1969
July 1

LOIZOS CONSTANTINOU
v.
GEORGHIOS SALACHOURIS

[VASSILIADES, P., STAVRINIDES AND HADJIANASTASSIOU, JJ.]

LOIZOS CONSTANTINOU,

Appellant-Defendant,

v.

GEORGHIOS SALACHOURIS,

Respondent-Plaintiff.

(*Civil Appeal No.* 4745).

Negligence—Contributory negligence—Road Traffic Accident—Collision between motor-cycle and a lorry—Apportionment of liability—Trial Court's apportionment to the effect that both parties are equally to blame upheld on appeal—Principles upon which the Court of Appeal will interfere with apportionment of liability made by trial Courts restated.

Appeal—Apportionment of liability in cases of negligence and contributory negligence—Appeal against such apportionment—Approach of the Court of Appeal to the matter—Principles well settled—Restated.

Apportionment of liability—See supra.

Damages—Personal injuries—General damages—Proper basis of compensation in cases of personal injuries—Fair and reasonable compensation—Not perfect compensation—Appeal against quantum of general damages—Approach of the Court of Appeal to the matter—Principles upon which the Court of Appeal will interfere with the assessment of the amount of general damages well settled—Restated.

Quantum of damages—Personal injuries—Appeal against award of general damages—Approach of the Court of Appeal to the matter—Principles restated—In the present case the Court of Appeal increased the amount of general damages awarded by the Trial Court on the ground that the award appealed against was a wholly erroneous estimate.

Personal injuries—General damages—Proper assessment—Appeal against award of damages—Approach of the Court of Appeal—Principles restated—See also supra.

As a result of a road traffic accident the plaintiff sustained severe personal injuries. At the material time the plaintiff was riding his motor-cycle and the defendant was driving his lorry. The plaintiff's motor-cycle collided with the on-coming lorry of the defendant in the circumstances set out in the judgment of the Court (*post*). The District Court of Nicosia found that both the plaintiff and the defendant were equally to blame for the accident and apportioned liability accordingly. The trial Court then assessed the general damages for personal injuries at a lump sum of £6.800 without going into each head in detail, relying on the authority of *Watson* v. *Powles* [1967] 3 All E.R. 721 at pp. 722, 723. In the result, judgment was given in favour of the plaintiff for the sum of £3,000 (plus £149 special damages).

The defendant took this appeal both against the apportionment of liability and the award of damages. The plaintiff on the other hand cross-appealed also against the apportionment of responsibility as well as against the award of general damages. Dismissing the appeal, but allowing in part the cross-appeal, the Court:

Held, I. As to the apportionment of liability at 50% *to each of the parties:*

(1) The approach of this Court to appeals against apportionment of responsibility is well settled. The Court will not interfere with such apportionment made by trial Courts, save in exceptional cases, as where there is some error in principle or the apportionment is clearly erroneous; and an Appellate Court will not readily substitute its own discretion for that of the trial Court. (See: *Katsiou* v. *Shakallis* (reported in this Part at p. 346 *ante*); *Despotis* v. *Tseriotou* (reported in this Part at p. 261 *ante*); *Brown and Another* v. *Thompson* [1968] 2 All E.R. 708; *Uddin* v. *Associated Portland Cement Manufacturers Ltd.* [1965] 2 All E.R. 213, at p. 218).

(2) Bearing in mind these principles and in view of the evidence adduced we take the view that neither the findings of fact made by trial Court are wrong nor the aforesaid apportionment of liability at 50% to each of the parties is erroneous. And though more blame might have been apportioned to the plaintiff, still we do not feel justified as an appellate Court to disturb in the present case the apportionment made by the trial Court.

(3) We would, therefore, support the common sense and fair approach by the trial Court in assessing the degrees of liability at 50% to each one of the participants in the accident. (See *Davies* v. *Swan Motor Co. (Swansea) Ltd.* [1949] 1 All E.R. 620, at p. 627).

Held, II. As to the quantum of general damages:—

(1) With regard to the quantum of damages, the principles upon which this Court acts in appeals of this nature have been stated in a number of cases. It is now well settled that this Court would not be justified in disturbing the findings of the trial Court on the question of the amount of damages, unless it is convinced either that the trial Court acted upon some wrong principle of law or that the amount was so extremely high or so small as to make it, in the judgment of this Court, an entirely erroneous estimate of the damages to which the plaintiff is entitled. (See *Christodoulides* v. *Kyprianou* (1968) 1 C.L.R. 130; *Djemal* v. *Zim Israel Navigation Company Ltd. and Another* (1968) 1 C.L.R. 309).

