IO

EMPLOYMENT TRIBUNALS

Claimant: **Mr A Dogra**

Respondent: **Acetrip Limited**

Heard at: **East London Hearing Centre**

On: **3 and 15 October 2019**

Before: **Employment Judge G Tobin**

Members: **Mr J Quinlan**
Mr G Tomey

Representation
Claimant: Mr O Lawrence (Counsel FRU)
Respondent: Mr O Issacs (Counsel)

JUDGMENT UPON RECONSIDERATION

The unanimous judgment of the Employment Tribunal is that the respondent is ordered to pay the claimant compensation in the sum of £118,088.16 for unfairly dismissing the claimant for making a protected disclosure and for asserting a statutory right in breach of Section 103 and Section 104 of the Employment Rights Act 1996.

REASONS

1 Following the decision of the Employment Appeal Tribunal ("EAT"), case number UKEAT/0238/18 this case was remitted to reconsider the decision in the respect of remedy which was promulgated on 11 June 2016.

2 The issues to be determined from the EAT judgment were identified in Case Managements Orders dated 12 August 2019 and sent to the parties on 18 September 2019. The issues were noted as follows:

2.1 Whether and if so to what extent the claimant's dismissal by the respondent exacerbated or prolonged the claimant's depressive illness.

2.2 In respect of a possibly *Polkey* reduction.

2.2.1 Given that the claimant had been unfit for work from 31 December 2015 until mid-June 2016 what was the percentage chance that the respondent would have dismissed the claimant fairly for his sickness absence? In assessing the above, the Tribunal may take into account the fact that the claimant's illness was caused by the conduct of the respondent's Managing Director and Account's Manager.

2.2.2 What was the percentage chance that, had the claimant remained employed by the respondent, he might have left the respondent's employment before his visa ran out and returned to India, i.e. at some point before August 2020? If so, at what point does the Tribunal assess that to be?

2.2.3 What was the percentage chance that the claimant having been dismissed and/or following the remedies hearing return to India? What mitigation could have occurred in India? And if the claimant could reasonably have mitigated his losses in India, what was the chance of this and when would such mitigation have occurred?

2.3 In respect of the Tribunal's uplift of 25% for the Respondent's breach of the ACAS Code of Practice in dismissing the claimant, is it just and equitable to reduce the award bearing in mind the absolute value of the amount awarded?

2.4 To what extent should the tax-free element of £30,000 to be taken into account in any award of compensation.

3 The parties provided separate bundles which we consolidated at the hearing. The respondent's bundle contained 255 pages, mostly indexed. The claimant provided a bundle of 57 pages containing his first and third witness statement with exhibits. As preparation for the hearing we re-read previous judgments, the EAT Judgment, witness statements and extracts from the previous hearing bundles and past and revised schedule of losses and counter schedule of losses. We (the Tribunal) considered carefully all of the material presented to us.

Preliminary matter

4 On the day of the hearing Mr Issacs suggested a variation to the list of issues. This was not raised prior to the hearing date with either the claimant or with the Tribunal. No application was made in advance of the hearing. Mr Lawrence objected to a variation of the list of issues as, he contended, that the list of issues identified above reflected the issues arising from HH Judge Auerbach's Judgment and the claimant had prepared his case on the basis of the issues contained in the Case Management Orders.

5 Paragraphs 75 and 76 of the EAT judgement were very clear; mitigation and/or

breaking the chain of causation in respect to the claimant remaining in the UK rather than by returning to India, was regarded by the EAT as *two sides of the very same coin*. Mr Isaacs suggestion to subdivide these points was rejected by the EAT as did not add anything further for the EAT and, we determine, it does not assist our task either.

6 We declined to vary the list of issues as invited to do so by Mr Issacs. The issues identified by the Appeal Judgment were fully encapsulated in the list of issues set out in the Case Management Orders. Furthermore, to ensure fairness between the parties, if Mr Issacs felt that there was some shortcoming in the list of issues identified then he should have avoided taking the claimant and his representative by surprise with his late application.

