

|                                    | Sarwar   | Iqbal   | Corbett   | A v B  | Massey   | Lewis   | Wakeling  | Burton   | A v Powys  |
|------------------------------------|--|---|---|--|--|---|---|--|--|
| <b>Neutral citation – all (QB)</b> | [2007] EWHC 274 & 1255 <sup>1</sup> (QB)           | [2006] EWHC 3111 (QB)& [2007] EWCA Civ 1190                           | 2007  | [2006] EWHC 1178 (QB)  | [2007] EWHC 317 (QB)   | 2007  | [2007] EWHC 1201(QB)  | [2007] EWHC 2091 (QB)  | [2007] EWHC 2996 (QB)  |
| <b>Judge</b>                       | Lloyd Jones J                                      | Sir Rodger Bell   | HHJ Bullimore   | Lloyd Jones J  | Teare J  | HHJ MacDuff QC  | HHJ Mackie QC   | Flaux J  | Lloyd Jones J  |
| <b>Injury</b>                      | C5 tetraplegia with impaired memory and depression | Dystonic tetraplegic cerebral palsy with severe learning difficulties | Cerebral palsy, shunt-dependent hydrocephalus, epilepsy, severe learning difficulties, ambulant in callipers (wheelchair at 60) | Dystonic athetoid tetraplegic CP with severe learning difficulties | Severe dyskinetic CP with dystonia – cannot sit save heavily supported; gastrostomy; v limited communication but normal understanding. | Athetoid tetraplegic CP with severe learning difficulties – able to bear some weight through legs | Traumatic brain injury – right side functionless; left side markedly spastic arm – no function in leg; poor trunk control; no communication | C4 tetraplegia; unable to use any part of the body below the shoulders   | Severe (physical) dyskinetic CP with retained intellect. Severe dysathria; dribbling; involuntary biting of mouth. |
| <b>General damages</b>             | £227,384 incl. int.                                | £210,000  |   |  | £200,000 agreed  | £205,000  | £225,000  | £227,000 (incl £10,000 separate award for tracheostomy scar)   | £225,000   |
| <b>Age at trial</b>                | 23   | <10   | <24   | 6  | 10   | 11  | 20/21   | c.24   | 16   |
| <b>Private healthcare</b>          | <sup>2</sup>                                       |   |   |  |  |   |   | £7,500 for 50% chance of colostomy.<br>£20,000 for IVF (even with 1 child conceived naturally after injury.)<br>£3,000 pa for NHS shortfall in spinal injuries care.<br>£2,900 for laser acupuncture in France <i>a reasonable thing to try.</i> |  |

<sup>1</sup> 2 separate judgments

<sup>2</sup> Empty boxes indicate that the judgment had little or nothing detailed to say on the issue and not necessarily that no award was made.

