1983 May 14

[A. Loizou, J.]

COSTAS ZACHARIA,

Plaintiff

v.

ELMINI LIONESS INC.,

Defendants

AND AS AMENDED PURSUANT TO THE ORDER OF THE COURT DATED 9.12.78

COSTAS ZACHARIOU,

Plaintiff

v.

1. ELMINI LIONESS INC.,
2. S. CH. JEROPOULLOS AND CO. LTD.,

Defendants.

(Admiralty Action No. 512/77).

Negligence—Master and servant—Safe system of work—Unloading of ship—Fall of stevedore from ladder because of sideways movement of ship—Cause of the accident the absence of a person holding the ladder—Employers of stevedore who were carrying the unloading liable in negligence—Ship-owners not liable—Mere ownership of the ladder by them does not render them liable - Stevedore guilty of contributory negligence to the extent of 20%.

Damages—Special damages—Award for loss of earnings and transport and medical expenses for an operation abroad.

Damages—General damages—Personal injuries—Stevedore aged 47 sustaining a comminuted fracture of the right heel bone—Had to put up with a fair amount of pain and suffering—Permanently unable to be engaged in heavy work—Loss of future earnings—Choice of multiplier—Principles applicable—Multiplier of 10

adopted—Award of C£5000 for all heads of general damages, excluding loss of earnings.

Income tax—Personal injuries—Damages for—Assessment—Need that accurate figures and proper calculations regarding income tax deductions be placed before the Court.

The plaintiff, a stevedore aged 47, was engaged at the port of Limassol and on board the ship "Elmini Lioness" in the discharge of cargo from the ship. In the course of his employment he had to climb on top of a container which was about to be unloaded and used an aluminium ladder, for the purpose, which belonged to the ship. Whilst climbing the ladder he felt a sudden sideways movement of the ship which caused the ladder to slide and fall and with it he fell down and injured himself. He sustained a comminuted fracture of the right heel bone and had to put up with a fair amount of pain and suffering in the course of his treatment. The fracture was initially treated conservatively and plaintiff had to undergo an operation in England sixteen months after the injury with disappointing results. On account of the injuries and the incapacity resulting therefrom plaintiff was permanently unable to be engaged in any heavy work, including the work of a stevedore. The only possible employment he could secure owing to his injuries was sale of lottery tickets from which he could earn C£624 yearly.

Defendants 1 were the owners of the ship and defendants 2 have undertaken the unloading and were the employers of the plaintiff. Expert evidence was adduced to the effect that ladders with rubber shoes should have been used but rubber shoes only stop ladders from sliding outwards and not sidewards which is only prevented if someone holds the ladder. No one has been holding the ladder in question in this case.

In an action for damages by the plaintiff:

Held, (1) that defendants 2 were the employers of the plaintiff and his colleagues and that he was injured as a result of the absence of a safe system of work in breach of the duty of his employers, defendants 2 to consider the situation to devise a suitable system and instruct their men what they should do and also to supply whenever necessary any implements that might be required; that no doubt defendants 2 did not take reaso-

nable care to establish and enforce a proper system or method of work and the breach of this duty by them amounts to negligence for which they are found to be liable to plaintiff; that the task of unloading having been shown by the evidence to have been undertaken by them, no question of any vicarious liability for that negligence falling upon the defendants 1, the owners of the ship, arises; that the mere ownership of the ladder by defendants 1, does not take the case against them any further; that there is nothing to suggest that defendants 1 were required to supply the ladder or that that ladder was used with the authority of defendants 1; that even if that was so, there was nothing wrong with the ladder that was used and there was no evidence whatsoever to suggest that it was wrong to use such a ladder; that the cause of the accident was not the ladder as such but the use into which it was put by the employees of defendants 2; that in the present case it was the absence of a person holding the ladder that was the cause of the accident and not the kind of the ladder used; and that therefore defendants 1 have no liability whatsoever neither vicarious nor several. The action therefore against defendants 1 should be dismissed.

(2) That plaintiff an experienced stevedore and no doubt as a prudent man ought to have known that a metallic ladder resting on a smooth metalic surface might slide especially when used on a ship that cannot be considered to be steady as the earth; that, therefore, he contributed to his own injury by 20%.

(3) That in addition to damages for loss of earnings (C£11,000) plaintiff will be allowed an amount of C£50.- travelling expenses in Cyprus as well as an amount of £2,510.- medical fees, physiotherapy, transport and other expenses, incurred by the plaintiff for the operation he underwent in England which were reasonably incurred in the circumstances.

