



EMPLOYMENT TRIBUNALS

Claimant: Mrs A Evans

Respondent: GE Capital Funding Services Limited

Heard at: Cardiff remotely via video **On:** 11th January 2021 (Chambers discussion, oral judgment and reasons: 15th March 2021)

Before: Employment Judge Howden-Evans
Mr D Ryan
Mrs M Humphries

Representation:

Claimant: Ms Annand (Counsel)

Respondent: Mr Morgan (Solicitor)

REMEDY JUDGMENT

The unanimous judgment of the Employment Tribunal is as follows:

1. In light of the jointly-instructed medical expert's opinion and prognosis, the Claimant is awarded £66,045.70 compensation for personal injury and interest thereon.
2. The Claimant is awarded £47,700.82 compensation for injury to feelings and interest thereon. The tribunal has declined to make an award of compensation for aggravated damages.

3. The Claimant is awarded £51,200.72 in respect of her past losses and interest thereon.
4. The Claimant is awarded £306,058.22 compensation in respect of her future losses, including the cost of future medical treatment, loss of earnings and future pension losses.
5. The Respondent is liable to pay the Claimant the net sum of **£471,005.46** and will account for the tax and National Insurance due on this sum.
6. The Employment Protection (Recoupment of Job Seekers Allowance and Income Support) Regulations 1996 do not apply to this judgment.

EMPLOYMENT JUDGE HOWDEN-EVANS

Dated: 11th April 2021

Judgment posted to the parties on

12 April 2021

For Secretary of the Tribunals

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employmenttribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Calculations

Claimant's salary as Accounts Receivable Specialist: Gross pay: £436.38 per week; Net pay: £343.20 per week upon starting sick leave rising to £494.05 (gross) and £405.95 (net) in April 2021 as set out in Schedule of Loss.

The Claimant's Assumed Effective Date of Termination: 31st December 2021

The Tribunal have adopted the joint medical expert's prognosis that, the Claimant will not be able to return to similar work, or to full time employment, during the remainder of her working life and the most likely prognosis is that she will be able to work 20 hours per week at a significantly reduced hourly wage.

The Tribunal considered the possibility that the Claimant might have had to revert to part time working at some point in the future, even without the acts of discrimination, and the possibility that the Claimant may recover enough to return to full time or higher paid employment at some point in the future – we accepted it was appropriate to reduce the Claimant's future loss of earnings by 20% to make allowance for these contingencies.

Compensatory Award (immediate loss)

Loss of Earnings, Past Loss of Bonus and Past Loss of employment benefits from period 13th December 2016 until 15th March 2021

As set out in Schedule of Loss of 11th January 2021, and agreed by the parties, the Claimant's losses (whilst on sick leave and in receipt of income protection insurance payments) between 13th December 2016 up until the assumed effective date of termination (31st December 2021) are **£46,916.51**

Some of this amount relates to loss of earnings, bonus and benefits during the period 15th March 2021 to 31st December 2021 – these are future losses and are to be excluded in calculating interest. These amount to:

Loss of earnings 15th March 2021 to 31st March 2021:

£99.39 per week x 2.5 weeks = £248.48

Loss of earnings 1st April 2021 to 31st December 2021:

£101.49 x 39 weeks = £3,958.11

Loss of quarterly bonus April 2021 to December 2021:

$£1,722.80$ (annual amount of 2021 bonus) $\times \frac{3}{4} = £1,292.10$

Loss of monthly benefits payment April 2021 to December 2021:

$£209 \times 9$ months = $£1,881$

Total Loss of earnings, bonus and benefits that relate to the period 15th March 2021 to 31st December 2021 = $£7,379.69$

So the immediate loss has been $£46,916.51$ less $£7,379.69 =$ **£39,536.82**

plus Interest

Interest has been calculated on past loss of earnings / bonus /benefits of $£39,536.82$ and is calculated at 8% per annum from the midpoint between the date of the first act of discrimination (31st October 2013) and the calculation date (15th March 2021)

