

**THE HIGH COURT**

**[2011 No. 661 SP]**

**IN THE MATTER OF THE GARDA SÍOCHÁNA (COMPENSATION) ACTS 1941 – 1945 AND IN THE MATTER OF AN APPLICATION  
BETWEEN**

**THOMAS MANSFIELD**

**APPLICANT**

**AND**

**THE MINISTER FOR FINANCE**

**RESPONDENT**

**JUDGMENT of Mr Justice Bernard Barton delivered the 8th day of December 2014**

1. The applicant was born on the 14th December, 1957, and is a married man with two grown up children. Having applied for compensation on the 31st October, 2008 he was authorised to bring these proceedings by the respondent on the 29th July, 2011. In March 2009 he retired from the Garda Síochána with the rank of sergeant. He brings these proceedings for compensation in respect of personal injuries loss and damage, suffered and sustained by him as a consequence of a republican terrorist attack, perpetrated on the 16th December, 1983 at or near Derrada Wood, near Ballinamore, County Leitrim, and which involved the use of firearms.
2. Prior to his joining the Garda Síochána in 1983, the applicant had served in the defence forces which he had joined at the age of 18 in 1975. He served in the air corps as a wing man which involved him in air and sea rescue. Thereafter he served in the army. During his army service he was involved in one six month tour of the Lebanon which he enjoyed. The applicant did not come under fire during his tour of duty. Ultimately he left the defence forces and went to work with a security firm for about six months before joining the Garda Síochána.
3. The incident giving rise to these proceedings occurred in the course of a search for the victim of a kidnap by republican terrorists, Mr. Don Tidey. At that time the applicant was a trainee garda stationed at Templemore.
4. On the 16th December, 1983 the applicant, together with other members of the gardaí and members of the defence forces, was detailed to participate in a search of Derrada Wood and its environs for Don Tidey. While travelling with comrades to the search area he heard gunfire and explosions over the vehicle radio.
5. Having got out of the car upon arrival at the wood the applicant could hear more gunfire and explosions in the distance. He was deployed with three armed gardaí to a track leading off the public road.
6. Whilst the applicant had not received any specific training in the use of firearms against terrorists during his training in Templemore, he had been trained generally in the use of firearms whilst serving in the defence forces.
7. Fearing that he might be confronted by armed terrorists whilst conducting the search he asked a detective garda for the loan of a firearm and in response was given a hand gun and some ammunition.
8. A short time later, and while standing close to the vehicle in which he had travelled to the search area, the applicant heard further gunfire and then a message over the radio requesting members "... not to shoot at the blue avenger...".
9. This message was significant because that make, model and colour of car was commonly used at the time by the gardaí. Within what he recalled as being a relatively short period of time from hearing the message the applicant gave evidence of seeing a blue avenger car coming down the track towards him. He took this vehicle to be a police car. In these circumstances he remained standing on the track. When the driver of the car saw the applicant and other members of the gardaí and defence forces he stopped the car and the occupants got out. They were dressed in combat fatigues. One of these went to the back of the car and opened the car boot. He took out what appeared to the applicant to be an automatic or semi automatic rifle. The other occupants were also armed. With the exception of the individual who had taken out the rifle from the car boot, the others proceeded to run towards the side of the wood and as they did so they opened fire. The individual who had taken the rifle out of the car boot remained beside the car and started firing in the direction of the applicant. Shocked and surprised at this turn of events the applicant dived for cover into what he described as a shallow ditch.
10. He recalled in his evidence how he could hear bullets striking the ground around the ditch in which he was lying. He was terrified and although he thought to return fire he described himself as being frozen with fear and unable to respond.
11. A soldier, who arrived at the scene and positioned himself nearby, did manage to return fire, however, this did not seem to deter the terrorist who remained near the blue avenger and who continued to fire in their general direction.
12. Growing along the top of the bank of the shallow ditch in which the applicant was lying were a number of saplings. The applicant recalled seeing and hearing these being shredded by bullets. Although he had a gun and knew he ought to try and return fire he was convinced that if he moved at all he would be hit and very likely killed. The applicant thought that the firing continued for what seemed to him a long time.
13. Ultimately the firing stopped; all became quiet. The applicant was able to leave the shelter of the shallow ditch. Having done so he recalled that on approaching the blue avenger car, which had since been abandoned, he recalled seeing some garda great coats in another ditch nearby. His immediate thought was that beneath these lay the corpses of colleagues who, like himself, had been involved in the search. It transpired, however, that his colleagues were unhurt a fact which at the time relieved his initial shock. On arriving at the blue avenger car the applicant found an FN rifle on the back seat.
14. It did not take long for the news to reach those at the scene that in the course of the earlier exchanges of gunfire and explosions Garda Gerry Sheehan and Private Kelly had been murdered by the terrorists. It transpired that the FN rifle which the applicant found on the back seat of the avenger car belonged to Private Kelly. The applicant was also informed that the detective garda who had lent

