Claim number: K19ZA560

IN THE COUNTY COURT AT BIRMINGHAM

Recorder Mundy KC
15 October 2026

BETWEEN

**MR AHMAD SHEIKHIPOUR**

Claimant

and

**EMPIRE OF GLASS LTD**

Defendant

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**JUDGMENT**

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Trial dates 17-21 August 2026

The claimant in person

Counsel for the defendant: Andrew McLaughlin

Judgment sent to parties in draft: 8 October 2026

1. By this claim, Mr Sheikhipour seeks compensation for injuries suffered in an accident at work. By his updated schedule of loss, Mr Sheikhipour claimed damages of around £780,000 to £830,000.

2. The defendant has admitted liability. The issues in dispute at the trial were:

   2.1 whether Mr Sheikhipour's damages should be reduced for contributory negligence and, if so, by what proportion;

   2.2 what sum in damages Mr Sheikhipour is entitled to; and

2.3 whether Mr Sheikhipour's claim should be dismissed due to fundamental dishonesty in the presentation of his claim.

## The accident and the aftermath

3. Mr Sheikhipour took up employment with the defendant around January 2020 as a door and window fitter.

4. The accident which this case concerns occurred on 10 December 2020, when Mr Sheikhipour was 40 years old. The accident occurred while Mr Sheikhipour was working on behalf of the defendant at a manor house in Elstree. Mr Sheikhipour fell around 15 feet from a ladder, carrying a pane of window glass.

*Ambulance*

5. Mr Sheikhipour was taken by ambulance to Watford General Hospital. He does not know who called the ambulance or how long he was on the ground before the ambulance arrived. His first witness statement says that he experienced severe pain and was semi-conscious.

*Hospital treatment*

6. At Watford General Hospital, Mr Sheikhipour had CT and MRI scans. These revealed fractures to Mr Sheikhipour's spine. He was discharged on 14 December 2020, four days after he had arrived, with a supportive corset, which he wore for around 6 months.

*After hospital*

7. There is a dispute about where Mr Sheikhipour was living at the time of the accident and where he went after he was discharged from hospital.

## The litigation

8. Mr Sheikhipour engaged solicitors, AVA Solicitors Ltd, to pursue a claim for compensation for his injuries. In May 2021, about five months after the accident, the defendant admitted a breach of duty.

9. The solicitors arranged for Mr Sheikhipour to be examined by consultant orthopaedic surgeon Mr Ajit Ambekar in September 2021, and following a further MRI scan in March 2022, again in August 2022. He attended the first appointment in a wheelchair.

10. Mr Sheikhipour's solicitors arranged for him to be examined by consultant maxillofacial surgeon Mr Hensher in November 2022. Mr Hensher expressed the view that Mr

Sheikhipour had suffered a broken tooth (the lower right second molar) in the accident and that the tooth was unlikely to respond to root canal treatment and so should be removed.

11. Mr Sheikhipour underwent arthroscopic (keyhole) surgery to his left shoulder in December 2022.

12. Mr Sheikhipour was examined by consultant orthopaedic surgeons Mr Michael Foy, instructed by the defendant's solicitors, and Professor Lee, instructed by his own solicitors, in March 2023. On both occasions he was assisted by an interpreter.

13. According to Mr Foy's report, Mr Sheikhipour reported lower back pain and shoulder pain, currently worse in the right shoulder than the left, and being depressed, and explained that he could not do any cooking or cleaning because of pain and mental health issues and that he could probably drive short distances but did not do so.

14. Mr Foy wrote that he would normally expect a patient with Mr Sheikhipour's injuries to be off work for 3-6 months and then return, and would not expect such a patient to have significant restrictions in and around the home beyond 3-6 months from the injury. He wrote, "Subject to my review of the additional clinical information and later radiology, I do not believe that ongoing symptoms of this magnitude and nature could be explained in purely orthopaedic or spinal terms." He expressed the view that the shoulder injuries were not caused by the accident.

15. Mr Sheikhipour told Professor Lee that he had ongoing difficulty with self-care, including dressing, bathing, showering and using the toilet, and with housework, including washing, ironing, cooking, hoovering and shopping. Professor Lee expressed the view that the shoulder injuries were caused by the accident and were preventing Mr Sheikhipour from returning to work. Professor Lee concluded that Mr Sheikhipour would not be able to return to work without intensive physiotherapy and surgery.

16. Mr Sheikhipour's solicitors issued his claim in September 2023. They quantified his claim then at £250,000 to £550,000.

17. Mr Sheikhipour was interviewed by Dr Leigh Neal, a consultant psychiatrist instructed by the defendant's solicitors, on 16 October 2023. Through an interpreter, Mr

Sheikhipour told Dr Neal that he suffers continuous pain in his back, shoulders and knees, has weakness in his legs and that, on a good day, he could walk about 150m on the flat before having to stop and rest. He said he needed help, and did not go shopping on his own. Dr Neal saw Mr Sheikhipour walk around the room and described him as grimacing and holding his head in his hands. He described suffering from low mood, diminished interest in most activities, fatigue, diminished ability to concentrate and anxiety.

18. Unbeknown to Mr Sheikhipour, the defendant had arranged covert surveillance of him that same day and three days later.

19. The video of events on that day is anodyne. A video from three days later, 19 October 2023, shows Mr Sheikhipour driving to the car park of a fitness centre. It shows him in the fitness centre reception with others (there is no suggestion he used the facilities there himself) and then (without any obvious difficulty) returning to the car, opening a rear car door, bending inside, shutting the door, walking around the vicinity. It shows him leaving the fitness centre, taking the small family dog for a walk, at 9.05am, and returning with the dog about 5 minutes later, walking in a relaxed and easy way, at times with one hand in his pocket and the other on the dog's lead. It shows him lifting the small dog (bending his back, rather than his knees to do so) and putting the dog on the parcel shelf. It shows him later in the day walking to a convenience shop quite briskly. It shows him carrying multiple bags of shopping and multiple bottles of water and loading them into the rear of his car without difficulty.

