1976 November 20

[TRIANTAFYLLIDES, P., STAVRINIDES, MALACHTOS, JJ.]

TASOS ANTONIOU,

Appellant-Plaintiff

v.

ARISTOTELIS KYRIAKOU,

Respondent-Defendant

(*Civil Appeal No.* 5496)

Damages—General damages—Personal injuries—Boy aged 17 *sustaining leg and serious head injury—In hospital for one month—Operated twice on the head and in need of a further head operation—His leg became shorter by* 1 *cm—Developed epilepsy and has suffered fits of epilepsy from time to time—Disfigurement of the face—Personality changes—Unfit for normal employment and for normal life—Impairment of smell—Quite a lot of pain and suffering—Award of* C£10,000, *including* C£4,000 *for loss of future earnings and pecuniary losses prior to the hearing of the action—Very inadequate and low—Increased*

Damages—General damages—Personal injuries—Future loss of earnings—Multiplier by which they should be assessed—Plaintiff 17 *at time of the accident and* 21 *at the trial—Proper multiplier* 12 *years.*

The appellant (plaintiff) was a boy aged 17 at the date of the accident and 21 at the date of the trial. He was employed as a labourer. He sustained a leg and head injury on the 31st July, 1971 and was admitted in hospital in an unconscious state. He spent one month in hospital. His leg remained in plaster until the 18th October, 1971 and physiotherapy followed on an outpatient basis. The head injury penetrated into the skull and damaged his brain and has suffered quite a lot of pain and suffering. While in hospital he underwent a cranial operation and in October 26, 1972 he underwent a second operation for the repair of a large skull defect which he had on the forehead. He was, also, in need of another operation—

craniplasty. There was a shortening of his leg by 1 c.m. as a result of the leg injury. The after-effects of the head injury consisted mainly of dizziness, giddiness, impairment of the sense of smell, intellectual impairment and sense of responsibility changes, inability for sustained effort at work and epilepsy. Though epilepsy was fairly well controlled by medicines, which plaintiff had to take on a permanent basis, he has suffered fits of epilepsy from time to time and it seemed that epileptic fits could not be prevented altogether. Due to the personality changes he became unfit for normal life and unfit for normal employment—even though he has not become unemployable completely—in view of the fact that it was very difficult for him to concentrate on, and to hold, any job. He has, furthermore, suffered disfigurement of his face, with the result that there was a protrusion over one of his eyes which made it appear to be smaller than the other.

The question of liability was not in issue in this appeal because it was agreed between the parties, at the trial, that the respondent was to blame for the accident to the extent of 60% and the appellant to the extent of 40%.

The trial Court assessed the general damages at the global figure of C£10,000 on a full liability basis and they were eventually reduced accordingly. In this figure there was included an amount of C£4,000 which the trial Court awarded for loss of future earnings including pecuniary losses prior to the hearing of this action. The trial Court arrived at the figure of C£4,000 after finding that the earnings of the plaintiff, had he been in continuous employment, would have been in the region of C£13.500 mils to C£15.- a week; and instead of making an award by way of special damages it took into account loss of earnings, prior to the hearing, in the assessment of general damages. In making the award of £4,000 the trial court has not specified the multiplier by which the future loss of earnings was assessed.

Upon appeal counsel for the appellant (plaintiff) contended that the amount of C£10,000 general damages was an entirely erroneous estimate and that, as a result, it was so very low and inadequate that the Court of Appeal should intervene and increase it.

Held, allowing the appeal, (1) there is no doubt that the plaintiff has been through a very serious ordeal and that he will con-

tinue to suffer a lot for the rest of his life; in the circumstances, we have reached the conclusion that the amount of C£6,000, which was assessed as general damages as part of the global figure of C£10,000 general damages is so very inadequate and low that we have to intervene in order to increase it to C£9,000 (p. 91 *post*).