him his revolver and which he was still holding, had been shot twice and had been seriously wounded.

15. The applicant recalled being very shocked and shaken at the time and on return to the base in Cavan town he described mixed feelings of elation at being alive on the one hand but also of sadness at the deaths and injuries suffered by others. The applicant spent what he described as a troubled night and of there been no assistance in terms of advice or counselling for any of those involved in the ordeal. On the contrary the applicant found himself up early the next morning and detailed to go back searching other woods near where the shootings had taken place.

16. The applicant also gave evidence that he was shocked by the hostility which he and other members of the force had encountered from local people in the vicinity of Ballinamore and Cavan town in relation to the measures taken by the security forces searching for Mr. Tidey.

17. For reasons which were never properly explained at the time, the applicant and other members of the gardaí involved were not permitted to attend the funeral of Garda Sheehan which the applicant said caused him a lot of upset at the time. The closest that he and others came to an explanation as to why they could not attend the funeral was that there was a fear amongst senior officers that some of the younger members of the force like himself might be seen to break down whilst in uniform.

18. A detailed account of these events, their aftermath and subsequent consequences for the applicant are set out in a statement made by him on the 5th March, 2010 and exhibited in his affidavit.

19. This statement also recounts several other events of significance in the applicant's life during his service with An Garda Síochána.

20. In the months following the murders and having completed his training at Templemore, the applicant was stationed in Rathmines and was involved in a search for the murderers of Detective Frank Hand. The search involved the applicant finding himself in similar search conditions to those he had experienced at the time of the attack giving rise to these proceedings. He was disturbed by this and when, subsequently, he was detailed to carry out house to house searches for armed criminals he refused because he was terrified of what might happen to him. He informed his superiors that the only basis upon which he would countenance carrying out such a duty was if he was armed.

21. Throughout several months following the events in Derrada Wood the applicant gave evidence that he was stressed and angry about his experiences and what he had witnessed as well as the lack of an appropriate response from the authorities to help him deal with those experiences. Apart from feelings of stress and anxiety, his sleep was disturbed and he had nightmares. In addition he noticed himself becoming temperamental as well as intolerant of certain behaviours and in particular of incompetence. With regard to his fear of being involved in searches for terrorists or other violent criminals the applicant gave evidence that he only recommenced those duties after he had received training with firearms relevant to those duties and had been supplied with a handgun.

22. With regard to other events of which he became aware or in which he was involved during his career the applicant gave evidence as to how he was profoundly affected by the televised attack by a republican mob in Northern Ireland on two British soldiers who had inadvertently driven into the vicinity of the mob and who were trapped in their car and from which, ultimately, they were dragged, beaten and killed. He was disgusted by what he had seen and developed a loathing for the IRA. As to the changes in his personality he gave evidence by of an example of his development of intolerance an inability to accept behaviour from anyone who said one thing and did another.

23. Notwithstanding what had happened to him he began to develop the ability to suppress his feelings and to perform his duties to the best of his ability. The applicant served in Rathmines between 1983 and 1993 and during that time was involved in a number of other significant events. One of these concerned the rescue of an amputee from a burning house. Having got others out of this house the applicant noticed the face of a man peering out of an upstairs window. The man was obviously trapped. With total disregard for his own safety the applicant rescued the man. Not surprisingly he was commended for his actions and was ultimately awarded the Scot Medal for bravery in 1990.