20. Mr Sheikhipour signed and served his particulars of claim in March 2024. The particulars of claim said that Mr Sheikhipour would seek permission to rely on reports from Mr Ambekar, Professor Lee, Mr Hensher and consultant psychiatrist Dr Navabi.

21. Mr Sheikhipour's solicitors arranged for him to be seen by consultant orthopaedic surgeon, Mr Bhalla, in July 2024 and arranged for an interpreter to be present. Mr Sheikhipour attended in a wheelchair. Mr Bhalla recorded Mr Sheikhipour as having told him that he had not gone back to work, that he could walk small distances at present "at home mainly to the bathroom", that he suffered with severe pain, that he still had trouble putting on shoes and socks and did not go out much, preferring to be at home and that he was unable to do the shopping.

22. In October 2024, Mr Sheikhipour had a heart attack, and in 2025 he fractured his elbow.

23. The defendant arranged surveillance of Mr Sheikhipour over five days in January 2025 and four consecutive days in April 2025. I start with the videos in January.

24. The videos from 6 January 2025 show Mr Sheikhipour working at the Polaris Restaurant, a restaurant operated by Polaris Restaurant Ltd whose sole director and sole shareholder was Mr Sheikhipour. One video shows Mr Sheikhipour working seemingly without restriction, at one time kneeling or crouching down. Other footage the same day shows Mr Sheikhipour walking towards a cashpoint, crossing a road without obvious difficulty.

25. Video footage taken two days later, on 8 January 2025, shows Mr Sheikhipour walking towards the restaurant with both hands in his pockets, shows him on the road opening a car door and bending into a car, shows him then skip-stepping back onto the pavement.

26. Footage from 9 January 2025 shows Mr Sheikhipour walk briskly towards his car and enter it, drive, walk briskly into the Polaris restaurant carrying a bag, and later walk briskly along the street.

27. Footage on 10 January 2025 shows Mr Sheikhipour opening the Polaris restaurant, lifting his right arm well above his head to operate the controls of the roller shutter doors. Footage on 14 January 2025 shows Mr Sheikhipour again at the Polaris restaurant.

28. The videos made in April 2025 show Mr Sheikhipour at the Polaris restaurant on four consecutive days. They showed, in particular, on 1 April, Mr Sheikhipour jogging to pick up a sign that had fallen over, on 2 April Mr Sheikhipour lifting his right arm above and using a screwdriver to remove rubbish from the roller shutter control panel, crouching to prune plants outside the restaurant, bending to lift plant pots, and later cleaning his car with a cloth including the roof, on 4 April Mr Sheikhipour cleaning glass front to the restaurant, lifting his arm above his head to do so. All of the movements I have described appeared fluid and easy.

29. On 4 June 2025, there was a costs and case management conference before DJ Phillips. Mr Sheikhipour was given permission to increase the statement of the value of his claim to £640,000. He was given permission to rely on the evidence of orthopaedic surgeon Mr Bhalla, with reliance on Mr Ambekar and Professor Lee's evidence confined to "historic only" (i.e. as a record of events and not as expert opinion evidence). He was given permission to rely on Mr Hensher's and Dr Navabi's evidence, and that of a pain expert, later identified as Dr Khanna. The defendant was given permission to rely on expert evidence from Mr Foy, another orthopaedic surgeon Mr Partha Sarangi, Dr Neal and a pain expert, later identified as Dr Claxton.

30. Video surveillance evidence from 28 July 2025 shows Mr Sheikhipour on a shopping trip with family members, walking around the shops and getting in and out of the car.

31. On 27 August 2025, Mr Sheikhipour was examined by Mr Sarangi. He went to the appointment in a wheelchair, accompanied by his son, who pushed the wheelchair, and a professional translator. Mr Sarangi recorded that Mr Sheikhipour told him that his right shoulder was constantly painful with movements aggravating his pain. He said that he had not worked in any capacity and believed his shoulders symptoms would prevent him doing any type of work, that he was not really able to do anything around the house and mainly sits watching sports on television. Mr Sarangi conducted a physical examination, which he described in this way:

> "Mr Sheikhipour was unable to elevate his right arm beyond 90 degrees of elevation in any direction and passive movements [those performed by the examining surgeon] were restricted by pain generated apparently from the shoulder."

32. Video surveillance evidence from the next day shows Mr Sheikhipour removing tools from his car and raising his right arm well above his head to close his car boot.

33. On 2 October 2025, Mr Sheikhipour was examined by Dr Claxton, a consultant in pain management. The interview was video-recorded, as Mr Sheikhipour knew at the time. What he did not know was that his journey to the surgery was also video recorded. A video shows him getting out of his car, and walking in a relaxed way towards the appointment.

34. At the appointment itself, Mr Sheikhipour said that he had not been able to work since the accident and, though his brother had opened a restaurant and the plan was that Mr

Sheikhipour would manage it, he had never worked in it. He said that he had struggled to walk for two to three years and had used a wheelchair regularly until six months ago. He said that, on a very good day, he might be able to walk for 10 minutes. He said he was unable to carry a bag of shopping, indeed he could carry "nothing at all".

35. When asked to demonstrate how he normally walked, he demonstrated a slow shuffling gait. When asked to bend, he bent tentatively. When asked to raise his arms he raised his left arm only to just about shoulder height. When asked about his right arm, he grimaced before lifting using his left arm to move his right arm up, but not as far as shoulder height, and suggested he could not raise his right arm by itself at all.