(2) As to the basis of compensation, trial Courts should not attempt to give a perfect compensation in money. This is an impossible task. They should give a fair compensation in the particular circumstances of each case (See *Fletcher* v. *Autocar and Transporters Ltd.* [1968] 1 All E.R. 726, at pp. 733 and 734 per Lord Denning M.R., *Senior (an infant)* v. *Barker and Allen, Ltd.* [1965] 1 All E.R. 818 at p. 819, per Lord Denning M.R.) (Cf. *Antoniades* v. *Makrides* (reported in this Part at p. 245 *ante*).

(3) In the present case the trial Court, after considering the age of the plaintiff, the amount of his wages (£8 weekly), and all the facts of this case including the prospects of improvement to be expected in 1-1 1/2 years time, awarded the sum of £6,000 as general damages (on a full liability basis). But they did not give any particulars or analysis of this sum, and no help has been given to this Court as to the plaintiff's loss of earnings from the date of the accident till the date of the judgment and as to what the loss of future earnings will be; nor did they state what actually they took into account in reaching aforesaid figure.

(4) In considering whether the award of £6,000 (*supra*) is a wholly erroneous estimate, we went through the case, including the medical evidence to the effect that the plaintiff will remain partially and permanently unfit for the work of an electrician, and that only slight improvement of his present condition

could be expected in 1–1 1/2 years' time (excluding eye condition). Considering the plaintiff's future loss of earnings after the date of the judgment, his pain and suffering past and future, and his loss of amenities, we are of the view that the sum of £6,000 awarded by the trial Court (on a full liability basis) was far too low in the circumstances and a wholly erroneous estimate; particularly so because a rather larger amount was wrongly deducted from the notional amount of general damages by the trial Court to provide for the expected slight improvement of the plaintiff's condition.

(5) We, therefore, hold that a fair compensation on the basis of full liability would be the sum of £7,500, after making allowance that, even if the plaintiff had not been injured, there would be many contingencies which might upset his future prospects, such as illness, accident and so forth. Allowance is also made for the fact that compensation is paid at once in a lump sum, (which can be invested and bear interest at once) whereas the plaintiff's future earnings would have been spread over many years. In the result the trial Court's figure of £3,149 (*supra*) is raised to £3,899.

Appeal dismissed. Cross-appeal by the plaintiff (respondent) allowed in part as above with costs for the plaintiff both in the action and in the appeal.

Cases referred to:

Katsiou v. *Shakallis* (reported in this Part at p. 346 *ante*);

Despotis v. *Tseriotou* (reported in this Part at p. 261 *ante*);

Brown and Another v. *Thompson* [1968] 2 All E.R. 708;

Uddin v. *Associated Portland Cement* Manufacturers Ltd. [1965] 2 All E.R. 213 at p. 218;

Antoniades v. *Makrides* (reported in this Part at p. 245 *ante*);

Christodoulides v. *Kyprianou* (1968) 1 C.L.R. 130;

Djemal v. *Zim Israel Navigation Company Ltd. and Another* (1968) 1 C.L.R. 309;

Fletcher v. *Autocar and Transporters, Ltd.* [1968] 1 All E.R. 726, at pp. 733 and 734, per Lord Denning M.R. followed;

Senior (an infant) v. *Barker and Allen, Ltd.* [1965] 1 All E.R. 818, at p. 819, per Lord Denning M.R. followed;

Davies v. *Swan Motor Co. (Swansea), Ltd.* [1949] 1 All E.R. 620 at p. 627, applied;

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Watson v *Powles* [1967] 3 All E.R 721 at pp 722-23,

Appeal and cross appeal.

Appeal and cross-appeal against the judgment of the District Court of Nicosia (Mavrommatis and Stylianides, D JJ) dated the 22nd June, 1968 (Action No 4887/1967) whereby the defendant was adjudged to pay to the plaintiff the sum of £3,149 as damages for injuries which he sustained due to the negligent driving of the defendant

Ph Clerides, for the appellant.