(4) After stating the principles governing the choice of a multiplier - vide pp. 427–429 post - and finding that the net annual income of plaintiff was £3,000:

That general damages are awarded for the physical injury, pain and suffering, loss of amenity of life and the loss of future earnings; that for loss of future earnings a multiplier is used in order to reduce the element of uncertainty and provide an

objective basis for the assessment of damages: that bearing in mind the criteria applicable for the choice of a multiplier, including the age of the plaintiff, a multiplier of 10 will be adopted: that, therefore, deducting C£624 his earnings from sale of lottery tickets - from a net income of C£3,000 there remains an amount of C£2,376 making a total of C£23,760: that for all the other heads of general damages, excluding loss of earnings, there will be awarded to plaintiff C£5,000.

Observations.

It is regrettable that in this case, as in many other cases, no accurate figures and proper calculations regarding income tax deductions are placed before the Court and so make the task of the trial Judge difficult and equal to a tax assessor or an accountant, without even having the exact figures before him. Yet, as I had to give effect to the principles of law regarding income tax deductions, I had to make a rough estimate of the amounts involved, considering the family set up of the plaintiff.

Judgment for plaintiff as above against defendants 2. *Action against defendant* 1 *dismissed.*

Cases referred to:

Paraskevaides (Overseas) Ltd. v. Christofi (1982) 1 C.L.R. 789 at p. 794;

Tziellas v. The Ship "Nadalena H" (1982) 1 C.L.R. 807.

Admiralty action.

Admiralty action for damages for personal injuries suffered by plaintiff whilst working in an unloading operation on board the ship "Elmini Lioness".

A. Lemis, for the plaintiff.

St. McBride with *G. Christodoulou,* for defendants 1.

A. Neocleous, for defendants 2.

Cur. adv. vult.

A. Loizou J. read the following judgment. The plaintiff a stevedore, aged 47 met with an accident on the 3rd October 1976 whilst working as such at the port of Limassol on board the ship "Elmini Lioness".

The cargo to be discharged consisted of containers of a weight of about 20 tons placed on deck and there were engaged two gangs of nine stevedores working under the command of Georghios Koulountis, D.W.2, who was the foreman of defendants 2. Each gang consisted of three winchmen and six porters. The one gang was working on deck No. 1 and the other on deck No. 2. The two decks were separated by two electrically operated winches the one lifting the containers from deck No. 1 and the other from deck No. 2. Four of these stevedores had to climb on top of the first container to be unloaded in order to fasten on to its four corners the hooks of the winch for its lifting and discharge. An aluminium ladder, which belonged to the ship, as stated by Koulountis and also by Demetrios Fifsis, D.W.1, a Port Captain in the employment of defendants 1 who said that such ladders are purchased by the masters of the ships for the use on board, was used by the plaintiff and his fellow stevedores in order to climb on top of the container. Its height was about ten feet and the height of the container was 7 1/2 to 8 feet. The ladder was so placed as to stand on the deck and with its top part leaning on the top of the container and through their difference in height its top part protruded by about 2 - 3 feet.

Work started at eight and two of the stevedores already climbed to the top of the container. The plaintiff was the third to do so and there was a fourth to follow. Whilst climbing the ladder and when he reached the top of the container and his chest was protruding above its top he felt the tilting or listing or a sudden sideways movement of the ship which caused the ladder to slide and fall and with it he fell down and injured himself.

The system used on that day for stevedores to get on top of the containers and fix the hooks of the winch for their lifting and discharge was the same as that used on any other previous occasion.

Vrionis Demosthenous D.W.3, a Safety Officer with the Port Authority was engaged in July 1977. When he took up his duties he observed that the unloading of containers was done by means of using a ladder made of aluminium or other metal, so that the stevedores would get on top of the containers to hook them or use a "spreader" in order to lift them with the winch.

For the sake of safety he brought changes to this system of work by (a) prohibiting the lifting of workers on top of containers by means of the spreader and (b) by having bottom rubber shoes fixed to such ladders, but no hooks were placed on the top of the ladders to catch on the containers, as he had seen nowhere such hooks being used. The use of rubber shoes, he explained was to stop the ladder sliding outwards, not to prevent the ladder from sliding to the right or left if the ship tilts. To stop that another person has to hold the ladder when one is climbing it. The holding of a ladder by someone, he stressed, is a matter of safety for the purpose of preventing the ladder from sliding as the rubber shoes are not enough. This is the evidence that comes from the side of defendants 2.