36. Mr Sheikhipour was videoed shuffling back towards his car after the appointment.

37. Mr Sheikhipour signed his first witness statement on 29 October 2025. In it he said that there are "some okay days and worse painful days" and that on some better days he would go for a walk, trying not to use a wheelchair or crutches but that he would then be in such severe pain that he could hardly walk. The statement went on, "My physical ability is severely limited; I can shower using adapted equipment, dress myself slowly on better days, drive short distances, and chop small vegetables, but I am unable to cook full meals. For long journeys, I rely on a wheelchair due to severe back pain." He said, " Since the accident I have been unable to return to work," and that he did not help at all with a family restaurant business, which he said was run by his wife.

38. In March 2026, the defendant disclosed the surveillance evidence and sought permission to rely on it and to amend its defence to plead fundamental dishonesty. District Judge Robinson granted that application in June 2026, and gave permission for supplementary expert reports.

39. In July 2026, Mr Sheikhipour signed a second witness statement addressing the video surveillance evidence. The statement said:

> "I have reviewed the surveillance evidence relied upon by the Defendant. I do not accept that it accurately reflects my overall functional capacity or ability to work.
>
> The reports record isolated moments of activity on selected days. They do not provide a continuous or representative picture of my condition, pain levels, recovery time, or the significant rest periods I require before and after any activity.

> On the dates referred to, I was experiencing fluctuating symptoms, including severe pain, fatigue, and reduced mobility. On some days, I am able to carry out limited tasks such as short journeys, attending appointments, or assisting my family. However, these activities are not sustained, are often undertaken with difficulty, and are followed by periods of significant pain and rest."

40. At a pre-trial review in August 2026, Recorder Bleasdale KC made an unless order, debarring Mr Sheikhipour from relying on the expert evidence of Dr Khanna and Dr Navabi unless he served and filed supplementary reports from them addressing the surveillance evidence.

41. Mr Sheikhipour did not serve such supplementary reports.

42. In August 2026, AVA Solicitors Ltd applied to come off the record as acting for Mr Sheikhipour. The application was granted in the week before the trial began. Mr Sheikhipour told me that he had tried to find alternative solicitors but, because the case had been going on so long, he could not find solicitors willing to act otherwise than on a "privately paid" basis, and he could not afford their fees.

**The trial**

43. At trial, therefore, Mr Sheikhipour represented himself. Mr Sheikhipour's primary language is Farsi and he was aided by a Farsi interpreter. The defendant was represented by counsel Mr Andrew McLaughlin.

44. The trial was due to begin on Monday 17 August 2026 but was delayed because the defendant had been struck off the register of companies on 21 July 2026 and dissolved on 28 July 2026. The dissolution had not come to the attention of those that had represented the defendant before the trial began, no doubt because day-to-day instructions came from the relevant insurance company, Covea Insurance plc. I adjourned the case to 2pm on Tuesday 18 August 2026 to allow Covea to make an urgent application to restore the company to the register. That application was granted shortly before 2pm that Tuesday. The trial then resumed and Mr Sheikhipour began to give evidence (through the Farsi interpreter) on Tuesday afternoon.

45. On the morning of Wednesday 19 August, the evidence of three medical experts called by the defendant was interposed (this being necessary because of the delay). The

defendant called consultant orthopaedic surgeon Mr Foy, who specialised in spine injuries, and consultant orthopaedic surgeon Mr Sarangi, who specialised in shoulder injuries, and consultant psychiatrist Dr Neal. Mr Sheikhipour cross-examined each expert only briefly on their expert views. Each doctor gave straightforward answers to the few questions asked. Mr Sheikhipour did not ask any of the three experts questions to challenge the accounts they had given of their consultations with him.

46. Mr Sheikhipour then resumed giving evidence. Just before he was re-sworn, he told me that his pain was "unbearable" but that he would try to do his best. He was then cross-examined for around 45 minutes without exhibiting any obvious signs of pain. Shortly before noon, he appeared to be in considerable pain and told me he could not continue. Mr McLaughlin asked to finish his line of questions, which he estimated would take two minutes and Mr Sheikhipour did not object to. I then rose at around noon for 15 minutes to allow Mr Sheikhipour a short break, explaining that we would discuss afterwards whether the case could go on that afternoon or would need to resume again in the morning.

47. I understand that during that short break Mr Sheikhipour collapsed on the courtroom floor and was attended by first-aid trained court staff and then by paramedics. He left court by ambulance. I made an order releasing Mr Sheikhipour from his oath and adjourning the trial until 10.30am on Thursday. My order made clear that if Mr Sheikhipour did not attend, I would consider proceeding with the trial in his absence, and in deciding whether to do so I would take into account any medical evidence adduced. In my order, I drew the parties' attention to the guidance given by Mr Justice Norris on medical evidence in support of adjournment applications in *Levy v Ellis-Carr* [2012] EWHC 63 (Ch) at [36], endorsed by the Court of Appeal in *Bruce v Wychavon District Council* [2023] EWCA Civ 1389 at [36].

48. Mr Sheikhipour attended the next day, Thursday 20 August, and gave evidence without any apparent serious difficulty caused by pain. He gave evidence and made submissions on the Friday 21 August also without any apparent serious difficulty caused by the pain.

49. Although he had served a witness statement from his wife, Ms Mahsa Barati, who attended the first three days of the trial, he did not call her as a witness, explaining that

this was due to her health issues (but without providing any documentary evidence of them).

**The medical evidence**

50. The medical evidence before the court provided little support for Mr Sheikhipour's case about the extent of his injuries.

*The spine*

51. The experts best qualified to opine on Mr Sheikhipour's spine injury were consultant orthopaedic surgeons Mr Bhalla, instructed by Mr Sheikhipour, and Mr Foy, instructed by the defendant.