D Papachrysostomou, for the respondent

Cur. adv. vult.

VASSILIADES, P : I shall ask Mr. Justice Hadjianastassiou to deliver the first judgment.

HADJIANASTASSIOU, J On September 30, 1967, in the afternoon, the plaintiff, Mr. Loizos Constantinou, was driving his motor-cycle under Reg L.699, from Mitsero to Orounda village When he started negotiating a left-hand-side bend at a speed of 25 to 30 m p h , a very sharp and dangerous bend, and as he was not keeping to the extreme near side of the road, he was suddenly faced with an oncoming lorry on the wrong side of the road at a distance of 5 or 6 meters The lorry under Reg No TY.293, which was fully loaded with ore, was driven and owned by the defendant, who was coming from the opposite direction from Ayia Marina to Mitsero at a speed of 10 m p.h The plaintiff, although he tried to stop in order to avoid the accident, failed to do so and collided with the front part of the lorry, which was one or two feet from the middle of the road towards the side of the plaintiff As a result of this accident, a second collision followed, the plaintiff hitting the body of the lorry which was at the time in an oblique position in the road. Because of the accident, the plaintiff sustained severe and extensive injuries. He was taken to the general hospital whilst unconscious. He remained there for a period of five months, and was operated on by Dr Pelides, who removed the patella of his left knee. After his discharge he continued attending the hospital for physiotherapy treatment.

The plaintiff was 25 years of age at the time of the accident, married with three children, and he was working as an electrician at Mitsero mines, employed by E.M E earning £8 per week.

On April 12, 1968; on the date of the hearing of the case, the parties agreed as to the special damages for the amount of £299 on a full liability basis. The Full District Court of Nicosia, after hearing evidence, found that both the plaintiff and the defendant were equally to blame for the accident and apportioned the liability accordingly. The trial Court then assessed the general damages for personal injuries at a lump sum of £6,000 without going into each head in detail, relying on the authority of *Watson* v. *Powles* [1967] 3 *All E.R.* 721 *at pp.* 722, 723. In the result, judgment was given in favour of the plaintiff for the sum of £3,149.

The defendant appealed both against the finding of the trial Court as to the apportionment of responsibility and the award of general damages. The plaintiff cross-appealed against the finding as to the apportionment of responsibility and the award of general damages. However, at the hearing of the appeal, counsel for the defendant abandoned the ground of appeal as to the award of general damages.

The approach of this Court to appeals against the apportionment of responsibility is well settled, and I need only quote from the most recent judgment in the case of *Andreas Kyriakou Katsiou* v. *Antonios N. Shakallis* (reported in this Part at p. 346 *ante*), where it was held that where a trial Judge has apportioned liability, his apportionment should not be interfered with on appeal, save in exceptional cases, as where there is some error in principle or the apportionment is clearly erroneous; and an Appellate Court will not readily substitute its own discretion for that of the trial Court. See also *Andreas Despotis* v. *Eleni P. Tseriotou* (reported in this Part at p. 261 *ante*); *Brown and Another* v. *Thompson* [1968] 2 All E.R. p. 708; *Uddin* v. *Associated Portland Cement Manufacturers, Ltd.* [1965] 2 All E.R. 213 at p. 218.

Let us now proceed to consider the apportionment of responsibility in the present case. The findings of fact made by the trial Court before proceeding to give the reasoning for their conclusion as to how the accident happened, appear at p. 30G in the judgment.

> "At the material time the plaintiff was approaching the bend in question, which we must repeat is, on account of its sharpness, very dangerous and hence should be approached with due caution due to very poor and limited

"visibility, at a speed of 25–30 m.p.h. which in the circumstances we do not consider to be a very prudent or safe one. He failed to give any audible warning of his presence and at the same time but at some greater distance from the bend was the motor-lorry of the defendant which was travelling at a much slower speed on account of its load, but the driver of which, i.e. the defendant, also failed to sound his horn. Both drivers failed to keep as far as possible, as their duty was, to their nearside of the road, a mistake which proved to be very costly indeed because a collision in the circumstances would have indeed been very difficult to avoid.