24. In 1993 the applicant applied for and was successful in obtaining a post on a UN police mission to Bosnia Herzegovina in the former Yugoslavia. The applicant served there from April 1993 to April 1994. During that time he was stationed at Sarajevo Airport. Whilst not himself coming under fire he witnessed others having that experience. He gave evidence that his duties also involved his attending and recording injuries at field hospitals in circumstances where he suspected that such injuries may have been inflicted as a result of atrocities. He described witnessing some harrowing scenes during his tour and in this regard gave evidence in relation to a life saving operation on a very seriously injured boy.

25. Having returned to Ireland the applicant gave evidence of another traumatic experience which occurred in the course of his duties whilst attending a serious road traffic accident. When looking into one of the vehicles which had been involved in that accident he noticed an object lying on one of the seats. It transpired to be the head of one of the drivers who had been decapitated as a result of the impact between the two vehicles.

26. As it happens no psychological sequelae were recorded nor were any psychological support services offered to the applicant as a consequence of the applicant's experiences in these or other events of a traumatic nature.

27. To all intents and purposes the applicant, at least on the surface, appeared to cope with his duties. In truth, however, he gave evidence of having periods of time in which he described himself as being up and down. He gave evidence that he had always been troubled by the events that had occurred in Derrada Wood though never to the extent that he was unable to perform his duties; in fact he gave evidence of an exemplary work record up until 2007.

28. There were occasions, however, where he would visit Derrada Wood looking for answers to questions which he had in relation to what had happened and in particular he wanted to find the shallow ditch in which he had lain during the attack; additionally he gave evidence that from time to time he would ruminate on finding the FN rifle he had seen in the back of the blue avenger car and which it transpired had belonged to the unfortunate Private Kelly.

29. From time to time he would relive events and incidents in his mind such as the murder of the two British soldiers by the mob and that when he did this he would find himself being disturbed. Episodic reawakening of thoughts and feelings around the events in Derrada Wood and their aftermath and which occurred periodically were always dealt with by being suppressed.

30. In the main the applicant felt that he was coping albeit in the absence of counselling or any other psychological services. However, the failure to provide any form of counselling services or advice to the applicant following his experiences in Derrada Wood

were a particular source of resentment.

31. One of the profound effects of those experiences was a challenge to his faith: ultimately he became an agnostic because he felt his faith had been compromised by what he regarded as an inappropriate response by the church to the killings.

#### **The events of 2007.**

32. The applicant gave evidence that health and safety was also an issue in the force and that in this regard courses would be organised from time to time with such issues in mind and at which he and other colleagues attended. It was an attendance at one such course at Bray in 2007 which was to have another profound effect on the applicant. On the last day of the course a number of videos were shown to those attending. The applicant explained that role playing was an integral part of training. One of the videos involved a portrayal of a criminal pointing a gun at a garda. The applicant was well used to seeing such videos demonstrating such events and of involving himself in training as to how best to deal with such situations.

33. Unknown to him the last video involved a colleague who, like himself, had been present in Derrada Wood on the day of the shootings. This officer recounted the events surrounding the kidnap of Mr. Tidey and his rescue. Inevitably this video also included significant detail in relation to the events in which the applicant had been personally involved.

34. Unfortunately for him nobody had warned the applicant about the video or its content.

35. The video was significant on a number of levels not the least of which was the provision of answers to a number of questions which the applicant had been asking concerning the events of that day which had remained unanswered but which were always on his mind.

36. There were immediate psychological consequences from his viewing of the video. The applicant became very shocked and shaken by what he had seen, in fact, he broke down and had to be assisted out of the room where the video was being shown by Sergeant Morrissey. At that stage the applicant was completely overcome. He described feelings of being clammy, agitated, hot and of experiencing a shortness of breath. He felt his heart racing and of a pounding feeling in his head. He described being tearful and unable to speak.

37. Subsequently he attended his GP, Dr. Graham, and on recounting what had happened to him during the course in Bray he re-experienced the same feelings.

38. The GP referred the applicant to Fionnula Mac Liam, psychotherapist. He received a diagnosis of a post traumatic stress disorder.

39. Vocationally the applicants work in the Garda Air Support Service, to which he had been posted, was seriously affected. He found himself unable to concentrate, lost interest in his work and noticed problems with his short term memory. All of this disturbed the applicant as he had not only enjoyed his work previously but was proud of his work ethic.

