



Neutral Citation Number: [2023] EWHC 1759 (KB)

Case No: QB-2021-000247

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 10 July 2023

Before:

HIS HONOUR JUDGE SHETTY
(sitting as a Judge of the High Court)

Between:

DAH
**(A protected party by his mother and litigation
friend, AXH)**

Claimant

- and -

MS SALLY KENNY

Defendant

Paul Russell KC (instructed by Anthony Gold) for the Claimant
Christopher Kennedy KC (instructed by DWF Law) Defendant

Hearing dates: 10th July 2023

Approved Judgment

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JUDGE SHETTY

HHJ Shetty:

1. The claimant is a protected party. I have had regards to the principles in *X v Dartford and Gravesham NHS Trust* [2015] 1 WLR 3647. I make an anonymity order. I acknowledge the presumption of open justice but in the context of this case and the settlement of a substantial sum of money for a protected party, I judge that the Article 8 ECHR right to privacy and a private life significantly outweigh the Article 10 ECHR freedom of expression rights of the press and public. It is because of the granting of the anonymity order, that I shall refer to him as “the claimant” and similarly I will not refer to other family members’ names.
2. Shortly after midnight on 25 December 2019, the claimant was injured in a serious road traffic accident by the defendant’s motor vehicle. He suffered amongst other injuries, a life-threatening very severe head injury. He brings a personal injury claim by his litigation friend and mother against the defendant.
3. The issue of liability has been compromised by way of a 2/3rds and 1/3rd apportionment in the claimant’s favour. With the claimant being a protected party, that required court approval and it was approved by Master Dagnall on 16th November 2022.
4. As is common practice, the parties have met at a Joint Settlement Meeting (JSM) with a view to seeking to settle the claimant’s claim for damages, subject to the court approval. Agreement was reached namely for the Defendant to pay the claimant £2.5 million gross of interim payments and CRU, with that figure being net of the one-third liability deduction, plus reasonable costs to be assessed if not agreed.
5. The claimant’s mother and litigation friend was present at the JSM and was advised closely by Mr Russell KC and accepted his advice. She has also attended today and is most welcome.
6. Turning the question of approval, I am grateful to both legal teams. The purpose of today’s hearing is for the court to consider whether the proposed settlement of damages agreed between the parties is in the best interests of the claimant.
7. I must act in the interests of justice and the best interests of the protected person. The claimant and his mother will appreciate that the court acts as an external check and safety valve on the proposed settlement where a party is a protected party.
8. I have read with care Mr Russell’s comprehensive advice dated June 2023. It has covered every aspect of the medical evidence from both sides in numerous disciplines in addition to the more specific items of claimed financial loss both past and future. It looks carefully at the reasonable value of the claim and the prospects of various heads of damages succeeding. That advice is confidential and of course I will not reveal its content beyond what I have said.
9. I find that this settlement is in the claimant’s best interests. I also find under CPR, Parts 21.10(4) and 41.6-41.7 that a lump sum is the form of award that best meets the claimant’s needs taking into account the relevant factors and the advice by Leading Counsel at paragraph 226 to 228. On that basis I approve the settlement under CPR 21.10. I also make an Order under CPR 21.12 in relation to costs and expenses

incurred on behalf of the claimant in the proceedings having read the accompanying witness statement.

10. I appreciate that a sum of money can never replace health. However, it is hoped that this lump sum will at least go some way to assist the claimant in respect of the difficulties that he and his family have suffered as a consequence of the accident. I also appreciate that the claimant has used his experiences to benefit other people by speaking about them and that is something very much to his credit. I wish him and his family all the best in respect of the future.

HHJ Shetty

10th July 2023