

# PERSONAL INJURY AWARDS

## *Survey of Recent Cases*

Three years have elapsed since the first survey of damages assessments for personal injuries was published in this journal,<sup>1</sup> and it was thought that it may be of some interest to the profession in South Australia to make a review of recent decisions.

It is, of course, difficult to make comparisons in this field, but there appears to be a general tendency for the Supreme Court of South Australia to increase the amounts of assessments with the passing of time.

The awards reviewed have been chosen from cases decided between January 1961 and June 1964. Where possible, cases have been selected in which the plaintiff suffered only one major injury, and have been categorized according to the class of injury involved.

### *Head Injuries*

- £600 Fifteen-year-old girl suffered a fractured bottom jaw, which was fitted with a splint for six or eight weeks, and was extremely uncomfortable. She broke a tooth, and had some headaches soon after the accident. There are approximately twenty small scars on her right arm and chest which are obvious to anyone who looks for them, but not objectionable.<sup>2</sup>
- £1,250 Woman suffered concussion, lacerations to the face, and abrasions to the face, both arms and both legs. There is a loss of hearing in the left ear, which is not gross and does not prevent her conversing easily and well. She still suffers from headaches, pain in her neck, pain in the little finger of the right hand, and a fear of travelling in motor cars. These disabilities are expected to improve, leaving little or no disability. Psychiatric treatment will be necessary for about six months, and this will cost about £100.<sup>3</sup>
- £1,500 Plaintiff suffered severe concussion, shock, compound fractures of nose and jaw, loss of six lower teeth and chipping of upper teeth, lacerations of lower lip, lower jaw, chin and right eyelid. Unsightly scars inflicted on lip, chin and gum. Severe pain and discomfort. He has continuing severe headaches, and permanent restriction of the jaw to a certain extent. Treatment involved wiring jaws together, and certain operations were performed.<sup>4</sup>

---

1. See M. C. Atkinson, (1961) 1 Adelaide L.R. 205.

2. *Galloni v. Harrison and Nittolo* 46 L.S.J. Scheme 191 (Travers J., April, 1964).

3. *Conn v. Spooner* 44 L.S.J. Scheme 273 (Hogarth J., May, 1963).

4. *Tuza v. Mag* 45 L.S.J. Scheme 465 (Mayo J., October, 1963).

- £1,500 Girl aged sixteen was rendered unconscious and suffered two fractures in the vault of the skull and a severe brain injury. She developed twitchings of the mouth and face and eye, and double vision, but these improved very much in the fortnight she spent in hospital. Numerous scars on her arm and back are still visible, but not very significant, and she has some backaches. She returned to work four months after the accident, and her main troubles were nervous strain and fairly constant headaches, which are still frequent.<sup>5</sup>
- £1,500 Storeman aged eighteen sustained fracture of the base of the skull, involving damage to the right inner ear, and a small perforation of the ear drum. For the first two or three weeks he suffered from severe headaches, facial palsy and nystagmus, and his sense of balance was disturbed. Recovery fairly rapid, but there is almost complete loss of hearing in right ear, which is likely to be permanent. He suffers from whistling noises in the ears, and some unsteadiness in the dark. Sudden movements of the head tend to produce giddiness, but this does not seriously handicap him in his work.<sup>6</sup>
- £1,650 Fractured skull, involving the frontal sinus and fractured cheekbone with some displacement of the nasal bones and septum. Permanent injuries are loss of the sense of smell in the left nostril, some impairment of hearing on the left side, and loss of approximately 50 per cent. of vision in the left eye. There is also some difficulty in breathing, but this can be corrected by operation to the nasal bones, which would cost £250 in all. Earning power was not interfered with to any great extent, if at all.<sup>7</sup>
- £1,835 Unmarried man aged twenty-five lost 80 per cent. of the use of his eye, which did not interfere with his earning capacity but rendered his work more difficult. He suffers from dizziness and headaches, and has a number of scars, including a nasty mark running right across his nose. A number of teeth were damaged. Considerable pain at first, and has suffered recurrent headaches.<sup>8</sup>
- £2,400 Girl of eleven sustained concussion, a lacerated lip, fractures of the lower and upper jaw, left cheekbone, nasal bone, and the hard palate, and a laceration of the soft palate. She underwent four operations under general anaesthetic, and an operation to her nose will be necessary when she is sixteen. Dental splints were wired to her jaw bones. A plaster head cap with protruding metal rods was used for more than a month to lift forward the depressed nasal and facial bones. Bands were fitted on all teeth for about two and a half years. She suffered severe pain and discomfort but will not have any

---

5. *Galloni v. Harrison and Nittoli*, *supra*, note 2.

