**THE HIGH COURT**

**[2012 No.8784 P.]**

**BETWEEN**

**CHENG ZHANG**

**PLAINTIFF**

**AND**
**STEPHEN FARRELL**

**DEFENDANT**

**JUDGMENT of Mr. Justice Barr delivered on the 17th day of July, 2018**

**Introduction**
1. This action arises out of a road traffic accident which occurred on 17th April, 2011. The plaintiff was a pedestrian, crossing the junction of Merrion Row and Merrion Street Upper, Dublin, when she was hit by the defendant's car, which was turning left from Merrion Street Upper into Merrion Row. In a judgment delivered on 2nd December, 2016, the court dealt with the issue of liability between the parties. Liability was found in favour of the plaintiff to the degree of 55%. A finding of 45% contributory negligence was made against her, due to the fact that she was crossing while the pedestrian light was showing red against her. This judgment deals with the assessment of damages.

2. The essential conflict between the parties can be summarised in the following terms: it is the plaintiff's case that as a result of the accident, she suffered some soft tissue injury to her knees and pelvis and a blow to her head, although there was no loss of consciousness. She alleges that the circumstances of the accident were particularly terrifying for her, as she was lying paralyzed on the ground for a protracted period before the ambulance arrived. She states that she remained unable to move or to communicate for approximately one hour after the accident. It is the plaintiff's case that as a result of the accident, she went on to develop a severe and persisting mental illness in the form of Post-Traumatic Stress Disorder and an anxiety disorder. She also alleges that she has developed fibromyalgia and Irritable Bowel Syndrome.

3. As a result of these injuries, the plaintiff was unable to work and ended up losing her job. As she was resident in the country on a student visa, she was ineligible for any social welfare payments. As a result, she had no money and as a result of that, she lost her accommodation and became homeless. It is the plaintiff's case that her mental condition deteriorated considerably to a point where she has required ongoing and significant psychiatric treatment in this country, which is continuing. It is the view of the plaintiff's psychiatrist, that she will never work again. As the plaintiff is currently 36 years of age, this gives rise to a very significant loss of earnings claim into the future.

4. It is the defendant's case that the plaintiff has a myriad of physical complaints, for which no organic basis can be found. They accept that there was an injury to the plaintiff's left knee, which involved a rupture of the ACL, which was successfully operated on in China in 2012. While the defendant's psychiatrist, accepts that the plaintiff suffered PTSD after the accident, he is of the opinion that she is now suffering from anxiety disorder, which is the cause of her various physical complaints. He is of the opinion that with the continuation of the treatment which she is currently receiving, she will go on to make a reasonable recovery and will be able to return to work within the next two years, or thereabouts. Accordingly, it is argued that the loss of earnings claim is nowhere near as great as that pleaded on behalf of the plaintiff.

5. The plaintiff fell out with her former legal representatives in or about September 2014. Thereafter, she was obliged to pursue the litigation as a lay litigant. When she gave evidence in chief and underwent cross examination, she did so as a lay litigant. She was also on her own on a subsequent occasion when evidence was given on her behalf by Dr. Weston and Prof. Duffy. Thereafter, she was able to obtain the services of solicitor and counsel to prosecute the subsequent part of her case which was heard in June 2018.

**Background**
6. In the context of the injuries pleaded by the plaintiff, it is necessary to look closely at her pre-morbid functioning. The plaintiff was born on 13th January, 1982, in Liao Ning province in China. She is an only child. Her father worked as a self-employed architect. He died of cancer in 2004. Her mother is a retired account's assistant. It is the plaintiff's case that as a result of the accident and her inability to work, she had no form of income in this country. As a result, her mother had to take up part time employment in a clothing factory, so as to provide her with funds.

7. The plaintiff completed secondary education and then advanced to third level, where she studied English and Accountancy over three years, obtaining a primary degree. On completion of her degree in 2003, she moved to Ireland to further her studies in English. She attended the PACE School in Bray, where she completed an English language course. She paid for this from her own resources. While studying English, she worked on a part-time basis in a shop known as Green Tree Stores, where she worked for eighteen months. Thereafter, she worked in two dental practices in Deansgrange and in Blackrock. She also worked as a lounge girl in a pub.

8. In 2008, the plaintiff registered with BPP Accountancy College to study for the ACCA qualification in accountancy. The plaintiff stated that it was her intention to qualify as a certified accountant. She passed one of the subjects in June 2009, but was not successful in passing another subject in June 2010. In June 2009, the plaintiff had secured permanent part-time employment with O'Hagan & Co., Chartered Accountants in Dun Laoghaire, as a trainee accounts assistant. There she worked with a Ms. Amanda Dodd. She was paid at the rate of €12 per hour.

9. In her evidence to the court, Ms. Dodd stated that prior to the accident in April 2011, the plaintiff was a happy and outgoing person prior to the accident in April 2011. She was Ms. Dodd's assistant and they worked together in a small office. Ms. Dodd stated that the plaintiff got on well with her work colleagues and also with clients of the firm. She was very competent at her work. Ms. Dodd stated that she had no difficulty allowing the plaintiff deal with clients on the telephone.

10. Ms. Dodd stated that after the accident the plaintiff tried to work for a number of days, but was unable to continue. She then returned to China to receive medical treatment. She returned to Ireland in October 2011 and came back to work with the firm. However, she was not the same as before the accident. It was clear that she was in considerable pain. She had difficulty sitting on the office chair. Her mood had changed. She had become somewhat withdrawn and introverted. She went out sick again at the end of January 2012. The company was anxious to have her back, so they kept the job open for her as long as they could, before they eventually had to fill the post. With the upturn in the economy, the company was in a position to increase the number of accounts assistants. Ms. Dodd telephoned the plaintiff in 2017 to offer her the new position, as they were anxious to have her back in the firm. However, the plaintiff told her that she was not well enough to take up the position.

11. The plaintiff stated that when she initially came to Ireland, she did so under a student visa. In order to get such a visa, she had to give an undertaking that she would not become a burden on the State. It was for this reason, that she was not able to claim any social welfare benefits when she was unable to work after the accident. This changed in or about May or July, 2017, when her visa was changed to a Stamp 4 visa, and she was awarded a disability allowance in the sum of €193 per week.

**The Plaintiff's Evidence**

12. The accident happened at approximately 17:00hrs on Sunday, 17th April, 2011. The plaintiff had been attending accountancy classes in a college in Ladd Lane, Dublin 2. As she crossed the top of Merrion Street Upper, she was hit by the defendant's car, which had turned left from Merrion Row. The plaintiff stated that she was struck forcibly on the left leg and was thrown into the air. She recalled spinning in the air and coming to land heavily on the ground. She recalled lying there in great pain. She was unable to move. People came to her assistance and she was asked her name. However, she was unable to speak, although she could hear what they were saying to her. She stated that after what seemed like a considerable period of time, an ambulance arrived and she was placed on a spinal board and a brace was placed around her head and neck. She stated that she was terrified at this time, as she could not move. She had a vivid recollection of being placed into the dark and confined interior of the ambulance and then of being brought down a dark corridor at St. James' Hospital.

13. The plaintiff stated that at one stage she became faecally incontinent. She was extremely embarrassed by this. She stated that she was unable to move for approximately one hour. She recalled hearing screaming and it was only later that she learned that it was, in fact, her who had been screaming. She stated that she was in extreme pain when she was in the hospital. She was terrified that she would be permanently paralyzed.

14. X-rays were taken of the plaintiff's pelvis and left knee. These did not show any fracture. The plaintiff was discharged from St. James' Hospital at 22:00hrs. She was prescribed analgesia in the form of Ibuprofen and Oxynorm and anxiolytic medication in the form of Diazepam. She stated that a doctor at the hospital wanted to give her an injection of Lorazepam into her lower back, but she would not allow him to do that due to the severe pain that she was suffering in her back at that time. The plaintiff stated that as a result of being enclosed in the ambulance and being left in the darkened corridor while in the neck brace and on the spinal board, she has become extremely fearful in enclosed spaces. She stated that she was unable to sleep that night due to pain in the sacroiliac joint area and due to fear.

15. Two days later on 19th April, 2011, the plaintiff contacted her GP, Dr. Canavan because she had severe pain in her back and legs. He was so concerned about her condition that he drove her to Loughlinstown Hospital. He organised a wheelchair to be brought out to the car, so that she could be brought into the A&E Department. The hospital notes recorded that she complained of pain in her back and spine. She was tender on 11th – 12th ribs and in the posterior right side. She was also tender at L5/S1 and was tender over the right posterior/superior iliac spine. Bruising was noted in this area. There was also bruising on the left knee. There was a reduced range of movement of the knee. There was no neurovascular deficit. The plaintiff stated that she was prescribed Difene and Paracetamol and was also given Diazepam. X-rays of her lumbar and cervical spine were normal. A bandage was applied to her left knee.

16. After the visit to Loughlinstown Hospital, Dr. Canavan, told her to attend him on a weekly basis. The plaintiff did so and stated that on some weeks she attended with him twice a week. After a number of weeks, her left knee became very swollen. Her GP referred her to the A&E Department in St. Vincent's University Hospital. She attended there on 10th May, 2011. A doctor informed her that the ligaments in her left knee were torn and that she would need keyhole surgery, but that the swelling in her knee would have to go down before an MRI scan could be done. He told her that she would have to wait two weeks for the swelling to go down. The plaintiff stated that at that time she was on crutches. She also had severe pain in her back. She was having great difficulty coping with household tasks. She was unable to work and was not being paid. She decided to return to China to have the operation on her knee.

17. On 18th May, 2011, the plaintiff returned to China. On the following day, she had an MRI scan on her knee. She stated that the doctor told her that her ACL had been totally turned and was possibly torn and that the MCL was also partially torn. The surgeon told her that they would not do any work on the MCL as it had not fully ruptured. She was given a knee brace to wear on the left knee. On 23rd May, 2011, a thoracic x-ray was carried out in the hospital in China. On 26th May, 2011, the plaintiff had keyhole surgery to reconstruct her left ACL. She was kept in hospital for fifteen days. She had physiotherapy while in hospital. She stated that when she returned home, she was unable to sit properly, or to lie on her back due to pain. Following the operation, she was reviewed on a two week basis and continued to be prescribed analgesics.

18. Due to ongoing pelvic pain, she had a further x-ray of the pelvis at the end of May or in the beginning of June. This indicated that there was no fracture. She was told that she had a soft tissue injury to the area. Her mother took care of her in the period after the operation. She had physiotherapy treatment and was given exercises to do. The plaintiff stated that between May and October 2011, while in China, she had numerous faecal, urine and blood tests and a pelvic ultrasound. The results for these tests were returned as normal. She had these tests because she frequently needed to urinate and suffered from diarrhoea, in addition to having bowel cramps.

19. The plaintiff stated that in June 2011, she developed floaters in her eyes, but she did not do anything about that at the time, due to the pain in her pelvic area.

20. The plaintiff returned to Ireland in October 2011. She returned to work with O'Hagan & Co. They facilitated her, by allowing her to work two non-consecutive days and a third day of her choice each week. She worked a total of 36 days between October 2011 and January 2012. She stated that she had great difficulty dealing with the demands of her work. Due to pain in her pelvic area, she was unable to sit comfortably on the office chair. She found it extremely difficult to concentrate on the work that she was doing. She suffered from claustrophobia, due to the small office she was working in. She also experienced floaters in her eyes and she attended at the Eye and Ear Hospital, where her eyes were dilated. She stated that she was told that she was suffering from floaters in her eyes. She was prescribed a liquid for her eyes, but she stated that she could not take that, as she was not able to afford it.

21. On 24th October, 2011, she had MRI scans of her lumbar spine, pelvis and brain in the Blackrock Clinic. Nothing abnormal was found. On 9th November, 2011, she had a pelvic MRI scan in the Blackrock Clinic.

22. On 31st January, 2012, the plaintiff was seen by Mr. Gary O'Toole, Consultant Orthopaedic Surgeon. He noted that she had had a left anterior cruciate ligament rupture and had subsequently had a left anterior cruciate ligament reconstruction in China. He was of opinion that that injury had gone on to heal completely and he noted that she was "*now doing well*". The plaintiff also complained of pain in her right buttock, radiating down her right leg. It was exquisitely painful for her to sleep on the right side. She could not get comfortable. Her walking distance had decreased. She felt that she was holding her pelvis in an oblique manner. She found it very

difficult to go up and down stairs. She felt a clicking sensation in her hip. She was very worried about the pain in the pelvic area. The plaintiff also complained of right sided migraine type headaches.

23. Examination on that occasion was largely normal, save that when examined in the prone position, the plaintiff was exquisitely tender over the sacroiliac joint, but had a negative femoral nerve stretch test. The left knee showed signs of the surgical reconstruction. The knee was stable to examination, but exquisitely tender over the lateral joint line. She had a good range of motion. Radiology, MRI scans and x-rays available to him at that consultation, showed well preserved sacroiliac joints with no superior migration. An MRI scan of her spine showed some degenerative discs in the lumbar spine with no diffuse bulging. Mr. O'Toole's opinion was that the plaintiff had suffered from soft tissue damage in the form of a rupture of her left anterior cruciate ligament and probably a sacroiliac joint disruption after the road traffic accident. He referred her on to Prof. Tubridy for further investigation of her headaches and also referred her to Dr. Paul Murphy, a pain specialist for further investigation of the pelvic pain.

24. The plaintiff stated that when she tried to make an appointment to see Dr. Murphy, she was told that she would have to wait five months to see him. She felt that this was too long, given the extent of her pain at that time. Accordingly, she made the decision to return to China to get treatment. She returned to China on 12th February, 2012.

