[HADJIANASTASSIOU, A. LOIZOU, MALACHTOS, JJ.]

CHRISTOS CHARALAMBIDES,
Appellant-Defendant,

v.

POLYVIOS MICHAELIDES,
Respondent-Plaintiff.

(*Civil Appeal No.* 5129).

Negligence—Contributory negligence—Causation—Causative potency of the acts or omissions of the parties concerned—Blameworthiness—Collision at cross-roads—Defendant (appellant) entering main road without halting at side road and without giving warning—And without having a proper look out—Wholly to blame—Plaintiff (respondent) not guilty of contributory negligence—Cf. further infra.

Contributory negligence—What is contributory negligence—Contributory negligence requires foreseeability of harm to oneself—Cf. supra.

Road accident—Collision at cross-roads—See supra.

Personal injuries—Damages—Road accident—Thirty two years old messenger sustaining serious injuries—Fracture of the neck of the right femur—Staying in bed for six months—Successive operations—Painful experience—Permanent disability due, inter alia, *to shortening of his right leg by about* 2½" *—And restriction of all movements of his joint—Depression—Irritability and worry—Loss of future earnings—Award of general damages in the sum of* £8,500 *(including* £5,000 *for loss of future earnings) rightly assessed—Not disturbed on appeal though rather on the high side—Approach of Court of Appeal to appeals against award of general damages in personal injuries case—See further* infra.

Damages—General damages in personal injuries cases—Assessment—Principles applicable—Pain and suffering—Loss of amenities of life—Loss of future earnings—The Court of Appeal will not disturb awards of general damages—Unless wrong in principle, or manifestly so high or so low as to be an entirely erroneous estimate of the damage sustained—See further infra.

General damages in personal injuries cases—Impossible to standardise damages, although assessments made by the Courts over the years may form some guide to the kind of figure which is appropriate—See further supra ; *and see further* infra.

General damages in personal injuries cases—Assessment—Mode of assessment—Factors to be taken into account—Law as to basis of compensation—Fair and reasonable compensation—Perfect compensation not possible—Cf. further supra, passim—*Cf.* infra.

Appeal—General damages—Quantum—The Court of appeal will not disturb awards of general damages, unless they are wrong in principle, or so manifestly high or low as to call for intervention—Awards will not be disturbed on appeal though as a whole may be a little on the high side—And the Court of Appeal would have awarded a little less or a little more—Cf. further supra, passim.

This is a road accident case and an appeal taken by the defendant in the action. On October 17, 1970, the plaintiff (now respondent) was injured early in the morning when he was riding his motorcycle and collided with a motor car driven by the defendant (now appellant) at the cross-roads of Fasouliotis and Ayios Demetrios Streets when the latter entered into the main road without halting at the side-road and without any warning at all. As a result the plaintiff suffered serious injuries and brought an action against the defendant claiming damages. The Full District Court of Limassol found that the defendant was wholly to blame for the accident and awarded to the plaintiff the sum of £8,500 general damages and an agreed sum of £2,396 special damages including loss of earnings up to the date of the trial. The general damages so awarded were made up as follows : (*a*) Pain and suffering, loss of amenities in life and costs of future operation £3,500 ; (*b*) loss of future earnings (allowing for future contingencies, income tax and accelerated payment by way of cash payment of a lump sum, £5,000 ; total £8,500. It is against this judgment that the defendant took the present appeal on two main grounds as follows : (1) The finding of the trial Court that the defendant was wholly or at all to blame and that the plaintiff was not guilty of contributory negligence was wrong as being contrary to the evidence . . . . . ; (2) that the amount of general damages (£8,500, *supra*) awarded was manifestly an excessive figure not supported by the evidence adduced.

Dismissing the appeal on both grounds, the Supreme Court :

Held, I.—As regards the first ground in connection with the finding of negligence and contributory negligence, (*supra*) :

(1) It is well established that, when the Court has to ascribe or not liability for the damage to more than one person regard must be had not only to the causative potency of the acts or omissions of each party, but also to their relative blameworthiness.

(2) It seems clear to us that the appellant had no right to enter the main road at all, unless he was satisfied that it was safe for him (and for other users of the road) to do so, and once he has entered it, he had no right to proceed further across the cross-roads without any warning at all and without taking the utmost care to make sure that no one was on the road. There is no doubt that the act of driving into the main road without any warning at all was an act in a high degree *potently causative* of the collision and of the resulting injuries sustained by the plaintiff (respondent).