52. There was a great deal of common ground between them. They considered that Mr Sheikhipour suffered fractures to his L1, L3, L4 and possibly L5 lumbar vertebrae in the fall in December 2020. The L3 fracture was potentially unstable. There was no indication suggesting that surgical treatment would be required. They considered that X-ray and MRI imaging from November 2021 showed that the fractures had healed. MRI imaging from March 2022 showed mild degenerative change but no evidence of any bony or structural injury.

53. Neither expert would have expected normally to see significant long-term symptoms from lumbar spinal fractures of this nature. On the contrary, Mr Foy would have expected Mr Sheikhipour's symptoms to have largely settled by six to nine months from the accident, Mr Bhalla within twelve to eighteen months. Beyond those periods, the experts agreed that Mr Sheikhipour might have been prone to some minor back problems on very heavy or physically demanding activity.

54. Mr Foy would have expected Mr Sheikhipour to have been able to return to work within six to nine months, Mr Bhalla within twelve to eighteen months. After that, they would have both expected him to be able to carry out a light or moderately heavy role until normal retirement age.

55. Mr Foy and Mr Bhalla reached these conclusions before seeing the video surveillance evidence. After seeing it, Mr Foy expressed the view that Mr Sheikhipour was "likely to be significantly exaggerating his symptoms and disability". Mr Bhalla wrote:

> "From a neurological/spinal perspective there remains no explanation for the claimant's inability to walk...The likely explanation would be due to chronic pain and therefore comments on this would be required by the pain experts in this regard.
>
> Assessing the surveillance footage there appears to be some improvement in his overall mobility, which is witnessed during the surveillance footage, when compared to my examination findings in November 2024 where he attended the consultation in a wheelchair.
>
> The claimant's explanation for this variation would be his fluctuating levels of pain and function, which is noted in his updated witness statement. Ultimately assessing the claimant's veracity and considering potential fundamental dishonesty is a matter for the court to determine."[1]

56. In cross-examination, Mr Foy maintained his views. He acknowledged that recovery time varied from patient-to-patient "to a degree". He mentioned, seemingly suggesting that it was a respectable opinion to hold, that Mr Bhalla thought the symptoms from an injury of this nature might last up to 18 months.

57. Mr Bhalla was not called to give oral evidence.

*The shoulders*

58. The experts best qualified to deal with the alleged shoulder injury were Mr Bhalla and Mr Sarangi.

59. Both experts agreed that Mr Sheikhipour had likely suffered no right shoulder injury during the fall. They noted, on the strength of Mr Sheikhipour's medical records, that Mr Sheikhipour's symptoms appear to have started well over eighteen months from the accident. They did not think they were causally related.

[1] Mr Bhalla's reference to his "examination findings in November 2024" appears to be to his report of November 2024 which referred to an examination in July 2024 at Little Aston Spire Hospital in Birmingham.

60. The experts agreed that Mr Sheikhipour had suffered a soft-tissue injury to his left shoulder which became first symptomatic several months after the accident. Mr Sarangi described it as being (or involving) a partial thickness tear of the supraspinatus.

61. The experts agreed that there were three possible explanations: (a) that Mr Sheikhipour suffered no left shoulder injury during the fall and his symptoms are unrelated, (b) that Mr Sheikhipour did suffer an injury and that the symptoms were caused by it, (c) that Mr Sheikhipour had a vulnerable left shoulder which was made symptomatic by the accident.

62. Mr Sarangi preferred the first explanation. He considered that a soft tissue injury to the shoulder caused by a fall would cause immediate pain. He considered that the tear developed in the natural course of events as a result of a constitutional condition and would have done so even if the December 2020 accident had not occurred.

63. Mr Bhalla thought the third explanation was most likely. He suggested that Mr Sheikhipour's lower back pain may have been a significant distraction from other injuries, and that this might explain the delay in complaining of left shoulder pain.

64. Having seen the video surveillance evidence, Mr Sarangi expressed the view that Mr Sheikhipour did not "appear to be in any way restricted in musculoskeletal complaints", that he did not "appear to be restricted with the use of his arms in any way" and "his right shoulder movements have been demonstrated to be full". He contrasted his examination on 27 August 2025 with the video surveillance evidence on 28 August 2025 by saying this:

> "When I examined his left shoulder there was restriction of active movements (movements undertaken by the patient under their own steam), but passive movements (examination of a joint undertaken by the examining surgeon) were full. Examining the right shoulder was limited by pain and the Claimant could not elevate his arm beyond 90 degrees of elevation in any direction. The range of movements was apparently restricted by pain that he was experiencing.
>
> My examination findings were in complete contrast to the video surveillance taken the next day (28/8/25). The Claimant, in particular, is seen opening the tailgate of his car, rummaging around within the boot of his car using both hands. He is then seen to elevate his right arm to a full range of elevation to get hold of the tailgate and close it. There is no orthopaedic explanation for this discrepancy."

65. In cross-examination, Mr Sarangi was asked only a few questions. He maintained his view that Mr Sheikhipour had not suffered an injury to either shoulder as a result of falling from the ladder.

*Facial injuries*

66. There is no dispute about the extent of Mr Sheikhipour's facial injuries. He suffered a broken tooth (lower right second molar), with no prospect of treatment, but which could most likely be successfully replaced by an implant-carried crown.

*Pain*

67. The two experts in pain medicine were Dr Claxton and Dr Khanna. Mr Sheikhipour was debarred by Recorder Bleasdale's order from relying on Dr Khanna's evidence. Dr Claxton's evidence was that the reported level of pain was "disproportionate to [his] expectations". He considered that the "GP medical records do not support the presence of an intrusive pain condition over the last 2 years". He would not have expected Mr Sheikhipour to have the significant limitations in mobility as a result of the accident.

