

A
Thursday, 9th October 1997

B
MR JUSTICE LIGHTMAN: Pursuant to leave granted by Forbes J

C
I have before me an application for judicial review of a
decision of the Criminal Injuries Compensation Board. In
1985 the Applicant and her daughter, during a period of the
Applicant's cohabitation with a Mr Williams, suffered
grievously at his hands. Undoubtedly, on 31st January 1985
he perpetrated serious assaults on both of them, as a result
of which, on the Applicant's complaint, he was sent to
prison.

D
No suggestion was made at this time of any imprisonment,
rape or buggery of the Applicant by Mr Williams. The
allegation was simply of assault.

E
On 22nd July 1993 the Applicant applied on behalf of
herself and her daughter to the Board for compensation. Her
primary claim, and the claim with which I am concerned, was
in respect of the alleged imprisonment of her and her
daughter for two-and-a-half days, and the rape and buggery
F
of her by Mr Williams. No information with regard to this
alleged conduct on Mr Williams' behalf had ever been given
to the police. As I said before, the allegation had been of
assault alone.

G
The Board, after evaluating the Applicant's credibility
as a witness, taking into account, in particular, certain
specified inconsistencies in her evidence, disbelieved her,
rejected her story and accordingly rejected her claim. The
H

A Board also held that even if they had accepted her story and
she had, indeed, been injured, as was suggested, they would
not have made any award because of her failure, without
B delay, to inform the police of it. The Board, however,
awarded the daughter £17,500 in respect of the assault on
her which had resulted in serious traumatic injury to her.

C The Applicant challenges the decision on the ground
that it is Wednesbury unreasonable, because it cannot stand
with medical evidence adduced to the effect, first of all,
that certain physical injuries which the Applicant suffered
were consistent with her story; secondly, that the serious
D post-traumatic stress disorder from which she suffered was
again consistent with her story; and, thirdly, relying on
the Applicant's account given to the doctors, the doctors
attributed her condition to the experience which she said
E she had suffered.

F The difficulty in the way of the Applicant, however, is
that this evidence does not establish that the Applicant's
story is true. The injuries and condition may be attributed
to other experiences, most likely during the period of her
relationship with Mr Williams, but does not necessarily
establish that the alleged incident took place. The Board
was bound to have full regard to this evidence and its
G support of the Applicant's story, but there can be no doubt
that the Board did have such regard. However, the evidence
is not itself conclusive and the Board was entitled to find,
as it did, that the Applicant's story was not to be believed
H

A

and accordingly to reject the claim.

B

I, therefore, cannot see how this rejection can be the proper subject matter for claiming judicial review. I should add that I can see nothing inconsistent in the rejection of this claim by the Board with the award by the Board of £17,500 to the daughter. The daughter was rewarded the sum to reflect the very serious nature of the injuries done to her resulting from the assault. It did not reflect any award in respect of the alleged imprisonment, rape and buggery, the subject of the claim by the Applicant.

C

D

It is unnecessary to consider the alternative ground for refusing the application, but it seems to me that it was, again, one which the Board was entitled to adopt. They took the view that the traumatic effect of the alleged events and the fear on the part of the Applicant of Mr Williams could not explain or excuse a delay in reporting to the police, for the Applicant did report the severe assault which led to the imprisonment of Mr Williams. That decision, again, appears to be one which the Board was entitled on the evidence to make.

E

F

Accordingly, despite the careful skeleton argument and submissions made by Mr Parry on behalf of the Applicant and the natural and deep sympathy for a woman deeply wronged by her erstwhile partner, I must dismiss this application.

G

MR KEITH: My Lord, in view of the history of the matter and the position of the Criminal Injuries Compensation Board, I make no application for costs. I know that the Applicant is in addition legally aided.

H

A

MR JUSTICE LIGHTMAN: No Order for costs, legal aid taxation. I
thank counsel for their help.

B

C

D

E

F

G

H