

1973
Nov. 12

[TRIANTAFYLIDES, P., A. LOIZOU, MALACHTOS, JJ.]

ANDREAS
MESIMERIS
v.
COSTAS
KAKOULLIS

ANDREAS MESIMERIS,
Appellant-Plaintiff,

v.

COSTAS KAKOULLIS,
Respondent-Defendant.

(Civil Appeal No. 5085).

Personal injuries—General damages—Appeal against award of general damages—Approach of the Court of Appeal—Principles upon which such Court approaches appeals concerning amount of general damages—Amount of £400 awarded by trial Court clearly inadequate in the circumstances of the present case—Amount of general damages increased to £800.

General damages—Personal injuries cases—Approach of the Court of Appeal to appeals concerning amount of damages—See further supra.

The facts of this case are sufficiently set out in the judgment of the Court, allowing this appeal against the award of £400 general damages for personal injuries as being in the circumstances clearly inadequate; and increasing the said amount to £800.

Cases referred to :

Manoli v. Evripidou (1968) 1 C.L.R. 90 ;

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

Brown v. Thompson [1968] 2 All E.R. 708, at p. 712 ;

George and Another v. Pinnock and Another [1973] 1 W.L.R. 118, at p. 125.

Appeal.

Appeal by plaintiff against the judgment of the District Court of Nicosia (Demetriades, Ag. P.D.C. and Papadopoulos, D.J.) dated the 18th April, 1972, (Action No. 4723/70) whereby he was awarded the sum of £420 as damages which he sustained due to the negligent driving of the defendant.

A. Panayiotou, for the appellant.

N. Pelides, for the respondent.

The judgment of the Court was delivered by :—

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TRIANTAFYLIDIS, - P.: - In this case the appellant— (plaintiff in the Court below)—complains against that part of the judgment of the trial Court which relates to the award to him of £400 as general damages ; he contends that this amount is, in the circumstances of this case, inadequate.

The trial Court in assessing the general damages stated the following in its judgment :

“ Having in mind that this plaintiff has sustained not very serious injuries ; that he has suffered, however, pain and suffering, mild dizziness and headaches, a Colles' fracture of his left wrist, the opinion of Dr. Pelides ”—(an orthopaedic surgeon)—“ as to the present condition of the plaintiff and the fact that he has not alleged that he will suffer any loss of future earnings, we find that the appropriate amount to be awarded as general damages is the sum of £400.”

The injuries of the appellant were caused in a traffic collision ; and there is no dispute about the liability of the respondent to compensate in this respect the appellant.

As it appears from a medical report, the appellant, who was at the time thirty-two years old, was found on admission to hospital to have sustained “ a number of painful crushing injuries ” which were, mainly : Cerebral concussion (as a result of which he remained in a dazed condition for three days), a lacerated wound on the scalp, haematomas on both eyelids, bruising of the left chest wall and left leg, and a fracture, as already mentioned, of his left wrist. He was kept as an in-patient for ten days and he was under follow up treatment for eight weeks.

According to the final report of a clinical psychologist, the appellant has “ moderate permanent residual post-concussional in nature ‘ symptoms ’ reinforced, however, psychological factors ; though they do not constitute a debilitating condition, they appear to cause much discomfort and affect to some extent his work efficiency and work output ”.

According to the final report of the orthopaedic surgeon, the after-effects of appellant's injuries are a mild residual deformity of the left wrist coupled with a small restriction of the left forearm's rotation range and a mild deficit in the strength of the left hand.

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The principle upon which this Court approaches appeals concerning the amount of general damages has been reiterated in quite a number of cases, two of which were cited by counsel in argument, *i.e.* *Manoli v. Evripidou* (1968) 1 C.L.R. 90, and *Christodoulides v. Kyprianou* (1968) 1 C.L.R. 130. To the same effect are English cases such as *Brown v. Thompson* [1968] 2 All E.R. 708, at p. 712, and *George and Another v. Pinnock and Another* [1973] 1 W.L.R. 118, where Orr L.J. said (at p. 125) in dealing with an appeal in relation to the amount of general damages :

“ it is in my judgment near the lower end of the bracket which would be applicable today to injuries such as these, but I have not been satisfied that it is so low as to justify interference by this Court.”

We would not have been prepared to interfere in this case if we were of the view that the amount of general damages, £400, was on the low side but not so very low as to justify our intervention. We have reached, however, the conclusion that this is indeed a case in which we should intervene, because taking into account the degree of pain and suffering which the appellant's injuries must have entailed, plus their already stated after-effects, we find the said amount to be clearly inadequate. As a result, we have decided that we should award him the amount of £800 general damages, and that the order for costs in the Court below should be altered so that the costs there should be assessed in the proper scale applicable to the new sum of damages.

The appeal is therefore allowed and the judgment of the lower Court is varied accordingly.

Appellant is entitled to the costs of this appeal.

Appeal allowed with costs.