in the case of the Claimant. In these circumstances I conclude that the Claimant has an average life expectancy for a male person of his age. The parties agree that if the Claimant has an average life expectancy then the full life multiplier is 63.60.

Form of Award

34. The court is obliged to consider what form of award should be made in respect of future loss. In particular the court should consider whether any part of the future loss award should

take the form of a periodical payments order. Both parties sought an order that all future losses should be dealt with by a lump sum payment. I am satisfied that the order which best meets the Claimant's needs is a lump sum order.

Multipliers

35. The parties are agreed that multipliers for repeat expenditure at fixed intervals are to be taken from Table A5 in the Facts & Figures publication. A dispute has arisen as to how the calculation should be performed. The Defendant's approach does not make any adjustment for deferred maintenance costs over a 5 or 6 year cycle in the case of the prostheses. The Claimant contends that given a discount rate of -0.25% there has to be an adjustment for a deferred cost. The Claimant's argument is set out between paragraphs 117 and 122 of the final written submissions. The implication of a negative discount rate is that there will be a loss to a claimant during a period when a cost is deferred. In those circumstances the Claimant is correct to make an adjustment. In the method adopted by the Claimant there is no double counting.

General Damages for Pain, Suffering and Loss of Amenity

36. In the Claimant's final submissions the figure contended for in respect of PSLA was £122,500. The Defendant's figure was £110,000. Subsequent to those submissions the 16th Edition of the Judicial College Guidelines was published in April 2022. The range of damages for a below-knee amputation is now £97,980 to £132,990. Factors which in my view suggest the appropriate figure is above the middle of the range are the young age of the Claimant at the time of the amputation, the difficulties he encountered with his stump over a number of years and his passionate interest in sporting activities, particularly football, which have been curtailed as a result of the amputation. A factor which goes the other way is that absent the breach of duty the Claimant will not have made a full recovery. He would have had an ongoing degree

of disability as summarised previously. I also note that the degree of phantom sensation is fairly minimal compared to some amputations. Balancing these various factors and having regard to the extent of psychological problems and the extent of the risk of osteoarthritis in the remaining joints of both limbs, suggests the appropriate award is a little above the middle of the range indicated by the current guidelines. I therefore conclude that the appropriate award for PSLA is £120,000.

PAST LOSSES

Past Loss of Earnings

37. In July 2015, at the time of his accident, the Claimant was intending to give up his office-based employment with P.F. Jones and instead pursue a degree at University. If there had been no breach of duty the Claimant would have required a recovery period of about 12 months. For the Claimant it is contended that he would have deferred starting a degree course until September 2016 and would not have been able to carry out any work during this year of recovery. His degree would have been in sports science as originally intended, or in IT given the ongoing effects of his injuries. It is further contended that whilst pursuing a degree course the Claimant would have worked part-time averaging 15 hours a week and earning at least the minimum wage. Following completion of a three year degree the Claimant would have commenced full-time work by September 2019 at a salary of £20,000pa gross, £17,240 pa net. In the event he has only worked sporadically, with earnings of about £3,500. The net past loss of earnings claim amounts to £64,168.

38. The Defendant contends that assuming no breach of duty the Claimant would not have completed a degree course to date and further, that he is unlikely to have worked full-time to date. The Defendant's primary position is that although the Claimant would have been able to

seek work in September 2016 if treated without negligence and did not in fact achieve reasonable mobility until early 2020 he did not suffer any past loss of earnings. The Defendant relies on the fact that the Claimant's earnings since early 2020 have been limited. The Defendant's secondary position is that the Claimant would have been able to increase his earnings somewhat between July 2016 and early 2020 working on average 25 hours a week at the minimum wage.

39. My conclusion is that the Defendant's submissions on past loss of earnings are unrealistic. There is a failure to allow for the full effects of the amputation, both physical and psychological. I accept the Claimant's evidence that he had formed a definite intention to pursue a degree course prior to his accident. This ambition had come about following two years of unfulfilling work and courses. With a recovery period of about 12 months the Claimant is likely to have commenced a degree course in September 2016. Given that it would no longer have been open to the Claimant to become a PE teacher, it is probable that his degree would have been in an IT subject which he had long had an interest in. It seems probable that the Claimant would have carried out some part-time work during his degree course, although an average of 15 hours a week seems optimistic. 10 hours a week on average is more realistic at minimum wage rates. This produces a figure for loss of earnings between September 2016 and September 2019 of two-thirds of that claimed on behalf of the Claimant, namely £11,137.

40. Assuming the Claimant would have completed a degree by June 2019 in an IT subject, he would have had good prospects of finding full-time work by September 2019. I accept the Claimant's contention that a reasonable estimate of his earnings at this stage would have been £20,000 gross per annum, £17,240 net pa. In the event in June 2019 the Claimant was suffering with cysts and abscesses on his stump. He was unable to wear a prosthesis. An operation in

November 2019 achieved a considerable improvement in the condition of his stump by early 2020. The Claimant had moved into his new home in October 2019. The condition of that home and the extensive works required have been a considerable challenge for the Claimant. I accept the evidence of Ms. Holmes, who has been his case manager for most of the period from the beginning of 2019 to the middle of 2021, that the Claimant has acted on the recommendations she has made for improving his rehabilitation. As part of that process he has undertaken such work as he has been able to undertake given the limitations presented by carrying out work at home and his lack of IT qualifications. I do not find that the Claimant has failed to mitigate his loss in any way.

41. I accept that from September 2019 the Claimant would have earned £17,240 net pa for 2.55 years = £43,962. The total past loss of earnings is £11,137+£43,962 = £55,099.

Past Care and Case Management

42. The care to date had been gratuitous and provided by family members. Both parties have used Ms. Dunley's assessment as their starting point. The Claimant, in final written submissions, discounted the care in hospital by 33% to allow for the care that would have been required in any event, and then discounted the care up to April 2016 by 25% for the same reason. After April 2016 the Claimant contends that care would not have been required absent the amputation. A **HOUSECROFT v. BURNETT** discount of 25% was then applied to reflect the gratuitous nature of the care. The resulting total is £22,891.

43. For the period up to April 2016 including the time in hospital, the Defendant discounted by 67%. From April 2016 the Defendant reduced the hours allowed by Ms. Dunley by 3 hours a week to allow for care which it contends the Claimant would have required in any event. The

Defendant agrees that the **HOUSECROFT v. BURNETT** discount should be 25%. The resulting total is £12,891.