The plaintiff was, as conceded even by his own witness, Sgt. Damaskinos, at a distance of about 6-7 ft. from his nearside edge of the road. The overall width of a motor-cycle could not be more than 2 ft. On the other hand the defendant was keeping not only on his half of the road but also on part, not more than 1–2 ft., of the wrong half. Of course, one should take into consideration the fact that the overall width of the defendant's lorry is 7'6" and one cannot play with inches or even a few feet on a bend of the nature of the present one. When they faced and clearly saw each other, they took avoiding action but they must have been so close that it was impossible to do so in time. Two impacts ensued and as a result the plaintiff received grave injuries.

In the light of the above we find that:-

(1) The plaintiff was negligent mainly for the following reasons:-

(a) Failed to sound the horn of his motor-cycle.

(b) Failed to reduce speed to such a limit as would allow him to negotiate the bend keeping even more to his nearside, and,

(c) Failed to keep as far as possible to his nearside, as the duty of each driver in rounding a bend is. ((b) and (c) should really be considered as one).

(2) The defendant on the other hand was negligent in in that:-

(a) He failed to sound his horn.

"(b) He failed to keep as far as possible to his nearside (although allowance should be made for the fact that after the berm on his side there was a precipice).

(c) He was keeping part of the wrong side of the road. (Again (b) and (c) should really be treated as one).

On the aforesaid findings we are now called upon to apportion liability. From the above it is clear that with the exception of the fact that the defendant was keeping more space on the road than the plaintiff who was speeding, otherwise their degree of negligence is equal, but on the other hand if one makes the necessary calculations one will see that each of them had, in view of the respective widths of the vehicles, equal space to his left on which he could safely go, thus avoiding collision. Therefore, we have come to the conclusion that both plaintiff and defendant are equally to blame and we apportion liability accordingly."

Counsel for the appellant-defendant, after referring us to some authorities on the question of the real evidence, has contended that the apportionment of liability by the trial Court, in view of the evidence as a whole was erroneous, and particularly in view of the speed of the rider of the motor-cycle. Counsel further submitted that the trial Court should have apportioned the liability seventy per cent to the plaintiff and thirty per cent to the defendant.

After going very carefully through the whole evidence and bearing in mind the principles on which this Court will act in deciding whether to interfere with the apportionment of liability made by the trial Court, I am of the view that the findings of fact of the trial Court are neither wrong in principle or that the apportionment is erroneous. I would like to reiterate that the apportionment of responsibility for an accident is peculiarly within the province of the trial Judge, and though more blame might have been apportioned to the driver of the motor-cycle, in view of the unsafe speed he was driving when taking the bend, and I confess that I have been tempted to do so, yet in the absence of any error of principle, I have taken the view, that there was no justification for an appellate Court substituting another proportion for that awarded by the trial Court.

I would, therefore, support the common sense approach by the trial Court in assessing the degrees of liability 50% to the plaintiff and 50% to the defendant, because in arriving at their conclusion they considered it to be their duty to look at the whole facts of the case as they emerged at the trial, and then, using common sense, they tried fairly to apportion the blame between the various participants in the catastrophe for the damage which the plaintiff suffered. See *Davies* v. *Swan Motor Co. (Swansea), Ltd.* [1949] 1 All E.R. 620 at p. 627. I am, therefore, of the view that in the circumstances of this case, the contention of counsel should be dismissed.

With regard to the quantum of damages, the principles on which this Court acts in appeals of this nature have been stated in a number of cases. It is now well settled that this Court would not be justified in disturbing the finding of the trial Court on the question of the amount of damages, unless it is convinced either that the trial Court acted upon some wrong principle of law or that the amount awarded was so extremely high or so very small as to make it in the judgment of this Court, an entirely erroneous estimate of the damage to which the plaintiff is entitled. See *Christodoulides* v. *Kyprianou* (1968) 1 C.L.R. 130; also *Djemal* v. *Zim Israel Navigation Company Ltd. and Another* (1968) 1 C.L.R. 309.