25. The plaintiff stated that she decided to return to China because she was in severe pain and there was no one to care for her in this country and she would have to wait a long time to see Dr. Murphy. On her return to China she was immediately seen by an orthopaedic specialist, who examined her pelvis. She stated that an MRI of her lumbar spine taken on 16th February, 2012 showed a moderate central disc bulge at L4/5, with slight compression of the dural sac. Shape and signal of the fila terminale thread appeared normal. An x-ray of her pelvis taken on 2nd April, 2012 was reported as showing bilateral sacroiliac joints – narrower, right side more obvious, bilateral joint space slight blurry. No obvious abnormality was noted in the pelvis constituents bones sclerotin. There was no specific sign of fracture or dislocation. A CT scan of the sacroiliac joints taken on 5th April, 2012 was largely normal. An MRI of her cervical spine taken on the same date was largely normal, save that at C5/6 and C6/7 there was posterior disc bulging with slight compression of the dural sac.

26. The plaintiff stated that on 21st April, 2012 she attended with a gynaecologist because she was suffering from painful periods. She was prescribed a traditional Chinese medicine, which helped a little. She stated that as the medicine was very expensive in Ireland, she was not able to afford it, so her mother paid for it. She stated that the pain was very debilitating and left her bedridden. She stated that since the accident her periods have been very irregular and the problem of pain persists to the present. The plaintiff stated that in June, 2012 she was diagnosed with irritable bowel syndrome by her doctor in China. However, there was no further information on this. On 29th August, 2012 an MRI scan was carried out on her left knee. This was due to a concern that she had in relation to a small hard particle, which was moving around her knee since the accident.

27. When asked in cross-examination how she spent her days while back in China, she stated that every day she would go out to a park, which was near her mother's apartment. She would stay in the park all day and sometimes return there at night. Her mother became very concerned about this behaviour, in particular due to the risk which it posed to her by being in the park at night. Her mother consulted with a psychiatrist, who agreed to meet the plaintiff. Her mother then persuaded her to see the psychiatrist. The plaintiff then came under the care of Dr. Lin Tianming, psychiatrist. He issued a report on 20th May, 2016 in relation to the treatment which he had given to the plaintiff between October, 2012 and her return to Ireland in September, 2014. This report has been referred to extensively in evidence and was quoted in the reports furnished by the defendant's psychiatrist, Dr. Blennerhasset. Accordingly, it is appropriate for the court to have regard to it. It is in the following terms:-

> *"Patient suffered from traffic accident in Ireland on April 17, 2011, which causes great physical and mental suffering to her. Traffic accidents scenes appear constantly, given patient insomnia, nightmare, fear from moving vehicle and claustrophobic space. Strengthening symptoms of restlessness, anxiety, low spirit, palpitation, avoidance, convulsion, etc. appear. Patient can't stand the physical and mental pain caused by the traffic accident, loses interest in life and has thought of suicide. She came to our hospital for medical treatment accompanied by her mother in October, 2012. From 2012 to 2014, her disease condition was relieved due to the use of Paroxetine, Lorazepam, Citalopram, Hydrobromide, resolving depression pill, Niuhuang Mingong tablet, with psychotherapy. Patient has no working income or insurance. Her family burden is relatively heavy. Consolidation therapy is suggested. Before the traffic accident, the patient has no injury history, lives and works normally. She can't work and has social functioning disorder due to traffic accident injuries, which greatly affected the quality of her future life."*

28. On 14th January, 2013, due to continuing pelvic pain, the plaintiff had x-rays of her hips. These were largely normal, but did show sclerosis of the acetabular rim of the bilateral hip joints. She also had a further lumbar spine x-ray on that date and had a further MRI scan of the left knee. A repeat x-ray of the pelvis on 16th January, 2014 was the same as the previous one. The plaintiff stated that in the period October, 2012 to September, 2014, she spent each day between her mother's apartment and the park. She liked going to the park, because she could not bear to be in an enclosed space, or very close to other people. She did not work at all during this period. She had no source of income.

29. On 16th September, 2014 the plaintiff returned to Ireland as her case was listed for hearing. At that time, she was represented by solicitor and counsel. However, due to what she perceived as being shortcomings in the preparation of her case, in particular as the necessary medical reports had not been obtained and as the CCTV footage of the accident had not been obtained from the gardaí, she discharged her solicitor and counsel. The case was adjourned to enable the plaintiff to obtain this material.

30. On 9th September, 2014 the plaintiff had an MRI scan of her cervical, thoracic and lumbar spine and an MRI of her brain. The cervical scan was largely normal, save for a tiny annular tear in the C6/7 disc, with no associated disc protrusion. The thoracic scan was normal. The lumbar scan revealed desiccation of the L4/5 intervertebral disc, with a moderate central disc protrusion, causing some impingement on the thecal sac and in combination with the hypertrophy of the facet joints, contributed to a mild acquired spinal stenosis at that level. The remainder of the scan was normal. The MRI scan of the brain was normal.

31. At the end of 2014, the plaintiff attended at the emergency department of the Beacon Hospital complaining of alternating constipation, diarrhoea and intermittent faecal incontinence. She was referred by Dr. Patrick Hyland-Maguire to Dr. Siobhan Weston, Consultant Gastroenterologist at the Beacon Clinic. She saw the plaintiff on 7th January, 2015, at which time she complained of an intensely erratic bowel pattern with alternating constipation and diarrhoea, with intermittent faecal incontinence and tenesmus and menorrhagia. She directed a diagnostic gastroscopy, which was carried out on 25th May, 2015. This revealed a lax lower oesophageal sphincter. It was otherwise normal. Gastric and duodenal biopsy were normal. A diagnostic colonoscopy was carried out on 13th July, 2015, which was normal. Dr. Weston's initial assessment in January, 2015 was that the plaintiff was suffering from severe irritable bowel syndrome as a direct result of the trauma of the road traffic accident and that she was probably suffering from post traumatic stress syndrome. A formal diagnosis of PTSD was subsequently made by the psychiatric team at Navan Road Primary Care Centre in

2016.

32. On 24th February, 2015, the plaintiff came under the care of Dr. Matthew Lynch as her GP, as Dr. Canavan had retired in 2011, while she was in China. When she consulted Dr. Lynch, she complained of pelvic pain on the left side, which had deteriorated considerably. She was unable to sit on a bus due to pain. She was attending St. Michael's Hospital in relation to bladder problems. She also complained of difficulty swallowing food. The plaintiff stated that she had attended St. Michael's Hospital in Dun Laoghaire for the purpose of a urology test, which had been organised by a gynaecologist. A further pelvic ultrasound was also arranged, which she had on 16th April, 2015. On 15th May, 2015, the gynaecologist received the report of the pelvic ultrasound. The results of these tests were normal. In November 2015, the plaintiff attended at her GP's practice and saw a locum doctor. This was for the purpose of renewing her prescriptions. He noted that she was of an anxious personality type. He assessed her as being well with some health anxieties.

33. The plaintiff stated that at this time, she continued to experience severe mental health difficulties. She was asked in cross examination why she had not told anybody about these difficulties on her return to Ireland in September 2014. She stated that she was ashamed that she had suffered mental health difficulties as a result of the road traffic accident. She was very fearful of admitting to such issues, as she feared that she would not be employed if it was known that she had mental health issues. She also feared that she would have no chance of forming any social relationships, or having a boyfriend, if it were known that she suffered from PTSD and anxiety. When asked as to how she spent her time since returning to Ireland, she stated that in the morning she would go to the park, as she liked to walk about under the clear blue sky. In the afternoon, she might take a bus and go to a park in the city centre. She was not working at this time. She had no source of income. She was not able to apply for social welfare, because she was on a student visa, as a condition whereof she had given an undertaking that she would not become a burden on the State. She relied entirely on whatever money her mother could send her from China. She stated that in order to fund her expenses, her mother had taken on work in a clothing factory.

34. On or about 21st April, 2016, the plaintiff had an incident in O'Connell Street. While crossing the road, she experienced a severe panic attack when she reached the central median. She stated that as a result of the oncoming traffic, she had severe flashbacks to her accident. She froze on the spot and held onto the traffic light. Eventually a passer-by came to her assistance. When he saw that she was in great distress, he recommended that she should go to the Citizen's Information Office. She went there and told that them she was experiencing great distress by being near traffic. They recommended that she phone the Samaritans. She did that and they recommended that she should consult with her GP. She went to Dr. Lynch on 21st April, 2016. In his notes, which by agreement were handed into the court, he recorded that she was very tearful throughout the consultation. She explained how she wanted to go out, but was very frightened when in public on footpaths, *etc*. She had received psychiatric treatment in China. She felt ashamed that she was still so upset that long after the road traffic accident. She had great difficulty sleeping and was only able to sleep for two to three hours per night. She felt that everyone was looking at her and thought that she was mad. She had lost control of her bowels and soiled her clothes. She thought that everyone knew that she had done that and was looking at her. He noted that she was tearful throughout the visit. She was despairing with no hope for her immediate future. She was unable to sit in the chair. She preferred to stand and regularly stretched. His assessment was that she was suffering from very significant depression, with Post Traumatic Stress elements. He noted that she was experiencing the symptoms against a cultural background and upbringing which appeared to encompass shame as an expected reaction. She was living alone in Ireland and was unable to work for the last five years. He had a long consultation with her and outlined a plan for recovery encompassing medication, CBT and counselling. Dr. Lynch then referred the plaintiff to the Community Psychiatric Service for further management.

35. The plaintiff came under the care of the Primary Care Centre, Navan Road, Dublin 7. She was commenced on Sertraline.

36. It is difficult to know exactly how the plaintiff got on at the Navan Road Primary Care Centre, because there is somewhat contradictory correspondence on Dr. Lynch's file. In a letter dated 26th August, 2016, Dr. Amir Yunos noted that the plaintiff had been attending their service since May 2016. She had also been attending the Day Hospital for stress management, anxiety management and psycho-education. At the time of writing, the doctor was awaiting a report from the clinical psychologist to give a definitive diagnosis. However, his impression was that the plaintiff was suffering from PTSD secondary to the RTA on 17th April, 2011. He noted that the plaintiff had been excellent in engaging with the service. Their primary concern was in relation to her overall quality of life. The plaintiff was still dealing with anxiety related symptoms, predominantly the PTSD component and secondary mood symptoms. At that time, they were satisfied with her progress. However, in a letter dated 23rd November, 2016, from Dr. Sudha Jain, locum consultant psychiatrist attached to the Day Hospital. He stated that as the plaintiff did not have any relationship with the Day Hospital staff and as she had been attending it since May 2016 and was not benefiting from it and had not made much progress and as she was becoming quite dependent on the Day Hospital, they had decided to discharge her from the Day Hospital.

37. His impression was that she was displaying highly aroused behaviour and was too dependent on the Day Hospital. He noted that when assessed by the psychologist, it showed avoidant and negativistic behaviour. This may have arisen due to a complaint which the plaintiff had made in relation to one member of the nursing staff, who she felt was too authoritarian.

38. That letter was followed by a letter dated 12th January, 2017, from Dr. Yunos explaining that the plaintiff had not been discharged from their service, but had been discharged from the Day Hospital. He noted that the plaintiff was seeing him every four – five weeks for brief psychotherapy and medication review. She had been reviewed by the clinical psychologist and they were awaiting further information. He noted that the plaintiff was under a lot of stress in relation to her ongoing court case. They were providing her with support from their service. He stated that they were providing service in whatever way they could, but unfortunately at the moment, the plaintiff was not suitable for Day Hospital input.

39. In a further letter dated 5th May, 2017, Dr. Yunos noted that the plaintiff had been referred to the Day Hospital, but her attendance had had to be discontinued due to her disruptive behaviour, as the team felt that her attendance at the Day Hospital was counterproductive and interfering with other clients attending it. The plaintiff was on Escitalopram 20mg and occasional sleeping tablets. He noted that he reviewed the plaintiff every four – six weeks. Unfortunately, her pattern of presentation consisted of complaints, dissatisfaction and negative rumination. At times she was histrionical and disruptive but somewhat re-directable. He stated that "*she would occasionally try her luck to ask for more Benzos, but never pushed beyond it*". He went on state that there had been an incident involving the security staff and the plaintiff. She was currently under a lot of stress from the prospect of being homeless and there was an ongoing financial issue as well. He stated that the team had had multiple meetings about her case and they had come to the agreement that it was best to discharge her from the service since her attendance with them could be counterproductive. He noted that she had multiple psychosocial stressors at that time, including future accommodation issues, employment, social support and finance. There was an unclear access diagnosis of anxiety disorder which could be present at times. There was also unclear PTSD and cluster C personality traits evident throughout engagement with the service. The plaintiff was stable with Escitalopram 20mg, but would request Benzodiazepines frequently. The team had come to the conclusion that there was little for them to offer and for the plaintiff to continue to attend with them might be counterproductive for her recovery. Accordingly,

they were discharging her back to primary care.

40. In September 2016, the plaintiff started to attend the Cathedral Clinic, which is a clinic run by Dublin City Council for homeless people. She attended for psychiatric treatment with the doctors in that clinic, as there was no charge for so doing.

41. In October 2016, the hearings in this case commenced. These were conducted by the plaintiff as a lay litigant. The proceedings were initially heard over five days on 26th, 27th and 28th October and on 1st and 2nd November, 2016. During a large portion of that time, the plaintiff was in the witness box giving evidence in chief and then undergoing a rigorous cross examination by senior counsel on behalf of the defendant. It is noteworthy that the plaintiff presented her case totally on her own. She had no McKenzie Friend or other support in the court. The plaintiff also called evidence from two doctors, whose evidence was taken on 14th November, 2017. On the following day, the plaintiff applied for an adjournment of the action so as to get legal representation. The defendant did not object to that application. Solicitor and counsel subsequently came on record to represent the plaintiff. She gave further brief evidence at the conclusion of the case on 20th June, 2018.

