THE HIGH COURT

[2015 No. 6300 P.]

BETWEEN

J.T.

PLAINTIFF

AND

A. M. AND F. M.

DEFENDANTS

JUDGMENT of Mr. Justice Barr delivered on the 31st day of July, 2017

Introduction

1. This action arises out of an incident which occurred at approximately 18:05hrs on 27th September, 2012, when the plaintiff was attacked by two dogs owned by the defendants while walking on a public highway in Co. Kildare. This was a vicious attack by the dogs, who repeatedly bit the plaintiff in the head and face area and also on her arms and legs. The plaintiff had been knocked to the ground and was lying face down on the grass verge at the side of the road in an effort to prevent the dogs biting her face and hands. The attack ceased when a neighbour of the plaintiffs came on the scene in her car and upon sounding the car horn, the dogs fled the scene.

2. As a result of the attack, the plaintiff suffered extensive lacerations to her face, head, left ear, arms and legs. She has been left with significant scaring and discolouration in these areas. The plaintiff also suffered an injury to the left tempomandibular joint. She will require extensive dental surgery in the future. Finally, the plaintiff has been diagnosed as suffering from Post Traumatic Stress Disorder [hereinafter: P.T.S.D.]. She has been on antidepressant medication since the attack. She has been advised to have further treatment in the form of cognitive behavioural therapy [hereinafter: C.B.T.]. She will require approximately ten sessions of this. However, it is anticipated that she will have some ongoing psychiatric sequelea in the form of a persisting fear of dogs and loss of self confidence and upset at her physical appearance, due to the scaring which will be permanent.

3. The plaintiff has a claim for special damages of approximately €54,557. This is essentially made up of past loss of earnings, past medical expenses and the cost of future dental treatment. There is not a great dispute between the parties in relation to these items.

4. Liability is not in issue in these proceedings.

The Evidence

5. The plaintiff is a married lady of 47 years of age, having been born on 16th June, 1970. She was aged 42 years at the time of the incident, the subject matter of these proceedings. She has three children, who were aged 7, 9 and 13, at the time of the incident. She is employed as a computer instructor.

6. On the evening of 27th September, 2012, the plaintiff set off from her house at 18:00hrs, to take her regular exercise in the form of a 6.4km walk. She was clear in relation to the time at which she had left her house, as she times herself doing the walk and she noted that it was 18:00hrs when she left. After approximately, 3 – 4 minutes, she came to the entrance to the defendants' house, who are her neighbours. She was walking on the right hand side of the road and was walking away from the camera as shown in photograph No. 1. When she came to the brow of the hill as shown in that photograph, she saw that the defendants' dogs were standing in the entrance to the driveway. They came out slightly and she told them to "*Go home*". The two boxer dogs came across the road and jumped up at her in an effort to bite her face and she was knocked back onto the green verge at the side of the road.

7. The plaintiff stated that she instinctively put her hands up to her face to protect it from being bitten by the dogs. However despite doing that, they managed to make contact with her face and head. They then proceeded to start biting at her hands. The plaintiff feared that they would cause extensive damage to her hands, which would have a devastating effect on her ability to work as a computer instructor. For that reason, she pulled her hands back into the sleeves of her jacket and rolled onto her front, so that she was lying face down on the verge. The dogs kept biting at her head and body. They bit her on each of her arms and were able to puncture the light rain jacket that she was wearing. She received multiple puncture wounds and lacerations to both arms. The dogs also bit her behind the right ear and more significantly, one of the dogs managed to bite into her left ear, causing portion of the left ear to be partially torn away from her head.

8. The plaintiff stated that she was terrified during this ordeal. She was very frightened that the dogs would keep biting her for a prolonged period, as this was a quiet rural road, without much traffic. She also had a fear that as she was lying on the grass verge with her legs partially out onto the road surface, that a passing motorist might not actually see her and she feared that a car might drive into her and kill her, or at the very least, cause serious injury to her legs.

9. The plaintiff stated that she and terrified during the attack. She stated that it felt to her as if the attack lasted approximately 20 minutes, however, she conceded that that was only her personal impression at the time and may well not be a true reflection of the length of the attack. After some time, a passing motorist arrived and, seeing what was taking place, the driver blew the car horn and the dogs ran off. In terms of the actual duration of the attack, the plaintiff was clear that she had left her house at 18:00hrs and had arrived at the locus within 3 – 4 minutes. Garda Higgins, who came on the scene subsequently in response to a call from his station, stated that he arrived at the scene at approximately 18:20hrs. He could not recall from where he had travelled after receiving the call from his station. He did recall that he had activated the siren and flashing lights on his car and had driven there at some speed. He estimated that the 999 call made by the motorist, who came to the plaintiff's assistance, was probably placed between 18:10hrs and 18:20hrs. The court accepts this evidence and is satisfied that on the balance of probabilities the attack by the dogs probably lasted in or about 10 minutes from 18:05hrs to 18:15hrs.

10. Garda Higgins stated that when he arrived at the scene, the plaintiff was still lying face down on the grass verge. She was in a shocked condition and was lapsing in and out of consciousness. There was blood coming from her face and head and there was also blood on her hands. An ambulance arrived a short time later and the plaintiff was removed to hospital.

