

ROBERT WORRER,

Appellant-Defendant,

v.

ANDREAS SHIAKLAPANIS & ANOTHER,

Respondents-Plaintiffs.

ROBERT
WORRER
v.
ANDREAS
SHIAKLAPANIS
AND ANOTHER

(Civil Appeal No. 4453)

Civil Wrongs—Negligence—Personal injuries—Damages—Quantum of damages—Damages for loss of earning capacity—Assessment should be based as far as possible on concrete evidence—The High Court will not disturb the assessment of damages made by trial Courts, unless manifestly excessive or inadequate, or it appears to have been made on wrong principle.

Civil Wrongs—General damages for personal injuries—Criteria of assessment—Principles upon which damages are now assessed have been considerably extended and developed—There are now headings upon which damages are awarded which do not appear in old cases.

Practice—Appeal—Damages—The High Court as a rule will not disturb the assessment of general damages made by trial Courts, unless it is manifestly excessive or inadequate, or it appears to have been made on wrong principle.

In a road accident case the trial Court awarded £2,561 damages for personal injuries sustained by the plaintiff due to the negligence of the defendant. One of the main items of damage included in that sum was for loss of earning capacity. On appeal by the defendant it was argued that the evidence in respect of that item did not go beyond showing that the earning ability of the plaintiff was affected ; but there was no evidence to show the extent of the disability as to enable the Court to make any positive assessment. The High Court in dismissing the appeal :—

Held, (1) we are unanimously of opinion that when such damages (for loss of earning capacity) have to be assessed by a trial Court it is desirable that, as far as possible, the assessment should be made upon concrete evidence, giving some measure upon which the damages can be found. However, in this particular case, the description of the incapacity, as found by

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the District Court, upon the evidence before them, was, we think, sufficient to enable the Court to make an assessment ; and the assessment made does not present any feature justifying interference with the trial Court's figure.

(2) We do not think that in the circumstances we should disturb the assessment made.

Appeal dismissed with costs.

Per curiam : Quite rightly counsel for the appellant did not seek to attack the quantum of damage found by the trial Court in the various items constituting the claim. This Court, as a rule, will not disturb the assessment made by the trial Court unless it appears to have been made on wrong principle, or it is manifestly excessive or inadequate, in the circumstances of the particular case.

Per curiam : While on this point, we might perhaps usefully add, taking occasion from the argument based on the principles adopted for the assessment of damages in a very old case in England, that since the decision of that case, conditions in life have changed very greatly ; and the principles upon which damages are now assessed by the Courts have, since, been considerably extended and developed. There are now headings upon which damages are awarded which do not appear in old cases. However, such headings have not been argued here and we do not propose dealing with them at all. We only wish to point out that cases decided many years ago, cannot to-day form a safe guide for the assessment of present-day damages.

Cases referred to :

Griffiths v. Green and Silley Weir Ltd. (1947) 81 Ll.L.R.

Appeal.

Appeal against the judgment of the District Court of Nicosia (Loizou and Ioannides D.JJ.) dated the 31.12.62 (Action No. 4992/59) whereby the defendant was adjudged to pay £53 to plaintiff No. 1 and £2,561.—to plaintiff No. 2 as damages for personal injuries.

X. *Clerides* for the appellant.

St. Pavlides for the respondent.

WILSON, P. : Mr. Justice Vassiliades will deliver the judgment in this case.

VASSILIADES, J. : This is an appeal by the defendant in a road accident case where the two plaintiffs in the action claim damages for personal injuries. The appeal is against the amount of damages assessed ; particularly in the case of one of the two plaintiffs.

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Quite rightly, in our view, learned counsel for the appellant did not seek to attack the quantum of damage found by the trial Court in the various items constituting the claim. This Court, as a rule will not disturb the assessment made by the trial Court unless it appears to have been made on wrong principle, or it is manifestly excessive or inadequate, in the circumstances of the particular case.

Here, Counsel for the appellant confined himself to the complaint that one of the main items of damage allowed, was for loss of earning capacity in respect of which the evidence before the trial Court did not go beyond showing that the earning ability of the plaintiff was affected ; but there was no evidence to show the extent of the disability, to enable the Court to make any positive assessment.

We are unanimously of opinion that when such damages have to be assessed by a trial Court it is desirable that as far as possible, the assessment should be made upon concrete evidence, giving some measure upon which the damages can be found. However, in this particular case, the description of the incapacity, as found by the District Court, upon the evidence before them, was, we think, sufficient to enable the Court to make an assessment ; and the assessment made does not present any feature justifying interference with the trial Court's figure.

While on this point, we might perhaps usefully add, taking occasion from the argument based on the principles adopted for the assessment of damages in a very old case in England, that since the decision of that case, conditions in life have changed very greatly ; and the principles upon which damages are now assessed by the Courts have, since, been considerably extended and developed. There are now headings upon which damages are awarded which do not appear in old cases. However, such headings have not been argued here and we do not propose dealing with them at all. We only wish to point out that cases decided many years ago, cannot to-day form a safe guide for the assessment of present-day damages.

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As to the special damage, the ground of appeal was that the trial Court having rejected the evidence regarding the amount of payments for assistance to the plaintiff for her work in the shop, the District Court have been left without any evidence upon which they could make an assessment.

On the other hand, as submitted by counsel for the respondents, the District Court awarded what they thought it would be, in the circumstances, a reasonable remuneration for the assistance rendered to the plaintiff. Such assistance, according to the evidence, was not only in fact rendered, but it was necessary. We do not think that in the circumstances, we should disturb the assessment made. In conclusion, we are of the opinion that this appeal must fail, with costs.

WILSON, P. : I should like to add just a few words, that in the judgment of the trial Court "remarks made by Birkett J. in *Griffiths v. Green and Silley Weir Ltd.* (1947) 81 L.I.L.R. quoted, give an indication of the modern law and elements which are taken into account into assessing damages at the present time. Other elements may enter into the calculations of damages depending on the case. See also Halsbury 3rd ed. vol. II p. 233 *et seq.*

ZEKIA, J. : I agree also as to the desirability of some evidence on the income earned by the appellant before and after the accident. The assessment of general damages always involves a speculative element therefore evidence if forthcoming is no doubt very helpful to the Court.

JOSEPHIDES, J. : I agree with what has just been said. I think that the assessment was fair and the quantum of damages was not excessive.

WILSON, P. : The appeal, therefore, should be dismissed, with costs.

Appeal dismissed with costs.