



The Inns of
Court College
of Advocacy

Anisha De Silva v Gary Jessop

Civil Trial

Defendant Brief

Case Type: RTA negligence trial.

Date Created: June 2017

Date Last Updated: April 2020

IN THE COUNTY COURT AT TOWNBRIDGE

Case No.: 6501/2019

BETWEEN:

ANISHA DE SILVA

Claimant

- and -

GARY JESSOP

Defendant

BRIEF TO COUNSEL FOR THE DEFENDANT

Counsel will find herewith:

- i. Case Summary
- ii. Plan of the locus
- iii. Particulars of Claim
- iv. Defence
- v. Statement of Anisha De Silva
- vi. Engineer's report
- vii. Car repair documents
- viii. Car hire documents
- ix. Medical report of Miss Elisabeth Ojukwu
- x. Statement of Mr Bashir Mughal
- xi. Statement of Gary Jessop

Counsel is instructed on behalf of the Defendant.

Counsel is instructed to deal with liability. Subject to this, quantum is now agreed.

Full details of the accident are set out in the pleadings, enclosed reports and the statements of the Claimant, the Defendant, and one witness of fact for the Claimant, Bashir Mughal.

The Claimant's case is that the impact caused extensive damage to her car. She required the use of a hire car whilst it was being repaired. The collision also caused the Claimant to sustain a whiplash type injury. No injury was sustained by her son.

Details of the accident damage are enclosed, together with those injuries sustained by the Claimant.

The Defendant denies liability entirely and asserts that the accident was wholly caused by the negligence of the Claimant. In the alternative, the Defendant asserts that, if he was partially to blame for the accident, then there was a high degree of contributory negligence on the part of the Claimant.

As to the Defendant's losses, there is no counterclaim. It appears that the Defendant's vehicle is an older-style vehicle fitted with 'bull bars' to the front. As such, minimal if any damage was caused to his vehicle and no injury was sustained.

Counsel is so instructed.

Piggot and Appleby Solicitors

17 The Long Street

Townbridge

TB1 7UP

Solicitors for the Defendant

Ref: JS/OL/19/673/Jessop

BETWEEN:

ANISHA DE SILVA

Claimant

-and-

GARY JESSOP

Defendant

CASE SUMMARY

This action arises out of a road traffic accident involving the Claimant and the Defendant on Monday 16th September 2019 at approximately 08.55 hours in which the Claimant sustained personal injury and damage to her vehicle.

The Claimant was driving a white Nissan Pulsar, registration OY69 TKK. The Defendant was driving a black Land Rover Defender, registration BD07 OTT.

The accident took place at the junction of Ambleway Road and Essendyke Avenue in Townbridge. There is an agreed plan of the precise locus.

The Claimant was driving her 7-year-old son to Rosedale school which is situated a short way along Essendyke Avenue. She was driving northbound along Ambleway Road to the junction with Essendyke Avenue (the junction) intending to turn right into Essendyke Avenue.

Ambleway Road northbound consists of two lanes. The left-hand-lane is a bus lane which operates between 08.00 and 10.00 hours on weekdays and was therefore in operation at the time of the accident.

There is a pedestrian crossing (the crossing) on Ambleway Road a short distance north of the junction. The crossing is controlled by pedestrian-controlled traffic lights.

The Defendant was travelling southbound along Ambleway Road.

The Claimant's case is that, on her approach to the junction, she noticed the pedestrian crossing traffic lights were flashing amber and there was no traffic between the pedestrian crossing and the turning into Essendyke Avenue. Upon reaching the junction, she began to execute her right-turn. Before her car was fully into Essendyke Avenue, a Land Rover travelling southbound along Ambleway Road, driven by the Defendant, struck her vehicle to the rear nearside wing. The Claimant considers that the Defendant ignored the flashing amber traffic signals and drove at an excessive speed for the conditions. She does not know if any pedestrians were still on the crossing.

The Defendant's case is that the when the lights started to flash amber and the crossing was clear of pedestrians, he proceeded towards the junction, only for the Claimant to turn across his path. Despite applying his brakes, he was unable to avoid her vehicle and the nearside front of his vehicle collided

with the nearside rear wing of the Claimant's car. He considers that the Claimant failed to notice his vehicle or took an dangerous chance to turn into Essendyke Avenue.