11. The plaintiff was taken initially to Naas General Hospital, where her wounds were cleaned. A number of x-rays were also taken at that stage. The plaintiff was admitted overnight, and on the following morning, she was transferred to St. James Hospital in Dublin.

There she came under the care of Dr. Patricia Eadie, Consultant Plastic Surgeon. On admission, the plaintiff was noted to have lacerations to the right cheek, right ear, her left ear lobe, right side of her neck, behind her right ear and on her left calf. She had multiple lacerations and puncture wounds on both upper arms, with significant bruising of the upper arms. She had multiple puncture wounds on the left forearm. She had sensory changes over the anatomical snuff box on the left hand. The plaintiff was taken to theatre and under general anaesthetic she had irrigation and closure of all the wounds. A branch of the radial sensory nerve was noted to be intact, but badly bruised.

12. Following discharge from hospital, the plaintiff was seen in the outpatients department on a number of occasions. She was also seen by the hand therapists on a number of occasions, as she had weakness and stiffness of her left wrist. She also attended the physiotherapists locally, in relation to difficulty using her left hand and wrist. A gradual improvement was made in this regard. She was last seen in the outpatient clinic on 8th May, 2013, at which stage her scars were noted to be immature, but improving. The strength in her left hand had improved.

13. The plaintiff was reviewed by Dr. Eadie on 27th May, 2015, at which time she complained of numbness on the dorsal aspect of her left thumb, in the anatomical snuff box area and on the extensor aspect of her left distal forearm. She had tightness in her left forearm especially on extending her wrist. She was self-conscious about her facial scars and tended to cover the scars on her left forearm as much as possible. Due to a fear of dogs, she was reluctant to leave the house and as a consequence had all but given up her walking regime, causing an increase in her weight of about 4 stone.

14. The plaintiff also stated that her arm was weaker since the injury, which caused her difficulty doing activities such as floor exercises. At night she used a pillow to support her left arm to prevent pain and discomfort in her wrist. She stated that she experienced throbbing pain in her left arm, wrist and hand on a frequent basis. In general, her left arm was a lot weaker since the attack.

15. Examination on that occasion revealed a 2cm transverse indented scar in the right malar region, which was pale and soft. Below that were two small scars with puncture wounds. On her scalp there were three scars which were difficult to locate. There was a 2cm pale soft scar on her right occiput just below the hairline. However, this was a scar from a previous accident. On the left forearm, there was an extensive area of scarring on the radial aspect. This area measured approximately 13 x 6cm. It consisted of a long jagged laceration with multiple associated small scars on it. There was an indentation at the junction of the middle and distal one thirds of the left forearm. There was a 1cm pale, barely visible, scar on the dorsal aspect of the PIP joint of her left middle finger. The plaintiff had altered sensation and numbness in her distal left forearm on the radial aspect and numbness in the anatomical snuff box area and at the back of her thumb.

16. Examination also revealed multiple small pale scars on her right upper arm and forearm. There were, at least, fifteen of these scars. The longest of these was the most superior scar, which was pale and flat and measured 2.5cm in length. There was an indentation in the soft tissue of her right upper arm at the junction of the distal and middle one thirds. There was a 1cm pale scar on her left calf, located in the midline of the middle of her calf. This scar was barely visible. There was an indented scar on her left earlobe, which extended two thirds of the way around the earlobe. On her right ear, there was a pale scar on the upper aspect of the helix.

17. Dr. Eadie noted that as a result of the attack, the plaintiff had sustained multiple lacerations as described. These had been managed appropriately and had gone on to heal uneventfully. However, the plaintiff had been left with significant scarring, especially on her right cheek and left forearm. She also had some associated altered sensation on the dorsal aspect of her left hand and thumb. She noted that as a result of the attack, the plaintiff was nervous around dogs and was reluctant to go out walking on her own and as a result had put on a significant amount of weight since the attack. Dr. Eadie was of opinion that while the plaintiff's scar wounds had healed very well, she had been left with permanent scars in the affected areas. These were most significant on her right cheek and left forearm. She was further of opinion that the scar on the right malar region was somewhat indented and she thought that it could be improved by surgery. However, the remainder of the scars were unlikely to improve with surgical revision. The numbness that she experienced on her left hand was also permanent. She noted that the plaintiff continued to complain of ongoing pain and weakness in her left arm, which caused her the problems as outlined in her report. It was likely that this pain and weakness would be permanent in nature.

18. The plaintiff re-attended with Dr. Eadie on 26th November, 2015, at which time they discussed the various treatment options that were available to attempt to improve the scars on her face. These would include fat injections and scar revision surgery. Dr. Eadie felt that the best course to take, would be to do the fat injections first. This would involved at least two to three sessions of fat injections, but she noted further that the plaintiff may ultimately need some minor surgical revision of the scars. She provided costings of the various treatment options.

19. The plaintiff stated that she had been severely psychologically affected as a result of the attack. In the days and months after the accident, she was devastated. She stated that she had been horrified by her appearance. She had extensive lacerations and bruising to her face and body. Her young children were frightened to come close to her. The attack had had an affect on them as well, as they felt guilty that they had not been with her on the evening in question. However, the plaintiff stated that she was actually glad that they had not been with her, as she did not wish them to be involved in, or have to witness, such an attack.