Georghios Koulountis, D.W.2, the foreman of defendants 2 gave a somehow conflicting version. He said that he first went to deck No. 1 in order to instruct the workers how to work. Then he went to deck No. 2 where he saw the plaintiff lying on the deck injured having fallen off the ladder. He said that he had given instructions to the workers before they started work that they should take care of the ladder being properly placed, that they should put the ladder properly and that they should call him so that he should examine the ladder in order to see if it was properly placed, as they had instructions from "the insurance", (from the safety at work people) that once there were no hollow parts to place the ladder that there should be somebody to hold it. He then went on to say that it was Vrionis who gave them instructions that somebody should hold the ladder when in use but he did not give instructions to the plaintiff not to get on the ladder unless somebody was holding it because he did not have time to do it before he fell as he had gone first to deck No. 1 for the purpose of giving instructions. He also said that they had orders not to start work unless he gave them his instructions, but they did, however, start work before he gave them instructions and the reason he gave for the stevedores hurrying to start work the earliest possible was because of the fact that they were paid on the incentive system and so they get more pay for unloading more cargo.

What Koulountis has said about instructions is obviously either an afterthought or, to say the least, a mistake as to when the accident happened. That that is so is born out from the

fact that he spoke of instructions which included the holding of the ladder by another stevedore whilst somebody was climbing up, which he said were given by Vrionis, who at the time of this accident admittedly was not in the employment of the Port Authority and he could not have given safety instructions and orders before he was so engaged.

Defendants 1 called their Port Captain Demetrios Fifsis who spoke about the listing of ships in the category of "Elmini Lioness" to the effect that in no circumstances same can exceed three degrees and that one would not expect in that case a ladder to slide. He also testified about the position of the cranes which consist of two booms attached to the mast in the middle of the ship and which turn around so that the one operates on the front part of the vessel and the other on the rear. He said that the movement of the winches can be done at two speeds, though normally when loading and unloading the slow speed is used in order to avoid the wires of the cranes being tangled. He said that there could be no sudden movement as the overload of the crane would fall and so stop working. Whatever the position is, the fact remains, and there is uncontradicted evidence in that respect, that because of a movement of the ship the ladder slided to the side, fell and it dragged with it the plaintiff.

On the evidence before me I have no difficulty in coming to the conclusion that defendants 2 were the employers of the plaintiff and his colleagues and that he was injured as a result of the absence of a safe system of work in breach of the duty of his employers, defendants 2 to consider the situation to devise a suitable system and instruct their men what they should do and also to supply whenever necessary any implements that might be required.

No doubt defendants 2 did not take reasonable care to establish and enforce a proper system or method of work and the breach of this duty by them amounts to negligence for which they are found to be liable to plaintiff. The task of unloading having been shown by the evidence to have been undertaken by them, no question of any vicarious liability for that negligence falling upon the defendants 1, the owners of the ship, arises. The mere ownership of the ladder by defendants 1, does not take the case against them any further. There is nothing to

suggest that defendants 1 were required to supply the ladder or that that ladder was used with the authority of defendants 1. But even if that was so, there was nothing wrong with the ladder that was used and there was no evidence whatsoever to suggest that it was wrong to use such a ladder. The cause of the accident was not the ladder as such but the use into which it was put by the employees of defendants 2. It was suggested by expert witnesses, that ladders with rubber shoes should be used but rubber shoes only stop ladders from sliding outwards and not sidewards, which is only prevented if someone holds the ladder. In the present case it was the absence of a person holding the ladder that was the cause of the accident and not the kind of the ladder used. For all these reasons I find that defendants 1 have no liability whatsoever neither vicarious nor several. The action therefore against defendants 1 should be dismissed.

It remains now to consider whether the plaintiff is also to blame for his own conduct in disregarding an obvious danger and thus contributing to his own injury. He is an experienced stevedore and no doubt as a prudent man he ought to have known that a metallic ladder resting on a smooth metallic surface might slide especially when used on a ship that cannot be considered to be steady as the earth. I have no doubt in concluding that he contributed to his own injury. On apportioning liability I find that defendants 2 are liable by 80% and the plaintiff by 20%.

Having come to this conclusion on the issue of liability I turn to the question of damages.

