

SIIANKOSKI AND ANOTHER

v.

LOCK

(ORAL)

Heard: 14th August, 1973.

At: Sydney.

CORAM: MENZIES J.

WALSH J.

GIBBS J.

STEPHEN J.

MASON J.

ORDER:

Appeal dismissed with costs.

Delivered: 14th August, 1973.

At: Sydney.

SIIANKOSKI AND ANOTHER

v.

LOCK

JUDGMENT
(ORAL)

MENZIES J.
WALSH J.
GIBBS J.
STEPHEN J.
MASON J.

SIIANKOSKI AND ANOTHER

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MENZIES J. The order of the Court is that this appeal should be dismissed with costs and I will ask Mr. Justice Gibbs to give the reasons for that decision.

GIBBS J. We are of opinion that this appeal should be dismissed. We do not reach this conclusion by any reliance on the reasoning adopted by either of the members of the majority of the Court of Appeal because in our view no question of onus of proof or of mitigation of damages had any part in this case.

Even accepting the evidence of Dr. Winston we are left with the firm conviction that any earnings which the respondent may be expected to receive will fall far below those which he would have been likely to receive had he not been injured. His prospects of work are very uncertain and if he obtains employment it can only be in a sheltered workshop or because of the assistance of a sympathetic employer.

Having regard to his poor economic prospects and to the serious injuries and disabilities he has suffered, which deny him any prospects of normal living, we are of opinion that the award made by the learned trial judge was manifestly inadequate and that an award of \$75,000 is not one with which we would interfere.