



IT TAKES VISION

Current Topics

Ger Bradley

3 November 2016

Current Topics

1. Court Judges
2. Recovery of Benefits and Assistance
3. Gill Russell Appeal
4. PPO Legislation Imminent?
5. MIBI Appeal
6. Book of Quantum
7. Newspaper Articles – Claims Environment

1. Composition of the High Court (2015)

Pre-2013		
1	Michael Moriarty	1996
2	Nicholas Kearns	1998
3	Paul Butler	2000
4	Henry Abbott	2002
5	Paul Gilligan	2003
6	Michael Hanna	2004
7	Brian McGovern	2006
8	John Hedigan	2007
9	Patrick McCarthy	2007
10	Michael White	2011
11	Kevin Cross	2011
12	Paul McDermott	2012
13	Colm Mac Eochaidh	2012



New since 2013		
14	Anthony Barr	2013
15	David Keane	2013
16	Marie Baker	2013
17	Max Barrett	2013
18	Bronagh O'Hanlon	2013
19	Bernard Barton	2014
20	Deirdre Murphy	2014
21	Brian Cregan	2014
22	Caroline Costello	2014
23	Aileen Donnelly	2014
24	Seamus Noonan	2014
25	Mary Faherty	2014
26	Tony Hunt	2014
27	Raymond Fullam	2014
28	Carmel Stewart	2014
29	Donald Binchy	2014
30	Robert Eagar	2014
31	Robert Haughton	2014
32	Margaret Heneghan	2014
33	Isobel Kennedy	2015
34	Mary Ellen Ring	2015
35	Richard Humphreys	2015
36	Tony O'Connor	2015

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29	Robert Haughton	2014
30	Margaret Heneghan	2014
31	Isobel Kennedy	2015
32	Mary Ellen Ring	2015
33	Tony O'Connor	2015
34	Richard Humphreys	2015
35	Michael Twomey	2016
36	Miriam O'Regan	2016
37	Paul Coffey	2016
38	Úna Ní Raifeartaigh	2016

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Court Average Awards

	Amount		Inflation	
	High	Circuit	High	Circuit
2015	€358,435	€16,429	18%	21%
2014	€304,353	€13,550	34%	13%
2013	€227,321	€11,941	-10%	4%
2012	€252,146	€11,452	17%	-7%
2011	€215,730	€12,362	-2%	-2%
2010	€219,303	€12,662		

Source: Insurance Ireland & Courts.ie

2. Recovery of Benefits and Assistance

- Recovers certain illness-related social welfare payments
- Recovered from the compensator, not from the injured person
 - illness benefit
 - partial capacity benefit
 - injury benefit
 - incapacity supplement
 - invalidity pension
 - disability allowance
- Commenced 1 August 2014