20. The plaintiff stated that in the months immediately after the accident, she experienced severe pain due to swelling and bruising in the affected areas. There had been extensive soft tissue damage caused by the dogs' teeth penetrating deeply into the skin and soft tissues beneath.

21. In the period, September to December 2012, the plaintiff would only leave her house to attend medical appointments. Her husband would bring her to these consultations. She described how she was devastated by all that had happened to her and by her appearance. She stated that she could not do any work around the house as she had done previously. Her husband had to do all the regular household chores. She felt lonely and sad. She had a lot of inner torment. She felt that she was depressed. During these months, she was in a lot of pain. She was on antidepressant medication, which had been prescribed by her G.P. She was not able to go to work and this was something which she missed a lot. She felt that she was slowly dying.

22. She recalled that at Christmas 2012, she had remained at home. Her husband had done all the shopping for presents for the children and the other shopping which was necessary for the house. These were things that she had usually done. She stated that her children were at home on school holidays. She and her husband did their best to make it a happy time for them.

23. However, the plaintiff continued to experience pronounced feelings of sadness, loneliness and a detachment from ordinary lift. She knew that her mental health was deteriorating. She stated that in January 2013, she made up her mind to return to work, so as to

achieve some normality in her life. She stated that she was quite anxious when returning to work, as she was afraid that work colleagues and students would think that she got the scaring to her face and arms as a result of being in a fight. This was something that particularly distressed her. She would keep the scars and in particular, the scar to the left forearm, hidden from view by wearing long sleeved clothing.

24. During this time, the plaintiff continued to be treated by her G.P., Dr. Francke. She saw her approximately eight times between September 2012 and July 2013, in relation to the injuries sustained in the attack. She had initially been put on an antidepressant drug called Citalopram at an initial dose of 10mg per day. This was subsequently increased to 20mg per day and was increased again to 30mg per day. After some time on the medication, she had tried to reduce the dosage back to 20mg per day, but her symptoms of upset and anxiety returned to such an extent that she had to revert back to the 30mg dosage.

25. During this period, she had also been treated by Ms. Harty, a physiotherapist attached to Naas General Hospital. In the period 2012 to May 2013, she had had twelve sessions of physiotherapy treatment. Initially, she had had significant limitation of movement of the left wrist, together with a loss of grip strength in the left hand. By the time that she was discharged from care on 21st May, 2013, the plaintiff continued to complain of ongoing weakness of the left wrist and numbness around the scar site and on the thumb and dorsum of the proximal one third of the left index finger. However she reported no functional difficulties. Her range of movement in the left wrist had improved and grip strength had also improved to 18kg on left, compared to 26kg on the right.

26. Ms. Harty carried out a progress assessment of the plaintiff on 2nd February, 2017. At that review, the plaintiff reported decreased motivation and social engagement since the attack on 27th September, 2012. She complained of sensitivity down the left forearm, radiating into her left thumb and into the dorsum of the proximal one third of the left index finger. She reported weakness of her left thumb and wrist. Ms. Harty noted that she had a well healed atrophic scar on the distal one third of the left posterior forearm. She was sensitive to light touch over the sight of the scar. Range of movement of the wrist was satisfactory and grip strength on the left measured 19.6kg, compared to 24.3kg on the right. Average pinser grip strength measured 10.6lbs on the right and 5.6lbs on the left. The power of her right wrist flexors and extensors was 5/5 on the right and 4+/5 on the left. Ms. Harty noted that the plaintiff had attended all her physiotherapy appointments and had engaged fully in her rehabilitation programme. The plaintiff was now able to engage in all physical activities. She did, however, report pain in the left thumb when changing the gears in her car. The injury sustained to her distal forearm and the atrophic scar formation had continued to affect the sensory distribution of the superficial radial nerve supply to her left thumb and index finger.

27. In her evidence, the plaintiff explained that she continued to have difficulty at work holding and carrying large and heavy files. Her employers had obtained a trolley for her to use when transporting files from one classroom to the next. She wears a wrist support on her left wrist when working at the computer. The indentation in the left forearm, was particularly sensitive to touch as there was very little skin and soft tissue protecting the bone. If anything should hit or touch against the indentation, she would experience pain. For this reason, she was not able to carry the strap of a handbag resting on this area of her forearm. Her arm would also be sore if somebody should grab her on the forearm. She continued to experience numbness spreading from the forearm into her wrist and into her hand in the area of the left thumb. She stated that after carrying out activities during the day, she would experience pain in her left arm and hand in the evening. She continues to use an extra pillow at night to support the left wrist.

28. The second main area of injury relates to the psychiatric sequelea suffered by the plaintiff after the attack. The plaintiff's complaints in this regard in the months after the attack, have been outlined above. The plaintiff was seen by Prof. John Sheehan, consultant psychiatrist attached to the Mater Hospital, on behalf of the Personal Injuries Assessment Board on 15th December, 2014, more than two years post the attack. Prof. Sheehan noted that the attack had been very severe and frightening for the plaintiff. She had been thrown to the ground and repeatedly bitten by the two dogs. She felt that she might be killed by the dogs, or by oncoming traffic. She had been lying face down in the grass verge and felt completely helpless. She described how at one stage she felt that she had left her body altogether. Prof. Sheehan stated that this was known as disassociation. It was a commonly seen defence mechanism is trauma situations. It was indicative of a serious trauma.