42. On 16th February, 2017, the plaintiff attended with her GP and reported that she had been told by her landlord that she would have to move out of her apartment, due to her being in arrears with the rent. She stated that her memory was getting bad. She reported that her medical card had been refused for administrative reasons. On 9th March, 2017, she again attended with the GP and appeared upset as before. She was given a temporary short prescription of anxiolytics. She was seen again on 3rd March, 2017, when there was no improvement in her condition.

43. On 10th April, 2017, she presented as an emergency walk-in to her GP due to distress. She requested a letter to support her request for emergency accommodation. She was having difficulty with her interactions with others. The GP furnished the necessary letter. On 17th May, 2017, the plaintiff's GP received a call from the GP in the Cathedral Clinic, stating that she was concerned about the plaintiff's mental state and had referred her to counselling in Primary Care. That GP, Dr. Ashling Quinn, furnished a letter to that effect on the same date. On 4th June, 2017, the plaintiff's GP received notification that the plaintiff had attended at the A&E Department of St. James' Hospital because of acute psychiatric distress. She had declined an offer of psychiatric admission at that time.

44. The plaintiff was notified by her landlord that she would be evicted on 16th June, 2017. On 15th June, 2017, she was given emergency accommodation in Finglas. However, she found that location very stressful and suffered a severe panic attack. She had to be removed to a hostel in the city centre. She also found that location very difficult and had difficulties dealing with other residents and with the manager of the hostel. Some time later, she was moved to different emergency accommodation in Clonskeagh, Dublin. In a statement on Dr. Lynch's file, the plaintiff stated that on 16th June, 2017, she was almost knocked down, due to the fact that she was in a depersonalised state following the panic attack on the previous day.

45. On 25th July, 2017, Ms. Cathriana Robinson, a social worker with Dublin City Council, wrote to the plaintiff's GP indicating that she had met with the plaintiff twice and that on both occasions, the plaintiff had been very distressed. She was concerned about the plaintiff's mental health. Two days later on 27th July, 2017, the plaintiff presented as an emergency walk-in at her GP's clinic. He was concerned by her mental state and made an immediate referral to the psychiatric team at Vergemount out-patient's department at Clonskeagh Hospital. There, the plaintiff came under the care of Dr. Margaret Fitzgerald, Consultant Psychiatrist. She was first seen on 8th August, 2017. Her presentation on that occasion and her subsequent treatment will be dealt with later in the summary of Dr. Fitzgerald's evidence.

46. One positive factor at that time, was that in or about July 2017, the plaintiff's visa was changed to what is colloquially known as a Stamp 4 visa. This enabled her to receive disability allowance of €193 per week. She was also entitled to a free travel pass and to a medical card.

47. On 1st September, 2017, the plaintiff's GP received a call from Ms. Catherine Redmond, a social worker in Dublin City Council. She stated that the plaintiff was with her and in a very agitated state. The GP arranged that the prescription that had been handed in from the Vergemount Clinic could be faxed to her, so that the plaintiff could access the medication immediately.

48. On 4th September, 2017, the plaintiff had an incident at her emergency accommodation. She heard a lot of thumping and noises coming from the flat above her. When she went to remonstrate with the occupants about the level of noise, she was verbally abused by them and by others at that location. She stated that she was not able to sleep that night and felt very frightened.

49. On 10th October, 2017, the plaintiff became involved in an incident with a member of the public while travelling on the Luas. The gardaí were called and she was brought to the Vergemount Clinic in a distressed state. Dr. Fitzgerald noted that the plaintiff continued to become excessively stressed as a result of noise in her accommodation and had had negative dealings with the manager of the accommodation. She had also had incidents dealing with officials in Dublin City Council and with staff in the GPO where she had a PO Box. She also had difficulty navigating traffic generally.

50. According to Dr. Lynch, the plaintiff had an emergency attendance at the A&E Department in Connolly Hospital on 12th October, 2017. At that time, she was found to be in a very agitated and upset condition. The doctors felt that the cause for that was felt to be psychiatric. Accordingly, she was referred by them to the psychiatric care team in the Navan Road clinic.

51. There is also reference in the documentation that on a date which is not exactly clear to me, the plaintiff was mugged, when a robber attempted to steal her bag. He put his hand into the bag, but did not get any cash, as she had no money. The only thing in the bag was spare pants, due to her difficulty with faecal incontinence. The plaintiff was very distressed by this incident, but was not physically injured.

52. Towards the end of 2017, the psychiatric team at the Vergemount Clinic became concerned by a deterioration in the plaintiff's mental health. After some persuasion, she agreed to be admitted to the Elm Mount Unit in SVUH under the care of Dr. Fitzgerald. She was only able to tolerate being an inpatient for a period of two weeks. However, some progress was made during this period, as she agreed to an increase in her medication and also engaged well with one on one therapy.

53. In relation to her symptoms at present, the plaintiff's current psychiatric symptoms will be dealt with in the review of the evidence given by Dr. Fitzgerald. On the physical front, she continues to suffer Irritable Bowel Syndrome for which she requires medication. Incontinence continues to be a problem. She also experiences generalised pain throughout her body. In particular, she experiences pain in the lower back and pelvic area, such that she cannot sit on low seats. She has had to purchase a raised toilet seat. She stated that she spends her days out of doors in open spaces as much as possible. She cannot bear to be in a crowded place, or to be near people. She does not like people touching her. She stated that one of her friends offered to come to the park

with her, but stated clearly that she could not accompany her into a shopping centre or into McDonalds, as she would be too embarrassed of the plaintiff's behaviour in a crowded place.

54. In her evidence given on 20th June, 2018, the plaintiff was asked about how she saw the future. She stated that given her current physical and mental difficulties, she could not see any man wanting to marry her. Nor could she ever see herself working again. She stated that she was unable to tolerate working in confined spaces. She was also unable to tolerate noise. She could not handle being near children. This was a source of great regret to her, because before the accident she had hoped to get married one day and to have a family.

55. In relation to what had been her hopes for her future career prior to the accident, she stated that she had always been an ambitious person. She had performed well at school and at third level in China. She had come to Ireland for the purpose of improving her English and had completed a course to that end. She had gone on to enrol in a course leading to a qualification as a certified accountant and she was also working part time. She stated that she greatly enjoyed working and enjoyed the people that she worked with. She had hoped that in time she would become an accountant and would work with O'Hagan & Co., or with some other accountancy firm.

56. In the course of cross examination, it was put to her that if she was to relocate back to China, she might do better, as she would have the support of her mother. The plaintiff stated that she had lived all her adult life in Ireland. She stated that she enjoyed the democratic values and freedoms in this country. She used to enjoy going to church, but she had been unable to do so since the accident. She liked living in Ireland and wished to make her home here.

57. The plaintiff was also asked on what she spent her social welfare payment. The plaintiff stated that she spent most of this repaying debts that she owed to friends in Ireland and debts which her mother had incurred by way of loans to relatives in China, which had been used to fund her treatment and subsistence in the years since the accident. She stated that all the family savings had been used up in paying for treatment in respect of her father's cancer in the years prior to 2004. The plaintiff confirmed that when the case was over, she would continue with the treatment regime as advised by Dr. Fitzgerald and would use some of the money to pay for private sessions of CBT.

**The Plaintiff's Medical Evidence**

58. The first area concerns the initial physical injuries suffered by the plaintiff in the accident on 17th April, 2011. These are dealt with in the medical report furnished by Mr. Gary O'Toole, Consultant Orthopaedic Surgeon, which was admitted in evidence. Essentially, while initial x-rays had been clear, a subsequent MRI revealed a complete rupture of the anterior cruciate ligament in the left knee, together with a partial rupture of the medial collateral ligament. As already outlined, the plaintiff underwent a reconstruction of the ACL in China. When reviewed by Mr. O'Toole on 31st January, 2012, he was of the view that that injury had gone on to heal completely and was doing well.

59. The plaintiff also complained of pain in the pelvic area in the right buttock and right leg. That was causing the plaintiff pain when sitting and was present on a constant basis. Mr. O'Toole had referred the plaintiff on to Prof. Tubridy and Dr. Paul Murphy for further evaluation. However, due to the long waiting time before she could get to see Dr. Murphy, she elected instead to return to China for further treatment.

60. From a report contained in the GP notes, it would appear that the plaintiff did get to see Prof. Tubridy in May 2016, at which time she had a wide array of symptoms for which there was no clear neurological cause. He noted that she had had an MRI brain scan in January 2012 which was normal. She had had a further scan in December 2014 in the Beacon Clinic, which was also normal. She had an MRI of her cervical spine, which he believed was normal as well. She had been diagnosed by community psychiatry as having Post Traumatic Stress Disorder. She reported that in China she had been diagnosed as suffering from claustrophobia and Irritable Bowel Syndrome. Prof. Tubridy noted that she presented to him on 31st January, 2017, in an almost manic state. She had pain in the joints in her back, pelvis and knee. She was convinced that her "*neurology*" had changed. He did a full examination and her neurological examination, as before, was normal. He could not find anything wrong with her neurologically, but she was clearly very upset. She had pressure of speech and her symptoms were ongoing for a long time. She complained of dizzy spells since the previous year and he referred her for physiotherapy treatment. She had chronic pain and she may need a pain management referral. He stated that it was hard to get a handle on which specific symptom was bothering her most. He thought that the main issue was going to be CBT in trying to deal with the PTSD, which he thought was overriding everything else. He did not think there was anything sinister from a neurological point of view going on in the scans, in her history and in the MRIs. He noted that a previous doctor in 2015 had reported that the MRI scan of the brain and spine were unremarkable. There were mild disc bulges in the cervical spine and also at L4/5, but no nerve root compression. It was not causing any significant symptoms. He concluded by stating that he did not believe that he had much to offer from a neurological point of view. He had prescribed Amitriptyline. He was not sure that there anything further he could do for the plaintiff.

61. Mr. O'Toole's conclusion was that the plaintiff had suffered from some soft tissue damage in the form of a rupture of her left anterior cruciate ligament and probably a sacroiliac joint disruption after the road traffic accident. He noted that she had been referred for follow up with two specialists, but had not attended with them. He noted that since the time of the accident, her clinical complaints had remained and indeed new symptoms had manifested themselves. There was no surgical solution for her problems. He did not expect her symptoms to improve without the input of a specialist neurologist and pain management specialist. That opinion was based on a further consultation with the plaintiff on 30th September, 2014.

62. In relation to her bowel problems, the plaintiff came under the care of Dr. Siobhan Weston, Consultant Gastroenterologist at the Beacon Clinic, Dublin 18. She first saw the plaintiff on 7th January, 2015, on a referral from a doctor in the Accident and Emergency Department. At that time, the plaintiff was complaining of severe pain in her back and difficulty with her bowels. She had problems with bowel evacuation, which was occurring five times per day. She also complained of internal noises and feeling that she could not pass stools. There was a small amount of rectal bleeding. Dr. Weston arranged for a diagnostic gastroscopy and a diagnostic colonoscopy to be carried out. These were essentially normal.

63. The plaintiff's bowel pattern was predominantly that of constipation, alternating with urgency, with explosive diarrhoea and faecal incontinence. The constipation was clinically managed with medication prescribed following the colonoscopy at SVUH. Her diarrhoea was regularly triggered by stress and could occur with little warning, resulting in faecal incontinence on numerous occasions. As a result, the plaintiff often found herself having to run for a public toilet in a local restaurant, or nearby shop. On several occasions, she was refused the use of the toilet, which had been reserved for paying customers. In addition, she experienced faecal incontinence on a number of occasions while taking public transport. She carried a spare pair of trousers with her at all times. Her bowel pattern was very erratic and very difficult for her to regulate since the accident, with diarrhoea occurring as a direct consequence of how anxious, or depressed she was. Dr. Weston noted that she had had to get off the bus urgently on at least four separate occasions since June

2016 up to 17th October, 2016. On that occasion and on a previous occasion, the plaintiff had actually experienced acute faecal incontinence while on the bus. The drug, Colpermin, was prescribed for her Irritable Bowel Syndrome in April 2016. It had helped to some degree, but as illustrated by the history outlined, had not enabled complete avoidance of severe diarrhoea and faecal incontinence. The plaintiff's quality of life had been significantly affected.

64. When Dr. Weston reviewed the plaintiff on 31st August, 2016, she was of opinion that the plaintiff had developed severe Irritable Bowel Syndrome as a direct result of the road traffic accident, which had affected her bowel function, with detoriation of her day to day quality of life, dignity and ability to work. Additionally, it was very unfortunate that she had encountered difficulty with bathroom access in public on numerous occasions. She thought that that would have also contributed significantly to exacerbation of an already difficult social situation. She was of opinion that the plaintiff would require cognitive behavioural therapy to treat her acquired medical condition, which stemmed from the accident.

65. When reviewed on 3rd January, 2017, it was noted that the plaintiff's gastrointestinal problems were still ongoing. Her IBS could be caused by a stressful event. Dr. Weston stated that many patients can have both constipation and diarrhoea. They can vacillate between these two conditions. This can be very distressing. In relation to causation, Dr. Weston was of the view that if the plaintiff's bowel movements had been normal pre-accident, as had been reported by the plaintiff, and she had then been subjected to a traumatic event in the accident itself, which appeared to be the case as she had faecal incontinence in the hospital immediately after the accident; on this basis, her symptoms appeared to be connected to the accident. It was not unusual for people to be subjected to a stressful event and then to lose control of their bowel or bladder. Irritable Bowel Syndrome can be unpredictable. In relation to a prognosis, she felt that that was more a matter for the plaintiff's psychiatrist.