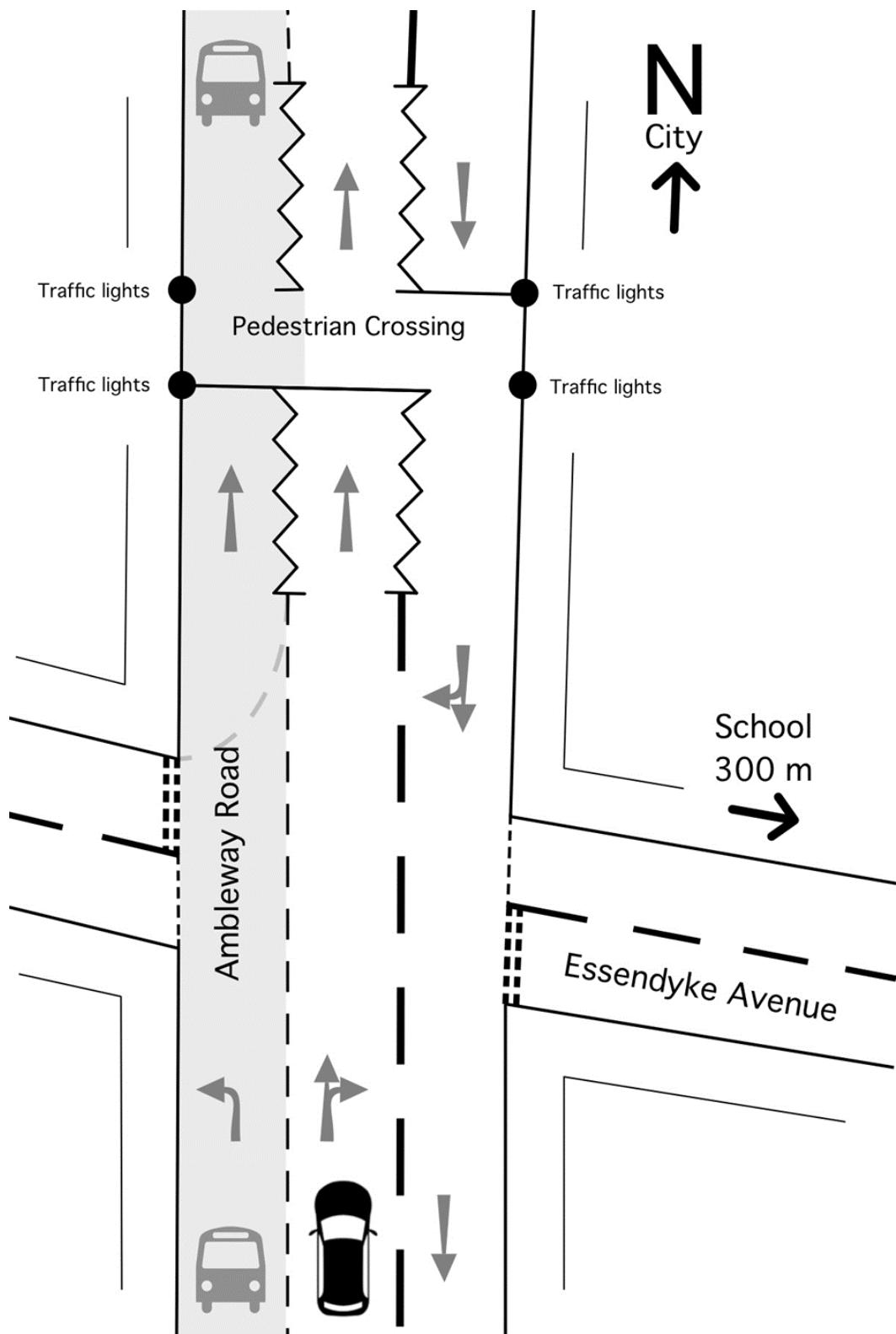
The Issues – liability

- (1) Negligent driving of the Defendant.
- (2) Contributory negligence of the Claimant.

Damages are agreed subject to liability.

Statements are filed by the Claimant, the Defendant, and one witness of fact for the Claimant, Bashir Mughal.

The agreed plan shows the locus clearly.



BETWEEN:

ANISHA DE SILVA

Claimant

-and-

GARY JESSOP

Defendant

PARTICULARS OF CLAIM

1. At approximately 8.55 am on 16th September 2019 the Claimant, driving a Nissan Pulsar motor car registration number OY69 TKK, executed a right-hand turn from the northbound carriageway of Ambleway Road into Essendyke Avenue, Townbridge when a collision occurred between the Claimant's vehicle and a Land Rover Defender, registration number BD07 OTT, driven southbound along Ambleway Road by the Defendant.
2. The accident was caused by the negligence of the Defendant.

PARTICULARS OF NEGLIGENCE

- (i) Driving at a speed which was excessive in the circumstances;
- (ii) Failing to observe or heed the pedestrian controlled traffic signals on Ambleway Road;
- (iii) Failing to observe or heed the presence of the Claimant's car;
- (iv) Failing to apply his brakes in time or at all so as to avoid colliding with the Claimant's car;
- (v) Failing to steer or control his vehicle adequately or at all so as to avoid colliding with the Claimant's car;
- (vi) Failing to sound his horn in time or at all.

3. By reason of the negligence of the Defendant, the Claimant who was born on 4th May 1985 has suffered pain, injury, loss and damage:

PARTICULARS OF INJURY

(i) The Claimant suffered a soft tissue injury to her neck, back and right shoulder. The pain developed during the evening of the accident. She attended a NHS Walk-In Centre the day following the accident. She was advised to rest and to take pain killers. The pain continued and a few weeks later she was examined by her GP who advised that she undertake physiotherapy sessions. To date she has had six sessions. The Claimant required two weeks off work due to her injuries and returned on reduced hours for a further two weeks. All symptoms remained severe for two to three months post-accident before starting to improve. At the date of the medical examination the Claimant was experiencing mild and occasional symptoms in her shoulder, intermittent daily symptoms in her back and daily discomfort and stiffness in her neck.

The Claimant also experienced travel anxiety, especially when approaching the same junction. This resolved about two weeks after the accident.

(ii) Full particulars of the Claimant's medical condition are contained in the attached medical report of Ms Elisabeth Ojukwu dated 23rd January 2020.

PARTICULARS OF LOSSES AND EXPENSES

A Schedule of Past and Future Losses and Expenses is attached.

4. Further the Claimant is entitled to and claims interest upon such damages as may be awarded to her pursuant to the provisions of Section 69 of the County Courts Act 1984.