44. I conclude that having regard to the gratuitous care which the Claimant would have required in any event, the following percentage of Ms. Dunley's assessment should be allowed (subject to the further 25% discount to reflect the gratuitous nature of the care):

28.7.15-2.9.15 (period in hospital) 33% of £1,326.08	=	£438.
3.9.15-3.11.15 50% of £2,281.60	=	£1,141.
4.11.15-2.4.16 50% of £4,400.83	=	£2,200.
3.4.16-2.2.17 75% of £3,957.67	=	£2,968.
2.2.17 to date 90% of £20,669.	=	£18,602.
	Total	£25,349.
Less 25% discount	=	£19,011.

A 10% discount from February 2017 reflects evidence that absent the negligence only the heaviest domestic tasks would have been beyond the Claimant.

45. The past case management costs are agreed in the sum of £33,854. This means the total for past care and case management is £52,865.

46. Past therapies are agreed in the sum of £16,021.

47. Past prosthetic costs are agreed in the sum of £44,253.

Past Transport Costs and Miscellaneous Costs

48. The following expenses are agreed:

Travel	£500.
Driving assessment	£80.
Motability payment	£3,924.
Vehicle adaption cost	£495.
Equipment	£9,648.
Additional holiday costs	£1,400.

Total £16,047.

49. The Claimant passed his driving test in July 2018. The first car he acquired was a BMW 1 series under the Motability scheme. He found that this vehicle was too small, given his height and the challenges provided by his prosthesis. There was also insufficient room in the boot for a wheelchair. In July 2020 the Claimant looked to buy an alternative vehicle which would provide him with sufficient room and would be reliable. He tried an Audi Q5 but found that this did not have sufficient room. An Audi Q7, which had been used as a demonstration model, was available at a cost of £57,950. This is a large vehicle which provided ample space for the Claimant and any equipment he needed to carry. An important feature of the Q7 is that as a second-hand vehicle it retains its value. The Claimant stated in his evidence that the car's present resale value was £52,000. The Claimant contends that the purchase of the Q7 was reasonable. If it is kept for another two years a realistic valuation would be £40,000. It is agreed that the vehicle the Claimant would have purchased, absent the amputation, would have cost £2,000. A claim is therefore made for £57,950-£40,000-£2,000 = £15,950.

50. The Defendant disputes that it was reasonable to purchase the Q7. It contends that a second-hand vehicle, such as a Hyundai Tucson, could have been bought at a cost of £14,750. Alternatively, accepting the Claimant's evidence of a resale value of £52,000, the cost to date is £5,950.

51. Given the retention of value of the Q7 it was not unreasonable for the Claimant to have purchased the Q7. I also find that given the Claimant's requirement for a reliable vehicle and given his dependence on a vehicle, it is reasonable for him to purchase a new car rather than a second-hand one. The claim advanced on behalf of the Claimant is for £15,950. In the

Defendant's final written submissions the figure contended for is £14,750 less £2,000 for the 'in any event' car. There is considerable uncertainty as to the actual resale value of the Q7. I conclude that an award of £14,000 is a reasonable estimation of the cost to the Claimant of the Q7, allowing for its resale value and the cost of the 'in any event' car.

52. The Claimant seeks an award for increased insurance costs in the sum of £3,431. This reflects the actual cost of insuring the Q7 less the estimated cost of insuring an 'in any event' car. The Defendant argues that nothing should be allowed for extra insurance costs as it was unreasonable to purchase the Q7. I have found that it was a reasonable purchase. The insurance cost will undoubtedly have been significantly higher than an 'in any event' car. I allow the claim in the sum of £3,431.

53. I therefore make the following awards in respect of past transport and miscellaneous costs:

miscellaneous	£16,047.
net cost of Q7 purchase	£14,000.
increased insurance costs	£ 3,431.
	£33,478.

Past Accommodation

54. The following costs are agreed:

(i)	Enabling works at the home of the Claimant's mother	£36,295.
(ii)	Disability adaptation works at 11 Bridgefield Drive	£16,759.
(iii)	A mini fridge	£125.
(iv)	Home gym costs	£71.
(v)	Ancillary costs of purchasing 11 Bridgefield Drive	£15,000.
	Total	£68,250.

Further costs incurred on Bridgefield Drive are disputed. These items are summarised in the joint statement of the accommodation experts as follows:

Full overhaul of the garage roof and tiles	£26,678.
Installation of an air ventilation system	£10,332.
Replacement garage door	£468.
Replacement front door	£2,070.

The accommodation experts accept that 11 Bridgefield Drive represented a reasonable property for the Claimant to buy so as to provide for his lifetime accommodation needs. As a matter of principle costs which are incurred in order that the purchased property is in a reasonable state of repair are recoverable. On the other hand, costs which are similar to those likely to have been incurred as expenditure on the 'but for' property would not be recoverable. The Defendant disputes the above costs on the basis that they relate to the ordinary costs potentially associated with purchasing any property. The experts agree that the property purchased by the Claimant needed to have a garage. The Claimant explained in his evidence that the garage roof required replacing. He also explained that on moving into the bungalow there was found to be a problem with dampness and mould. A surveyor advised that a ventilation system was required to combat dampness and mould. There is no indication in the expert evidence that major works would have been required to the 'but for' home. In these circumstances the cost of these works should be recoverable. However the replacement of a garage door and a front door are the type of costs which may well have been encountered when purchasing any property.

55. Additional costs claimed on behalf of the Claimant consist of:

New windows	£6,750.
Work dealing with mould	£1,700.
Carpets	£970.
Office furniture	£540.

My conclusion is that the installation of new windows and the work dealing with mould were works required to put the property into a reasonable condition and should be allowed.

Some carpets and items of furniture such as a desk and other office items may well have been required in any event.

56. A claim is made for an increase in maintenance and running costs. In the Claimant's final written submissions it is conceded that the annual costs of maintaining the bungalow have been absorbed in the adaptation costs, which have already been claimed. The additional running costs based on Mr. Nocker's figures are £2,855pa. The Defendant's proposed figure is £2,633pa. It is reasonable to take the mid-point between these two figures, namely £2,744pa. Over 2.46 years this amounts to £6,750.

57. The recoverable past costs for accommodation are as follows:

Agreed costs		£68,250.
Garage roof work		£26,678.
Air ventilation system		£10,332.
New windows		£6,750.
Work dealing with mould		£1,700.
Increased running costs		£6,750.
	Total	£120,460.

58. In the written final submissions there is a claim for the cost of window cleaning at a rate suggested by Mr. Nocker as the likely future cost of window cleaning. The claim for window cleaning does not appear in the Revised Schedule of Loss and I am not aware of any evidence that the Claimant has incurred window cleaning costs. Given the lack of evidence, no award can be made.

59. A claim is made for gardening services on the basis that the Claimant undertook gardening at his mother's home and has had to employ a gardener since moving into the bungalow. The history recorded in Mrs. Utting's report is that the Claimant's mother always

attended to the garden. I am not persuaded that the Claimant would have undertaken gardening at his mother's home following the accident. He has employed a gardener at the bungalow. The sum paid for a gardener seems to have varied but a reasonable estimate of the cost is £500pa, making a total of £1,250 to date.