66. The defendant did not call any evidence on this aspect, but instead by agreement a report was submitted from Prof. John Hegarty dated 24th April, 2017. Having reviewed the plaintiff's history, he formed the opinion that the characteristics and duration of the plaintiff's symptoms and the negative gastrointestinal evaluation, would indicate a diagnosis of moderately severe Irritable Bowel Syndrome. On the basis of the temporal relationship of the accident with the onset of these symptoms and the subsequent diagnosis of Post Traumatic Stress Disorder/anxiety disorder, he felt that it was probable that the IBS condition developed as a result of the stress/anxiety associated with the accident.

67. Evidence was given by Prof. Trevor Duffy, Consultant Rheumatologist, at Connolly Hospital in relation to the diagnosis of fibromyalgia. He had seen the plaintiff on one occasion on 19th June, 2017, at the request of the plaintiff's GP, who had referred her to him with a possible diagnosis of fibromyalgia. Prof. Duffy confirmed that diagnosis. He explained that fibromyalgia was a chronic pain syndrome. It affects approximately 6-10% of the general population. The diagnosis is made on the basis of the presence of a constellation of symptoms affecting both sides of the body. These symptoms include chronic generalised pain, fatigue, sleep disturbance with altered mood, and paraesthesia. It can be associated with migraine, irritable bowel syndrome and post-traumatic stress disorder.

68. When he saw the plaintiff, she complained of generalised pain all over her body. This was present throughout the day, without a clear mechanical or inflammatory pattern. She had no significant aggravating or relieving factors. Symptoms were associated with a sense of tightness, muscle fatigue and generalised fatigue. She reported non-restorative sleep. She also described ongoing headaches and a sense of pins and needles, particularly focussed at her scalp. Clinical examination revealed that the plaintiff was thin and outwardly healthy, but was exhibiting some anxiety during the consultation. She had a full range of movement at all joints, with no synovitis. She had multiple trigger points. The plaintiff had brought with her copies of detailed previous blood work up, which was all unremarkable.

69. Professor Duffy was of the definite opinion that the plaintiff's rheumatological problems were consistent with a diagnosis of fibromyalgia. Given the timing of the onset of her complaints and the associated features, he was of the opinion it was highly probable that her condition resulted from the road traffic accident. Her principle problem was the PTSD and the two conditions, being fibromyalgia and PTSD, were closely connected. He stated that it was difficult to pin point when the fibromyalgia began, but he was of the view that if the plaintiff had not had the road traffic accident, she would probably not have fibromyalgia.

70. In terms of treatment, there were a number of treatments available, but these were somewhat limited. Usually a multifaceted treatment would be used, which included drugs, but not all patients responded to these, it also included exercise, which was effective in reducing pain and self-management, which involved educating a patient how to manage their condition. He stated that fibromyalgia was a chronic condition which typically persists. He thought it unlikely that the plaintiff's symptom profile would improve significantly. He had referred the plaintiff to the rheumatology department at Connolly Hospital, where she would come under the care of his team. However, he thought that her primary treatment would be through her psychiatrist.

71. In terms of the future, he did not think that the plaintiff would regain professional functioning e.g. in accountancy. She may get back to some work. She had chronic pain, which could be exacerbated by fatigue. She also had cognitive difficulties, commonly known as "fibrofog", which is an inability to concentrate properly. Given those symptoms, in conjunction with her PTSD, he thought that it would be difficult to see any employer coming to the view that she would be competent to do her work without mistakes. However, she may be able for low grade tasks. He did not think that he could really improve the situation, such improvement, if any, would be through her psychiatrist. He hoped that she may make some improvement in sociable function i.e. in terms of engaging with people in a non-demanding setting. In terms of causation, he thought that the plaintiff's fibromyalgia was likely caused by the RTA and the PTSD. He thought that the two were inextricably linked. If she had not had the accident or the PTSD, she would not have developed fibromyalgia.

72. In cross examination, Professor Duffy stated that he did not think that the plaintiff would work again as an accounts assistant. While he had only seen her once and she had not yet had any of the treatment recommended for her at Connolly Hospital, he thought it unlikely that any intervention from him would get her back to her pre-accident work. He accepted that it would be a goal of their treatment to get her back to work, but his expectations were limited. He stated that from his experience of the plaintiff, he did not think she could concentrate sufficiently and therefore was not fit for work. He accepted that he had only met her on one occasion for about 45 minutes. He had not consulted with any of the other treating doctors. He was aware that she had consulted a large number of doctors. It was put to the witness that none of the other doctors had said that she was not fit for work. Professor Duffy stated that he thought that the extent of her contact with the various specialists was more technically focussed in relation to specific complaints, rather than looking at her general capacity for work. For example, she had seen urologists, who had done urine tests and when these were negative, that was the end of their engagement.

73. In relation to his diagnosis, he stated that the plaintiff had described a generalised pain all over her body. That was the classic definition of fibromyalgia. The diagnosis was based primarily on the history given by the plaintiff, on his clinical examination and on the available test results. At the consultation, he had done a full musculoskeletal examination. Her joints had a normal range of

movement. He also observed the plaintiff during the examination, coming in, sitting, standing, etc. On examination he had found tenderness on the trigger points to mild palpation. She showed visible signs of tenderness and reported tenderness. He stated that there were eighteen trigger points and she reached the threshold criteria for fibromyalgia. He recalled that she was positive at all the trigger points. He did not have a specific record with him of the exact number, but he recalled multiple trigger points being positive. She had exceeded the threshold criteria of seven trigger points.

74. Professor Duffy stated that it was typical for a person with fibromyalgia to have a normal range of movement in their joints. However, she had no synovitis, which was joint inflammation, which could be indicative of other possible conditions. The witness stated that it was common to develop fibromyalgia over a period of time after an accident. When pressed on why he thought the plaintiff could not return to her pre-accident work, Professor Duffy stated that she did not have the level of cognitive functioning necessary for such work.

75. In relation to her current activities of daily living, Professor Duffy stated that he had asked her about such activities, however she was not able to give a clear answer, or a clear account of her everyday life. He thought that she was not able to concentrate or process the information. It was difficult to get clear answers from her. He could not recall what her specific answer had been. He accepted that such information would have been helpful. However, he stated that he made his diagnosis based on his examination. In terms of medication, he had not started her on any medication, as she was already on citalopram, which was an anti-depressant, but was also was used for fibromyalgia. Medication would be prescribed when she commenced the treatment programme in Connolly Hospital in the public system. This programme would include medication, exercise and self-management. They had had an appointment with her for May 2018, but it had had to be postponed. They were due to see her soon.

76. It was put to the witness that the defendant's expert, Dr. McCarthy, was of the opinion that the plaintiff's pain was due to anxiety. The witness accepted that there was an overlap between fibromyalgia and anxiety and other psychiatric disorders such as PTSD and anxiety. He confirmed that he had not consulted with the plaintiff's psychiatrist before reaching his diagnosis.

77. The critical evidence in this case was given by Dr. Margaret Fitzgerald, Consultant Psychiatrist at the Vergemount Outpatients Clinic at Clonskeagh Hospital and also at the Elm Mount Unit in St. Vincent's University Hospital. She first saw the plaintiff in August, 2017, on a referral from the plaintiff's GP. At that time the plaintiff complained of anxiety and panic attacks, low mood, hopelessness, an inability to concentrate, reduced libido, insomnia and somatic complaints in the form of headaches, abdominal pain, joint pain and diarrhoea. She exhibited a number of symptoms of PTSD, notably anxiety, a difficulty to be near people, a feeling of being out of control, panic attacks, flashbacks to the accident, hyperarousal particularly in relation to noises and lights and a heightened response to people being near her, or touching her. She had also exhibited depersonalisation, being an inability to respond to what was going on around her, particularly at the time of the RTA when she felt paralysed.

78. In relation to her pre-morbid history, the plaintiff informed her that she had had no prior psychiatric history. They also spoke to the plaintiff's superior at work, Ms. Amanda Dodd, who reported that the plaintiff had no evidence of any psychiatric problems prior to the accident. There was no reported family history of mental illness. In the circumstances it appeared that she had no pre-existing psychiatric illness.

79. Dr. Fitzgerald stated that she had been aware that the plaintiff had been under the care of the mental health clinic on the Navan Road. She was aware that there had been an issue as to whether the plaintiff had assaulted a security guard. She felt that that reflected the plaintiff's hyperarousal whenever she was touched. She would see that as an assault. As a result, she had lost trust in the psychiatric services. She stated that initially, the plaintiff had difficulty interacting with her team. The plaintiff would not stay indoors for long. She was terrified of life and was constantly moving. She would not sit indoors. She had an unusual gait. She was exhibiting very stressful behaviour. She shouted a lot. This had given rise to unpleasant incidents in public places, such as on the Luas and in the GPO. She stated that the plaintiff had been brought to them on a number of occasions by the gardaí following similar incidents.

80. Dr. Fitzgerald formed the opinion that the plaintiff had extensive and extreme mental health issues arising from the road traffic accident. She thought that the plaintiff was suffering from PTSD arising from the fact that at the time of the accident the plaintiff thought that she might die, or be left paralysed. She had flashbacks to the accident and had nightmares about it at night. She also exhibited a disassociation reaction, whereby she saw herself as being separate from her body. She experienced severe stress when crossing the road. She had physical symptoms in the form of gastro-intestinal problems, headaches and dizziness. She was exhibiting avoidant behaviour in that she could not go to work or meet friends. She could not tolerate crowded places. She also had to avoid staying indoors due to claustrophobia. She had to go out to parks and other open spaces. She had also developed a negative belief about herself. She was very distrustful of people. The doctor felt that that the plaintiff was exhibiting some paranoia. She felt that her body had changed and the doctor thought that that was part of her stress reaction. The plaintiff stated that she felt very "separate" from what was going on around her. She had an exaggerated sense of pain e.g. when sitting, or if she was touched, she felt excessive pain. That was a feature of hypersensitivity.

81. Dr. Fitzgerald stated that the plaintiff exhibited marked functional disability. Prior to the accident, she had been very ambitious. She had wanted to become an accountant. She was excited about her future. After the accident, she was unable to work, she had to borrow money from friends, she had stopped attending church and she felt that she would never get married, as she could not see anyone wanting to live with her. She could not see herself having children. The doctor thought that the plaintiff's fears were understandable. She stated that although the physical injuries arising from the RTA were not very serious, psychologically the accident had had a catastrophic effect on her.

82. Dr. Fitzgerald stated that in January, 2018, due to a deterioration in her mental health, a decision was made to admit the plaintiff to the Elm Mount Unit at SVUH. She attended for two weeks, but was not able to tolerate the ward for longer. Prior to admission the plaintiff's mood had deteriorated substantially and the team was very concerned about this. She had been presenting frequently in the out-patients department, but her mood continued to deteriorate. The plaintiff felt ashamed and guilty that she was not able to manage the effects of the road traffic accident and was not able to lead a normal life. She felt helpless and expressed a wished that she was dead. The team was concerned by the level of her distress. She was not able to tolerate being in the hospital for longer than two weeks, even though she had a private room.

83. However, the in-patient stay in hospital allowed them to increase her medication and to give her one on one therapy. The plaintiff made a little improvement. She was able to tolerate longer interviews, running to some fifteen/twenty minutes. Prior to that she was only able to manage a few minutes at a time. She was not normal in interviewing, but was able to remain longer than previously. She continued to have hypervigilance and hyperarousal.

84. The treatment consisted of medication, CBT and continuing contact with the social worker. She was finding court appearances

very stressful. However, her insight had improved and she saw the need for legal representation. They changed the medication slightly and the doctor thought that that had helped a little and had given her some insight into her condition. Previously, she did not understand that she had lost the ability to trust people, nor how to avoid situations that would make her feel worse. She became upset when she realised how she had been before the accident and when she was in China. The doctor was of opinion that the plaintiff did not understand the effect of the depression and anxiety on her physical complaints.

85. The plaintiff was most recently reviewed by Dr. Fitzgerald on 12th June, 2018. She continued to feel generalised anxiety and felt stressed much of the time. She was anxious about the court case, and with regard to paper work which she needed to prepare for her solicitor. Her inability to complete that task, caused her shame and low self-esteem. She was anxious in her accommodation, as she was fearful of fellow residents, their lifestyles and expressed emotions. She continued to find it difficult to remain indoors, although at times she had spent considerable time in bed, when her pain deteriorated. She was able to get to sleep, but continued to experience nightmares and panic when she slept. This occurred once a week. She reported recurrent headaches, which caused fatigue, or could waken her at night. Her energy was reduced. She experienced fatigue at times and often needed to lie down to rest during the day. She continued to find it difficult to tolerate loud noises, such as interpersonal interactions, children crying and environmental noises. However, she stated that she was more in control of her responses and had not shouted at people in the recent past. Her mood remained low, with marked hopelessness at times. Sometimes she wished that she was dead. She experienced recurrent suicidal ideation, but reported that her fear of pain would stop her from acting on those thoughts. She had reduced interest and felt her mood was flat and restricted. She found it hard to feel comforted. However, she was able to enjoy brief periods of pleasure. Her concentration was poor and deteriorated when stressed. She felt disorganised in the ordinary aspects of her life.

86. At the examination, she exhibited some compulsive behaviours, such as fiddling continuously with tissues and biting her nails. However, she remained in the office for the whole of the review. Her speech was rapid and disjointed at times. Her mood was low, with occasional tearfulness. There was no evidence of psychosis. She expressed hopelessness, death wishes and suicidal ideation. There was no immediate suicidal intent. The doctor felt that the plaintiff had good insight into her symptoms. She felt that her risk of suicide was low. However, should her mental state deteriorate, the risk of suicide would elevate. Her risk of negative interactions with the community had reduced, but would elevate with stress.

