Case No: E14YJ570

IN THE COUNTY COURT AT CENTRAL LONDON

Mayor's and City of London Court
Basinghall Street
London EC2V 5AR

Date: 13/04/2021

Before :

HHJ BACKHOUSE

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Between :

MAURICE AMDUR	**Claimant**
- and -	
ILYA KRYLOV	**Defendant**

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- -

The Claimant in person
Mr McCLUGGAGE (instructed by **Keoghs LLP solicitors**) for the **Defendant**

Hearing dates: 8-11 March 2021

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Approved Judgment

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HHJ BACKHOUSE

HHJ Backhouse :

1. This is a claim by Mr Maurice Amdur for damages for personal injuries and losses sustained in a road traffic accident on 22.1.15. Liability for the accident is admitted, together with some loss but causation of most of the heads of loss and quantum are very much in dispute. Further, the Defendant contends that the Claimant has been fundamentally dishonest within the meaning of s57 Criminal Justice and Courts Act 2015 and that the claim should be dismissed.

2. The claim was issued shortly before the expiry of the limitation period in January 2018 with damages limited to £100,000. The Claim Form was amended pursuant to the order of 9.1.19 to claim unlimited damages.

3. Until May 2020, the Claimant was legally represented but he and his solicitors parted company and since then, Mr Amdur has acted in person. I have no doubt that he has found conducting a 4 day multi-track trial very stressful, particularly in light of the allegations of fundamental dishonesty. Mr McCluggage has assisted the court and the Claimant by providing a detailed skeleton argument and written closing submissions.

4. Conscious of my duty under CPR3.1A, I have given the Claimant considerable leeway in the way in which the trial was conducted. The parties attended court in person with a number of the lay and professional witnesses giving evidence by telephone or Teams. The bundle is extensive, running to in excess of 2000 pages of which the Claimant's bank statements, Paypal records, accounts and tax returns form a large part.

Background

5. As will become apparent from this judgment, it has been difficult for the court to gain a clear picture of Mr Amdur's employment history and earnings beyond his own description of them.

6. On his account, Mr Amdur is a clairvoyant, providing psychic readings to the rich and famous around the world. In addition, he is a self-styled 'wheeler dealer', buying and selling high end cars, paintings, watches etc. Apart from those two sources of income, he has appeared in a number of TV productions, notably 'Maurice's Psychic World' on Sky TV and Channel 4's 'Four Rooms'. He also sells spiritual candles and jewellery and has rental income from a property in St John's Wood. He told the court that he worked abroad a great deal, particularly in the USA, until 2014.

7. Mr Amdur has been most unfortunate in that he has been the victim of 3 'no-fault' accidents since 2014. On 7.7.14 he was involved in a road traffic accident when another car performed a u-turn in front of his car. A medical report prepared for his claim arising from that accident (which he pursued without representation) suggests he suffered a moderate degree of whiplash injury in the neck and a mild to moderate degree of soft tissue injury to his left shoulder, left hip, left knee and left ankle and foot. He estimates that he had recovered about 80% from those injuries when he was involved in the accident with which I am concerned.

8. On 22.1.15 Mr Amdur collected a brand new Jaguar XKRS convertible, one of only 14 such vehicles in the world and which cost approximately £80,000. He was on his way home when the Defendant drove into the rear of the Jaguar while it was stationary at

the Marble Arch roundabout. The car suffered a cracked bumper. The Defendant's insurers, esure Group plc ('esure'), paid for the repairs which cost £4089.30.

9. It is not in dispute that as a result of the accident, the Claimant suffered soft tissue injuries to the neck and mid-back but the orthopaedic experts disagree as to whether the accident caused an injury to one or both shoulders and chest pain. There is also disagreement as to whether the symptoms lasted for 2.5 years as the Claimant's expert contends or whether the accident was only responsible for a one year exacerbation of the injuries from the 2014 accident which is the Defendant's expert's opinion.

10. The Claimant's case is that he was in such severe pain from the injuries sustained in the accident that he was not able to work offering psychic readings for 2 years after it, as he could not concentrate properly. He said that he 'just lay on my couch' and did not go out except for treatment in the first few months. He told the court 'I was a hermit'. He considers that he was on the cusp of a major upturn in his career as he had a number of opportunities for TV work at the time of the accident and in the months after it but he was not well enough to take those up.

11. On 12 March 2019 he suffered his third accident. He was shopping in a Marks and Spencer store, when an employee pushing a tall cage filled with tinned goods knocked the Claimant over, causing further soft tissue injuries. That accident is the subject of an ongoing claim.

Evidence

12. I heard oral evidence from the Claimant and from his witnesses Christopher Forster (in person), Frank Pilkington and Maria Elliott (by telephone) and from his orthopaedic expert, Mr Richard Coombs, by Teams. Mr Amdur's solicitors had obtained a forensic accountancy report from Ms Katy Summerfield dated 4.7.19 but he confirmed at the pre-trial review in August 2020 that he was not seeking to call her to give evidence and was not relying on her report.

13. I heard from the Defendant's orthopaedic expert, Mr William Scott, from Robert Hill, forensic accountant, and from Ashleigh Barratt, all in person. I heard from Phil Reed, a Technical Claims Controller with esure over the telephone and read a statement from Jonathan Day giving evidence about basic hire rates.

