

[TRIANTAFYLLIDES, P., A LOIZOU, MALACHITOS JJ.]

GEORGHIOS IACOVOU,

Appellant-Defendant,

v.

EVDOKIA A. HJINICOLAOU,

Respondent-Plaintiff.

(Civil Appeal No. 5096).

1974
Jan. 14

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GEORGHIOS
IACOVOU

v.

EVDOKIA A.
HJINICOLAOU

Damages—General damages—Personal injuries—Appeal against awards of general damages—Approach of the Court of appeal—Desirability for uniformity of awards—And need to look at each case on its own merits—Thirty-two years old married woman sustaining, inter alia, cerebral concussion causing traumatic amnesia of a few hours' duration, multiple laceration and scratches on her face—Permanent post-concussional syndrome needing continuous medication—Visible scars on the forehead and upper lip—No residual incapacity of any limb—Respondent being a married woman not psychologically affected by scars—Award of £1,500 general damages so very high as to be an entirely erroneous estimate—Reduced on appeal to £1,100.

General damages in personal injuries cases—Assessment—Uniformity of awards—Appeal—Principles upon which the Court of Appeal will interfere—See further supra.

This is an appeal, by the defendant in the action, against the judgment of the Court below awarding £1,500 general damages to the plaintiff (now respondent) in respect of injuries which she suffered in a traffic accident. Liability of the appellant was admitted at the trial. It was the case for the appellant that in the circumstances of this case the award complained of was so high that it constituted an entirely erroneous estimate. The Supreme Court, allowing this appeal, reduced the award of £1,500 to one of £1,100 and ordered the respondent to pay to the appellant half the costs of this appeal. The facts sufficiently appear in the judgment of the Court.

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Cases referred to:

Papadopoulos v. Tryfonos (1968) 1 C.L.R. 80, at p. 85;

Parry v. English Electric Co. Ltd. [1971] 1 W.L.R. 664,
at p. 667;

Greenfield v. London and North Eastern Railway Co.
[1944] 2 All E.R. 438, at p. 440;

McCarthy v. Coldair Ltd. [1951] 2 T.L.R. 1226, at
p. 1229;

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

Roumba v. Shiakalli (1969) 1 C.L.R. 537, at p. 539;

Omer v. Pavlides and Another (1971) 1 C.L.R. 404,
at p. 408;

Papadopoulos v. Kouppis (1969) 1 C.L.R. 584;

Mesimeris v. Kakoullis (1973) 1 C.L.R. 138.

Appeal.

Appeal by defendant against the judgment of the District Court of Nicosia (Demetriades, Ag. P.D.C. and Papadopoulos, D.J.) dated the 31st May, 1972, (Action No. 1247/71) whereby he was ordered to pay to the plaintiff the sum of £1,500.- as general damages for injuries suffered by the plaintiff in a traffic accident.

Ph. Clerides, for the appellant.

E. Efsthathiou with *E. Vrahimis*, (Mrs.),
for the respondent.

The judgment of the Court was delivered by:-

TRIANAFYLLIDES, P.: The appellant, being the defendant in an action before the Court below, has appealed against the award of C£1,500 general damages to the respondent, the plaintiff in such action, in respect of injuries which she suffered in a traffic accident. The liability of the appellant was admitted at the trial; and no appeal has been made regarding the special damages.

As was stated by the trial Court, the said amount was assessed in the light of the injuries which the respondent sustained, the pain and suffering consequential

upon such injuries, the resultant scars on her face and a post-concussional syndrome.

The respondent is a married woman, thirty-two years old; and she has now resumed running her own business in relation to the sale of ready-made clothes.

Her injuries included cerebral concussion causing post-traumatic amnesia of a few hours' duration, multiple lacerations and scratches on her face, bruises on her right arm, extensive abrasions on her left thigh and knee, as well as a lacerated wound on such knee.

The scars which are still visible are an irregular scar on her right forehead—which, as we have noticed ourselves, is the most prominent of all—a linear scar on the left side of her upper lip which is visible only on close examination from a short distance, an inconspicuous scar at the end of her right eyebrow next to her nose, as well as some scars in the region of her left knee.

There is no dispute that the respondent has been left with a post-concussional syndrome of which, apparently, she is going to suffer permanently, needing continuous medication; the severity of such syndrome has been described as "light", "moderate" or "mild"; there is, really, not much difference of opinion on this point between the medical experts who were called by the respondent and appellant, respectively, as witnesses at the trial.

Counsel for the appellant has argued that the amount of C£1,500 is an entirely erroneous estimate, being so very high that we should interfere with it; in support of this contention he has referred us to a number of what he regards as being comparable awards, and he has stressed the need for uniformity of awards in similar cases, citing, in this connection, *Papadopoulos v. Tryfonos* (1968) 1 C.L.R. 80, 85. We agree that it is desirable to preserve uniformity, as much as possible but, as was pointed out in *Parry v. English Electric Co. Ltd.* [1971] 1 W.L.R. 664, 667, each case must be looked at on its merits in assessing damages for personal injuries.

Counsel for the respondent has argued that the award of general damages is a reasonable one in the circumstances; and that an award of general damages by a

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trial Court can only be interfered with in exceptional cases; he referred, in this respect, to *Greenfield v. London and North Eastern Railway Co.* [1944] 2 All E.R. 438, 440, and *McCarthy v. Coldair, Ltd.* [1951] 2 T.L.R. 1226, 1229.

The principles upon which this Court acts in considering appeals of this nature have been often set out, in previous cases; and we might refer, *inter alia*, to *Antoniades v. Makrides* (1969) 1 C.L.R. 245, *Roumba v. Shiakalli* (1969) 1 C.L.R. 537, 539, *Omer v. Pavlides and Another* (1972) 1 C.L.R. 405, 408, *Papadopoulos v. Kouppis* (1969) 1 C.L.R. 584, as well as to the recently decided, on November 12, 1973, case of *Mesimeris* (C.A. 5085, not reported * yet).

The decision in the *Mesimeris* case appears to be rather helpful, inasmuch as it can be usefully compared with the present case: The plaintiff in that case had suffered what were described as residual permanent moderate post-concussional after-effects, plus a slight incapacity of the left wrist due to a fracture of such wrist, which must have involved quite some pain and suffering. In the present case there has not remained any incapacity, other than that which is the result of the post-concussional syndrome, but we have, in the present case, the visible scars, which did not exist in the *Mesimeris* case. In that case we increased the general damages from C£400 to C£800.

Taking, in the present case, into account all relevant factors, including the scars, and bearing, at the same time, in mind that the respondent, being an already married woman, has not been psychologically affected by such scars, as well as that she has not been left with residual incapacity of any limb, we are of the view that we cannot uphold the award of C£1,500 as general damages. We regard this amount as being so very high as to be an entirely erroneous estimate and we think that an amount of C£1,100 would adequately compensate the respondent.

The appeal is, therefore, allowed; it is ordered, also,

* Now reported in (1973) 1 C.L.R. 138.

that the appellant should be paid by the respondent half
the costs of this appeal.

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Appeal allowed.
Order for costs as above.

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