87. Dr. Fitzgerald's opinion was that the plaintiff had suffered extensive and extreme mental health issues, triggered by the road traffic accident in April, 2011. The diagnosis was of post-traumatic stress disorder, with secondary depression. Her diagnosis was complicated by a number of co-morbid symptoms and behaviours, as a result of her exposure to the distress of believing she was dying following the accident. She experienced and continues to experience a number of symptoms such as: flashbacks, recurrent distressing nightmares, disassociate reactions, persistently depressed mood, excessive psychological stress and she has had marked physiological reactions, which have affected her bodily functions, such as the gastro-intestinal symptoms, headaches, joint pain, muscle pain, dizziness and loss of sensation. Her functional ability had markedly reduced with the development of avoidant behaviour, in order to avoid experiencing external stimuli which triggered her anxiety. This had resulted in her lacking social supports. She has been unable to pursue her ambition or be successful either academically or in the workplace. She had experienced extreme poverty and incurred significant debts during the period she was not receiving any support from the State. She had experienced the stress of homelessness, which persists to the present. She continued to experience the distress involved in living in homeless accommodation, with other clients who had different needs. She experienced the stress of uncertainty with regard to her future and the loss of hope of engaging in the workplace or having a relationship and a family.

88. In relation to a prognosis, Dr. Fitzgerald noted that the plaintiff had had a partial and limited response to treatment, with modification of symptoms and behaviour. However, she thought it unlikely that the plaintiff would resume normal functional ability, or that she would be able to return to work. As her symptoms continue to be severe, chronic and enduring despite treatment efforts to date, her prognosis remained guarded.

89. When pressed on this during her evidence, Dr. Fitzgerald stated that she could not tell if the plaintiff would make a recovery in the long term. She thought that she would make some small recovery, but she would not reach the level where she had no symptoms. The plaintiff will continue to have anxiety and depression, as she has had those symptoms for seven years. This was significant, given her age and the years in her life that were affected. Her symptoms had been severe and prolonged. She was of opinion that it would take a very long time for the plaintiff to move towards a recovery. She did not see the plaintiff ever returning to her pre-accident work.

90. In terms of treatment, the plaintiff had had CBT with her team. The plaintiff would require ongoing CBT and medication as part of a long term treatment plan. This was necessary because depression was a recurrent disorder. Even with privately funded treatment, the prognosis would still be somewhat gloomy. Hopefully treatment would enable the plaintiff to enjoy some aspects of her life.

91. In cross-examination, Dr. Fitzgerald accepted that with treatment, there would be some hope of improving the plaintiff's mental state. It was put to her that the defendant's psychiatrist, Dr. Blennerhasset, was of the view that when the case was over, this would relieve her level of stress substantially and she would be able to return to work in time. Dr. Fitzgerald accepted that that was his opinion, but stated that she remained pessimistic in relation to the plaintiff's prognosis. She had practised psychiatry for many years and many patients do not make substantial improvement. She had seen the severity of the plaintiff's symptoms over the last ten months or more and had formed her opinion based on her clinical impression of the plaintiff. It was put to the witness that in Replies furnished some four years after the accident, the only mention of a psychiatric complaint was that the plaintiff had a "phobia about cars". Dr. Fitzgerald stated that that may have reflected a lack of insight on her part into her psychiatric condition at that time.

92. It was put to the witness that the plaintiff had a large number of physical complaints, for which no organic cause had been found. The doctor understood that that was the case. She had formed her opinion of the plaintiff's mental state based on the history given by the plaintiff, the collateral history taken from Ms. Dodd, their observation of her mental state and how she behaved during interview. She accepted that at one stage, she had suggested to the plaintiff that she might be better off returning to China to live with her mother. However, the plaintiff had not accepted that advice. She stated that often patients may not accept the advice that is given to them. She accepted that by returning to China, that may have been helpful in relation to some of the ongoing stressors, such as homelessness. She accepted that that would have been one stressor less, but she could not say how beneficial it would have been to the plaintiff to return to China. She could not recall why the plaintiff had not taken that advice. She stated that it had taken a long time to persuade the plaintiff about certain treatment, for example to accept an increase in her medication.

93. It was put to the witness that if the plaintiff accepts the advice that is given to her, the future would be brighter. Dr. Fitzgerald stated that while she hoped that the plaintiff would make improvement, she was not sure to what level this would be. She was not in a position to say it which be the better option, either for the plaintiff to return to China or remain in this country. She was not aware of what treatment would be available to the plaintiff in China.

94. It was put the witness that the plaintiff had applied for jobs since the accident, on at least two occasions in 2016. Dr. Fitzgerald stated that the plaintiff had not told her that she had applied for any jobs. If she had applied for any jobs while seeing her team, this showed that she had a very poor insight into her condition at that time. In relation to the stressor of her being homeless, she accepted that if the plaintiff were given accommodation, that would hopefully reduce her level of anxiety. She also accepted that the fact that the plaintiff was in receipt of social welfare payments, was another stressor that had been reduced. However, the plaintiff had enormous debts which she had to pay back. However, it was positive that she now had some source of income.

95. In relation to the assertion that the plaintiff had great difficulty engaging with the public, it was put to the witness that the plaintiff was able to get on buses to travel into town, when there would be other people on the bus. Dr. Fitzgerald stated that she needed to take the bus to get to the open spaces. She felt that the plaintiff met the criteria for PTSD. She exhibited a lot of abnormal behaviour which was explained by psychological factors. It was put to the witness that the plaintiff had stated in her evidence that while she had heard of counselling, she had not actually received any counselling. Counsel suggested that counselling was an intrinsic part of treatment. Dr. Fitzgerald agreed. She stated that they would use the word therapy. Initially, the plaintiff was very difficult to engage with, so their efforts were to get her to engage with them and then move on to suitable therapy. However, she was not able for that at the initial stages. Dr. Fitzgerald accepted that in her letter dated 19th September, 2017, she had recommended that the plaintiff should obtain legal representation. She accepted that that stressor had been lifted, when her new solicitor and counsel came on board. She accepted that the early conclusion of her court case would not eliminate her stressors, but should improve her condition. She accepted that in the letter dated 17th October, 2017, she had stated that the plaintiff presented somewhat "calmer" that day. She accepted that the plaintiff had made some progress since first engaging with her team. Her sleep had improved. However, she still experienced depersonalisation. She had difficulty in relation to her accommodation and also handling traffic and engaging with the public.

96. It was put to the witness that the plaintiff had made a fairly rapid improvement and that she had told her GP that she would be" ok" when her case was over. Dr. Fitzgerald accepted that she had made improvement initially, but subsequently her condition had deteriorated, requiring a hospital admission in January 2018. She stated that recovery from mental illness was not linear, a patient could improve, but could then regress at a later stage. She accepted that the inpatient treatment had caused an improvement, in that the plaintiff had tolerated an increase in her medication, had cooperated with one on one treatment and was able to tolerate longer interviews. However, she was only able to tolerate it for two weeks. She accepted that the plaintiff had engaged with CBT and with the community psychiatric nurse and with the psychiatric social worker. As such, it was fair to say that the graph was going upwards. She accepted that the plaintiff had made some functional improvement, which she hoped would continue, but she could not say by how much it would improve. She accepted that the future was not all doom and gloom. It was put to her that on the balance of probabilities, there would be improvement rather than deterioration. The doctor stated that while she hoped there would not be any deterioration, she could not rule that out.

97. In relation to her returning to work, Dr. Fitzgerald stated that she did not agree with the opinion of Dr. Blennerhasset in this regard. She did not share his prognosis. She did not think that the plaintiff would return to work. She agreed with his opinion that the plaintiff did not have a factitious disorder.

**The Defendant's Medical Evidence**

98. The only evidence called on behalf of the defendant was Dr. Richard Blennerhasset, Consultant Psychiatrist. He is the clinical director at St. John of God Hospital, Dublin and is clinical associate professor at University College Dublin. He saw the plaintiff on one occasion on 5th December, 2016. He also had the benefit of reviewing an extensive amount of documentation concerned with the plaintiff's case.

99. Initially, Dr. Blennerhasset explained that a conversion disorder is where a person has physical symptoms, that were not due to an organic cause, but were due to an underlying anxiety condition. Where no organic cause had been found for physical symptoms, this may raise the question as to whether they were due to an underlying anxiety state. A factitious disorder was where a person was deliberately manufacturing symptoms. He stated that he only raised this in his report due to the various physical complaints made by the plaintiff, however, he stated emphatically that he did not think that the plaintiff was suffering from this disorder.

100. Dr. Blennerhasset's initial opinion was that the plaintiff's account, supported by the medical report from China and the brief psychiatric report from Dr. Amir Yunos dated 26th August, 2016, suggested that she likely had a Post Traumatic Stress reaction following the accident. However, as it was over five years since the accident and despite what appeared to have been treatment for over two years in China, there had been little improvement in her overall condition. Her presentation at that time was not typical of Post Traumatic Stress Disorder. She had presented in various medical settings with a variety of symptoms e.g. floaters in her eyes and neurological symptoms, with no physical basis established for same. In that regard, she may be considered to have a conversion disorder. He stated that in the plaintiff's case, the anxiety that she experienced in the aftermath of the accident, may have contributed to the various physical symptoms for which she had sought treatment. He did not think that she had a factitious disorder, as he was unaware of any suggestion that the plaintiff had deliberately falsified her presentation. He was of the view that the variety of symptoms with which she presented, were anxiety related. She was receiving the appropriate treatment for same. In terms of a prognosis, he stated that he expected that there would be little change in the plaintiff's presentation, until the conclusion of her civil action. Her own account was of being well prior to same and he expected that she would make a gradual return to wellbeing in the future.

101. Dr. Blennerhasset issued a further brief report on 10th January, 2017, having been furnished with additional documentation. He was of the view that at the conclusion of her case, she would regain her wellbeing, but her social circumstances may continue to cause her stress. In a third report dated 12th January, 2017, he stated that additional information supported his previous opinion that subsequent to the accident, the plaintiff developed a significant anxiety state and was coping poorly in her day to day life. His opinion remained that she did develop PTSD following the accident, but the further development of her presentation, not being typical of that condition, had instead developed due to an anxiety disorder, which had manifested particularly in respect of physical symptoms, for which she had sought help from various specialists. The finding of IBS, could again be seen as a manifestation of the plaintiff's anxiety state.

102. In a further report dated 7th March, 2017, further information provided lent support to his opinion that the plaintiff would appear to have developed a significant anxiety state and had been coping poorly in her life since the accident on 17th April, 2011. His opinion that she developed PTSD, followed by the onset of an anxiety disorder remained. He remained of the view that the plaintiff experienced PTSD in the aftermath of the accident. Despite treatment in China, that never fully resolved and her subsequent psychiatric history predominantly manifested as an anxiety state. Her social situation in Ireland, without employment and not being in receipt of State benefits, had likely contributed to the stress that she had experienced over the years. He stated that he would expect that on the conclusion of the court case and with further treatment, the plaintiff will gradually regain her wellbeing. However, her social circumstances may well contribute to ongoing anxiety.

103. Dr. Blennerhasset stated that he remained of the view that the conclusion of the plaintiff's case will hopefully bring a gradual return to wellbeing for her. The treatment being given by Dr. Fitzgerald and her team was excellent and appropriate. That therapy will help her to function better in her day to day life e.g. in crossing roads and meeting people.

104. In terms of general stressors, it appeared that living in Ireland without an income and in difficult accommodation, probably contributed a lot to her stress, as was the fact that she had to proceed with the litigation on her own. With those stressors removed, he would expect improvement in terms of a prognosis. The length of time that she had experienced symptoms and been in treatment, was a poor prognostic factor. However, she was receiving excellent treatment at present. In terms of a return to work, it was difficult to say when she would be fit to return to work at present. As she had no psychiatric history prior to the accident and as she had worked well pre-accident and as she was an intelligent woman, with the removal of various stressors and with the appropriate treatment, he was hopeful that the plaintiff would be fit to make a gradual return to work, either here or in China. He thought that the plaintiff may need 12/24 months of treatment after conclusion of the case and if she made improvement, then she may be able to make a gradual return to work. It was relevant that she was a young person. He did not think that she would never work again.

105. In cross examination, Dr. Blennerhasset accepted that the difference of opinion between him and Dr. Fitzgerald was essentially one of degree. He accepted that the plaintiff had had a mental disorder for the last seven years. She was certainly unwell when he had seen her in December 2016. While he accepted that the view of the treating doctor deserved respect, he stated that a treating doctor may be more cautious in relation to a prognosis for the future, while an outsider may be a little more objective. He thought that the plaintiff may not be as impaired as thought by Dr. Fitzgerald.

106. It was put to the witness that Dr. Fitzgerald was of the opinion that the plaintiff's present symptoms were severe, chronic and enduring. He was asked whether he agreed with that opinion. Dr. Blennerhasset stated that he had not seen the plaintiff since December 2016. He accepted that the plaintiff certainly did not appear to be functioning well in her day to day life. He accepted that the continuance of symptoms for seven years would come within the term "*chronic*". He accepted that the existence of symptoms for that length of time, was a poor prognostic factor.

107. He stated that the plaintiff's symptoms appeared to have varied over time. She appeared to be engaging well with treatment at present, so he was optimistic on that basis. It was put to him that Dr. Fitzgerald had stated that the plaintiff had had a "*partial and limited response to treatment*". Dr. Blennerhasset agreed with that statement. It was put to him that those symptoms would continue for more than 24 months. He stated that with removal of the various stressors, hopefully the plaintiff's life would be more stress free than in previous years. He acknowledged that the time period within which a recovery may be made, was a very difficult thing to estimate. He accepted that in his report he had said that there would be a "*gradual return to wellbeing*" and had not given a timeframe in his report. He accepted that the plaintiff was not near full functioning at the present time.

