

## **MAHMOOD** v UK INSURANCE LTD (2021)

**Kemp:** This Quantum Report was provided courtesy of Helen Waller of **12 King's Bench Walk**, counsel for the defendant and Lindsey Bartling of **BLM Law**, solicitors for the defendant.

**Date of Award/Settlement**

16 September 2021

**PSLA Damages**

£37,000

**Total Damages**

£45,313

**Kemp Classification**

I Lower limb injuries

**Kemp Sub-classification**

15 Leg: less severe leg injuries

**Award Type**

Court Award

**Judge**

Deputy District Judge McCormack

**Court**

County Court (Willesden)

**Age at Injury**

38

**Age at Award/Settlement**

42

**Gender**

Male

**Occupation**

Regional manager

**Legal Representative**

For the defendant: Helen Waller instructed by BLM Law.

The claimant, a forty-two-year old man, received £45,313 total damages after he was hit by a vehicle as a pedestrian in October 2017. He suffered a fracture to his left leg for which he underwent an open reduction internal fixation and a severe soft tissue injury to his right leg and development of compartment syndrome.

**Most significant injury:** Fracture of left lateral femoral condyle resulting in open reduction internal fixation. Severe soft tissue injury to right leg; development of compartment syndrome in right lower leg requiring four-compartment fasciotomy with closure and skin graft.

**Other injuries:** Two-year acceleration of lower back pain and neck pain. Adjustment disorder and depression lasting three years and six months.

**Extent of injury:** Permanent ongoing nuisance pain in legs, with risk of arthritis. Noticeable leg scarring and permanent bulging calf muscle. Two-year acceleration of lower back and neck pain.

**Total injury duration:** permanent

Road traffic: The Claimant (C), male, a regional manager, aged 38 at the date of the injury and 42 at the date of award, was a pedestrian hit by a vehicle which mounted the pavement in October 2017.

Liability admitted.

Injuries: Main injuries were to both C's legs. He suffered a fractured left lateral femoral condyle (knee fracture) for which he underwent an open reduction internal fixation. In the right leg he suffered a severe soft tissue injury and developed compartment syndrome, which required a four-compartment fasciotomy with closure and skin graft. He was left with noticeable, permanent scars on both legs and a bulging right calf muscle. C was in hospital for one month and off work for two months. He also suffered a two-year acceleration of lower back and neck pain and stiffness, as well as approximately three years and six months of an adjustment disorder with depression.

C was left with ongoing pain in both legs. He was likely to develop arthritis in his left knee, secondary to the fracture, in his 60s to 70s. C's orthopaedic expert opined that he was likely to be at a disadvantage on the open labour market due to his knee pain.

Court Award: £45,313 total damages

General damages: Pain, suffering and loss of amenity: £37,000. Special damages: £8,313 (loss of earnings: £5,463; EMDR: £880; MRI: £1,800; Taxi: £100).

Background to general damages: At trial, C argued that general damages for pain, suffering and loss of amenity should be awarded at £50,000. C valued the left knee fracture at £20k-£24k and the compartment syndrome in the right leg at £20k, having taken into account overlap. The defendant insurer argued that the right leg was in fact the more serious injury and valued it at about £17k, with the left knee fracture, having fixed "very well" on C's own evidence, valued at around £12k. Adding in the other injuries and accounting for overlap, the defendant argued that the C's valuation was too high.

Background to special damages: An award for two months' loss of earnings was agreed between the parties, as were awards for EMDR treatment and imaging. A claim for £2,900 in taxi fares was reduced to £100; it was not supported by any evidence and the judge considered £100 a nominal sum to reflect necessary journeys to medical appointments. No award was made for care. An award of £100 was agreed in respect of clothing damaged in the accident. No award was made in respect of claims for extensive and ongoing massage and physio treatment, C's orthopaedic expert having opined in response to the defendant's CPR Pt 35 questions that neither were required and that opinion remaining unchallenged.