

Munkman

Damages for Personal
Injuries and Death
Sixth edition



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Damages for Personal Injuries and Death

By the same author:

The Law of Quasi Contracts

The Technique of Advocacy

Employer's Liability at Common Law

Preface to the Sixth Edition

This edition comes at a fortunate moment. The House of Lords has just given a series of decisions of great value. These simplify the assessment of damages in a number of respects, notably by giving clear guidelines for the calculation of future loss which has hitherto varied from one judge to another. I have re-written large sections of the text on this subject, e.g. pp. 51–55. To supplement this I have added in Appendix I a table of present values of annuities (this is at 5-year intervals, but it is not difficult to make a rough interpolation for intermediate periods). I have to thank Shaw & Sons Ltd for their kind permission to reproduce this from their standard publication *Archer's Compound Interest and Annuity Tables*. I have used this myself for years as included in Shaw's Diary, and have never needed anything more elaborate. I have also included in Appendix II a table of expectation of life.

The English law of damages on death was consolidated in the Fatal Accidents Act 1976. The Scottish law was modernised by the Damages (Scotland) Act 1976 and is in some respects in advance of English law.

I have tried to improve the illustrations at the end of the book by giving a general indication at the beginning of each section of the contemporary level of awards. I have deleted many older cases but some have to remain where there are not enough good modern examples. There is no accepted formula for bringing old assessments up to date: they just have to be upgraded to the best of one's judgment. I am sceptical about cost of living indexes. Like all

statistical constructions, their value depends on what is fed in and how it is weighted.

One thing I would comment on, with respect, is the tendency of the House of Lords, in more than one case, to criticise the Court of Appeal for varying the damages assessed by the trial judge. No doubt there is a wide range of tolerance within which an award is reasonable and ought not to be interfered with. It is undesirable that an appeal should be entered unless the award is felt to be wrong. Nevertheless a single judge is fallible like anyone else, and in matters of opinion and degree there is always some personal factor—in some cases perhaps a tendency to give too much for disfigurement, in some cases a general tendency to value injuries too high or too low. A Court of Appeal with three judges is an essential protection against deviations of this kind, and the considered opinion of that court on the fair level for a given injury helps to set standards known to all.

I am grateful, as always, for the constant help of Butterworth's Editorial Staff, who had to cope with a text which appeared to have been struck by an earthquake.

JOHN MUNKMAN
30th January 1980

Preface to the First Edition

I was first invited to write a book on damages for personal injuries (with special reference to *quantum*) as long ago as May 1953. The invitation arose out of an article in the *Law Journal*, which attracted some interest at the time. In that article I drew attention to the difference in approach which follows from the fact that damages are now usually assessed by a judge sitting alone, and not by a jury. Juries do not give reasons for their decisions, and it does not greatly matter if the verdict of one jury is widely different from the verdict of another in a similar case. Juries are allowed to be capricious, but judges are not: they have to act on reasoned principles, even if they do not state them, and marked disparities between awards for the same type of injury would give rise to criticism. Therefore, by degrees, the principles of the law have been re-stated, and at the same time there has been a growing tendency to treat awards in comparable cases as useful guides and illustrations.

But at that stage, three years ago, I declined the invitation to write at length on the subject, partly because I did not want to write any more legal books, and partly because it would have been premature to do so: there were not enough decided cases to illuminate the principles of law, and very few useful illustrations of *quantum* were available.

Last year, however, when the invitation was renewed, I felt that, if I could throw some new light on the subject, I was no longer justified in refusing merely for reasons of personal convenience. The material available had greatly increased in the meantime,

largely because the All England Law Reports had made it their policy to report occasional cases on damages, though much of the material is still contained in newspaper cuttings and is often (but not always) less reliable and complete than law reports.

The aim of this book, as finally planned, is twofold. First, to give a complete statement of the principles of law on the assessment of damages for personal injuries (including damages on death); secondly, to frame a broad classification of the type of cases which arise, and to offer typical illustrations of awards which can be used as general guides in comparable cases. By a fortunate coincidence, the case of *Waldon v War Office* was heard in the Court of Appeal as I was finishing the text, and the views expressed in that case were exactly in accordance with the opinions I had previously formed. It cannot be said too often that awards on *quantum* are never more than illustrations and guides. They are not leading cases or authorities: yet they may be of great value, especially in the settlement of claims.

In conclusion, I am sorry that I cannot reply to inquiries about the details of any of the illustrations cited. I have done my best to extract what is relevant out of data which are often imperfect, and the extracts contain everything which is known to me and is relevant.

JOHN MUNKMAN

LEEDS

15th August 1956

Table of Statutes

References in this Table to 'Statutes' are to Halsbury's Statutes of England (Third Edition) showing the volume and page at which the annotated text of the Act will be found.

