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*Judgment: approved by the court for handing down (subject to editorial corrections)**	*Delivered:*	**06/06/2023**

IN HIS MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

THOMAS McMANUS

Plaintiff/Appellant

v

ULSTER FARMERS MART CO LTD

Defendant/Respondent

The Plaintiff/Appellant appeared as a Litigant in Person
Mr Spence (instructed by Millar Shearer & Black Solicitors) for the Defendant/Respondent

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Before: Horner LJ, McBride J and Rooney J

Ex Tempore

HORNER LJ (*delivering the judgment of the court*)

Introduction

[1] This is an appeal which challenges the amount of compensation awarded to the plaintiff for injuries he suffered to his hand at the defendant's cattle mart. The plaintiff was resting his arm on the plank on the top of the wall at the mart when a weanling reared up, charged at the railings and its head got through the space between the top of the wall and the bottom of the horizontal rail. Its head was forced into this space, and it was this movement which caused significant injury to the plaintiff's hand. He also suffered a psychiatric reaction. As a consequence of this he claims he was unable to work and as a result has lost income. The plaintiff's claim was heard by Mr Justice McAlinden at first instance. He awarded £57,500 general damages and £9,790 special damage. The general damages were apportioned £37,500 for injury to the hand and £20,000 for psychiatric upset.

[2] It is important to recognise that this is a quantum appeal. It is an appeal by rehearing: see Order 59 rule 3(1). However, the rehearing is on the record of the evidence at the trial without the trial testimony being reheard see Valentine on Civil

Proceedings in the Supreme Court at 20.50. The court considers freely the lower court's findings of fact and law and makes its decision on the basis of the record of the evidence given below, and the documentary and real evidence exhibited, and of any new evidence which it admits: see 20.55 of Valentine.

[3] While the decision of a judge as to the quantum of damages can be reviewed on appeal, it will only be varied if "the judge acted on a wrong principle, erred in law or fact, made a significant miscalculation or awarded a sum so extremely high or low that it amounted to an erroneous assessment:" see the Supreme Court Practice Volume 1 (1997) 59/10/16 and *Davies v Powell Duffryn* [1942] AC 601 at 617.

[4] We are satisfied having considered all the medical evidence in detail that the total award for general damages of £57,500 was well within the range set out in the Green Book for the types of injuries which the plaintiff suffered. So, we are satisfied in respect of the decision of the judge on general damages that it cannot be said that he acted on a wrong principle, erred in law or fact, made a significant miscalculation or awarded a sum so extremely high or low that it amounts to an erroneous assessment: see *Donoghue v Burke* [1960] IR 314.

[5] The real issue related to the claim for financial loss. Two different assessments were put forward by the respective accountants. The learned trial judge effectively rejected the opinion of the plaintiff's accountants and preferred the defendant's accountants and gave reasons why he did so. He then awarded £9,790 for financial loss. It seems to us that on the basis of the evidence adduced he was entirely correct to do so. The almost complete absence of records on the part of the plaintiff meant that the award for financial loss was reasonably generous in the circumstances and certainly was not what could be described as an unreasonable assessment. Again, we do not think the judge was wrong in principle, misapprehended the facts, or that his award was wholly erroneous. Indeed, we are of the view that the appellant was perhaps fortunate that the learned trial judge did not see fit to refer the appellant to the Inland Revenue. We do not intend to do so either at this stage but see no legal basis whatsoever as to why we should interfere with the learned trial judge's calculations for financial loss.

[6] The position is that the plaintiff should be entitled to 2% on his general damages from the date of issue of the writ of summons and 4% on his claim for special damage from the date of the accident. This should be calculated and hopefully agreed. If it is not agreed, then each side should provide the court with their own calculation within a period of seven days. The only outstanding issue is that of costs and the court will hear the parties on that issue if they cannot reach agreement. The plaintiff and defendant have seven days to send in any written submission on the issue of costs if this issue remains outstanding. Nothing further occurs.