

Injuries body fails to keep out lawyers

Dearbhail McDonald
Legal Editor

THE State agency set up to fast-track personal injury claims and slash legal costs has failed in its bid to become a "lawyer-free zone".

Yesterday the Supreme Court ruled the Personal Injuries Assessment Board (PIAB), now known as injuriesboard.ie, was not entitled to deal directly with accident victims rather than with their solicitors when asked to do so.

The three-year legal battle, which has cost the PIAB more than €350,000, has reaffirmed legal representation as a "fundamental right".

The unanimous ruling is yet another setback for the PIAB which, despite its policy of refusing to deal with victims' lawyers, has admitted that more than nine out of 10 claimants still use solicitors even though they cannot claim their legal costs.

Last night the PIAB said it would study the ruling closely.

Previously the Board said it would ask the Government to

change the law if the Supreme Court rejected its appeal.

The Law Society, the ruling body for solicitors, said that it was pleased that the public's right to legal representation had been upheld by the three-judge court.

In her ruling, Mrs Justice Susan Denham said that the PIAB had no power under the Personal Injuries Assessment Board Act of 2003 to adopt such a lawyer-free policy and, if claimants choose to hire solicitors, it must deal with those solicitors.

'Fundamental'

Judge Denham said that the right to legal representation was "a fundamental right" and, if the Oireachtas intended PIAB to be "a lawyer-free zone", it would have said so.

The PIAB policy was an interference in the solicitor-client relationship and had no foundation in the 2003 Act.

PIAB was entitled under the Act to keep a claimant informed of the process by, for example, sending the client copies of letters from PIAB to the client's solicitor, the judge added. The

court also noted the costs of such legal representation would not be paid by the PIAB, but would be deducted from any award it might make to a claimant.

PIAB was established in April 2004 in a bid to reduce the costs of personal injury claims.

The legislation provides that a potential claimant is prohibited from initiating civil proceedings for damages for injuries without having first applied to PIAB.

The case had been brought by Declan O'Brien, a meat factory worker of Summer Road, Tullamore, Co Offaly, arising out of his action for damages for injuries allegedly suffered in a workplace accident in November 2001.

Lawyers for Mr O'Brien claimed his right to be represented by a solicitor was breached by PIAB's actions in seeking to deal directly with him rather than through his authorised solicitor.

The Law Society supported Mr O'Brien in his proceedings.

PIAB appealed the High Court decision made in 2005 in favour of Mr O'Brien.