PARTICULARS

a. General Damages

The Claimant claims interest on any award of damages for pain, suffering and loss of amenity from:

- (i) the date of service of the Claim Form and these Particulars of Claim to the date of judgment or earlier payment, at the rate of 2% per year; or, in the alternative
- (ii) for such other period or periods, or for such other rate or rates, as the Court considers appropriate.

b. Special Damages

The Claimant claims interest on any special damages as she may be awarded for past expenses and losses:

- (i) at the half Court Special Rate of Interest at 0.25% from 16th September 2019 until the date of judgment or earlier payment; or, in the alternative
- (ii) for such other period or periods, or for such other rate or rates, as the court considers appropriate.

The Claimant has complied with the Pre-action Protocol for Personal Injury Claims.

AND the Claimant claims:

- (1) Damages;

(2) Interest pursuant to Section 69 of the County Courts Act 1984.

Dated 19th February 2020

Jessica Smyth

STATEMENT OF TRUTH

I believe that the facts stated in this Particulars of Claim are true.

Full Name: Anisha De Silva

Signed: *Anisha De Silva*

Date: 3rd May 2019

Address for receiving documents

Cartney & Jenkins Solicitors

Osbourne House

23 High Street

Townbridge

TB2 7HF

Solicitors for the Claimant

Ref: JS/OL/19/673/DeSilva

To: The District Judge and to the Defendant

BETWEEN:

ANISHA DE SILVA

Claimant

-and-

GARY JESSOP

Defendant

SCHEDULE OF PAST AND FUTURE LOSSES AND DAMAGE

(i)	Car Hire Charges	£1,461.60
	23rd September – 6th October 2019	
	14 days	
(ii)	Car Repair Charges	£5,185.00
(iii)	Physiotherapy Charges	£490.00
	2 courses of physiotherapy, each course comprising of 3 sessions.	
(a)	Initial consultation fee @ £50.00	
	3 sessions x £75.00 = £225.00	
	Paid in full on 1st November 2019	
(b)	3 sessions x £75.00 = £225.00	
	Paid in full on 17th December 2019	
(iv)	Future Physiotherapy Charges	£225.00
	C's treating physiotherapist recommends that C undergo another course of physiotherapy treatment.	
	3 sessions x £75.00 = £225.00	

BETWEEN:

ANISHA DE SILVA

Claimant

-and-

GARY JESSOP

Defendant

DEFENCE

1. Paragraph 1 of the Particulars of Claim is admitted.
2. Paragraph 2 of the Particulars of Claim is denied. The Defendant was driving southbound along Ambleway Road when the Claimant turned across his path while executing a right-hand turn.
3. The accident was wholly caused by or, in the alternative, contributed to by the negligence of the Claimant.

PARTICULARS OF CONTRIBUTORY NEGLIGENCE

- (i) Driving into the path of the Defendant's vehicle when unsafe to do so;
- (ii) Failing to observe the Defendant's vehicle in the southbound carriageway;
- (iii) Failing to heed the pedestrian-controlled traffic signals;
- (iv) Failing to keep any or any proper lookout;
- (v) Failing to steer, accelerate or otherwise control her car adequately or at all so as to avoid the collision;
- (vi) Failing to take any or any adequate precautions to avoid the collision;
- (vii) Failing in the premises to execute a right-hand turn in a safe manner.

4. The Defendant neither agrees nor disputes but has no knowledge of the matters contained in the Claimant's medical report.
5. The Defendant disputes the items contained in the Claimant's Schedule of Losses and Expenses as set out in the Counter Schedule.
6. In the premises, it is denied that the Claimant is entitled to any damages or interest as claimed or at all.

Hardeep Kaun

STATEMENT OF TRUTH

I believe that the facts stated in this Defence are true.

Full Name: Gary Jessop

Signed: *G. Jessop*

Date: 28th February 2020

Address for receiving documents

Piggot and Appleby Solicitors

17 The Long Street

Townbridge

TB1 7UP

Tel: 01982 787878

DX: 20 Townbridge 1

Ref: PAA/Jessop/876-2019

To: The District Judge and to the Claimant

IN THE COUNTY COURT AT TOWNBRIDGE

Case No.: 6501/2019

BETWEEN:

ANISHA DE SILVA

Claimant

-and-

GARY JESSOP

Defendant

COUNTER SCHEDULE OF LOSS AND DAMAGE

	ITEM	CLAIMED	DEFENDANT'S RESPONSE	COMMENTS
1	Car Hire Charges 23rd September – 6th October 2019 14 days	£1,461.60	Neither agrees nor disputes but has no knowledge of	
2	Car Repair Charges	£5,185.00	Neither agrees nor disputes but has no knowledge of	
3	Physiotherapy Charges 2 courses of physiotherapy, each course comprising of 3 sessions. (i) Initial consultation fee @ £40.00 3 sessions x £75.00 = £225.00 Paid in full on 1st November 2019 (ii) 3 sessions x £75.00 = £225.00 Paid in full on 17th December 2019	£490.00	Neither agrees nor disputes but has no knowledge of	
4	Future Physiotherapy Charges C's treating physiotherapist recommends that C undergo another course of physiotherapy treatment. 3 sessions x £75.00 = £225.00	£225.00	Neither agrees nor disputes but has no knowledge of	

BETWEEN:

ANISHA DE SILVA

Claimant

-and-

GARY JESSOP

Defendant

WITNESS STATEMENT OF ANISHA DE SILVA

1. My name is Anisha De Silva. I reside at 37 Waterfall Avenue, Townbridge, TB7 8PR. My date of birth is 4th May 1985. I am currently employed a legal secretary. I am the Claimant in this matter.
2. I make this statement in respect of my claim for damages arising out of a road traffic accident that occurred on 16th September 2019.
3. At the time of the accident I was driving my Nissan Pulsar registration number OY69 TKK. My son (aged 7 years at the time) was a passenger in the rear passenger side of my vehicle at the time. We were both wearing our seatbelts and he was in a secure, legally compliant child car seat.
4. At about 8.55am on 16th September 2019, I was driving along Ambleway Road northbound towards the junction with Essendyke Avenue. I was taking my son to school. He attends Rosedale School which is situated about 300 metres along Essendyke Avenue. There are two lanes northbound on Ambleway Road: the left-hand lane is a bus lane and the right-hand lane is used for normal traffic. The speed limit is 30mph. There is a single carriageway southbound on Ambleway Road.
5. It can get busy at this time of day due to normal rush-hour traffic and also because of the local schools. I recall that the traffic was busy that morning. A number of parents walk their children to school and use a pedestrian crossing on Ambleway Road which is close to the junction with Essendyke Avenue. The crossing is controlled by pedestrian-controlled traffic lights. In fact, the lights are very useful because when they are on red it can open up a space in the southbound traffic, allowing cars to turn right from Ambleway Road into Essendyke Avenue just as I regularly do on the school run.
6. As I approached the junction I was correctly situated in the right-hand lane. I recall looking ahead and seeing that the pedestrian crossing lights were flashing amber to allow pedestrians to cross safely. There were no cars between me and the crossing and so I deemed it was safe

to turn. Moments later, when I reached the junction, I started to execute a right-turn into Essendyke Avenue.

7. All of a sudden there was a huge impact. My car rocked diagonally, both forwards and to the right. I immediately turned round to check on my son. Like me, he was in shock, so I parked my car and immediately got out and went to retrieve my son from the back. I removed him from the car and he started to cry. We were both shaken by what had happened.
8. I could see that my car had been hit in the left passenger-side door and rear quarter area. The car that had collided with us was very large and painted matt black. It was a Land Rover with a large exhaust pipe up the side near the passenger door. I noticed it had large knobbly tyres and large 'bull bars' on the front. What struck me was the sheer amount of damage to my Nissan and the absence of any obvious damage to the Land Rover.
9. As I stood looking at the two cars, I noticed a man approach me. He was asking if I was OK. I admit that I lost my temper and began shouting at him that he could have killed me and my child. The man told me that he was the driver of the black Land Rover but at this stage I wasn't able to take in much of what he was saying. I am now aware that this man was the Defendant, Gary Jessop.
10. It was shortly after this that another man approached and told us both to calm down. This man subsequently gave both me and Mr Jessop his business card. His name was Bashir Mughal, a local Chartered Accountant. He said that he needed to leave because he needed to get his son to school but was just checking if we needed help. I then realised that school must already have started and needed to get my son there as soon as possible. I then decided that my son and I were in too much shock to go to school and that both of us should have the day off. I told Mr Mughal he should leave if he wanted to and he did so.
11. I asked Mr Jessop if he was insured and he told me that he was. We exchanged details and I called my husband to collect me and arrange for the car to be removed. It seemed badly damaged and I was not prepared to try to drive it. I also did not feel able to drive at that point in time. Mr Jessop was able to drive away.
12. The Defendant's car seemed to come out of nowhere. One moment the road was clear and the next he hit me. I can only imagine that he must have been travelling at some speed to hit me before I was fully into Essendyke Avenue. He must have driven through the flashing amber lights dangerously and at speed.
13. My vehicle was taken to a garage to be inspected and repaired. May & Daughters Assessors Limited produced an engineer's report in respect of the damage dated 25th December 2019. The vehicle was repaired by Park Green Accident Repair Centre at a cost of £5,185.00. I respectfully refer the court to the report of May & Daughters Assessors Limited and the Park Green repair invoice.
14. Whilst my car had been taken for inspection and repair I was provided with a replacement vehicle from Hello Car Hire. I was provided with a Ford Focus for a period of 14 days from 23rd September to 6th October 2019. I was unable to drive for the first week after the accident, so my husband took my son to school every day. I then used the hire car until my vehicle was repaired. I respectfully refer the court to the Hello Car Hire invoice.
15. I became aware of pain across my shoulders and in my back by the evening of the day of the accident. This had worsened by the following morning and I attended the local NHS Walk-In Centre. The doctor at the centre advised me to rest and to continue taking pain relief medication. I decided to take some time off work as the level of pain was preventing me from sitting comfortably at my computer. The pain was also very distracting and I was finding it hard to concentrate. I was absent from work for two weeks and then returned on reduced hours for two weeks before returning to my full duties thereafter.

16. As the pain was not disappearing, I visited my GP a few weeks later. My GP reassured me that recovery was ongoing and that I should continue with the pain relief medication I had been taking, as and when required. He suggested that if they symptoms became too bad I could try a few physiotherapy sessions.
17. On the advice of my GP I have had two courses of physiotherapy treatment, each consisting of three sessions. I found these sessions provided significant relief from my symptoms. I had to pay for these sessions privately, costing me a total of £490.00. They cost £75.00 each, plus there was an initial consultation fee of £40.00. I know I would benefit from another short course.
18. On 17th January 2019 I was examined by Ms Elisabeth Ojukwu for the purposes of my medical report in relation to my claim. I have read the report and am hopeful I recover in line with her prognosis. I continue to have intermittent symptoms. I disagree with her opinion on my physiotherapy treatment. I have found it very useful and would like to have some more sessions. I would respectfully refer the Court to the medical report of Ms Ojukwu dated 13th June 2019.
19. I would respectfully request the Court to make an award in respect of my damages in such sum as it deems appropriate.