|   | <b>Sarwar</b>  | <b>Iqbal</b>   | <b>Corbett</b>   | <b>A v B</b>   | <b>Massey</b>  | <b>Lewis</b>  | <b>Wakeling</b>   | <b>Burton</b>  | <b>A v Powys</b>   |
|---|--|--|--|--|--|---|---|--|--|
| <b>Care experts</b>   | <u>Sargent</u> <sup>3</sup> / Taylor   | <u>Sargent</u> /Conradie   | <u>Statham</u> /Douglas  | <u>Daykin</u> /Conradie  | <u>Daykin</u> / Bingham  | <u>Sargent</u> /Douglas   | <u>Sargent</u> /Makda   | <u>James</u> /Gough  | <u>Sargent</u> /Lawrence   |
| <b>Day care (the adult package - substance of care to be delivered by a team)</b> | 2 directly employed carers - 14 + 8 (including 2 for use of standing frame) hours overlap care | 2 directly employed carers - 14 + 8 hours overlap care; residential agency care rejected | 1 directly employed carer throughout day; residential agency care rejected | 2 directly employed carers throughout day (unpredictable need for transfers)           | 2 directly employed carers – daytime 14 + 14 hours overlap (need for many transfers) | 2 directly employed carers – daytime: 14 + 10 hours overlap care discounted by 5% | 2 directly employed daytime carers throughout                                 | 2 teams of 2 directly employed carers – daytime: 14 + 4 hours overlap care (residential agency package rejected even at premium rate)                  | 2 directly employed carers throughout the day.   |
| <b>Night care (ditto)</b>   | 1 night sleeper becoming a waking night carer at age 47  | 1 night sleeper  | 1 night sleeper  | 1 night sleeper but waking nightcarer 5 weeks pa                                       | 1 night carer  | 1 night sleeper   | 1 waking + 1 sleeping   | 1 night sleeper to age 50 (despite sharing bed with wife – a very sound sleeper) with 4 weeks waking care for illness; 1 waking night carer at age 50. |  |
| <b>Details (adult): Hourly rates</b>  |  | £10 weekday/£12 weekend (daytime, Epsom and in place)                                    | £105,625 pa all in agreed on Statham regime (Barnsley)                     | £11.50 throughout (composite and agreed; care package in place and highly influential) | £8.50 flat rate  |   | £9.25 week day rate<br>£10.50 weekend day rate (Hackney but no regime set up) | £10 an hour flat rate (South Hants.)   | €18 for 1 <sup>st</sup> carer and €14 for 2 <sup>nd</sup> carer (Ireland); with substantial uplifts at weekends etc. |
| <b>Night sleeper</b>  | (paid 5 hours)   | £60 / £72  |  | ditto  | £40 (flat rate paid for 5 hours @ £8.00 per hour.)                                   |   | £53.50 / £60  | £53.50 flat rate   | To be paid at half rates - agreed  |
| <b>Waking night carer</b>   |  |  |  | ditto  | Above rate v low for carers up 2-3 times per night [77]                              |   | £90 / £105  | £100 flat rate   |  |
| <b>Calculation for hols, Bank Hols and sick pay</b>                               | 58 Weeks   | 58 weeks   |  | 58 weeks   |  |   | 58 weeks  | 52 weeks + 27% (58 weeks not in point)   | 59 weeks under Irish conditions  |

<sup>3</sup> The underlining of an expert's name indicates that their evidence was substantially relied upon in reaching the relevant result. It indicates a bad 18 months or so for defendants.

|   | Sarwar | Iqbal                        | Corbett | A v B  | Massey   | Lewis | Wakeling | Burton                              | A v Powys |
|---|--------|------------------------------|---------|--|--|-------|----------|-------------------------------------|-----------|
| <b>Nursing supervision</b>                    |        |                              |         | Rejected as member of care team – 3 hours /wk consultancy at £17.50  |  |       |          |                                     |           |
| <b>Team leader (also rejected in Crofton)</b> |        | Rejected in favour of mother |         |  | Allowed for 1 carer at enhancement of £1 per hour  |       |          |                                     |           |
| <b>Monthly whole team liaison meeting</b>     |        |                              |         | Rejected; liaison a proper function of case management already allowed   | Some provision made but unclear what [78.] Also handovers of 20 minutes x 3 per day allowed between shifts = 1 extra hour. |       |          |                                     |           |
| <b>Carer contingency</b>                      |        |                              |         | 4 weeks pa respite/holiday for parents in early years – purely commercial care with additional on call provision at night. | £796 pa to allow mother to take a holiday  |       |          |                                     |           |
| <b>Food/leisure /subsistence for carers</b>   |        | £50 / week                   |         | £40/week (carers' subsistence – no meals) + £500 pa leisure in adult life.   | £65 /week - see final footnote to Schedule 2 of Judgment   |       |          | £19.40 / week                       | €2,600 pa |
| <b>Recruitment / advertising</b>              |        | £400 pa                      |         | £500 pa  | £800 pa  |       |          | Incl in 27%                         | €1,500 pa |
| <b>Insurance</b>                              |        | £85 pa                       |         | £90 pa (agreed)  |  |       |          | Incl (?) in 27%                     | €1,000 pa |
| <b>Training</b>                               |        | £600 pa                      |         | £700 pa  | £650 pa for manual handling  |       |          | c. £1,220 pa (+ c£915 pa induction) | €1,000 pa |
| <b>Manual handling assessments</b>            |        |                              |         |  | £345 year 1 and £245 thereafter  |       |          |                                     |           |
| <b>Payroll</b>                                |        | £400 pa                      |         | £188 pa/carer (£1,504 pa)  | £500 pa  |       |          | Incl in 27%                         | €1,815 pa |
| <b>Community access fund</b>                  |        |                              |         |  |  |       |          | £20 / week                          |           |

