

Walker v. Milton Keynes General NHS Trust

Judgment for £5.75 million - Mr Justice Grigson - 29th January 2007.

Claimant - Rebecca Walker - a little over 12 years of age, born 10th November 1994 at Milton Keynes General Hospital (Defendant).

As a consequence of the negligence of the doctors treating her immediately preceding her birth, she suffers from dyskinetic cerebral palsy affecting all four limbs and is now approaching wheelchair-bound and will be wheelchair-bound in her late twenties. She has bulbar and speech problems and moderate learning difficulties. Her life expectancy is estimated at 75/76 years. She will be a patient in adulthood. She has substantial care requirements equating over her lifetime to an award of approximately £3 million.

The claim had been contested throughout. Liability was established after a fought hearing on 8th July 2005 and quantum remained contested until shortly before the hearing.

The central issue was whether there should be an order for periodical payments and if so whether it should be indexed on a basis other than RPI under Section 2(9) of the damages Act 1996. The settlement at £5.75 million on a conventional basis included an additional capital sum over and above that likely to be awarded at Court to compensate the Claimant for the fact that she was not receiving periodical payments at an appropriate level of indexation. The financial advice was that with a substantial award at this level a conventional award was preferable in the present uncertain climate about the issues of indexation.

This was a very high level award for a child with a long life expectancy and included an additional sum to “buy off” the Claimant’s claim for periodical payments at a raised level of indexation.

Counsel for the Claimant both on
contested liability and quantum:

David Wilby QC
Diana Brahams