STATEMENT OF TRUTH

I, Anisha De Silva confirm I am the Claimant in this matter and the contents of this my statement are true to the best of my knowledge and belief.

Signed: *Anisha De Silva*

Dated this 12th day of March 2020

Cartney & Jenkins Solicitors
Osbourne House
23 High Street
Townbridge
TB2 7HF

Solicitors for the Claimant
Ref: JS/OL/19/673/De Silva

May & Daughter Assessors Ltd

CONSULTING ENGINEERS & CLAIMS ASSESSORS

3rd Floor, Tower Court, 27 City Heights, Townbridge TB1 1AB

Telephone: 01982 787878 Email: enquiries@maydaughterassessors.org

Your Ref: 2019-RTA-90876-PK

Our Ref: 670908

25th September 2019

To: Insurers For All

Branch: Townbridge

Dear Sirs,

Re: Anisha De Silva, 37 Waterfall Avenue, Townbridge, TB7 8PR

Date of Accident 16th September 2019

Thank you for your instructions of 18th September 2019. We were able to inspect the vehicle at the Park Green Accident Repair Centre, 126 Park Green, Townbridge, TB2 7PP on 20th September.

The vehicle is a white Nissan Pulsar, registration OY69 TKK. It is a 5-door hatchback. The third party has owned this vehicle from new. It is a new car and we are given to understand that the third party took the delivery of this vehicle on 13th September 2019 from Stormont Nissan, Townbridge. The condition is as new. The mileage on the clock shows that it has covered just 73 miles.

Inspection of the vehicle revealed that it had suffered moderate to heavy damage to the nearside rear door and nearside rear wing.

The following items will need to be replaced and refitted:

- n/s rear wheel and tyre replacement, calibration
- n/s rear door
- door foil
- n/s rear door glass
- n/s rear wing
- n/s body mouldings
- n/s rear light cluster
- rear body mouldings
- paint and blend.

I estimate that 20 hours of labour will be required to completely repair the vehicle. An hourly rate of between £60 to £80 will be reasonable.

For repairs, parts, and paint, the cost will be between £2,500 and £3,000.

Taking all the above into account we suggest that the repair reserve should be approximately £4,600.00 plus VAT.

The repair period should be 5 days.

No repair instructions have been issued and we now await your further advice.

Yours faithfully,

May & Daughter Assessors Ltd

Park Green Accident Repair Centre

INVOICE

2019/15724 4 October 2019

**INVOICE
2019/15724
4 October 2019**

126 Park Green, Townbridge, TB2 7PP
Tel. 01982 786542
Email: contactus@pgarepaircentretownbridge.uk

TO:

Anisha De Silva
37 Waterfall Avenue
Townbridge
TB7 8PR

Description	Hours	Rate	Amount
Replace and refit:			
n/s/r door			
n/s/r wing			
Door foil			
n/s/r door glass			
n/s body mouldings			
Rear body mouldings			
Alloy Wheel			
Tyre x1195/60/R16			
Tyre Disposal Env			
n/s/r light cluster			
Bulbs			
Paint			
Sundries			
Parts sub-total			£2,800.84
Labour	19	£80ph	£1,520
Sub-total			£4,320.84
VAT			
TOTAL			£5,185.00

Credit facilities provided.

THANK YOU FOR YOUR BUSINESS!

Hello Car Hire

Unit 7

Church End Road

Townbridge

TB2 4NQ

T 01982 634468

E hello@hellocarhire.co.uk

Anisha De Silva
37 Waterfall Avenue
Townbridge
TB7 8PR

Hire Invoice 27242

Date: 6 October 2019

HIRE DETAILS	DAYS	RATE	AMOUNT
Ford Focus Hatchback (2019) Zetec 1.0 EcoBoost 5d			
23/09/2019 to 06/10/2019	14	£87.00	£1,218.00
Subtotal			£1,218.00
VAT @20%			£243.60
Total to Pay			£1,461.60

Say “Hello” again soon!

Subject to terms and conditions of business available at <https://hellocarhire.co.uk>

MEDICOLEGAL REPORT

Prepared for the Courts

Claimant: Anisha De Silva

Address: 37 Waterfall Avenue
Townbridge
TB7 8PR

Date of Birth: 4th May 1985

Date of Accident: 16th September 2019

Occupation: Legal Secretary

Date of Medical Examination: 17th January 2020

Location of Examination: Townbridge Memorial Hospital, TB1 5UP

Examining Doctor: Ms Elisabeth Ojukwu, Consultant Orthopaedic Surgeon

Instructing Solicitors: Cartney & Jenkins Solicitors

Solicitors References: JS/OL/19/673/De Silva

Agency Reference: 37098/EO

Expert Reference: EO/61650

Statement of Instruction

I have been instructed to prepare this report in connection with injuries sustained in an accident on 16th September 2019.

Case Details

Ms De Silva attended alone.

Ms De Silva's medical records were not used in compiling this report.

Ms De Silva's licence and bank card were used to confirm her ID.

