

MOCK JOINT SETTLEMENT MEETING SCENARIO, 21 OCTOBER 2025

MANCHESTER CLAIMS ASSOCIATION

This scenario has 4 pages – if you can pre-read it, the JSM will be more meaningful. It is followed by a 2 page Schedule and 4 page Counter-Schedule.

The Claimant

Mr. Jankowska is a 48 year old male (45 at the index accident) who was injured in a workplace accident.

Mr. Jankowska was born in Poland and came to the UK 25 years ago. He has limited education. Although he is able to converse in English, he is unable to read English. At home and work he predominantly speaks Polish.

He worked for the Defendant, Fab Fabricators for 20 years, as a Fabricator/Machine operator earning £23,000 net at the time of the index accident. The Defendant is a local firm and, like the Claimant, the owners are active members in the local Polish community.

The Claimant lives at home with his wife and 3 children (aged 15, 18 and 25). All the children are in education and Mr. Jankowska is the sole breadwinner for the family.

The Accident

On **31st March 2022**, Mr. Jankowska (the Claimant) was in work and was instructed to cut a large piece of Perspex. This is an activity that he had undertaken on a few occasions in the past. He says that this was always with the assistance of a colleague, who provided him with instructions in Polish.

The Claimant was left alone to cut the Perspex. The machine has a guard which must be manually engaged prior to any cutting. During the process of cutting the Perspex the Claimant's left non-dominant hand slipped into the machine and came into contact with the blade.

The circumstances of the accident are not clear: there were no witnesses and the Claimant's recollections of events are hazy due to the severity of the injury. There is CCTV footage of the accident but it is of a poor quality; it is unclear whether such shows him engaging the guard.

The incident is subject to an HSE investigation, and the outcome is awaited. The Defendant has been difficult in its approach to the provision of documentation and have frustrated the investigation.

The Claimant informed his Solicitor that the HSE investigator said a prosecution was likely and that it was a '*nailed on*' case; however, the matter has not proceeded before the date of the JSM.

The Claimant maintains that he was inexperienced in the use of the machine. He accepts that he had received verbal training in the use of many of the machines within the premises, but it was a '*learn on the job*' enterprise.

He accepts that the Defendant regularly provided refresher training (for manual handling etc) but all documents were provided to him in English with (sometimes) a verbal summary provided in Polish by one of the Defendant's directors.

Denial

Liability for the happening of the accident is not accepted. The EL insurers have been adamant. The claims handler has been awkward with the Claimant's solicitors at times.

The Defendant avers that the Claimant is an experienced operative who had used the machine on many occasions without any issues. The Defence pleads that the Claimant had performed the task on many occasions. It is asserted that the Claimant failed to engage the guard though he knew to use it.

The Defendant relies upon several documents in the form of training records, risk assessments etc, but all documents are in English.

There was signage by the machine itself in respect of the operation of the guard and the photographs have been served by the Defendant. Again, these signs are written in English.

Injury

As a result of the accident the Claimant suffered a **significant crushing injury to his left non-dominant hand**. There was severe soft tissue and skin loss to the volar and dorsal aspects of the hand, with the **traumatic amputation of the left little, ring and middle fingers through the MCP joints**.

The Claimant was taken to hospital where he remained as an inpatient for 6-weeks. He underwent several surgeries to terminalize the amputated fingers.

The Claimant has significant functional loss in the use of his hand. He is able to make some 'pinch' type movements using the index finger and thumb, however the strength is very weak. He reports ongoing continuing pain which he rates at a level of 5/10 (the pain being 10/10 immediately after the accident).

The Claimant has completed a DASH score questionnaire, which has returned a conclusion that he significantly disabled and has returned **an overall disability component score of 80%.**

The Claimant struggles with a range of activities, including opening jars, bearing loads in the hand, performing fine manual tasks such as zips, typing laces, doing up buttons and personal care.