6. *Hill v. Hutchesson and Korff* 42 L.S.J. Scheme 116 (Napier C.J., May, 1962).

7. *Janakacos v. Karatzas* 46 L.S.J. Scheme 217 (Napier C.J., April, 1964).

8. *Gorgone v. Pepper* 42 L.S.J. Scheme 192 (Travers J., May, 1962).

future disabilities or pains. Her facial appearance has not been seriously blemished.<sup>9</sup>

£2,500 Rigger aged twenty-six suffered fractured skull, badly sprained left ankle, loss of hearing in left ear, and loss of sense of smell and taste. He feels that his breath is offensive and that his friends are shunning him on this account, but he will probably recover from this disability. He also had headaches which do not cause much trouble now. Pain and suffering continued for a long period. His memory is not as good as it was, and he gets dizzy if he works at heights. There is a small loss of movement of the ankle and a slight limp, but this is not disabling to any real extent. His prospects of obtaining work on the open market are affected to a certain extent, but he has returned to his former job and carried on quite well.<sup>10</sup>

£3,500 Child aged four years and four months. Compound left parietal fracture, penetrating fracture of left temporal bone, laceration of left side of face, left arm, thorax and thigh, and a broken left collar bone. Unconscious for ten days. Operation to elevate the depressed skull fracture. External canal of left ear is greatly narrowed, making the removal of wax more complicated. There is some weakness of the muscles of the left side of the face and considerable scarring on that side of the face and neck. He is very backward and abnormally clumsy with his fingers. There is a small loss of the right upper portion of the visual field. A further operation will be necessary when he turns sixteen to correct a distortion of the septum, which will alleviate his distressing difficulty in breathing through his nose since the accident.<sup>11</sup>

£3,500 Apprentice panel beater aged nineteen sustained fractures of both jaws, and a fractured left wrist. A plaster cast was applied around his head, and dental splints and wires were used. Considerable pain and discomfort, but he made a good recovery. Metal plate inserted in wrist, and there is a slight reduction in flexion. Pain is felt after heavy work, but ultimate physical recovery will be complete. Headaches had been suffered before accident, and these became more frequent and severe, but have now diminished. He lost the opportunity of completing his apprenticeship, and his earning capacity has been reduced.<sup>12</sup>

£4,000 Youth of sixteen suffered severe head injuries, fractured pelvis, injuries to both eyes, and pain and shock, which resulted in paralysis of pupillary reactions, of accommodation, and of extraocular muscles, as well as double vision and loss

9. *Estreich v. Estreich and Vermegen* 43 L.S.J. Scheme 414 (Travers, J., November, 1962).

10. *Malesani v. Nitschke* 44 L.S.J. Scheme 138 (Millhouse J., March, 1963).

11. *Bassani v. Mudge and Bassani* 46 L.S.J. Scheme 6 (Chamberlain J., January, 1964).

12. *Hancock v. Freeman* 41 L.S.J. Scheme 648 (Reed J., September, 1961).

of binocular function. The double vision no longer causes difficulty, but his power of focusing for near vision is affected. Pain and discomfort were by no means slight, and he was in hospital for a considerable time. His earning capacity and full enjoyment of amenities and social activities are prejudiced and there is a possibility that he has brain damage.<sup>13</sup>

£5,000 Boy of fourteen sustained very severe head injuries, multiple large lacerations of the left side of the face and ear, and a fracture of the bridge of the nose. He was not fully conscious for about four weeks after the accident, and at first was not expected to live. A tear duct and nerve in the left eye were damaged, and a lung infection developed. A tracheotomy operation was performed. There were symptoms indicating damage to the brain stem, and he had to learn to walk and re-learn the alphabet and to write. He has made a slow but remarkable recovery, but lost a year of schooling. He has large irregular overgrown scars on the left side of his face and neck, and a dropped eyelid. Movements of his eye are restricted and he had double vision for a time, but has now suppressed this. He still walks somewhat falteringly, and there is some lack of co-ordination in the left hand, but these symptoms are improving.<sup>14</sup>