|   | Sarwar  | Iqbal   | Corbett | A v B | Massey  | Lewis   | Wakeling        | Burton   | A v Powys  |
|---|---|---|---------|-------|---|---|-----------------|--|------------|
| <b>Case management (adult life)</b>                                 | 105 hours @ £80 (rate agreed)   | 100 hours + 50 (half rate) travelling @ £75                             |         |       | £9,862 in change over year at age 21 and then £7,726 pa but reduced by 50% of the VAT for the chance it would not be chargeable | Claimant's mother awarded an additional 3 hours per week on top of past care at same rate | 130 hours @ £75 | 72 hours @ £79/hr + 2 hrs travelling at £59 / hour and 40 miles for each visit   | €25,907 pa |
| <b>Periodic thorough cleaning</b>                                   | £80/month (hygiene important to good health)  |   |         |       | Allowed in the past at £932 all in which had been disputed!   |   |                 |  |            |
| <b>Accommodation: Purchase price / conversion / ancillary costs</b> | £595,000 price  |   |         |       |   |   |                 | £600,000 (including existing 7 x 4m indoor swimming pool.) Reasonable purchase irrespective of need for hydrotherapy. £219,398 for conversion (Wethers/Cowan) ; £23,106 – relocation |            |
| <b>Credit under R v J</b>   | ½ share in £195,000 3- bed family property in or around Slough from age 28.   | 2/3 share in £180,000 property (Greater London) on average from age 25. |         |       |   | Agreed at age 23 (for an unstated amount)   |                 | Seemingly a full share in £200,000 property  |            |
| <b>Burglar alarm</b>  | Kit (lap top) previously stolen: £15,795 reduced by 50% to £7,898 for the chance that, uninjured, he <i>may</i> have had one. |   |         |       |   |   |                 | CCTV reasonable given the amount of expensive kit in the premises  |            |

|                      | <b>Sarwar</b>  | <b>Iqbal</b>  | <b>Corbett</b> | <b>A v B</b> | <b>Massey</b> | <b>Lewis</b>  | <b>Wakeling</b>  | <b>Burton</b>  | <b>A v Powys</b> |
|----------------------|--|---|----------------|--------------|---------------|---|--|--|------------------|
| <b>Hydro at home</b> | Physiological gains from hydro at home would be very limited; £100,000 extension <b>not</b> reasonably required  | Sociable and pleasurable rather than therapeutic; £31,000 conservatory-style extension + £1,750 pa <b>not</b> reasonably required | Not argued     | Not argued   |               | Awarded (with some misgivings) as part of enlarged bathroom - £61,100 capital + £2,250 pa                                     | Awarded (therapeutic benefits being <u>common ground</u> ): <i>a need and a legitimate pleasure.</i> £132,817 installation (-£15,000 value added) + £4,000 pa                  | Full running costs of existing pool allowed £4,000 pa – “physiotherapy in warm water” aimed at reducing physical symptoms of pain and spasticity supported by medical evidence. Plus extension for showers/changing room by pool.                        |                  |
| <b>Hydro experts</b> | Derry / <u>Tromans</u> Constantine / nil   | <u>Rosenbloom/ Thomas</u>   |                |              |               | <u>Barnes / Thomas Filson</u> / Kinley  | <u>Barnes / Foster Filson</u> / Obeten   | <u>Gardner/ Tromans Gilman/ Constantine</u>  |                  |
| <b>Holidays</b>      | £10,000 pa Already taken 2 holidays at £10,000 each – Pakistan and Dubai – business class.) To be accompanied by 3 non-family carers. Cl. + 1 carer in business class. Additional cost of accomm’n and transport when there. Allowed one 7-14 day foreign holiday pa, cancelling costs of further holiday (reasonable) with costs which would have been incurred anyway. | £2,872 pa (agreed)  |                |              |               | £1,250 pa (based on rented accommodation in UK or Northern Europe, with travel to and fro in own transport carrying own kit.) | Future holidays not covered in judgment; past costs of £4,489 to Caribbean and £5,315 to Med. allowed with discount of £1,000 each for holiday that would have been purchased. | £5,000 pa as a reasonable additional cost – one 2 week holiday and 3 weekends - to run for a full life multiplier (the argument that people may holiday less in old age rejected.) Flights likely to be in business class rather than low cost airlines. |                  |

