

MARIA PANAYI,

Appellant-Plaintiff,

v.

MARGARET CAROL HANDLEY,

Respondent-Defendant.

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(Civil Appeal No. 5431).

5 *Damages—General damages—Personal injuries—Thirty-two years old single girl sustaining severe concussion and other multiple injuries—Unconscious for six days—After effects—Ugly scar on knee—Post-traumatic brain syndrome of moderate degree with mild personality change—Possibility of post-traumatic epilepsy—Award of £2,500—Not so manifestly inadequate—Left undisturbed.*

The appellant-plaintiff sustained personal injuries in a traffic accident. Upon her admission to the Hospital soon after the accident she had the following injuries:

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1. Severe concussion. She was deeply unconscious and remained so for six days.
 2. Extensive bruising with superficial lacerations on her right forehead and eyebrow with black eye.
 3. Echymosis on her buttock and both her thighs.

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 4. A lacerated wound on her right knee.

According to medical evidence adduced on her behalf the after effects of the injuries were the following:

1. An ugly scar on the right knee, 3x1 cm; tenderness around the knee joint and some quadriceps muscle wasting.

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2. Complaints of pain and stiffness which got worse after prolonged walking, climbing and in cold weather.
3. Post traumatic brain syndrome of moderate degree with some mild personality change.
4. Possibility of post-traumatic epilepsy which was estimated at 5 per cent.

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The medical evidence adduced on behalf of the defendants

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was to the same effect with the exception of the percentage of the possibility of post-traumatic epilepsy which was estimated in the region of 2-3 per cent.

The appellant was 32 years of age at the time of the trial and she was a single girl; she was employed as a chambermaid at the Apollonia Beach Hotel in Limassol at a monthly salary of £70.

The trial Court awarded to her the amount of £2,500 and she appealed on the ground that it was manifestly inadequate.

Held, (1) it is quite clear to us that the trial Court took the view most favourable to the appellant. We do not think that it can reasonably be said that the Court was not aware of her status as a single woman, they say so in their judgment, or that she was a working woman.

(2) We have considered all the aspects of the case, and in our view, having regard to all the circumstances of the case and to the condition and prospects of the appellant, we cannot say that the award was manifestly inadequate.

Appeal dismissed with costs.

Cases referred to:

Symeonidou v. Michaelidou (1969) 1 C.L.R. 394;

Prudence v. Lewis, reported in Kemp & Kemp, 3rd ed. vol. 1 p. 304;

Kaiser v. Carlswood Glassworks Ltd., reported in Kemp & Kemp, 3rd ed. Vol. 1, p. 245.

Appeal.

Appeal by plaintiff against the judgment of the District Court of Limassol (Loris, P.D.C. and Hadjitsangaris, S.D.J.) dated the 12th April, 1975, (Action No. 2289/73) whereby she was awarded an amount of £2,500.— as general damages in respect of injuries she sustained in a traffic accident.

A. Triantafyllides, for the appellant.

D. Liveras, for the respondent.

The facts sufficiently appear in the judgment of the Court:

L. LOIZOU, J.: This is an appeal by the plaintiff against the quantum of 'general damages awarded to her by the District

Court of Limassol in a personal injury claim. This case arose out of a traffic accident which occurred on the 2nd May, 1973 at Limassol.

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5 In the course of the hearing the litigants were able to agree on the issue of liability and special damages. The defendant accepted 75 per cent of the blame for the accident and the special damages were agreed at £902.— on a full liability basis, including loss of earnings of the plaintiff till the hearing, but without prejudice to their respective allegations as to the fitness
10 of the plaintiff to work in the future.

On the issue of general damages, the trial Court heard, in addition to the plaintiff, the evidence of four witnesses, including the evidence of two doctors, one neuropsychiatrist and one specialist orthopaedic surgeon, all of whom gave evidence on
15 the part of the plaintiff and also the evidence of one witness for the defence, Dr. Sofocleous, who examined the plaintiff at the request of the defendant. The parties, in addition, produced, by consent, a medical certificate, that of doctor V. Makris, but subject to the qualification that the alleged persona-
20 lity changes of the plaintiff had to be proved by independent evidence. Doctor Makris is the Surgeon in charge of the Limassol Hospital, and his certificate relates to the injuries of the plaintiff upon her admission to the Hospital soon after the accident. According to this certificate, she had the following
25 injuries:—

- “ 1. Severe concussion. On admission she was deeply unconscious and remained so for six days: Her right pupil was at the beginning slightly larger than the left but soon became normal and both were reacting normally.
30 She vomited several times.
2. Extensive bruising with superficial lacerations on her right forehead and eyebrow with black right eye.
3. Echymosis on her buttock and both her thighs.
4. A lacerated wound on her right knee. That was cleaned
35 and sutured.

X-Rays of her skull and right knee showed no bone injured. She was kept under close neurological observation and was treated with antibiotics steroids, sedatives and intravenous alimentation.

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On the 7th day she started to talk but had no co-ordination of sentences. She passed through a stage of confusion, restlessness and irritability which had lasted for about six days. She then started to improve and was discharged home on the 30th May, 1973.

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She continued to be followed up as Out Patient regularly with severe headache and personality changes. She was then referred to Dr. Matsas, for further investigations and treatment. She was also complaining of pain in her right knee, which was re-X Rayed but showed no bone injury. This pain is most probably due to the ugly-thick painful scar she has on her knee.

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Opinion

As a result of the accident Miss Panaghi suffered severe concussion and other multiple injuries as stated above.