(2) Taking even the minimum figure of £13.500 per week as a basis we arrive at the result that plaintiff would have been earning approximately C£700 per annum; after making every reasonable allowance for possibly reduced earnings we cannot find that his loss of future earnings per annum is anything less than, at least, C£400. We think that the proper multiplier in this case cannot be less than twelve years (see *Cook* v. *J. L. Kier & Co. Ltd.*, [1970] 2 All E.R. 513, *Cunningham* v. *Harrison and Another* [1973] 3 All E.R. 463 and *Antoniades* v. *Makrides* (1969) 1 C.L.R. 245 at p. 256); this results in a round figure of C£5,000 for loss of earnings, so that the total amount of general damages should be increased from C£10.000 to C£14.000 (pp. 91–92 *post*).

Appeal allowed.

Cases referred to:

Jones v. *Griffith* [1969] 2 All E.R. 1015 at pp. 1019-1020;

Hawkins v. *New Mendip Engineering Ltd.*, [1966] 1 W.L.R. 1341;

Booth v. *O'Halloran* (reported in Kemp & Kemp on the Quantum of Damages, 4th ed. vol. 2, para. 3–311);

Stephenson v. *Cook* (reported in Kemp and Kemp, *supra*: para. 3–318);

Roumba v. *Shakalli and Another* (1969) 1 C.L.R. 537 at p. 539;

Hassan and Others v. *Neophytou* (1973) 1 C.L.R. 147;

Panayi v. *Handley* (1976) 3 J.S.C. 417 (to be reported in (1976) 1 C.L.R.);

Cook v. *J. L. Kier & Co. Ltd.*, [1970] 2 All E.R. 513 at p. 514;

Cunningham v. *Harrison and Another* [1973] 3 All E.R. 463;

Antoniades v. *Makrides* (1969) 1 C.L.R. 245 at p. 256.

Appeal.

Appeal by plaintiff against the judgment of the District Court of Nicosia (Stavrinakis, P.D.C. and Papadopoulos, S.D.J.) dated the 10th September, 1975, (Action No. 1515 72) whereby

he was awarded the sum of C£ 6,462.- as damages for personal injuries suffered by him in a traffic accident after his liability for the accident was agreed to be 40%.

T. Eliades, for the appellant.

Ph. Clerides, for the respondent.

Cur. adv. vult.

The facts sufficiently appear in the judgment of the Court delivered by:

TRIANTAFYLLIDES, P.: This is an appeal in respect of the amount of C£ 10,000 general damages which were assessed in an action for negligence, which was brought by the appellant, as the plaintiff, against the respondent, as the defendant.

The appellant suffered personal injuries in a traffic accident on July 31, 1971.

The question of liability is not in issue in this appeal because it was agreed between the parties, at the trial, that the respondent was to blame for the accident to the extent of 60% and the appellant to the extent of 40%. It should, however, be borne in mind that the above amount of general damages was assessed on a full liability basis and, therefore, they had, eventually, to be reduced accordingly.

In the C£ 10,000 general damages there were included C£4,000 for future loss of earnings as well as for pecuniary losses prior to the trial of the action.

The special damages were assessed at C£ 770, in addition to the above amount of general damages; the special damages are not, however, disputed in this appeal.

The injuries which the appellant has suffered, and the treatment which he has had in respect of them, as well as the after-effects of such injuries, are described in the judgment of the trial Court as follows:-

> "The plaintiff received injuries to the right leg and head. He was first taken to the Nicosia General Hospital (on the 31st July, 1971) where he underwent an operation by a neurosurgeon. On the 31st August, 1971, he was discharged from the Hospital and visited the clinic of Dr. HadjiCostas who noted that his right leg was in plaster. An X-Ray showed a comminuted fracture of the tibia and

fibula. The doctor also refers to an infected wound on the injured leg which was treated accordingly. On the 18th October, 1971, the plaster was removed and two days later the plaintiff was discharged from the clinic. Physiotherapy followed on an out-patients basis.

The opinion of Dr. HadjiCostas regarding the leg injuries is that the fractures united soundly and in good alignment but for a small bone spike of the fibula on the lower third of his leg. The movements of the knee are full but those of his right ankle are restricted by 20% compared with the left. There are also some minor scars on the injured area.

In a joint medical report issued by 7 doctors (*exhibit* No.3), it is stated that the flexion motion and power of the right ankle are within normal limits and despite the 1 c.m. shortening of the right lower knee, the plaintiff walks in a normal fashion, he can stand on tip-toe and can squat.