The Tribunal made findings of fact

7 The Tribunal made findings of fact with regard to the claimant's illness and his dismissal in our Judgment dated 6 March 2018.

> 61. On 11 January 2016, the claimant wrote again to Mr Kumar with an update of his medical condition and he attached a GP certificate. The claimant said he would not be fit for work until 22 January 2016. This email was sent to Mr Kumar at two email addresses and copied to a colleague ("gigo") and his team leader ("gejo.g", i.e. Mr Geevarghese). Again, no response was forthcoming.
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> 62. The claimant saw his GP on 22 January 2016 and submitted a further sicknote on 25 January 2016. This extended the claimant's sickness absence to 5 February 2016 in order for him "to recuperate". Again, this email was sent to Mr Kumar at two email addresses and also the two aforementioned colleagues, none of whom replied.
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> 63. The claimant next saw his GP on 5 February 2016. His GP signed him off sick until 19 February 2016. On 8 February 2016, the claimant emailed this certificate to Mr Kumar twice again and to his two work colleagues. As with all the claimant's emails to the respondent, he apologised for any inconvenience that his absence from work may have caused. The claimant acknowledged that he did not get paid for January 2016, so he asked his employer to pay him statutory sick pay.
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> 64. The claimant told his story to his GP who advised him to take further action. The claimant contacted the Home Office in late January 2016 but could not make any progress. He eventually put his complaint in writing to the Home Office on 1 February 2016. The claimant said that he got a reply 2 weeks later and when he telephoned the Home Office someone from customer services told him to call the police. The police referred the claimant to an organisation called Action Fraud and the claimant again reported Mr Kumar on 15 February 2016. Notwithstanding, we have not seen documents relating to these various enquiries, we accept the claimant's evidence in this regard, which is consistent with correspondence from the claimant's counselling psychologist. The claimant undertook these actions before he found out that he was dismissed. The

claimant was assessed with "anxiety and depression over his work situation" and was recommended to pursue high intensity group cognitive behavioural therapy for 12 sessions (which is a rigorous therapy) by Dr Helena Belgrave on 11 February 2016.

65. On 20 February 2016, Mr Kapur emailed the claimant a copy of a letter dated 31 December 2015, which terminated the claimant's employment with immediate effect. The reason for dismissal was "in view of the two previous warnings and the incident of serious misconduct on 31 December 2015". The letter asked that the claimant contact Mr Kapur upon receipt to arrange an appointment for him to collect his salary and P45 and to return any company property or belongings. This letter was contrived to backdate a termination of employment to coincide with the claimant's last day in the office.

66. The claimant's employment ended on 20 February 2016. This was the date that he received notification that his employment had ended, so this date is the effective date of termination.

67. The claimant wrote back to Mr Kapur an hour or so later, pointing out that the respondent had addressed the letter incorrectly and that he had never received any warnings during the course of his employment nor that he was involved in any serious misconduct on or before 31 December 2015.

68. The next day, i.e. 21 February 2016, the respondent wrote to the Home Office informing the immigration authorities that the claimant's employment had been terminated. The claimant was not advised of this step by the respondent and he heard nothing further until 4 March 2016 when he wrote to the respondent setting out the money that he believed he was owed.

69. Later that day, Mr Kupur responded that the termination letter was sent to the wrong address as a "clerical error". Mr Kapur contended that he then sent a letter to the correct address. On behalf the respondent, Mr Kumar rejected the claimant's claims. Mr Kumar said that there were two warnings recorded against the claimant dated 29 October 2015 and 22 December 2015.

70. The respondent subsequently provided copies of two letters purporting to be disciplinary warnings dated 27 October 2015 and 17 December 2015. Notwithstanding that these are not valid disciplinary warning letters; these letters were manufactured for the purposes of the justifying an unfair dismissal and were an attempt to deceive the claimant initially, those who represented or assisted him and, latterly, the Employment Tribunal.

