

IN THE HIGH COURT OF AUSTRALIA

THE KING EDWARD MEMORIAL HOSPITAL
FOR WOMEN

V.

D'ZERA

REASONS FOR JUDGMENT

Judgment delivered at PERTH

WEDNESDAY, 9TH SEPTEMBER 1970.

THE KING EDWARD MEMORIAL HOSPITAL FOR WOMEN

v.

D'ZERA

ORDER

Appeal dismissed with costs.

THE KING EDWARD MEMORIAL HOSPITAL FOR WOMEN

v.

D'ZERA

JUDGMENT

(ORAL)

BARWICK C.J.

THE KING EDWARD MEMORIAL HOSPITAL FOR WOMEN

v.

D'ZERA

The Court does not wish to hear you, Mr. Smith. Mr. Parker has elaborated fully and quite fairly his various criticisms of the learned Chief Justice's award of damages in this case including that part which his Honour gave for loss of past earnings and the loss of earning capacity and that part which his Honour gave for the permanent disability resulting from the accident by which the respondent was injured.

Having listened to what Mr. Parker has said, and having read the material parts of the evidence, particularly those parts to which he has referred, I am not convinced that his Honour's award of damages transcended the limits of a proper exercise of judicial discretion in assessing damages.

I would accept the submission that the award was generous in amount but it must be remembered there were some imponderables in the case which his Honour had to reflect in the amount at which he arrived. This circumstance in itself naturally introduced a degree of latitude in assessment. In all the circumstances of the case the award was not, in my opinion, excessive in the relevant sense; that is to say, it did not exceed the bounds of a reasonable exercise of discretion.

As so often in these cases, the circumstances of the case are unusual and particular to the case. Consequently, in general no useful comparison can be made either in this or in any other case between awards made or contemplated in different circumstances. I would dismiss the appeal.

THE KING EDWARD MEMORIAL HOSPITAL FOR WOMEN

v.

D'ZERA

JUDGMENT
(ORAL)

MENZIES J.

THE KING EDWARD MEMORIAL HOSPITAL FOR WOMEN

v.

D'ZERA

I agree.

THE KING EDWARD MEMORIAL HOSPITAL FOR WOMEN

v.

D'ZERA

JUDGMENT
(ORAL)

WINDEYER J.

THE KING EDWARD MEMORIAL HOSPITAL FOR WOMEN

v.

DIZERA

I agree.

THE KING EDWARD MEMORIAL HOSPITAL FOR WOMEN

v.

D'ZERA

JUDGMENT
(ORAL)

WALSH J.

THE KING EDWARD MEMORIAL HOSPITAL FOR WOMEN

v.

D'ZERA

I agree.

THE KING EDWARD MEMORIAL HOSPITAL FOR WOMEN

v.

D'ZERA

JUDGMENT
(ORAL)

GIBBS J.

THE KING EDWARD MEMORIAL HOSPITAL FOR WOMEN

v.

DIZERA

I agree.