60. Summary of Past Losses.

Loss of earnings		£55,099.
Care and case management		£52,865.
Therapies		£16,021.
Prosthetics		£44,253.
Transport and miscellaneous		£33,478.
Accommodation		£120,460.
Gardening services		£1,250.
	Total	£323,426.

FUTURE LOSSES

Earnings

61. There is a major dispute between the parties as to the correct approach to loss of future earnings. Mr. Allen KC for the Claimant contends for a conventional multiplicand/multiplier calculation. Mr. Davy for the Defendant argues that because of the uncertainties regarding future earnings, the court should adopt what is termed a **SMITH v. MANCHESTER** or Blamire approach, and award a lump sum in respect of loss up to the age of 60. In **WARD v. ALLIES AND MORRISON ARCHITECTS 2012 EWCA Civ. 1287** Aikens L.J. at paragraph 20 stated it was common ground that the multiplicand/multiplier methodology and the Tables and guidance in the current edition of Ogden should normally be applied when making an award of damages for future loss of earnings, unless the judge really has no alternative. However, Aikens L.J. makes clear in the same section of his judgment that the burden is on the claimant to establish firstly, what the likely pattern of earnings would have been if uninjured and, secondly, what the likely earnings would be given the fact of injury. The

current edition of the Ogden Tables, in section B paragraph 39, emphasises that merely because there are uncertainties about the future this does not of itself justify a departure from the well-established multiplicand/multiplier method.

62. When considering the 'but for' position I have already found that the Claimant would probably have begun a degree course in an IT subject in September 2016 and would have graduated in 2019. Further, that he was likely to have found full-time employment in the IT sector by September 2019 earning £17,240 net pa. Consistent with these findings the Claimant is likely to have remained in the IT sector until retirement at 68. A curious feature of the approach contended for by the Defendant is the submission seeking a **BLAMIRE** award up to age 60, but accepting there should be a multiplicand/multiplier approach from 60 to 68. One would normally anticipate that the uncertainties would be greater when predicting the position many years in the future, rather than predicting the immediate future position.

63. There is some uncertainty as to what work the Claimant will undertake in the future. He has the offer of employment in a new business venture being launched by his father, namely as a manager in a night club. I am doubtful that this will provide long-term employment for the Claimant. Opening a new night club without prior experience of such work is clearly a risky venture. In any event there must be doubt as to whether the Claimant will cope with the physical demands of the work. The hours will be unsociable, particularly for someone becoming a parent for the first time. I consider it much more likely that the Claimant will acquire some qualifications for IT work and will then be in a stronger position to obtain work in that sector. He will be subject to the restrictions imposed by his disability. I accept Professor Kulkarni's evidence that given a possibility of working part of the time at home and part at an office, the Claimant should be able to acquire part-time work, gradually increasing his hours

to full-time work with a tolerant employer. Given that the Claimant is likely to have weeks when he cannot use a prosthesis he will need disabled access.

64. My conclusion is that while there are uncertainties as to the Claimant's employment history in the absence of an amputation and what are now his future employment prospects, this is a case where it is possible to reach conclusions that enable a court to adopt the multiplicand/multiplier method. The notes to the Ogden Tables contain guidance as to the methodology to be adopted when calculating the future loss. This is contained in Tables A to D of section B. The Notes state that it is guidance, rather than being prescriptive. The guidance should generally be followed but a claimant's particular circumstances may justify departing from the guidance.

65. In the Revised Schedule of Loss the Claimant has assumed 'but for' earnings of £44,000pa gross, or £33,560pa net. This is slightly below the median earnings in the ASHE tables published by the Office for National Statistics for information technology and telecommunication professionals where the median gross salary is £45,219. The Defendant, in calculating the loss of earnings from age 60 has adopted a multiplicand of £33,560. There is a marked discrepancy between the figure adopted for past loss of earnings of £17,240 net, and the median figure for IT workers at various stages of their careers. The figure of £17,240pa is a starting salary and one would no doubt expect an IT worker to achieve substantial increases in his earnings during the first few years of his career. Whilst accepting that £33,560 is a reasonable multiplicand to adopt for a large part of the 'but for' career, it would be reasonable to use a lower figure for the early part of the career, namely £30,000pa gross, £24,115 pa net.

66. The appropriate multiplier for loss of earnings to retirement at 68 from Table 11 of the Ogden Tables is 41.88. It is reasonable to divide that multiplier so that 4 years is at £24,115pa, and the balance is at £33,560pa. A discount factor must be applied for contingencies other than mortality. The discount factors for loss of earnings for males are contained in Tables A and B. Table A is for males who are not disabled, and Table B for disabled males. The definition of disability for use in the Ogden Tables is that contained in the Disability Discrimination Act 1995, rather than the one used in the Equality Act 2010. The 1995 Act provides:

"A person is classified as being disabled if all three of the following conditions in relation to ill-health or disability are met:

(i) The person has an illness or disability which has or is expected to last for over a year or is a progressive illness and

(ii) The DDA 1995 definition is satisfied in that the impact of the disability has a substantial adverse effect on the person's ability to carry out normal day to day activities; and

(iii) The effects of impairment limit either the kind or the amount of paid work he/she can do."

67. The question arises whether the Claimant, if treated without negligence, would have been disabled within the above definition? Whilst he would have been restricted in the kind of work he could do, having to avoid work involving prolonged standing, walking or heavy lifting, the degree of persisting disability would not have had a substantial adverse effect on the Claimant's ability to carry out normal day to day activities. Further, it would not have restricted the Claimant in carrying out the type of work in IT that he would have pursued. In terms of his 'but for' employment he should not be considered disabled and Table A should be used. This contrasts with the Claimant's present condition which has greatly restricted his employment opportunities to date. He will eventually be able to work full-time but will remain restricted in carrying out everyday activities, particularly given that at times he will be unable to use a prosthesis. This means, when considering the Claimant's potential earnings, he should be

treated as a disabled person and Table B should be used to determine the discount factor to allow for contingencies other than mortality.

68. The Claimant was employed at the time of his injury. The discount factor in Table A for an employed male aged 27 of education level 2 or 3 is 0.91. The calculation is as follows:

£24,115 x 4 x 0.91	=	£87,779.
£33,560 x 37.88 x 0.91	=	£1,156,840
	Total	£1,244,619

69. When considering the level of earnings the Claimant will now achieve, the written final submissions on behalf of the Claimant take a multiplicand for net earnings at £19,475pa which represents a mid-point between median part-time earnings for an IT technician, and full-time earnings at the 25th centile for an IT technician. It seems likely that for the next few years, whilst he acquires qualifications and experience for IT work, the Claimant's earnings will be from part-time employment, namely £11,882 gross/£11,816 net. After that period he should be able to find full-time or near full-time employment in the IT sector. It would then be reasonable to take his likely earnings at the 25th centile for IT technicians which are £34,688 gross, £27,245 net. The multiplier of 34.61 should be divided 4/30.61. Given my finding that he should be treated as disabled, the discount factor under Table B is 0.50.

