

IN THE SUPREME COURT OF THE TERRITORY OF PAPUA AND NEW GUINEA	}	CORAM: FROST, J. Friday 30th May, 1969.
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THOMAS CURNOW NOAL

v.

MAUA PAPENA

REASONS FOR JUDGMENT

May 22nd, 30th
PT. MORESBY
Frost, J.

The plaintiff, who is now 54 years of age, was injured on the 1st October, 1967, when his car was in collision on the Rouna Road with a utility driven by the defendant.

He suffered a severe blow to the nose, without fracture, a severely bruised chest and a fracture of the fourth metacarpal bone of the left hand. He was kept in hospital for about four days. His chest was strapped and this was very painful, as was also his nose, which was greatly swollen. His left hand was placed in plaster for about two months and after that, when the plaster was removed, it was strapped up. Unfortunately, the disuse of the muscles has left him with a permanent injury to the left ring finger, which has a 20° limitation of movement and cannot be straightened. This injury too was painful and he still gets twinges of pain, although these are diminishing. He says that he cannot breathe through his nose, but Mr. Smyth is unable to relate this condition to the accident. His nose has healed, leaving a slight deviation of the lower half of the nose from its normal position.

The plaintiff's residual incapacity in the left ring finger is important because of his occupation as a

chief aircraft engineer for Patair. His duties are supervisory and at present the finger is no handicap, but if he lost his present position and was compelled to go back to the actual performance of engineering work in the aircraft industry, he would be at a disadvantage in seeking employment. His disability affects him in this manner. Because he cannot straighten the finger, he is unable to place his left hand in the small apertures to be found in engines. The strength of the hand is diminished and it interferes with him getting the maximum efficiency out of the use of two hands. If he were required to lift a heavy object, he would need to get assistance. However, there is no osteo-arthritis in the joint and Mr. Smyth is unable to account for any twinges that he might receive at this stage, so long after the accident.

Mr. Pratt submits that in this case I should take into account in assessing damages particularly the effect of this hand injury on the plaintiff's earning capacity. He cited Teubner v. Humble (1). He submits that although he is not handicapped at the moment, it is possible that, with a change of circumstances, the plaintiff will find it a handicap in his employment and thus affect his earning capacity. I have reached the conclusion that this consideration is a factor to be taken into account, but the evidence is to be viewed as a whole and it must be borne in mind that the plaintiff has reached a senior position in the aircraft industry and it is unlikely that he will have to go back to the actual performance of engineering work. Moreover, he should be able to compensate to some extent for his

(1) 108 C.L.R. 491.

injuries as he does now on occasion when he changes his position and uses his right hand.

I accordingly award the sum of \$2000 for general damages, to which is to be added the sum of \$29 special damages, making a total of \$2029.00. The account for the medical report which was tendered in evidence is to be included in the plaintiff's costs and not in the damages.

Solicitors for the Plaintiff: Craig Kirke & Pratt
Solicitor for the Defendant: A. L. Godfrey, Esq.