

# CASE COMMENT

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## PERSONAL INJURIES

### ***Survey of Recent Awards in South Australia***

This survey covers the period from 8th September 1967 to the 26th September 1968 and includes summaries of all cases involving claims for damages for personal injuries which have been reported in the Law Society Judgment Scheme during this period<sup>1</sup>.

The cases have been classified according to the injury received. The damages are stated on the basis of full liability, i.e., ignoring any reduction made for contributory negligence.

### ***Head Injuries***

\$65,000 Farmhand aged forty-four admitted to hospital unconscious with extensive fractures of the skull crossing the mid line, mainly on the right side with apparent paralysis of the left arm and both legs; also a crushed fracture of the body of the third lumbar vertebra. Recovered to the extent of being able to converse and move his right arm and leg but not his left arm or leg to any significant degree. Condition is stable. Left arm is incapable of any useful function, left hand is clawed and useless. Left leg has some mobility but is of little use in walking. Reflex changes on left side indicate that the weakness of the arm and leg result from right-side brain damage. He is to all intents and purposes completely disabled and dependent on his wife and relatives. Spends most of his time in a wheelchair. Language difficulties make television of less entertainment value than it otherwise would be. Certain non-verbal aspects of his intelligence have been impaired; it is probable that there has been some overall reduction in his intellectual efficiency. Included in the general damages is an allowance of (a) between \$25,000 and \$30,000 for loss of earning (b) between \$12,000 and \$15,000 for household help, nursing and medical care. Life expectancy has not been shortened<sup>2</sup>.

\$40,000 Plumber's improver aged nineteen sustained fractured skull and severe brain damage, fractured lower jaw and right femur, severe shock, multiple abrasions and lacerations. Unconscious for six weeks. Developed considerable pulmonary infection. He is quite

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1. For previous surveys see 3 Adelaide Law Review 221 and references in n.1 thereto. thereto.

2. *Kesic v. Ielasi* (1968) L.S.J. Scheme 116 (Hogarth J.).

deaf in right ear, physically weak, his memory is bad and he lacks confidence. Residual disabilities in leg, jaw and arm. Suffers headaches and is unable to close his right eye; has no feeling in the right side of his face. Sense of smell is impaired and he has lost his sense of balance. Unable to participate in social activity. Highly unlikely he will ever qualify as a plumber. Future economic loss between \$15 and \$30 a week<sup>3</sup>.

\$14,000 Baker aged thirty-five sustained a fractured skull extending into the lambdoid suture. He has lost the sight of his left eye and his sense of smell, with consequent impairment of sense of taste. Developed a compensation neurosis in the form of headaches which prevented him from working. Could have returned to work sooner if he had prosecuted his claim with reasonable diligence. He lost some teeth and his earning capacity is impaired<sup>4</sup>.

\$13,000 Male suffered severe head injuries involving damage to the frontal lobe and loss of sight in left eye. Had four operations. Complete loss of sense of smell on left side and partial loss on right side, slight weakness of left arm and leg with alterations of reflexes on left side, pointing to injury of right side of brain as well as known left side injury. Superficially his intellectual functions are well preserved. Occasionally loses control of his bladder. Has visible scars on the left side of his face and on the top of his forehead running into his hair. Slight difference in the contour of the two sides of the skull and the defect in the eye can be noticed. Has adapted to using his right hand. Suffers from occasional headaches and is more susceptible to ageing changes. He is irritable and lacks patience. Prospects of advancement in employment have been affected to some extent<sup>5</sup>.

\$8,000 Male, unconscious for five days, suffered head injuries involving a fractured skull, and abrasions on his lower back and sacral area. Returned to work after nine months. Has suffered a personality change, becoming quiet and depressed; he has lost his sense of smell and his hearing is somewhat impaired. Brain damage, together with his subconscious condition has an adverse effect on his earning capacity. He is not unemployable, but his condition may make it more difficult for him to obtain suitable employment<sup>6</sup>.