14. Both parties had instructed psychiatric experts who had reported and prepared a joint statement but at the pre-trial review, Mr Amdur confirmed he was not pursuing a claim for psychiatric injury and those reports were not considered at trial.

The Claimant's evidence

15. This case in unusual in that Mr Amdur disavowed large parts of the evidence and of the schedule of loss which had been put forward on his behalf by his former solicitors. He was at pains to tell the court that he considers that his solicitors had exaggerated his claim by putting forward heads of loss which he is no longer pursuing. He also said that they had run up 'insane' legal costs of £100,000 which they now expect him to pay and that he is only pursuing the court case to recover those costs.

16. His solicitors prepared 3 witness statements for him while they were still acting; a main statement dated 29.4.19 on which he was chiefly cross-examined and two dated 16.9.19 and 20.4.20 responding to evidence gathered by Ms Ashleigh Barrett of NetWatch Global Ltd on behalf of the Defendant from the Claimant's online activity, in particular certain Facebook posts. When I took him to these statements at the beginning of his evidence, he said that the amounts of money claimed were wrong. Thereafter, in cross examination, he referred to the statement of 29.4.19 as 'my solicitor's statement', disassociating himself from it.

17. Mr Amdur also disavowed most of the Schedule of Loss submitted with the Particulars of Claim and with a statement of truth signed by him. He said that he was not relying on two emails from him dated 21.6.20 and 26.7.20. He said that his mother had prepared the first email as he was ill at the time but I consider that it is written in his style. These emails are part statement, part updated schedule of loss. He said that only a long email from him dated 2.3.21 was 'fundamentally correct'.

18. I will deal later in this judgment with the heads of loss originally claimed and those no longer pursued. The Claimant clarified at the beginning of his evidence that he is claiming for general damages, two years' loss of earnings at £75,000 p.a., credit hire and the cost of physiotherapy.

19. I bear in mind that Mr Amdur did not have the benefit of professional advice on how to behave during cross-examination or during the trial in general. Mostly, he was polite and occasionally charming. However, during cross-examination he clearly became riled and discomforted when Mr McCluggage took him to various entries on his bank statements/ Paypal records and suggested that these represented earnings from readings, rather than the sale of candles as Mr Amdur maintained. He was offensive to Mr McCluggage several times (on one occasion, grossly so) and kept repeating 'what are you talking about?' in an angry tone.

20. To an extent, Mr Amdur is the victim of his verbal style. He is naturally very talkative, sometimes garrulous and speaks almost entirely in hyperbole. For example, he told me that after the accident 'I was the sickest and illest I have ever been in my entire life'. He also has no eye for detail; it was apparent that he did not have a grasp on the material in the bundle. He told the court that he does not usually issue invoices for readings or give receipts. He does not keep receipts except for some large purchases. He said that almost 100% of his income and expenses go in and out of his bank accounts and through Paypal and apart from bank statements and Paypal records, he has no other financial records. He also claimed in cross-examination that he has bank accounts in Spain and the USA but no disclosure has been made in relation to those. In one of his witness statements, he admitted that he tended to simply spend whatever money he earned abroad in the belief that the companies providing him with the work would pay the tax on those earnings.

21. He also admitted that his tax affairs in this country required rectification. In the years up to and including 2014/15 he had had his accounts prepared by a Maria Otigba. For the 3 years up to May 2014, his income tax returns showed significant losses, such that no tax was payable. The Defendant's forensic accountant, Mr Hill, called the accounts nonsensical and the Claimant accepted they were wholly inaccurate. In or about 2017 he instructed Mr Levine of Green Levine & Associates to redo his accounts for the years ending 2012 onwards and to submit amended tax returns for the years ending

2015 onwards (although not for the years ending 2013 or 2014 which are of most interest for this claim). Mr Amdur said that he has sorted out the tax owing with HMRC and that he is paying it off in stages.

22. The amended accounts show a healthy profit up to April 2015 and a much-reduced profit in the 4 years thereafter. I will come later to Mr Hill's criticisms of these amended accounts but it is worth noting at this point that it was in Mr Amdur's interests to minimise his profits pre-accident for tax purposes and to subsequently maximise them for the purposes of this claim.

23. As Mr McCluggage submitted, it is not necessary for the purposes of this case for the court to decide whether psychic powers exist or whether the Claimant believes that he possesses such powers. I am prepared to accept that Mr Amdur does believe that he has a 'gift' and that he considers that he behaves with integrity when working as a clairvoyant, unlike others in the field who are 'charlatans' as he called them. It does seem to be the case that Mr Amdur has had the TV exposure he claims and he appears to have enjoyed a wealthy lifestyle, judging by his assets. There seems to be some truth in his descriptions of being entertained by wealthy clients or TV companies.

24. However, for the reasons I have set out above and which I will come to below, I consider that I cannot accept everything which Mr Amdur says at face value and that I should check his evidence against such independent/ documentary evidence as I have.

Medical evidence

25. The Claimant's orthopaedic expert, Mr Coombs, has produced a number of reports/ letters on 21.9.15, 24.11.15, 13.1.16, 27.3.19 and 8.8.20. (The Claimant had no permission to rely on the last report which post-dated the experts' joint statement but it was included in the bundle).