Issue 2.1

8 We make clear from our determination that Mr Kumar, the Managing Director of the respondent company, assisted by Mr Kupar, the Accounts Manager, extorted considerable money from the claimant under the threat of cancelling his visa (which he eventually did). The claimant was dismissed, we found for manufactured and spurious reasons. We accept Mr Lawrence's submission that the dismissal was the final part of the mistreatment.

9 Whereas, in this exceptional saga, it seems an artificial distinction to separate and evaluate the effect of the claimant's dismissal from his exploitation in respect of the unlawful deductions from his wages and the constant threat of the removal of his visa, this is the task we need to undertake. The claimant referred to how his experience with the respondent broke him mentally and his evidence does in many respects conflate the treatment he experienced from Mr Kumar and Mr Kupar with his dismissal by Mr Kupar.

10 So, the claimant was off ill as a result of the respondent's extortion and threats until he learned of his dismissal on 20 February 2016. On 11 February 2016 Dr Helena Belgrave, counselling psychologist, expressed her concerns about the claimant's suicidal tendencies so his depression at that stage was significant. Nevertheless, Dr Belgrave recommended high intensity CBT to treat his depression commencing towards the end of March 2016 and lasting for 12 group sessions.

11 The claimant's first statement described his initial reaction. He said he could not believe his dismissal, he panicked, he just wanted to know what was going on. The claimant was able to reply immediately to the dismissal letter. The claimant thereafter took a number of positive steps. He contacted the citizen advice bureau and then he contacted ACAS in the first week of March 2016 and then corresponded with his employer on 4 March 2016. On 15 March 2016, he was able to initiate early conciliation through ACAS and on 30 March 2016 he dealt with the inability of Action Fraud to deal with his extortion claim. On 15 June 2016, the claimant made his Employment Tribunal claim.

12 On 16 May 2016, the Home Office advised the claimant that his Leave To Remain in the UK was curtailed. The claimant applied for Further Leave To Remain on 16 July 2016.

13 All of this shows that the claimant was not wholly incapacitated by his stress or depression, from at least early March 2016. The claimant said that he was able to work from end of May to early June 2016 at the earliest and this is consistent with the timeframe that we were able to deduce from Dr Belgrave's letter.

14 The claimant's effective date of termination was 20 February 2016. Prior to this point, the claimant had been made ill by the respondent's exploitative treatment of him. There is no other reason for the claimant's stress and anxiety other than the treatment that was meted out to him by Mr Kumar and Mr Kapur. We find paragraph 17 of the remedy determination that the claimant was only able to look for alternative work from the end of May to early June 2016 at the earliest which is consistent with the steps that he had taken and the CBT treatment timescale. So, the claimant had a residual earning capacity from around late May to early June 2016 at the earliest.

15 The claimant's dismissal – of 20 February 2016 – inevitably exacerbated the claimant's depressive illness because that is the evidence that he has given. However, the extent that this was exacerbated and prolonged is discernible from the above timeline: the claimant's dismissal by the respondent exacerbated or prolonged his depressive illness until the end of May or early June so he would have been in a position to return to work at, say mid-point, which we assess as 1 June 2016.

Consequently, we adjust the award to reflect a deduction from the claimant's original award to reflect the statutory sick pay ("SSP") payable from the date of dismissal to 1 June 2016. The appropriate SSP rates for the relevant period was £88.45 per week.

Issue 2.2

16 We remind ourselves that throughout this employment relationship, this was a respondent that had no intention of treating the claimant fairly. Mr Kumar and Mr Kupar extorted money from the claimant. They were not interested in the claimant's illness, other than this curtailed their ongoing extortion. The respondent did dismiss the claimant when he no longer served this purpose and they followed through on their threat to notify the Home Office with its inevitable consequence to the claimant's immigration status. However, in our remission from the EAT, we are tasked with dealing with the claimant's sickness absence, a counter-factual assessment, and an assessment of the chance that a (reasonable) respondent would have dismissed the claimant fairly for his sickness absence.

