



Compass Chambers

QUANTUM UPDATE

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Compass Chambers

25th November 2018



Quantum Update

1. Loss of society
2. Loss of employability
3. Accommodation costs
4. Life expectancy



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1. Loss of Society

Hamilton v Ferguson Transport 2012 SC 486

George Manson & others v Henry Robb Ltd [2017]
CSOH 126



1. Loss of Society

Andrews v Greater Glasgow Health Board 2019 SLT
727

- 77 year old
- Claim by widower
- Claim for loss of society
- Life expectancy, 7.5 years



1. Loss of Society

“[178]. Taking each of the elements of s.4(3)(b) in turn, it is clear that the pursuer was distressed and anxious over the period between 6 and 8 January 2013. He continues to endure distress and anxiety in contemplation of the deceased’s suffering before she died (subpara.(i)). So far as subpara.(ii) is concerned, I have no difficulty in accepting that the pursuer has experienced and continues to experience profound grief and sorrow as a result of the deceased’s death. She died suddenly; the pursuer had no opportunity to prepare himself for this. He has no family or children to console him. The pursuer misses the deceased greatly and has had substantial difficulty in adjusting to her death. He has had to sell the house they lived in and can no longer enjoy Christmas and going on holiday. Subparagraph (iii) covers matters such as the inability to share holidays, to pursue mutual interests and to go out socially together.”



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1. Loss of Society

*Andrews v Greater Glasgow Health Board 2019 SLT
727*

- Loss of society: £75,000
- Section 9 services

2. Loss of earnings/employability

- 6th Edition Ogden tables
- Victoria Wass
- Discount factors

2. Loss of earnings / employability

Inglis v Ministry of Defence [2019] EWHC
1153 (QB)

- Noise induced hearing loss
- Disabled in terms of Equality Act 2010

2. Loss of earnings / employability

Inglis v Ministry of Defence [2019] EWHC 1153
(QB)

- Left service at age of 32
- Found alternative employment
- But for hearing loss, would have remained in Royal Marines
- Then would have been a health and safety officer

2. Loss of earnings / employability

Inglis v Ministry of Defence [2019] EWHC
1153 (QB)

- Disabled in terms of Equality Act 2010
- Evidence from employment experts re earnings

2. Loss of earnings/employability

Inglis v Ministry of Defence [2019] EWHC
1153 (QB)

- conventional approach of multiplier/multiplicand approach
- Adjustment to reduction factors

2. Loss of earnings/employability

Inglis v Ministry of Defence [2019] EWHC
1153 (QB)

- Negative past loss of earnings
- Loss of congenial employment

2. Loss of earnings/employability

Irani v Duchon [2019] EWCA Civ 1846

- RTA 24th September 2014
- Liability admitted

2. Loss of earnings/employability

- *Blamire*: continuing loss, but imponderables
- *Smith v Manchester*: disadvantage on labour market. No demonstrable loss.

2. Loss of earnings/employability

Irani v Duchon [2019] EWCA Civ 1846

- *Blaimire*: £150,000
- *Smith v Manchester*: £30,000

2. Loss of earnings/employability

Irani v Duchon [2019] EWCA Civ 1846

- Claimant's appeal: should have used multiplier/multiplicand
- Defendant's appeal: should not have found link with loss of right to remain in UK



3. Accommodation costs

JR v Sheffield Teaching Hospital [2017]

1 WLR 4847

- Discount rate of -0.75%
- Applying *Roberts v Johnston* meant no award could be made



3. Accommodation costs

JR v Sheffield Teaching Hospital [2017]

1 WLR 4847

- Appealed
- Settled: £800,000
- Virtually full purchase price
- [2017] EWCA Civ 2077 for settlement terms



3. Accommodation costs

LP v Wye Valley NHS Trust [2018]

EWHC 3039(QB)

- Medical negligence
- Strokes
- Significant psychical and cognitive problems
- LE: 3-6 years



3. Accommodation costs

LP v Wye Valley NHS Trust [2018]

EWHC 3039(QB)

- Sought interim damages for purchase of suitable accommodation
- Court held entitled to award



3. Accommodation costs

LP v Wye Valley NHS Trust [2018]

EWHC 3039(QB)

Approved observation of HHJ Curran QC sitting as a Judge of the High Court in *Porter v Barts Health Care NHS Trust* (2017)

EWHC 3025 (QB)

"I am satisfied that the trial judge will allocate by way of damages in the form of a lump sum sufficient capital to enable her to be accommodated substantially in accordance with the requirements set out in the expert's reports" (paragraph 37).



3. Accommodation costs

LP v Wye Valley NHS Trust [2018]

EWHC 3039(QB)

- Court should adopt conservative approach, as interim damages
- Accepted discount rate of 1.3%, rather than 4% (average cost of variable mortgage)



4. Life Expectancy

Dodds v Arif [2019] EWHC 1512

- Guidance on evidence re life expectancy
- Where injury had not impacted on LE, permission for that category of evidence would not be given unless condition in para 5 of Ogden Tables satisfied
- Normal/primary route for LE evidence was **clinical experts**
- Permission for 'bespoke' LE evidence would not ordinarily be given

Any questions.....





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