26. Mr Scott's report is dated 31.7.19 with a further letter on 1.8.19. He examined the Claimant on 8.6.17 and 31.1.19.

27. The experts produced a joint statement on 23.12.20. There were a number of areas of disagreement above. The first of these is whether the rotator cuff tears in both shoulders which were subsequently diagnosed were caused by the accident. Mr Amdur's evidence of the chronology of the onset of the shoulder problems was unclear but he said that he experienced weakness, at least in the right arm, also immediately afterwards (and indeed he recounted trying to pick up a kettle and dropping it). He also said that 'my arms wouldn't work after the accident'. The second is whether chest pain, which Mr Amdur described as feeling as if he was having a heart attack, was caused by the accident. This was investigated but no cardiac cause was found. The third is how long any attributable symptoms lasted.

28. The experts had a number of medical records and reports available to them, including the Claimant's GP records; records of investigations and treatment of the shoulder problems by Professor Emery; the first medico-legal report from a Dr Pankaj Tanna, GP, dated 7.3.15; and the records of 20 sessions of physiotherapy which the Claimant had from Ann Physiocare Ltd from 31.1.15 to 22.8.15.

29. As Mr Scott identifies, there are a number of important points to note from these records:

    a. The physiotherapist on 31.1.15 (9 days after the accident) noted 'pain/stiffness in the neck, upper/lower back'. Later physiotherapy records also refer to 'hand paraesthesias' and headaches. The first mention of any shoulder pain is on 22.8.15 when it is recorded 'Patient also reports he started getting right frozen shoulder which is restricting his shoulder movements. He also reports of shoulder muscle weakness, hence unable to do certain exercises shown as home exercises'.

    b. Mr Amdur's history to Dr Tanna was of 'symptoms in the neck area, associated with pins and needles and weakness in both arms' as well as mid-back and lower symptoms.

    c. There is no record of Mr Amdur attending his GP after the accident, although he told the court that he saw a nurse at the practice on the evening of the accident. The first entry is on 17.8.15 for an unrelated matter and no mention is made of any accident-related symptoms.

    d. The first mention of chest pain in any records is in the GP notes on 19.4.16, with a note that it had become more problematic in the last 3 to 4 days.

    e. A MRI scan of the right shoulder on 13.11.15 showed 'moderate degenerative change' with a possible tear. On 16.6.16 an ultrasound guided injection of the right shoulder found a 1cm tear.

    f. The first mention of any problem with the left shoulder is on 13.7.16 in a letter from Professor Emery and on an ultrasound guided injection of the left shoulder on 18.7.16 a 0.5cm tear was seen, which on a similar procedure on 1.2.18 had progressed to 1.5cm.

    g. Both shoulders responded well to steroid injections.

30. The two experts approached their task in very different ways. I have to say that I found both Mr Coombs' reports and his oral evidence unhelpful for a number of reasons. His reports largely consist of repeating what the Claimant told him, with very little analysis or interrogation of the medical records. In oral evidence, he acknowledged at the outset that the case turns on the Claimant's credibility which is a matter for the court to decide, but indicated that he considers the Claimant to be an entirely genuine individual. Despite being reminded by Mr McCluggage more than once that his job was not to act as an advocate for the Claimant, in my judgment, Mr Coombs was unable to prevent himself sliding into that role. He repeatedly told the court that 'it has always been the Claimant's case that…' or 'the Claimant's opinion was…' whereas the court requires, and is entitled to expect, independent expert opinion.

31. He maintained his view that the problems in the shoulders were likely to be caused by the accident (because the Claimant was 'gripping the steering wheel'), as was the chest pain which he diagnosed as costochondritis. Mr Scott's view, having taken a more forensic view of the medical records, is that there is no record of the Claimant complaining of these symptoms for months or even longer after the accident and that they are more likely to be spontaneous/ idiopathic, rather than post-traumatic.

32. Mr Coombs was taken by Mr McCluggage to various entries in the medical records. He seemed reluctant to answer some questions as to the lack of reporting of symptoms with the chest/ shoulders in the GP report and physiotherapy records, having to be asked three times on occasion. Having been asked about the lack of complaint of shoulder pain to the physiotherapist on 28.2.15 he referred to another entry which mentioned deep breathing exercises, which he thought must have been prescribed for chest pain. He was taken to his report of 25.3.19 in which he records the Claimant as saying that the symptoms caused by the M&S accident 2 weeks before were all 'below the waist', whereas in the report of 8.8.20, Mr Amdur said that the March 2019 accident had also jarred his left shoulder. Mr Coombs did not accept this was an inconsistent history and explained it away by saying that the Claimant noticed further problems as the months went by. This is an example of any lack of analysis being applied to what he was being told.

33. Both experts were asked to interpret the pain diagram attached to the first physiotherapy record of 31.1.15. The physiotherapist had made marks on the back body diagram in the region of the neck, back shoulders, mid- and lower back. Mr Coombs considered the marks indicated pain in the shoulders, consistent with tears, rather than in the trapezius muscles. However, when asked where pain from a rotator cuff tear would usually be felt, he indicated the front/ side of the shoulder.