108. The court was furnished with a number of reports from Mr. Fergal McGoldrick, Consultant Orthopaedic Surgeon. In relation to the left knee, he found that the plaintiff had suffered an injury to the anterior cruciate ligament, for which she had undergone surgery in China, with a modest outcome. When examined on 29th September, 2014, her knee was still mildly unstable. However, she had no complaints about it. She was at a low, but definite risk of degenerative change. He had reviewed a lumbar MRI taken on 24th October, 2011 and a pelvis MRI taken on 9th November, 2011. They both looked essentially normal. He also reviewed an MRI of her cervical spine taken in China on 5th April, 2012. This showed loss of normal cervical lordosis, with degenerative change at C4/5 and C5/6. That change looked long established. The x-rays taken of the pelvis and left knee in St. James' Hospital looked unremarkable, apart from noting old phleboliths. Those were normally seen with varicosities and possibly old injury. The plaintiff had denied any previous injury in the area. He noted that the plaintiff had a multiplicity of complaints found in the presence of an otherwise benign examination. She complained of poorly defined right sided trapezial muscle discomfort, with some suggestion of possible neurogenic brachioplexus sensitisation. She had mild cervical degenerative changes, which looked longstanding and may/may not have been aggravated by her accident. Her cervical range of motion was benign.

109. Mr. McGoldrick issued a follow up report on 10th October, 2014, following review of documentation from SVUH following an accident on 4th May, 2008, when the plaintiff sustained injury to her left chest, left upper thigh and left knee with difficulty weight bearing following a slip at work. He also reviewed a number of postoperative MRI scans taken in China. He stated that it was self-evident that the plaintiff had sustained two consecutive knee injuries. He did not have independent MRI evidence in relation to the preoperative imagining. It was unusual that the plaintiff had three post-operative MRI scans. He thought it would be necessary to have a preoperative MRI scan before a definitive opinion could be given.

110. The plaintiff was reviewed by Mr. McGoldrick on 24th February, 2016, at which time she complained of ongoing neck pain and headaches. She also complained of generalised soreness all over her body, aggravated by weather. Her knees were sore. There was no obvious aggravating or relieving factors. On examination, he noted that the plaintiff's walking gait repeatedly changed. At some stages, she walked with an unusual gait, whereas at other times she walked normally. She was able to tolerate shaking her right hand at introduction without difficulty and yet during the examination of her hands, she withdrew same complaining of pain. She initially tolerated examination of her cervical and dorsal spine well. However, as the examination progressed, she complained of generalised discomfort. She was able to tolerate shoulder excursion when distracted, but progressively guarded her shoulder during examination. She complained of tingling in the hand but there was no Tinel's sign or evidence of nerve sensitisation identified. On lumbar spine examination, the plaintiff pointed to the right lower back and sacroiliac area. She complained of generalised soreness and notably in the presence of full hip excursion and straight leg raising. There was some mild antero medial left knee laxity. She appeared to be stiff getting off the couch and then suddenly got up briskly, walking normally back to the consultation room. He had reviewed MRI scans of the cervical, thoraco and lumbar spine and brain taken on 9th December, 2014. Apart from a tiny annular tear at C6/7 and desiccation at the L4/5 disc level, with a moderate central disc protrusion, her findings were otherwise normal.

111. Mr. McGoldrick stated that in his opinion the plaintiff continued to have a multiplicity of complaints which were extenuated by a description of Irritable Bowel Syndrome. He wondered whether there was a significant underlying anxiety/depression, masking a multitude of very poorly defined symptoms. Her gait was inconsistent. He believed that she would continue to complain indefinitely.

112. Finally, Mr. McGoldrick wrote a letter on 12th April, 2016, in response to a letter of complaint that had been sent by the plaintiff to the defendant's solicitor in relation to his previous examination, wherein she alleged that he had refused to look at x-rays and scans which she had brought with her to the examination. Mr. McGoldrick refuted that allegation, stating that he had made extensive reference to various scans and x-rays in his previous reports, which demonstrated clearly that he had viewed them. He went on to describe how the plaintiff had stared repeatedly and inappropriately at his secretary through the reception glass barrier. The overall impression was of continual agitation. He had also documented the plaintiff's inappropriate and erratic behaviour during clinical assessment, both observed and on examination. Unfortunately, the second page of that letter is missing, as the second page that was furnished to the court, is in fact the second page of the report dated 24th February, 2016.

113. The court was also furnished with a report and a letter from Jane Maloney, Consultant Ophthalmic Surgeon, at the Blackrock Clinic. These were in relation to a complaint made by the plaintiff that she had floaters in her eyes after the accident. Following her examination, Dr. Maloney was of the view that if the plaintiff did have floaters in her eyes, which she was unable to confirm on examination, these were not related to the accident, as such floaters occur spontaneously and particularly so in myopic individuals and the plaintiff had high myopia. As no medical evidence was led by the plaintiff in relation to this aspect of her complaints, it is not necessary to consider this aspect further.

114. The court was also furnished with a report from Dr. Conor McCarthy, Consultant Rheumatologist at the Mater Private Hospital. This was in relation to the complaint of fibromyalgia. The plaintiff was seen by Dr. McCarthy on 16th June, 2017. Given the date of Prof. Duffy's report, it would appear that Dr. McCarthy did not have the benefit of that report when giving his opinion.

115. Dr. McCarthy noted that on the day of his assessment, the plaintiff complained of symptoms of depression, anxiety, generalised muscle and joint pains, headache, panic attacks, symptoms referable to her Irritable Bowel Syndrome, difficulty with sleep, forgetfulness and confusion. She also described ongoing neck and back pain, along with bilateral shoulder pain and bilateral hand pain. Her medication included the antidepressant, escitalopram, along with xanax or lorazepam for anxiety attacks. He noted that she had had tests in relation to the possibility of her having an inflammatory arthritis. Those tests were negative to include a negative rheumatoid factor and normal ESR and CRP. On examination, she had evidence of significant anxiety. She also had multiple tender points throughout her body. She had a good range of movement in her lumbar spine, cervical spine and shoulders. There was no evidence of any joint inflammation. There was no evidence of any neurological abnormality. Joint examination of each of her joints did not show any deformity. There was a minimal range of instability of the left knee at the MCL, with minimal knee effusion.

116. Dr. McCarthy noted that the plaintiff's injury occurred in excess of six years previously. She was extremely anxious, agitated, depressed and tearful. He agreed with the defendant's psychiatrist that many of her symptoms related to her mood disturbance of anxiety, depression and PTSD. She described widespread musculoskeletal pain symptoms, along with Irritable Bowel related symptoms. Dr. McCarthy thought that those were most likely to be a component of her mood disturbance. He did not feel that she had a separate diagnosis of fibromyalgia, but thought that the musculoskeletal pain symptoms related to the general anxiety state that she had developed.

117. He noted that her ability to lift and carry her backpack of approximately 10kg in weight, was not impeded by the widespread musculoskeletal symptoms reported. He thought that that was somewhat surprising given the severity of pain symptoms that she had described. The injury to the left knee appeared relatively stable and should not lead to any long-term difficulties for her. In terms of a prognosis, he noted that her symptoms had persisted for more than six years. He concurred with the defendant's psychiatrist that the conclusion of the civil action, would assist with an improvement and a gradual resolution of her symptoms. He noted that she had not worked since the accident and had worked prior to that as an accounts assistant. She had been socially isolated, as she was from China and had limited financial/social support in Ireland. He thought that those issues had contributed to the lack of improvement of her symptoms. He was of opinion that a graded and medically supported/supervised exercised based programme, to include physiotherapy, hydrotherapy and psychological support, should lead to a gradual improvement. Ultimately, she should be able to return to work, either here or in China. He noted that in preparing the report, he did not have access to any of the plaintiff's pre-morbid medical history.

118. The court also had regard to the report of Prof. John Hegarty, Consultant Gastroenterologist, concerning the plaintiff's complaint of IBS. This has been dealt with earlier in this judgment.

**Conclusions**

119. Having considered all of the evidence, both oral and documentary, as outlined above, I have come to the following conclusions in this case. Firstly, to deal with the plaintiff's pre-accident mental health and functioning; I am satisfied that there were no mental health issues in the plaintiff's pre-accident history. I accept the plaintiff's evidence that she had never suffered from any mental illness prior to the accident in 2011. This is supported by the medical report from Dr. Lin Tianming of the Dalian Central Hospital, wherein it is stated that prior to the accident, the plaintiff had no injury history and lived and worked normally. While there was no direct evidence on the point, there was no evidence to suggest that there was any family history of mental illness.

120. In relation to the plaintiff's pre-morbid functioning, I am satisfied that prior to the accident, the plaintiff was an intelligent young woman who was determined to succeed in her career. Having completed second level and third level education in China, she came to Ireland in 2003 for the purpose of improving her knowledge of English. To that end, she enrolled in a college in Bray, where she completed an English language course. During that time and in the years that followed, she was resourceful, in that she was able to secure a number of jobs as a shop assistant, a dental nurse and as a lounge girl in a pub, so as to fund her living and education expenses.

121. Having completed the English language course, she then enrolled with another college in Tallaght to pursue a course leading to the ACCA qualification. In 2009, she obtained a permanent part time job with O'Hagan & Co. as a trainee accounts assistant. In that role, she worked in a small office as assistant to Ms. Amanda Dodd. Ms Dodd gave evidence that the plaintiff was a happy and outgoing person, who got on well with work colleagues and clients alike. She stated that the plaintiff was so competent, that she had no problem allowing the plaintiff deal on the telephone with clients of the firm.

122. I accept Ms. Dodd's evidence in relation to the capacity and functioning of the plaintiff. Her evidence that the plaintiff was a very competent worker is supported by the fact that initially after the accident, the firm kept her job open for her while she received treatment in China over a number of months. Thereafter, when the plaintiff eventually ceased work at the end of January 2012, the firm again kept the job open for her as long as they could until in or about July 2012, at which stage due to pressure of work they had to engage someone to fill the vacancy. However, the fact that the plaintiff was regarded by the firm as a competent worker, was evidenced by the fact that in 2017, Ms. Dodd telephoned the plaintiff offering her a similar job with the firm, when they had decided to increase the number of accounts assistants. That was five years after the plaintiff had ceased working with the firm. It is clear evidence that they regarded her as a very competent employee.

123. Given the level of intelligence, ambition and high level functioning which the plaintiff demonstrated prior to the accident, I am satisfied that but for the accident, the plaintiff would in all probability have gone on to qualify as a certified accountant and would have secured full time employment either with O'Hagan & Co., or with another accountancy firm, had she so wished.

124. I turn now to deal with the injuries suffered by the plaintiff as a result of the accident. As a direct result of the impact between the defendant's vehicle and the plaintiff's body, she was caused to suffer a total rupture of the ACL in her left knee and a partial rupture of the MCL. The ACL was reconstructed by means of a surgical operation carried out some months later in China. The plaintiff's knee was immobilised in a brace and she was required to use crutches for a number of months. Thereafter, with the help of

physiotherapy, she regained full movement in the knee. The operation in China resulted in what was termed by the defendant's orthopaedic specialist, Mr. McGoldrick as being a "*modest outcome*". When he examined the plaintiff on 29th September, 2014, almost three and a half years post-accident, he found the plaintiff's knee to be "*mildly unstable*". However, she had no specific complaints regarding the knee. He thought that there was a low, but definite risk of degenerative change in the knee. In later reports, he questioned whether the plaintiff had received consecutive injuries to her knee. However, I accept the plaintiff's evidence that in relation to the accidents which she had in 2008 and 2010, these were extremely minor injuries, which required very little treatment or time off work and did not result in any legal proceedings. I am satisfied that the injury to the plaintiff's knee to both the ACL and MCL, resulted entirely from the RTA in April 2011.

125. The second main area of physical complaint following the accident, was in relation to her right sacroiliac area. She has complained of continuous severe pain in this area since the time of the accident. She is unable to sit on low seats and had to purchase a raised toilet seat, so that she could use the toilet in comfort. I accept the evidence of Mr. O'Toole that the plaintiff has suffered a sacroiliac joint disruption as a result of the accident. While subsequent investigations have revealed some narrowing of the sacroiliac joints, there does not appear to be any major pathology in that area. It is to be hoped that her symptoms in this regard will subside in accordance with the treatment of her other physical complaints, which are associated with her ongoing psychiatric injury, which will be dealt with later in the judgment.

126. The other aspect of the accident itself, which is highly relevant to this case, is the fact that as a result of the impact, the plaintiff was thrown in the air and spun around and came to land heavily on the ground. The plaintiff states that she experienced immediate severe pain in her body, and was unable to move. She was unable to communicate with a passer-by who came to her assistance. She stated that in the period between the accident and the arrival of the ambulance, she was totally paralysed while lying on the ground. She was terrified that she would remain paralysed for the rest of her life. When the ambulance crew arrived, they immobilised her in a neck brace and put her on a spinal board. It is understandable that this gave rise to great fear on the part of the plaintiff, as the neck brace holds the entire neck and head in a very rigid position and the body is securely affixed to the spinal board, so as to prevent any possible movement of the spine. The plaintiff stated that being put on the spinal board, while she was unable to move or communicate in a satisfactory manner, and then being placed in the dark interior of the ambulance, was an experience which has lived with her to the present time. She went on to describe how she was brought into a dark corridor in St. James' Hospital, where she felt very frightened and alone. I accept her evidence that while she was lying on the trolley and was still on the spinal board, she heard screaming and was later told that it was in fact she who had been screaming. I accept the plaintiff's evidence that at that time, she had a real and profound fear that she would die, or be left totally paralysed. However, the court must also take into account the fact that while the plaintiff may have initially thought that she could have been very seriously injured, such was not in fact the case, as x-rays and scans taken at the hospital that evening, revealed that there were no fractures. The plaintiff was reassured and was discharged later that night.