In the opinion of Mr. Main (the Claimant's Consultant Orthopaedic & Hand Surgeon) the Claimant has suffered a catastrophic and life changing injury. The options for future surgery would be as follows:

- i. **Amputation of the hand and prosthetic replacement**, in the form of either a passive prostheses or body powered prostheses. Such prosthetics are highly durable and cost effective. That said they require more physical exertion to operate and typically appear less natural. The cost of such a procedure would be approximately £10,000.00 per annum for life; and
- ii. **Direct bone anchored prostheses which can be directly attached to the bone of the forearm thereby eliminating the need for a socket** and allowing the rerouting of the nerves from the lost hand to the remaining muscles. This is a highly specialised technique only performed in the United States
The cost of such a procedure with maintenance would be approximately £40,000.00 per annum for life.

The Claimant has seen Dr. Crane, Psychiatrist, who has diagnosed him as suffering Post-traumatic Stress Disorder. The Claimant will need to undergo 20 sessions of CBT, but his psychological recovery is very much dependent on how he reacts to the legacy of his injury and any treatment.

Work

The Claimant has not returned to work. The Defendant states that it attempted to contact him post-accident, but he refused to engage with its HR department. The Defendant will say that it was willing to find an alternative role for the Claimant (the details of which remain unclear), on the same salary and so he has failed to mitigate.

Care

The Claimant has been highly reliant upon his wife and children following the accident in the performance of all his household and self-care activities.

The Care Experts agree that the Claimant requires ongoing continuing care. The level of care is disputed, but both experts agree that what has been proposed by each fall within a reasonable range.

The Claimant's care expert has suggested that there is a need for adaptations to the Claimant's property such as the installation of a wet room and a walk-in wardrobe. That is not agreed. The Claimant has obtained an Accommodation Needs Report from a Mr. Rick N'Mortar who opines that the cost of redeveloping the Claimant's property to accommodate the wet room would cost £100,000. The Claimant does not yet have permission to rely upon this report.

Surveillance

The Claimant has been subject to surveillance.

Footage shows the Claimant assisting his son-in-law to move furniture from a house. The footage shows the Claimant assisting in the movement of a table and other boxes. On another date he is shown building a shed in his back garden, albeit with the assistance of his sons. The footage is uneven and cuts out often. The timestamp is hard to follow.

The Claimant's Solicitors have requested copies of the unedited footage as they say it is unrepresentative of the days in question. By the date of the JSM, the unedited material has not been disclosed by the Defendant.

Other issues

Every time the incident and his injuries are discussed, the Claimant becomes fixated and angry. He wishes to clear his name in the community and wants his day in Court. He is adamant that he will not consider anything but 100% liability.

The Parties have agreed to attend a JSM at which it is hoped all issues, including liability and quantum can be resolved prior to the trial listed in January 2026 for 4 days. Trial is listed before the notoriously Claimant friendly HHJ Compo. Counsel for the Claimant is currently booked to represent another Claimant at trial on the same week as Mr. Jankowska's case. It is unclear whether his clerks have informed solicitors of the double booking.

Mr. Jankowska has a son who has studied law for 2 years. He rarely makes any decision without first consulting his son.

The Claim is being funded on a CFA basis, with the Claimant's Solicitors (Pip and Jagers LLP) seeking the maximum 25% deduction from the Claim for General damage and past losses. This has been explained to the Claimant on several occasions who has repeatedly challenged the percentage level.

IN THE CIVIL NATIONAL BUSINESS CENTRE

Claim No: 12345678

BETWEEN

MR. JANKOWSKA

Claimant

-and-

FAB FABRICATORS

Defendant

SCHEDULE OF LOSS FOR TRIAL

INTRODUCTION

Date of Accident:	31 st May 2022
Type of Accident:	Workplace Accident
Liability:	In Issue
Claimant's Date of Birth:	1 st January 1977
Claimant's Age at the Date of Accident:	45 years
Claimant's age at JSM	48 years
Schedule of Loss:	48 years
Date of Issue:	1 st April 2025
Date of this Schedule of Loss:	21 st October 2025

MULTIPLIERS

- i. Lifetime multiplier: **33.12**
- ii. Multiplier to retirement at 68 (having regard to those contingencies other than mortality): **15.54** (18.28 x 0.85)

