

SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

[2025] SC GLA 88

GLW-SF410-23

JUDGMENT OF SHERIFF S REID

in the cause

MUHAMMAD SULEMAN

Pursuer

against

ONE INSURANCE LTD

Defender

**Pursuer: C Dougherty; The Kerr Brown Partnership, Glasgow
Defender: G MacDougall; Clyde & Co, Edinburgh**

GLASGOW, 10 October 2025

The sheriff, having resumed consideration of the cause, MAKES the following

FINDINGS-IN-FACT:

- (1) The parties are as designed in the instance.
- (2) The pursuer is a private hire taxi driver.
- (3) On 11 March 2023, at around midnight, while driving his vehicle (a Citroen C4 Picasso registration SE16 HLA) in the course of his business as a private hire taxi driver, the pursuer stopped his vehicle at red traffic lights on Auldhouse Road, Glasgow.
- (4) The handbrake of the pursuer's vehicle was engaged.
- (5) The pursuer was wearing a seatbelt.

- (6) A third party, Ms Charissa Healy, a fare-paying passenger, was sitting in the rear seat of the pursuer's vehicle.
- (7) The pursuer and Ms Healy were strangers to each other; they had not met or communicated prior to that night.
- (8) As he sat in his stationary vehicle at the red traffic lights, the pursuer momentarily observed, in his rear-view mirror, another vehicle approaching him at speed from behind.
- (9) The other vehicle was a Mercedes Benz A200 (registration RA52 00L) driven by the defender's insured, Mohammed Rasool.
- (10) Mr Rasool's vehicle collided at speed with the rear of the pursuer's vehicle, causing the pursuer's vehicle to be shunted forward approximately 2 or 3 feet.
- (11) As a result of the collision, the pursuer's body was jolted forward within his vehicle; specifically, the pursuer's body, up to his neck, was restrained by his seatbelt, but his head was thrown forward, and then backwards in a sudden jerking movement causing hyperextension and flexion of his neck.
- (12) As a result of the collision, the pursuer sustained soft tissue injuries to his neck, lower back, and shoulder.
- (13) As a result of the collision, the pursuer's passenger, Ms Healy, was also thrown forward in her seat but she did not suffer any injury.
- (14) The injuries to the pursuer's neck resolved within a matter of weeks, but the injuries to his shoulder and back persisted (though diminishing in effect), causing some restricted movement, stiffness in the morning, and intermittent pain, before fully resolving approximately 8 months after the date of the collision.

- (15) Following the accident, the pursuer consulted his general practitioner on three occasions in relation to injuries sustained by him as a result of the collision; he was given advice and was prescribed pain-relieving medication.
- (16) The pursuer's vehicle sustained only minor damage to the rear bumper as a result of the collision, comprising a slight indentation to the right-hand side of the rear bumper corresponding to the height, location and shape of part of the registration plate on the front of Mr Rasool's vehicle.
- (17) Other damage to the rear bumper of the pursuer's vehicle (comprising a square area of scuffing in the centre of the rear bumper cover and two "point" indentations to the left thereof) was pre-existing damage, which had been sustained prior to the collision on 11 March 2023.
- (18) The damage to the pursuer's vehicle was inspected by a motor engineer at a cost of £120.

MAKES the following FINDINGS-IN-FACT AND IN-LAW:

- (1) The accident was caused by the negligence of the defender's insured, Mr Rasool.
- (2) The pursuer sustained injury and damage as a consequence of the fault and negligence of the defender's insured.
- (3) The pursuer is an "entitled party"; Mr Rasool is an "insured person"; the defender is "the insurer"; and the pursuer has a "cause of action" against Mr Rasool which arises out of "an accident", all in terms of regulations 2(1) and 3 of the European Communities (Rights against Insurers) Regulations 2002.
- (4) A reasonable award of solatium in respect of the pain, suffering and inconvenience sustained by the pursuer is £1,750 with interest thereon at the rate of four per cent

(4%) per annum from 11 March 2023 to 11 November 2023, and thereafter at eight per cent (8%) per annum to the date hereof.

- (5) The pursuer reasonably incurred expense of £120, being the cost of inspection of his vehicle by a mechanic, as a consequence of the fault and negligence of the defender's insured.

