

1988 November 29

(SAVVIDES, KOURRIS AND BOYIADJIS, JJ)

FROSOULLA SAVVA,

Appellant-Plaintiff,

v

ROGEROS SAVVIDES AND ANOTHER,

Respondents-Defendants

(Civil Appeal No 7082)

Damages — General damages for personal injuries — Loss of future earnings — Multiplier — Purpose of — Principles applicable

Damages — General damages for personal injuries — Married woman aged 33 — Crushing injury to left thigh, which caused necrosis of soft tissues of its entire medial side, sprain of lower back, triggering off back ache episodes, three operations and two further plastic operations, prolonged pain and suffering by reason of the thigh injury, left with big scars on thigh, experiencing pulling and sharp burning sensations, will continue to have back pain periodically and her left leg swollen, unless she often rests or wears an elastic sock, thus diminishing her capacity to work - Award of £3,400 — Increased to £4,200 5 10

Appeal — General damages for personal injuries — Interference with, on appeal — Principles applicable

The facts of this case appear sufficiently in the hereinabove headnote 5

Appeal allowed with costs

Cases referred to

Manoli v Evripidou (1968) 1 C L R 130,

Jemal v Zim Israel Navigation Co Ltd and Another (1968) 1 C L R 309,

Constantinou v Salachouris (1969) 1 C L R 416,

Paraskevides (Overseas) Ltd v Christofi (1982) 1 C L R 789

Appeal.

Appeal by plaintiff against the judgment of the District Court of Nicosia (Demetriou, Ag. P.D.C.) dated the 22nd October, 1985 (Action No. 2499/83) whereby the sum of £4,175.- was awarded to him as special and general damages for injuries sustained in a traffic accident.

P. Ioannides, for the appellant.

Ph. Valiantis, for the respondent.

Cur. adv. vult.

10 SAVVIDES J.: The judgment of the Court will be delivered by Mr. Justice Kourris.

KOURRIS J.: This is an appeal by the appellant-plaintiff from the Judgment of a Judge of the District Court of Nicosia whereby the plaintiff was awarded the sum of £3,400 general damages and
15 £775 special damages for injuries she sustained in a traffic accident. The appeal is directed against the award of special and general damages.

The principles on which this Court acts in appeals against the quantum of damages have been repeatedly referred to in several
20 cases, some of which are *Manoli v. Evripidou* (1968) 1 C.L.R. 130; *Emir Jemal v. Zim Israel Navigation Co. Ltd. and Another*, (1968) 1 C.L.R. 309; *Constantinou v. Salachouris* (1969) 1 C.L.R. 416. The principle is that this Court would not be justified in disturbing the finding of the trial Court on the question of the
25 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 damages to which the plaintiff is entitled.*

30 The plaintiff, on 13.4.1982, was involved in a traffic accident as a result of which the rear wheel of the car ran over her left leg and she suffered a serious crushing injury to her left thigh which caused necrosis of the soft tissues of its entire medial side and sprain of her lower back which has triggered off back ache episodes. The back
35 pain she experiences is due to degeneration of the lumbar spine. This obviously pre-existed the injury, but the symptoms have been triggered off by the injury. She was taken to the Evrychou Hospital

and due to the seriousness of her injuries was transferred from Evrychou to Nicosia General Hospital. Due to the soft tissue necrosis and sepsis of the crushed medial part of the thigh, the plaintiff underwent three operations and subsequently she had two successive plastic operations for the re-surfacing of the raw soft tissue defect on her thigh. She was discharged from the hospital on 17.7.1982 where she continued having treatment on an out-patient basis. The thigh injury was the most serious and troublesome and it caused her prolonged pain and suffering. The plaintiff made a good recovery but she was left with big scars on the left thigh and experiences pulling and sharp burning sensations which restrict her mobility and upset her welfare. Further, she will continue to have back pain periodically and her left leg will get swollen unless she will rest in a raised position on a chair or wear an elastic sock, thus diminishing her capacity for work.

The trial Court found that the plaintiff who was 33 years at the time of the accident with four children, was working with her husband assisting him in his job as a silver-smith.