29. Prof. Sheehan noted that the plaintiff had typical symptoms of P.T.S.D., including a sense of dread and fear, low mood, suicidal thoughts, and distressing nightmares. Prior to the attack she had been a fit woman, who enjoyed her daily walks. Since the attack, she had become terrified of walking outside her home. If she saw dogs on the street, even when she was travelling by car, she would freeze. This was a typical autonomic reaction for people who had been involved in a serious traumatic event.

30. By the time that she saw him in December 2014, the plaintiff felt that she had slightly improved. She had returned to work, which had been beneficial for her mental health. She was on antidepressant medication and had also had eight sessions of counselling with Ms. Mary Sheehan. Prof. Sheehan stated that she had had appropriate treatment for her psychiatric symptoms, but she still had substantial symptoms when he saw her. A positive feature had been her return to work, as this was something that the plaintiff was good at and enjoyed. He felt that she had a good attitude to getting better. However, to have definite avoidance symptoms over two years after the event, was significant. He felt that she had P.T.S.D. of moderate severity.

31. Prof. Sheehan noted that the plaintiff had had no prior mental health difficulties. However, she had had a phobia of heights, he noted a pre-existing phobia can make it more difficult for a person to cope with P.T.S.D. and she has developed a phobia of dogs. This latter phobia had been present following the attack.

32. The doctor noted that in relation to her physical appearance and in particular in relation to the scarring, the plaintiff had said that for the first eighteen months after the attack, she had been very self-conscious of the scarring to her face, left ear and arms. However, by the summer of 2016, she was able to wear short sleeved tops. When he saw her in February 2017, she was able to wear earrings again. However, she was still very conscious of her facial scarring. She was also conscious of the fact that her weight had increased substantially, primarily due to the fact that she was not able to pursue her walking regime, as she had done prior to the attack.

33. He noted that in December 2014, she continued to have flashbacks to the event causing her to have an autonomic response whereby she would "freeze". He was of the opinion that she required counselling and in particular a trauma focused C.B.T., together with antidepressant medication. He thought that this treatment would give her the best tools to address her ongoing psychiatric difficulties. In particular, her anxiety over the fact that she thought that people on seen her scarring, would think that she was a hooligan who had been involved in fights, was a thought pattern that could be addressed by ongoing C.B.T.

34. Prof. Sheehan reviewed the plaintiff in February 2017. She had not had any sessions of counselling since he had previously seen her in 2014. She had tried to deal with her mental health difficulties herself. She had started walking approximately 2km, twice per week in the town where she was working. That was an improvement in relation to her ability to get out and about. She had stated to him that she felt that she was in a "paused" state in her life. He noted that typically in P.T.S.D. patients, people can feel "numb"

when suffering from this condition. Her move to the new town and the fact that she had started working again indicated that she was now pressing the "Go" button in her life and was beginning to reengage with the ordinary aspects of life. However, he noted that she was still very tense if dogs ran out, even when she was travelling by car. He thought that with appropriate treatment there would be progress over time. However, he stated that sometimes when symptoms had been present for a prolonged period, such as in this case, a patient may never achieve the mental state which they had prior to the traumatic event. He thought that she would probably have a persisting fear of dogs, but hopefully, with the appropriate therapy, she would be equipped with the tools to handle it. He noted that she was a determined and motivated person, who was keen to make improvement in her mental health. Even with counselling, he expected her to always be cautious of dogs due to the trauma of the attack. She may be able to deal with the phobic aspect, but she would probably ways have that fear.

35. He noted that as improvement had been made in relation to the scaring, she was not so self conscious of the scars to her ears. She had had frequent nightmares after the attack, but these had reduced to approximately two per month by 2017. He noted that she continued to be on Citalopram, which was an antidepressant SSRI medication, used for the treatment of anxiety and depression. A dose of 30mg per day was an average dose. He was of opinion that she would require such medication for, at least, eighteen months to two years. He was hopeful that if she had further C.B.T. treatment, that that would help in relation to her mental state, would increase her confidence and address her ongoing fears and in such circumstances it would be possible to slowly reduce the level of medication.

36. In cross examination, Prof. Sheehan stated he was of opinion that the plaintiff would require approximately ten further sessions of C.B.T. He agreed that it was a good prognosticator that she had managed to return to work and remain at work. He accepted that the current legal proceedings may also have added to her ongoing stress, such that their conclusion would be beneficial to the plaintiff's mental state. However he stated that the legal proceedings were not the main cause of her stress it was merely an additional stressor.

37. In relation to her present condition, the plaintiff stated that she was still very afraid of dogs, if she met them on the street, she would avert her eyes and pull her hands into the sleeves of her coat and would walk away from them. Overall, she thought that the accident had changed her personality. She was now much more cautious about life in general. Her appearance had changed, because her weight had increased by approximately 4 stone. This was a cause of some distress to her. She was not as independent as she had been prior to the attack. She now relied on her husband and children and other members of her family to support and help her. She stated that she did not ever see herself walking alone on a rural road. She had been concerned about her marriage when she saw Dr. Sheehan. She thought that the accident had changed her relationship with her husband. She had a feeling that her husband had withdrawn from her after the attack. They are now 24 years married. She felt that they needed to work on aspects of their marriage.