70. I accept the evidence of Professor Kulkarni that the Claimant is likely to be forced to give up work some 3 to 5 years before the usual age of retirement. Taking the mid-point of this estimate means that the Claimant will retire at 64. I also accept Dr. Sooriakumaran's evidence that the Claimant's full-time work to retirement will be adversely affected by the state of his stump, increased incidence of complications, and periods when he cannot wear his prosthesis. It is therefore reasonable to allow for some reduction in earnings between the age

of 60 and 64. The parties agree that an appropriate figure for earnings during this period would be £16,780net pa.

71. The calculation for residual earnings is as follows:

Multiplier to age 60 : 34.61 divided 4/30.61		
£11,816 x 4 x 0.50	=	£23,632.
£27,245 x 30.61 x 0.50	=	£416,985
Multiplier for period 60 to 64: 4.16		
£16,780 x 4.16 x 0.50	=	£34,902
Total residual earnings		£475,519.

72. Future loss of earnings is £1,244,619-£475,519 = £769,100

Loss of Pension

73. The parties agree that the Claimant would have received 3% of his gross salary by way of employer pension contributions. As against this loss the Claimant must give credit for the pension contributions he will receive on his gross earnings. The pension loss calculation based on the gross earnings that the Claimant would have earned and will now earn, and making allowance for contingencies other than mortality is as follows:

3% of (£30,000-£6,240) x 4 x 0.91	=	£2,594.
3% of £44,000-£6,240 x 37.88 x 0.91	=	£39,049
	Total	£41,643
Less:		
3% of (£11,882-£6,240) x 4 x 0.50		£338.
3% of (£34,688-£6,240) x 30.61 x 0.50		£13,062
3% of (£19,000-£6240) x 4.39x 0.50		£840
	Total	£14,240

Net loss £41,643-£14,240 = £27,403

Care and Case Management

74. As was acknowledged by the Defendant in the final written submissions Ms. Dunley was a more impressive witness than Mrs. Utting. Ms Dunley based her assessment on the evidence of Mr. Britten as well as the evidence of the rehabilitation experts. Her assessment of the Claimant's future needs was carefully considered and reasonable and I accept it. The Defendant accepts Ms. Dunley's assessment of the Claimant's current needs but maintains that the Claimant would have required such assistance in any event. I do not accept this interpretation of Mr. Britten's evidence. It would only have been the heaviest of domestic tasks which would have been beyond the Claimant. Most domestic tasks he would have been able to manage. As a result of the amputation he will require an average of 3 hours assistance a week at a cost of £2,026pa up to the age of 70. The multiplier is 45.66, making a total of £92,508.

75. From age 70 to 80 I again accept Ms. Dunley's assessment rather than a figure midway between Ms. Dunley and Mrs. Utting as contended for by the Defendant. From 70 to 75, in addition to the domestic assistance costing £2,026pa, the Claimant will require agency support of 1 hour each day at a cost of £8,634pa. The total costs during this period will be £10,660pa and the multiplier is 5.62 making a total of £59,909. From age 75 to 80 the Claimant will require 2 hours of agency care each day at a cost of £17,268pa plus the domestic assistance costing £2,026pa, making a total of £19,294pa. The multiplier is 5.70 which gives a total of £109,976. From age 80 to 83 additional agency care will be required costing £34,536 plus £2,026pa for domestic assistance. The multiplier is 3.44, making a total of £125,773 For this period, absent the amputation, the Claimant would have been capable of basic domestic tasks. For the last 2 to 3 years of life the Claimant will need assistance or at least supervision for all transfers. The Claimant concedes that basic domestic assistance would have been needed in any event. The costs during this period are agreed at £362,199.

76. The parties are agreed that there is a need for additional care during those times when the Claimant is unable to wear a prosthesis. In the final written submissions there is agreement that for additional care it is reasonable to allow for 14 hours per week for 5 weeks each year. The appropriate multiplier is agreed at 63.60. The Defendant contends that the extra care is likely to be a mixture of agency care and gratuitous care. This assumes that there will be someone available to provide the gratuitous care. In my view this is not a reasonable assumption. The Claimant's partner will either be caring for young children or will be working. One cannot assume that either of the Claimant's parents will be available or willing to provide such care. One may not be able to predict in advance the need for this care but I understood Mrs. Utting to agree that such care can be arranged at short notice. The cost on the basis of 14 hours of agency care a week for 5 weeks is £1,643.50pa x 63.60 = £104,527.

77. A claim is made for assistance when the Claimant is ill. This is illness other than problems with his stump, which has been allowed for above. Ms. Dunley allowed for 8 weeks a year but it seems this was based on the extensive problems the Claimant had with his stump in 2019. In the Claimant's final written submissions the period for which extra assistance is claimed is reduced to 4 weeks. There is to date no history of the Claimant requiring extra assistance for illness. The Defendant contends that no extra allowance should be allowed for illness given the lack of medical evidence as to how many weeks a year the Claimant is likely to suffer from such illnesses. Professor Kulkarni accepted that when the Claimant has an illness such as flu, he will need additional assistance. It seems inevitable that from time to time the Claimant will suffer from such illnesses. It would be reasonable to allow 2 weeks a year at a cost of £657.40 x 63.60 = £41,810.

78. The parties agree that there should be an allowance for care after surgery, and given the various risks one should allow for two future surgeries. The Claimant's estimate of the cost of this care is £7,888 and the Defendant's is £6,217. A reasonable estimate of the likely cost is £7,000.

79. The Claimant's partner is expecting a baby at the end of June 2022. In a letter dated 24th February 2022, disclosed shortly before trial, Ms. Dunley advised that due to the amputation the Claimant will be unable to provide certain assistance in caring for a baby. The extra work will fall on his partner, Jasmine, and is estimated to be 10.5 hours a week from birth until the child is 3. Ms. Dunley estimates this cost at £5,256pa. The claim assumes there will be a further child. The Defendant, in the final written submissions, accepts the requirement for extra assistance for two young children but contends that the allowance of 10.5 hours is manifestly excessive and only half that amount should be allowed. I see no reason to reject Ms. Dunley's assessment. The multiplier is agreed at 6.05 and the cost will be £31,799.