Relevant to this issue are the medical reports on the plaintiff which have been produced by consent in a bundle and they are the following:

One by Dr. Elias Georghiou issued on the 3rd June 1979 in his capacity as an orthopaedic surgeon at the Limassol Hospital. A second report by the same doctor dated the 19th January 1978 containing a reassessment of the patient's condition as on that date and a medical report by Dr. George Tornaritis, who examined the plaintiff on behalf of defendants 1 on the 30th May 1980 and issued on the 1st June 1980. They have been marked as exhibit 1 (a), (b) and (c) respectively. I need not reproduce them in full but only such extracts therefrom as they give the

overall picture of the plaintiff's condition from the moment of the accident to the last assessment of his situation.

In exhibit 1(a) we see the condition of the plaintiff at the time of the accident and a re-assessment of his condition as on 3rd June 1977. A clinical examination revealed:

"- Marked swelling and bruising all over the ankle joint.
- Tenderness over the calcaneum.
- Painful passive movements.
- Impossible active movements.
- He was unable to put weight over his right foot.

X- Rays taken showed comminuted fracture of the right calcaneum, involving the subtaloid joint.

He was treated with a below knee plaster for a period of 6 weeks. Following the immobilization he was put on physiotherapy (foot and ankle exercises, farradic foot baths).

His condition was reviewed at the Out-Patients fracture clinic regularly. The physiotherapy treatment continued until the middle of May, 1977.

Granted sick leave: 3.10.76 - 30.6.77.

2. *PRESENT CONDITION*

The patient's condition was re-assessed today for the purpose of the present reports. The patient claims the following:

- unable to walk without the help of a stick
- pain over the fracture site
- swelling over his affected ankle and foot, worse at nights
- stiffness of the ankle and foot joints
- unable to walk long distances.

3. *EXAMINATION*

On examination today, the following findings can be recorded:

- Swelling around the ankle joint extending to the dorsum of the foot.

- Restricted movements in all directions, particularly in abduction and adduction.
- Tenderness over the right heel.
- Walks with the use of a stick.

4. *OPINION - PROGNOSIS - CONCLUSION*

The accident in which this patient was involved resulted to a comminuted fracture of the right calcaneum.

The fracture has healed by now, but the patient still has complaints as described in part 2 of this report.

- Since the fracture involves the subtaloid joint, the prognosis is more serious.
- He will be permanently subjected to pain and swelling as well as stiffness.
- His residual functional impairement consists of lowering of his pre-injury abilities to walk distances, or over rough surfaces.
- Osteoarthritis of the affected subtaloid joint will occur in the future. This complication will worsen his present condition.
- An operation (arthrodesis of the affected joint) may be required at a later stage."

Doctor Georghiou re-assessed the condition of the plaintiff on the 19th January 1978 (exhibit 1(b)) and under the heading, "OPINION - PROGNOSIS - CONCLUSION", he states:

"From the foregoing, the following may be fairly concluded:

A) The fracture which this patient suffered following his accident on the 3rd of Oct. 76, required further surgical treatment, the operation having been done on the 7th of Oct. 77, in a London Hospital. This entailed considerable pain and suffering for a long period of one week followed by inconvenience and discomfort for a period of 3 months.

B) The results of the operation are doubtful. The swelling and stiffness have in a degree worsen and the pain is persisting.

C) Though I expect some progress as time goes on, I feel that the patient will be permanently subjected to swelling, pain and stiffness of his Right ankle joint.

D) I do not feel that he will be able to carry out any type of job which involves hard labouring work, lifting, or prolonged standing."

Dr. Tornaritis on examining the plaintiff on the 30th May 1980 certified the following (exhibit 1(c)):

"1. Patient walks with a limp and the aid of a stick.

2. 10 cm long scar over the right iliac crest, posteriorly

3. 15 cm long scar on the posterior aspect of the right lower leg and ankle.

4. Discoloration of the skin and some trophic changes around the right ankle with induration of the tissues.

5. 1 cm circumferential wasting of the right calf.

6. 2.5 cm circumferential swelling of the right ankle.

7. Gross limitation of the range of motion of the right ankle joint. Inversion and eversion are practically nil.

8. X-rays of the right ankle and foot show arthrodesis of the sub-talar joint and widening of the os calcis.

Opinion: This patient sustained a comminuted fracture of the right os calcis (heel bone) in a fall at work four years ago. He had to put up with a fair amount of pain and suffering, during the course of his treatment. The fracture was initially treated conservatively; in an attempt to improve the results and because of involvement of the sub-talar joint, arthrodesis of the latter was carried out in England about sixteen months after the injury. The results of the operation have been disappointing and function of the ankle joint remain poor, while the pain persists. In spite of the time that has elapsed since the operation no appreciable change has been observed therefore his condition is considered as permanent. He will be unable to engage in any heavy work."