### **Back Injuries**

\$14,000 Station hand aged fifty-one sustained a crushed fracture of the fourth lumbar vertebra, some injury to vertebrae round the neck

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3. *Fisher v. Brown* (1968) L.S.J. Scheme 6 (Travers J.).
  4. *Biocic v. Baker*, (1967) L.S.J. Scheme 439 (Chamberlain J.).
  5. *Van Beelan v. Stempel* (1968) L.S.J. Scheme 80 (Mitchell J.).
  6. *Iskra v. McEachren*, unreported judgment of the High Court delivered on 13th September, 1968, (Barwick C.J., Menzies and Windeyer JJ.). This was an appeal from a judgment of Chamberlain J. (1968) L.S.J. Scheme 132, who had awarded \$4,000 general damages.

and lacerations to the scalp. After various unsuccessful treatments a bone graft was performed to fuse 2nd, 3rd and 4th lumbar vertebrae. Operation wound was difficult to heal. Back movements are limited to about 50% of normal. Graft may require a further operation. He is totally unfit for any heavy work and has been deprived of the capacity to do the sort of work he enjoys. He is unable to enjoy his usual pastimes. In calculating his future economic loss a substantial deduction made for adverse contingencies. Was earning approximately \$45 a week<sup>7</sup>.

\$3,500 Farmer aged nineteen sustained a subluxation of the spine at the 5th and 6th cervical vertebrae. Painful operation performed. Left with a permanent weakness and a permanent, though comparatively slight, disability. Some restriction in movement of head and raising or holding objects above his head. Tires more quickly; can only sleep on his right side. Can no longer play sports involving bodily contact. Probability of premature neck and shoulder pains due to age and degenerative changes and a comparatively slight injury could accelerate these changes. No economic loss so long as he remains on the farm except for cost of labour for shearing. Will suffer a slight but significant handicap if he is thrown on the labour market<sup>8</sup>.

\$1,350 Cleaning contractor suffered a prolapsed lower lumbar disc which resulted in pain and disability in the back and left leg. He was totally disabled for almost three months and only able to do light work for another month. Any pain remaining in the leg is not of a disabling nature<sup>9</sup>.

### **Neck Injuries**

\$6,600 Male aged fifty-seven sustained a "whiplash" injury with the additional factor that his head struck the front part of the car. Neck ligaments were torn occasioning nerve damage which caused pain. Now no physical reason for not working but personal insufficiency prevents him making the effort to work and overcome his disability. Economic loss to date of trial and future economic loss included in assessment of damages; his average income, if he had worked, would have been \$10 a week<sup>10</sup>.

\$2,500 Male sustained a crushed chest with torn muscles and ligaments, cut chin and abrasions to both thighs, chest and left arm. Main injury was a twisted neck with torn cervical muscles which was treated frequently for two years. He suffers from headaches, now becoming less frequent and which will be considerably better in a

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7. *McKenzie v. Whitehead and Another* (1967) L.S.J. Scheme 437 (Chamberlain J.).

8. *Gardener v. Della Santa, Farrelly and Dall* (1968) L.S.J. Scheme 70 (Bray C.J.).

9. *Trezise v. Stephenson* (1968) L.S.J. Scheme 224 (Hogarth J.).

10. *Burnside v. Pedernana and Kramer* (1968) L.S.J. Scheme 271 (Travers J.).

year. The headaches are caused by minor injury to the second vertebrae discs. Still has tenderness of the chest<sup>11</sup>.