80. Ms. Dunley allows for additional domestic assistance for heavier tasks such as cleaning and laundry when the children are aged 1 to 12. The Defendant rejects this claim in its entirety, arguing that the Claimant would have been restricted in his ability to do heavy tasks in any event. As stated above, my understanding of Mr. Britten's evidence is that it would only have been the heaviest of tasks, such as moving paving slabs, which would have been beyond the Claimant. I did not understand his evidence to suggest that the Claimant, in the absence of the amputation, would have been unable to perform most heavy tasks in the home. I therefore allow the claim for this additional domestic assistance at £1,351 x 17.27 = £23,332.

81. Childcare equipment is agreed at £93.

82. There is a dispute as to the requirement for case management. The Claimant relies on Ms. Dunley who suggests an ongoing allowance of 3 hours a year until the last 2 to 3 years of life when more extensive case management will be required. The Defendant allows for limited case management for 12 months and then no case management until age 70. From age 70 limited case management is allowed until the last 2 to 3 years when there is agreement on what is required. In the joint statement of the rehabilitation experts they were asked whether the Claimant requires the input of a case manager. Professor Kulkarni said that the Claimant would require a case manager until the end of litigation and then for a further 12 months. After that the Claimant and his partner should be able to manage without a case manager. Dr. Sooriakumaran agreed that once rehabilitation was completed case management would not be required. Mrs. Utting agreed with the views of the rehabilitation experts. It is correct that in their oral evidence the rehabilitation experts were prepared to defer to the opinion of the care experts. However, the view of two such experienced and impressive rehabilitation experts carries weight. I am not persuaded that the Claimant will require more case management than that conceded by the Defendant. I would therefore allow 3 hours in year 1, a similar amount from age 70 until the last 2 to 3 years when £3,420pa should be allowed. The award is therefore £855 + (£855 x 11.7 = £10,005) + (£3,420 x 3.15 = £10,773) = £21,631.

83. The total award for future care and case management is as follows:

Domestic assistance to age 70	£92,508.
Domestic assistance and care 70 to 75	£59,909
Domestic assistance and care 75 to 80	£109,976
Domestic assistance and care 80 to 83	£125,773
Care last 2 to 3 years of life	£362,199
Additional assistance when unable to wear a prosthesis	£104,527.
Additional assistance when the Claimant is ill	£41,810.
Care after surgery	£7,000.
Assistance with childcare up to age 3	£31,799.
Extra domestic assistance when children aged 1 to 12	£23,332.

Childcare equipment		£93.
Case management		£21,633.
	Total	£980,557

Future Surgeries

84. The Claimant was due to undergo a myoplasty operation in March 2020 but this operation was postponed due to the pandemic. Subsequently the Claimant has been able to manage with his stump and has not sought to rearrange the surgery. A claim is made for the cost of such surgery in the future. Mr. Britten estimates the risk of the Claimant requiring myoplasty in the short to medium term at 10 to 20 per cent. He states that on the balance of probabilities, in anticipation of muscle atrophy affecting the stump as part of the ageing process, the Claimant will require a myoplasty in his late 50s or early 60s. As already referred to Professor Kulkarni, in his oral evidence, accepted that on the balance of probabilities the Claimant will require a myoplasty at some stage. Dr. Sooriakumaran estimates the lifelong risk of myoplasty at just over 50 per cent. The Claimant seeks to recover the full cost of this surgery, discounted for accelerated receipt. The Defendant contends that half the cost of surgery and ancillary costs should be recovered. On the totality of the evidence referred to above, it would be reasonable to award the costs of myoplasty. I accept the Claimant's calculation of this loss which amounts to £31,712.

85. The Claimant no longer pursues a claim for loss of earnings in the post operative period or the cost of recasting additional prosthetic sockets following myoplasty. An allowance for folliculitis surgery is agreed at £1,500. The cost of left hip and left knee joint replacements is agreed, subject to the appropriate deduction for the chance that such surgery will not be required. The orthopaedic experts estimated these risks at 5 to 10 percent. The Defendant contends for the mid-point of 7.5%. The Claimant relies on the rehabilitation experts somewhat

more pessimistic view. The Claimant also relies on Mr. Britten's view that each operation carries a risk of intra-operative and post-operative complications. On the totality of the evidence I accept that it is reasonable to take a 10% risk, which produces a loss of £12,018.

86. There is an issue regarding a possible right knee replacement. The orthopaedic surgeons agree that the Claimant's risk of such surgery and subsequent revisions is 5 to 10%. Mr. Kenny, who has particular expertise in the area of knee replacements, states that a right knee replacement is unlikely to be carried out due to technical difficulties. The Defendant therefore argues there should be no award. The Claimant counters by pointing out that in the event of severe arthritic pain in the right knee there would be an increase in the Claimant's care needs and an increase in his pain and suffering. The Claimant maintains there should be an award based on 10% of the cost of a knee replacement. It seems to me doubtful that an award can be made based on a percentage of the cost of an operation which will not be carried out and when there is no evidence of what additional care might be required. I decline to make an award.

87. The award for future surgery costs is £31,712 + £1,500 + £12,018 = £45,230.

Future Therapies

88. The following costs are agreed:

occupational therapy	£16,121.
annual physiotherapy	£29,510.
physiotherapy to address specific issues	£16,593.
physiotherapy when trialling prosthesis	£4,060.
physiotherapy when trialling snowboard prosthesis	£464.
	£66,748.

89. There is a dispute between the parties as to whether the physiotherapist, Ms. Langley, has recommended further provision of physiotherapy. The Claimant states there is an additional requirement for focused physiotherapy at the time of any notable change in prosthetic componentry or sockets and also occurrence of any musculoskeletal problems. The Defendant says the Claimant has misread Ms. Langley's report. The Defendant says there is no recommendation beyond the annual monitoring and a course of physiotherapy if problems come to light during the monitoring. Having carefully considered Ms. Langley's report and costings, I am not surprised a dispute has arisen. It is not clear to me what Ms. Langley intended to recommend. There is a paragraph at 7.2 which refers to the need for focused physiotherapy at the time of change in prosthetics or the occurrence of any musculoskeletal problems. Ms. Langley says this would usually be between 2 to 4 times a year. However, I cannot find a reference in the costings section to such a requirement save for the one course of physiotherapy treatment if any issues are flagged up in the regular monitoring. The costs are agreed for this recommendation. However there is no costing which marries up with the 3.5 hours sought by the Claimant. Within Ms. Langley's costings the third entry refers to one to one physiotherapy once a week for 12 weeks for 1 hour each session. I am not sure how that fits in with the text and in any event has not been claimed for. Given the uncertainty I do not feel able to make a further award.