40. The applicant was prescribed medication to help with his anxieties. He developed a blood pressure problem. He underwent a course of cognitive behavioural therapy and gave evidence that he had spoken about his problems including the return of flashbacks to his superintendent whom he said was very understanding and supportive.

41. The applicant benefited from his psychotherapy under Fionnula Mac Liam. He began to feel a little better and to perform his work duties more satisfactorily. Ultimately and as a consequence of these interventions he reached a point where he was discharged with a two month follow up scheduled for January 2008.

42. Reports from Dr. Graham (13/3/10) and Fionnula Mac Liam (25/7/09) were prepared by these physicians for the benefit of the court, were exhibited in the applicant's affidavit, and have been read and considered by me.

43. It is clear that despite a relatively good response to professional help initially, the applicant relapsed to a point where he had numerous absences from work due to continuing and intrusive symptoms of a post traumatic stress disorder and that that despite further counselling and cognitive behavioural therapy sessions he was no longer able to function vocationally as he had done prior to his attendance at the training course in Bray. In his medical report Dr. Graham describes the deterioration in the applicant's condition in the following terms:

"Over the months, his progress wavered and by 08/11/08, he decompensated with paroxysmal severe panic attacks with a labile hypertension. It is interesting, that this juncture coincided with the anniversary memorial service for R/Garda Gary Sheehan and Pte Paddy Kelly who were killed at Derra (sic) Wood 1983...

His overall life has completely changed for the worse, since this initial incident. The medications do not work. There is constant conflictual home issues. Intrusive thought recollections continue with increasing avoidance behaviour. He feels a constant need to travel, to rid himself of his anxieties, which have taken a paramount place in his life to the detriment of his family and friends. His religious beliefs have dissipated, and he has by choice legally left the church with an element of nihilism. He is currently like a rudderless ship sailing nowhere yet travelling everywhere, with currently little assistance and back up support from his life long professional family for over the past year....

Prognostically his retirement, although extremely premature, based on medical grounds, was necessary, to prevent thorough escalation to a more depressive unseen chronicity with complications. As an addendum he was recently referred through Dr. Finian Kelly, consultant psychiatrist at the Clondalkin Mental Health Clinic, 12/07/2010 and reviewed 05/08/10. Dr. Kelly confirmed severe nightmares and flashback episode recurrences from 2007 with necessity to leave job due to underperformance....diagnosed as post traumatic stress disorder with cbt..."

44. It is clear from the evidence that the initial prognosis contained in the report of Fionnula Mac Liam that the applicant has had a good outcome to the treatment strategy adopted to deal with the symptoms of his post traumatic stress disorder and that he was unlikely to suffer a recurrence of post traumatic stress related to the events in 1983 was not sustained.

45. Having originally been reviewed by Dr. Kelly, consultant psychiatrist, the applicant was referred to Dr. Jackson, Dr. Kelly's senior registrar. She prepared a report for the assistance of the court and also gave evidence at the hearing of the application.

46. In her evidence Dr. Jackson said that the events in the woods caused the applicant to suffer a post traumatic stress disorder and that he suffered symptomatically for a number of years afterwards. The post traumatic stress disorder was neither recognised nor the

symptoms treated. She explained the importance in psychological terms of the function of remembrance and of a break between remembrance and the events giving rise to a post traumatic stress disorder especially in circumstances where the events being remembered involved a threat to life. The event in 2007 was entirely unsuspected by the applicant in the sense that it referred to an event which had taken place a long time in the past but which was extremely frightening and itself unexpected. Essentially there was no break between the life threatening event and the remembrance.

47. Of importance in her view was the absence of any admitted or recorded symptoms of post traumatic stress disorder after other significant events experienced by the applicant in the course of his service but which in themselves were capable of giving rise to a post traumatic stress disorder.

48. The symptoms described in 2007, however, were a reflection of the underlying post traumatic stress disorder resulting from the events which had occurred in 1983. In her view there had been a flooding of memories as a consequence of the 2007 events. It was, in her opinion, entirely explicable that the applicant could have had a post traumatic stress disorder as a result of the events of 1983 and, though unrecognised undiagnosed and untreated, for the applicant to live what appeared to be a relatively normal life until as here some event occurred which triggered a reawakening of the underlying condition and rendering same symptomatic.