In *Fletcher* v. *Autocar & Transporters, Ltd.* [1968] 1 All E.R. 726 taken into consideration by the trial Court, Lord Denning M.R. in his judgment has dealt exhaustively with the law as to the basis of compensation. He said at p. 733:-

> "Whilst I acknowledge the care which the judge devoted to this case, I think that his conclusion was erroneous. In the first place, I think that he has attempted to give a perfect compensation in money, whereas the law says that he should not make that attempt. It is an impossible task. He should give a fair compensation. That was settled ninety years ago by the case of *Phillips* v. *London & South Western Ry. Co.* [1879] 4 Q.B.D. 406. Dr. Phillips was an eminent physician making £6,000 or £7,000 a year. He was so severely injured in a railway accident that he was reduced to utter helplessness with every enjoyment of life destroyed. FIELD, J., in summing up to the jury said:
>
> '..... in actions for personal injuries of this kind .....and it is wrong to attempt to give an equivalent for the injury sustained. I do not mean to say that you

"must not do it, because you are the masters and are to decide; but I mean that it would operate unjustly, and in saying so I am using the language of the great PARKE, B., whose opinion was quoted with approval in *Rowley's* case. Perfect compensation is hardly possible, and would be unjust. You cannot put the plaintiff back again into his original position.'

This direction was approved by SIR ALEXANDER COCKBURN, C.J., who added another reason:

'.....the compensation should be commensurate to the injury sustained. But there are personal injuries for which no amount of pecuniary damages would afford adequate compensation, while, on the other hand, the attempt to award full compensation in damages might be attended with ruinous consequences to defendants..... Generally speaking, we agree with the rule as laid down by BRETT, J., in *Rowley* v. *London & North Western Ry. Co.* [1861-73] All E.R. Rep. 823 that a jury in these cases 'must not attempt to give damages to the full amount of a perfect compensation for the pecuniary injury, but must take a reasonable view of the case, and give what they consider under all the circumstances a fair compensation'.

Those passages were quoted with approval by LORD DEVLIN in *H. West & Son, Ltd.* v. *Shephard* [1963] 2 All E.R. 625 at p. 639 and undoubtedly represent the law. It is true that in these days most defendants are insured and heavy awards do not ruin them; but small insurance companies can be ruined. Some have been. And large companies have to cover the claims by their premiums. If awards reach figures which are 'daunting' in their immensity, premiums must be increased all the way round. The impact spreads through the body politic. Consider also the position of the plaintiff. He is the one person entitled to be compensated. What good does all this money do for the poor plaintiff. He cannot use it all by any means. Halve it. Still he cannot use it in his lifetime. In order to give him fair compensation, I should have thought that he should be given a sum which would ensure that he would not, within reason, want for anything that money could buy; and that his wife should be able to live for the rest of her life in the comfort that he would have provided for her; and that any savings that he would have made if uninjured would be available for his family.

"In the second place, I think that the judge was wrong to take each of the items separately and then just add them up at the end. The items are not separate heads of compensation. They are only aids to arriving at a fair and reasonable compensation. That was made clear by the decision of this Court in *Watson* v. *Powles* [1967] 3 All E.R. 721 at pp. 722, 723, given after the judge had given his judgment:

'There is only one cause of action for personal injuries, not several causes of action for the several items. The award of damages is therefore an award of one figure only, a composite figure made up of several parts..... At the end all parts must be brought together to give fair compensation for the injuries.'

There is, to my mind, a considerable risk of error in just adding up the items. It is the risk of overlapping."

Later on he says at p. 734:

"He should be compensated for his loss of future earnings to the extent that he would have used them for supporting his wife in comfort for the rest of her life, including any savings that he would have made out of his earnings if uninjured. He should also be compensated for pain and suffering and for the loss of 'amenities', as they are called, that is the enjoyment of life which he has now lost. There must, of course be an allowance made for the fact that, even if he had not been injured, there would be many contingencies which might upset his future prospects, such as illness, accident, bad trade, and so forth. Allowance must also be made for the fact that compensation is paid at once in a lump sum (so that it can be invested and interest used at once), whereas his earnings would have been spread over many years. Then at the end we must look at the overall figure to see that it is fair compensation."