(3) The trial Court found that the appellant–defendant was at fault and was wholly to blame for the accident, and we are not prepared to say otherwise because in our view the respondent-plaintiff in the light of the evidence, could not have contributed to this accident. We therefore dismiss the appellant's complaint that the trial Court was wrong in not finding the respondent-plaintiff guilty of contributory negligence.

Held, II.—*As regards the second ground to the effect that the award of general damages* (£8,500), *supra, was manifestly excessive* :

(1) It has been laid down that the compensation to be awarded should be a fair and reasonable compensation, and the Court must not attempt to give damages to the full amount of a perfect compensation in money. Allowance, of course, must be made for contingencies which might upset the plaintiff's future prospects, such as illness, accident, etc., and for the fact that compensation is paid at once in a lump sum so that it can be invested and the interest used at once, whereas his earnings would have been spread over a period of many years (see *Fletcher* v. *Autocar and Transporters Ltd.* [1968] 2 W.L.R. 743).

(2) (*a*) In the present case, the respondent-plaintiff a young man of 32 years of age, working as a messenger in the employment of the National and Grindlays Bank at the monthly salary of £50, received serious injuries .....

(*b*) The principles upon which this Court acts in appeals as to the quantum of general damages are well settled ; this Court would not disturb the award of general 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 small as to make it in the judgment of this Court an entirely erroneous estimate of the damages to which the plaintiff is entitled.

(3) Having in mind the foregoing and taking into consideration the facts and circumstances of this case, we would affirm the award made by the trial Court, because we are satisfied that the amount awarded on both heads (*i.e.* (*a*) pain and suffering and loss of amenities, (*b*) loss of future earnings and cost of future operation) is not the result of any serious error so as to make them (*viz.* the damages awarded) an entirely erroneous estimate of the damage suffered. True, of course, the award as a whole is a little on the high side, and we might ourselves have awarded a little less, but the margin between the amount awarded and the amount we might ourselves have awarded is so narrow, that no interference of this Court is called for.

Appeal dismissed with costs.

Cases referred to :

Stapley v. *Gypsum Mines Ltd.* [1953] 2 All E.R. 478, at p. 486 ;

Davies v. *Swan Motor Co. Ltd.* [1949] 1 All E.R. 620 ;

Jones v. *Livox Quarries Ltd.* [1952] 2 Q.B. 608, at p. 615, per Lord Denning M.R.;

Brown and Another v. *Thompson* [1968] 2 All E.R. 708 ;

Patsalides v. *Yiapani and Another* (1969) 1 C.L.R. 84 at p. 100 ;

Ekrem v. *McLean* (1971) 1 C.L.R. 391 ;

Antoniades v. *Makrides* (1969) 1 C.L.R. 245 ;

Andreou v. *Karkallis and Others* (1970) 1 C.L.R. 359 ;

Fletcher v. *Autocar and Transporters Ltd.* [1968] 2 W.L.R. 743 ;

Kerry v. *Carter* [1969] 3 All E.R. 723, at p. 726 per Lord Denning M.R.;

The Miraflores and The Abadesa [1967] 1 All E.R. 672, at pp. 677–678, per Lord Pearce.

Appeal.

Appeal by defendant against the judgment of the District Court of Limassol (Loris, P.D.C. and Hadjitsangaris, D.J.) dated the 12th October, 1972, (Action No. 1346/71) whereby he was adjudged to pay to the plaintiff the sum of £10,896.200 mils as damages for injuries which he sustained due to the negligent driving of the defendant.

A. Triantafyllides, for the appellant.

G. Talianos, for the respondent.

The judgment of the Court was delivered by :—

HADJIANASTASSIOU, J.: On October 17, 1970, the plaintiff, Polyvios Michaelides, was injured early in the morning at about 8.00 a.m. in Limassol when he was riding his mobylette motor cycle and collided with a motor car driven by defendant Christos Charalambides at the cross-roads of Georghios Fasouliotis and Ayios Demetrios Streets, when the latter entered into the main road without halting at the side-road. As a result of this accident, the plaintiff suffered serious injuries and brought an action against the defendant claiming damages.