49. As to the applicants decision to retire as he felt unable any longer to function effectively because of the symptoms of his post traumatic stress disorder it was her opinion that this was absolutely and entirely reasonable. The applicant's mental state was such that he did not have full insight at the time when he made his decision to retire and she noted that when seen in 2010 he was still symptomatically anxious and distressed.

50. As to the lack of interest in his work this, in her view, was a symptom of and related to the underlying illness. Had the applicant received appropriate treatment and support in time it was her opinion that the applicant may well have been able to continue working to his chosen retirement age of 56. In this regard the applicant would, having regard to his date of birth have been able to retire in 2013.

51. Dr. Jackson gave evidence that the relapse suffered by the applicant was potentially very serious especially as it had taken place after what appeared to have been an initially favourable response to the treatment by way of cognitive behavioural therapy. It is clear, however, that at that time the applicant was not in fact functioning normally.

52. The applicant subsequently reached a point where he regretted retiring in 2009 though this occurred relatively recently.

53. Dr. Jackson gave evidence that it was likely that the subsequent significant events in the course of his career and in which he was involved would have had some effect at the time on the applicant though he did not demonstrate or display any symptoms of a post traumatic stress disorder consequent upon those events.

54. The applicant undoubtedly had post traumatic stress disorder symptoms after the 1983 events but were, in her view, suppressed. The foundation for the post traumatic stress disorder was undoubtedly the events of 1983 and not the subsequent events in which he had been involved during the course of his career. What that meant, in her view, was that whilst there would have been some contribution from subsequent events these would have come to nothing without the events of 1983 she acknowledged that the later events were contributory to the illness in the sense that they were perpetuating factors rather than being contributory in a causative sense. She noted with regard to the shock effect of the event of 2007 there had been no check to see if anyone present had been in Derrada Wood at the time of the incident.

55. Dr. Jackson did not agree with Dr. Devitt, consultant psychiatrist, who had examined and reported for the respondent that the events of 1983 could be said to be only partly causative nor did she agree with his assessment of the contribution of the events of 1983 to his illness at 40%.

56. Dr. Devitt prepared a number of reports for the court (07/10/2010, 14/01/2012, 02/08/2012). He gave evidence at the hearing of the application. He accepted that the applicant had suffered a full post traumatic stress disorder. He accepted that the events of 1983 were serious and causative of the applicant's post traumatic stress disorder but it was his opinion that those events were but a series of many traumatically causative events experienced by the applicant in the course of his service over a long number of years.

57. He recognised that the applicant received no medical help at the time of the events in 1983. He described the applicant as being both physically and mentally strong. However, it was his opinion that the applicant was exposed in the course of his career to other very traumatic events already referred to in this judgment and in his opinion these events constituted what he described as psychological blows. In the end of the day the sudden and unannounced showing of a video in 2007 was also an event which caused psychological consequences.

58. In his opinion the contributory effect of the events of 1983 to the applicants post traumatic stress disorder was that it was the most significant in causative terms but that as there had been other traumatic events which in his view were also causative albeit individually of less significance, it was necessary apportion the contribution made by all to the plaintiff's illness. In that regard he considered that the events of 1983 contributed 40%.

59. As to the applicants retirement he felt that there was no medical reason for the applicant to retire and observed that the applicants GP Dr. Graham had not in fact referred the applicant to medical services, moreover, since retirement the applicant had enjoyed what was described as an active retirement consistent with what the applicant had wanted namely to retire in any event and that in this regard his post traumatic stress disorder was therefore but one factor that decision.

60. Under cross examination Dr. Devitt accepted that the 2007 video was the event that triggered a bad psychological reaction. Up until that time the applicant had shown an ability to put the lid on what might be described as traumatic events and the consequences psychologically as might have flowed from these.

61. It transpired in the course of cross examination that Dr. Devitt was unaware that no psychological symptoms had been recorded after other traumatic events intervening between 1983 and 2007. Referring to the description in his report to the applicants symptoms as being minor he explained that what he meant was that the applicant was a strong man with an ability to bottle up his problems.

62. Dr. Devitt, very fairly I think, described the applicant as being honest, reliable and not in any way exaggerating his situation. He described the effect of the 2007 conference events as being analogous to letting the genie out of the bottle. Up until then the applicant had survived due to what he described as a deep reservoir of emotional control and strength.