I would consider it further constructive to quote an older case from the judgment of LORD DENNING, M.R. in the case of *Senior (an infant)* v. *Barker & Allen, Ltd.* [1965] 1 All E.R. 818. He had this to say at p. 819:

"The question arose, what damages should be awarded? The judge awarded him a total of over £7,000-£7,004. 7s. 4d. That was £6,500 general damages and £505. 7s. 4d. special damages. Now the defendants appeal to this Court

"saying that the sum is far too high. We have been through the case, as we always do, to see whether that is a wholly erroneous estimate. Now it is unfortunate that there is no estimate of future earnings. No help has been given to the Court as to what the loss of future earnings will be for this young man, now in his twenties. In assessing his loss of future earnings, it seems to me that the judge might well have taken it as five or six pounds a week. The usual practice in these Courts is to take, especially with a boy of this age, a substantial number of years purchase; fifteen years purchase at that figure would give a very substantial sum for loss of future earnings. It might be as much as £4,000. Then in addition, there is the loss of amenities; he has been deprived of the use of the hand, and has none of the amenities of life which a good hand gives. It was accepted by counsel that in these days that figure might well be in the region of £2,500. When one considers figures of that kind it seems quite plain to me that this figure of £7,000 cannot be said to be a wholly erroneous estimate or as being far too high. I should like to draw attention to the fact that in 1953 in this Court in an accident of almost identical description to a man of twenty-four, the judge had awarded only £750 general damages and this Court increased them to £2,100, making £2,500 in all. That was in the year 1953. Well, we all know how the value of money has changed since that time. This award of £7,000 today shows how the judges keep pace with the times. This figure, and I think counsel agreed on behalf of the boy, is far higher than would have been given a few years ago. Wages have gone up, money has altered, and so the sums which are awarded have gone up. I must say that I can see no error in the sum which the judge awarded, and I would dismiss the appeal." (Cf. *Antoniades* v. *Makrides* (reported in this Part at p. 245 *ante*)).

As a result of the accident, the trial Court found on the evidence of the plaintiff and the agreed medical report, *exhibit* 4, that the plaintiff has sustained multiple injuries ranging from grave to serious to slight. I consider it constructive to quote the conclusion reached by the five doctors who have signed the agreed medical report.

"*CONCLUSION*

Mr. Salachouris will remain *partially and permanently unfitted for the work of an electrician* and for all work which

"involves much walking and long standing or squatting, lifting (heavy loads), turning (of upper limb), raising the hand above the head.

Inaccuracy in working with small objects at short distance (unless one eye is closed).

He will remain fit for semi-sedentary work.

Slight improvement from his present condition could be expected in 1-1 1/2 years from today (excluding eye condition)."

The trial Court, relying on the agreed medical report dated May 14, 1968, had this to say in their judgment at p. 33:

"Checking on the aforesaid table *we find* the following to be the main injuries of the plaintiff:

1. *Sight.*

Due to focal brain damage the visual acuity of both eyes presents a 10% loss of sight. There is also 1/3 defected visual field (constriction of narrowness of the visual field), and also which is most important there is diplopia, that is to say, the plaintiff, who as already stated, is a young man who was working as an electrician, he cannot work accurately on small objects unless one eye is closed. In view of this injury it is quite clear that even if one were to disregard the other injuries of the plaintiff, yet one cannot see how he can return to his job as an electrician as this would be tantamount to counting death or playing with fire and this irrespective of the quality of the work which he might produce in the circumstances. It is significant that this incapacity of the plaintiff's vision would remain stationary.

2. *Right Upper Limb.*

The fracture of this limb is united solidly but due to excessive callus formation there is a downward displacement and a restriction of almost all motions, as well as muscular atrophy. Although the doctors expect some improvement in 1-1 1/2 years' time as far as the injuries to the limbs of the plaintiff are concerned, yet we cannot see how this injury, coupled with the injuries

"to be related hereinbelow, would allow the plaintiff to resume any sort of heavy manual work but, of course, we have it from *Exhibit* No. 4 that the plaintiff will only be fit for semi-sedentary work.

3. *Left Lower Limb.*

The knee was operated upon and the patella was removed, leaving a substantial restriction of the knee flexion and a minor restriction of the left ankle movements. There was also a fracture of the lower 1/3 of the tibia and fibula. This has left the plaintiff with a substantial muscle atrophy.

4. *Right Lower Limb.*

Again there was fracture of the lower 1/3 of the tibia and fibula which was associated with bowing and varus deformity. It has resulted in mild restriction of the ankle motion and 1" shortening of the leg. As already stated, improvement may be expected with the passage of time and special orthopaedic boots may make up for the shortening but in accordance with *Exhibit* No. 4 the right leg's deformity will lead to excessive stress on the ankle joint which will give rise to *persisting pain.*

5. *Post Concussional Syndrome.*

We do not attach great importance to this head of injuries (headaches, dizziness and insomnia as there is no evidence as regards vertigo by the plaintiff) because as the doctors say in *Exhibit* No. 4, 'An early settlement of the case could, probably to a great extent, prevent the deterioration of his mental attitude and anxiety towards his future as a result of his impairments'."