90. The Claimant seeks to recover the cost of gym membership and a personal trainer. Both are disputed by the Defendant. Prior to his accident the Claimant was a member of a gym. Given his enthusiasm for sporting activities it seems very likely that he would have continued to have a gym membership. The Claimant is not presently attending a gym and has installed some gym equipment at this home. He has not felt comfortable about going to a gym but with

time it seems likely that he will want to do so. However, I cannot see any difference in terms of gym membership costs between the 'but for' position and any future costs.

91. The Claimant has not wanted to engage a personal trainer to come to his home. He has some knowledge of exercise techniques from the course he pursued for his BTEC qualification. However, it is said on behalf of the Claimant with some force that a personal trainer can do far more than show someone how to use an exercise machine or how to lift a weight. A good personal trainer can provide motivation and structure to an exercise programme. It is of great importance to the Claimant's health that he maintains his fitness and manages his weight. It seems likely that in due course the Claimant will utilise a personal trainer when, in the absence of the amputation, he would not have done so. There is uncertainty up to what age the Claimant will be able to utilise a personal trainer. The annual cost is reasonably estimated at £450 and to reflect the uncertainty the multiplier should be reduced to 45. The loss is therefore £450 x 45 = £20,250.

92. A claim for gym equipment is agreed at £500.

93. A claim for psychological therapy is agreed at £2,700.

94. Given the issue regarding the Claimant's weight, it is reasonable that he should recover a modest sum in respect of the cost of advice from a nutritionist. I would allow £2,000.

95. The total in respect of this part of the claim is:

£66,748 + £20,250 + £500 + £2,700 + £2,000 = £92,198.

Transport

96. Ms. Dunley accepted in her oral evidence that the Hyundai Tucson is a car which would meet the Claimant's reasonable needs. The Defendant supports this choice but contends that the Claimant does not require a new car. For the reasons I indicated when considering past losses, it is reasonable for the Claimant to have a new car every 5 years. The present cost of a new Tucson is £32,860. It would be reasonable for the Claimant to keep the Q7 for a further 3 years before purchasing a Hyundai Tucson. It is agreed that when the Claimant becomes reliant on a powered wheelchair he requires a wheelchair accessible vehicle (WAV) and the VW Caddy Upfront represents such a vehicle. The Claimant contends that the Claimant requires a WAV from age 75, whereas the Defendant suggests age 80. Up to age 70 the rehabilitation experts expect the Claimant to be at grade E on the SIGAM scale and will only require intermittent use of a wheelchair. From 70 to 80 they expect the Claimant to become increasingly reliant on a wheelchair outside the home except for very short distances. In these circumstances it is reasonable to allow the Claimant a WAV from age 75.

97. It is agreed that the vehicle the Claimant would have owned absent the amputation would have cost £15,000 and been replaced every 5 years, by which time it would have lost two-thirds of its value. The Claimant contends that from age 75 he and his partner will require two vehicles when otherwise they would only have required one vehicle. My conclusion is that a vehicle costing nearly £46,000 is reasonable provision as the sole car and any potential disadvantage of parking or occasional inconvenience from not having two cars does not justify the provision of a second car. I agree the Claimant's calculation of the cost of the Hyundai Tucson to age 75 at £210,054 and the costs from age 75 at £110,534. The 'but for' vehicle costs to age 75 are £100,880. The calculation of further offset costs which appear in the Claimant's final written submissions should utilise a multiplier of 10.72 rather than 8.47. The credit to be

given for the 'but for' vehicle is 10.72 x £10,126 = £108,550+ cost of first purchase of £15,113 = £123,663. This is calculated using Table A5 in Facts & Figures. This means the net additional cost of disability vehicles is £210,054 + £110,534 - £123,663 = £196,925. I accept the adaptation costs of a left pedal at £6,418 and a boot hoist to age 75 at £10,247.

98. The Claimant had claimed additional running costs of a vehicle in the Revised Schedule at £5,739pa based on the Claimant having a Q7. With the acceptance of the Hyundai Tucson the running costs claim is reduced to £2,500pa. The evidence as to a comparison between the running costs of a Hyundai Tucson/VW Caddy and the type of vehicle the Claimant would have bought is limited. Certainly there will be increased costs with the VW Caddy and a modest increase in respect of the Tucson. The Claimant's mileage is likely to be greater. There will be some increase in costs because of the necessity for an automatic vehicle. A reasonable allowance would be £1,500pa x 63.60 = £95,400.

99. The future transport costs award is:

£196,925 + £6,418 + £10,247 + £95,400 = £308,990

Prosthetics

100. The parties agree that up to the age of 60 the Claimant will reasonably require three prostheses, namely a Kinnex for use as an every day prosthesis, an Echelon VT as an alternative every day prosthesis, and a Cheetah Xplore foot as a prosthesis for sporting and water activities. A number of points remain in dispute. Firstly, should it be a 5 year or 6 year replacement for the Kinnex? In the joint statement Ms. Crofts appears to accept that a 6 year cycle is reasonable. When the point was put to her in cross-examination her response was that for some products a

5 year cycle is appropriate, for others a 6 year cycle. Mr. Haidar has consistently maintained that a 6 year cycle is reasonable, and I accept his evidence on this point.

101. The second dispute is whether the Kinnex will remain as the appropriate every day prosthesis after the age of 60. I summarised the arguments for and against this prosthesis in paragraph 23 above. Mr. Haidar had not been in favour of the Kinnex up to the age of 60 but this has been conceded by the Defendant. The Claimant's evidence as to the benefits of the Kinnex when he trialled this foot plus Ms. Croft's summary of its advantages persuade me that it is reasonable for the Claimant to recover the cost of the Kinnex up to age 75.

102. The Claimant seeks an allowance for a Procarve snowboarding foot. The Defendant denies that the Claimant will require this provision. The Claimant has consistently said that he would wish to take up snowboarding. He has tried skiing at an indoor centre but not snowboarding. I can understand that with the fixed position on the board snowboarding requires the shifting of weight which is easier for an amputee rather than the movement of feet required by skiing. The Claimant's claim allows for an 8 year cycle up to the age of 60. The Claimant readily conceded that he will not be taking up snowboarding in the near future because of the imminent birth of a baby. Snowboarding tends to be pursued by younger skiers. The Claimant is likely to do snowboarding for a limited period of years and it would be reasonable to allow just the cost of a single cycle.

103. The next point of dispute is whether the cost of socket revision should be included as a predictable cost within each cycle or as a lump sum contingency of £27,000. Ms. Croft maintains that the Claimant will require socket revision in the middle of a 6 year cycle up to age 60. Mr. Haidar only allows for a new socket in the middle of the cycle for the first 12

years. Given that the rehabilitation experts anticipate muscle atrophy with ageing this will affect the stump and socket fit. In these circumstances it is reasonable to allow for the replacement of a socket in the middle of each 6 year cycle up to age 60.