63. In relation to his retirement, however, Dr. Devitt said that the applicant knew what he was doing when he chose to retire voluntarily rather than to go down the route of applying to retire on health grounds.

64. Dr. Jackson, on the other hand, gave evidence that the applicant's mental state at the time was such that he could not properly make that decision. He was not fully informed and was in a very bad place when he made the decision to retire. The reason for this was that the applicant simply could not have contemplated what would have been involved in going down the route of applying to retire on health grounds. As it was he had not received the kind of medical support which he thought he ought to have received in the past.

65. The applicant freely admitted that all he was doing between 2007 and March 2009 "was hanging on" in terms of his employment.

66. It was suggested to him in cross examination that he had previously written regarding his retirement options and had established that he could retire at the age of 56. Secondly it was suggested that he already had it in his mind to go irrespective of what was happening to him or why and that this explained how and why he retired otherwise than on health grounds.

67. The applicant accepted that had he been thinking clearly then of course he ought to have applied to retire early on health grounds, however, he stressed that he was not thinking clearly and did not have full capacity to make a proper judgment on such an important issue and in this belief he is supported by Dr. Jackson. His evidence was that at the time he was not doing his job properly, that he had numerous absences, that he was unable to think objectively and was unable to concentrate properly.

### **Conclusion.**

68. There two essential issues between the parties. The first is one of causation and the second the extent of which if at all the applicant is entitled to recover in respect of his claim for loss of earnings while he having chosen to retire voluntarily rather than to apply to retire early on health grounds. The outcome of the first issue also has a bearing on the second issue. It is not suggested that the applicant did not suffer a severe post traumatic stress disorder in fact quite the reverse. As stated in Dr. Devitt's report dated the 7th October, 2007 and repeated in evidence the applicant gave him "...credible accounts of vivid recollections, anxiety and avoidance symptoms, all consistent with the diagnosis of post traumatic stress disorder (PTSD)."

69. Dr. Devitt was of the opinion that the symptoms experienced by the applicant since February 2007 were moderately severe and that there was no doubt but that the incident in Ballinamore as described was particularly traumatic by any objective standard. Although the pattern of delayed onset post traumatic stress disorder was rare, it was well described. In his opinion the symptoms since 2007 were an aggregate result of all of the applicant's traumatic experiences. He described the applicant as being a very credible informant.

70. In his report of the 14th January, 2012 and again repeated in evidence Dr. Devitt stated that he was in agreement with Dr. Jackson that the symptoms which the applicant suffered following the incident in February, 2007 were post traumatic in nature and were significantly related to the incident in Derrada Wood on the 16th December, 1983. Moreover, Dr. Devitt stated that it was likely that as a result of the symptoms which the applicant had experienced since February 2007 that he had retired earlier than might otherwise have been the case.

71. Reference has already made earlier to the opinion of Dr. Jackson. In her view the applicant did have a true PTSD but this was undiagnosed in 1983 and subsequently symptoms only re-emerged in 2007 when they were then diagnosed and treated.

72. The real issue between the parties in relation to causation is the part played by the events of 1983. The applicant's case is that they fully explain and are responsible for the applicant's post traumatic stress disorder. The respondent, however, whilst recognising that the events of 1983 were the most significant in terms of causing the applicant's post traumatic stress disorder contends that other traumatic events experienced by the applicant in the course of his career were also contributory causes of that illness.

73. The other principle area of contention between the applicant and the respondent relates to the applicant's claim for loss of earnings. It is contended on behalf of the respondent that this claim was not sustainable as the applicant himself had chosen to retire, a decision which had been made voluntarily in the circumstances where the applicant had well appraised himself of his options. He could have chosen to apply for early retirement on health grounds but did not do so, accordingly, it was submitted that the respondent was not liable for any loss claimed by the applicant under that heading. If, however, there was any liability in respect of this claim it was submitted that such liability was confined to the extent of the apportionment suggested by Dr. Devitt in his evidence.

