

movement of her arm which the defendant had interpreted as an invitation to pass in front of her. Miles CJ found that the said interpretation was unreasonable.

Having found primary negligence on the part of the defendant His Honour went on to make some useful comments about the way in which contributory negligence should be assessed:

"The question that arises is as to the extent to which is just and equitable to reduce the plaintiff's damages having regard to the contribution by each of the parties to the plaintiff's injuries.... It was, after all, the vehicle driven by the defendant which struck the plaintiff. Her injuries were not caused by her walking into the vehicle. The defendant was under an obligation to comply with the traffic laws and to take reasonable care to control a

potentially dangerous object without injuring others. He drove in excess of the speed limit and he drove into the plaintiff after failing to take reasonable care. In my view, it was just and equitable that the defendant should bear a greater share of responsibility for the damage which flowed from his breach of his duty towards other road users. I think the plaintiff's damages should be reduced by one third for her own contributory negligence".

Clearly in each case the Court will have to undertake a balancing exercise. In some cases the only negligence on the part of a defendant may be the failure to pay proper regard to the risk of pedestrians moving out or running out onto a roadway. In such circumstances it appears the Court is likely to impose contributory negligence of at least 50% - 65%.

In summary I suggest that the recent authorities stress again the warning expressed by Stable J. as long ago as 1939, that there is such a risk of significant injury that can be caused by a motor vehicle to a pedestrian, that the driver bears a very high duty indeed. Further, in light of some of the more recent cases, it will be rare where there can be no finding of negligence whatsoever even in circumstances where a plaintiff has deliberately disobeyed a "Don't walk" sign or has run out onto a roadway without looking properly. ■

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Workers Compensation SIG

Simon Garnett, Melbourne

The Workers Compensation SIG was established at the 1997 National Conference and now has approximately 90 members throughout Australia.

The State and Territory convenors are:
 Paul Mulvany (Vic)
 Anthony Monaghan (NSW)
 Simon Morrison (Qld)
 Garry Schneider (NT)
 Guy Stubbs (WA)
 Robert Phillips (Tas)
 Richard Faulks (ACT)
 Stephen Lieschke (SA)

The Group's aims are:

- to encourage communication and the exchange of information between members allowing for more effective representation and outcomes for injured workers.
- to encourage best practices amongst members representing workers compensation claimants
- to encourage networking between members.

- to create and maintain a data base of educational material, expert witnesses and commentaries concerning legislative and judicial transient workers compensation law.
- to monitor practices of Workers Compensation Authorities and Insurers to ensure proper compliance with existing legislation and regulations.
- to promote legislative reform for the benefit of injured workers and to provide a forum for reviewing legislative amendments to workers compensation schemes in Australia.
- to enhance APLA's role as an effective lobby group pursuing the aforementioned aims.

We are in the process of finalising our SIG Website which will include:

- commentaries on National/State/Territory legislative developments in workers compensation
- articles of interest for workers com-

- pensionation practitioners
- current workers compensation campaigns
- a list of registered SIG members
- an email list serving facility which members can subscribe to obtain up to date judicial decisions/settlements across the country

To subscribe to the list-server, email workers-request@apla.com and type 'subscribe' (without the quotation marks) in the body of your email message. You will receive an email confirming that you have been added to the mailing list. To circulate information to all subscribers, send your message to: worker@apla.com

I therefore take this opportunity to encourage members to join the SIG (at no extra cost) by contacting the National Office. ■

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