MAKES the following FINDINGS-IN-LAW:

- (1) The pursuer having sustained loss, injury and damage as a result of the fault and negligence of the defender's insured, is entitled to reparation therefor;

ACCORDINGLY, grants decree against the defender for payment to the pursuer of the sum of TWO THOUSAND ONE HUNDRED AND EIGHTY FOUR POUNDS AND SEVENTY TWO PENCE (£2,184.72) STERLING with interest thereon at the rate of eight per cent (8%) per annum until payment; certifies Dr Michael Foxworthy as a skilled witness for the pursuer; reserves the issue of expenses meantime.

NOTE

[1] In this summary cause, the pursuer seeks damages for personal injuries sustained by him in a road traffic accident. The accident occurred on 11 March 2023 at about midnight at a junction on Auldhouse Road, Glasgow. The pursuer, who was a private hire taxi driver, was driving his Citroen C4 Picasso motor vehicle (registration SE16 HLA) at the time. The pursuer's vehicle was sitting stationary at a set of red traffic lights. The handbrake was engaged.

[2] The pursuer had a fare-paying passenger in his vehicle. They had not previously met. Her name was Charissa Healy. She was sitting in the rear of the vehicle. Both the pursuer and his passenger were wearing seatbelts.

[3] Suddenly and without (much) warning, the pursuer's stationary vehicle was struck from behind by another vehicle, then being driven by Mohammed Rasool, the defender's insured. The pursuer testified that he caught a momentary glance of Mr Rasool's vehicle, approaching him at speed from behind, immediately prior to the collision.

[4] From the outset, the defender (and its insured) have vigorously denied liability. Mr Rasool's primary position is that no collision took place at all. Instead, Mr Rasool says that, having approached the rear of the pursuer's stationary vehicle as it sat at traffic lights and having come to a stop behind the pursuer's car, he realised that he was rather too close to the rear of the pursuer's vehicle and was anxious that he might set off the rear sensors on the pursuer's vehicle. Therefore, Mr Rasool decided to reverse back a little. The defender's *esto* position is that, even if a collision did occur, it was not of sufficient force to move the pursuer within his vehicle *et separatim* it was not of sufficient force to cause the injuries complained of.

[5] The action called before me at a summary cause proof over 3 days, on 18 March 2024, 16 May 2025 and 28 August 2025. By any measure, the proceedings have been unduly protracted. Unusual difficulty was experienced, after the first day of evidence, in finding a date that suited the parties. Multiple continued diets were assigned by the court, only to be discharged on joint or unopposed motions to suit parties.

The evidence

[6] For the pursuer, I heard evidence from the pursuer, Charissa Healy, and Michael Foxworthy (a consultant orthopaedic surgeon).

[7] For the defender, I heard evidence from Mr Rasool and Gary Mackay (a forensic collision investigator).

[8] Parties also executed a joint minute admitting certain documentation into evidence without the necessity of being spoken to by a witness.

[9] Given the protracted length of the proceedings, I do not propose to rehearse the evidence or closing submissions in any detail at this stage. Instead, I shall proceed to explain the reasoning for my decision on the straight-forward issues in dispute.

Reasons for decision

[10] The first and critical question to be answered is this: did a collision occur at all?

[11] On the evidence, I am satisfied that the vehicle driven by the defender's insured (Mr Rasool) did indeed collide at speed with the rear of the pursuer's stationary vehicle at traffic lights on Auldhouse Road. On this critical issue, I accepted the testimony of the pursuer and his passenger (Ms Healy) and rejected the evidence to the contrary from Mr Rasool. In truth, this issue was straight-forward.

[12] The pursuer struck me as an honest, rather unsophisticated, individual, doing his best to tell me the truth. I could detect no attempt to deceive or exaggerate. He gave his testimony in a frank and open manner.

[13] The pursuer's corroborating witness, Ms Healy, was exceptionally impressive. She was entirely independent of the pursuer. She had no prior connection with the pursuer other than that she was a fare-paying passenger in the pursuer's vehicle on the night of the

collision. She worked in the insurance industry. She gave an account of the collision that was graphic, detailed, and largely consistent in material respects with the pursuer's account. She struck me as entirely honest and reliable.

[14] Moreover, Ms Healy's account was uniquely fortified by some striking contemporaneous WhatsApp communications between Ms Healy and her husband. She had been on her way home at the time of the accident. Her husband had booked the Uber taxi for her (and had been alerted on his phone to the fact that the taxi had stopped moving). Ms Healy started communicating with her husband, by WhatsApp, immediately after the accident. Copies of these communications were lodged in process. They were compelling. They narrate, contemporaneously and in detail, Ms Healy's observations of the sudden rear-end collision (as she described it) and its immediate aftermath. They are unvarnished, *de recenti*, and thoroughly persuasive.