38. The plaintiff stated that she had initially resumed walking around the new town she was working in with a work colleague. However, that person had moved to a different job and the plaintiff was not able to go out walking on her own. She recalled that in 2013/2014, she had gone walking around Kildare Town with her husband. There had been a lot of people out walking with their dogs on leads. She found that very stressful and the whole event was so stressful that they did not repeat it.

39. The plaintiff stated that she was, in general, a "*fighter*", who would not let things defeat her. She pointed out that in relation to her fear of heights, she had conquered this, so as to accompany her children on rollercoasters in the fairground, even if this meant having to go on the ride with her eyes closed. She would not let things conquer her. However, she stated that she would hold a lot of things inside her. She would project an outward image of being fine, as she did not want to cause undue distress to her family.

40. Evidence was also given by Dr. Suzanna Francke, the plaintiff's G.P. She stated that she had treated the plaintiff on approximately 13 occasions between September 2012 and June 2013. She had been seen twice in 2014 and once each year in 2015 and 2016 in relation to the injuries sustained in the attack and in particular, in relation to her ongoing psychiatric problems. By January 2017, she still had ongoing difficulties in her life, but had made definite improvement. In summary, she felt that the plaintiff was recovering well from her physical and psychiatric injuries. She has permanent scaring as described by Dr. Eadie. In relation to her psychiatric issues, she had got to a stage where they were at a manageable level, but she still required antidepressant medication.

41. Dr. Francke had known the plaintiff as a patient for many years prior to the attack. Prior to that event, she had been a very happy and relaxed woman, who led a busy lifestyle. After the attack, her appearance had changed considerably. She had gained weight, she had permanent scaring to her face and left arm and the psychological effect of the attack had been very painful for her. She was now a somewhat nervous person, who lacked self confidence. Her lifestyle had changed considerably. In relation to a prognosis, the doctor noted that the plaintiff was determined to get better. She had been very compliant with her treatment regime and had shown considerably determination in getting back to work. The doctor hoped that life would be good for the plaintiff in the future. She had learnt to accept her scaring. However the attack had changed her and had changed her appearance. In cross examination, she accepted that it was a good sign that the plaintiff had returned to work and managed to be promoted within the workplace.

42. The final aspect of the plaintiff's injuries, concerns an injury to the left tempomandibular joint and associated dental injuries. Evidence on this aspect was given by Dr. Libhín Hayes, the plaintiff's dentist, who is in a practice known as the Newbridge Dental Corner. The plaintiff had been a patient of the practice since 2001. The plaintiff had had six of her back teeth extracted by other dentists in the practice prior to 2003. The plaintiff had attended with Dr. Hayes on an annual basis for routine checkups and maintenance. In the years 2003 to 2012, she had only had routine dental treatment.

43. The plaintiff first attended Dr. Hayes after the attack on 12th November, 2013, at which time she complained of an ache in her jaw and face and felt that her bite was off. She had never had these complaints previously. She felt that her teeth were not occluding as they should do. She felt that her symptoms had deteriorated in the period since the attack.

44. Dr. Hayes stated that the plaintiff did not have any pre-existing complaints arising from osteoarthritic changes in her jaw. However she had had a history of grinding and clenching her teeth, but this was unremarkable and had been pain free prior to the attack. This was a normal occurrence in the general population. She had complained in November 2013 of grinding her teeth, along with pain and limitation of movement in her jaw joint. She had not had any complaints in relation to grinding the teeth prior to the attack, nor had they seen it as a particular problem. She had no objective signs of any particular problem with teeth grinding prior to the attack.

45. Dr. Hayes stated that in November 2013, she felt that the plaintiff had significant complaints of pain and limitation of movement in the jaw joint, which required prompt assessment and treatment. She referred the plaintiff to Dr. Dermot Canavan, Consultant Maxillo-Facial Surgeon, to whom she wrote on 21st November, 2013. Dr. Hayes stated that the plaintiff had said to her, that she would have come earlier in relation to her jaw and dental problems, but she found it difficult to leave the house after the attack.

46. Dr. Hayes stated that Dr. Canavan advised conservative treatment and that the plaintiff should be assessed for implants. For this reason, Dr. Hayes referred the plaintiff to Dr. Edward Cotter, who specialised in prosthodontics.

47. Dr. Hayes was asked about the teeth which had been extracted from the plaintiff's mouth prior to the time of the incident. She stated that she had not advised replacement of these teeth, because the plaintiff had been functioning perfectly prior to the attack. The question of replacing these teeth only arose following Dr. Canavan's report. She had referred the plaintiff to Dr. Cotter on 2nd May, 2017. In her referral letter, she had said "*chronic buxism triggered by psychiatric impact of attack*". She stated that buxism was grinding of teeth and was often triggered by psychiatric trauma.