General damages are awarded for the physical injury, pain and suffering, loss of amenity of life, and the loss of future earnings. The multiplier is used in order to reduce the element of uncertainty and provide an objective basis for the assessment of damages. Pikis, J. in delivering the Judgment of the Court in *Paraskevaides (Overseas) Limited v. Christofi*, (1982) 1 C.L.R. 789 at p. 794, said the following:

«The multiplier is intended to reduce, so far as reason and common sense make it possible, the element of uncertainty in the process and provide an objective basis for the assessment of damage while inducing, at the same time, an element of uniformity in the awards. The multiplier is chosen primarily, but not exclusively, by reference to the age and state of health of the injured party and to a lesser extent his employment prospects. His age is the first denominator. The nature of his work and the hazards associated with it though secondary constitute nonetheless important indicators on future loss. Ultimately a figure must be chosen best designed to yield the present value of future loss. Therefore, the figure chosen by reference to the factors above listed must be scaled down sufficiently to reflect the present value of future loss.

Therefore, the figure chosen by reference to the factors above listed must be scaled down sufficiently to reflect the present value of future loss. Justice and fairness should guide the Court throughout the process of assessment of damage. (See dicta of Geoffrey Lane, L.J. in *Service Europe Atlantique v. Stockholmes* [1978] 2 All E.R. 764).

If the cases establish any principle it is this: No hard and fast rules can be established giving a uniform answer to the choice of the multiplier in every case (see *Taylor v. O'Connor* [1971] 1 All E.R. 365 (H.L.); *Gavin v. Wilmot Breeden Ltd.* [1973] 3 All E.R. 935 (C.A.); *Poullou v. Constantinou* (1973) 1 C.L.R. 177).»

The trial Court awarded to the plaintiff the sum of £3,400 by way of general damages having taken into consideration the consequences of her injuries, inconvenience and pain and the difficulties which she will meet in her job and in her every day household chores. But, the learned trial Judge did not give any particulars or analysis of the sum and not much help has been given to this Court as to the loss of earnings as from the period of the accident till the date of Judgment and as to what the loss of future earnings will be.

Counsel for the appellant-plaintiff has submitted that the amount awarded by the trial Court was very low for pain and suffering, inconvenience and loss of future earnings. He further argued that the multiplier for loss of future earnings in the present case would be 15 years at the rate of £150 - £200 per year making the loss of future earnings about £3,000. Pausing here for a moment, we would like to state that at the time of the hearing of the action, the plaintiff was 36 years old, and the multiplier of 15 years, as suggested by counsel for the appellant, is in our opinion very high.

In considering whether the award of £3,400 is a wholly erroneous estimate, we went carefully through the case, including the medical evidence to the effect that the working capacity of the plaintiff has been permanently diminished and we are of the view, that the sum of £3,400 was too low in the circumstances and a wholly erroneous estimate. We hold that a fair compensation would be the sum of £4,200, having regard to the amounts which are being awarded as general damages by trial Courts and which are either affirmed or varied by this Court on

appeal. Allowance is made for the fact that compensation is paid at once in a lump sum.

Turning now to the question of special damages, counsel for the appellant complained that the award of the trial Judge for £250 for household services was too low. 5

It appears from the evidence that the plaintiff remained in hospital for 3 months and it is obvious that the plaintiff could not do the household chores upon her discharge from the hospital. There is in evidence that the plaintiff paid £4 per day for the household chores whilst in hospital and for a period after her discharge from the hospital. 10

The employment by the plaintiff of another person to do the household work was justified because she had four minor children, the eldest being at the time of the accident 5 years old. In the circumstances, we think that the amount of £250 awarded by the trial Judge is too low and we raise it to £500. 15

Another point which counsel for the appellant-plaintiff attacked was the award of £300 for loss of earnings whilst the plaintiff was in hospital. The trial Judge said that the plaintiff failed to prove her income from her work and he awarded her £300 for loss of earnings for the period the plaintiff was in hospital including a period after her discharge from the hospital. We do not think that the trial Judge could do better in the circumstances, bearing in mind the evidence before him, and we are not prepared to disturb his finding on this point. 20
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For all these reasons, the appeal succeeds and the amount of the Judgment is varied accordingly from £4,175 to £5,225 as from the date of the original judgment with costs for the appellant against the respondents.

Appeal allowed as above, judgment varied accordingly and order for costs as above. 30

Appeal allowed.