

## Military claims

Thomson Snell & Passmore was instructed by Mr A, a former Private in the Army. Mr A was knocked down by an Army 'Snatch' Land Rover being driven by a fellow serviceman in 2005.

### Background to the case

At the time of the accident Mr A was an acting serviceman stationed at barracks in Northern Ireland. Mr A was not on duty at the time of the accident but he was at the barracks. Mr A was standing on the pavement outside an accommodation block having a conversation on a mobile telephone. Out of the corner of his eye he saw one of the Army's 'Snatch' Land Rovers driving towards him. The Land Rover was being driven by a fellow serviceman and there was another passenger in the front seat. The Land Rover drove directly at Mr A, mounting the kerb, presumably to park, everything happened so quickly that Mr A did not have a chance to move out of the way.

### Injuries

The Land Rover hit Mr A injuring his lower back, left elbow and feet. Mr A fell to the ground and felt woozy and was in a lot of pain. Following the incident he was taken to the medical centre at the barracks where he was visited by his Sergeant Major who Mr A remembers was unsympathetic. Mr A was then transferred to the local hospital, he was given treatment and discharged on the same day. Mr A continued to suffer lower back pain and when he was on leave in the week following the accident he attended the local hospital and also paid for an x-ray which confirmed that there was no fracture. Mr A had a course of physiotherapy treatment when he returned to the Army base. He was put on light duties for some time. Mr A says that he continued to recover from his injuries and his back pain had eased but unfortunately when he had to go on an overseas operation the back pain returned.

### The litigation

Mr A had tried to pursue a formal complaint with his Sergeant Major following the incident but he was asked not to continue with the complaint for the sake of the Battalion's name. It was suggested to Mr A that he should make a civil claim for personal

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This case was handled by Lorna Buckwell, Solicitor in Clinical Negligence and Personal Injury

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## Military claims Continued...

injury on leaving the Army and leave it at that. Therefore when Mr A left the Army in February 2008 he decided to investigate making a personal injury claim at this point and instructed Thomson Snell & Passmore. Although this claim was strictly speaking a road traffic accident, the firm took the view that this should be dealt with as an employer's liability claim with the Ministry of Defence (MoD) as the defendant. The driver was an acting serviceman, driving an army vehicle on army property. The MoD raised no objection to this.

As Mr A had been asked not to bring a claim until he left the Army this brought the claim close to the expiry of the three year limitation period for a civil personal injury claim. Thomson Snell & Passmore therefore had to issue court proceedings to protect Mr A's position. As the accident had happened outside the jurisdiction (Northern Ireland) the MoD were entitled to an extended investigation period under the Protocol. The parties agreed to stay the proceedings until the six month investigation period had expired, this was allowed by the court.

The MoD denied liability on the basis that Mr A had been "messaging around" and had stepped out in front of the Land Rover. Mr A denied this and in any event the MoD's argument appeared flawed because Mr A had been standing on a pavement at the time and the Land Rover had actually mounted the kerb and then hit Mr A. The witness evidence served by the MoD even admitted that the vehicle had mounted the kerb to park. Thomson Snell & Passmore put this to the MoD but the parties were unable to agree liability and so the matter proceeded towards trial.

### **The outcome**

Despite the MoD steadfastly pursuing the liability point the firm was resolute. Although the MoD refused to resolve liability, we were able to negotiate an out of court settlement for Mr A to secure compensation for his injuries.

### **The Armed Forces Compensation Scheme**

It may also have been possible for Mr A to bring a claim under the Armed Forces Compensation Scheme (AFCS). However, the AFCS has a five year limitation period and so the civil claim was pursued in the first instance. It is also worth noting that if a serviceman receives compensation through a civil claim as well as a payment from the AFCS then the compensation paid under the civil claim has to be used to pay back the AFCS.

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