When producing the medical certificates it was further agreed by the parties that "within the context of heavy work, which is stated by all doctors in all medical reports, and for which the plaintiff has been found unable to engage himself on account of the injuries he suffered and the incapacity resulting therefrom, the work of a stevedore is also included.

It has been further agreed that the work of a stevedore is such a heavy work as it is stated by all doctors in the said medical reports, to be unable to perform."

It is alleged in para. 1 of the amended statement of claim filed on the 14th February, 1981, that the plaintiff was at the material time earning C£50.- per week. This he confirmed on oath in evidence when he further stated that the earnings of stevedores at the time of the hearing of the action were about C£3,000.- a year and that he had been unemployed on account of his condition from the date of the accident until he started selling lottery tickets just before 1981. In fact, he said that he had made no effort to secure employment earlier because relying on what the doctors were telling him he was hoping that he would soon become well. His earnings from the sale of such lottery tickets have been C£12.- a week or C£624.- per year. Cleanthis Cleanthous (P.W.4), the Secretary of the Limassol Branch of the Stevedores and Transport Workers Union stated that the basic wage of stevedores on the List 'B' was C£8.360 but on account of the incentive basis system of remuneration which is of a permanent nature as it has been incorporated in the Collective Agreements since 1968 brought the earnings of such a stevedore to about C£3,000 - C£3,500.- per year. He also stated that in 1979 their earnings ranged between C£2,600.- and C£2,700.- per year and though he could not give the average working days of a stevedore for any particular month, such average per year between 220 and 250 days.

On this evidence I shall allow to the plaintiff as loss of earnings from the date of the accident, i.e. the 3rd October, 1976, to June, 1981, a period of about four years and five months, at an average of C£2,500.- net per year, C£11,000. This is the period covered by the amended statement of claim. To this figure an amount of C£50.- travelling expenses in Cyprus has to be added, as well as an amount of C£2,510.- medical fees, physiotherapy, transport and other expenses, as shown in detail

in the particulars of special damages, incurred by the plaintiff for the operation he underwent in England. Though these items were questioned by the defendants in their cross-examination, yet there is nothing in the evidence to suggest that these expenses were not reasonably incurred in the circumstances. This makes C£13,560.- the total of special damages.

General damages are awarded for the physical injury, pain and suffering, loss of amenity of life and the loss of future earnings. A multiplier is used in order to reduce the element of uncertainty and provide an objective basis for the assessment of damages. As pointed out in *Paraskevaides (Overseas) Ltd. v. Christofi* (1982) 1 C.L.R., p. 789, at p. 794, by Pikis, J., in delivering the judgment of the Court:

> "The multiplier is intended to reduce, so far as reason and common sense make it possible, the element of uncertainty in the process and provide an objective basis for the assessment of damage while inducing, at the same time, an element of uniformity in the awards. The multiplier is chosen primarily, but not exclusively, by reference to the age and state of health of the injured party and to a lesser extent his employment prospects. His age is the first denominator. The nature of his work and the hazards associated with it though secondary constitute nonetheless important indicators on future loss. Ultimately a figure must be chosen best designed to yield the present value of future loss. Therefore, the figure chosen by reference to the factors above listed must be scaled down sufficiently to reflect the present value of future loss. Justice and fairness should guide the Court throughout the process of assessment of damage. (See dicta of Geoffrey Lane, L.J. in *Service Europe Atlantique v. Stockholmes* [1978] 2 All E.R. 764).
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> If the cases establish any principle it is this: No hard and fast rules can be established giving a uniform answer to the choice of the multiplier in every case (see *Taylor v. O'Connor* [1971] 1 All E.R. 365 (H.L.); *Gavin v. Wilmot Breeden Ltd.* [1973] 3 All E.R. 935 (C.A.); *Poutiou v. Constantinou* (1973) 1 C.L.R. 177)".