### Leg Injuries

- \$20,000 Carpenter aged forty sustained an injury to his right knee resulting in a 50% loss of efficiency of his right leg. Likely to suffer considerable pain and incur medical expense in the future. General enjoyment of life considerably impaired. He was deprived, for about 278 weeks, of a substantial part of his earning capacity of about \$50 a week<sup>12</sup>.
- \$13,500 Metal pourer aged twenty-nine lost all the skin and tissues down to the bone of his right foot from a point about two inches above the protuberance of the heel, to a point about four inches along the sole of the foot on the medial side of the foot. Treatment involved much pain and discomfort. New skin over the area is vulnerable and liable to break down. He is unable to stand on the foot for long even with the help of an appliance to relieve the foot from weight bearing. Wage earning capacity affected in that he cannot work long periods of overtime; may lose wages in future while foot is being treated. Remote possibility of amputation of foot. Some slight stiffness in ankle joint; he suffered backache at one stage but this has cleared up<sup>13</sup>.
- \$11,000 Builder's labourer aged fifty-seven sustained a fracture dislocation of the right hip on which a successful arthrodesis was performed, and the hip joint is painless. Infection, toxic dermatitis and an abscess developed. He was in bed for seven months and received physiotherapy for another four months. Limitation of movement of the right knee would be improved if he had not neglected to receive further physiotherapy. In all he spent 342 days in hospital. He is left with a fixed hip joint, substantial diminution of the flexion of the knee and a shortening of the right leg for which he wears a built up heel to give him balance. He has a discharge of pus from a small sinus in the left buttock. His earning capacity has been diminished, his way of life and the amenities of life have been interfered with. Past economic loss assessed at \$2,000<sup>14</sup>.
- \$7,000 Retired male aged seventy-nine sustained a dislocated left hip, a fractured left patella, lacerations of the right leg, chin and scalp, and abrasions of the left knee. Five operations on left hip and leg caused intense pain and discomfort. Fractures of the left eighth, ninth and 10th ribs healed without active treatment. He is left with a limited range of movement in the left knee and hip; move-

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11. *McMahon v. Mitchelmore* (1967) L.S.J. Scheme 476 (Chamberlain J.).

12. *O'Connor v. Hansen Wilkens Hornibrook Constructions Ltd.* (1967) L.S.J. Scheme 330 (Travers J.).

13. *Kiselovski v. Broken Hill Pty. Co. Ltd.* (1968) L.S.J. Scheme 1 (Hogarth J.).

14. *Doman v. Mulraney and Simpson* (1968) L.S.J. Scheme 242 (Walters J.).

ment is painful, making walking uncomfortable even with the aid of a caliper which is essential due to instability of the knee. Condition will deteriorate until he is unable to walk. He had been active, energetic and independent, but will now become more and more dependent on his family and housekeeper and probably have to spend his last days in an institution. He has suffered a gross interference with his way of life and the amenities of life which he formerly enjoyed<sup>15</sup>.

\$5,450 Apprenticed motor mechanic aged eighteen sustained concussion, various bruises and abrasions, fractures of the left wrist and upper ends of the shafts of the left fibula and tibia, with comminution of the tibial fragments. One of the four operations performed on the leg was a sympathectomy. If a similar operation is performed on the right leg he has a 50% chance of becoming impotent. Limitation of movement in the knee and ankle affect him in his work and in the ordinary activities of life. Three scars, which he at first found embarrassing, are easily hurt or broken. If he does develop arteriosclerosis it will be more serious to him than to another person. He would be at a disadvantage on the labour market. \$950 awarded for loss of a year of his apprenticeship<sup>16</sup>.

\$5,000 P.M.G. technician-in-training sustained fractured skull, pelvis and right fibula and tibia. He was restless for ten days. Headaches which he had for some time gradually diminished. Paresis of lateral popliteal nerve resulted in footdrop. Operation to remedy this extremely painful and only partially successful. Condition is static. Has to lift his right leg consciously and the foot tires. Posture changes may cause backache and arthritis. Footdrop prevents him playing active sport and will be an impediment to his enjoyment of life in many ways<sup>17</sup>.

\$4,700 Cyclist aged thirty-seven sustained fractures of the shaft of the left thigh bone, the lower end of the left thigh bone involving the knee joint and a compound fracture of the left knee cap. Cartilage in right knee was torn. Five operations performed on left leg. Has permanent weakness in left leg; cannot run or squat and twisting, lifting heavy weights and going up ladders are difficult. Arthritic changes in left knee have commenced and will increase. Fluid in joint of right knee restricts bending; there is a click over the outer cartilage. Increased liability to arthritis present in right knee, which gives away once or twice a month. Operation will remove the instability. Medically can probably continue in his present work until retirement; if he is cast on the labour market injuries will be a handicap. He lost accumulated sick leave of approximately seven weeks<sup>18</sup>.

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15. *Moore v. A.G.C. (Insurance) Ltd.* (1968) L.S.J. Scheme 218 (Walters J.).

