

## **Judgment limits scope for claims**

In the recent High Court decision of *Carey and Others v Minister for Finance*, Ms. Justice Irvine held that the likelihood of suffering an infection from blood borne diseases following an assault was as remote as the risk of ‘being struck by an Asteroid’.

This Judgment related to three separate actions brought by members of the Garda Síochána where the plaintiffs brought claims under the Garda Síochána (Compensation) Acts 1941 – 1945 seeking compensation for injuries maliciously inflicted on them in the course of their duties. Each of the actions concerned the fear of contracting blood borne diseases.

Judge Irvine noted that there had been a significant growth in recent Garda compensation cases with members seeking redress for psychological problems suffered as a result of fear of contracting such diseases as Hepatitis B, Hepatitis C and HIV following an assault. On hearing expert evidence, Justice Irvine concluded that the risk of illness being contracted following an assault was ‘miniscule’ and less than being ‘part of everyday life’.

Justice Irvine impressed on the authorities of the need to allay Gardai fears through greater education about the remote risk of infection and where injury did occur, it was important to carry out tests on assailants to defuse their anxiety.

Justice Irvine made awards of €6,000, €7,000 and €15,000 respectively; significantly lower than awards for similar claims in the past. Although the Judgment related to the Garda Compensation Scheme, the Courts may in future take cognisance of the decision in similar employer liability claims.