104. The final point of dispute is whether there should be a lump sum award to allow for the introduction of new technology and increase in price. The Claimant argues that when new prosthetic innovations are introduced the increase in price far exceeds inflation. The Claimant points to the price of the Kinnex 2.0 at £40,680 compared to the Echelon at £10,910. It is true that when new products come on the market there is a premium price for a period and then often the price will reduce. One does not know what the price of the Kinnex will be in future years. Competition may lead to a reduction in price. It is a matter of speculation as to whether the Claimant will be faced with more expensive prosthetic equipment in the future. There is not a sufficient evidential basis on which to make an award.

105. I accept the costings contended for by the Claimant in the written final submissions up to the age of 60, save that the replacement multiplier should be based on a 6 year cycle not 5 years In respect of the Kinnex the cost of replacement to age 75 is 5.15 x £50,530 = £260,230 for the first five cycles together with 3.29 x £49,905 = £164,187 for the last three cycles in relation to which mid cycle sockets will not be required. The total for the Kinnex up to age 75 is therefore £260,230 + £164,187 = £424,417. For the Echelon the cost of replacement to age 60 is 5.23 x £16,675 = £87,210. For the Cheetah Xplore the cost of replacement to age 60 is 5.23 x £16,943 = £88,612. The total up to age 60 for the Echelon is £16,675 + £87,210 = £103,885. The total to age 60 for the Cheetah Xplore is £16,943 + £88,612 = £105,555.

106. The maintenance costs for the existing Echelon and Cheetah Xplore prostheses up to 2023 will be £2,030.

107. From age 60 to 75 I accept the costs in the Claimant's written final submissions, save that the costs should be based on a 6 year cycle. Having regard to Table A5 the multiplier should be 2.05 plus 1 for immediate purchase. The costings for the Kinnex to age 75 have been dealt with above. The costing for the Echelon is £18,002 x 2.05 = £36,904 + £18,002 = £54,906.

108. From age 75 I accept the Claimant's costings in respect of a lightweight waterproof prosthesis, which comes to a total of £30,952.

109. For the Procarve for snowboarding, one cycle is allowed and the cost of that is £15,721.

110. The total for the prosthetics awards is:

To age 75	
Kinnex.	£424,417
To age 60:	
Echelon	£103,885.
Cheetah Xplore	£ 105,555
Maintenance costs	£ 2,030.
Age 60 to 75:	
Echelon	£ 54,906
From Age 75:	
Lightweight prosthesis	£ 30,952.
For snowboarding Procarve	£ 15,721.
Total	£737,466

Aids and Equipment

111. The following items are agreed:

equipment to assist bending and reaching		£ 2,658.
Quickie 2 wheelchairs		£ 28,036.
transfer boards		£ 362.
higher seat chair		£ 1,758.
higher toilet		£ 872.
toilet surround rails		£ 965.
adjustable walking stick		£ 1,464.
iWalker		£ 2,196.
Sidestix crutches		£ 4,031.
	Total	£ 42,342.

112. It is accepted that there will be periods when the Claimant needs to use a wheelchair. That need will increase with ageing. For many years a manual wheelchair will suffice, although in the latter stages of the Claimant's life a powered wheelchair will be required. There is a dispute as to whether the Claimant requires the addition of E-motion power drive to a normal wheelchair. Dr. Sooriakumaran referred to such provision although he left the details to the occupational therapists. Ms. Dunley recommends E-motion power drive up to the time when the Claimant requires a powered wheelchair. The advantage of E-motion propulsion is that it reduces the demand on the upper limbs and reduces fatigue. Mrs. Utting did not agree that such provision was required but I prefer the view of Ms. Dunley. The Claimant had previously suggested a powered wheelchair was required from age 55, but modified that position to contend for a powered wheelchair from age 75. The Defendant suggests from age 80 but looking at the totality of the evidence and in particular the evidence of the rehabilitation experts, it would be reasonable to allow for a powered wheelchair from age 75. Up to 75 there should be provision for E-motion propulsion. I accept the Claimant's costing for E-motion at £46,762.

113. There is a dispute as to the type of powered wheelchair required. The Claimant is a tall, large man and I accept the recommendation of Ms. Dunley of an Evo Lectus wheelchair which will provide the adjustability which the Claimant will require. I accept the Claimant's costing of the powered wheelchair at £51,423, the cost of a suitable cushion at £342 and the cost of maintenance at £7,520.

114. In relation to a mobility scooter, given that the rehabilitation experts consider the Claimant will be a SIGAM grade E until he is 70, it would be reasonable to allow a mobility scooter from this age rather than 60 as contended for by the Claimant. The mobility scooter recommended by Ms. Dunley costs £2,620, whereas the one recommended by Mrs. Utting costs £1,695. Ms. Dunley seemed to accept that the cheaper model was adequate and so I accept the Defendant's costing, namely £1,695 x 3.39 = £5,746.

115. Given that the Claimant already uses a wheelchair for some weeks of the year, the claim for portable ramps is reasonable at a cost of £1,156.

116. A claim for a boot hoist costing £895 every 7 years is accepted. The hoist claim and maintenance charges should commence at 70. I agree the Defendant's costings of the hoist and maintenance at £5,596.

117. The aids and equipment award can be summarised as follows:

Agreed items		£ 42,342.
E-motion propulsion		£ 46,762.
Powered wheelchair maintenance and cushion		£ 59,285.
mobility scooter		£ 5,746.
mobile ramps		£ 1,156.
boot hoist and maintenance		£ 5,596.
	Total	£160,887.

Accommodation

118. It is agreed that the purchase of 11 Bridgefield Drive for £527,700 reasonably meets the Claimant's long-term accommodation needs. It is further agreed that absent the amputation the Claimant and his partner would have purchased a house costing £240,000. In the Defendant's final written submissions it was contended that the Claimant's partner would not have been in a position to contribute to the 'but for' property, but this contention was abandoned when it came to the final oral submissions. However, the Defendant does argue that the Claimant, in not obtaining a contribution of £120,000 from his partner towards the cost of the bungalow, is guilty of a failure to mitigate his loss. The Defendant seeks to draw a distinction between the present case and cases where parents are caring for a child with severe cognitive difficulties. In **WHITEN v. ST. GEORGE'S HEALTHCARE NHS TRUST 2011 EWHC 2066 (QB)** it was argued that the Claimant should give credit for the cost of the home the family would have bought if the Claimant had been uninjured. Alternatively, that the Claimant should charge his parents rent for the benefit of living in the Claimant's home. Mrs. Justice Swift rejected these arguments. The defendant was seeking to characterise the claimant's failure to demand rent from his parents as a failure to mitigate his loss but this was rejected by the judge.