16. *Place v. Knotts* (1967) L.S.J. Scheme 477 (Bray C.J.).

17. *Harman v. Portlock* (1968) L.S.J. Scheme 181 (Bright J.).

18. *Cortis v. Baker* (1968) L.S.J. Scheme 204 (Bray C.J.).

- \$4,500 Male aged seventeen sustained a compound fracture of the left tibia and fibula and a compound dislocation of a finger joint. There were other minor injuries. Treatment of the leg and an attack of renal colic caused pain, suffering and inconvenience. He was unable to work for about seven months. Finger was painful for about two years and there is a thickening of the joint. Skin graft has left an unsightly scar at the donor site on the leg. Skin graft area is peculiarly vulnerable and could lead to oedema of the foot and ulceration. The scar on the lower leg causes him embarrassment when it is visible. The leg tires very easily and he has had to give up sport. His gait is at times affected by a tendency to favour the leg. There is a slight instability of movement in the knee joint and he has a greater than normal chance of developing osteo-arthritis. Weakness of his leg would be a handicap on the labour market. He has been deprived of no mean proportion of the enjoyment of life which he might otherwise have expected during the years of adolescence and youth<sup>19</sup>.
- \$3,500 Woman aged fifty-four sustained fractures of the shaft of the left femur, ribs on the left side and left clavicle, and lacerations to the hip and forehead and probably concussion. She was in hospital for 97 days and had much pain and discomfort. Being of aboriginal descent she was more affected by the pain than a person of European descent would have been. She is left with quarter-inch shortening of the leg in which she has intermittent aches and pains and which becomes tired and uncomfortable in the course of a day. She has some numbness in the hip and headaches which will disappear as will reduction of rotation of the head due to wrenching of the ligaments. She lost a tooth and has permanent, but intermittent, discomfort in the chest and shoulder blade after vigorous use of the shoulder and arm<sup>20</sup>.
- \$3,000 Shopowner sustained two deep lacerations down to and penetrating the muscle sheath of the peroneal compartment of the left leg and a laceration just below the knee. Knee joint was painful and swollen with effusion of fluid and there were signs of injury to the medial semilunar cartilage of the joint. He had considerable pain and a severe limp, which did not immobilize him, for about a month. Remedial exercises carried out to correct considerable wasting of the quadriceps muscles of the thigh. There is still noticeable wasting of the quadriceps; he walks with aid of a stick in case the leg gives way. He is now reasonably mobile with increasing pain if he uses the leg much in the course of the day. Not as useful in the shop as he was. Allowance made for loss of enjoyment of holiday<sup>21</sup>.
- \$3,000 Motor scooter mechanic aged nineteen sustained a comminuted fracture of the left tibia and fibula. Leg is now less serviceable with

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19. *White v. Venus* (1967) L.S.J. Scheme 369 (Bray C.J.).

20. *Rankine v. Municipal Tramways Trust and Bugeja* (1967) L.S.J. Scheme 479 (Bray C.J.).

21. *Haymes v. Easton* (1968) L.S.J. Scheme 119 (Hogarth J.).

slight limitation of movement in ankle and knee. Difficult to do work involving prolonged squatting. Can continue his present work, would be at disadvantage on labour market. Skin graft has left his leg scarred<sup>22</sup>.

\$2,500 Male suffered an abrasion over the lateral aspect of the knee joint with a small amount of fluid in the joint which was tender over the medial side and a torn medial ligament of the knee joint. Leg in plaster for four or five weeks. Suffers local tenderness, but no pain. Arthritis may develop. Disability for heavy labouring work is about 20%, probably would not be permanently employed as labourer anyway. Lost some wages while leg was being treated<sup>23</sup>.

\$2,200 Female pedestrian aged eighteen suffered an injury to the posterior surface of the knee cap with damage to the articular cartilage. Operation left visible, but not unsightly, scars. Was in hospital for 13 days and on crutches for a further month during which time she had daily physiotherapy treatment. Leg gave way about three months after the operation and she had physiotherapy treatment for about three weeks. She suffered considerable pain while in hospital and undergoing electrical physiotherapy treatment. She now suffers from cramp in the leg and knee which prevents her from swimming and dancing, and a "pins and needles" feeling if she attempts to kneel. She is unable to run and has difficulty in getting up stairs. Probable that at some future time the patella may have to be removed. Additional weight in advanced stage of pregnancy would be likely to increase the risk of the knee giving way<sup>24</sup>.

