

DEFENDING EQUINE CLAIMS

Where are we now?

John M. Snell, June 2017



Guildhall
CHAMBERS

People still fall off horses



Last word in the Court of Appeal

- ***Goldsmith v Patchcott* [2012] EWCA Civ 183**
- ***Turnbull v Warrener* [2012] EWCA Civ 412**
- In both cases the rider was deemed to have **consented** to the risk of the injury which occurred.

Divergent approaches to s.2(2)(a)

“the damage is of a kind which the animal, unless restrained, was likely to cause or which, if caused by the animal, was likely to be severe;”

Goldsmith v Patchcott

“It can be seen that sub-section (2) (a) catches two types of damage. First, there is damage which the animal is likely to cause, if the animal is not restrained. Secondly, there is damage which the animal is unlikely to cause, but which is likely to be severe if the animal does cause it. It should be noted that this sub-section will only eliminate a small number of cases. Most animal-related damage which someone wishes to sue about will fall into one or other of those two categories.”

LJ Jackson at paragraph 33.

Turnbull v Warrener

- “I do not, with respect, regard it as self-evident that a rider who falls off a rearing horse (or for that matter a cantering horse) is likely to suffer severe injury.”

LJ Lewison at paragraph 54

- Doubt raised as to whether the Act covers “ordinary riding accidents”

Kublin v Jane Allison Equestrian Ltd

- Horse spooked, fell over and trapped rider's leg
- Held s.2(2)(a) not satisfied
- No injury likely
- Any injury unlikely to be severe

“Unless restrained”

- In Kublin, it was held that the horse was “restrained” so the first limb of 2(2)(a) did not apply
- Not yet considered by the Court of Appeal
- Contrary County Court interpretation

Lynch v Ed Walker Racing Ltd

- Jockey thrown from spinning racehorse
- Held s.2(2)(a) not satisfied
- Going to appeal this week

Focus of the defence

- S.5(1) and (2)
- Expert and factual evidence on:
 - likelihood of injury
 - likelihood of any injury being severe