119. No authority has been cited where a court has found it to be a failure to mitigate where an injured claimant reasonably requires adapted accommodation but has not sought a contribution from parents or a partner. In **SWIFT v. CARPENTER 2020 EWCA Civ. 1295** the Court of Appeal reconsidered the **ROBERTS v . JOHNSON** approach to calculating a claimant's loss when injury reasonably requires the purchase of a more expensive property. Extensive expert evidence was received on the merits of alternative methods of calculating the

loss. It was not suggested that a claimant would fail to mitigate his or her loss if they did not seek a contribution from parents or a partner. In the present case Jasmine has accepted the Claimant's disability which will undoubtedly impose extra burdens on her. Further, it is unlikely that the couple will be in a position to move home in the future. The adaptation costs would be too great. In these circumstances a failure to demand rent or a capital contribution is not an unreasonable failure to mitigate the loss. In any event the point was never put to the Claimant in cross-examination, which it should have been, if it was to be seriously pursued.

120. **SWIFT v. CARPENTER** established that in the case of a long life expectancy a claimant can recover the difference in capital cost of the required property and the 'but for' property less the market value of the reversionary interest. I accept the Claimant's calculation of the reversionary interest at £23,157. It is agreed that the Claimant should give credit for half the cost of the 'but for' property, namely £120,000. The calculation is therefore (£527,700-£120,000) - £23,157 = £384,543.

121. In respect of future adaptation costs Mr. Nocker, instructed on behalf of the Claimant, estimates those costs at £231,989 and Mr. Fisher, instructed on behalf of the Defendant, estimates the costs at £184,942. The Defendant seeks to reduce Mr. Nocker's estimate. It is argued that the Claimant does not require a bath in his adapted bathroom when there is a bath in the family bathroom. Given that it is accepted that the Claimant requires an adapted bathroom and this is provision for life, it seems reasonable that he should have a bath in the bathroom he is going to use for life. I accept that adaptation of the access to the gym is required. Finally, provision for a sophisticated security system is not unreasonable. Given that both experts agreed there is a range of costs when it comes to adaptation it would be reasonable to take a mid-point between their estimates. That mid-point is £208,465, which I award.

122. In addition to the adaptation costs, Mr. Nocker has allowed for a complete replacement of floor coverings and curtains at a cost of £11,050. He then allows for a cost of £6,050 every 10 years to replace carpets and curtains. Mr. Fisher allowed for carpets and curtains in his adaptation costs and he estimates the extra cost of such items at £5,080 every 10 years. It would be reasonable to take the mid-point of the experts' estimate of increased costs and allow half of Mr. Nocker's initial estimate. The calculation is £550 x 63.5 = £34,980 + £5,525 = £40,505.

123. Running costs excluding maintenance:

A table in the joint statement of the experts at A470 sets out their estimate of the increase in running costs. Mr. Nocker stated in his evidence that the estimate for electricity and gas charges should be increased by 50% to allow for recent increases in such costs. The Claimant contends for increased running costs of £3,477pa. Mr. Fisher's estimate of an increase in fuel charges of £519pa appears low given the recent and future level of increases. Mr. Nocker's estimate of the increase in water and insurance costs seems high. It is also impossible to predict whether the current levels of fuel prices will be maintained. Electricity charges are presently linked to gas charges but this link may be severed in the future. Given so much uncertainty, a reasonable estimate is £2,500pa x 63.60 = £159,000.

124. Maintenance of the property:

Mr. Nocker's estimate of the increase in cost is £4,489pa. A breakdown of these costs is set out at B481. Window cleaning at £728pa is high, especially as it is likely the Claimant would have paid for some window cleaning in any event. Gardening at £1,400pa is high when in fact the Claimant says that he pays £40 every 3 weeks or every 2 weeks in summer. The

estimate of increased cost for painting and decorating may also be high at £1,611 per annum. Mr. Fisher has not provided an estimate of these increased costs, having deferred to the care experts. However, the care experts deferred to the accommodation experts on these costs. A reasonable allowance would be approximately $^{2}/_{3}$ of Mr. Nocker's estimate, namely £3,000pa x 63.60 = £190,800.

125. The award for future accommodation costs can be summarised as follows:

SWIFT v. CARPENTER award	£384,543.
Adaptation costs	£208,465.
Floor coverings and curtains	£ 40,505.
Running costs	£159,000.
Maintenance costs	£190,800.
	£983,313.

Miscellaneous Expenses

126. In respect of increased holiday costs the Claimant seeks the additional cost of business class seats on flights because he requires the extra legroom which such seats would provide. The additional cost is estimated at £1220 pa for the Claimant and Jasmine and a further £1220 pa for two children.The Defendant contends that it would be reasonable to allow £1220 every two years (ie £620 pa). My conclusion is that the Claimant should be able to travel in seats next to his children when they are young. Looking at the history of the flights the Claimant has taken since the amputation it is unlikely that the Claimant will utilise business class seats every year. On some flights he will require business class seats and on others he will manage with extra legroom seats where the additional cost is modest. Having regard to the entirety of the evidence a reasonable allowance would be £1500 pa when the children are under 18 and £1000 pa thereafter. The extra cost will be £1500 x 18.41 = £27,615 and £1000 x 45.19 = £45,190. The total is £72,805.

127. The claim of £90pa for extra insurance costs is reasonable – 63.60 x £90 = £5,724. £400pa would be a reasonable allowance for the extra costs of accommodation, taxis and travel in the resort. This is a mid-point figure between the Claimant's suggested £500pa and the Defendant's £300pa and the calculation is £400 x 63.60 = £25,440. There is agreement that there will be further additional costs from age 70 with the Claimant's worsening mobility. The parties agree that £500pa would be a reasonable estimate of these extra costs. The multiplier for a post 70 loss should be 19.82. The calculation is 19.82 x £500 = £9,910.

128. The award for future holiday costs is: £72,805 + £5,724 + £25,440 + £9,910 = £113,879.

129. There is a claim for extra shopping costs. The Claimant seeks £25pa to age 60 and then £290pa thereafter. The Defendant allows £25pa for life. The main requirement for shopping deliveries will be as the Claimant ages. The cost of such deliveries is usually modest. I would allow £25pa to 60 and £150pa from age 60. The awards will be: £25 x 34.61 = £865 and £150 x 29.20 = £4,380. Total £5,245.

130. A summary of the total award is as follows:

PSLA		£120,000
Interest on PSLA		£ 8,748
Past losses		£323,426
Future losses:		
Earnings		£ 769,100
Pension		£ 27,403
Care and Case Management		£ 980,557
Surgeries		£ 45,230.
Therapies		£ 92,198.
Transport		£ 308,990
Prosthetics		£ 737,466
Aids and Equipment		£ 160,887.
Accommodation		£ 983,313.
Holiday costs		£ 113,879.
Shopping costs		£ 5,245
	Total	£4,676,442