48. In cross examination, Dr. Hayes stated that if the missing teeth were not a problem, they would not usually advise their replacement. She confirmed that the plaintiff had first presented to her in November 2013. The plaintiff said that she had not come earlier, because she was afraid to leave the house. She was asked whether in those circumstances, she would be surprised to learn that the plaintiff had, in fact, returned to work in January 2013. Dr. Hayes stated that her reluctance to leave the house had been a factor in her not coming to see the dentist earlier.

49. Evidence was given by Dr. Canavan consultant maxillofacial surgeon, who stated that he was a specialist in Temporomandibular Joint [hereinafter: T.M.J.] problems. He had seen the plaintiff in December 2013, at which time her main complaint had been of persistent pain on the left side of her face, which was aggravated by movement of the jaw. An examination revealed a very restricted range of movement of the jaw joint. X-rays taken at that time, revealed long standing wear and tear in the jaw joint in the form of osteoarthritis. He stated that when they saw wear and tear in the joint, they would have to ask whether that was the cause of the problem. However, it was possible that people could have extensive evidence of wear and tear in various joints in the body, including the T.M.J., but this did not necessarily result in them having any symptoms of pain. The plaintiff did mention she had some previous difficulties with her jaw, but these were not significant. He felt that they were only minor issues, which people in the general public may have from time to time. If there is a problem in the jaw joint people usually complain of a clicking noise, limitation of movement and pain on function. The plaintiff did not have these complaints before the attack. It was significant that she did not have any pre-attack history of jaw locking or pain. It was put to the witness that in his report he had stated that the plaintiff had "*noticed the clenching and grinding had increased since the accident*". He stated that he had specifically asked the plaintiff whether she had any jaw locking or pain prior to the attack, to which she had said she had not. He would always ask a patient about grinding/clenching of their teeth as this can occur at night, which may be unknown to the patient and can often be a feature after a traumatic event. He had asked her whether she was conscious of grinding or clenching her teeth, to which she had given the answer as stated in his report.

50. Dr. Canavan stated that all people do some grinding or clenching of their teeth, but it is known that the level of grinding can increase after physical injury, stressful events, *etc*. but that of itself was not relevant to the development of a problem in the jaw. His diagnosis was that the plaintiff had suffered disc displacement in the left T.M.J. This was based on his clinical examination of the patient. This was where a disc had slipped out of place in the jaw joint. This can be painful, as the joint has a lot of nerve endings in it. If the jaw locks on the left side, the lower jaw will swing to the left side. It is a common injury in jaw joints. It is a cause of a lot of pain and limitation of movement of the joint.

51. Dr. Canavan stated that he thought that both joints were weak or unstable before the attack. This meant that she had a degree of osteoarthritic change in the jaw joint prior to the attack. While jaw joint locking can occur in the absence of trauma, they would commonly see it in trauma cases. Given her history and the nature of the attack, he was of opinion that her jaw problem was caused by that traumatic event.

52. Dr. Canavan stated that he was not surprised that over one year had elapsed, before she had been referred to him, as jaw joint injuries can easily be missed. He stated that spontaneous jaw joint injuries can occur, but usually do so in the 20/25 year age group. The plaintiff was not in this group, so it was likely that her jaw injury was trauma related. Functional testing of the lower jaw revealed extreme pain on movement of the joint. In cases of severe pain, the cause was usually traumatic, rather than a spontaneous onset.

53. Dr. Canavan stated that usually the prognosis for a jaw joint injury was very good, usually less than two years. The plaintiff had been reviewed in June 2017 and unfortunately, she still had significant ongoing symptoms in her jaw. In terms of a prognosis, he stated that they would be anxious to avoid surgery to the jaw joint. Conservative treatment in the form of a bite guard and good oral health would be the preferred option. If a person is missing their back teeth, this can cause pressure on the jaw joint resulting in pain, due to the fact that they would have to chew food with their front teeth, which was a somewhat unnatural chewing motion. He felt that implants in respect of the missing teeth might be necessary. As he did not do that type of treatment, he referred the plaintiff back to her dentist for onward referral to an appropriate specialist.

54. In relation to the absence of some of the plaintiff's back teeth, Dr. Canavan stated that it was known that the presence of back teeth support the jaw joint, so the first line of treatment in respect of the jaw joint symptoms, would be to replace the missing back teeth so as to provide additional support to the jaw. Where a person is missing teeth over a long period of time, this could contribute to a deterioration in the jaw joint. It was one of a number of factors which could lead to that condition. If the plaintiff had not been missing some of her teeth, her outcome would have been better. Their aim was to improve support for the jaw by replacing the missing teeth. Dr. Canavan stated he had supplied the plaintiff with a bite splint and had also given her a number of injections into the jaw joint. He was hopeful that the plaintiff would not need further injections to her jaw. He would try to avoid giving too many of these. She had already had three such injections. If she needed further treatment to the jaw joint, he would then tend towards surgery, rather than administering further injections. The plaintiff had had a further injection in June 2016. He stated that the term osteoarthritic change, merely described the outline of the bone within the joint, it did not tell you anything about the function of the joint, nor as to the presence or absence of pain. It was possible to have extensive osteoarthritic changes, without any pain or limitation of movement.