[15] In addition, in a surprise twist in the course of the proof, the defender's own expert, Gary Mackay, a forensic collision investigator, having been presented with contemporaneous photographs of the rear bumper of the pursuer's vehicle taken shortly after the accident, conceded the "strong likelihood" that Mr Rasool's Mercedes vehicle had indeed made contact with the rear of the pursuer's vehicle. This concession was based on his observation of markings on a photograph of the pursuer's rear bumper which he considered to be consistent with the shape and height of the registration plate on the front of Mr Rasool's vehicle. This surprise concession flatly contradicted the conclusions in Mr Mackay's earlier written report and supplementary reports that had been lodged in process, but I make no criticism of him for that volte-face. On the contrary, I commend him for his candour, composure, and independence in revising his opinion in light of the

information presented to him in the course of his examination-in-chief. I am grateful to him for his assistance as a skilled witness.

[16] In contrast, Mr Rasool was an unimpressive witness. His account struck me as being implausible and self-serving. On his version of events, he claimed to have brought his car to a halt too close behind the pursuer's stationary vehicle at the traffic lights; he claimed he was concerned that the proximity of his vehicle to the pursuer's vehicle might activate the pursuer's rear sensors; so he decided to reverse. It was an odd and inherently implausible explanation. It was also flatly contradicted by the impressive consistent accounts of the pursuer and Ms Healy, both in parole testimony and as vouched by Ms Healy's contemporaneous WhatsApp communications. I was unimpressed by Mr Rasool's casual suggestions of some sort of conspiracy between the pursuer and Ms Healy to fabricate claims for compensation. He also missed no opportunity to express unqualified opinions on issues of physics, motor dynamics, accident collision reconstruction, and medical injuries. I rejected his testimony, so far as inconsistent with that of the pursuer and Ms Healy.

[17] The next question is this: did the collision cause the pursuer's alleged injuries?

[18] I am satisfied on the evidence that the collision was indeed of sufficient force to move the pursuer's body in the manner described (in some detail) by him and in such a manner as to cause the averred injuries to his neck, shoulder and back.

[19] The pursuer spoke in an under-stated manner about his injuries. I accepted his account. I was impressed by the testimony of Michael Foxworthy, a consultant orthopaedic surgeon. In my judgment, he was clear and consistent in his expert opinion testimony, including under sustained vigorous cross-examination. It is correct that the pursuer, as he candidly conceded, suffered from pre-existing pain in his back and shoulder. However, accepting the testimony of Mr Foxworthy, the proper analysis was that the collision has

caused fresh injuries due to his increased susceptibility by reason of his pre-existing conditions. According to the pursuer's GP records, the pursuer's neck injuries subsided within a short period, but his shoulder and back injuries continued for a longer period of up to 8 months. I have no reason to doubt that the pursuer was genuine in the pain experienced by him during that period. This is consistent with his repeated attendances with his GP. I could detect no attempt to exaggerate or embroider his symptoms. If anything, the pursuer was fairly stoical in his reaction.

[20] The next question is this: did the collision cause damage to the pursuer's vehicle?

[21] This is, perhaps, the most intriguing part of what would otherwise have been a fairly simple case. All parties appear to have focused upon a distinctive square-shaped area of scuffing on the centre of the rear bumper cover of the pursuer's vehicle. This damage was located at approximately 48–52cm above ground level. There were two other "point" indentations on the bumper cover at a height of approximately 48cm above ground level. They were located to the left of the distinctive square area of damage. These two "point" indentations appeared (according to Mr Mackay) to have been created by the heads of a cross-head screw.