Relevant Past Medical History

There was no relevant past medical history.

The Accident

The accident occurred about 8.55 am during rush hour. Ms De Silva was driving a Nissan Pulsar. She had her son in the rear passenger seat driver's side.

She was wearing a seat belt. A head restraint was fitted. An airbag was fitted, but it did not deploy.

At the moment of impact Ms De Silva was taking a right-hand turn and moving from a main road into a minor road where her son's school was situated. She explained that although she was late for school she was getting used to her new car and was therefore driving slowly. The car was struck by another far larger vehicle. Ms De Silva estimates the car that hit her was travelling at excess of 30 miles per hour as it 'suddenly seemed to appear from out of nowhere'. The impact came from the rear passenger's side. Its force was sufficient to cause extensive damage to the Ms De Silva's car. Ms De Silva was jolted sideways and forwards. She was able to get out of the vehicle unaided.

Initial Symptoms

Ms De Silva reports that she experienced shock. This resolved by the end of the day.

Later Symptoms

Ms De Silva reports that she

- (i) Developed severe neck pain and stiffness by the evening of the accident. This remained severe for three months before beginning to improve. The symptoms are still present and cause discomfort most days. It is due to a whiplash injury.
- (ii) Developed severe back pain and stiffness by the evening of the accident. It began to improve about three months after the date of the accident. Intermittent daily symptoms continued thereafter.
- (iii) Developed severe right shoulder pain by the evening of the accident. This remained severe for about two months before improving so that by the date of this examination the symptoms are very mild and occasional. The pain is only triggered by heavy lifting

and repetitive movements of the right shoulder. There is no weakness or paraesthesia in the upper limbs.

Treatment

Ms De Silva did not receive any treatment at the scene of the accident. She dropped her son at school and then drove home.

The morning after the accident Ms De Silva attended a NHS Walk-In Centre. She attended her own GP four weeks after this.

Ms De Silva has undergone two courses of physiotherapy treatment. Each course consisted of three, 30 minute sessions.

Effects of the Accident on the Claimant's Ability to Work

Ms De Silva is employed as a Legal Secretary. She is works full time.

She took two weeks off work because of the accident. She returned to work on reduced hours for the following two before returning to her normal full time working hours.

Effects of the Accident on the Claimant's Daily Life

Ms De Silva lives with her husband and son aged 7years.

Following the accident Ms De Silva had travel anxiety. She would normal do the school run in the mornings. For the first week she was unable to do this because driving aggravated her neck, shoulders and back symptoms. When she was physically able to return to driving she felt too anxious to drive her children to school in the rush hour. She could feel herself panicking when she approached the junction where the accident occurred. This took about three weeks to resolve.

The anxiety was also present when Ms De Silva travelled as a passenger. This was especially so at road junctions. This took about two weeks to resolve.

Ms De Silva and her husband share the housework chores. She was unable to do her share for about a month. Her husband had to take on her share during this time.

Examination Findings

Dominant Hand: Ms De Silva is right-handed.

Mental Health: Based on the interview and my clinical observations today Ms De Silva was not suffering from anxiety and she was not depressed. She told me that she no longer has any travel anxiety either as a driver or a passenger in a car.

Examination of the Neck: Examination of the neck showed full flexion and extension. Side bending and rotation to the right were normal. Side bending of the neck became stiff at 50 degrees and painful at 70 degrees of normal movement. Rotation to the right was painful and limited at 60 degrees. All other movements were normal. There were no neurological abnormalities.

Examination of the Back: Right and left straight leg raise, rotation, left and right lateral flexion, back extension and back flexion movements were 90-100% of normal. There was no tenderness. The movements caused some discomfort. There was no neurological deficit.

Examination of the Upper Limbs: Neurological examination of the upper limbs was normal. There is no numbness or paraesthesia. Ms De Silva developed severe right shoulder pain the evening of the accident. It remained severe for about two months. It has improved and the symptoms are currently mild and occasional. Right hand between shoulders and right hand on head movements were 90-100% of normal. Any symptoms are noticeable with heavy lifting or repetitive movements of the right shoulder.

Treatment

I did not have access to Ms De Silva's medical records so the following is information provided from Ms De Silva.

Ms De Silva visited the NHS Walk-In Centre the day following the accident.

Examination revealed that she was tender in her neck right shoulder and upper back. All symptoms were diagnosed as being accident related. She was advised to use pain relief medication as and when necessary and to take plenty of rest. It was hoped that all symptoms would improve over the next 48 hours, resolving fully within about 3 months.

The symptoms did not improve and Ms De Silva visited her own GP about three weeks later. Examination revealed limitation of movement in all directions. Her GP advised that Ms De Silva would benefit from a course of physiotherapy. She advised that Ms De Silva would find it quicker, and therefore more beneficial, to seek this treatment privately.

Ms De Silva attended a consultation with a physiotherapist who recommended a course of three sessions initially. He advised that this should provide significant relief but that she may need further courses before the symptoms fully resolve. Ms De Silva tells me that following the first course of physiotherapy sessions she experienced a significant relief in symptoms, so that she only had occasional symptoms. Ms De Silva underwent another course of three physiotherapy sessions. This again provided relief. Ms De Silva believes she would benefit from another course of treatments. On balance, I agree that another course will benefit Ms De Silva. She has been given some home exercises to do and she should do these. If she does these on a regular basis she should experience a significant improvement in her symptoms to the extent they no longer bother her.