*Psychological injury*

68. The psychological experts were Dr Neal and Dr Navabi. Mr Sheikhipour was debarred from relying on Dr Navabi's evidence. Dr Neal considered that Mr Sheikhipour had probably suffered a depressive disorder from January 2021 to February 2023. Having seen the video surveillance evidence, Dr Neal wrote:

> "As a psychiatrist, I am entirely reliant on the reliability of the Claimant's reports of his subjective psychological symptoms to me and to his treating doctors, when making a psychiatric diagnosis. Therefore, if the court finds that the Claimant is an unreliable witness, I am unable to make any reliable psychiatric determinations, based on his self reported symptoms since the index accident."

69. In cross-examination, Dr Neal said that a person's mental status can affect their physical activities through fatigue.

**Mr Sheikhipour's evidence**

70. The non-expert witness who gave oral evidence was Mr Sheikhipour himself, who gave evidence through the Farsi interpreter. He was an unreliable witness. Indeed, to a

significant extent the accounts he gave in his witness statement, to medical experts and to the court constituted dishonest exaggeration of the impact of the injuries he sustained in the fall.

*Exaggeration of symptoms*

71. First, I consider that Mr Sheikhipour has repeatedly deliberately exaggerated his claimed physical symptoms and functional impairments.

72. Because Mr Sheikhipour several times sought to blame translation or interpretation errors for inconsistencies in his accounts, I start with his demonstration of normal walking during his examination by Dr Claxton in October 2025, something caught on video. Mr Sheikhipour was quite capable of walking perfectly normally at the time, as he had done on his way to the appointment. His performance of a slow shuffling gait was a performance intended to deceive Dr Claxton and, through him, the defendant and the court. So too was his performance when asked to raise his arms, suggesting he could not raise his right arm by itself at all when he could easily raise it above his head.

73. Mr Sheikhipour had put on similar performances for Dr Neal in October 2023 and Mr Sarangi in August 2025. In October 2023, he walked around Dr Neal's room while grimacing and holding his head in his hands, when he was perfectly capable of walking normally, as the video of him walking the dog three days later shows. In August 2025, he acted as though he was unable to elevate his right arm beyond 90 degrees, when he was perfectly capable of doing so, as the video the next day of him closing his car boot shows.

74. None of these very significant differences from occasions when Mr Sheikhipour was being examined to occasions when he was unknowingly recorded can plausibly be explained by variation in symptoms or pain from day to day. Nor can they sensibly be explained by Mr Sheikhipour's pain increasing when discussing pain, something he suggested in cross-examination.

75. Mr Sheikhipour consistently gave accounts to the medical experts about the extent of his injuries that were completely at odds with his presentation in the video surveillance evidence, as the above summary demonstrates. I do not accept that any of the inconsistencies were caused by errors in interpretation. Nor do I accept that the

inconsistencies can be explained by pain or symptom fluctuation. Mr Sheikhipour repeatedly lied to the experts.

76. Mr Sheikhipour's first witness statement also deliberately painted a picture of his symptoms and functional impairments that was at complete odds with reality.

76.1 For example, Mr Sheikhipour's physical ability was not still "severely restricted" in October 2025, such that he could, for example, dress himself only slowly on better days. Mr Sheikhipour had long before then substantially recovered.

76.2 Mr Sheikhipour had not been unable to return to work or unable to "help" with the restaurant business by October 2025. He was quite capable of work and had done (at the very least) several days' work at the restaurant. (Mr Sheikhipour suggested in cross-examination that he was doing unpaid work to help his wife because she was ill and that he felt pain afterwards. I do not accept any of that. But even if it were true, it would make no difference. Mr Sheikhipour asserted in his witness statement, knowing it to be false, that he had been unable to help in the restaurant business.)

*Mr Sheikhipour's separation from his wife*

77. Second, I conclude that Mr Sheikhipour lied about the breakdown of his marriage.

78. His first witness statement said,

> "Following hospital discharge, I lived at Flat 8, Colisseum Court, 200 Regents Park Road, London N3 3HF, from 2 February 2019 until 16 February 2021.
>
> My wife provided full-time care after the accident, assisting me with washing, dressing, meals, and daily care. However, I was very unwell and in so much pain. My mood had changed, and I was grumpy and angry with my family for no reason of their fault. This resulted in my wife wanting separation, as she did not wish our young children to experience parental arguments every day."

79. Mr Sheikhipour gave a similar account to the experts. Occupational therapist Mr Sachdeva, who assessed Mr Sheikhipour in the presence of a Farsi interpreter, recorded this:

> "Mr Sheikhipour confirmed that he separated from his wife two months after the index accident when he moved to his sister's flat in London. He said he strongly believes that his marriage broke down due to the change in his behaviour following

the index accident. He said he was extremely frustrated and annoyed due to his pain and he used to vent his anger on his wife."

80. Mr Sheikhipour gave an account to Dr Neal that compares even more starkly to the Department of Work and Pensions logs. Dr Neal, having examined Mr Sheikhipour in October 2023 in the presence of an interpreter, recorded this under the heading: "Claimant's Description of Loss of Amenity":

> "He married Mahsa about 20 years ago. He told me they separated 2 to 3 months after the index accident and he left her. He told me he is now living separately from his wife. He believes that the accident affected his relationship with his wife. There were no problems at all in his relationship with his wife before the accident. He said he was 100% certain if the accident had not happened he would still be with his wife."

81. The DWP records paint a different picture.

82. Housing benefit records show that in May 2019 Mr Sheikhipour and his family moved to a property in North London ("Flat 8"). Those records suggest that Mr Sheikhipour moved to a property in Borehamwood ("6 Leeming Road") around October 2020, about two months before the accident, telling the DWP that he was single. DWP's logs record a telephone call with Mr Sheikhipour on 30 October 2020 so:

> "Bank details verified. Advance discussed. Claimant has not provided a home address. Claimant has explained that he has left his previous address as his wife has mental health issues and has caused a lot of problems between the couple. Claimant now sleeps at friend's shop office as he has no where to go. Informed claimant to put down the address in his account. Reg3COVID19"

83. Mr Sheikhipour could not give any adequate explanation for the disparities between his accounts and the DWP records in evidence. He suggested that there may have been a period before the accident when he separated and then reconciled, but he could not recall. That was a desperate attempt to reconcile the irreconcilable; I find it implausible that he would not recall the cause of the separation from his wife of 20 years.