[22] From the outset, all parties (with the exception of Mr Rasool, who denied everything) honestly assumed that this damage was caused in the collision. In particular, the distinctive square area of scuffing was thought by the pursuer to be the primary point of the collision. It was a reasonable belief. It was the most distinctive area of damage on the rear bumper cover. However, according to Mr Mackay's evidence (which I accept on this point) it is more likely than not that this particular damage was not, in fact, caused by the collision with Mr Rasool's vehicle. Mr Mackay, who struck me as a careful and diligent witness, was clear that there was no square projection on the front of Mr Rasool's Mercedes Benz of a similar

size or shape to the square mark on the Citroen's rear bumper cover. There was also no part of the Citroen located either as part of the bumper cover or within the structures located behind the bumper cover that, in his opinion, could have caused the square mark on the bumper. According to Mr Mackay, the nature of that square mark was not consistent with having been created by a front-to-rear contact between the two vehicles in this collision. No damage was visible to structures located behind the bumper cover and there was no evidence that the structures located behind the bumper had caused compression damage to the surface of the bumper cover. Mr Mackay concluded that the square damage (as well as the two "point" indentations) must have occurred prior to the collision, by some other unknown means. They pre-dated the collision. The two "point" indentations were likely to have been caused by retention screws on a registration plate, but, no such retaining screws are present in the registration plate of the Mercedes Benz. The square mark and associated scuffing were said by Mr Mackay to be more consistent with contact with a ball tow-bar or bollard.

[23] The significance of this expert testimony is that it discloses that by honestly, but erroneously, focusing on the square area of scuffing, parties have been led down a cul-de-sac of confusion.

[24] For his part, Mr Mackay had himself initially been misled into thinking that no collision had occurred *at all* between the parties' vehicles because the square mark (and associated scuffing) was not consistent with the described collision and the structure of the vehicles.

[25] In the event, however, in the course of his examination-in-chief, having observed further photographs of the pursuer's rear bumper cover, Mr Mackay very fairly changed his position and conceded that there was likely to have been contact between the pursuer's

vehicle and Mr Rasool's vehicle, but at a point to the right-hand side of the square scuff marking on the rear bumper cover.

[26] In short, the square area of damage was a red herring. It was not the point of contact between the two vehicles. It was not caused in the course of this collision. It must have occurred at some other time *prior* to the accident.

[27] Instead, the contact point between the two vehicles has occurred to the right of centre of the pursuer's rear bumper. What appears to have happened is that the rear bumper, as it is designed to do, has absorbed much (but not all) of the force of the contact and has largely retained its shape without sustaining significant physical damage. Nevertheless, force was transferred through the vehicle sufficient to displace both occupants in the pursuer's vehicle, and to cause injury to the pursuer. The rear bumper has returned to its moulded state, a process envisaged by Mr Mackay in his helpful expert testimony.

[28] A consequence of this conclusion (namely, that the more significant damage to the pursuer's rear bumper was not caused by the collision at all), is that the estimated replacement cost of that bumper (per item 5/4 of process: the estimate by JJK Automotive Assessors dated 13 March 2023) is not recoverable from the defender. In contrast, the cost of examination is a recoverable and reasonable cost. For that reason, I have disallowed the sum of £1,932.70, being the estimated repair costs of the pursuer's vehicle. By happy chance, the physical damage to the rear bumper was minor.

[29] Finally, I have considered the assessment of solatium. The difficulties associated with the precise assessment of an appropriate award of damages for solatium (including awards at the minor end of the scale) are well known. Each case turns upon its facts.

[30] In quantifying an appropriate award of damages for solatium, the principal component elements to consider include:

- a. the nature of the injury,
- b. the severity of the injury,
- c. the frequency with which symptoms of the injury are suffered (specifically, whether they are continuous or intermittent),
- d. the overall duration of the symptoms and, critically,
- e. the consequences or impact of the injury and symptoms upon the claimant, his lifestyle (including his work, family or domestic routine or responsibilities and recreational pursuits) and his overall quality of life.

Inevitably, that exercise involves consideration of elements that are both objective and subjective in nature. In *Symington v Milne* 2007 Rep LR 63, Sheriff Principal Bowen QC stated:

“Whilst there is no question that the approach to valuing solatium for soft tissue injuries should take into account primarily the severity of those injuries for the purposes of arriving at a position on the scale of appropriate awards, it is also necessary to take into account elements of subjectivity which arise in every case”.

Thus, the effect of an identical injury (with, let us say, the same recovery period) upon the overall quality of life of two separate claimants may well vary dramatically depending, among other things, upon the claimant’s age, family or work responsibilities, lifestyle pursuits or choices. Given the considerable potential variation within those elements, it is virtually inevitable that no two cases will be absolutely identical. For that reason, a broad-brush approach is required to determine the overall impact of the injury upon the claimant’s life.