On October 12, 1972, the Full District Court of Limassol found that the defendant was wholly to blame for the accident and awarded to the plaintiff the sum of £8,500 general damages and an agreed sum of £2,396.200 special damages, including loss of earnings up to the date of the trial. The defendant appealed, and the notice of appeal raised two points : Firstly that the finding of the trial Court that the defendant was wholly or at all to blame for the accident and that the plaintiff was not guilty of contributory negligence was wrong as being contrary to the evidence, once the latter accepted in evidence that he was riding his motor cycle almost in the middle of the road ; and secondly that the amount of £8,500 awarded to the plaintiff was manifestly an excessive figure not supported by the evidence adduced.

As usual, in these traffic accident cases, there were two sharply conflicting versions. It was the version of the plaintiff that on the date of the accident whilst he was riding his motor cycle, along Georghios Fasouliotis Street southwards, on the left-hand side of the road, he saw a parked motor van and as there was no traffic on the road coming from the opposite direction, he overtook that motor vehicle and found himself near the middle of the road. He was proceeding at a speed of 10–15 m.p.h. when a motor car driven by the defendant emerged suddenly from the side-road without halting and without any warning at all. When he found himself 3'–4' away from the said motor car, he tried to avoid the accident by applying his brakes, but, unfortunately, the collision took place although his brakes were in order.

Georghios Fasouliotis Street, where the accident occurred is the main road and its width is 18' 9" with pavements on either side of the asphalt road which are 2' 10". Ayios Demetrios Street is the side-road and is 19' 4" wide and is controlled by halt signs on both sides of the cross-roads. The point of impact was 11' after the halt line within the main road. The plaintiff further explained that the reason why he did not see the defendant emerging was due to the fact that there was a house on the corner which prevented him from seeing into the side street. As a result of the collision he was thrown over the bonnet of the car and fell on to the asphalt road. He was seriously injured and was removed to the Limassol hospital.

On the other hand, the version of the defendant was that whilst he was driving his motor car from west to east, when he reached the cross-roads from the side-road, he did not halt because he did not notice that there was a sign or a halt line. As he was approaching the cross-roads, he slowed down and proceeded looking right and left. Because he did not see any motor vehicle on the road, he proceeded slowly across the road intending to stop at a co-operative shop which was after the cross-roads. When he was at the junction he noticed a van parked on his left-hand side about 15'–20' from the cross-road. Whilst he was still looking to his right-hand side of the road, he heard a knock on the left mudguard of his car and the accident occurred.

The trial Court, after weighing the two versions, accepted the version of the plaintiff and rejected that of the defendant and gave reasons for doing so. The Court found that

the defendant was entirely to blame for this accident and had this to say :—

> " We are satisfied that the defendant—apart from not halting—emerged into the main road without having a proper look out ; this is abundantly clear from his own evidence. It is afortiori so if we bear in mind the fact that the defendant himself placed the point of impact 11' after the halt line within Georghiou Fasoulioti Str."

Regarding the first complaint of counsel for the appellant we think we ought to state that the basis of assessment as to apportionment is that the proper apportionment is determined by the facts of each case. (*Stapley* v. *Gypsum Mines Ltd.* [1953] 2 All E.R. 478 at p. 486 per Lord Reid). When, therefore, it is necessary for a Court to ascribe the liability for the damage on the evidence before it, in proportion to more than one person, it is well-established that regard must be had not only to the causative potency of the acts or omissions of each of the parties, but to their relative blameworthiness.

In the *Miraflores* and *the Abadesa* case [1967] 1 All E.R. 672, Lord Pearce said at pp. 677–678 :—

> " ....but the investigation is concerned with ' fault ' which includes blameworthiness as well as causation ; and no true apportionment can be reached unless both those factors are borne in mind."

It appears further that the two elements of causative potency and blameworthiness, being the relative factors regarding the apportionment of liability, were first adverted to by Denning, L.J. in *Davies* v. *Swan Motor Co. Ltd.* [1949] 1 All E.R. 620.

The first question, accordingly, is whether the plaintiff was guilty of contributory negligence. In *Jones* v. *Livox Quarries Ltd.* [1952] 2 Q.B. 608, Lord Denning, dealing with the question of contributory negligence said at p. 615 :

> " Although contributory negligence does not depend on a duty of care, it does depend on foreseeability. Just as actionable negligence requires the foreseeability of harm to others, so contributory negligence requires the foreseeability of harm to oneself. A person is guilty of contributory negligence if he ought reasonably to have foreseen that, if he did not act as a reasonable, prudent man, he might be hurt himself ; and in his reckonings he must take into account the possibility of others being careless."