55. In cross examination, the witness stated he had carried out x-rays to both sides of the jaw. The plaintiff had osteoarthritis on both sides, but only had pain on the left side. It was put to the witness that Dr. Cotter found her range of movement in the jaw joint to be 37mm, which he described as being on the lower side of average, but was adequate. Dr. Canavan stated that he agreed with that to an extent, some people would cope better than others at different levels of opening of the jaw. It was put to him that on a subsequent examination, he had found the plaintiff to have an opening of the jaw of 40mm. The witness accepted that that was correct.

56. It was put to the witness that he had stated that jaw joint problems were multi-factorial and that one of the contributing issues in this case was the plaintiff's missing teeth. Dr. Canavan stated that the plaintiff's situation was not helped by the fact that she had missing teeth, as this meant that there was a lack of support for the jaw, leading to a lack of solid occlusion. It was put to the witness that as the attack had caused the problem on the left side of the jaw and because she had missing teeth on the left side,

she therefore lacked support for her jaw, so that she would only need to provide support for her jaw by filling in the teeth on the left lower jaw. Dr. Canavan did not agree with that proposition. He stated that it would not be sufficient just to fill in the lower missing teeth. It would be necessary to replace the missing upper and lower teeth on both sides. It was necessary to fill in the right side as well because to chew efficiently, a person would need teeth above and below and on both sides. He accepted that the plaintiff did have osteoarthritis in her jaw joint prior to the attack and that on that account, her jaw joint was somewhat weak and unstable before the attack.

57. Finally, evidence was given by Dr. Edward Cotter, Consultant Prosthodontist. He stated that the plaintiff opted to consider fixed device options in relation to a treatment of her ongoing jaw problem, rather than the insertion of removable devices, due to the fact that she had a strong gag reflex. Dr. Cotter was of the view that an orthodontic opinion was required to see if anything could be done to bring about an improvement of the plaintiff's teeth position, so as to make his job of providing implants easier. It was hoped that with the use of a brace for a given period, it might be possible to alter the positioning of the plaintiff's existing teeth, so as to reduce the number of implants that would be necessary. To this end, Dr. Cotter obtained an opinion from Dr. Paul Dowling. However, he stated that Dr. Dowling was of the view that the application of a brace would not be suitable in the plaintiff's case.

58. Dr. Cotter stated that he was not convinced that an orthodontist would have nothing to offer in the case, so he obtained a second verbal opinion from another orthodontist, Dr. Maghnus O'Donnell to whom he had provided a cast of the plaintiff's jaw and teeth. Having considered the matter, Dr. O'Donnell was of the view that a positive outcome could be obtained by the application of a brace to the plaintiff's teeth. An appointment had been made for the plaintiff to be examined by Dr. O'Donnell on his return from holidays.

59. Dr. Cotter noted that the plaintiff's lower left five and six teeth had their bite outside that of the upper four, five and six teeth. He hoped that the use of a brace would improve this position. He also hoped that the brace would reduce the space around the upper seventh tooth on the right. He also hoped it would improve the space adjacent to the lower fifth tooth. If improvements were made in these areas, this would help him obtain a more favourable prosthetic outcome.

60. The witness was asked about the normal level of opening which a person should have in their mouth, which he stated should be 35/55mm. This should provide adequate functioning, in that the person would be able to eat, talk and smile without difficulty. He confirmed that the plaintiff did not have any acute symptoms when he met her. Dr. Cotter stated that he was of opinion that it would be necessary to look at the plaintiff's bite. It may need equilibration to improve the forces exerted within the mouth and in her jaw. He was hopeful that if a brace was used, the existing teeth could be moved into a better position so that she would require less equilibration. He confirmed that the treatment plan and the costings thereof were as set out by him in his letter dated 17th July, 2017.

Conclusions

61. Having considered all of the evidence in this case, the court is satisfied that the plaintiff has given an accurate and honest account of the incident, the subject matter of these proceedings and of the injuries which resulted therefrom. The plaintiff has not tried to embellish the details of the attack, nor has she exaggerated the injuries which she suffered, nor their effect upon her.

62. The court has had particular regard to the evidence given by Dr. Francke and Dr. Hayes, the plaintiff's G.P. and dentist, who had treated her both prior to the attack and subsequent thereto. They have painted a picture of a relatively young woman, who, prior to the attack, had been a happy, cheerful, outgoing lady, who enjoyed her work and family. She was a fit lady and enjoyed her daily walk of 6.4km. The court accepts their evidence as to the profound change which the plaintiff has undergone in her personality, in her appearance and in her mental state, since the time of the attack.

63. The court has also been impressed by the comments made by these doctors and also by the plaintiff's physiotherapist, Ms. Harty, to the effect that the plaintiff has always been well motivated in terms of her recovery and has been compliant with the treatment prescribed for her. The court was also impressed by the fact that when the plaintiff saw that her mental state was deteriorating significantly in the months after the attack, she took positive steps to address the situation, in particular, by returning to work in January 2013, notwithstanding that this was a difficult decision for her to make, having regard to her appearance and her mental state at that time. It is to her credit that she has gone on to be promoted within her workplace since that time.

64. Turning to the assessment of the various heads of damages in this case, it is noteworthy that neither the evidence of the plaintiff, nor the evidence of the various medical witnesses called on her behalf, was seriously challenged in the course of the trial. The defendants did not call any medical evidence on their own behalf. Accordingly, as the evidence has already been set out *in extenso* earlier in this judgment, it is not necessary to repeat same again.