\$2,000 Schoolgirl aged seven sustained concussion, dislocation of the right hip, right-sided pneumothorax, laceration of the right calf, bruises and contusion of the right buttock and chest wall. Initially she had much pain. She was encased in plaster for about two months. Left with four scars on the right side of the chest, a diagonal scar 1½ in. to 2 in. long on the upper part of her right calf which is noticeable but not disfiguring and occasional pain in her hip which sometimes radiates down her right leg. The pain is not of a disabling nature<sup>25</sup>.

### **Arm Injuries**

\$15,000 Carrier aged thirty-one sustained concussion, lacerations to the face and hands, fractures of the ribs, nose and spine, with major nerve damage, including an injury to the brachial plexus, which has caused permanent loss of function in both arms of about 50%. He suffers from headaches after driving for long periods or reading for more than an hour. There is possibility of degenerative changes

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22. *Coonan v. The Commonwealth of Australia* (1968) L.S.J. Scheme 82 (Hogarth J.).

23. *Arbela v. Hollis* (1968) L.S.J. Scheme 89 (Mitchell J.).

24. *MacMillan v. Griffiths* (1968) L.S.J. Scheme 106 (Mitchell J.).

25. *Bedi v. Malnai and Tofan* (1967) L.S.J. Scheme 342 (Hogarth J.).

in both shoulders. He experiences backache and cramps from time to time. The amount awarded was divided up as follows: (a) \$4,000 for pain, suffering and past, present and future impairment of the enjoyment of life and its amenities, (b) \$1,000 for loss of the chance of making a success of his carrying business which he was forced to give up, (c) \$4,000 for loss of earnings, (d) \$6,000 for diminution of earning capacity<sup>26</sup>.

\$6,000 Roadhouse proprietor sustained fracture of right elbow, ankle and both nasal bones. After several operations left with a slight permanent disability of the ankle and it is more subject to strain and more prone to develop arthritis. 30% function of right arm is lost affecting his potential earning capacity. Facial scars are noticeable, but not disfiguring. Minor refractive error in both eyes aggravated<sup>27</sup>.

\$6,000 Farmer aged forty-eight rendered unconscious, sustained lacerations to the forehead, abrasions on a knee and minor damage between second and third cervical vertebrae. Injuries to both shoulders and right elbow led to stiffness and pain which was treated regularly for about three months by physiotherapy. Left with weakness of grip of his right hand and a painful right elbow which impose considerable limitations on his ability to do heavy work but not on his ability to run his farm with his son's help<sup>28</sup>.

\$4,500 Domestic aged fifty-eight sustained injuries to her right shoulder, neck and ankle. Lateral flexion of her neck is greatly restricted and there is a loss of 70° to 90° of rotary movement. She has gross crepitus in the right shoulder on rotation and some loss of movement. Right arm can only be raised to about two-thirds of normal height. Pain radiates down the arm from the shoulder. Symptoms of osteo-arthritis in the neck and knees have been accelerated. She is unemployable, unable to attend to all her household duties and is no longer able to dance, which she did regularly<sup>29</sup>.

\$4,500 Married woman aged forty-two suffered fractures of the lower third of the shafts of the right radius and ulna with considerable displacement of fragments of both bones. Sudek's atrophy was treated with a spring splint and capsulitis in the right shoulder by physiotherapy. She is left with some limitation of movement in her arm in particular she can only bend her elbow to 90°. Some continued limitation of movement in the shoulder combined with limitation of flexion of the elbow make it impossible for her to touch her face. Her fingers will not stretch and her hand, as a result of the combined effect of wrist and finger disabilities, is less flexible. It is awkward for her to do household chores. She is unable to play the piano as effectively as she could. She cannot work at

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26. *Skipworth v. Norton* (1968) L.S.J. Scheme 247 (Bray C.J.).

