

Success for Daniel Crowley in the Court of Appeal

The following is taken from the Lawtel Headnote:-

Daniel Crowley represents insurers in Hames v (1) Ferguson (2) Wootton (3) Provident Insurance plc – the Court of Appeal’s recent decision on serious road traffic accidents – 16.10.08

“CA (Civ Div) (Ward LJ, Longmore LJ, Jackson LJ) 16/10/2008

ROAD TRAFFIC - PERSONAL INJURY

APPORTIONMENT : PERSONAL INJURY : ROAD TRAFFIC ACCIDENTS : EVIDENTIAL BASIS FOR APPORTIONING LIABILITY

A judge had correctly made findings of fact and drawn the correct inferences when apportioning liability between defendants following a road traffic accident.

The second defendant (W) appealed against a decision apportioning liability following a road traffic accident between him and the first defendant (F), who was insured by the respondent. The claimant in the action had been the back seat passenger in a car driven by F. W, who was friends with the occupants of F's car, was driving close behind. Both cars were travelling at excessive speed, in convoy. As they rounded a bend F collided with a tractor and trailer that were turning into a field and the claimant suffered severe head injuries; W also collided with the trailer. It was common ground at trial that the claimant's injuries were caused by the first collision involving F. The judge held that both F's and B's negligence was causative of the claimant's injuries on the basis that they had been driving at excessive speed, concentrating on each other, and that F had thereby been distracted. He apportioned liability between them, finding W 40 per cent liable. W contended that the judge's findings had been unsupported by the facts, as there was no evidential basis for concluding that W's driving had had an adverse influence on F's driving.

HELD: The evidential basis for the judge's conclusions had been sufficiently explored and he was entitled to find that W's driving had had adverse influence on F's driving. The judge's findings were plainly supported by the evidence: if two men were driving in close convoy at excessive speed down a country lane, each was bound to be distracting the other. Further, he had set out the inferences drawn from his findings of primary fact and those were reasonable and proper inferences to be drawn.

Appeal dismissed”

Daniel Crowley acted for the successful insurers Provident Insurance plc instructed by Greenwoods.