



**Guildhall Chambers Personal Injuries Claimant Seminar  
17<sup>th</sup> November 2009**

**MIB CLAIMS WORKSHOP**

**John Snell and Matthew Porter-Bryant**

Rubens and Jenson

Rubens comes to visit you wishing to claim damages for injuries sustained in a road traffic accident that occurred last year. He begins his tale of woe:

He had been drinking with his friend and workmate Jenson in the local pub. They had been drinking pints and shots all day and night. Rubens can't remember exactly how much they had to drink but estimates at least 6 pints and as many shots. They had been sharing the rounds. Rubens knew that Jenson had his car in the pub car park. Rubens was not sure which car though as Jenson seemed to be driving a different one every week. Come closing time Jenson offered to drive them both home. Although Rubens knew that Jenson would be over the limit, he thought Jenson would be more than capable of driving. In fact, Rubens enjoyed getting in the car with Jenson after both had been drinking as it seemed to make Jenson's driving faster and more exhilarating. Rubens had been in the car with Jenson a few years before when Jenson had crashed his car while over the limit. Rubens knew that Jenson had been prosecuted as a result and that Jenson had pleaded guilty but he was not sure what the result was.

Both got into the car and Jenson pulled from the car park. He accelerated hard and drove at or around 60mph. The speed limit was 30mph. Jenson did not drive to Rubens house but instead went in the opposite direction although Rubens did not mind as he was enjoying himself so much. He can't be sure but he thinks he was shouting words of encouragement to try and get Jenson to drive faster.

Suddenly Jenson stopped the car outside of a house Rubens did not recognise. Jenson went around the back and returned 5 minutes later carrying a number of electrical items. He was taking so long loading up the car that Rubens got out to help him. Rubens has since discovered that Jenson had burgled the house. At the



time Rubens suspected that he may have done so but decided not to ask any questions.

With the car loaded Jenson drove off only this time faster and more recklessly than before. Rubens suspected that Jenson wanted to get away from the house as quickly as possible. Jenson's driving was such that Rubens started to worry for his safety. He says that he said something to Jenson along the lines of 'if our friendship means anything to you, stop'. Jenson kept accelerating laughing like, according to Rubens, a madman. Suddenly Jenson lost control and the car went spinning off the road crashing through a fence into a farmer's field. The car continued through the field for 50 metres and crashed into a telegraph pole. As a result of the collision with the pole Rubens suffered serious head and chest injuries.

The police attended and Rubens discovered that Jenson was not insured. Rubens was not surprised by the news.

Discuss!

**Consider the position if:**

- 1. The vehicle actually belonged to Rubens but he allowed Jenson to drive. However, before the collision Rubens said to Jenson 'I want you to stop now. This is not what I agreed to. Let me out'?**
- 2. Rubens in fact died in the accident. His widow wishes to bring a claim for dependency.**



## Mr. Jones and his daughter

Mr. Jones walks into your offices on 5<sup>th</sup> November 2009, wanting advice in relation to two different accidents.

First, he tells you that his 16 year old daughter was knocked off her bicycle by a car 5 years ago when she was 11 years old. Apparently, the car swept past too close, brushing her saddle-bag and causing her to wobble into a ditch where she suffered a broken arm and damage to her bicycle. The car did not stop and there is no means of identifying it.

- 1. Is there a potential claim under the Untraced Drivers' Agreement 2003 for her personal injuries?**
- 2. What is the time limit under the 2003 Agreement for the bringing of a personal injury claim?**
- 3. Is there a potential claim under the 2003 Agreement for damage to the bicycle?**
- 4. What is the excess for a property damage claim under the 2003 Agreement?**

Second, Mr. Jones tells you about an accident in which he was involved 3 years and 1 week ago. He was proceeding down the A4 when a car coming in the opposite direction turned across his path with no warning. The driver of the other car, who was not insured, was killed in the accident: his car glanced off Mr. Jones's car and hit a tree. Mr. Jones suffered property damage limited to £250 and serious psychiatric injuries which have prevented him from returning to work. He has been to another firm of solicitors who 3 weeks ago issued, but did not serve, a Claim Form naming the deceased driver as Defendant. No notice has been given to the MIB.

- 5. Was it acceptable to issue proceedings against the deceased driver?**
- 6. Should the MIB be made 2<sup>nd</sup> Defendant to these proceedings?**



7. **The 1999 Uninsured Drivers Agreement provides at clause 9.1 that proper notice of the bringing of relevant proceedings in the case of an uninsured driver must be given to the MIB “*not later than 14 days after the commencement of those proceedings*”. When are proceedings deemed to have been commenced – upon issue of the Claim Form or upon service of the Claim Form?**
8. **What notice does the 1999 Agreement require a Claimant to give to the MIB?**
9. **If the current proceedings are defective, is Mr. Jones now limited to a professional negligence claim against his other solicitors?**
10. **What is the property damage excess under the 1999 Agreement for Mr. Jones’ accident?**
11. **What is the property damage excess for any accident occurring after 7.11.08?**
12. **Mr. Jones has been provided with a hire car by Helphire while his car is being repaired. Can the hire charges be recovered from the MIB?**