34. By contrast, Mr Scott's evidence was that the diagram shows classic referred cervical pain which always goes into the trapezius and rhomboid muscles in the areas marked. Pain from a torn rotator cuff would always be felt on the outside top part of the arm. I prefer Mr Scott's careful explanation, and note both experts' view that pain from a tear would not manifest itself in the back of the shoulders.

35. Although Mr Coombs diagnosed a frozen right shoulder in his November 2015 report, I accept Mr Scott's evidence that this was not a frozen shoulder as such where almost no rotation is possible, but a restriction of rotation/ abduction.

36. Mr Coombs' evidence was that soft tissue injuries are not always felt immediately and may take up to 6 weeks to manifest themselves, but he did accept that it would be 'highly implausible' to attribute an injury which developed more than 3 months afterwards to the index event. He also accepted that if the Claimant had minimal symptoms initially and there was a gradual deterioration, this would be more compatible with a degenerative condition and also that a degenerative explanation for the bilateral shoulder symptoms was within the reasonable range of expert opinion. He was prepared to accept that costochondritis could be spontaneous and that if the chest pain did not come on until June 2016, it cannot be attributable to the accident. He further accepted that a 12-month exacerbation of symptoms from the first accident could be a reasonable viewpoint.

37. Mr Scott's evidence was that pain from a torn rotator cuff would come on almost immediately and within a few days at most. The fact that there was no complaint of right shoulder pain until 7 months post the accident makes it unlikely that the accident caused the tear in that cuff. Certainly, the accident can be excluded as the cause of the left shoulder problem as it came on so much later. In his view, the fact that the problem in one shoulder developed later than the other is more consistent with degenerative changes. He considered that the restrictions in abduction and rotation which Mr Coombs recorded in the Claimant's right shoulder in September 2015 were as a result

of inflammation around the muscles in the shoulder, together with stiffness due to lack of use. The way in which the shoulders responded to treatment is a hallmark of the degenerative process, in which symptoms are remittent. The chest pain came on so long after the accident that it cannot have been caused by it; a chest injury sufficient to cause damage to the cartilage would cause instant pain.

38. Although Mr Scott acknowledged the possibility that the Claimant could have had asymptomatic cuff tears which became painful after the accident, he thought it was unlikely given the lack of reported problems until August 2015. Rotator cuff tears are relatively common, particularly as people age.

39. I considered that Mr Scott's evidence was fair, measured and took proper account of the medical records. I prefer his evidence to Mr Coombs'. In my judgment, the lack of complaint of any shoulder or chest pain in Dr Tanna's report or the physiotherapy records is highly significant. I am not satisfied on the balance of probabilities that the accident caused any injury to the Claimant's shoulders or chest.

Extent and duration of symptoms

40. Mr Scott's opinion is that the Claimant suffered a minor blow to the head (which the Claimant says was caused by his head hitting the right front pillar), and a soft tissue injury to his cervical, thoracic and lumbar spine. His cervical spine was still vulnerable from the July 2014 accident and the index accident should be regarded as an aggravation of the previous injury. Mr Scott considers that the period of aggravation was 6 months with a further 6 months on a diminishing basis.

41. The Claimant's evidence as to the duration of his symptoms was somewhat unclear. In cross-examination, he at one stage said the pain was bad for 2 weeks, and then he suggested for a month and then said he could not remember. However, mostly his evidence was that the pain was disabling for far longer than that. His initial schedule of loss from 2018 says that he 'was unable to work for approximately 2 years and then took time to return to a more normal work pattern'.

42. I note that the physiotherapist recorded on 22.8.15 (7 months after the accident) that the Claimant felt that his spinal symptoms were 60% better and on 7.6.17 he told Mr Scott that he was now 90% better and starting to appear on TV again.

43. Ms Barratt's investigation of Mr Amdur's internet activity found a photograph on his Twitter account dated 1.2.15 (9 days after the accident) captioned 'Party Time' and showing him at an event with 4 other people. The Claimant said this was a charity event which he felt obliged to support. He put in an appearance for 45 minutes and went home.

44. His bank statements revealed he had been in India in April 2015. Mr Amdur said that a wealthy client had had him flown out, either in first class or in a private jet, to spend time at an Ayurvedic clinic to help him recover. Even if the Claimant undertook this long-haul flight in comfort, the fact that he was able to do so at all is, in my judgment, an indication of the level of his symptoms by that stage.

45. Ms Barratt also found that Rhea Elliott-Jones (Maria Elliott) had tagged the Claimant in a number of Facebook posts, depicting him at events with a number of other people.

The dates of these were 25.11.15, 30.11.15, 3.12.15, 4.12.15 and 11.12.15. Mr Amdur said that these were charity events organised by Ms Elliott for charities which he wished to support. He attended but did not stay for long because he did not feel well enough. Ms Elliott corroborated that account in her evidence which I considered to be entirely straightforward and honest. She said that he managed to stay for the sit-down dinner at one of the events.

46. Mr Amdur accepted that in December 2015 he had gone for a family holiday in Tenerife with his father who was terminally ill and who died in October 2016. He also went to Thailand to a health resort in September 2016; he said that he obtained a substantial discount in return for making a video promoting the benefits of the resort (which was part of the evidence before the court).