HEADS OF LOSS

i.	General Damage:	£130,000.00
ii.	Interest:	TBC
iii.	Past Lost Earnings:	£81,880.00
	<i>3.56 years x £23,000.00</i>	
iv.	Future Lost Earnings:	£357,420.00
	<i>15.54 x £23,000.00</i>	
v.	Handicap Claim:	£270,000.00
	Claimant meets the definition of disabled under the DDA	
vi.	Loss of Pension:	£50,000.00
vii.	Past Care and Assistance:	£90,000.00
	Per Report of Dr. Nightingale:	
viii.	Future Care and Assistance:	£1,500,000.00
	Per Report of Dr. Nightingale	
ix.	Future Holiday Costs:	£100,000.00
x.	Future Travel and Transport Costs:	£190,000.00
	Need for an automatic car	
xi.	Future Rehabilitation:	£30,000.00
xii.	Future Aids and Equipment:	£500,000.00
	Per Report of Dr. Nightingale	
xiii.	Future Treatment:	
	a. Total hand transplant:	£496,800.00 (£15,000.00 x 33.12);
	b. Prosthetic replacement:	£331,200.00 (£10,000.00 x 33.12);

c. Direct bone anchored prostheses: £1,324,800.00 (£40,000.00 x 33.12)

The Claimant's preferred option would be c.

xiv. Accommodation: £100,000.00

Per Accommodation Needs Report of Mr. Rick N'Mortar, dated September 2024, to include the installation of a wet room at current property and consequential expenses.

Total: **£4,724,100 plus TBC**

IN THE CIVIL NATIONAL BUSINESS CENTRE

Claim No: 12345678

BETWEEN

MR. JANKOWSKA

Claimant

-and-

FAB FABRICATORS

Defendant

**WITHOUT PREJUDICE
COUNTER-SCHEDULE OF LOSS**

PREAMBLE

1. The Defendant maintains its primary position that liability should be denied in full. The Claimant clearly failed to engage the guard, as shown by the clear CCTV footage. The Defendant does not accept the relevant circumstances cannot be seen.
2. For the purposes of narrowing issues at this JSM, the Defendant makes the following observations on quantum, made entirely without prejudice to liability.
3. The Defendant notes with concern that whilst the Claimant claims to be catastrophically injured, surveillance footage shows him building a shed.
4. The Defendant comes to this JSM on the cusp of alleging Fundamental Dishonesty, but will consider commercial considerations. The Defendant will consider committal proceedings for contempt of court, complaints to the police, and involvement of the DWP to remove all of his benefits. We have already put DVD footage of the surveillance in stamp addressed envelopes ready to go to all relevant authorities. This should not, however, be seen in any way a threat or undermine the good faith negotiations that the Defendant seeks to undertake.

GENERAL DAMAGES

4. Claimant's Claim: £130,000 Defendant's Valuation: £45,000
5. The Claimant has lost three fingers on his non-dominant hand. Whilst regrettable, he retains his thumb and index finger, providing a "pinch grip" which is perfectly adequate for most daily activities. The JCG guidelines suggest £35,000-£56,000 for multiple finger amputations. Given the Claimant's excellent adaptation (as evidenced by his shed-building activities), an award at the lower end is appropriate.

6. The claim for scarring is excessive - the scarring is on areas normally covered by clothing and has no impact on his employment prospects as a machine operator.

PAST LOSSES

Past Care and Assistance

7. Claimed: £90,000 Allowed: £5,000
8. The surveillance evidence demonstrates the Claimant is far more capable than suggested. His wife would have provided assistance out of natural love and affection in any event. We generously allow 2 hours per week at minimum wage rates.

Past Loss of Earnings

9. Claimed: £81,880 Allowed: £23,000
10. The Defendant was prepared to offer alternative sedentary employment at the same salary. The Claimant unreasonably failed to engage with HR department. One year's loss only is appropriate given his failure to mitigate.