17 Notwithstanding the fact that the claimant has not accrued the statutory right not to be unfairly dismissed, we accept Mr Lawrence's submission that there was no realistic chance that a dismissal of the claimant by the respondent as a consequence of the claimant's illness would have been fair.

18 However, the claimant's illness was caused by the conduct of the respondent's senior officials and if we were dealing with a reasonable employer then a reasonable employer would have made allowances for the fact that the conduct of its Managing Director and Accounts Manager had caused the claimant's depressive illness, analogous with the provision referred to by the EAT in *McAdie v Royal Bank of Scotland [2008] ICR 1087*.

19 The claimant's illness was ongoing; nevertheless, he provided the respondent with regular sick notes. The respondent did not engage with the claimant's sickness absence, so the claimant was not asked to provide details of how his illness was progressing. Had the respondent engaged with the claimant's medical condition, then they would have learned by no later than mid-February 1996 that, although the claimant's condition was quite severe at that point, Dr Belgrave thought he would benefit from high intensity CBT. Had the claimant not been dismissed at the end of February 2016 then his illness may not have been exacerbated. In any event, the claimant was able to be available for work sometime around 5 to 5½ months after his illness began. If he had not been dismissed, then on balance, we find that the claimant's recovery would have been sooner (as there was not so much detrimental treatment to get over). Given that the employer had caused illness; given that the claimant would only qualify for SSP and the respondents would not incur his wages during this period; given that there was no evidence that a replacement for the claimant was needed (or indeed that he was replaced); given the fact that the claimant kept his employers fully informed of his illness during his employment; and given that there was a very clear indication that medical treatment was likely to prove beneficial 2½ months into his sickness absence, we determine that a reasonable employer would not have dismissed the claimant in such circumstances.

20 We emphasise at this stage that we do not regard the respondent as a

reasonable employer. Mr Issacs' submission that the respondent would have dismissed the claimant on account of his sickness absence is rejected in any event. If there was a significant chance that the claimant would return to work, and to the on-going exploitative relationship, then we believe both Mr Kumar and Mr Kapur would have seized such opportunity.

21 In any event, we do not believe that the claimant would have been dismissed fairly for his sickness absence. Such a fair dismissal would have been wholly inconsistent with the conduct of this employer and our findings of fact.

22 The claimant was committed to his employment with the respondent and it was on that basis that he secured his Tier 2 visa and moved from India to the UK. His family supported his move to the UK, and he regarded this as a positive career pathway.

23 The respondent's position was that the claimant was committed to working in public relations and that, in effect, the respondent had misled the claimant by portraying his role as a PR Consultant. Under such circumstances, the respondent contends, the claimant would have sought out, and obtained, other employment either in the UK or in India in a public relations capacity.

24 The Tribunal is persuaded by the claimant's evidence that once he commits to an object, he tends to see things through. So, the claimant came to the UK to work in PR. His upset about not working in public relations was wholly insignificant when compared to the exploitation by his employers. However, assuming such exploitation never occurred, he may well have investigated other employment in the UK with a public relations orientation. However, any alternative job would still require an employer paying a significant amount of money to the respondent (or Home Office) in respect of the visa fees and be willing and able to comply with the Home Office immigration requirements, which was a significant task in itself.

25 The claimant was tenacious in following through his employment and once committed to an employer, we are satisfied that he would not want to change to another employer. His job title stated, "Public Relations Consultant", which was sufficient for his cv and the claimant said in evidence, which we accept, that the job contents he was undertaking would not necessarily preclude him from finding other PR work. So, we accept the claimant's evidence that there was no realistic chance that the claimant would have sought out some alternative PR job particularly as there are numerous jobs in the workplace where the reality of the job contents does not necessarily match the job title. The claimant gave evidence that he would have stayed in his employment in the UK for 5 years – the duration of his visa. Taking up the job with the respondent and moving to the UK was a big commitment and he did not want to see that commitment fail and potentially blot his cv.