Whilst on this point I may refer also to the case of *Georghios Tziellas v. The ship "NADALENA H"*, (1982) 1 C.L.R. 807, a

case referred to with approval in the *Paraskevaides* case (supra) where Pikis, J., by his admirable statement of the law pertaining to the question of damages has made my task easier by adopting and quoting him in this judgment what he said at pages 820 - 822:

"Justice and fairness are the guiding principles to the award of damages. (See, dicta of Geoffrey Lane, L.J., in *Services Europe Atlantique v. Stockholmes* [1978] 2 All E.R. 764). A sum must be found in each case that does justice to the loss of the injured party but fair to the defendant as well, in the sense that it should not impose a socially unacceptable burden upon him. (See *Fletcher v. Autocar and Transporters Ltd.* [1968] 1 All E.R. 726 - *Constantinou v. Salahouris* (1969) 1 C.L.R. 416). Estimation of future loss inevitably imports a degree of uncertainty and presents distinct problems. Uncertainty is to a degree reduced if made on the basis of presently known facts and, the relevant date for the ascertainment of these facts is naturally the date of trial. My finding here is that plaintiff presently loses £45.- per month as a result of his injuries and is likely to suffer the same loss, or a greater loss, in the foreseeable future. The loss presently accruing is projected over years to come. A multiplier is the yardstick ordinarily employed to articulate this loss. It is a figure chosen by reference to plaintiff's expectation of life, on the one hand, and the vicissitudes of life generally, especially the hazards associated with the type of work and style of life of the plaintiff, on the other. This number is not co-extensive with the injured party's expectation of life. It is a lesser figure to take account of the uncertainties of life as well as the fact that future earnings are presently paid. The object of the exercise is to arrive at an amount that is fair in all the circumstances of the case. The use of a multiplier is not inevitable though, ordinarily, it is regarded as the most reliable process for the quantification of future loss (see, *Joyce v. Yeomans* [1981] 2 All E.R. 21 (C.A.)). No provision should be made except in exceptional circumstances for countering future inflation, something that may be offset by an appropriate investment of the capital presently received (*Lim v. Camden Health Authority* [1979] 2 All E.R. 910(H.L.); *Cookson v. Knowles* [1978] 2 All E.R. 604).

Losses of earnings that have accrued by the date of trial are a known fact and should be awarded as such, as a type of special damage. Future uncertainties do not enter into it. (*Dodds v. Dodds* [1978] 2 All E.R. 539). In my judgment, the plaintiff is entitled to the sum of £1,125.- for the loss sustained during the period following 22.9.1980 when he resumed work.

The multiplier must be chosen by reference to his present age, 37 years old. No hard and fast rules can be laid down with regard to the choice of the multiplier. (See, *Taylor v. O'Connor* [1971] 1 All E.R. 365 (H.L.); *Gavin v. Wilmot Breeden Ltd.* [1973] 3 All E.R. 935 (C.A.); *Poullou v. Constantinou* (1973) 1 C.L.R. 177).

Counsel for the plaintiff suggested that the multiplier should be fixed at 14. In the case of *Curium Palace v. Eracleous* (1979) 1 C.L.R. 26, a multiplier of 12 was chosen in the case of a man having approximately the age of the plaintiff. The plaintiff in that case was a mason who fell down from a ladder, as in this case, whilst in the employment of the defendants. A multiplier of 14 was adopted by Tasker Watkins, J., in *Owens v. Brimmell* [1976] 3 All E.R. 765, where the injured party was in his early twenties, whereas a multiplier of only 10 was adopted in the case of *Nicos Karaolis and Another v. Ioannis Charalambous* (1976) 1 C.L.R. 310."

Bearing in mind the criteria laid down in the aforesaid judgments, including the age of the plaintiff, I have adopted a multiplier of 10; so from a net income of C£3,000.- at the time of the trial, we have to deduct C£624.- his earnings from what appears to be the only possible employment he could secure owing to his injuries, the sale of lottery tickets, which leave an amount of C£2,376.-, which makes a total of C£23,760.-.

It is regrettable that in this case, as in many other cases, no accurate figures and proper calculations regarding income tax deductions are placed before the Court and so make the task of the trial Judge difficult and equal to a tax assessor or an accountant, without even having the exact figures before him. Yet, as I had to give effect to the principles of law regarding income tax deductions, I had to make a rough estimate of the amounts involved, considering the family set up of the plaintiff.

For all the other heads of general damages, excluding loss of earnings, I award to the plaintiff C£5,000.- which give us the total figure of special and general damages on a full liability basis as being C£42,320.- out of which on an 80% liability the plaintiff is entitled to C£33,856.- for which amount judgment is given in his favour against defendants 2 with legal interest and costs.

Case against defendants 1 dismissed with costs.

Judgment against defendants 2 *for* C£33,856.-.
Case against defendants 1 *dismissed.*