£10,000 Boy aged fifteen suffered a fractured skull involving injury to the frontal lobes of the brain, resulting in change in personality. He is frustrated by his inability to attain his former athletic prowess, and imagines he is unpopular with his friends. He has epileptoid tendencies, and outbursts of uncontrolled violence. He forgets the names of simple objects such as a book or a chair, and cannot remember anything when he reads it. He has partial amnesia of events before the accident. He imagines unpleasant odours which are not present. He will continue to need large numbers of pills to relieve his severe headaches and epileptoid tendencies. Prospects of marriage not very very bright, and he is employable only in a sheltered capacity. There may be severe psychiatric disturbance if his family circle is broken up, leading to criminal tendencies. He also has scars on his neck, right thigh and buttock, and his other injuries included a lacerated scalp, and a fractured right femur. A nail was inserted and was removed after twelve months, and he has some low back pain. A tracheotomy was performed, and he was unconscious for some time.<sup>15</sup>

### *Spinal Damage*

£1,000 Apprentice butcher sustained a mild crush fracture of the joint between the fourth and fifth vertebrae. Neck brace used for seven months. Restriction of about 25 per cent. of rota-

13. *Walkom v. Fishlock* 43 L.S.J. Scheme 513 (Mayo, J., November, 1962).

14. *Timmins v. Webb* 46 L.S.J. Scheme 162 (Mr. Commissioner Ross, March, 1964).

15. *Andrews v. Kerr* 46 L.S.J. Scheme 275 (Bright J., May, 1964).

tion of neck to the right, and of lifting the head backwards. His neck is painful when he carries a carcass on his shoulder, or works over a bench, but otherwise his comfort is not affected. His disabilities will not affect his future employment.<sup>16</sup>

£2,500 Taxi-driver suffered fracture through the odontoid process of the neck, concussion and a lacerated scalp. Collar support worn for four months, resumed former work after six months. His neck has remained stiff and painful, and he has given up sporting activities. An operation may later be necessary to fuse the joint. Earning capacity largely unimpaired.<sup>17</sup>

£3,000 Injuries to back and neck and anterior chest caused painful traumatic degenerative arthritis of neck and lumbar spine, shortness of breath, chest pains and feelings of exhaustion. Plaintiff only fit for very light work and even this would cause some pain and discomfort. Disability was estimated by one doctor to be about 50 per cent. of total activity, and his movements will remain restricted. It was possible that his symptoms would improve after the litigation had been concluded, and if it had not been for the condition of spine discs, the pain might not have persisted.<sup>18</sup>

£20,000 Married woman aged forty-two sustained a fracture dislocation of the sixth and seventh cervical vertebrae which resulted in complete quadraplegia from the nape of her neck downwards. She can move her head, neck and upper arms but below that she is completely paralysed. Expectation of life shortened to twenty years. She must spend the rest of her life in bed or in a wheel chair, and assistance must be available by day and night since her bladder must be relieved every two hours. She will always require the daily services of a nurse and will have to spend regular periods in hospital for examination and possible treatment. She had been employed as a domestic at a hospital at £11 10s. per week.<sup>19</sup>

#### *Cosmetic Injuries*

£600 Girl aged seven sustained lacerations on the face, chest and arms, concussion, shock and some internal injuries. She recovered quickly but has been left with a number of scars,

16. *Clemente v. White and Giglio* 44 L.S.J. Scheme 178 (Millhouse J., April, 1963).

17. *Carmody v. Ling* 45 L.S.J. Scheme 408 (Chamberlain J., July, 1963).

18. *Hawkins v. Prizibilla* 43 L.S.J. Scheme 316 (Mayo J., September, 1962).