26 WE also accept that the chances of the claimant looking for and obtaining a new sponsor in public relation would be non-existent as he could not rely upon the respondent to assist. We find Mr Kumar and Mr Kumar would be satisfied to continue the exploitation of the claimant for the duration of his work. These two individuals are not going to give up an easy cash cow. A respondent that manufactured disciplinary warning letters and faked their dismissal is not going to provide the claimant with an easy get out through an honest reference. Neither were going to lose a source of easy

money. Therefore, we find that there was negligible chance that, had the claimant remained employed by the respondent, he might have left the respondent's employment before his visa ran out and/or return to India at some point before August 2020.

27 The EAT ordered the Tribunal to spell out our reasons for believing that staying in the UK solely in order to continue with the conduct of this litigation meant that it was not reasonable to expect the claimant to mitigate his loss by returning to a country where he would have the right to work.

28 in respect of the Indian job market, at the reconvened hearing, the Tribunal had the benefit of hearing evidence from Mr Andrew Dominic Nicoll, employment consultant. Mr Nicoll gave evidence on matters that were largely speculative, but his assistance was valuable, and his appraisal of the job search task in India for the claimant appeared measured and credible, which we accept. Mr Nicholl's said that he anticipated that the claimant would be able to find work in India in finance within 6 months of his return. If the claimant wished to pursue a job in public relations, then it would take the claimant a similar amount of time although possibly longer bearing in mind that the claimant's cv was more orientated for a job in banking and finance. Mr Nicholl's came to the reasonable deduction that if the claimant was not able to obtain a job in PR within 3 months, then the claimant should widen his search to look for a job in banking. In such circumstances, which the Tribunal think may well be likely, it would take the claimant 9 months to secure a job in finance (at a higher wage) or 6 months for the claimant to secure a job in PR (at a lower wage).

29 The claimant had a cv that was more orientated towards finance although for reasons which the claimant explained at the hearing, and we accept, he did not wish to pursue a career in finance. He said that he preferred a career in PR, which is why he accepted employment with the respondent (as a PR Consultant). Finance would give the claimant a higher pay but was a more pressurised and intense working environment, PR was his more favoured, and creative option, although the pay was not as high.

30 The claimant's criticised the respondent for the number of adjourned hearings and that the respondent had delayed and obfuscated at every instance. Having reviewed the Tribunal correspondence, there is some force in this claim. However, irrespective of whether we accept this point, we note that over 16 months after our original judgment, the claimant has not been paid the substantial amount of his compensation. Our first Judgment was promulgated on 6 March 2018 and provided for the respondent to pay the claimant outstanding wages in the sum of £8,372.29. The Tribunal awarded compensation for the claimant's automatic unfair dismissal on 11 June 2018. The Tribunal ordered that the respondent pay the claimant £124,658.82. Of this further award, the respondent accepted that it owed the claimant £31,600.08. So, by the respondent's own reckoning, they owed the claimant £8,372.29 plus £31,600.08 which equals £39,972.37 (excluding any interest owed). The claimant contended that he received no money, so he secured an order that the respondent's pay him £10,000 following a court order arising from the hearing of 23 July 2019.

31 The claimant said he had a mobile phone and that he had access to a computer. The claimant said that it was not plausible that he would be able to conduct

his claim from India. The claimant said that he would not be able to get access to a free representation unit ("FRU") representative via India, which we accept. He said he remained in the UK to brief his barrister and attend meetings when necessary which he did on 7 to 8 occasions throughout the duration of the claim. The claimant said that he was not aware that he could conduct his claim from India, and he had no advice on this matter. It was reasonable for the claimant to assume, as a non-UK national, that a Indian citizen living in India could not pursue a claim based entirely on UK-domestic employment law.

32 The respondent said that there was no good reason for the claimant to remain in the UK. If the claimant left the UK, then he would have surrendered his visa. He qualified for Further Leave To Remain on the basis of his appeal and he advised us, which we accept, that if he left the UK then his outstanding appeal would collapse and his immigration status would be revoked.

