Personal Injury

Supreme Court reverses law on multipliers for fatal accident claims

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On 24th February 2016, The Supreme Court handed down its decision in the case of Knauer v Ministry of Justice.

In a major victory for claimants, multipliers in fatal accident claims will be brought in line with personal injury and clinical negligence cases after The Supreme Court reversed a 37-year-old decision of the House of Lords. Lord Neuberger and Lady Hale gave the judgment of the court and stated that their Lordships 'had no hesitation' in deciding that the law had to be changed. The decision will mean that bereaved relatives' damages are no longer assessed on a less generous basis than those for injured claimants, thus removing a significant anomaly in the law of negligence. Damages are likely to increase significantly in cases where the deceased had a well-paid job or good pension, or where the surviving dependants have a substantial need for care and assistance (as in the case of Mr Knauer following the death of his wife after exposure to asbestos).

The previous decision of the House of Lords in *Cookson v Knowles (1979) AC 556* had required damages for future dependency to be calculated from the date of death, not the date of trial. Their Lordships noted that this decision was made 'in another era' when the Ogden Tables were not available and multipliers were not calculated scientifically. This led to under-compensation, most markedly in cases where there was a long period between death and trial/settlement. The advent of the Ogden Tables and their admissibility in evidence means that it is possible to calculate damages from the date of trial without over-compensating the dependants, provided that the possibility of the deceased dying of natural causes between the actual date of death and the date of trial is taken into account. Lord Lloyd's opinion in *Wells v Wells [1999] 1 AC 345* was cited and applied – the tables should be the starting point. The Court applied the 1966 Practice Statement so as to depart from *Cookson*. Clearly claimants will have to give credit when calculating losses between death and trial for the (usually small) possibility of a natural death during that period.

This is an important decision for all practitioners in Fatal Accident cases, and a very good outcome for claimants. In *Knauer* the financial effect of the decision was to increase damages by more than £50,000. In cases involving the death of high-earners the effect will be even more pronounced.

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