127. I accept the plaintiff's evidence that she did her best to go back to work. However, from the records supplied by Ms. Dodd, it appears that she was only able to manage one day in April and two days in May 2011. She then returned to China, where she had the operation on her knee.

128. While those were the initial injuries suffered by the plaintiff after the accident, they are by no means the entirety of the injuries suffered by her. While some of the injuries which follow have physical manifestations, it would appear that they are intimately connected with the psychiatric injury suffered by the plaintiff. Both of the doctors treating the continuing physical aspects have stated that in relation to a prognosis for future recovery, this will depend upon the outcome of treatment given to the plaintiff by her psychiatrist.

129. The first area of physical complaint is in relation to Irritable Bowel Syndrome. There is not really any great divergence of opinion between the defendant's specialist and the plaintiff's specialist in this regard. I accept the evidence of Dr. Siobhan Weston that the plaintiff has developed severe Irritable Bowel Syndrome as a direct result of the road traffic accident, which has affected her bowel function with degradation of her day to day quality of life, dignity and ability to work. I have already set out the difficulties which the plaintiff has encountered in relation to faecal incontinence, which has caused her great distress. I accept that the plaintiff's condition is a vacillation between constipation and diarrhoea and that this is not at all unusual in the context of IBS.

130. However, it would appear that the medication which has been prescribed by Dr. Weston, has led to some amelioration of the more distressing aspects of this condition. I accept Dr. Weston's evidence that the plaintiff will require CBT to deal with the issues of faecal incontinence and feelings of urgency which she has experienced in the past. Overall, Dr. Weston was of the view that her future recovery in relation to this aspect of her physical complaints, will be determined by the success or otherwise of the treatment given to the plaintiff by her psychiatrist. As already indicated, the defendant's expert, Professor Hegarty, agreed that the plaintiff had a diagnosis of moderately severe Irritable Bowel Syndrome. He was further of the view that it was probable that the IBS condition developed as a result of the stress/anxiety associated with the accident. Accordingly, I find that the plaintiff has developed IBS as a direct result of the road traffic accident in April 2011.

131. The next area of physical complaint is in relation to fibromyalgia. There is a divergence of opinion on this aspect between the plaintiff's expert, Professor Trevor Duffy and the defendant's expert, Dr. Conor McCarthy. However, while Dr. McCarthy was not called to give evidence, his report was submitted by agreement in evidence, but one should note that his report was given prior to the time that Dr. Duffy examined the plaintiff and so he did not have the benefit of Dr. Duffy's opinion when forming his own views in the matter.

132. There are in fact a large number of similarities between the evidence given by Professor Duffy and the report furnished by Dr. McCarthy. Both found on examination that the plaintiff had complaints of generalised muscle and joint pain, headaches, panic attacks, symptoms referable to her IBS, difficulty with sleep, forgetfulness, confusion, depression and anxiety. She also described ongoing neck and back pain, along with bilateral shoulder pain and bilateral hand pain. Both were satisfied that there was evidence of significant anxiety. Both found that she had multiple tender trigger points throughout her body. Both found that she had a good range of movement in her joints. Both were satisfied that there was no evidence of joint inflammation. Where the experts diverge, is that the defendant's expert, Dr. McCarthy argees with the defendant's psychiatrist that many of the plaintiff's symptoms related to her mood disturbance of anxiety, depression and PTSD. He accepts that the plaintiff described widespread musculoskeletal pain symptoms, along with IBS related symptoms. However, he did not feel that she had a separate diagnoses of fibromyalgia, but that the musculoskeletal pain symptoms related to the general anxiety state that she had developed. Thus he thought that her symptoms were most likely to be a component of the mood disturbance.

133. Professor Duffy's opinion was that the findings of tenderness at multiple trigger points was significant and in this regard his memory was that she was tender at all the trigger points, which is significant in the context of a diagnoses of fibromyalgia, where one only needs tenderness at a threshold of 7 or more trigger points. He was also satisfied that in the absence of any evidence of

synovitis, which could indicate an alternative cause of joint pain, that her generalised bilateral pains throughout her body, were in keeping with a diagnosis of fibromyalgia. This diagnosis was supported by the fact that such a diagnosis is also found in the context of a diagnosis of PTSD, which the plaintiff has and is often found along with IBS, which the plaintiff also has. It is also noteworthy that the plaintiff's G.P, Dr. Lynch, had also made a tentative diagnosis of fibromyalgia, when referring the plaintiff to Prof. Duffy. In these circumstances, I am satisfied that the evidence of Professor Duffy is compelling that the plaintiff does in fact suffer from fibromyalgia. I further accept his evidence that this condition was likely caused by a combination of the road traffic accident and the PTSD.

134. In terms of a prognoses, I accept the evidence given by Professor Duffy that fibromyalgia is a chronic condition. I accept his evidence that it is unlikely that the plaintiff's symptom profile will improve significantly in the future. However, in this regard he again defers to the treating psychiatrist, as he was of the view that her primary treatment will be through her psychiatrist.

135. There was not a huge divergence of opinion between Professor Duffy and Dr. McCarthy in this regard, with the latter doctor noting that as her symptoms had persisted for more than six years, he concurred with the defendant's psychiatrist, that the conclusion of her civil action would assist with an improvement and a gradual resolution of her symptoms. Dr. McCarthy thought that a graded medically supported exercise based programme, to include physiotherapy, hydrotherapy and psychological support, should lead to a gradual improvement and ultimately she should be able to return to work, either here or in China. Professor Duffy was also of the view that there would be gradual improvement, however he did not think that she would regain her premorbid level of functioning within the workplace. He did not see her working again as an accountant.

136. I found his evidence in relation to the existence of "fibrofog" caused by cognitive difficulties and the effect that her prolonged absence from the workplace, coupled with her ongoing difficulties, particularly those of a psychiatric nature, would have on an employer, to be particularly compelling. He did however state that with a successful outcome to her psychiatric treatment, the plaintiff may be able for low grade tasks in the future. I also accept his view that she may make further improvement in social functioning, insofar as she may be able to improve her engagement with people in general. Again, all of this will be dependent upon the success of the treatment which she is currently receiving from her psychiatrist.

137. Before turning to the psychiatric injuries themselves, it is only necessary to note that the plaintiff made a complaint of floaters in her eyes. However, as no medical evidence was called on behalf of the plaintiff in relation to this complaint, I have no option but to accept the evidence set out in the reports furnished by Dr. Jane Maloney, consultant ophthalmologist, to the effect that (a) she could not find any floaters in the plaintiff's eyes and (b) even if such did exist, these were commonly found to arise spontaneously in people who were short-sighted, which the plaintiff is. Accordingly, I have discounted this aspect in the assessment of general damages.

138. I now come to what is undoubtedly the most significant aspect of the plaintiff's injuries, being her psychiatric injuries. Thankfully, in this regard, there is not a huge divergence of opinion between the plaintiff's treating psychiatrist, Dr. Margaret Fitzgerald and the defendant's expert, Dr. Richard Blennerhassett. The defendant's expert was very fair in the evidence that he gave. He stated that the plaintiff was receiving excellent and appropriate treatment from Dr. Fitzgerald and her team. I have to say that I agree with that assessment. I found Dr. Fitzgerald to be a most impressive witness.

139. It is not necessary to set out the plaintiff's psychiatric complaints and progress since her first presentation at the Vergemount Out Patient's Department at Clonskeagh Hospital. This has been set out extensively earlier in the judgment. I accept Dr. Fitzgerald's evidence that the plaintiff has suffered extensive and extreme mental health issues triggered by the road traffic accident in April 2011. The prominent diagnosis is of PTSD, with secondary depression and anxiety features. This diagnosis is supported by the complaints made by the plaintiff and the finding that she experienced and continues to experience flashbacks, nightmares, dissociative reactions, persistently depressed mood, psychological stress, marked physiological reactions, and avoidant behaviour, resulting in markedly reduced functional ability. I accept Dr. Fitzgerald's evidence that the plaintiff has had extensive and extreme mental health issues caused by the road traffic accident. I accept her evidence that following the accident there was a catastrophic change to her mental state. The severity of her ongoing mental condition is evidenced by the fact that it was necessary to admit her to the Elm Mount Unit in SVUH in January 2018. Her medication was increased and she responded reasonably well to one on one therapy. Some improvement has been made since the inception of treatment, in particular, the plaintiff can now tolerate longer interviews with her therapists and has also developed an insight into her mental difficulties. This has enabled her to redirect somewhat from her more erratic behaviours when in difficult circumstances, for example in crowded places. Nevertheless, I accept Dr. Fitzgerald's evidence that the plaintiff's symptoms are severe, chronic and enduring despite treatment efforts to date and as such her prognosis for future recovery remains guarded.

140. As noted, while Dr. Blennerhassett accepted that the plaintiff did experience a post-traumatic stress disorder in the aftermath of the accident and that despite treatment in China and in Ireland, that had never fully resolved, he was of the view that her subsequent psychiatric history had predominantly manifested as an anxiety state. Really this seems to me to be only a difference of labelling. He accepts that the plaintiff has the distressing symptoms and disability as outlined by Dr. Fitzgerald, but he disagrees that that is due to a diagnosis of PTSD; instead he is of the view that the plaintiff had PTSD and has gone on to develop an anxiety disorder. I do not think that this difference between the doctors is that significant.

141. The one area where there is significant divergence between these psychiatrists, is in relation to the plaintiff's prognosis and her future capacity for work. This is a significant area of disagreement between them. Dr. Fitzgerald is of the view that it is unlikely that the plaintiff will resume normal functional ability. She does not see her ever returning to her pre-accident work. She bases this view on the fact that the plaintiff continues to have all the symptoms of PTSD and her mood is very low. She continues to have a high level of symptomology. As her symptoms are severe, chronic and enduring despite treatment, the prognosis remains guarded. In cross-examination she did relent somewhat and accept that in view of the fact that there had been some improvement since the plaintiff first engaged with her team and with the removal of the stressors of lack of money, lack of accommodation and the stress of the court case, that there were some grounds for believing that further improvement could be made in the future. However, she stated that in relation to psychiatric injury, recovery did not follow a linear path. Often a patient would make improvement in her recovery over a period of time, only to regress at some further date in the future. She also pointed out that it was necessary to remember that depression was a recurrent condition. While she was hopeful that if the plaintiff continues to comply with her treatment regime, which she is doing at present, further improvement may be made, nevertheless she was not hopeful that the plaintiff would resume normal functioning. She remained of the view that the plaintiff would not be fit to return to work at the level that she had done prior to the accident.

142. Dr. Blennerhassett's evidence was to the effect that with the conclusion of the case and the removal of the two other stressors, there was likely to be significant improvement in the plaintiff's mental condition. He did accept that the fact that her symptoms had continued at a severe level for over seven years, was a poor prognostic factor. However, given her level of

intelligence, her improvement to date under Dr. Fitzgerald and the removal of the three stressors, he was of the view that she would gradually be able to return to some form of employment. When pressed on a timescale, he thought that this would be circa. 12/24 months.

143. Resolving the question of the plaintiff's future recovery from her psychiatric injuries, which will in turn affect the prognosis for her physical complaints of fibromyalgia and IBS and the issue of what level of work and when she may be able to return thereto, has been the most difficult aspect of this case. On the one hand there is the somewhat pessimistic prognosis furnished by Dr. Fitzgerald, the treating psychiatrist, and on the other hand there is the considerably more optimistic prognosis furnished by the defendant's psychiatrist, Dr. Blennerhassett. In considering this issue, the court has had one considerable advantage over both of the doctors, who have had interviews with the plaintiff of varying lengths over the years. I have had the opportunity of observing the plaintiff over five consecutive days in October and November 2016, when she gave evidence in chief and was cross-examined before me. I have also seen her on various other occasions when the case was listed for case management purposes and finally she gave further evidence and was cross-examined on 20th June, 2018. Thus, I have had the benefit of seeing the plaintiff operating under situations of great stress over a protracted period of time.

144. In coming to the views which I have formed, I have not only relied on my own memory of the plaintiff's presentation, and reviewed my notes of her evidence, but I have also reread all the transcripts of the hearings to date. From these sources, a number of things are clear. Firstly, the plaintiff has an excellent command of English. To give but one example, she actually used the word "sophistry", in its correct sense, although she rather unkindly applied that to the questioning of senior counsel for the defendant.

145. Secondly, she had an excellent knowledge of the paperwork in the case. Again to give but one example, when it was put to her that she had been discharged from the primary care centre on the Navan Road, because she had failed to make progress, she immediately pointed out that Dr. Yunos, who is attached to the outpatient's department, had written exactly the opposite to Dr. Lynch only a short time previously.

146. Thirdly, the plaintiff was able to deal with a lengthy and robust cross-examination at the hands of a very experienced senior counsel. It should be remembered that in presenting her case and when undergoing cross-examination, she did so as a lay litigant. She was not supported in court by any McKenzie friend or other supporters. She was totally alone. For a Chinese national, for whom English is not her first language, to be able to navigate the Irish legal system in such a way, was very impressive.

147. Fourthly, her ability to present her case was quite extraordinary. She presented bound documents of her medical reports to the court and drew up extensive booklets of the special damages, which she had incurred over the seven years since the accident. These were all backed up by receipts and other vouching documentation. The presentation of her paperwork was excellent.

148. Fifthly, her ability to understand complex issues that arose in the course of the litigation, was remarkable. To give one example, it was suggested at one stage by senior counsel for the defendant, that in order to shorten the hearing, all the medical reports from both sides would be handed in to the court and the judge would make his award of damages based on the medical reports available up to that time. The plaintiff declined this offer, pointing out that as was there were contradictory views expressed in the medical reports from each side, the judge would not be in a position to reach a resolution of the contested issues. For this reason, she wished to call her own doctors to give evidence on her behalf. This showed an acute awareness on her part of the difficulties faced by a trial judge when assessing conflicting medical evidence.