19. *Bresatz v. Przibilla* (1962) 108 C.L.R. 541; 36 A.L.J.R. 212. In the Supreme Court of South Australia, the plaintiff had been awarded £12,500 for general damages—see 42 L.S.J. Scheme 1 (Mayo J., February, 1962). In the High Court of Australia, Windeyer J. separately assessed damages for loss of earnings at £6,000, costs of future medical attention at £10,800, costs of special equipment and domestic assistance at £1,000, and awarded £3,000 for pain and suffering and deprivations. He then assessed general damages at £20,000 in order to concur with the other members of the Court.

which should be greatly improved by plastic surgery. Her main injury is a rather ugly scar about two inches in diameter on the lower right side of her face. However, after surgical treatment and with the use of cosmetics, this will be reduced to somewhat insignificant proportions.<sup>20</sup>

- £1,350 Girl of eleven suffered facial scars, and a broken front tooth. She also injured her knee and had her leg in plaster for a few weeks. This condition is not very disabling, but will develop into an arthritic condition if a further operation is not performed. She suffered considerable pain in the beginning, and a plastic surgeon operated on her scars. She has two conspicuous scars on her nose and forehead, and other minor scars. They are obvious but not at all repulsive.<sup>21</sup>

#### *Injuries to Hand and Arm*

- £1,700 Plaintiff suffered brain damage which rendered him irrational for a period. He was unconscious for five days. He sustained a fractured wrist which is subject to a 30 per cent. loss of efficiency, including the probability of arthritic degeneration. His neck has been straightened out and causes periodic headaches, but this condition could be improved by physiotherapy.<sup>22</sup>
- £2,500 Welding engineer aged forty-six. Head of radius of right arm splintered in several fragments, and dislocated from its normal position in the elbow. Butterfly fragment of ulna. Operation was performed to remove the splintered head of the radius, and to plate the ulna. Later a bone graft was used to unite the ulna. Physiotherapy treatment was painful, and there was a further operation to remove screws from the plate in his arm. Extension and rotation of shoulder reduced by one-sixth, elbow movement by 30 per cent., and the rotary movements of forearm by a little less than 50 per cent. Arm incapable of really hard physical work. Severe pain during the bone graft. Aches and pains on changes in weather. He would be at some disadvantage if he ever sought employment on the general labour market.<sup>23</sup>
- £3,500 Painter aged fifty-four injured his right elbow. Two months in hospital, and an operation and skin graft were performed. The elbow joint is now disorganized and weak with a limited range of movement. He has persistent swelling of the right hand and his finger and wrist movements are weak. He had to learn to carry on his trade with his left arm, and lost 75 per cent. of earning capacity of the right upper limb.<sup>24</sup>

20. *Galloni v. Harrison and Nittolo*, *supra*, note 2.

21. *Esau v. Esau* 42 L.S.J. Scheme (Travers J., May, 1962).

22. *Kole v. Simpson* 44 L.S.J. Scheme 88 (Chamberlain J., February, 1963).

23. *Illman v. Earle* 44 L.S.J. Scheme 342 (Hogarth J., June, 1963).

24. *Maney v. Miller* 41 L.S.J. Scheme 692 (Ross J., October, 1961).

*Leg Injuries*

- £600 Fracture of tibia and fibula of right leg, some lacerations and abrasions, and a moderate degree of concussion. Leg in plaster for five months and resumed work more than six months after accident. Plate inserted, and removed nine months later. He is not expected to suffer any permanent disability.<sup>25</sup>
- £800 Schoolboy of seventeen suffered a fracture of the tibia and fibia of right leg. Two screws inserted which are not causing pain. A minor operation may later be necessary to remove them. Plaster used for two and a half months, and crutches for six months. Occasional cramp will probably clear up completely. He did not let the injury interfere with his schooling.<sup>26</sup>
- £1,000 Tibia and fibula of left leg broken. Leg subsequently reset and plate used, which remained for about seven years but could now be removed at a total cost of £100. There is some wasting of the calf muscles, some arthritic changes in the knee, and a slight bowing of the leg which does not cause a limp. Kneeling for any length of time causes pain.<sup>27</sup>
- £1,250 Boy aged six sustained concussion, shock and a severely lacerated left calf. Operation performed, and plaster used for three months. Schooling missed, and he remained in the same class for another year. Considerable pain for the first few weeks, and discomfort thereafter. Permanent disability would not be significant, and he would adapt himself readily.<sup>28</sup>
- £1,500 Fracture of femur of right leg. Plate inserted and causes fairly considerable pain, which will be relieved if the plate is removed. Plaintiff was not fit for work until twenty-six months after the accident. He has no residual disabilities, and arthritis was not likely.<sup>29</sup>
- £1,750 Malayan university student sustained fracture of upper part of right thigh which was placed in position by a long metal nail. This will have to be removed at a cost of £70. A severe head injury caused headaches, giddiness and double vision, which have now cleared up. The leg has been shortened by half an inch, and arthritis may develop earlier than otherwise. Squatting for longer than a few minutes causes discomfort, and this will be inconvenient when he returns to