47. I accept that the Claimant had good reasons to attend the charity events and to go on the family holiday but again, the fact that he was able to attend so many events in a short period of time and go on holiday abroad suggests to me that he was making the recovery expected by Mr Scott.

48. It is not uncommon for lay people to ascribe all their subsequent physical symptoms to a traumatic event and I accept that it may have been difficult for the Claimant to differentiate between the symptoms as a result of his injuries in the index accident and residual symptoms from the earlier accident. The picture was also complicated by the onset of right and then left shoulder problems and the onset of the chest pain.

49. I accept Mr Scott's opinion as to the injuries caused by the index accident and find that this was a one year exacerbation. I accept that Mr Amdur suffered considerable pain in the neck and back, at least for the first few months, with ongoing pain and stiffness. He also suffered headaches and paraesthesia in his right arm and hands as noted by the physiotherapist.

50. In terms of damages for pain and suffering, the Defendant puts this at the top of Category 7(c)(ii) of the Judicial College Guidelines for neck injuries, where a full recovery takes place within three months and a year. The bracket also applies to very short-term acceleration and/or exacerbation injuries, usually less than one year.

51. In my judgment, this injury was more serious in that the exacerbation was for a full year and the Claimant also suffered headaches and paraesthesia. I consider it falls in bracket 7(c)(i) for short-term exacerbation injuries, usually between one and two years. The suggested range is from £4080 to £7410. I consider that the appropriate figure for general damages is £5000 including the 10% uplift.

Loss of earnings

52. The issues in relation to the claim for loss of earnings are whether the Claimant was prevented by his injuries from working; if so, for what period; and what loss did he suffer for that period.

53. As noted above, the initial Schedule of Loss in May 2018 claimed a two year period for loss of earnings. The Claimant maintained in his evidence to the court that he was unable to work until March or April 2017 as a psychic reader as he felt he did not have

the mental sharpness and ability to concentrate sufficiently to do a good job. He did not want to do a mediocre job for clients.

54. However, he did accept in cross-examination that he had done some work: he said he had sold some candles as that just involved making a phone call to the supplier; he admitted he had taken part in a radio show on 2.8.15 which he said he could do lying on his couch.

55. I note that the revised accounts for 2015/2016 prepared by Mr Levine show income from readings of £7650 and from the sale of candles of £6786. (I shall deal with the Defendant's criticisms of these accounts later in this judgment).

56. Mr Amdur was cross-examined extensively on the entries in his bank statements and Paypal records. In addition to a large number of cash deposits, there are a number of credits, either by direct transfer or from Paypal, from named individuals with the reference 'reading'. Some of the names appear regularly. In January 2015 there was one such entry, in February 2015 there were 3, in March 6, April 4, May 10, June 5, and July 4. The entries continue thereafter.

57. Mr Amdur's answer to all the 'reading' entries he was taken to was to say that the money was either for readings he had done before the accident or that the reference to reading was wrong and the payment was for candles or jewellery. He repeated a number of times that he has always said to clients that they should not pay him unless what he tells them is 100% right. Often people pay him long after a reading.

58. In my judgment, whilst some of the payments might be for readings done before the accident, there are payments from what appear to be repeat clients. I did not consider Mr Amdur's evidence on this issue to be credible. He told the court that he charged round sums (eg £250) for a reading but when taken to entries for such sums, he maintained they were for candles. I consider it highly unlikely that clients would spend hundreds of pounds repeatedly on candles. In my judgment, it is likely that Mr Amdur was able to conduct some readings, even in the period immediately after the accident. I am prepared to accept that he may not have felt well enough to do as many as usual or to work to normal capacity but I am satisfied that he did some readings.

59. On 30.6.15 the Claimant posted a Tweet announcing the launch of his new website, which he said he had commissioned before the accident. On 31.1.16 he posted a Facebook message reading 'Any Facebook person wanting a reading with me gets 15% off God bless M'. The Claimant's explanation of this in his second statement is that it was 'an attempt to generate some income as it had been some time since I earned any money'. He goes on to say that he made an arrangement with Frank Pilkington and Justin Toper (two other psychics) that they 'would do the readings for me if I was unwell' and if they did, Mr Amdur would take a cut of the fee. He goes on to say that there were no enquiries and no readings.

60. However, in oral evidence, Mr Amdur maintained that putting out that advert was purely to help Mr Pilkington and Mr Toper who were in financial difficulties and that there was no intention that he would do the work himself. To support this account, statements had been obtained from both these gentlemen. Both the Claimant and the court made efforts to contact Mr Toper so that he could give evidence but to no avail. I therefore can place no weight on his statement.

61. Mr Pilkington did give evidence. He did not have his statement in front of him so I read it out to him slowly and he confirmed each line. At paragraph 6 the statement reads '…in or around 2015 I was speaking to Maurice Amdur in respect of raising my profile and promoting myself, however, I was very wary of Facebook and did not have an account'. Mr Pilkington confirmed that, commenting, 'it's true, I'm behind the times'. His statement goes on to say that the Claimant offered to put a post on his Facebook page and to pass any clients to Mr Pilkington as 'Maurice was unwell and unable to do the readings'. There was, in fact, no response to the advert.