84. I find that the DWP records paint the true picture. There were marital difficulties before the accident. Indeed, they were such that Mr Sheikhipour had left the marital home. I conclude that he gave the accounts he did in his witness statement and to Ms

Sachdeva and Dr Neal knowing it was false in an attempt to exaggerate the impact of his injuries on him.

*Care*

85. Third, I find that Mr Sheikhipour lied about the extent to which his sister cared for him.

86. Mr Sheikhipour's provisional schedule of loss asserted that he had received very significant care and assistance from his sister. His updated statement of loss included a claim for gratuitous care and assistance provided by a member of his family which asserted that Mr Sheikhipour received 42.5 hours of care per week for 9 weeks, 25 hours of care per week for 20 weeks and 17 hours of care a week from April 2022 until trial.

87. Mr Sheikhipour's witness statement says that, after two weeks living with his wife, he then moved to live in his own home in north-west London ("Flat 2"), where his sister cared for him, before moving into his sister's home in north London ("Flat 1") before, in November 2023, moving with his sister to a property in Birmingham ("Number 57") and, in March 2025, moving in with his mother in a property in Sutton Coldfield ("Number 18") before, in June 2025, returning to live with his wife and children in a property in North London ("Number 63").

88. That account is contradicted by the DWP benefits records. Those records suggest that Mr Sheikhipour lived at his sister's home at Flat 1 after the accident until around February 2021, then at Flat 2 until around June 2021, then at another address in North Finchley ("791 High Road") until around June 2025, then at another address ("63 Lyndon Road") thereafter.

89. When cross-examined on the disparity, Mr Sheikhipour sought to steer a course between the two accounts. He said he had lived partly with his sister and partly in his addresses in London, assisted by his sister. He suggested that after his sister moved to Birmingham, he travelled between London and Birmingham. He blamed his solicitors for misinterpreting or mistranslating what he had told them about his living arrangements.

90. I do not accept Mr Sheikhipour's solicitors were responsible for his witness statement giving an incorrect account. Shifting cases and blaming legal advisors for assertions in witness statements are indicators of unsatisfactory evidence: see, for example, *Rancom Security Ltd v Girling* [2023] EWHC 1115 (Ch) at [33]. Although mistakes happen, I cannot envisage how an honest mistake could have led to a solicitor drafting a witness statement giving the relatively detailed account summarised above if Mr Sheikhipour's instructions were that he had been living between his own address and his London address. Moreover, though no Farsi version of the statement was served, Mr Sheikhipour signed a statement of truth on his witness statement saying, "My statements in English and Farsi have been sent to me and read back to me in Farsi." If the draft witness statement did not reflect Mr Sheikhipour's instructions, the disparity was so obvious he would have noticed.

91. This was another occasion on which Mr Sheikhipour sought to mislead. Mr Sheikhipour was capable of living alone, and lived alone, from February 2021. The account Mr Sheikhipour gave of the addresses at which he lived was a false account given in order to support his false claim that his sister had continued to significantly care for him after February 2021.

*Knee injury*

92. Fourth, I find that Mr Sheikhipour lied about the impact of an earlier knee injury.

93. Before coming to the UK, Mr Sheikhipour had suffered a knee injury while practising martial arts. He underwent knee reconstruction surgery. Two years later further surgery was required. Mr Sheikhipour's UK medical records show that he was advised in late 2019 that, in the long term, he would benefit from an early-stage revision reconstruction of the cruciate ligament. Mr Sheikhipour did not pursue this immediately, wanting some time to think about it. He had not taken up the suggestion of surgery by the time of the accident.

94. As part of exaggerating the impact of the accident, Mr Sheikhipour underplayed the impact of his knee injury. Though in late 2019 a consultant had recommended surgery on his knee, Mr Sheikhipour's witness statement said, "In 2019, my GP told me that I did not require any further surgery." That was not true, as Mr Sheikhipour accepted in cross-examination.

95. Mr Sheikhipour's oral evidence was that, while the surgical consultant had recommended surgery, another specialist in Iran recommended strengthening exercises.

96. I do not consider this an adequate explanation for the differing statement in his witness statement. Nor do I accept that the differing statement is the result of a mistranslation, which Mr Sheikhipour suggested may have been the case about other statements as to the impact of his knee injury. Given the matters above, I consider it more probable than not that Mr Sheikhipour told his solicitors that his GP had informed him he did not require further surgery, knowing that to be untrue.

*Benefits claims*

97. Fifth, Mr Sheikhipour's credibility is undermined by the accounts that he gave to the DWP of the extent of his injuries when making benefit claims.

98. In June 2023, he signed an award review document which said that he was unable to feed himself and has less food as a result. He said his washing and bathing had reduced. He said he had difficulty using the toilet and used a urine bottle. He suggested he needed a toilet aid and a personal carer. He said he was unable to walk 20 metres and was not using his manual wheelchair and said he thought an electric scooter would speed up his recovery.

99. In fact, Mr Sheikhipour had been substantially recovered from the accident for nearly two years.

100. In cross-examination, Mr McLaughlin showed Mr Sheikhipour video evidence from October 2023, only a few months later, showing him walking easily and carrying multiple shopping bags and bottles of water, and asked Mr Sheikhipour to explain the application form in the light of that evidence. Mr Sheikhipour had no explanation. The explanation was straightforward: Mr Sheikhipour had given a dishonest account to the DWP.