25. *Wadley v. Shelton and Krause* 45 L.S.J. Scheme 685 (Chamberlain J., November, 1963).

26. *Sinstock v. Weekley and White* 41 L.S.J. Scheme 690 (Ross J., October, 1961).

27. *Fantasia v. O'Toole* 44 L.S.J. Scheme 200 (Millhouse J., May, 1963).

28. *Richards v. City Mutual Life Insurance Company Limited* 41 L.S.J. Scheme 818 (Millhouse J., November, 1961).

29. *Bixilis v. Mercantile Mutual Insurance Co. Ltd.*, 44 L.S.J. Scheme 159 (Travers J., April, 1963).

Malaya. There are two long surgical scars on the leg, and a bulge on the right shin which causes some discomfort and is unsightly.<sup>30</sup>

- £2,300 Right knee was twisted. Both cartilages removed in two separate operations, and there is a torn cruciate ligament. There will always be some lack of stability in the knee, and the leg was lacking 20-30 per cent. of its normal efficiency. He had considerable physiotherapy treatment. Unable to work as a labourer or to play strenuous sport, and he has lost the opportunity of joining the police force. He is much more vulnerable to contracting osteo-arthritis in the future. He suffered pain and inconvenience for some eight months due to the accident and the two operations, although he was able to work for some of the time.<sup>31</sup>
- £3,000 Compound fracture of lower end of femur of right leg affecting knee joint, and fractures of metatarsals of right foot. Knee movement restricted to not more than fifteen degrees, and right foot permanently affected. Great pain and considerable inconvenience. There is a possibility that pain will again develop in the leg necessitating an operation, and that his powers of earning will be reduced.<sup>32</sup>
- £4,000 Right foot crushed. Screws were inserted and they are still present. Torn artery in foot was tied and not reunited. Much pain which has got worse instead of better. There is a permanent limitation in movement of the ankle and considerable scarring and dislocation of the lower part of his leg. There will be permanent pains, swelling and stiffness and it is likely that traumatic arthritis will develop. He is only fit for light work. He also suffered concussion, a damaged kidney, cuts to the face, head and right thigh, and an injury to one wrist. These injuries cleared up fairly normally leaving no disabilities.<sup>33</sup>
- £4,750 Plaintiff aged fifty-five was in hospital or under treatment for eighteen months. His right leg was amputated, and an attempt to fit an artificial limb failed. He is reduced to using crutches, and living on a pension.<sup>34</sup>
- £5,000 Single man aged thirty-three sustained a severe compound fracture of right leg and dislocation of the ankle. Leg amputated below the knee after nearly three years, and he will be able to wear an artificial leg. Considerable pain and discomfort, much time in hospital, and a number of operations. Earning capacity reduced slightly.<sup>35</sup>

30. *Thiam Teng Yeo v. Moller* 44 L.S.J. Scheme 136 (Millhouse J., March, 1963).

31. *Stimson v. Crimmins* 46 L.S.J. Scheme 180 (Travers J., April, 1964).

32. *Burfitt v. Phillips* 42 L.S.J. Scheme 51 (Mayo J., March, 1962).

33. *Lewandowski v. Pols* 43 L.S.J. Scheme 422 (Travers J., November, 1962).

34. *Beck v. Mercantile Mutual Insurance Co. Ltd.*, 41 L.S.J. Scheme 543 (Napier C.J., August, 1961).

35. *Nolan v. The Commonwealth of Australia* 41 L.S.J. Scheme 815 (Reed J., November, 1961).