|                                       | Sarwar  | Iqbal | Corbett | A v B | Massey | Lewis                              | Wakeling | Burton   | A v Powys  |
|---------------------------------------|---|-------|---------|-------|--------|------------------------------------|----------|--|--|
| <b>Bed linen / towels</b>             |   |       |         |       |        | £250 one off                       |          |  |  |
| <b>Toys</b>                           |   |       |         |       |        | £100 pa x 7                        |          |  |  |
| <b>Satellite tv</b>                   |   |       |         |       |        | Rejected                           |          |  |  |
| <b>All terrain vehicle</b>            |   |       |         |       |        |                                    |          | Allowed in addition to Balder (standing) w'chair and lightweight manual w'chair as back up           |  |
| <b>Activities</b>                     | £800 pa outward bound rejected –sort cost incurred anyway. £1,600 (lump sum conceded) for football matches.                     |       |         |       |        | £700 pa (riding or something else) |          |  |  |
| <b>Assistive technology</b>           |   |       |         |       |        |                                    |          | £219,398 awarded (Southall/Clayton)  |  |
| <b>Transport - Replacement period</b> | 4 yearly Voyager at 23,000 miles pa   |       |         |       |        | 5 yearly Caravelle                 |          | Past cost of Voyager allowed (£38,500); less £10,000 for VW Golf. No further detail, past or future. | Voyager changed every 5 years  |
| <b>- Increased insurance</b>          | £4,437 pa (at least 1 carer under 25) less £750 (average for insurance anyway)  |       |         |       |        |                                    |          | Past claim for £1,194 allowed but no further detail.   | £1,000 estimate  |
| <b>- Additional mileage</b>           | 23,000 miles pa at 28.91 p per mile (AA tables £30,000+ price) – 20,000 miles anyway (at a reduced price band/rate from tables) |       |         |       |        | £1,000 pa (broad brush)            |          |  | 15,000 as against 10,000 miles, comparing the expensive to run Voyager with a vehicle in the range £10,000-£13,000 between ages 25-40; and £13,000 - £20,000 thereafter. |

|                              | <b>Sarwar</b>  | <b>Iqbal</b> | <b>Corbett</b> | <b>A v B</b> | <b>Massey</b> | <b>Lewis</b> | <b>Wakeling</b> | <b>Burton</b> | <b>A v Powys</b>  |
|------------------------------|--|--------------|----------------|--------------|---------------|--------------|-----------------|---------------|---|
| <b>- Ancillary transport</b> | AA cover, car washing, multi-CD changer, hands-free telephone kit – rejected as would have been incurred anyway. |              |                |              |               |              |                 |               | Roadside assistance - £95 pa; Service call - £9.50 every 3 years. |