**Other factual evidence**

101. I place no weight on the evidence of Mr Sheikhipour's wife, Mahsa Barati. Ms Barati was not called to give evidence (and although it was suggested she was medically unwell, no medical evidence was supplied to explain her not being called).

**The injuries sustained**

102. I find that, as a result of his fall, in December 2020, Mr Sheikhipour suffered fractures to his L1, L3 and L4 lumbar vertebrae, with the L3 fracture being potentially unstable. I find that the fractures had healed by November 2021. I find that Mr Sheikhipour's symptoms had largely settled within 7.5 months of the accident, so by the end of July 2021, taking the midpoint of Mr Foy's evidence which, having been tested in cross-examination, I prefer to Mr Bhalla's. I find that Mr Sheikhipour was fit to work by that same time.

103. I find that Mr Sheikhipour suffered no shoulder injury in the accident. I find that he suffered no right-shoulder injury in the accident. I find that he suffered no symptoms of a left-shoulder injury until several months after the December 2020 accident, and that this injury was causally unrelated to the accident. On that point I prefer Mr Sarangi's evidence to Mr Bhalla's as Mr Sarangi's evidence could be tested by cross-examination unlike Mr Bhalla's. Moreover, Mr Bhalla's suggestion that Mr Sheikhipour's back pain may have distracted him from his shoulder injury is dependent on Mr Sheikhipour's evidence about the extent of his pain. In light of my findings about Mr Sheikhipour's reliability and Dr Claxton's evidence that the reported level of pain was "disproportionate to [his] expectations", the foundation for the suggestion is undermined.

104. I reject the suggestion made by Mr Sheikhipour (and unsupported by expert evidence) that the reason he did not complain about left shoulder pain sooner was that he did not notice it until his spinal brace was removed. He had a spinal brace for around six months after the accident, but, as Mr Sarangi's report explained, the first reference to shoulder pain in the GP records was in February 2022, more than a year after the accident. The GP recorded a history of a few weeks' shoulder pain. There were several months before the spinal brace was removed and the first left shoulder symptoms.

105. I find that Mr Sheikhipour has not proven that his depressive disorder was caused by the accident. As Dr Neal explained, any conclusion as to the cause of Mr Sheikhipour's

disorder would be founded upon Mr Sheikhipour's reported symptoms. Dr Neal's view is that no reliable conclusion could be drawn if I found Mr Sheikhipour's evidence unreliable. I accept that evidence. (Mr Sheikihipour is debarred from relying on the evidence of Dr Navabi.)

106. It is common ground that Mr Sheikhipour suffered a broken tooth.

**Quantification of loss**

107. In these circumstances, the appropriate award in damages for pain, suffering and loss of amenity arising from the back and tooth injuries together would be £17,000.

108. The appropriate award for future medical costs would be £7,330. For the initial dental treatment, I would allow £3,750, the midpoint of the range suggested by Dr Hensher. For implant replacement, I would allow £3,580, adopting the calculation put forward by Mr Sheikhipour's former lawyers.

109. I would allow £15,600 for loss of earnings.

110. Mr Sheikhipour has proven he was unable to work as a result of the accident for 7.5 months.

111. Mr Sheikhipour claims lost income at the rate of £500 per week. Although Mr Sheikhipour's evidence about his pay was unsatisfactory, I am not satisfied this part of his claim was a dishonest exaggeration:

    111.1 Mr Sheikhipour's case on paper was that, shortly before the accident, Mr Sheikhipour began working full time and was earning £500 per week paid in cash. Mr Sheikhipour's original schedule of damages (of which there were both English and Farsi versions) said, "The Claimant statement is that from [November] 2020 he was working full time earning £500 a week paid in cash." His updated schedule of loss said, "The Claimant will state that, from November 2020, he was working full-time, earning £500 per week, which was paid in cash to him." His first witness statement said, "I had started full-time work just two months before the accident, earning £500 a week in cash. I was not given any payslips, and every time I asked my employer about them they told me they would speak to their accountant."

111.2 That account was inconsistent with Mr Sheikhipour's benefit records, which suggested Mr Sheikhipour had earned only £279.04 per month. When Mr McLaughlin challenged Mr Sheikhipour on the inconsistency, pointing out that, if his case was true, Mr Sheikhipour had failed to notify the DWP of a change in circumstances, Mr Sheikhipour's evidence changed. First he appeared to suggest he was not paid in cash at all. Then he suggested that he was paid in cash late, with his employer delivering the cash to his home, where Mr Sheikhipour was resting in bed recuperating from the accident.

111.3 Though Mr Sheikhipour's evidence on this point and generally was unsatisfactory and self-serving, I find that he has proven his case on this point on the balance of probabilities. It seems to me inherently unlikely that he would have been paid as little as £279.04 per month. On the other hand, it seems to me perfectly plausible that Mr Sheikhipour would have received cash and failed to declare the receipts to the DWP. As I noted above, he lied to the DWP in order to obtain benefit payments. I note too that no evidence was called by the defendant denying that it had paid Mr Sheikhipour in cash. I find that at the time of the accident, Mr Sheikhipour was paid £500 per week.

111.4 That rate of pay would be the equivalent of £26,000 before tax. Seven and a half month's pay at that rate would be £19,500. On that pay, Mr Sheikhipour would have had a liability to pay tax and thus a reduction ought to be made. Mr McLaughlin invites me to deduct 20%, which is in my judgment a conservative estimate of the likely tax liability. I thus would assess loss of earnings at £15,600.

112. I would allow £2,000 for gratuitous care.

113. It is inevitable that Mr Sheikhipour would have required assistance with personal and domestic care after the accident. I find that Mr Sheikhipour required care from his sister for two months. The documentary evidence from the Department of Work and Pensions, which I describe in more detail below, suggests that Mr Sheikhipour moved in to live with his sister after the accident but had moved into his own home by 16 February 2021. The documentary evidence is a much safer guide to the likely period over which care was needed and provided than Mr Sheikhipour's own evidence. Since the reason for Mr Sheikhipour living with his sister was so that she could care for him, I find that he received care during that period. I find that Mr Sheikhipour has failed to prove any care was provided after 16 February 2021.