The most serious injuries, however, are those on the head. Dr. Spanos in his report (*exhibit* No. 2) states that the plaintiff was admitted at the Hospital in an unconscious state and had a large open wound in the frontal region through which free bone fragments and brain matter were coming out. At the cranial operation performed, the lacerated brain was excised, the dura was repaired and the free bone fragments, including the roof of the orbit, were removed.

Following the operation, the plaintiff made a slow but steady progress and on the 31st August, 1971, he was allowed to go home. On the 26th October, 1972, he underwent an operation for the repair of the large skull defect which he had on the forehead but as the acrylic plate, which was used, perforated through the skin, it had to be removed (see *exhibit* No. 2(*a*)). According to Dr. Spanos, he will need another operation—cranioplasty—which should not be performed before a period of six months elapse (from the 3rd June, 1975 when Dr. Spanos and Dr. Kyriakides issued a joint medical report produced as *exhibit* No. 7).

The after-effects of this severe head injury are many and consist of:-

(a) Dizziness, giddiness, twitching of the right eye brow and intolerance to noises.

(b) Episodes of loss of consciousness accompanied by shaking of the limbs (epilepsy).

(c) Impairment of the sense of smell.

(d) Intellectual impairment and some personality changes.

(e) Inability for sustained effort at work.

During the hearing of the case, Dr. Spanos and Dr. Kyriakides prepared a joint medical report regarding the present condition of the plaintiff and the future outlook with regard to the head injury and its repercussions in his capacity for work. At first, there was a strong possibility of developing of epilepsy which is now no longer a possibility but a reality. The doctors (Dr. Spanos and Dr. Kyriakides) are of the opinion that the plaintiff's epilepsy is fairly well controlled by the present anticonvulsant medication which he has to take permanently.

There is evidence that the plaintiff, at least on the 22nd February, 1975, had a fit witnessed by P.W. 3 (an uncle of his) and that on other occasions, as his father alleged, he had other fits with loss of consciousness. There is also evidence that the personality of the plaintiff changed and he became an irritable and irresponsible person.

Regarding the plaintiff's capacity for work, the aforenamed doctors, in their report *exhibit* No. 7, state the following:-

'Although physically he has no weakness of limbs or any other defficiency to interfere with his capacity for work, he has certain personality changes—irritability, impaired initiative and drive irresponsibility—which make it very difficult for him to hold a job. The above-mentioned personality changes are consistent with the damage he has had on the frontal region of the brain and they are permanent. Special training and rehabilitation can only to a small extent affect his incapacity. It should be borne in mind that he has post-traumatic epilepsy and this

restricts the variety of occupations he can be employed.... His capacity to participate in sports may be limited to a small extent but he must not drive, both because of his epilepsy and his irresponsible attitude'.

With the above, the picture is complete and it comes to corroborate the evidence of the plaintiff's last employer, P.W. 2, who said that when he re-employed the plaintiff some 10 months after the accident, he had to dismiss him because he was quarrelsome and a nuisance. The medical evidence and that of P.W. 2 come, in their turn, to give credence to the evidence of the plaintiff's father, P.W. 3, who alleged that he personally witnessed 5-6 fits and spoke about the changes in the plaintiff's personality and inability to work since the accident."

It is to be noted, in particular, that the trial Court accepted that, as a result of the injuries to his head, the appellant developed epilepsy. Though it is fairly well controlled by medicines, which he has to take on a permanent basis, the appellant has suffered fits of epilepsy from time to time; it seems, therefore, that epileptic fits cannot be prevented altogether in his case.

Also, due to personality changes, which are, too, after-effects of the appellant's injuries, the appellant finds it very difficult to hold a job.