33 The respondent said there was no reason why the claimant could not conduct his litigation in India and then return to the UK either on a holiday visa or alternatively on a fresh Tier 2 visa. The Tribunal accepts the claimant's assertion that his chances of obtaining a fresh sponsor and a fresh Tier 2 visa from India were negligible given both the record of his dismissal and the revocation by the Home Office of his original Tier 2 visa. If he were to abandon his current Further Leave To Remain in the UK, then we accept the claimant would have difficulties in obtaining re-entry to the UK.

34 The respondent said that the claimant could have secured alternative employment in India at some point and the money given to the claimant by his father and friend could have been utilised in travel to the UK for conferences and hearings and presumably for the purposes of the enforcement. Such is the history of this claim, it is duration and various pathways, that it would test the resilience of any party. We note that proceedings have been disrupted by Mr Kumar's occasional trips to India. Nevertheless, Mr Kumar was domicile in the UK and had the full support of the respondent and legal representatives. Mr Kumar's burden in proceedings was not as great as that of the claimant and the claimant had significantly less resources available.

35 We remind ourselves that the obligation in respect of mitigation is not whether the claimant has behaved reasonably but whether the respondent can establish that the claimant has behaved unreasonably.

36 The claimant's witness evidence and Mr Lawrence's submissions in respect of securing representation are entirely understandable and reasonable. We note that Tribunal proceedings are complex and stressful. This is a claimant that had suffered quite severe psychiatric illness as a result of his treatment by the employer and is committed to see this case through to the end.

37 This is also a non-UK national claimant that needed considerable assistance from a representative from the FRU to navigate through the Employment Tribunal process. We accept the claimant's evidence that he could not do this himself. We accept the claimant's evidence that he would not have been in a position to instruct UK employment lawyers in India to represent him in the London East Employment Tribunal proceedings. The claimant had no legal experience or connections and even on the more mundane practicalities, there is a 4½ hour time lag for any telephone

conferences, skype conferences etc.

38 We accept the claimant's evidence that he would not be in a financial position to instruct solicitors in India. He incurred significant debt living in the UK, through the respondent's extortion. The proceedings have been elongated and complex and would have been difficult enough dealing with it in the UK. The Tribunal accepts that it would have been possible for most claimants to deal with their claim from a country abroad but in respect of this particular Claimant, we find it was "not unreasonable" to seek to remain in the UK to follow through his claim. Indeed, we find that the claimant was reasonable in staying in the UK, despite being able to obtain employment in India within 6 to 9 months.

39 The claimant's employment would come to an end with the expiry of his visa in August 2020 so his losses could not continue past this date. The past is indicator of future conduct and we anticipate that the claimant will need to remain in the UK past August 2020 to ensure that appropriate compensation is paid and undertake enforcement proceedings, if necessary. In any event, when he leaves the UK. We anticipate it will take him up to 9 months to obtain suitable alternative employment in India. Mr Nicholls accepted in evidence that his forecast for earnings were estimates and the cost of living comparisons were largely very rough calculations. Mr Nicholls said that he was no expert in evaluating the cost of living in India, which was both complex and requires detailed documentation if it is to assist us. Notwithstanding, the respondent did not comply with any disclosure requirements for an expert report, as stated above, Mr Nicholl's experience was helpful to us in coming to our deliberation about the employment options available to the claimant in India and how long it would be expected to take the claimant to find another job. We reject Mr Lawrence's submission to ignore this evidence in its entirety.

40 If the claimant was likely to return to India following the reconvened remedy hearing, then we anticipate that he would not be able to find a suitable alternative job for 9 months, which is likely to coincide with his original employment cut-off date of 9 August 2020. In any event, we assess that it is reasonable for the claimant to remain in the UK until he has been paid his compensation.

41 In making the above determination, we note the claimant's contention that he was dealing with an unscrupulous employer and our findings in respect of the integrity of Mr Kumar and Mr Kupar. Had the respondent paid the claimant the money that it now accepts it had owed the claimant i.e. £39,972.37, then the respondent's argument about the claimant returning to India may well have had greater strength.