$£39,536.82 \times 8\%$ per annum $\times 1,346$ days **£11,663.90**

Total Compensatory Award (immediate loss) £51,200.72

Compensatory Award (future loss)

Loss of Earnings 15th March 2021 to 31st December 2021

Total Loss of earnings, bonus and benefits that relate to the period 15th March 2021 to 31st December 2021(as calculated earlier)

£7,379.69

Loss of income after 31st December 2021

Ongoing loss of income of $£12,040.60$ as set out in the Schedule of Loss

Adopting a multiplier of 18.92 (Table 12 Ogden Table, Loss of Earnings to pension age 68 (female) 49 year old with a discount of -0.25%

$18.92 \times £12,040.60 =$ **£227,808.15**

Less 20% reduction to reflect chance that, without discriminatory acts, Claimant may have had to revert to part time working / and chance of Claimant recovering sufficiently to return to full time / higher paid employment

(£45,561.63)
£182,246.52

Loss of bonus after 31st December 2021

Ongoing loss of bonus of £1,722.80 net per annum as set out in the Schedule of Loss

Adopting a multiplier of 18.92 (Table 12 Ogden Table, Loss of Earnings to pension age 68 (female) 49 year old with a discount of -0.25%

$$18.92 \times £1,722.80 = £32,595.37$$

Less 20% reduction to reflect chance that, without discriminatory acts, Claimant may have had to revert to part time working / and chance of Claimant recovering sufficiently to return to full time / higher paid employment

(£6,519.07)
£26,076.30

Loss of benefits after 31st December 2021

Ongoing loss of benefits of £2,508 net per annum as set out in the Schedule of Loss

Adopting a multiplier of 18.92 (Table 12 Ogden Table, Loss of Earnings to pension age 68 (female) 49 year old with a discount of -0.25%

$$18.92 \times £2,508 = £47,451.36$$

Less 20% reduction to reflect chance that, without discriminatory acts, Claimant may have had to revert to part time working / and chance of Claimant recovering sufficiently to return to full time / higher paid employment

(£9,490.27)
£37,961.09

Loss of Pension after 31st December 2021

Ongoing loss of pension contributions of £2,235.60 net per annum as set out in the Schedule of Loss

Adopting a multiplier of 21.30 (Table 28 Ogden Table, Multiplier for loss of pension commencing age 68 (female) 49 year old with a discount of -0.25%

$$21.30 \times £2,235.60 = £47,618.28$$

Less 20% reduction to reflect chance that, without discriminatory acts, Claimant may have had to revert to part time working / and chance of Claimant recovering sufficiently to return to full time / higher paid employment

(£9,523.66)
£38,094.62

Medical treatment

Estimated cost of medical treatment as suggested by medical expert to start Claimant's recovery and to give the Claimant the best chance of returning to employment, as set out in the Schedule of Loss

£14,300

Total Compensatory Award (future loss) £306,058.22

Total Compensatory Award (immediate and future losses) £357,258.94

Personal Injury and Injury to Feelings Awards

Personal Injury Award £51,000

plus Interest

Interest has been calculated at 8% per annum from the midpoint between the date of the first act of discrimination (31st October 2013) and the calculation date (15th March 2021)

£51,000 x 8% per annum x 1,346 days **£15,045.70**

Injury to Feelings Award

£30,000

plus Interest

Interest has been calculated at 8% per annum from the date of the first act of discrimination (31st October 2013) until the calculation date (15th March 2021)

£30,000 x 8% per annum x 2,692 days

£17,700.82

Total Award

£471,005.46

The Respondent will account for any tax and National Insurance due on that net Total Award

EMPLOYMENT JUDGE HOWDEN-EVANS

Dated: 11th April 2021

Judgment posted to the parties on

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For Secretary of the Tribunals