74. The applicant, on the other hand maintains that symptoms of his post traumatic stress disorder, an illness about which there was no doubt, were such as to have affected his decision making. He freely acknowledged that looking back on it from a position of marked improvement in his symptomology that the decision was incorrect. His illness at the time manifested itself in such a way, however, that he simply could not have contemplated facing the processes that would have been required and were involved in pursuing an application to retire early on health grounds.

75. In my view there can be little doubt but that on the evidence it was the symptoms of his post traumatic stress disorder, which were significant at the time, that led the applicant to retire early. In this he is supported by his medical experts. Indeed Dr. Devitt has said as much in his report of the 14th January, 2012 and being an adornment to the report of the 7th October, 2010.

76. The answer to the question as to whether the plaintiff's post traumatic stress disorder and its consequents is to be attributed to the events of 1983 is altogether a more difficult one.

77. Dr. Jackson described the subsequent traumatic events as contributing in the sense that they perpetuated a situation which emanated from 1983 rather than being independent causes of the condition. Dr. Devitt on the other hand took the view that these other traumatic events were causative in themselves hence the attribution by him of an apportionment between the events of 1983 and the other events.

78. Having considered the evidence of the applicant and of the physicians called on his behalf as well as the evidence of Dr. Devitt called on behalf of the respondent, I have come to the conclusion that the subsequent traumatic events cannot, in the sense in which causation is understood in law, be altogether discounted. Dr. Jackson in her own evidence described these subsequent events in medical terms as perpetuating factors. In my view her evidence as to perpetuation by the subsequent traumatic events constitutes in law a contribution to the initial injury caused by the events of 1983.

79. Having come to that conclusion, however, it also seems to me that in terms of legal contribution the intervening traumatic events

experienced by the applicant in the course of his service are of much less significance than the percentage apportionment of their contributory effect suggested by the respondent. Having considered all of the evidence I am satisfied that the principle cause of the applicant's post traumatic stress disorder were the events of the 16th December, 1983 and that the reliving of those events through his viewing of the video during his attendance at the course in Bray in 2007 was, to use a well worn phrase, "the straw that broke the camel's back".

80. The post traumatic stress disorder symptoms emanating from 1983 and 2007 are intimately bound up together and it seems to me that those events ought to bear the lion's share as to the cause of the applicant's illness. Taken as a whole I would apportion 75% of the causation to the events of 1983 and 25% to the other events for which the respondent is not responsible and in respect of which no claim is made. I had an opportunity of observing the applicant's demeanour whilst giving evidence in the course of this application. It is quite clear from the medical evidence given both on behalf of the applicant and the respondent and from my observation of him and the way in which he gave his evidence that he is a most honourable, honest and upright individual who has in fact suffered greatly as a result of his illness. It was further evident that the applicant remains emotionally fragile and vulnerable. In fact it is unlikely that he would be in a position to obtain alternative employment at this time and he is unlikely to be ever fully rid of the consequences of his illness.

81. It is the opinion of the court that the figure appropriate to compensate the applicant for the entirety of the post traumatic stress disorder and its consequences is €150,000.

82. With regard to the applicants claim in respect of special damages the court will allow the full amount of the non loss of earnings special damages agreed in the sum of €1,580. The parties also agreed a sum of €73,918 in respect of the applicant's claim for loss of earnings but without prejudice to the respondent's case that there was no liability on the part of the respondent to meet that claim or that if there was such a liability it was only to meet an apportioned amount of that claim.

83. Having already found that the applicant's decision to retire early was influenced and affected by symptoms of his post traumatic stress disorder being experienced at the time, and which were significant, it follows, and I also find as a fact, that the applicant would at that time have been entitled to make an application to retire early on health grounds. To the extent that the decision he made was incorrect that was, in my view, of itself a consequence of the illness which was causally related to the events of 1983. Accordingly, the applicant is entitled to recover in respect of his claim for loss of earnings but subject to the apportionment as to causation which the court has already made.

84. As the court has made an apportionment in relation to the causes of the plaintiff's post traumatic stress disorder it follows that the amounts to be awarded to the applicant by way of general damages and in respect of his claim for loss of earnings are required to be reduced by 25% resulting in a net award for general damages of €112,500 and a net award in respect of loss of earnings in the sum of €55,438 which when added to the sum of €1,580 agreed in respect of non loss of earnings special damages amounts to a total award of €169,518 and which the court will so order.