Respectfully adopting this test, it seems clear to us that the appellant had no right to enter the main road at all, unless he was satisfied that it was safe for him to do so, and once he had entered it, he had no right to proceed further across the cross-roads without taking the utmost care to make sure that no-one was on the road. There is no doubt that the act of driving into the main road without any warning at all was an act in a high degree potently causative of the collision and of the injuries suffered by the respondent.

The trial Court found that the appellant-defendant was at fault and was wholly to blame for the accident, and we are not prepared to say otherwise; because in our view the respondent in the light of the evidence, could not have contributed to this accident. It must be remembered that the respondent was riding his motor cycle when no other vehicle was coming from the opposite direction, and in our opinion the driver could not reasonably have foreseen—once he acted as a reasonable prudent driver in overtaking the stationary van—that the appellant would suddenly emerge into the cross-roads not caring at all and breaking well-known safety rules, endangering the safety of the respondent who was using lawfully the main road.

Furthermore, we fail to see that the appellant—on whom the burden rests—has established that the respondent who was confronted with an emergency would have been able to do anything more effective in order to avoid the accident. Certainly, we are not satisfied with the argument of counsel that had the respondent not found himself at that place, the collision might have been avoided. On the contrary, we believe that even if the cyclist was more to his own side, again it would have been impossible to avoid the collision, once the plaintiff, as he had admitted in evidence, was crossing into the main road and was looking to his right only and had not seen at all the cyclist.

For the reasons we have tried to explain, we would affirm the judgment of the trial Court on this issue and dismiss this complaint of counsel that the trial Court was wrong in not finding the respondent guilty of contributory negligence. Cf. *Brown and Another* v. *Thompson* [1968] 2 All E.R. 708 ; also *Patsalides* v. *Yiapani and Another* [1969] 1 C.L.R. 84 at p. 100 where the principle enunciated by Denning, L.J. in *Jones* case (*supra*) was adopted and followed. Cp. also *Ekrem* v. *McLean* [1971] 1 C.L.R. 391.

Regarding the second complaint that the award of general damages was manifestly an excessive figure, not supported by the evidence adduced, we think we ought to state that no comparable case was cited to the trial Court, and counsel today stated that during the trial he relied on *Antoniades* v. *Makrides* (1969) 1 C.L.R. 245 ; and *Andreou* v. *Karkallis and Others* (1970) 1 C.L.R. 359.

As to the basis of compensation, it has been stated that the compensation to be awarded should be a fair and reasonable compensation, and the Court must not attempt to give damages to the full amount of a perfect compensation in money. Allowance, of course, must be made for contingencies which might upset the plaintiff's future prospects, such as illness, accident, etc., and for the fact that compensation is paid at once in a lump sum so that it can be invested and the interest used at once, whereas his earnings would have been spread over many years. (*Fletcher* v. *Autocar and Transporters Ltd.* [1968] 2 Weekly Law Reports, 743).

In the present case, the respondent-plaintiff was at the time of the accident 32 years of age, and was in the permanent employment of the National and Grindlays Bank Ltd. of Limassol working as a messenger, receiving a salary of about £50 per month, plus 13th salary at Christmas time. As a result of the accident, the plaintiff received serious injuries and was conveyed to the clinic of Dr. Hjicostas in Nicosia. He was x-rayed and a fracture of the neck of the right femur was revealed. He had also a laceration over his right leg about ¼" and also bruises on the left ankle. The following day he was operated on and the fracture was fixed with a pin and plate. A few days after the operation, unfortunately he had a nervous breakdown and he was refusing to take food or water, drugs or anything else. He was shouting, screaming and he was becoming difficult to control. Dr. Evdokas, a neuropsychiatrist was called to the clinic of Dr. Hjicostas, who examined him and the plaintiff was removed to the clinic of Dr. Kyriakides at Famagusta where he was admitted on November 7, 1970. He was examined by Dr. Kyriakides, who made the following findings :—

> " As regards his physical state he was emaciated, he was very thin, he was actually skinny. As regards his mental state he was extremely restless, irritable, stubborn, demanding, troublesome and difficult to control. He had spells of confusion, *i.e.* a disturbed perception of external reality, and disorientation for

time, place and person. He had severe anorexia and insomnia and at times he was faulty in his toilet habits. He was treated rather intensively with neuroleptic drugs but his condition remained unaltered."