62. In cross-examination, Mr McCluggage demonstrated that Mr Pilkington had had a sophisticated Facebook account since 2010, so that his statement about not having an account in 2015 was untrue. Mr Pilkington then said that this was at a time when he had been sacked by a national newspaper as its inhouse astrologer and had lost his confidence. I consider that the lie he told undermines his evidence, such that I place no weight on it.

63. The untruth also reflects badly on the Claimant. In any event, his explanation that the advert was for altruistic purposes makes no sense. On his account, he had no income and was having to borrow money to live on. In my judgment, the explanation given in his witness statement is likely to be correct, namely that it was an attempt to generate income for himself.

64. From about November 2016 the Claimant's Facebook account shows him posting promotional videos. He appeared on Radio Manchester on 24.2.17. He accepts that by August 2017 he was back working, including on his TV show 'Maurice's Psychic World'.

65. I should mention the evidence of Mr Forster briefly. He hosts psychic events and has known Mr Amdur since the early 1990s. He confirmed that the Claimant did not attend any of his events between 2015 and 2018, which I accept but he was not able to give any evidence beyond that as to what work the Claimant had or had not been able to do in the relevant period.

66. As I have said, I am prepared to accept that the Claimant was not able to work as much as usual in the months after the accident. There were also, in my judgment, a number of other factors which are likely to have impacted on the Claimant's ability to work. He had suffered the accident in July 2014 and on his own account had done little work in the months after it. He continued to suffer from the effects of that accident for some time after the exacerbation due to the index accident had ceased. His line of work is the kind which requires continual self-promotion, in the absence of which clients tend to drift away. He suffered further medical issues with his shoulders and chest pain. His father, to whom he was very close, died in October 2016 and Mr Amdur said that he went into 'a dark place' for a while afterwards.

67. The difficulty with the Claimant's claim is the absence of any reliable evidence on which to base an award for loss of earnings. The way in which the Claimant has put this part of his claim has varied from document to document. In the initial Schedule, he claimed a total of £65,000 p.a. lost profit for 2.5 years from his strands of income excluding rental income. In his witness statement of 29.4.19 he put his loss of net income at £100,000.

68. In the 'updated schedule' in the email of 21.6.20, he claimed for 'projected net income' of £75,000 p.a. for the years 2015/16 onwards less his actual net income, derived from the Levine accounts. This gave a total sum of £264,087 together with 'a loss of 40% of my projected income for the next ten years'.

69. After the Defendant served its counter-schedule, the Claimant prepared a further updated schedule of loss in his email of 26.7.20 in which £125,000 was claimed for each of the years 2015/16 and 2016/17 and a further £62,500 for 2017/18. This appears to have been based on the profit for four months in the Levine accounts 2014/15 of £41,659. At trial, Mr Amdur simply claimed £75,000 p.a without any explanation as to how that figure had been calculated.

70. I should say that the initial schedule is a curious document for something apparently drafted by solicitors. The figures are said to be estimates and appear to have been plucked out of the air. So, for example, we see 'loss of income from Readings £50Kpa, but say lost profit at £30K pa x 2.5 years'.

71. Mr Hill makes detailed criticisms of the way in which the Levine accounts have been prepared and says that they too are not reliable. The two most important points are in relation to the sale of valuable items and the lack of analysis of some of the receipts. The accounts for the years before the index accident show income from sales of paintings and other valuable items but no corresponding entries for the costs of those sales. The correct entries for chattels treated as part of a trade should be to debit purchases and credit capital introduced with the cost of the items. This was not done, meaning that the income is overstated.

72. Mr Hill had access to the accountant's working papers for the accounts for 2015/16 and noted that receipts shown on the bank statements of just over £60,000, which may be income, are not included in the Levine analysis. If they were not treated as income, no explanation is given. In other words, income may have been understated. Mr Levine did advise Ms Summerfield that '*there is no paper trail with regard to any income streams and when reviewing the bank statements for the years concerned I have had to rely on descriptions given to me by Maurice, including some substantial items of income which he has advised me related to the disposal of personal items which did not form part of his professional income. I have therefore excluded any such items from these figures*'. It is obvious that it must have been very difficult for Mr Amdur to say what each entry on his bank statements related to, years after the event.

73. In terms of professional input into formulation of the Claimant's claim, on 16.5.17 Mr Levine wrote 'to whom it may concern' suggesting that the total loss of income to date was £399,000 of which £80,000 was lost income from readings at £40,000 p.a. In her report of 4.7.19 Ms Summerfield said that '*given the specialist nature of Mr Amdur's work… and his noticeable lack of accountancy record keeping, it is inherently very difficult for me to say what he could have earned from 22.1.15 onwards but for the accident'.* She simply prepared her report based on the Claimant's view that 'he could have received' projected net profit of £120,000p.a. and calculated a net loss of income to 5.4.18 of £196,663. I have to say that it is surprising that she was prepared to put her name to this report which is worthless.

74. Mr Amdur has produced a number of emails/ letters to him in 2015 and 2016 which make reference to TV and other opportunities which would be available to him but

which he cannot take up. One appears to be from John Laing of Rigel USA Inc who is a film producer and director. Had some or all of this evidence been properly adduced, it might have formed the basis on which to make some assessment of loss, even just for loss of a chance. However, as it stands, I can give it very little weight.

