

OWENS

v.

BOSWELL

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**REASONS FOR JUDGMENT**

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ORAL Judgment delivered at SYDNEY  
on THURSDAY 21 AUGUST 1975

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459.

July 75  
21:8:75

459.

OWENS

v.

BOSWELL

ORDER

Appeal dismissed with costs.

OWENS

v.

BOSWELL

JUDGMENT

ORAL

BARWICK C.J.

OWENS

v.

BOSWELL

It seems to me that the Court of Appeal in this case has been alert to the need for restraint on the part of an appellate court in dealing with an appeal upon what really is a question of fact, particularly when it is a question as to the amount of damages awarded by a court of first instance.

No error of law is apparent in the Court's reasons for judgment. The Court thought the award of damages so inadequate, so disproportionate to the injuries and their consequences as to manifest error on the part of the trial judge which called for correction.

The question now before us is whether the Court of Appeal was unreasonable in taking that view. Whatever I might think myself as to what ought to be the proper award to have been made, and that is of course not a question now before us, I am unable to conclude that the Court of Appeal could not reasonably take the view that the award

of the trial judge of general damages was quite disproportionate to the respondent's injuries and their consequences, physical, including pain and suffering, cosmetic and economic.

Unless it could be said that the Court of Appeal took an unreasonable view of the relationship of the award of damages to those injuries, no error of law would appear and the Court's view should not be disturbed.

Consequently, I would dismiss this appeal.

OWENS

v.

BOSWELL

JUDGMENT  
(ORAL)

McTIERNAN J.

OWENS

v.

BOSWELL

I am of the same opinion.

PETER MICHAEL OWENS

v.

RUTH BOSWELL

JUDGMENT  
(ORAL)

STEPHEN J.



PETER MICHAEL OWENS

v.

RUTH BOSWELL

I agree.

OWENS

v.

BOSWELL

JUDGMENT  
(ORAL)

MASON J.

OWENS

v.

BOSWELL

I agree.

OWENS

V

BOSWELL

JUDGMENT.

MURPHY J

OWENS

v

BOSWELL

I agree.