65. I am satisfied that the plaintiff was exposed to a prolonged and very frightening attack by the two dogs on 27th September, 2012. As a direct consequence thereof, she has suffered the physical injuries in the form of lacerations and consequent scaring as set out in Dr. Eadie's reports. She has been left with a large number of permanent scars as therein described. The two most prominent of these, are the scar and indentation of skin below the right eye and the long scar running the length of her forearm on her left arm. While it is hoped that with fat injections, and possible revision surgery, some improvement may be made to the facial scar, the remainder of the scars are permanent and have reached their final state. In summary, the court finds that the plaintiff has been left with significant visible scaring to her face and left arm and to the other areas identified by Dr. Eadie. Such scaring will be permanent. This represents a serious cosmetic blemish to a lady, who was 42 years of age at the time of the attack. In reaching its assessment on this aspect of the damages, the court has had regard not only to the plaintiff's appearance in court, but also to the photographs taken after the attack and also to the two photographs taken of the plaintiff attending a family function in or about June 2012. There is a marked difference between these latter photographs and the presentation of the plaintiff in court in July 2017.

66. In relation to the psychiatric symptoms, it was indicated in the course of the hearing that the defendants did not challenge the fact that the plaintiff would have suffered P.T.S.D. as a result of this frightening attack. I accept the evidence given by the plaintiff in relation to the psychiatric difficulties that she has encountered since the time of the attack. I accept the evidence given by Prof. Sheehan that the plaintiff has suffered a moderate P.T.S.D., which will require ongoing treatment both with antidepressant medication, which the plaintiff has been on since the attack, and further sessions of C.B.T. While it is hoped that with approximately ten further sessions of C.B.T., it may be possible for the plaintiff to achieve a relatively good outcome from a mental health point of view and may be able to wean off the antidepressant medication within approximately 18/24 months, it is unlikely that she will return to her pre-incident state.

67. I accept the evidence of Prof. Sheehan that her P.T.S.D. symptoms have reduced, but she still reports some intrusive phenomena such as nightmares and has on-going avoidance behaviour of walking in the countryside. Her social life has been restricted and she has lost some of her independence. However, she is determined to regain her independence and has, to an extent, resumed walking in

built up rather than rural areas. She is likely to have an ongoing fear of being near dogs.

68. Finally, there is the T.M.J. injury and the dental treatment necessitated thereby. I accept the evidence of Dr. Canavan, that while she had pre-existing osteoarthritic changes in her T.M.J. prior to the attack, this did not cause her any difficulty prior to that time. I accept his evidence that having regard to the factors as outlined in his evidence, the onset of pain in the left T.M.J., was on the balance of probabilities caused by the trauma of the attack and I so find. I further accept his evidence that the appropriate treatment is not to carry out surgery to the T.M.J., but to carry out the dental treatment as outlined by other witnesses, with a view to reducing the forces on the tempomandibular joint.

69. I accept the evidence given by Dr. Cotter that the treatment as outlined by him, either with or without the use of a brace, which will only become clarified once the plaintiff is examined and if appropriate, treated by Dr. O'Donnell and that the resulting treatment, consisting of the insertion of implants to replace the missing teeth, is the appropriate treatment to be given to the plaintiff. The fact that the plaintiff had six teeth missing prior to the attack and the fact that she had pre-existing osteoarthritic changes in her jaw joints, such as to render them somewhat weak or unstable, are not matters which cause a reduction in the quantum of damages, due to the fact that they were not causing the plaintiff any problems prior to the attack. The existence of these pre-existing conditions may have rendered the injury to the jaw joint more severe, or may have rendered the treatment of that injury more complicated, but the law is that a tortfeasor must take his victim as he finds her. Accordingly, the defendant is liable for the injuries caused to the plaintiff's jaw and is liable for the pain of the treatment which she will have to undergo in the future and is liable for the cost thereof.

70. Having regard to all these matters, I award the plaintiff general damages for pain and suffering to date in the sum of €110,000. The plaintiff has been left with permanent scaring as described above, she will also have ongoing psychiatric sequelea, together with significant dental treatment, which will hopefully produce a beneficial result to her T.M.J. problem. In these circumstances, it is appropriate to award general damages for pain and suffering into the future of €70,000.

71. The quantum of the plaintiff's special damages was largely uncontested. In relation to future dental treatment, the court has to decide whether treatment option 1, which is without orthodontic treatment, as set out in Mr. Cotter's report is the appropriate figure, or whether treatment option 2, which is where orthodontic treatment is possible, should be the figure used. It seems to me that while a second orthodontic opinion has been obtained, to the effect that the orthodontic treatment will be possible, that orthodontist has not yet had the opportunity of examining the plaintiff. In these circumstances, having regard to the existence of the opinion furnished by Dr. Dowling, who did have the opportunity of examining the plaintiff, I think it is appropriate to use the slightly higher figure given in relation to treatment option 1. Adding the relevant categories of special damages as set out in the schedule of special damages prepared by the plaintiff's solicitor, the overall amount which the court will award for special damages is €54,557. This gives an overall award in favour of the plaintiff of €234,557.