75. The criticisms set out above as to the unreliability of Mr Amdur's financial records apply with equal force to any claim for loss from his 'wheeling and dealing' activities.

76. As a very basic cross-check, Mr McCluggage calculated from the bank statements that the Claimant received income of £39,773.90 in the 6 months prior to the first accident and £48,254.69 in the 6 months after the second accident, suggesting no loss of income at all (although that of course is not his profit).

77. For all the reasons set out above, I am not satisfied that Mr Amdur can prove any loss of earnings and I make no award for that head of loss.

Financial claims not pursued

78. As noted above, the initial schedule contained the following heads of loss which the Claimant has abandoned: replacement hire car delivery, massage treatment, travel to physiotherapy, extra cost of take away food, loss of value of damaged car and (the largest item) a sum of £50,000 for watches and a painting which the Claimant had to sell at an undervalue to cover his living expenses. Mr Amdur's evidence is that these items were included by the solicitor to increase the value of the claim. He abandoned some of these items in his updated schedules of June and July 2020 but persisted with the claims for sales at an undervalue at that point.

79. Mr Amdur is also not pursuing one element of his loss of income claim which was the sum of £10,000 included in the initial schedule for 'lost rental income from 1 Rutland Mews £35K to £40K, but say lost profit of £20Kpa. Claimant suggests that the extended period was say 6 months'. It was suggested to Mr Amdur that, looking at his bank statements, it is clear that he had 3 tenants in the property paying their rent regularly until 2016, which he accepted. I will come back to this later in this judgment.

80. In his witness statement of 29.4.19 the Claimant gives a fairly garbled account of how he thinks he has lost rental by renting out individual rooms, rather than the property as a whole. He suggests the loss is £35,000 from July 2014 to the date of the statement but accepts some of this pre-dates the index accident. In any event, this claim has not been pursued since. In my judgment, the wording in the schedule is so poor that it is impossible to say what 'extended period' means. The Defendant contends that it is a claim for a void period following the accident but that is not what it says.

Cost of physiotherapy

81. It appears that Mr Amdur was put in touch with Connexus, a claims management company, after the accident which arranged for the credit hire car and for him to receive physiotherapy. I am satisfied that he required physiotherapy as a result of the injuries sustained in the accident, that he had the treatment and that he is entitled to recover the cost which was £1180.

Cost of other medical treatment

82. At the beginning of his evidence, Mr Amdur did suggest that he was claiming for the cost of other medical investigations/ treatment, principally that provided by Professor Emery. It is unclear whether this was provided through Connexus or the Claimant's own Bupa cover. There are no proper invoices for this treatment and no evidence that Bupa have a subrogated claim for the cost. I make no award for those sums.

Credit hire

83. The Claimant was provided with a Jaguar replacement vehicle which he hired for 28 days at a cost of £15,732.19 inclusive of charges and VAT. Mr Amdur's evidence was that he was 'forced' to have the car which he was too ill to drive. It was only driven by his father and brother to take him to medical appointments and to do some shopping for him. Both had their own vehicles. The car was driven a total of 281 miles in the 28 day period.

84. It is for the Claimant to prove that he needed to hire a car while his vehicle was being repaired. On his own evidence he did not need to do so. He did not use it and his brother and father could have used their own cars or the Claimant could have used a taxi. I find that he did not act reasonably in hiring the vehicle and the hire charges are therefore not recoverable.

85. For completeness, the Claimant did not claim to be impecunious and therefore could have only recovered basic hire rates in any event. Mr Day's evidence is that the cost of hiring a like for like vehicle for the 28 days would have been in the region of £10,000.

Fundamental dishonesty

86. The Defendant's allegations that the Claimant has been fundamentally dishonest in relation to a number of aspects of his claim were fully sent out in the Re-amended Defence and Updated Counter-schedule. They are:

    a. Falsely alleging that he was unable to work as a psychic reader for a significant period of time after the accident

    b. The same false allegation in relation to 'wheeler dealer' work

    c. Advancing a false claim for loss of income from sales of candles and jewellery

    d. Exaggerating his pre-accident income to inflate his claim for loss of earnings

    e. Advancing a false claim for sales of items at an undervalue

    f. Advancing a false claim for loss of rental income

87. The Defendant contends that the evidence is clearest in relation to (a), (d) and (f) above.

88. Section 57(1)(b) Criminal Justice and Courts Act 2015 applies to a claim for damages for personal injury if '*the court is satisfied on the balance of probabilities that the*

claimant has been fundamentally dishonest in relation to the primary claim…'. Section 57(2) further provides '*The court must dismiss the primary claim, unless it is satisfied that the claimant would suffer substantial injustice if the claim were dismissed'.*

89. Knowles J in *Sinfield v LOCOG* [2018] EWHC 51 held that a claimant would be held to be fundamentally dishonest if he had acted dishonestly and '*that he had thus substantially affected the presentation of his case, either n respect of liability or quantum, in a way which potentially adversely affected the defendant in a significant way, judged in the context of the particular facts and circumstances of the litigation*'. The words 'substantially affects' were intended to convey the same meaning as 'going to the root of' the whole of a claim or a substantial part of it, as used in *Gosling v Hailo* as approved in *Howlett v Davies* [2017] EWCA Civ 1696.