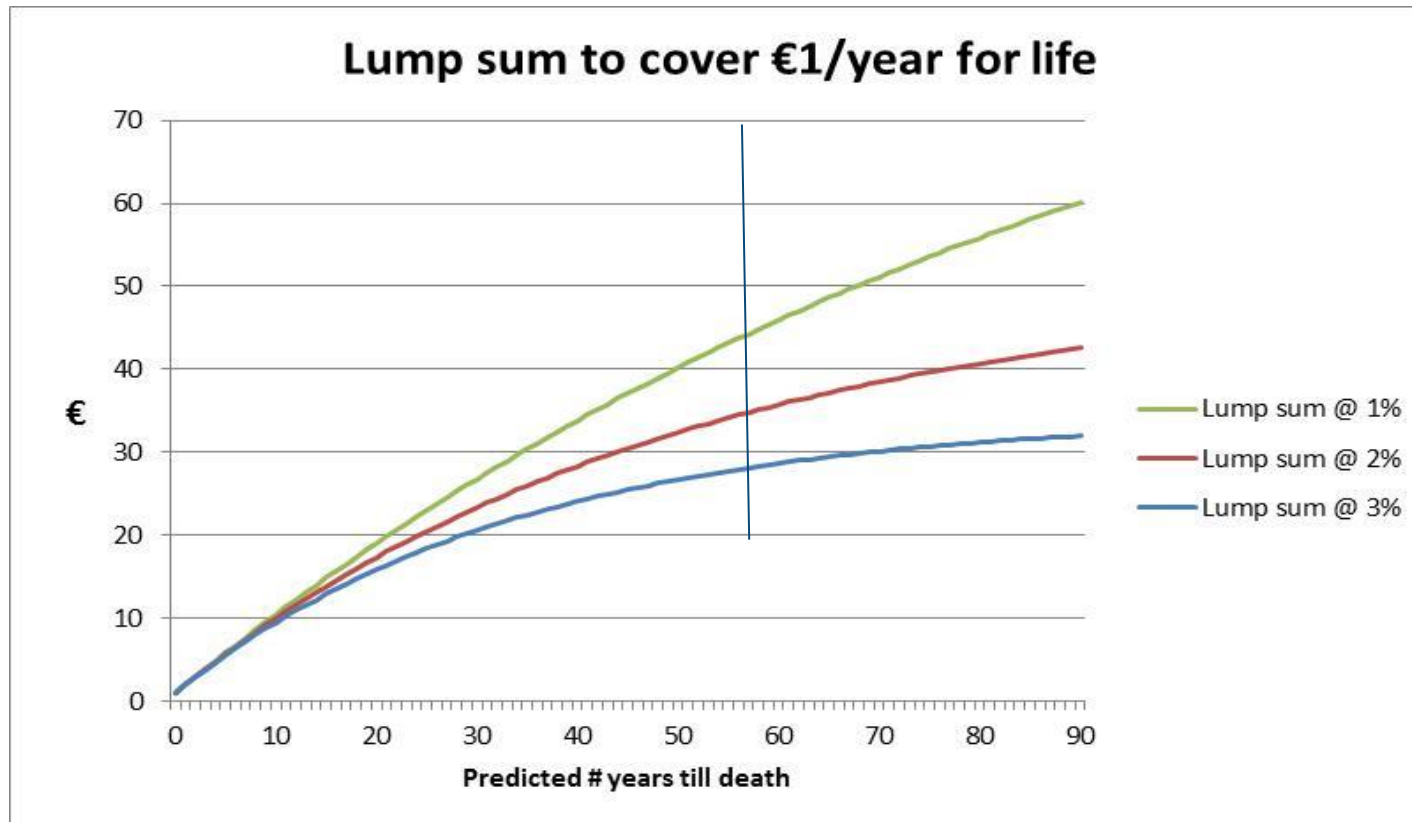
- Little evidence to-date of significant impact

3. Gill Russell judgement

- December 2014, Gill Russell was awarded a record €13.5m by the High Court for serious injuries he incurred at birth in Cork University Maternity Hospital
- Claim set relative to an assumed 1% p.a. rate of return (down from 3%)
- Being appealed by State Claims Agency
- State Claims Agency estimated this may add €100m per annum to total State claims bill

- **Appeal decision broadly upheld**

Gill Russell Impact by return and duration



4. Periodic Payment Orders (PPO)

- Legislation Programme Autumn Session 2016
- *Next Dáil term with publication of Civil Liability (Amendment) Bill*
- Passed within 6 months?
- Finance Act may have to be amended -> payments tax free

PPO – Insurance Ireland response

- Call for PPO regime to include as much certainty as possible
- Call to tighten definition of “catastrophic”
- Call for a limit of indemnity
- Contributory negligence?
- Comment on scope of Insurance Compensation Fund
- Claims reforms
 - Administration
 - Joint Wrongdoers
 - Pre-trial protocols
 - Scott’s Schedule
 - Split Trials
 - Draft PPO for Court