- £5,400 Plaintiff aged forty-nine sustained a severe compound fracture of right thigh bone, above and into knee joint, with lacerations of the skin. There was a dislocation of joint of right ankle, a compound fracture of three bones of right foot, and a wound on the forehead. He suffered very great pain and inconvenience, and was in hospital for more than two months. He spent six months in bed at home, and resumed work twelve months after the accident. He uses a walking stick and an iron caliper extending from heel of shoe to thigh, as well as surgical shoes and elastic bindings around his foot extending beyond his knee. Has lost a very high percentage of the joy of living. His chances of promotion have been affected, and he has a much more tenuous grip upon his job as a sub-foreman.<sup>36</sup>
- £9,000 Leg amputated above the knee. Plaintiff also suffered a comminuted fracture of left humerus, which has united strongly with the bones in a bad position. Terminal phalanx of right little finger amputated. Five ribs were fractured, piercing his lung. This caused bleeding and considerable pain, and he has a recurring bronchial condition. He also had lacerations to the scalp, abrasions and concussion. Headaches, dizziness and phantom limb troubles were bad for about three months, and still sometimes occur. Injury to ligaments of left shoulder prevent him lifting his left arm over shoulder height. He was in hospital for five months, and suffered extreme pain and discomfort. His field of future employment is restricted. There are recurring costs to maintain his artificial limb and replace clothing, which is worn out more quickly.<sup>37</sup>

#### *Nervous Disorder*

- £1,600 Woman sustained concussion and fractured pelvis, a lacerated scalp, some bruising on the left thigh and buttock, and a lacerated finger. Pain for three months, but no permanent physical disabilities. Soon after leaving hospital she developed a condition of mental confusion and was re-admitted. She was unco-operative and violent and was removed to a mental hospital. After a trial leave, she was eventually discharged nine months after the accident. She had a pre-existing mental condition before the accident, which precipitated her mental disorder.<sup>38</sup>

#### *Miscellaneous Injuries*

- £25 Cut on the shin, which did not require stitching. He was somewhat bruised, but there was nothing serious.<sup>39</sup>
- £1,000 Plaintiff rendered unconscious and sustained a fractured pelvis, facial cuts and two black eyes, headaches, and injury to the base of the skull, which brought about diabetes insipidus. This lasted for eight months and caused him considerable trouble and embarrassment. It made him urinate

36. *Staveley v. Donaghy* 42 L.S.J. Scheme 202 (Travers J., June, 1962).

37. *Holik v. Luksa* 46 L.S.J. Scheme 185 (Travers J., April, 1964).

38. *Negretto v. Sayers* 44 L.S.J. Scheme 384 (Chamberlain J., July, 1963).

39. *King v. Lauterbach* 40 L.S.J. Scheme 117 (Brazel J., February, 1961).

excessively, sometimes as frequently as every quarter of an hour. Sexual ability suspended for a time. He still has some headaches, some difficulty in walking for any distance, and some fatigue and nausea, but these are not serious.<sup>40</sup>

£1,250 Woman aged thirty-eight was injured six years before the trial. She suffered a miscarriage, and injuries to the lower part of her back, but there was no bone injury. Flexion of the lumbar spine was restricted by pain to 65 per cent. of normal, and extension by 50 per cent. Her condition gradually improved, but it restricts her in her household duties, and it is painful to stoop. She has pain on intercourse. Eventually the severity and disabling effect of the pain in her back will diminish, and her back will cause some, though not major, discomfort.<sup>41</sup>

£1,500 Plaintiff collapsed twenty-four hours after accident with a sub-arachnoid haemorrhage, which resulted in injury to his brain. Unconscious for three or four weeks, and resumed employment six months after accident. Slurs speech slightly, has lost the left part of his visual field, and has inco-ordination of his left arm and left leg. Has a fairly constant pain in his left leg. It appeared that the haemorrhage was due to happen in the near future irrespective of the accident. The award was simply to cover what the plaintiff may have suffered by the haemorrhage having occurred when it did, instead of later, and by it being, perhaps, more extensive than it otherwise would have been.<sup>42</sup>