149. Sixthly, when one reviews the transcripts, one sees that she gave her evidence, both in chief and under cross examination, in a coherent and chronologically correct sequence. It is often the case that lay litigants are all over the place in relation to giving a particular history and they often make far-fetched arguments that are totally unfounded in either logic or reality. The plaintiff did none of these things. She gave her evidence in a logical and clear fashion, albeit it was clear that she was suffering under a state of considerable agitation at times. One has to remember that by October 2016, she was under severe pressure from her landlord, she had had no form of income since April 2011 and was reliant on whatever her mother could send her from her pension and from her additional work in the clothing factory and was also reliant on whatever money she could borrow from her friends in Ireland. When one considers how difficult it is for people to exist without any form of regular income, one has to come to the conclusion that in running her case, the plaintiff was displaying considerable resilience.

150. Taking all of this into consideration, I am satisfied that this is a woman of extraordinary intelligence and resilience. I agree with the views of Dr. Blennerhassett, that the conclusion of this case, which will result in an award of damages in favour of the plaintiff, will effectively remove the three major stressors in her life, being the litigation itself, her financial difficulties and her accommodation difficulties. Allied to that, while her mental condition has remained serious, as is evidenced by the fact that she needed in patient treatment in January 2018, there has been improvement in her condition since her engagement with Dr. Fitzgerald's team. In particular, she has agreed to and complied with an increase in her medication, and perhaps more importantly, she has developed an insight into her mental difficulties, which has resulted in her being able to redirect her behaviour when under conditions of particular stress.

151. One must also have regard to her premorbid functioning, where she was clearly intelligent, having obtained a third level qualification in China and having gone on to complete an English language course in Ireland and had enrolled in a course leading to the ACCA qualification. Taking all of this into consideration, I am of the view that on the balance of probabilities the plaintiff will, at some stage in the future, make sufficient recovery, that she will be able to make a gradual return to the workforce. However, it is very difficult to say when this will occur. Doing the best that I can, I find that the plaintiff will remain unfit for any work for a further period of five years. I accept that in adopting the period of five years, one is somewhat gazing into a crystal ball. She may make a recovery earlier, for example in four years, but equally it may take longer and be six years or more. For that reason, I have adopted the period of five years.

152. Thereafter, I am satisfied that the return to work will be on a gradual basis. I will allow her 50% of her pre-accident earnings for a further period of two years. Thus, I am of opinion that in seven years from the present time, she is likely to be able to obtain a job similar to that which she had prior to the time of the accident, which was a part time job at the level of an accounts assistant.

153. The court has noted that in early 2016, the plaintiff applied for a number of jobs via the internet. It was put to Dr. Fitzgerald that this indicated that the plaintiff felt that she was capable of working at that time. Dr. Fitzgerald was of the view that while the plaintiff may have applied for employment during that period, that was probably due to the fact that she was in extreme financial difficulties since her return to Ireland, as she had no source of income, other than money which was remitted by her mother. She did not think that the plaintiff was actually capable of holding down employment at that time, or indeed down to the present time. She thought that the actions of the plaintiff in applying for such jobs, indicated her lack of insight into the severity of her mental health difficulties at that time. I accept the evidence given by Dr. Fitzgerald in this regard. Accordingly, I find that the fact that the plaintiff

applied for jobs in the early part of 2016, is not indicative of her being in a well state, or being capable of working at that time, but is indicative of a lack of insight on her part into the extent of her mental health issues.

154. In finding that the plaintiff will make a return to the workforce in the future, I have had regard to one very important feature which the plaintiff possesses which is her ability to speak Chinese. According to the Department of Foreign Affairs website, Ireland's trade with China is worth €8bn annually. Exports to China by Irish owned companies increased by over 49% in 2014. 92 Irish companies employ over ten thousand people in China. Given the plaintiff's level of English, her ability with figures and the fact that she was able to mount and prosecute her litigation at a time when she was suffering from extreme mental illness, had no income and was homeless, I am satisfied that on the balance of probabilities, when she completes her treatment with Dr. Fitzgerald's team, there is indeed a very real probability that she will be able to obtain some work, either with a Chinese company trading in Ireland, or more likely with an Irish company wishing to do business in China. I think that once she makes a sufficient recovery, any Irish company would be very fortunate to obtain her services.

155. The finding that the plaintiff will probably return to her pre-accident work within approximately seven years from now, does not mean that she will have made a full recovery. It is often the case that people who have mental difficulties are able to function reasonably well in the workplace with medication and other supports. Thus, the fact that the plaintiff will be able to return to work does not imply that she will be fully recovered. I accept Dr. Fitzgerald's evidence that the plaintiff is likely to have some ongoing psychiatric difficulties into the long term.

156. The court has also had regard to the fact that when the plaintiff returned to Ireland in September 2014, she discontinued the psychiatric treatment which she had been receiving prior to that time in China. The plaintiff stated that she did not tell anyone that she had mental health issues, because she felt ashamed and guilty that she had such difficulties. In addition, she stated that as a young single woman, she feared that such an admission would have an adverse effect on her chance of having an intimate relationship and on her chance of securing employment. The plaintiff stated in evidence that no man or employer would want her, if they knew that she had mental health issues. When this was put to Dr. Fitzgerald, she stated that the plaintiff's actions were understandable, as attitudes differed greatly to mental health issues in various countries. As a result of the plaintiff's upbringing, she seemed to have significant feelings of guilt and shame surrounding her mental health difficulties. Furthermore, Dr. Fitzgerald thought that her decision to refrain from seeking psychiatric help in Ireland, was probably due to a lack of insight on her part into the severity of her condition.

157. While it is true that a plaintiff must take all reasonable steps to mitigate their loss and this would include a duty to follow such medical treatment as has been advised to them, in this case where one is dealing with mental health difficulties, it is understandable that the plaintiff had the apprehensions which she did in relation to admitting to anyone in Ireland that she had such difficulties. I also accept the evidence of Dr. Fitzgerald that her decision not to seek psychiatric help on her return to Ireland, was not so much a decision on her part not to follow medical advice, but was probably due to a lack of insight on her part into the severity of her condition. Accordingly, I do not propose to reduce the assessment of damages on this account.

158. Sometimes with psychiatric injuries, there is the primary injury such as PTSD or depression which may be caused by an accident or an event and this may be exacerbated by some extraneous unconnected event, such as the death of a close family member, the breakup of a long term relationship, or being made redundant. In those circumstances, a defendant would only be liable for the extent of the psychiatric injury caused by the accident or event the subject matter of the proceedings. He would not be liable for any additional injury caused by some subsequent extraneous event.

159. In this case, there has been extensive reference to three stressors which have had a compounding effect on the plaintiff's mental health. These were: the litigation itself, her lack of income and her lack of accommodation. While these are certainly stressors, they are not extraneous events which were independent of the RTA in April 2011. As a result of the accident, the plaintiff became profoundly mentally unwell, as a result of which she could no longer work and as a result of that she lost her only source of income, as a result of that, she fell into arrears with her rent and became homeless, thereby requiring her being given emergency accommodation by the local authority. I am quite satisfied that all of these stressors arose as a direct result of the injuries sustained in the accident. Similarly, the fact that she had to conduct the litigation herself, arose out of the fact that she had no other way of obtaining adequate compensation for her injuries. Thus, the three stressors are not events independent of the accident, but are sequelae which arose directly as a result of the injuries sustained by the plaintiff in the accident.

160. Finally, in assessing general damages, I have taken account of the submission made by senior counsel on behalf of the plaintiff that one should have regard to the fact that these injuries came against her at a very significant time in her life. She was 29 years of age at the time of the accident and is now 36 years of age. Given that I have found that it will take a further seven years for her to return to her pre-accident level of employment, she will have been seriously affected in the ordinary aspects of her life for a period of fourteen years. I have taken account of the fact that there was no reality to her forming a loving relationship with either a man or a woman during the seven years since the accident. As such, her chances of getting married and having a family have been seriously adversely affected.

161. Taking all of these matters into account, I assess general damages to date at full value in the sum of €95,000. Given the level of the plaintiff's symptomology at the present time, the likely duration of her future treatment and the somewhat pessimistic prognosis given by her treating psychiatrist, Dr. Fitzgerald, which evidence I accept, with the exception of her views in relation to her capacity to return to work in the future, I assess general damages into the future in the sum of €75,000.

162. Turning to the issue of special damages, I am entirely satisfied that given the level of the plaintiff's physical and psychiatric injury since the time of the accident, the claim for past loss of earnings to date in the sum of €86,463 is well founded. To this must be added the sum of €11,000 for the period for February 2018 to date. Medical expenses were agreed in the sum of €11,901 and I accept that she has incurred travel expenses of €5,500.

163. For the reasons set out above, I have found that the plaintiff will remain unfit for any work for a further period of five years, giving a future loss of earnings claim for this period, as per the actuary's report of €112,750. To that must be added a figure for the further two years during which she will in all probability earn 50% of her pre-accident earnings, giving a sum of €23,452 for those years.

164. As a result of an award of damages, the plaintiff will lose her medical card. This will mean that she will be liable for prescription expenses up to the threshold level of €144 per month. At present, the plaintiff is on a considerable amount of medication being Escitalopram, Quetiapine, Amitriptyline, Colpermin, Movicol and Paracetamol. In addition, she will be prescribed further medication for fibromyalgia, once she comes under the care of Prof. Duffy's team. The plaintiff stated in evidence that her monthly prescription charges at present vary between €100 and €180. I am not exactly clear as to why there is this variation in the monthly charges.

165. I am satisfied that when the plaintiff loses her medical card she will incur prescription charges. I propose to allow the sum of €120 per month in this regard. This gives rise to a weekly cost of €30. I propose to allow for the prescription charges at this level for the next ten years. While Dr. Fitzgerald did not give specific evidence as to the level of medication that would be required into the future, having regard to the fact that her level of medication has been increased as and from January 2018, and as the plaintiff will continue to require medication for the IBS and fibromyalgia, I do not think that I am doing an injustice to the defendant to allow prescription charges at this level for the next ten years. Applying the appropriate multiplier of 482, this gives a capital value for this loss of €14,460.

166. There are two further heads of damage that have to be considered, firstly, it was submitted on behalf of the plaintiff that having regard to her level of educational achievement prior to the time of the accident, and having regard to how well she was doing in her employment with O'Hagan & Co., it was reasonable to assume that she would have gone on to achieve the ACCA qualification and had a successful career as an accountant thereafter. It was submitted that the court should make an award of damages under the heading of loss of opportunity under this heading to compensate the plaintiff for the fact that as a result of the accident, if she does get back to some level of work, it is unlikely that she will ever achieve the earning potential which she would have had but for the accident.

167. I think that the plaintiff's submissions in this regard are well founded. Prior to the accident, she was an intelligent, well-educated and hard working woman, who was getting on well in her place of work. I find that on the balance of probabilities, had she not been involved in the accident, she would have gone on to achieve the ACCA qualification and her earnings would have risen accordingly. Given that she was a young woman, she would have enjoyed this increased earning capacity for a considerable number of years. However, in assessing the quantum of damages under this heading, one must also take into account the stated intention of the plaintiff to get married and have a family and the court must take into account that it is often difficult for married women to continue with their careers to the level that they might otherwise have done, had they not had a family. Doing the best that I can, I assess the value of her loss of opportunity under this heading at €30,000.

168. Finally, at the conclusion of the case, senior counsel for the plaintiff submitted that an award of aggravated damages should be made in this case. He submitted that such damages were payable by the defendant due to the abusive and offensive line of questioning which had been pursued by senior counsel for the defendant in his cross examination of the plaintiff. In particular, he referred to questions which were directed to the plaintiff on the final day of the hearing on 20th June, 2018, when she was asked would she not be better off if she returned to China, where she would have the care and the assistance of her mother and when she was asked on what she spent her social welfare payment of €193 per week.

169. The plaintiff herself did not appear unduly distressed by these questions. She stated that in relation to the question of returning to China, she had lived all her adult life in Ireland. She liked the democratic values in Ireland and the freedom to practice her religion, although she had stopped attending her church due to her psychiatric difficulties in recent years. Furthermore, she stated that she liked the life here and hoped to make her permanent home here, now that she had obtained a permanent visa. In relation to the expenditure of her social welfare payments, she stated that she had incurred considerable debts in respect of loans received from her friends in Ireland and in addition, her mother had also incurred loans from various members of the family in China. She stated that these people all had to be paid back. She also had considerable arrears of rent due on her former flat.

170. I do not think that either line of questioning can be deemed to have been offensive or abusive of the plaintiff. I, as a trial judge, would not have allowed any line of questioning that I deemed to be offensive or abusive of a witness. While it was an unusual proposition for a tortfeasor to put to a witness, that the injured party should relocate herself to the other side of the globe; it seems to me that a basis for such question was laid in the evidence given by the two psychiatrists, both of whom had postulated that the plaintiff may fare better in her home environment in China, where she would have the care of her mother. However, I think that the plaintiff's answer to that question was more than adequate. She is entitled to live in this country where she appreciates the democratic and religious freedoms, available to her. In relation to the expenditure of her social welfare payments, counsel for the defendant was exploring the issue that one of the stressors in the case was her lack of income and that that had been partially relieved, if not removed, by her being allowed social welfare payments as and from July 2017. It was appropriate for counsel to explore that issue. Furthermore, I have to state that at all times in this case, both counsel and solicitor for the defendant have acted in a very fair and proper manner towards the plaintiff. Accordingly, I refuse the plaintiff's application in this regard.

171. Adding the various heads of damage together, I assess the plaintiff's damages at full value at €465,526, which allowing for the apportionment on liability entitles her to judgment against the defendant in the sum of €256,039.30.