He was discharged from the neurological clinic of Dr. Kyriakides on December 16, 1970, because he had improved, and was conveyed in an ambulance to the clinic of Dr. Hjicostas once again in Nicosia. He was examined by the said doctor who diagnosed that the pin and plate inserted earlier were displaced and the finding of the doctor was that this was made either by the drugs the plaintiff was taking because of his nervous condition or because of a sudden movement. The result was that the nail inserted by virtue of the operation cut through the head of the femur and was projecting. The patient remained in the clinic until the end of 1970, when he was removed to the clinic of Dr. Solomonides in Limassol where he stayed for 15 days. After that he left the clinic and he stayed in bed at home until April, 1971.

The plaintiff then proceeded to Athens where he was admitted in a clinic on July 23, 1971, and was operated on by Dr. Zaoussis three days after his admission. He was discharged from the said clinic on September 22, 1971. When he returned to Cyprus, he was examined again by Dr. Hjicostas two weeks prior to the hearing of this action, and his findings are the following :—

(i) about 2½" shortening of the right leg ; (ii) restriction of all the movements of the hip joint ; (iii) wasting of the muscles of the thigh ; (iv) fixed flexion deformity of the knee, *i.e.* he cannot extend the knee; normal is 180 ; the movement of the knee of the plaintiff is restricted to 10–15°.

In the opinion of the doctor, the disability of the plaintiff was of a permanent nature. The plaintiff will be able to walk for the rest of his life only with a stick for short distances of about 100 yds. He will be unable to climb upstairs, drive a car or ride a bicycle or motor cycle. He can use his right leg only in order to support the other with a view to being able to move for about 100 yds. Furthermore, the doctor expressed the opinion that in 10–12 years time the plaintiff may need another operation because the metallic head of the pin will destroy the acetabulum in which case a new arthroplastic operation will be necessary for the insertion of a new plastic acetabulum. This operation, the doctor thought, would cost about £300. In cross-examination the doctor said that the plaintiff had a very painful experience and he could only do a sitting job.

Dr. Kyriakides examined once again the plaintiff in April, 1972 and his assessment regarding the mental condition of the patient was as follows :— " (*a*) depression (*b*) irritability and (*c*) worry ". This doctor said because they have existed since the day of the accident and they still persist, they are considered as being permanent. The plaintiff, because he could not perform his former duties, he lost his job, and at the same time his chances of having a permanent job until the age of 60 which is considered by the bank as the retiring age of the employees.

The trial Court, after taking into consideration, all the facts and circumstances of this case, assessed the damages as follows :—

		£
" (*a*)	Pain and suffering, loss of amenities in life and costs of future operation	3,500
(*b*)	loss of future earnings, (allowing for future contingencies, income tax and accelerated payment by way of a lump sum	5,000
	Total	£ 8,500 "

Reverting now to the complaint of counsel that this amount was manifestly an excessive figure, the principles on which this Court acts in appeals as to the amount of damages is that this Court would not be justified in disturbing the finding of the trial Court on the question of the 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 damage to which the plaintiff is entitled. This principle has been repeatedly stated in a series of cases, both in England and in Cyprus, and we would like to refer to a recent judgment of Denning M.R. who deals with the principles on which an Appellate Court will intervene. In *Kerry* v. *Carter* [1969] 3 All E.R. 723, Denning, M.R. after dealing with the question of apportionment as well as with the question of general damages, had this to say at p. 726 :—

> " So we have both sides at fault, and we are left with the question of apportionment. We have been referred to cases on this subject, particularly the recent case of *Brown* v. *Thompson* [1968] 2 All E.R. 708. Since that case it seems to have been assumed in some quarters

that this Court will rarely, if ever, alter an apportionment made by the Judge. Such is a misreading of that case. I think that the attitude of this Court was correctly stated in that case by Edmund Davies, L.J. [1968] 2 All E.R. at p. 713; when he quoted from the judgment of Sellers L.J., in *Quintas* v. *National Smelting Co., Ltd.* [1961] 1 All E.R. 630 at p. 636. This Court adopts in regard to apportionment the same attitude as it does to damages. We will interfere if the Judge has gone wrong in principle or is shown to have misapprehended the facts; but even if neither of these is shown, we will interfere if we are of opinion that the Judge was clearly wrong. After all, the function of this Court is to be a Court of Appeal. We are here to put right that which has gone wrong. If we think that the Judge below was wrong, then we ought to say so, and alter the apportionment accordingly.