The assessment of the general damages by the trial Court was made as follows:-

" The plaintiff was about 17 years of age at the time of the accident which had taken place approximately four years ago and we take it that had he been in continuous employment, his earnings would have now been in the region of £ 13.500 mils to £ 15 - a week, as we have already found. Up to the present day, and since the treatment has not completely come to an end (another plastic operation and rehabilitation required), we must consider the loss as a specific one, to be awarded by way of special damages, subject to the necessary amendments being effected. Instead of that, we consider it more appropriate to take it into account in the assessment of general damages. Thereafter, and when the plaintiff attains optimum recovery, he could be able to—and we must say not without considerable

effort and difficulty—earn something by far lower, if at all, than what he would have been able to earn in his pre-accident condition.

The plaintiff is a young man, at the prime of life and what the future holds for him is impossible to predict, although there are indications which are capable of affording a guide line. It is true that with the present situation in the Island, the opportunities in general for employment are limited, but we cannot possibly take this as a static factor on which to make a calculation. Things may take a turn for the better and may equally take a turn for the worse. What lays in store for the future is anybody's guess and this applies equally to a person's future. A person may excell in something he never imagined as being within his capabilities and he may fail in something he laid all his hopes in. These are the problems the Courts are being confronted with in trying to make a calculation about a man's future.

Considering all the above and keeping in sight the given data, we consider that a figure in the region of £4,000- would be a fair and reasonable one to compensate the plaintiff for loss of future earnings, including pecuniary losses prior to the hearing of this Action.

Notwithstanding the above, the plaintiff's loss is not only pecuniary but also a personal one. He is now what one may easily describe as a 'confirmed epileptic'; and epilepsy is not his only affliction. He has personality changes as well which, combined with the epilepsy, reduce the plaintiff to a person not only unfit for normal employment, but also unfit for normal life. It may well be that on account of the stigma the epilepsy usually carries and which he has to bear for the rest of his life, he may not even be able to lead a normal life or even get married where the smallness of the community is not at all conducive to the erudication of the stigma.

It is further the doctors' opinion that the plaintiff must not drive, which not only may be a handicap in his work whichever form it may eventually take, but also a loss of pleasures of life.

Finally, in assessing the damages, the impaired loss of smell should not be overlooked. It is a substantial compensable loss and it should not be overshadowed by the severity and extent of the other injuries he received.

Having considered every aspect of the case and making all possible allowances, we assess the general damages at the global figure of £10,000–. To this figure, the special damages should be added which amount to the total of £770– (£530– agreed plus £240– loss of part of past earnings)."

It appears from the above quoted passage that the trial Court found, quite rightly, that the appellant became, as a result of the after-effects of his injuries, a person who is not only unfit for normal employment, but who is, also, unfit for normal life; and this is a vital finding to which, in our opinion, particular importance has to be attributed.

Counsel for the appellant has argued that the amount of C£10,000 general damages is an entirely erroneous estimate and that, as a result, it is so very low and inadequate that we should intervene in order to increase it.

We propose to deal, first, specifically with the element of epilepsy:

In *Jones* v. *Griffith*, [1969] 2 All E.R. 1015, Widgery L.J., as he then was, said the following (at pp. 1019–1020) in relation to the possibility of attacks of epilepsy which could, however, be, probably, prevented by sedative drugs:–

" As to the facts of this case and the propriety of the sum assessed by the learned Judge, the problem posed here, of course, is a very familiar one. It arises in all cases of personal injuries where the medical evidence discloses some possibility of future complications, in the form of a deterioration in the plaintiff's condition or a prospect of future attacks, but cannot say with certainty whether or not those complications or attacks are to occur. In these cases the trial Judge has to fix what is a fair and proper figure to cover two conflicting eventualities—one, that the complications may arise, and the other, that they may not.

It seems to me that there is only one practical method of approaching this kind of problem and that is to assess

the sort of figure which would be appropriate in the extreme and serious case where the complications or future attacks were virtually certain. It then becomes possible to discount that figure according to the degree of optimism which is possible in the light of the medical reports. The discounting is not just a matter of simple arithmetic, and it does not follow, if the doctors say that the prospect of recurring attacks is 50:50, that one simply divides the maximum figure by 2. There are many other considerations to have in mind, and in particular the trial Judge must remember that at the best in these cases the plaintiff faces a period, which may be long or short, in which she is fearful of a recurrence of an attack and in which her whole life may be changed because she feels unable to go about her ordinary affairs in the face of that danger. A plaintiff may be reluctant to marry, may be unable to drive a motor car, and may indeed suffer severe psychological disturbances merely from his or her fear of an attack, although that attack may never materialise. The trial Judge must for his own view of the plaintiff and the probable effect of these fears on him or her and must adjust his discounting process accordingly.