FUTURE LOSSES

Future Loss of Earnings

11. Claimed: £357,420 Allowed: £50,000
12. The Claimant can clearly undertake manual work (see shed construction). There are numerous occupations available for persons with his residual function. Security guard work is particularly suitable and well-paid. *Smith v Bradford* principles apply – the Defendant allows a modest sum for disadvantage on the labour market only. Or *Blamange* broad brush damages. The Defendant will not calculate loss of earnings on an Ogden Multiplier/Multiplicand basis.

Handicap on Labour Market

13. Claimed: £270,000 Allowed: £0
14. This is double recovery with future loss of earnings. In any event, the Claimant does not meet the criteria for a *Smith v Bradford* award as he had secure employment available with the Defendant.

Future Care and Assistance

15. Claimed: £1,500,000 Allowed: £25,000
16. Dr Nightingale's report is clearly excessive and appears to be based on a "Rolls Royce" provision. The Claimant manages his activities of daily living independently. A contingency fund for occasional DIY assistance is all that is required.

Future Treatment Options

17. Claimed: £1,324,800 (bone anchored prosthesis) Allowed: £15,000
18. The Claimant's preferred option of direct bone anchored prostheses at £40,000 per annum is extravagant and only available in America. A simple passive prosthesis from the NHS with a modest top-up for private provision is entirely adequate. Hand transplants are experimental and carry unacceptable risks. The Claimant should make do with his residual function.

Accommodation

19. Claimed: £100,000 Allowed: £0
20. Mr Rick N'Mortar's report is inflated. The Defendant will not consent to the court giving permission. The wet room is a luxury, not a necessity. The Claimant can wash at the sink or use a plastic stool in his existing bath. His property was always in need of modernisation and so this is betterment dressed up as a disability need. The "walk-in wardrobe" is particularly egregious. The Claimant is not a model.

Future Aids and Equipment

21. Claimed: £500,000 Allowed: £5,000
22. The extensive equipment list represents a "wish list" rather than reasonable requirements. Much can be obtained second-hand from charity shops or eBay.

Pension Loss

23. Claimed: £50,000 Allowed: £0
24. The Claimant would have taken early retirement in any event given the physical nature of his work. No loss arises.

SURVEILLANCE OBSERVATIONS

25. The Defendant places significant weight on the surveillance evidence which shows:
- o The Claimant lifting and carrying a table (allegedly for his son-in-law)
 - o Constructing a substantial shed over several days.
 - o Carrying multiple boxes without apparent difficulty.
 - o Using power tools with apparent dexterity.
 - o No evidence of the "grimacing" alleged.
26. These activities are entirely inconsistent with the claimed 80% DASH disability rating and 100% work disability score.

CONTRIBUTORY NEGLIGENCE

27. Should liability be established (which is denied), the Defendant maintains contributory negligence of AT LEAST 75% for:

- o Failing to engage the guard (clearly visible on CCTV if one squints slightly).
- o Working alone when colleagues were available.
- o Attempting to cut inappropriate material without checking.
- o Failing to use the emergency stop.
- o Generally failing to take reasonable care for his own safety.

28. The Claimant is an experienced operative of 20 years standing who knew the risks.

SUMMARY TABLE

Head of Claim	Claimant's Claim	Defendant's Valuation
General Damages	£130,000	£45,000
Interest	TBC	£2,000
Past Care	£90,000	£5,000
Past Earnings	£81,880	£23,000
Future Earnings	£357,420	£50,000
Handicap Award	£270,000	£0
Future Care	£1,500,000	£25,000
Future Treatment	£1,324,800	£15,000
Accommodation	£100,000	£0
Aids & Equipment	£500,000	£5,000
Pension Loss	£50,000	£0
Other heads	£320,000	£10,000
TOTAL	£4,724,100	£180,000
Less 75% contributory negligence		£45,000
Less CRU		£10,000
NET VALUATION		<u>£35,000</u>

31. The above valuation represents the Defendant's genuine objective assessment of the true value of this claim, taking into account all relevant factors including the

overwhelming contributory negligence and the Claimant's failure to mitigate his losses.

MINIMAL DAMAGES KC

Signed

DENIER, DELAY & LOWBALL Solicitors for the Defendant

Date: 14 October 2025