Then the trial Court, after considering a number of authorities on the question of award of general damages, concluded in these terms at p. 36:-

"Now, in the light of the aforesaid, we are called upon to assess the global amount to which the plaintiff is entitled. The case of the plaintiff put in a nutshell is as follows:-

As a result of the accident the plaintiff, who was a young electrician, doing work which we may call skilled

"manual work, involving climbing on electric poles and detail work on wires and electrical equipment in close proximity to his person, finds himself now in the following condition: He has restricted eye-sight and double vision which prevents him from working with objects which are close to him. Long standing, walking and running as well as squatting and kneeling, climbing and balancing are painful and difficult, if not impossible. The raising of the hands above the head and rotating same are also difficult, if not again impossible, and, therefore, today he can only do a semi-sedentary work. Final stabilization of the symptoms and hence some improvement, if any, should be expected or are, in view of the conclusion in *Exhibit* No. 4, to be expected in 1-1 1/2 years' time."

Later on they had this to say:-

"When damages are awarded, it has been the practice of the Courts to deduct a certain amount for contingencies. In the present case we propose to deduct a rather larger amount for contingencies to cater for the expected improvements as per the doctors' certificate."

Counsel for the respondent-plaintiff has submitted, relying on the authority of *Emir Ahmet Djemal supra*, that the amount awarded by the trial Court was extremely low for pain and suffering, inconvenience and loss of future earnings. He further argued that the trial Court should have awarded the sum of £10,000 on the basis of full liability.

It would be observed, that apart from the agreed special damages of £299, the trial Court, after considering the age of the plaintiff, the amount of his wages, £8 per week, and all the facts of this case including the prospects of his improvement to be expected in 1-1 1/2 years' time, they awarded the sum of £6,000 as general damages. But they did not give any particulars or analysis of this sum, and no help has been given to this Court as to his loss of earnings as from the period of his accident till the date of the judgment, and as to what the loss of future earnings will be; nor did they state what they actually took into account in reaching the aforesaid figure.

In considering whether the award of £6,000 is a wholly erroneous estimate, I went carefully though the case, including the medical evidence to the effect that the plaintiff will remain partially and permanently unfit for the work of an electrician,

and that only slight improvement from his present condition could be expected in 1-1 1/2 years' time (excluding eye condition). Considering his future loss of earnings after the date of the judgment, his pain and suffering past and future, and his loss of amenities, I am of the view that the sum of £6,000 awarded by the trial Court was far too low in the circumstances, and a wholly erroneous estimate; particularly so because a rather larger amount was wrongly deducted from the notional amount of general damages by the trial Court to provide for the slight expected improvement. I, therefore, hold that a fair compensation would be the sum of £7,500 on the basis of full liability, after making allowance for the fact that, even if the plaintiff had not been injured, there would be many contingencies which might upset his future prospects, such as illness, accident and so forth. Allowance is also made for the fact that compensation is paid at once in a lump sum (so that it can be invested and interest used at once) whereas his earnings would have been spread over many years.

I would, therefore, dismiss the appeal of the appellant-defendant, and allow the cross-appeal of the respondent-plaintiff, raising the trial Court's figure from £3,149 to £3,899.

VASSILIADES, P.: I have had the advantage of reading in advance the judgment just delivered by my brother Mr. Justice Hadjianastassiou. The case was discussed in conference, both before and after he prepared the judgment. I agree that for the reasons stated, the apportionment of liability made by the trial Court should not be disturbed; and that the amount of general damages should be increased as suggested. I, therefore, agree that the appeal of the defendant should be dismissed; and that the cross-appeal should be allowed to the extent of raising the amount of the judgment in favour of the plaintiff to £3,899 (three thousand, eight hundred and ninety-nine pounds) with costs for the plaintiff both in the action and in the appeal.

STAVRINIDES, J.: I agree.

Appeal dismissed. Cross-appeal allowed. Order for costs as above.