

## THE HIGH COURT

[2006 No. 124 SP]

## IN THE MATTER OF AN GARDA SIOCHANA (COMPENSATION) ACTS 1941 AND 1945

BETWEEN

DESMOND SHERIDAN

APPLICANT

AND  
THE MINISTER FOR FINANCE

RESPONDENT

**Judgment of Mr. Justice de Valera delivered on the 9th day of March, 2007.**

1. This is an application by Garda Desmond Sheridan for compensation for personal injury, loss and damage pursuant to the provisions of The Garda Compensation Acts 1941- 1945.

2. In coming to a decision on the amount of compensation I have taken into consideration:

a) That the amount of the award should be calculated on the same basis as would be appropriate in other personal injury cases; that is the same criteria should be applied to compensation under the Garda Compensation Acts 1941-1945 as would be applied in plenary proceedings in tort.

3. In coming to this conclusion I have considered the judgment of Walsh J. in *O'Looney v. The Minister for the Public Service* [1986] I.R. 543 and in particular the passage which states:

"When one examines the structures of the Acts and compares the provisions made in respect of fatal cases and cases not resulting in death it is quite clear that the intention of the Oireachtas was to put members of An Garda Síochána in virtually the same position as persons who bring actions for death or personal injury caused by negligence."

Walsh J. goes on to say at p. 547 of the judgment:

"In assessing the compensation the judge must make an award which includes the medical or surgical expenses incurred or likely to be incurred by the applicant and he must give damages for the pain and suffering occasioned by the injuries and for any disease or tendency to a disease caused by the injuries. In addition he is required to examine the effects, if any, on the future earning power of the applicant and, in so doing, he is dealing in effect with the special heading of damages, namely, economic loss."

b) The detrimental effect which the injuries have had on the applicant's earning power (and past and future career prospects in An Garda Síochána).

c) The other matters mentioned in s. 10(2) of the Garda Compensation Act 1941 which section states:

"a) Shall have regard to any medical or surgical expenses incurred or likely to be incurred by the applicant in respect or in consequences of the injuries and

b) Shall take into consideration the detrimental effect which the injuries might reasonably be expected to have on the future earning power generally of the applicant and, in particular (if the injuries do not preclude the applicant from continuing to be a member of An Garda Síochána), on his future career in that force and

c) Shall have regard to the pain and suffering caused by the injuries to the applicant and also, in proper case, to any disease or tendency to disease caused by the injuries."

4. Garda Sheridan, who was born on the 21st April, 1955, joined An Garda Síochána in 1974. In 1979, he married and there are three children of that marriage now aged 25, 23 and 21. Desmond Sheridan remains a member of An Garda Síochána as a Garda. There were two incidents which I accept have caused the applicant post traumatic stress syndrome or disorder; these were:

1. The Scotstown incident at the end of May, 1979 and

2. The Derada Wood (Ballinamore) incident in December, 1983.

5. These incidents are fully described in Garda Sheridan's affidavit, and, movingly, in his oral evidence and I do not propose to recite them here again but it is evident that they were most frightening and distressing and quite understandably the cause of the applicant's subsequent psychiatric problems.

6. These problems have adversely affected Garda Sheridan since they began to occur and continue to do so although clearly according to Dr. Corry he is coming to terms with his condition and is gaining insights which will allow him to cope more effectively with his problem though so long as he remains a member of An Garda Síochána he will "experience himself, quite literally, in the firing line" (per Dr. Corry).

7. In calculating the amount of the award I have borne in mind the oft-repeated comment of the late Chief Justice Hamilton "assessing damages is not an exact science" and I have approached these calculations as already indicated in this judgment.

8. I consider that the appropriate award for Desmond Sheridan should include compensation for:

a) Pain and suffering which will continue albeit with decreasing severity.

b) The detrimental effect on the applicant's earning power in part caused by his inability to seek promotion within An Garda Síochána.

9. Most of Garda Sheridan's problems lie in the past, but, as already noted, there is a continuing deficit into the future. I award the applicant the sum of €200,000 for compensation to date and the sum of €50,000 for future compensation to which must be added the agreed sum of €1,957.31 the total amount being, therefore, €251,957.31.