

1988 March 24

(A. LOIZOU, SAWIDES, KOURRIS, JJ.)

ANDROULLA KYPROU AND ANOTHER,

*Appellants-Plaintiffs,*

v.

POLYCARPOS POLYCARPIDES, .

*Respondent-Defendant,*

AND

KYPROS IOANNOU,

*Third Party.*

*(Civil Appeals Nos. 7009, 7011).*

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*Damages — General damages for personal injuries — Medical certificates adduced in evidence by consent — Trial Judge quoted injuries described in the first page of one of the certificates, but failed to quote six injuries enumerated in the second page — Award increased.* 5

*Damages — General damages for personal injuries — Medical certificates adduced in evidence by consent — Trial Judge quoted injuries described in the first page of one of the reports, but failed to quote two injuries of minor nature described in the second page — In the circumstances and without applauding the discrepancy no increase of the award is justified.* 10

The facts of this case appear in the judgment of the Court.

*Appeal 7009 allowed with costs.  
Appeal 7011 dismissed with no order as to costs.* 15

**Appeal.**

Appeal by plaintiff against the judgment of the District Court of Paphos (Anastassiou, S.D.J.) dated the 22nd May, 1985 (Action

No.1042/81) whereby the defendant was adjudged to pay to plaintiff the sum of £700 as general damage for injuries suffered by plaintiff in a traffic accident.

*E. Efstathiou with K. Kamenos, for the appellant - plaintiff.*

5 *A. Demetriades, for the respondent.*

No appearance for the third party.

A. LOIZOU J. gave the following judgment of the Court. As a result of a traffic accident that occurred on the Pachiammos - Pomos road, a father and a daughter received personal injuries and instituted proceedings against the defendant who is now the  
10 respondent in this appeal. The proceedings were simplified by leaving only for determination, by the learned trial Judge in the consolidated hearing of the actions, the question of general damages and it seems that it was simplified further by inviting the  
15 learned trial Judge to decide that issue in the cases of the two injured persons by the production only of five medical certificates, three on behalf of the plaintiffs and two on behalf of the defendant.

Even in a so simplified case, it seems that acts of oversight are  
20 inevitable because in describing the injuries received by the appellants as ascertained by Dr. Gregoriades who treated them on admission to the Paphos hospital, the learned trial Judge copied in the case of Androulla Kyprou, the appellant in Civil Appeal No. 7009, items of injuries which appear on the first page of the said  
25 Doctor's report, exhibit 1, and inserted these eight items in quotation marks obviously indicating that that was the end of the matter and omitted to include in the description of the injuries six more items that are recorded by that doctor on the second page of his report.

30 In all fairness, we may say that at a first glance such a mistake could have happened because the Doctor signed and inserted the date of so signing on the first page of his report, but a perusal of the whole exhibit would have immediately shown that there were six other injuries suffered by the said appellants and that there were  
35 also contained in the second page remarks as to the nature of the scars and their permanent nature, however, slight that might be, after recovery. An omission appears also in the case of Kypros Ioannou, - the father, -the appellant in Civil Appeal No 7011, but

in that case the omission referred only to two injuries which were of such a minor nature and to which we do not intend to attribute any importance.

Another complaint advanced on behalf of the two appellants is that whereas in the report of the neurologist to whom they were referred to after recovering from their bodily injuries, there was a reference that dizziness and nervousness are by nature more subjective findings and these symptoms do not leave any «serious disability»; yet in his judgment, the learned trial Judge described this situation by reference to the certificate in question, i.e. exhibit 5, as the subjective findings of anxiety, dizziness and nervousness that left no «disability whatsoever». It is a minor discrepancy in our view but it will be advisable when quoting medical certificates, at least to quote them correctly. 5 10

We have considered the totality of the injuries received by appellant Androulla Kyprou, and we have come to the conclusion that the amount of £700 damages assessed on a full liability basis is inadequate, in the circumstances, even if we were to consider only the injuries described by the Medical Expert on the first page of his report and included in the Judgment as being the only injuries suffered by that appellant, more so, however, because of the grave omission to refer to six other injuries. 15 20

In the circumstances, and having in mind similar comparable awards which naturally have, from time to time to be adjusted to changing conditions of life, we have come to the conclusion that the amount of £1,600 would meet adequately the situation in the case of this appellant. 25

Civil Appeal No. 7009 is therefore allowed and the amount of general damages is increased on a full liability basis to £1,600. - with costs against the respondent and the judgment under appeal varied to that extent accordingly. It follows that on the agreed basis of 30% contribution by the third party and after adding £280.- the agreed special damages to the amount of general damages as above assessed, the third party will have to indemnify the defendant in the sum of £564.- and the judgment for the defendant against him is also varied accordingly but there will be no order as to costs in this appeal. 30 35

As regards Civil Appeal No. 7011 of Kypros Ioannou, we find, on the totality of the circumstances and though we should not be

- considered as in any way applauding the discrepancies as regards the medical report, that there is no reason to interfere with the amount awarded and, therefore, this appeal is dismissed but in the circumstances, there will be no order as to costs once the two
- 5 appeals have been heard together and they were part of the consolidated proceedings.

In the result Civil Appeal No. 7009 is allowed and the judgment of the trial Court is varied as above with costs against the respondent.

- 10 Civil Appeal No. 7011 is dismissed with no order as to costs.

*Appeal No. 7009 allowed with costs against respondent.*

*Appeal No. 7011 dismissed without costs.*