In this case I would have thought that the ceiling figure, if the evidence had indicated a virtual certainty of recurrence of attack, would have been of the order of £10,000 or £11,000. I am conscious that that is more than twice the conventional figure for the loss of a limb and nearly four times as much as the conventional figure for the loss of an eye; but I nevertheless think it would be in perspective with those awards. The person who loses a leg or an eye can often adapt himself to his disability and live a happy and useful life. It seems to me that someone who is faced with the virtual certainty of epileptic attacks at frequent intervals cannot nearly so easily adapt himself or herself to the disability which he or she has suffered. On the other hand, if one puts the ceiling figure much above £10,000 or £11,000 one gets into the realm of awards for paraplegic cases, which are clearly much more serious than this. So I would have thought, if I had to decide this case myself, that the maximum figure, on the most gloomy approach to the prognosis, would have been something like £10,000 or £11,000."

The relevant part of the headnote of the report of the case of *Hawkins* v. *New Mendip Engineering Ltd.*, [1966] 1 W.L.R. 1341, reads as follows:-

" On September 2, 1963, the plaintiff, a young man, received a head injury at work. He spent three weeks in hospital and four weeks thereafter returned to his job and had remained at work ever since. He claimed damages for personal injuries against his employers, the defendants. Liability was admitted and the only issue was quantum. After the accident the plaintiff suffered from headaches and had at least two major blackouts. Sedative drugs stopped the major blackouts and reduced the headaches. The plaintiff had lost interest in cricket and table-tennis (games which he had previously played), was forgetful, suffered from deja-vu and also panosmia (the experiencing of non-existent unpleasant smells), and the doctors were of the opinion that those symptoms pointed to a minor form of epilepsy. An abnormal arteriogram and air picture indicated cerebral atrophy which was responsible for his uncinate epileptic attacks. While drugs kept the present minor incidence of the disease in check, there was a 50/50 chance of major epilepsy developing, but no firm prognosis was possible until five years after the accident. If major epilepsy did develop the plaintiff might be virtually unemployable, and there was at present no means of knowing when any major epilepsy might be liable to supervene. The Judge awarded the plaintiff £8,000 general damages.

On the defendants' appeal that the sum awarded was too high:-

Held, that there was no ground for interfering with the award of £8,000."

Two other cases may, also, be referred to in relation, particularly, to the factor of epilepsy; the first one is *Booth* v. *O' Halloran*, a summary report of which is to be found in Kemp & Kemp on the Quantum of Damages, 4th ed., vol. 2, para. 3-311, and the other one is *Stephenson* v. *Cook*, which is to be found summarized in Kemp & Kemp, *supra*, para. 3-318; the reports of these cases read as follows:-

" *Booth* v. *O'Halloran*

1969 C.A. No. 144; April 21, 1969

Salmon, Winn and Fenton Atkinson L.JJ.

The plaintiff was a man aged 23 or 24 at the date of the accident and 31 at the date of the trial. He was employed as a fork-lift truck driver. He was extremely active: he played football and cricket and enjoyed dancing and other usual pursuits. He sustained a head injury causing bruising to the right side of the brain and injuries to both knees. He was in hospital for $2\frac{1}{2}$ weeks and then attended as an out-patient for a total of 35 weeks, after which he returned to work. Osteo-arthritis manifested itself in both knees within a year or two and became steadily and quickly worse. Either 2 or 4 years after the accident he began to suffer from major epileptic fits when he was asleep which had continued ever since. Evidence was given that sometimes he would be without attacks for 2 or 3 months and then would have two attacks in 8 days. Prior to the last medical examination about a year before the trial he had not had an attack for 10 weeks and the attack previous to that had been 4 months before. The probability was that the attacks would continue in their present form, that is to say, during sleep alone. He was more irritable than before the accident. He was left with permanent pain in both knees and limitation of movement, expecially the right knee. He was unable to do work involving squatting, heavy lifting, climbing or any work where normal agility was necessary for his own safety. It was unlikely that any treatment would improve the condition of the knees. This disability would be permanent and rendered him fit only for sedentary work or static work such as a light bench job. There would almost certainly be progressive deterioration in the condition of the knees and he might have to be off work for treatment, possibly by operation, in the future. If an operation was undertaken, he would have prolonged spells of some months off work. Even if the operation was successful, he would still be fit only for sedentary or light static work. He had been deprived of the enjoyment of playing games and leading the active physical life which he had previously led. He had to give up his pre-accident work. In the 7 years between the accident and the trial he had worked for a total of $5\frac{1}{2}$ years doing light work of different kinds and earning between £20 and £14 a week net, but for about a year before the trial he had been unable to obtain employ-