27. *Livesley v. Camplin* (1968) L.S.J. Scheme 25 (Bray C.J.).

28. *Prentice v. McGregor and Another* (1967) L.S.J. Scheme 433 (Chamberlain J.).

29. *Parker v. Horwood* (1967) L.S.J. Scheme 467 (Mitchell J.).



retouching photographic negatives as she would have done when all her children were at school. Emotional stress led to the development of rosacea which will improve but not disappear altogether. Expensive ointments are required for its treatment. Abrasions and lacerations healed leaving no unsightly scars<sup>30</sup>.

\$1,700 Youth aged nineteen sustained a fracture of the right arm. Left with an inconvenient weakness in the wrist. Partial dental plate, inserted where front tooth was knocked out, gives a good deal of inconvenience. Minor inconvenience will continue. Approximately \$230 awarded for loss of income while his arm was in plaster<sup>31</sup>.

### **Chest Injuries**

\$6,500 E.T.S.A. employee admitted to hospital unconscious, with several broken ribs and severe respiratory distress necessitating a tracheotomy. Developed an infection of both lungs. Physical symptoms satisfactory after four months but he was deeply depressed. He is left with a continuous pain in various parts of his body, dizziness and inability to bend his back. These disabilities are of psychological origin which will clear up within about two months of the settlement of the claim. Loss of earning capacity assessed at \$5,200<sup>32</sup>.

### **Multiple Injuries**

\$26,000 Insurance agent aged fifty-six sustained shock and concussion with gross damage to most of his body; in particular, a compound comminuted fracture of the left leg, fracture of the right ankle and probable fractured ribs, lacerations of the scalp and temporal region. Skin grafts performed where he lost a large piece of skin from the left leg. The left leg, which has 1 in. of shortening and is bowed, may cause a lot of trouble in the future. He is unable to continue his extensive sporting activities. He was a very sociable person but is now disinclined to social life. His intellect has been impaired, but not grossly; mentally he has slowed up. His body function has been reduced by about 50%. Loss of earning capacity assessed at \$10,000<sup>33</sup>.

\$21,500 Married woman aged fifty-two sustained extensive facial lacerations and some deviation of the nose at the lower end. A fractured skull caused leakage of cerebro-spinal fluid from her nose for three days and there is a remote possibility of meningitis being contracted in the future. Fracture of the lateral condyle of the right knee,

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30. *Tonkes v. Winson* (1968) L.S.J. Scheme 113 (Hogarth J.).

31. *Zummo v. Porrovecchio* (1968) L.S.J. Scheme 178 (Bright J.).

32. *Miloneras v. Minister of Works* (1967) L.S.J. Scheme 438 (Chamberlain J.).

33. *Clark v. Ewen* (1967) L.S.J. Scheme 470 (Mitchell J.).

with paralysis of the muscles of dorsi-flexion of the right foot, resulted in a "dropped foot" and necessitates her wearing a caliper. She now walks slowly with a limp. She has some pain on the outer side of the leg and uses a walking stick when out of doors. Fracture of the scapoid bone of the left wrist has left her with only 50% dorsi and plantar flexion. Scars on her face are noticeable but not disfiguring. She has no feeling on the left side of her forehead and a peculiar sensation in her hip. Injury to the extra cranial structures has initiated a cycle of stiffness, pain, discomfort and headaches which is likely to continue for a considerable period. She was an active person who is now virtually unemployable, but would have worked up to the age of about 60 or 65, earning something in excess of \$28 a week<sup>34</sup>.

\$5,500 Load operator aged thirty suffered shock and concussion, followed by a post-traumatic amnesia, and also contusion over the left eye, lacerations of the chin and lower lip, and three teeth were broken. There were fractures of the right clavicle, the spine, right scapula, and the right radial styloid involving the wrist, comminuted fracture of the left radius. The treatment of the fractures caused considerable pain, suffering and inconvenience. He still has severe headaches on most days and sporadic aches in his left wrist and shoulder. He has a minor deformity at the fracture site of the right collar bone and a moderate deformity of the left wrist with a loss of about 20% of the full and efficient function of the joint. There is some shortening of the radius due to damage to the styloid process. Further surgery may correct the deformity but it is likely that the joint will be susceptible to arthritic changes. The head injury brought on an ophthalmic condition, associated with frontal retro-orbital headaches, nausea and vomiting. He developed a defect in the field of vision in his left eye, due to the formation of dense opacities in the vitreous, which still remains and may lead to a retinal detachment. He will probably require fairly regular medical attention for his eye for some time to come<sup>35</sup>.