Issue 2.3

42 In respect of the Tribunal's uplift of 25%, the Tribunal reconsidered the award bearing in mind the absolute value of the amount awarded. The respondent suggested a 10% reduction to an award of 15% to reflect the potential high sum of this uplift. The claimant contended that a 25% uplift remained appropriate.

43 Mr Issacs submitted that the respondent was a relatively small organisation (of around 13 staff). That they had no human resources support and that they were dealing with an individual who did not have sufficient qualifying service to bring an

unfair dismissal claim.

44 The Tribunal made the findings of fact that the respondent falsified warning letters to justify the dismissal and then falsified documentation in order to pretend that the dismissal occurred earlier. Our previous findings determined that the respondent's failures under the ACAS Code of Practice were manifest and profound. We also found that in the respondent's dismissal of the claimant, the respondent wholly disregarded all of the basic tenants of the ACAS Code of Practice. We determined that this was a dismissal that was contrived and was wholly without merit.

45 Having reviewed our 25% uplift and having considered the quantification of £20,252.46, we are convinced that this is appropriate and just and equitable in the circumstances of the case. The full percentage uplift awarded reflects our disapproval of the respondent's unreasonable failure to comply with the basic tenets of a fair dismissal process as set out in the ACAS Code of Practice. In the circumstances of this case, any percentage reduction would not do justice to the respondent's breaches. So, whereas the amount is large (and appropriate) any reduction for the quantum would undermine the gravity that we view the respondent's default. Under the circumstances, we see no justification in reducing the full uplift available to us.

Issue 2.4

46 So, the Tribunal has reviewed carefully the claimant's schedule of loss and the respondent's counter-schedule. At the hearing, Mr Issacs did not contend that the claimant's figures were themselves incorrect merely the fundamental premise of the calculation was wrong. Mr Isaacs accepted that the figures quoted by the claimant for tax threshold and personal allowance were accurate.

47 We have set out the losses that we award as follows:

Overview	
Date of commencement of employment	10 August 2015
Effective date of termination	20 February 2016
Age at EDT	27 years
Estimated date of hearing	3 October 2019

Lost Earnings	£	£
Gross salary = £23,000		
Net weekly income 2015/2016	360.23	
Net weekly income 2016/2017	361.85	
Net weekly income 2017/2018	363.92	
Net weekly income 2018/2019	365.77	
Net weekly income 2019/2020	368.77	

Loss of earnings for period:

20.02.16 to 01.04.16	£88.45[1] x 6 weeks	530.70
02.04.16 to 31.05.16	£88.45[2] x 9 weeks	796.05

[1] Statutory sick pay at 2015/16 rate
[2] SSP at 2016/17 rate

01.06.16 to 31.04.17	£361.85 x 43 weeks		15,559.55
01.04.17 to 30.04.18	£363.92 x 52 weeks		18,923.84
31.03.18 to 05.04.19	£365.77 x 53 weeks		19,385.81
01.04.19 to 09.04.19	£368.77 x 70 weeks		25,813.90
Net total	Various x 233 weeks		**81,009.85**
Loss of earnings from EDT to hearing:		64,783.97	
Future loss of earnings from hearing to 09.08.20		16,225.88	
Adjustments under s207A TULRCA			
Total Loss		81,009.85	
25% uplift for failing to comply with ACAS code			20,252.46
Total			**101,262.31**
Grossing Up			
Total Taxable Compensation		101,262.31	
(Less s403 ITEPA threshold)		(30,000)	
(Less Adjusted Personal Allowance 2019/2020)		(9,311.80)	
		61,950.51	
£0 – 50,000 @ 20%		10,000.00	
£50,001 – 67,064.62 @ 40%		6,825.85	
Total after Grossing Up		78,776.36	
Plus s403 ITEPA threshold added back in		30,000	
Plus Adjusted Personal Allowance		9,311.80	
Grand Total			**118,088.16**

Employment Judge Tobin

30 December 2019