114. At the outset of the two-month period, I would expect Mr Sheikhipour to have received several hours of care a day, but his care needs would have fallen relatively quickly, such that by the end he was able to move out and live alone.

115. Mr McLaughlin was willing to concede £2,000 for this head of loss. That is the equivalent of just over 230 hours' care at the December 2020 to February 2021 applicable rate. In my judgment that is a generous concession. I find that Mr Sheikhipour has not proven that he received care to any greater value.

116. These sums should be reduced for contributory negligence. On Mr Sheikhipour's own case, he was working up a ladder which was not footed or secured. The defendant must bear primary liability for this, as it failed to properly train Mr Sheikhipour, but the risk inherent in using the ladder in this way was an obvious one, and so Mr Sheikhipour was also at fault. I agree with Mr McLaughlin that, having regard to Mr Sheikhipour's share of responsibility, a damages award would fall to be reduced by 25%.

117. Thus, if I were to give judgment in Mr Sheikhipour's favour it would be as follows:

| | |
|---|---|
| Pain, suffering and loss of amenity | £17,000.00 |
| Future treatment | £7,330.00 |
| Lost income | £15,600.00 |
| Gratuitous care | £2,000.00 |
| *Less* reduction for contributory negligence | -£10,482.50 |
| | £31,447.50 |

**Fundamental dishonesty**

*Whether Mr Sheikhipour has been dishonest*

118. The defendant seeks the dismissal of the claim under Section 57 of the Criminal Justice and Courts Act 2015. That provides:

> "(1) This section applies where, in proceedings on a claim for damages in respect of personal injury ('the primary claim')
>
> (a) the court finds that the claimant is entitled to damages in respect of the claim, but

(b) on an application by the defendant for the dismissal of the claim under this section, the court is satisfied on the balance of probabilities that the claimant has been fundamentally dishonest in relation to the primary claim or a related claim.

(2) The court must dismiss the primary claim, unless it is satisfied that the claimant would suffer substantial injustice if the claim were dismissed.

(3) The duty under subsection (2) includes the dismissal of any element of the primary claim in respect of which the claimant has not been dishonest.

(4) The court's order dismissing the claim must record the amount of damages that the court would have awarded to the claimant in respect of the primary claim but for the dismissal of the claim.

(5) When assessing costs in the proceedings, a court which dismisses a claim under this section must deduct the amount recorded in accordance with subsection (4) from the amount which it would otherwise order the claimant to pay in respect of costs incurred by the defendant."

119. Whether a claimant has acted dishonestly is to be judged by applying a two-stage test, explained by Lord Hughes in *Ivey v Genting Casinos (UK) Limited* [2017] UKSC 67; [2018] AC 391 at [74]:

> "When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."

120. If a personal injury claimant knowingly reports his symptoms inaccurately, and thereby gives a false impression of them as being worse than they actually were, their conduct is dishonesty by the standards of ordinary decent people: see *Mantey v Ministry of Defence* [2023] EWHC 761(KB) at [8].

121. I am satisfied that Mr Sheikhipour has been dishonest in the presentation of his claim. As I have explained above, he repeatedly deliberately exaggerated his claimed physical symptoms and functional impairments. He lied about his separation from his wife. He

lied about the care he received from his sister. He lied about his earlier knee injury. (His lies to the DWP were not made in the presentation of this claim.)

*Whether dishonesty fundamental*

122. Having found that Mr Sheikhipour has been dishonest in the presentation of his claim, I must consider whether he has been fundamentally dishonest for the purposes of s.57 of the Criminal Justice and Courts Act 2015. A claimant should be found to be fundamentally dishonest if "the defendant proves on a balance of probabilities that the claimant has acted dishonestly in relation to the primary claim and/or related claim (as defined in s.57(8)), and that he has thus substantially affected the presentation of his case, either in respect of liability or quantum, in a way which potentially adversely affected the defendant in a significant way, judged in the context of the particular facts and circumstances of the litigation": *London Organising Committee of the Olympic and Paralympic Games v Sinfield* [2018] EWHC 51 (QB) at [62]. Deliberate exaggeration of symptoms and functional limitations plainly may meet that test.

123. I am satisfied that Mr Sheikhipour's dishonesty was fundamental. On my findings it could not sensibly be argued otherwise. Mr Sheikhipour's dishonesty went to the root of every aspect of his claim except his claim for the injury to his tooth. It substantially affected the presentation of his case in a way that could have led to the defendant paying many times more than the amount to which Mr Sheikhipour was entitled.

*Whether dismissal unjust*

124. I am satisfied that Mr Sheikhipour would not suffer substantial injustice if this claim were dismissed. This is a case of widespread dishonesty which led to the inflation of the claim to many times its true value and which significantly increased the costs of the litigation. The dismissal of the claim is a proportionate response to the manner in which he has conducted his claim.

**Disposal**

125. Applying section 57 of the Criminal Justice and Courts Act 2015, I dismiss the claim. I will record that, but for the dismissal, I would have awarded Mr Sheikhipour £31,447.50. I will deduct the amount recorded from the costs which I would otherwise order Mr Sheikhipour to pay.

126. Following the handing down of this judgment, I will hear the parties on (a) costs, (b) payment on account of costs under CPR 44.2(8); (c) whether I should order Mr Sheikhipour to repay the interim payment ordered to be paid in May 2025; (d) whether I should order the defendant to send a copy of this judgment to the DWP; and (e) any other consequential matters.

**Recorder Mundy KC**