Opinion

I was able to obtain a good history from Ms De Silva. Her injuries were entirely consistent with the account of the accident. Her treatment has been appropriate. Her time of work has been appropriate. The claimed problems in Ms De Silva's daily life are consistent and reasonable.

Ms De Silva is currently fully fit for work. In the long term, her employment prospects are likely to be unaffected.

Prognosis

I have carefully weighed all the available evidence from Ms De Silva's account, my examination findings and my observations during the assessment. In my opinion on the

balance of probabilities, Ms De Silva's symptoms are due to the accident of 16th September 2019.

The neck, back and right shoulder pain are due to a whiplash injury. The back and right shoulder occasional symptoms are currently causing very mild disability. These symptoms will continue to improve and should have fully resolved by four months from the date of this examination.

The neck symptoms are currently causing a moderate disability. It is due to a musculo-ligamentous sprain related to the accident. She has undertaken two courses of physiotherapy, each course consisting of three sessions. I would recommend that she continue with another course of sessions. On the balance of probabilities, I would anticipate that these symptoms will improve and resolve six to nine months from the date of this examination.

In my opinion, no long-term complications are expected.

If Ms De Silva does not recover in line with the stated prognosis following the recommended treatment, then I would recommend a further examination for an updated medical report.

Ms De Silva suffered shock and travel anxiety following this accident. These symptoms fully resolved by three weeks' post-accident and have caused her no further disability.

Duty of an Expert

I understand my duty to the Court, and I have complied with that.

I understand my duty to the Court is to help the Court on matters within my expertise.

I understand that this duty overrides any obligations to those by whom I have been instructed or by whom I have been paid.

I confirm that insofar as the facts stated in my report are within my own knowledge, I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion.

Elisabeth Ojukwu

Miss Elisabeth Ojukwu

Consultant Orthopaedic Surgeon

23rd January 2020

BETWEEN:

ANISHA DE SILVA

Claimant

-and-

GARY JESSOP

Defendant

WITNESS STATEMENT OF BASHIR MUGHAL

I, Bashir Mughal, of 76 Bretton Woods Close, Townbridge, TB2 8PM will state as follows:

1. I make this statement from my own knowledge in relation to a road traffic accident on 16th September 2019 at the junction of Ambleway Road and Essendyke Avenue, Townbridge.
2. Shortly before 09.00 hours that morning I was on my way to Rosedale School on Essendyke Avenue to drop off my 9 year old son. I live north of the City, so my route to the school takes me southbound along Ambleway Road and then left into Essendyke Avenue. It was a cold, fresh morning. The weather was dry and visibility was good.
3. During term time the traffic at the junction of Ambleway Road and Essendyke Road is busy, particularly due to school traffic. The pedestrian crossing adds to this congestion and causes the traffic in both directions to queue when the lights go red to allow people to cross, many of whom are parents taking their children to school. It was as busy as usual on the morning of the accident.
4. When I was driving along Ambleway Road, several minutes before I arrived at Essendyke Avenue, my son drew my attention to a vehicle in front of us. There was a single car between us and this vehicle. My son said it was an 'off roader' and he clearly liked the vehicle. It was a Land Rover Defender painted matt black with tinted windows at the back. There was a low rumble from its engine which then roared when the Land Rover accelerated. It seemed to hold back in the queue of traffic to leave a gap ahead, accelerate hard and then brake. It did this several times. There were numerous stickers on the back of the Land Rover, most of which related to '4x4s' and 'off-roading'. I remember stickers with the words, 'You're never late with a V8' and 'Live Free or Die'.

As I approached the pedestrian crossing just before Essendyke Avenue, I noticed the lights on the pedestrian crossing flashing amber. The Land Rover and the car immediately in front of me had not crossed the pedestrian crossing. Just at that moment my attention was diverted when my son, who was sitting in the back seat on the passenger side; he opened a bottle of lemonade which fizzed up and released a shower of liquid over my neck and the left arm of my jacket. I knew this was going to happen since he had been shaking the bottle for at least five minutes and I had repeatedly told him to stop doing so.

