

IN THE HIGH COURT OF AUSTRALIA

SINCLAIR

v.

SULLIVAN

REASONS FOR JUDGMENT

Oral

Judgment delivered at... Sydney

on Tuesday 18th November 1969

60087/68-A112

1

SINCLAIR

v.

SULLIVAN

ORDER

Appeal dismissed with costs.

SINCLAIR

v.

SULLIVAN

JUDGMENT

(ORAL)

BARWICK C.J.

SINCLAIR

v.

SULLIVAN

Mr. Ash has put before us quite clearly the view that the primary judge was not entitled to accept Dr. Paver's evidence at what I might call face value, or in toto; and that on the footing that the primary judge was not so entitled, Mr. Ash says that the verdict is excessive. He also puts an alternative argument that even if Dr. Paver be accepted, nonetheless the verdict is excessive.

In my opinion, the primary judge was entitled to accept the opinion of Dr. Paver as to the ability of the respondent to do work of a remunerative nature. It was, as it has been said, a gloomy prognosis. But accepting it, the award could not, in my opinion, be said to be wholly erroneous, so inordinately disproportionate to the injuries of the respondent that it ought to be set aside. Consequently, I agree with the conclusion of the majority of the Supreme Court and, in my opinion, the appeal should be dismissed.

SINCLAIR v. SULLIVAN

JUDGMENT
(ORAL)

KITTO J.

SINCLAIR v. SULLIVAN

Justice. I am of the same opinion as the Chief

SINCLAIR

v.

SULLIVAN

JUDGMENT
(ORAL)

MENZIES J.

SINCLAIR

v.

SULLIVAN

I agree with the Court of Appeal that there is not sufficient reason for concluding that the learned trial judge could not accept the whole of the evidence of Dr. Paver. I understand and share the misgiving of the Chief Justice of the Supreme Court about the amount of the verdict, but, having regard to Dr. Paver's evidence, I cannot go to the length of a positive conclusion that the award was beyond the limits of a sound, discretionary judgment.

I therefore agree that the appeal should be dismissed.

SINCLAIR

v.

SULLIVAN

JUDGMENT
(ORAL)

WINDEYER J.

SINCLAIR

v.

SULLIVAN

I agree that the appeal should be dismissed.
I do not think that it has been established that their
Honours in the Court of Appeal were wrong in the view
they took. I think that this Court should not interfere.

SINCLAIR

v.

SULLIVAN

JUDGMENT
(ORAL)

OWEN J.

SINCLAIR

v.

SULLIVAN

I agree that the appeal should be dismissed.