\$5,500 Farmer aged forty-nine sustained moderately severe concussion, fractures of the left clavicle, right wrist, left tibia and fibula, left femur and bruising, lacerations and shock. Left with loss of about one-third of rotation of right hand which does not inconvenience him seriously and some loss of power in the hand. Loss of power in left leg disables him from doing heavier type of farm work and he has had to employ help to do work he did previously<sup>36</sup>.

\$2,500 Girl aged fifteen suffered concussion, fractures of the second, third and fourth left ribs posteriorly, fracture involving the transverse process of the first thoracic vertebrae on the left side, fracture of the

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34. *Jarvie v. Haynes and Barrett* (1967) L.S.J. Scheme 378 (Hogarth J.).

35. *Hoppe v. Nuske* (1967) L.S.J. Scheme 376 (Walters J.).

36. *Higgins v. Bennetts* (1968) L.S.J. Scheme 255 (Hogarth J.).

middle third of the left clavicle, multiple fractures of the pelvis involving both pubic rami together with some separation of the left sacro-iliac joint, fracture of the base of the second metatarsal of the right foot with detachment of a small fragment of bone from the adjacent cuboid bone. She had some degree of shock. Suffered from severe headaches at the time as a result of the concussion. Severe pain from the fractures required frequent analgesics. Upper front tooth was broken. Left with minor disabilities of:—infrequent ache in her neck, difficulty in lower part of her back and difficulty in movement after sitting on the floor for a while. Some possibility of low backache in later life if she puts on a good deal of weight<sup>37</sup>.

### Eye Injuries

\$7,500 Male in his fifties had his right eye removed. Has suffered only minor complications<sup>38</sup>.

\$300 Male rendered unconscious. He suffered from an aggravating pain in his back for about two weeks, which has left no disability. Damage to one eye caused irritation for some weeks and resulted in 10% loss of vision. No longer finds pleasure in competitive clay pigeon shooting, at which he excelled<sup>39</sup>.

### Nervous Disorders

\$33,000 Crane driver sustained compound fracture of the maxilla and left zygoma. Terminal phalanx of left ring finger was fractured and terminal joint of the same finger was sprained. Right knee and nose were bruised. Laceration across the left side of the face has left a not very noticeable scar. He was unconscious for a short time. Injury to teeth led to extraction of some teeth. Now suffering from early signs of disclesion in the cervical spine, mallet deformity in left finger, pain in the back of his neck which restricts him in engaging in heavy work. Developed a neurosis and genuinely believes he is unable to work. Neurosis will diminish but he is likely to be disabled from work for a considerable time after judgment. Epileptic fits which he has from time to time will be rare if anti-convulsant drugs are used. This condition will limit his employment. Allowance

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37. *Pike and Others v. South Australian Railways Commissioner and Hillman* (1968) L.S.J. Scheme 175 (Bright J.).

38. *Osmond v. The District Council of Meadows, Commercial Union Association Co. Of Australia Third Party* (1967) L.S.J. Scheme 435 (Chamberlain J.). In his judgment Chamberlain J. referred to two recent assessments of damages by Mitchell J. for loss of an eye, in one case by a young man in his early twenties, and in the other by a child of 10. In both cases Her Honour awarded \$8,000 general damages.

39. *Hastings v. Planken* (1967) L.S.J. Scheme 395 (Chamberlain J.).

made for total incapacity for work to date of trial plus one year, reduction in earning capacity, possible future medical and dental services and drugs, pain and general loss of efficiency and enjoyment of life<sup>40</sup>.

M. C. DOYLE\*

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40. *Falidis v. Silver Top Taxi Services Pty. Ltd and Eatts* (1968) L.S.J. Scheme. 212 (Bright J.).

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