90. Dishonesty is to be judged by the criteria laid down by the Supreme Court in *Ivey v Genting Casinos* [2017] UKSC 67. The court must ascertain subjectively the individual's knowledge or belief as to the facts. The question whether his conduct was dishonest is to be determined by applying the objective standard of ordinary, decent people.

91. The use of the past tense in s57 ('has been') and the case of *Roberts v Kesson* [2020] EWHC 521 both show that abandoning or correcting dishonest claims will not necessarily allow a claimant to escape a finding of fundamental dishonesty.

92. I bear in mind that Mr Amdur strenuously denies all allegations of dishonesty.

93. I also bear in mind, as Mr McCluggage accepted, that there is a difference between claims advanced dishonestly and claims for which there is no or no sufficient evidence. In my judgment, allegation (e) in relation to the items allegedly sold at an undervalue falls within the latter category. The Claimant has not produced any evidence as to the purchase or sale of the items or as to their value but there is no evidence that this was a dishonest claim.

94. Mr McCluggage submitted that allegations (a), (b) and (c) can all be reduced to one, namely that the Claimant falsely claimed that he was unable to work for a significant period after the accident when in fact he could and did do so. However, I consider that I need to analyse carefully what the alleged false claims actually were. There is no obvious evidence in the bank statements of Mr Amdur undertaking wheeler dealer activities in the post-accident period and I do not feel it is safe to infer that the various cash deposits must have come from such activities. Mr Amdur was not cross-examined in this regard (Mr McCluggage not having enough time to deal with every point). As regards the claim for loss of candles sales, Mr Amdur admitted in his witness statement of April 2019 and in cross-examination that he made some such sales after the accident. I am not satisfied that those claims were dishonest.

95. The positive averment which the Claimant did maintain was his claim that he was unable to work as a psychic reader for 2 years or more after the accident. Although the initial schedule refers to the Claimant being unable to work generally for 2 years, it is apparent from the context that this refers to work as a psychic. This assertion was repeated in the April 2019 statement and again in oral evidence.

96. For the reasons I have already given, I have found that this was an untrue statement and that the Claimant was able to and did do some psychic readings following the accident. Clearly, he must have known that he did that work and I find that in this respect the Claimant has been dishonest. I am also satisfied that this is fundamental dishonesty in that the dishonesty went to a substantial part of the claim. At its lowest, the Claimant was seeking £80,000 for lost psychic readings (in the Levine letter) and six-figure sums for loss of earnings generally. This head of claim formed a substantial proportion of the value of the claim and I also accept that the presentation of the claim in this way adversely affected the Defendant's ability to settle the claim.

97. As regards the allegation that the Claimant dishonestly inflated his pre-accident income, it is true that neither the Otigba nor the Levine accounts show the kind of income or profit pre-accident which would justify the claims advanced by Mr Amdur for loss of earnings. As I have already mentioned, it is arguable that the Levine pre-accident accounts overstate income. Mr Amdur claimed in cross-examination that he had been living in the USA for much of the time before 2014 and that explained the limited evidence of pre-accident income, although in fact the bank statements we have suggest he was in this country for much of the time.

98. Set against those factors is that the bank statements show significant amounts of income both pre-July 2014 (and post-accident), the source of much of which is unexplained. As I have already said, the accounts are unreliable for a number of reasons, not least because they depend on the Claimant identifying the nature of each entry. I have also alluded to what appear to be the trappings of a wealthy lifestyle. It seems to me possible that the Claimant may have earned much more before the accident than is recorded/ evidenced and I therefore do not feel able to say that the statements as to pre-accident income are dishonest.

99. Certainly, the presentation of the Claimant's claim has been slap-dash, even reckless, with a disregard for the need to prove losses claimed. Whilst the Claimant sought to blame his former solicitors, he signed the statements of truth on the documents they prepared. Further, he persisted with some of the claims, including the dishonest one, when acting in person,

100. Turning to the final allegation of dishonesty in relation to the claim for loss of rental income, as I have said above, I do not agree with the Defendant's submission that the Claimant 'recast' the basis of this claim in his witness statement. I am not satisfied that the original claim was for a six month void after the accident, rather than the equivalent of six months' rent, made up of losses on the lettings of individual rooms over a number of years. I am not satisfied there was a dishonest claim in this regard. Further, in my judgment, the claim for £10,000 was not significant in the context of this case.

101. Having found fundamental dishonesty, I have to consider whether the Claimant would suffer substantial injustice if the claim were dismissed. This is for the Claimant to prove and he has not addressed the issue at all or produced any evidence of any injustice. In *Sinfield,* Knowles J considered that the exception '*must mean more than the mere fact that the claimant will lose his damages for those heads of claim that are not tainted with dishonesty…What will generally be required is some substantial injustice arising as a consequence of the loss of those damages*'.

102. Section 57 is undoubtedly a draconian remedy but in my judgment, there is no basis on which to find that the exception to it applies. I must therefore dismiss the claim.

103. As required by s57(4) of the 2015 Act, I record that the damages which I would have awarded the Claimant but for the dismissal of his claim come to a total of £10,454.95, being made up of £4274.95 for the cost of vehicle repairs, £5000 for general damages and £1180 for the cost of physiotherapy.