ment. The Court of Appeal held that the trial Judge was wrong in finding that the plaintiff was 'virtually unemployable', and that there was a strong probability that he would be able to find light work after the case was disposed of, though there would still be some continuing loss of earning capacity. The trial Judge awarded him £16,000 damages, including £1,000 agreed special damages.

The Court of Appeal (Winn L.J. dissenting) reduced this award to £12,000 including special damage."

"*Stephenson* v. *Cook*

1974 C.A. No. 292; July 30, 1974

Davies, Orr and Ormrod L.JJ. Appeal from Bean J.

In June 1969, when the plaintiff was aged 10 months, she sustained an extensive closed fracture of the right side of the skull, and as a result suffered from traumatic epilepsy, which first manifested itself in November 1969, when she had a major generalized epileptic convulsion. Thereafter she was treated with anticonvulsant drugs, but had another major epileptic fit in October 1972, and by the time of the appeal, when she was 6 years old, had also had a series, not very large in number, of minor attacks of epilepsy. The prognosis was very uncertain. There was a possibility of further attacks until the end of the adolescent period, up to which time she would have to continue taking the drugs. By adulthood, the possibilities ran from complete recovery to the attacks having become uncontrollable, and the plaintiff might or might not have to continue taking the drugs in adult life. Her intelligence was unaffected, the possibility of her condition's affecting her working life or matrimonial prospects was slight.

The Court of Appeal allowed the plaintiff's appeal against Bean J.'s award of general damages of £6,500, and increased the award to £8,500."

We shall refer, next, to some cases which were decided by our own Supreme Court:

The first is *Roumba* v. *Shakalli and another*, (1969) 1 C.L.R. 537, where an award of C£3,000 was upheld because a boy, eleven years old, had developed, after having suffered much less serious injuries than those of the present appellant, a mild

degree of epileptic condition; Vassiliades P. said the following (at p. 539):-

> "After hearing the evidence adduced by both sides on that issue, including the evidence of three medical specialists, the trial Court reached the conclusion stated in their judgment, that the result of the boy's minor head-injury was the developing of a mild degree of epileptic condition manifesting itself in occasional epileptic fainting spells. According to the two doctors called for the plaintiff (one of them a senior Government specialist) the brain injury in question is of a permanent nature. According to the specialist called for the defence, it may be of a temporary nature. The trial Court accepting the evidence for the plaintiff, found that the slight degree of epileptic condition now found on the boy, was of a permanent nature; and assessing the general damages upon that footing, the Court awarded £3,000."

In *Hassan and others* v. *Neophytou*, (1973) 1 C.L.R. 147, an award of C£5,500 was upheld for injuries to the head which were again less serious than those involved in the present case and when there was only a small risk of epilepsy.

In *Panayi* v. *Handley*, (1976) 3 J.S.C. 417,* an award of C£2,500 was upheld as general damages for much less serious injuries than those suffered by the present appellant and for a mere very small risk (only 5%) of post-traumatic epilepsy.