[31] In that context, I conclude, on the evidence, that the present case involves fairly straight-forward injuries at a very minor level.

[32] The neck injury, though painful initially, quickly resolved within weeks. Only the back and shoulder injuries persisted. However, while these injuries were said to have continued for approximately 8 months, there was no clear evidence that they caused continuous (rather than merely intermittent) pain; or that the pain was particularly severe; or that it was resistant to normal analgesics. There was no suggestion of any time having been taken off work. There was no suggestion of broken sleep. There was no suggestion of the pursuer having been bed-bound, or house-bound, or unable to pursue work or leisure activities to any material extent. He took normal pain-relieving medication. He was not involved in any other medical or convalescent treatments, therapy, or counselling. There was no evidence of his lifestyle being curtailed, or recreational activities being limited, or domestic responsibilities being restricted by any of the injuries. These were relatively minor injuries involving pain and discomfort at a relatively modest scale, with no material impact upon the pursuer's life. I make no criticism of the pursuer for those findings. My impression was that he was commendably forbearing. That said, however, it has to be acknowledged that the evidence available to me of the nature and severity of the pursuer's injuries, and of their impact on his quality of life and daily routine, was fairly threadbare.

[33] Though I was not referred to them, I considered the recent authorities discussed in *Callum Fraser v Evelyn Munro* [2024] SC EDIN 36, [141] (Sheriff I Nicol) as well as the (rather less recent) authorities discussed in *Dominique Mullen v Churchill Insurance Company Ltd* 2012 WL 488447.

[34] The pursuer referred to the Judicial Studies Board Guidelines for the assessment of general damages in personal injury cases, as recently updated. For minor orthopaedic

injuries to the neck, back, and shoulder, whether overlapping or exacerbated, involving a full recovery between 3 months to 1 year after the accident, the revised guidelines (Chapter 7) indicate an award within a range of £2,990 to £5,310. At first blush, that range seems rather higher than the range of reported awards that might normally be expected for such injuries in this jurisdiction. Of course, these guidelines are, in no sense, binding. They do not purport to be so. Nevertheless, given the experience and eminence of the authors and the acknowledgement in leading Scottish authorities that awards of general damages for pain, suffering and loss of amenities in factually comparable English cases should be taken into account, the guidelines provide, at the very least, an exceptionally useful cross-check (if not a starting point) seeking to identify an appropriate range for broadly similar injuries, without absolving the court of the obligation to consider each case on its individual merits.

[35] Subject to those caveats, I conclude on the evidence that the pursuer's injuries in the present case fall within the very "minor" category. They involved a full recovery after just a few weeks for the neck injury and after 8 months for the back and shoulder injuries. While the back and shoulder symptoms endured for longer, the evidence (which, as I say, was fairly minimal) indicates that the pain was at a relatively modest level, and intermittent in nature, and with no material impact upon his working or domestic life, no time off work, no restriction on his leisure activities, no disrupted sleep, no material medical intervention (such as physiotherapy or the like), and no material impact on his day-to-day quality of life. In fairness to the pursuer, his discomfort was at least sufficient to cause him to attend his general practitioner on three separate occasions (in March and April 2023). The medical records also reliably document his credible accounts of some ongoing symptoms of injury (restricted movement, stiffness in the morning, intermittent pain), continuing for a period,

but evolving, diminishing, and culminating in the early prescription of a higher-strength analgesic which appears to have the desired effect.

[36] The pursuer's agent sought an award of £3,800 for solatium (though his statement of valuation specifies £2,950 for this head of claim). The defender's agent suggested £600.

[37] In my judgment, an appropriate award for solatium for the pursuer is £1,750 with interest thereon at the rate of 4% per annum from 11 March 2023 to 11 November 2023 (the estimated date of full recovery) (producing interest of £46.99, accrued over 245 days), and thereafter at the rate of 8% per annum to the date of decree (producing interest of £267.73 accrued over 698 days). Therefore, pre-decree interest on solatium amounts to £314.72.

[38] I also award the cost of the vehicle examination as a reasonable head of loss. For the reasons explained above, the head of loss related to the estimated repairs of the vehicle have not been allowed.

[39] The issue of expenses is reserved meantime. If parties cannot agree the issue of expenses, an incidental application should be lodged.

[40] In conclusion, may I express my thanks to both parties' agents for the diligence and vigour in preparing and presenting both the evidence and submissions.