I would alter the apportionment so as to hold that two-thirds of the blame falls on the plaintiff and one-third on the defendant. I would allow the appeal accordingly."

Having addressed our minds to the two cases relied upon by both counsel, we think that in spite of the fact that they are not considered as being comparable awards, we ought to state that in *Antoniades* case (*supra*), the trial Court, after taking into consideration all the surrounding facts and circumstances of that case, including the fact that the plaintiff was 63 years of age, found that he "had the potential and chances of earning a not substantial annual income apart from his pension".

In assessing the compensation under the head of loss of future earnings in the *Antoniades* case, the trial Court took into account that the plaintiff was not an invalid, incapable of doing any kind of work, and they made allowance for his probable future earnings in his present condition. In the end, the Court assessed the plaintiff's loss of future earnings at £3,000 "taking into consideration the cash value of the sum to be awarded as well as the liability to pay income tax thereon and the contingencies of life". With regard to damages under the head of pain and suffering and loss of amenities, the trial Court, after taking into consideration that the plaintiff sustained multiple serious injuries and suffered great pain and discomfort which will persist indefinitely, and that he will never be in a position to enjoy

life fully as a normal healthy man of his age ; and that he cannot dress himself unaided, awarded the sum of £1,500 to the plaintiff.

The Court of Appeal, dealing with the complaint of counsel regarding the first point, said at p. 256 :—

> " Considering that the trial Court awarded £3,000 under this head, we do not think that there is any serious error in their award so as to make it 'a wholly erroneous estimate'. True, the award is a little on the low side, but it is not so low that it could be disturbed by this Court."

The Court then, after proceeding to deal with the question of pain and suffering and loss of amenities, said at p. 257 :—

> " Having given the matter our best consideration, taking into account the facts of this case and everything that the plaintiff had suffered and will go through during the rest of his life, we are of the view that the sum of £1,500 awarded by the Court was far too low in the circumstances, and a wholly erroneous estimate. We hold that a fair compensation under this head would be £3,000 on the basis of full liability."

Regarding the second case of *Andreou* (*supra*), the plaintiff was a young salesman of 20 years of age earning a salary of £40 per month plus a commission on his sales, averaging another £20 per month. He was involved in a traffic accident on February 4, 1968, and was seriously injured. He was treated in Limassol hospital for over a month and in Nicosia general hospital for a further period until the middle of November, 1968. According to the evidence of an orthopaedic surgeon, his right leg was amputated in a life-saving operation, leaving only a short stump high up the thigh ; his right arm and hand are practically useless, and he needs help even for the ordinary necessities of life. He may benefit from rehabilitation treatment in a rehabilitation centre abroad, as none is, so far available in the island. The trial Court, after taking into consideration all the facts of that case, awarded to the plaintiff an amount of £10,000 general damages.

On appeal, the Court of Appeal, after taking into consideration all the facts and circumstances of that case, found that the amount awarded was so very low an estimate of plaintiff's loss as to call for intervention. The Court, in allowing the appeal, had this to say at p. 364 :—

"We think that this Court, in such circumstances, is not only justified, but it has the duty to re-assess the general damages so as to make the award a reasonable estimate of the plaintiff's loss in the circumstances of this case. In doing so, we certainly take into consideration the reasons which led the trial Court to their assessment of £10,000: And we find that this sum should be increased to £14,000."

Having considered carefully the arguments of both counsel in the case in hand, so far as damages are concerned, we think that it is impossible to standardize damages for personal injuries, although we agree that the assessments which the Courts have made over the years form some guide to the kind of figure which is appropriate and which the Appellate Court will follow in the light of the special facts of each particular case.

Directing ourselves, therefore, by those authoritative pronouncements we have quoted earlier in this judgment, and taking into consideration the special facts and circumstances of this case, and everything that the plaintiff has suffered and will go through the rest of his life, we would affirm the judgment of the trial Court, because we are satisfied that the amounts awarded by the trial Court on both heads are not the result of any serious error so as to make them an entirely erroneous estimate of the damage. True, of course, the award as a whole is a little on the high side, and we might have awarded a little less, but even if that had been our tendency, the margin between the sum in fact awarded and that which we might have awarded had we been the trial Judges, is so narrow that it would be quite wrong to say that any interference by this Court is called for.

Accordingly, we would reiterate, that in respect of both the grounds advanced by counsel for the appellant here, it seems to us that he must fail, and we would, therefore, dismiss this appeal with costs.

Appeal dismissed with costs.