5. Within a matter of seconds, I heard the roar of an engine, unmistakably that of the Land Rover, immediately followed by what I thought was the sound of tyres skidding, then the sound of a collision. I immediately turned around from my son to look ahead and could see the black Land Rover which was now on the other side of the pedestrian crossing at the junction of Essendyke Avenue. It was now angled slightly to the left and I could see the front portion of a white car which I assumed it had collided with.
6. The pedestrian traffic lights were green by now and I slowly moved down Ambleway Road. The car in front of me, the one that had been between me and the Land Rover, was now moving forwards towards the Land Rover. The entrance to Essendyke Avenue was blocked due to the accident, so I pulled up partially onto the pavement on Ambleway Road. I told my son to wait in the car while I checked that the occupants of the vehicles were uninjured.
7. I removed my jacket and walked over to the two vehicles involved in the collision. I could see a woman holding tightly onto a child who was wearing a Rosedale school uniform. The woman was screaming at a man dressed in a black leather jacket and black skinny jeans. She was telling him he could have killed her child and should go to prison. The man was trying to speak but could not get a word in edgeways. I then heard him swear at the woman so I stepped in and told them both that shouting and swearing at each other was unhelpful and would achieve nothing. None of them appeared injured so I told them to be grateful for that, but I was already late to get my son to school and it would be helpful to move their cars so that the traffic could pass along Essendyke Avenue.
8. Both seemed to calm down and the man thanked me, saying that he too was late and needed to get to Walthingham 'PDQ' to make a delivery there would be hell to pay. I explained what had happened in my own car with the bottle of pop and that I had not actually seen the accident. I asked him if he had stopped at the lights and he said that he had, but only when they turned green and as he accelerated away, she just cut across his path. I asked what speed he was doing and he just shrugged. He seemed to be getting annoyed that I was asking questions so I changed the subject and asked him to help me move the white car, a Nissan Pulsar, to unblock the road.
9. The woman, who told me her name was Anisha De Silva, handed me her car keys and I was able to move the car along Essendyke Avenue into a parking bay. The car was seriously damaged to the whole of the rear passenger-side quarter and I did explain to Mrs De Silva that it should not be driven further. She said she had called her husband who was on his way to collect her. I asked if she would like me to take her son to school, but she politely declined and told me they would both be returning home.
10. I handed my card to both drivers in case I could be of any assistance with what I had witnessed and returned to my car. On my way I was able to see the front of the Land Rover which appeared undamaged due, I suspect, to large steel bars which covered the front portion of the vehicle. Although I am no expert, the Land Rover seemed to be non-standard in its appearance. It had a large chrome exhaust pipe up the side of the cabin and exiting above the roof line. It had very large wheels painted matt black like the body work. It had a 'mean' appearance although I could not specify exactly what work had been carried out to make it appear like this.
11. I cannot comment on anything further following the accident as I then left to get my son to school.

STATEMENT OF TRUTH

I believe the facts in this statement are true.

Signed: *B. Mughal*

Name: Bashir Mughal

Dated: 25th February 2020

BETWEEN:

ANISHA DE SILVA

Claimant

-and-

GARY JESSOP

Defendant

WITNESS STATEMENT OF GARY JESSOP

1. My name is Gary Jessop. I live at 57 Copeland Mews, Townbridge TB9 2TP. I was born on 13th November 1987. I have a successful business providing aftermarket vehicle parts for the 4x4 offroad market. My business is based in Townbridge. I have business premises in Townbridge but I also provide a delivery service for customers.
2. I own a black Land Rover Defender, registration number BD07 OTT. I have owned this vehicle for four years. Due to the nature of my business it is important that this vehicle represents to customers what we are able to do for them. For this reason the vehicle is significantly modified from standard in a number of ways. It is painted matt black, has an uprated engine, wheels and suspension, tinted windows, nudge bars, various additional body mouldings, a high exit sports exhaust and a snorkel air intake.
3. On the 16th September 2019, I was driving this vehicle. I was due to make a delivery to a customer in Waltingham before returning back to Townbridge to start work at around 9.30am. I was in no particular rush that morning. Waltingham is south of Townbridge and about one mile from where the accident took place.
4. Just before 9am I was driving southbound along Ambleway Road. There is a school nearby and the area was busy both with traffic and pedestrians. It was a clear, dry day. I had been on this road for a mile or so and the traffic was busy and I was making slow progress. As I approached the pedestrian crossing just before Essendyke Avenue, the lights were flashing amber. Several pedestrians had completed crossing over and the coast was clear.
5. I moved forwards along Ambleway Road. The road ahead was clear at this stage because I had been waiting at the lights and the traffic ahead of me had by now moved on by quite some distance. As I approached Essendyke Avenue, a white Nissan Pulsar which had been travelling in the opposite direction suddenly turned right from Ambleside Road towards Essendyke Avenue.
6. I could see that the driver was not even looking in my direction so could not have seen me approaching. She just seemed oblivious to my presence. I braked hard but was unable to avoid a collision and unfortunately there was nearside front to nearside rear contact.

7. I opened my door and got out of my vehicle to check that the driver was OK. She also alighted from her car and took her son out by the rear driver's side passenger door. The son was clearly concerned by what had happened and I could see that he was crying. Before I could even say anything, the female driver started shouting at me, telling me that they could have died and it was all my fault. I wanted to check that she was uninjured but she was in no mood to listen to anything I was saying. She just kept blaming me, so I told her that she had driven right in front of me and the fault was all hers. It was getting nowhere and before long a man came over. His presence seemed to stop her shouting.
8. I had never met either the driver, her son, or this man before, although I know the man's name to be Bashir Mughal because he gave me his business card. The female was Anisha De Silva. I know this because we exchanged details. Even as we did so, she seemed to question whether I had any insurance for my vehicle.
9. Due to the nature of my vehicle and the nudge bars at the front, my vehicle suffered only minor scratches and no damage of any significance. The white Nissan Pulsar seemed badly damaged to the rear nearside passenger door and wing.
10. The man needed to move the white car in order to clear Essendyke Avenue and get his son to school, so he managed to manoeuvre it along the road and out of the way. I thanked him and asked him if he would be happy to be a witness, but he said that he didn't really see that much. He then started to question me about my speed. He seemed to be implying that I was driving too fast. This rather annoyed me. As I pointed out to him, I have a performance engine in my Land Rover that is very loud, even under gentle acceleration, but that does not mean that I am driving too fast. He then added that he wasn't sure that I had much chance of success driving a car that looked and sounded like that. He pointed to the car and laughed, then walked away.
11. The Claimant is to blame for this accident. If she had looked where she was going and been more aware of the traffic this accident would never have occurred.

I believe the facts stated in this witness statement are true.

Signature: *G. Jessop*

Name: Gary Jessop

Date: 19th March 2020