It has to be borne in mind that each one of the aforementioned cases, both here and in England, were, of course, decided on the basis of its own particular facts; for example, an element which was, apparently, taken very much into account in the *Booth* case, *supra*, was that the epileptic fits were confined only to when the appellant was asleep, and that was, indeed, a factor which rendered his affliction more bearable; also, a reason which, apparently, influenced the award in the *Jones* case, *supra*, was that the appellant in that case did not lose her regular employment, because, due to the benevolence of her employers, she was retained in their employment, on quite good remuneration, notwithstanding the fact that she had become an epileptic.

In the instant case, as it appears from the findings of the trial Court, the appellant, even though he has not become

* To be reported in (1976) 1 C.L.R.

unemployable completely, he is now, due to the after-effects of his injuries, a person of problematic employable capacity, in view of the fact that it is very difficult for him to concentrate on, and to hold, any job.

In addition to having to face the spectre of his epileptic condition the appellant has been deprived of his sense of smell, he has suffered quite a lot of pain and suffering, especially due to a very serious injury which penetrated the skull and damaged his brain; as a result of this injury the appellant has underwent two operations and a third one has been rendered necessary. He has, also, suffered a fracture of his right leg, which necessitated a lot of treatment, and, eventually, his leg became one centimetre shorter than the other. Furthermore, he has suffered disfigurement of his face, with the result that there is a protrusion over one of his eyes which makes it appear to be smaller than the other.

There is no doubt at all that he has been through a very serious ordeal and that he will continue to suffer a lot for the rest of his life; in the circumstances, we have reached the conclusion that the amount of C£6,000, which was assessed as general damages in respect of all the aforesaid matters, as part of the global figure of C£10,000, general damages is so very inadequate and low that we have to intervene in order to increase it to C£9,000.

Coming, next, to the other part of the award of general damages, that is C£4,000 for loss of earnings, we have to note, first, that, as it has been found by the trial Court, the appellant would have reached a stage at which he would have been earning approximately C£13.500 to C£15 per week; taking even the lesser figure as a basis we arrive at the result that he would have been earning approximately C£700 per annum; after making every reasonable allowance for possibly reduced earnings of the appellant we cannot find that his loss of future earnings per annum is anything less than, at least, C£400.

There remains to consider what should be the multiplier by which there should be assessed the future loss of earnings; the Court has not specified this in its judgment—and it was not bound to do so—but, for the purpose of reviewing its award, we have to try and reach ourselves a conclusion on this point.

Counsel for the respondent suggested that a ten years multiplier for the appellant, who was seventeen years old when he was injured, and twenty-one years old when he was awarded damages, was a fair one. His own counsel insisted, however, on a fifteen years multiplier.

Regarding the question of the multiplier, reference may be made to *Cook* v. *J.L. Kier & Co. Ltd.*, [1970] 2 All E.R. 513, where Lord Denning M.R. said the following (at p. 514):-

> " The plaintiff was 38 at the time of the accident, and 41 when it came to trial, with many years of working life before him. The loss of earnings was agreed at £14 a week. The Judge took only eight years as the multiplier of £14 a week. He awarded £5,824 for loss of future earnings. I think that multiplier is too low. I would increase it to ten years. That is, £7,280 altogether for loss of future earnings."

In *Cunningham* v. *Harrison and another*, [1973] 3 All E.R. 463, seven years was found to be the proper multiplier for a plaintiff who was forty-nine years old, whose life expectancy, in view of the injuries he had suffered, was twelve to fifteen years, and who would have retired, in any case, in about ten years.

In our own case of *Antoniades* v. *Makrides*, (1969) 1 C.L.R. 245 it was found (at p. 256) that the multiplier for a sixty-three years old plaintiff should be, at least, four years.

Bearing all the above in mind, we think that the proper multiplier, in the present case, cannot be anything less than twelve years; this results in a round figure of C£5,000 for loss of earnings, so that the total amount of general damages, on a full liability basis, should be increased from C£ 10,000 to C£ 14,000, plus, of course, C£ 770 special damages. When this sum is reduced by 40% it gives us a net amount of C£ 8,862 damages which are due to the appellant in this case.

The appeal, therefore, is allowed, so that the judgment of the trial Court is varied accordingly in favour of the appellant; and we order that the respondent shall pay the appellant's costs of the appeal.

Appeal allowed with costs.