£1,750 Woman aged fifty-five had been in ill health for some time before the accident. Abnormalities in the spine were aggravated causing persistent backache and the need to wear a surgical corset. She had previously suffered from incontinence of the bladder, and this disorder recurred necessitating an operation. She also suffered a torn medial meniscus in the left knee, which was treated surgically, and some osteoarthritis has developed in the knee joint. A hiatus hernia was aggravated by the accident and was relieved by an operation. Her injuries and their treatment caused a great deal of pain, suffering and inconvenience, but considerable medical treatment may have been needed even if the accident had not happened.<sup>43</sup>

£1,750 Waitress aged thirty-eight suffered a penetrating wound to the right buttock, a fracture of the trochanter of the right hip, a laceration on the back of her head, and bruises. Her head wound was sutured, and most of the muscle at the site of the buttock wound was removed. The buttock wound had to be dressed daily for about two months. She developed pain in her leg, and had difficulty in going up steps, bearing weight and long standing. A neuroma developed in her scar and was removed by a further operation, and some of the

40. *Correll v. Harrall and Grundy* 46 L.S.J. Scheme 123 (Travers, J., March, 1964).

41. *Stabile v. Bulls Busways Ltd.*, 46 L.S.J. Scheme 350 (Bright J., June, 1964).

42. *Hole v. Hocking* 42 L.S.J. Scheme 272 (Napier C.J., July, 1962).

43. *King v. Lauterbach*, *supra*, note 39.

buttock cushion was replaced over the sciatic nerve. This has reduced her discomfort, but her leg still aches after walking for fifteen to twenty minutes, and is weaker than her left leg. Some discomfort after sitting for half an hour. She has suffered a loss of earning capacity, since the work now open to her is less remunerative.<sup>44</sup>

£2,000 Man aged thirty-eight sustained a broken pelvis, three cracked vertebrae, three cracks in the left hip, concussion and a few lacerations on the face. Considerable pain and inconvenience and loss of sexual sensation for a time. Fit for light work four months after accident, and physiotherapy treatment applied for twelve months. No surgical treatment or plaster necessary. He may find future employment a little more difficult to obtain since he could not work as a labourer. He suffers from backache and aching groins once or twice a week. There is a tendency for his right knee to give way, and a spinal lean to the left.<sup>45</sup>

£3,000 Male plaintiff claimed damages for loss of consortium. His wife sustained injuries which rendered her a quadraplegia, and she requires constant medical care. He is permanently deprived of her society and services, and will have to tend to her needs when he is not at work. He also sustained minor personal injuries which incapacitated him from work for about a fortnight. The award was exclusive of the cost of future domestic assistance.<sup>46</sup>

£4,000 Girl nearly sixteen suffered concussion and injury to the foramen, the area of emergence of the central nervous axis. There was restriction of external rotation and abduction in the right shoulder, which gave rise to pain. Physiotherapy treatment at first, but after three years her shoulder and back had become much worse, and an operation was performed to replace damaged tissue in the foramenal cavity. Cervical collar worn continuously for two months after operation, and is still worn sometimes, since she has weakness and pain in the neck. Two other operations to release a nerve from a scar on her leg, and to remove a birthmark on her right upper arm, which caused severe pain after the accident. This left a large scar which can readily be observed. She had headaches which were not of great severity.<sup>47</sup>

D. G. JARVIS.\*

44. *Ferrett v. Miller* 46 L.S.J. Scheme 43 (Hogarth J., January, 1964).

45. *Toft v. Municipal Tramways Trust, The Commissioner of Police and Mr. Rixon* 45 L.S.J. Scheme 655 (Travers J., November, 1963).

46. *Bresatz v. Przibilla*, *supra* note 19. The Supreme Court of South Australia had assessed general damages at £500.

47. *Proberts v. Jarvis and Western* 46 L.S.J. Scheme 251 (Bright J., April, 1964). The Full Court of the Supreme Court of South Australia dismissed an appeal by the defendant against this assessment. In delivering the judgment of the Court, Napier C.J., said: "While the award may be more than any of us might have reached independently, nevertheless, we are agreed that the award is not so far out of line as to call for the interference of this Court." Judgment was delivered on 3rd August, 1964. The Court consisted of Napier C.J., Chamberlain and Travers JJ.

\* LL.B. (Hons.) (Adel.); Barrister and Solicitor of the Supreme Court of South Australia.