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Regarding her present neurological state a neurologist should give his opinion".

The doctors who gave evidence for the plaintiff are Doctor Christodoulos Messis, a neuropsychiatrist and Doctor Kyriacos Andreou, a specialist orthopaedic surgeon. Doctor Andreou examined the plaintiff for the first time on the 12th March, 1974. She had an ugly scar on the right knee, 3 x 1 cm., there was tenderness around the knee joint and some quadriceps muscle wasting. He X-rayed the patient and the X-rays showed no bone injury. The plaintiff was complaining of pain and stiffness which got worse after prolonged walking, climbing and in cold weather. He prescribed some analgesic tablets and advised physiotherapy. In the opinion of the doctor, "her complaints regarding the knee, were due to a legament, to strain of the right knee which occasionally gives some pain and discomfort for some time and then gradually subsides". The scar, he said, will remain permanent unless the plaintiff undergoes plastic surgery in which case it will improve considerably. The doctor went on to say that the muscle wasting will not affect her so much as not to be able to do her job.

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Doctor Messis examined the plaintiff on several occasions between the 7th July, 1973 and the 29th March, 1974. His conclusion was that the patient sustained a severe craneo-cerebral trauma, with brain damage, as indicated from the prolonged unconsciousness and subsequent confusion and the positive

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E.E.G. abnormalities. She was subsequently left with a post traumatic brain syndrome of moderate degree with some mild personality change. He gave it as his opinion that there was the possibility of post-traumatic epilepsy which he estimated at 5 per cent. The doctor advised the plaintiff to go back to work on the 1st December, 1973, but she persistently refused. In relation to this, the doctor said that he could not attribute it wholly to her organic difficulties due to the brain damage, but she had also a neurotic component including the so-called compensation neurosis.

With regard to the brain damage, there were three E.E.Gs., one was made on the 28th July, 1973, and some abnormality was found, and the second and third on the 20th October, 1973 and 18th February, 1974, respectively, both of which disclosed no abnormality.

Doctor Messis agreed in cross-examination that there had been some improvement but he disagreed that the brain was back to normal. Once you have a brain injury, he said, you can never get back to normal; all you can say is get close to normal or less abnormal.

With regard to the personality change when asked whether he could say that she had got this at the time of the hearing, a permanent personality change, his reply was, well, the last time I saw her, about a year ago, I do not know now, I thought that there was still a mild degree of this personality change, which after a year it would become much closer to normal, but I do not think it is fair to say that she is completely back to normal as far as personality is concerned.

The evidence of the plaintiff's younger sister was with regard to the plaintiff's condition and disposition both before and after the accident. She said that prior to the accident the plaintiff was a pleasant, healthy, joyful, talkative, hard working girl, whereas after the accident, she became nervous, she lost her temper, forgot easily and at times had dizzy spells which lasted from 15-20 minutes and had to lie in bed. These dizzy spells, she said recur about once or twice a month.

The plaintiff herself in her evidence said that she had always been working since she was 14 and that for the last two years she had been employed as a chamber-maid at the Apollonia Beach Hotel in Limassol, she could not remember anything about the accident, the only thing that she remembered is that

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she found herself in the hospital. She complained about her knee and she said she feels pain when she walks or she is standing and even when she is sitting.

Defence witness doctor Sofocleous examined the plaintiff on three occasions, between the 12th June, 1973 and the 20th February, 1974. The only points on which he disagreed with Doctor Messis was the percentage of the possibility of post-traumatic epilepsy which, in his opinion, should be in the region of 2–3 per cent, instead of 5 per cent and the question of the brain damage. In the opinion of this doctor, there was no permanent brain damage, although he could not exclude the possibility that she had suffered brain disfunction at the acute stage.

As regards the psychiatric evidence, the trial Court preferred the evidence of doctor Messis on the ground that he had a better opportunity of assessing the condition of the plaintiff. The Court was also favourably impressed and accepted the evidence of the plaintiff and her sister.

As it appears from the record, the plaintiff was a single girl of 32 years of age at the time of the trial, and as stated above, she was employed at the Apollonia Beach Hotel in Limassol and her monthly wages were £70.–. The trial Court at the conclusion of the hearing, awarded to the plaintiff, by way of general damages, the global figure of £2,500.– and as stated earlier on, the appeal is directed at this award, on the ground that it is manifestly inadequate.

Learned counsel for the appellant argued before us that the award of £2,500.– is obviously inadequate in the light of the injuries sustained by her. He submitted that such award would be reasonable for a non-working woman whose marriage prospects were not affected; in support of his argument he cited three cases to us for comparison purposes. They are the cases of *Symeonidou v. Michaelidou* (1969) 1 C.L.R. p. 394; *Prudence v. Lewis* reported in Kemp & Kemp 3rd ed., vol. 1 at p. 304; and *Kaiser v. Carlswood Glassworks Ltd.* reported in the same volume of Kemp & Kemp at p. 245.

Learned counsel for the respondent, on the other hand, argued that in the light of the evidence and in view of the fact that whilst the appellant did suffer something and she had substantially recovered, the award, if anything, was on the high side.

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5 It is quite clear to us that the trial Court took the view most favourable to the plaintiff. We do not think that it can reasonably be said that the Court was not aware of the status of the appellant as a single woman, they say so in their judgment, or that she was a working woman.

We have considered very carefully all the aspects of the case, and in our view, having regard to all the circumstances of the case and to the condition and prospects of the appellant, we cannot say that the award was manifestly inadequate.

10 In the result, this appeal is dismissed with costs.

Appeal dismissed with costs.