5. Motor Insurance Bureau of Ireland

- High Court ruling on Setanta
- 1,800 outstanding claims, €90 million liability
- Setanta established in Malta, 75,000 motorists covered
- Liquidation in April 2014
- Dispute on who covers claims - MIBI or the ICF
- MIBI claimant receives 100%; ICF claimant capped at 65%
- Law Society took a case to the High Court
- Justice Hedigan - MIBI liable
- Supreme court appeal concluded 24th October – awaiting outcome

6. Book of Quantum – 2016 versus 2004

- Updated by Verisk
- 51,000 closed claims from 2013 and 2014:
 - Court cases,
 - Insurance company,
 - State Claims Agency, and
 - PIAB data.
- Additional injuries:
 - concussion
 - partial finger amputations...
 - food poisoning.
- Also, improved granularity certain injuries

Book of Quantum: where comparison possible

Area Affected	Severity	2016	2004
Head/Skull			
Skull Fracture (no loss of consciousness)	Minor	€34,700 to €60,200	€23,300 to €35,700
	Moderate	€54,200 to €91,800	€28,500 to €69,200
	Severe and permanent conditions	€73,400 to €105,000	€61,000 to €96,700
Skull Fracture (with loss of consciousness)	Minor	€52,800 to €124,000	€23,300 to €107,000
	Moderate	€68,200 to €128,000	€28,500 to €113,000
	Severe and permanent conditions	€87,400 to €144,000	€61,000 to €129,000

Book of Quantum: where comparison possible

		Change in ...		
		Min	Max	Mean
Skull Fracture (no loss of consciousness)	Minor	49%	69%	61%
	Moderate	90%	33%	49%
	Severe and permanent	20%	9%	13%
Skull Fracture (with loss of consciousness)	Minor	127%	16%	36%
	Moderate	139%	13%	39%
	Severe and permanent	43%	12%	22%

Book of Quantum: where comparison not possible

Facial Injuries	Severity	2016	2004
Nose Fractures	Minor	€18,000 to €22,100	€14,900 to €19,600
	Moderate	€22,100 to €32,200	
	Moderately Severe	€32,400 to €46,600	
	Severe and permanent conditions	€44,500 to €63,900	

Book of Quantum ... Issues

- Calibrated on existing settlements
- Confirmed current award levels?
- But pre court of appeal rulings, of late

- Time will tell ...

7. Irish Times: Wed, Aug 17, 2016

- Muldoon: “Can have high High Court awards or cheap insurance”
- PIAB on a stronger footing.
- 70 per cent of bodily injury soft tissue
- Insurance Ireland Claimants should have to attend medicals.
- Unsustainable claims -> any order for legal costs in litigation.
- Motor insurance premiums > 38 % in the year to July.
- Fraud ...
- No quick fix
- Muldoon: PIAB legislation “easiest place to start”.

Irish Independent: October 12, 2016

- Dearbhail McDonald
- Few downsides to making false insurance claims
- Thompson: not enough legal deterrents or consequences
- Government had introduced “unprecedented” legal measures
- Questioned whether insurers were using the “draconian” legal tools at their disposal”
- Any plans to introduce a UK style Insurance Fraud Bureau, a hub for the sharing of insurance fraud data and intelligence, would have to protect the data and privacy rights of insurance customers.
- Cited three successful appeals in previous week

€40k Dublin Airport escalator fall overturned

- €40,000 award
- “Nasty” injury
- Not gripping the handrail
- “defendant failed to bring to her attention that she could have taken one of the lifts rather than the escalator”
- In the immediate vicinity, and clearly visible
- It cannot be said escalator presented an unusual danger
- Common sense use the handrail.
- Safe and in compliance with the relevant standards



IT TAKES VISION

These slides are for general information/educational purposes only. Action should not be taken solely on the basis of the information set out herein without obtaining specific advice from a qualified adviser.

Thank you

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3 November 2016