	PAGE		PAGE
Administration of Justice Act 1969 (40 <i>Statutes</i> 345)—		Damages (Scotland) Act 1976—	
s. 20, 21	148	<i>contd.</i>	
22	39	s. 10 (2)	141
Administration of Justice Act 1970 (40 <i>Statutes</i> 1098)—		Sch. 1	139, 140
s. 32	149	Fatal Accidents Act 1846 [Lord Campbell's Act] (23 <i>Statutes</i> 780)	111, 112, 135
Adoption Act 1976 (46 <i>Statutes</i> 718)—		s. 2	114, 116
s. 38, 39, 41	115	5	114
Carriage by Air Act 1932	142	Fatal Accidents Act 1864 (23 <i>Statutes</i> 786)	119
Carriage by Air Act 1961 (2 <i>Statutes</i> 604)	154	Fatal Accidents Act 1959 (23 <i>Statutes</i> 801)	114, 133
s. 3	142	Fatal Accidents Act 1976 (46 <i>Statutes</i> 1115)	82, 112
Sch. 1, art. 17	178	s. 1 (1)	113
22 (1)	154	(2), (3)	114, 119
(5)	155	(4)	115, 119
25	154	(a), (b)	115
Civil Evidence Act 1972 (42 <i>Statutes</i> 347)—		2	119
s. 2	149	3 (1)	116, 119
County Courts Act 1959 (7 <i>Statutes</i> 302)—		(2)	121, 126
s. 109 (2) (a)	152	(3)	129
Damages (Scotland) Act 1976	138	4	82
s. 1	139	(1)	133
(2)	141	(2)	134
(3)	140, 141	(3)	120
(4)	139	5	114
(6)	140, 141	Fatal Accidents (Damages) Act 1908	133
2	139	Finance Act 1971 (41 <i>Statutes</i> 1418)—	
(3)	139	s. 19	41
(b)	49	Interest on Damages (Scotland) Act 1958	41
3, 4	139	Interest on Damages (Scotland) Act 1971	41
5	139, 140, 141	Law Reform (Contributory Negligence) Act 1945 (23 <i>Statutes</i> 789)—	
(5)	141	s. 1 (4)	114
6	141		
8	141		
9	49		
(2) (a)–(c)	49		
10 (1)	140		

	PAGE		PAGE
Law Reform (Miscellaneous Provisions) Act 1934 (13 <i>Statutes</i> 115; 23 <i>Statutes</i> 788; 25 <i>Statutes</i> 752)	105, 112, 135	Limitation Act 1939 (19 <i>Statutes</i> 60)— <i>contd.</i>	
s. 1 (1)	136	s. 2B (2)	120
(2) (a)	137	2b	120
(c)	137	Limitation Act 1975 (45 <i>Statutes</i> 847)—	
(5)	135	s. 1	120
2 (1)	114	Merchant Shipping Act 1894 (31 <i>Statutes</i> 57)—	
3 (1), (1A)—(1D)	39	s. 503	153
Law Reform (Miscellaneous Provisions) Act 1971 (41 <i>Statutes</i> 1028)	121	Merchant Shipping (Liability of Shipowners and Others) Act 1958 (31 <i>Statutes</i> 646)	153
s. 4	121, 126	s. 1	154
5	120	Road Traffic Act 1972 (42 <i>Statutes</i> 1633)—	
Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948	81	s. 154	68
Law Reform (Personal Injuries) Act 1948 (35 <i>Statutes</i> 548)—		155	68
s. 2 (1)	80, 83	Social Security Act 1975 (45 <i>Statutes</i> 1071)	80
(2)	82	s. 14, 15, 36	83
(3)	81	56–58, 60, 61	82
(4)	68	Social Security (Consequential Provisions) Act 1975 (45 <i>Statutes</i> 1056)—	
(6)	82	Sch. 2	80
(b)	81	Social Security (Northern Ireland) Act 1975	80
Limitation Act 1939 (19 <i>Statutes</i> 60)—		Unfair Contract Terms Act 1977 (47 <i>Statutes</i> 84)—	
s. 2B	120	s. 15	141
		16 (1) (a)	141
		25 (3)	141

Table of Cases

In the following Table references are given to the English and Empire Digest where a digest of each case will be found.

	PAGE
A	
Admiralty Comrs v SS Amerika [1917] AC 38, [1916-17] All ER Rep 177, 86 LJP 58, sub nom. The Amerika, 116 LT 43, 33 TLR 135, 61 Sol Jo 158, 13 Asp MLC 558, HL, 36 (1) Digest (Reissue) 340	111
Admiralty Comrs v SS Susquehanna (Owners) [1926] AC 655, [1926] All ER Rep 124, 95 LJP 128, 135 LT 456, 42 TLR 639, 17 Asp MLC 81, 33 Com Cas 1, HL, 42 Digest (Repl) 936	3, 143
Admiralty Comrs v SS Valeria [1922] AC 242, [1922] All ER Rep 463, 92 LJKB 42, 128 LT 97, 16 Asp MLC 25, HL, 17 Digest (Reissue) 119	1, 16
Allan v Scott 1972 SLT 45	159
Allen v Waters & Co [1935] 1 KB 200, 104 LJ Ch 249, 152 LT 179, 99 JP 41, 51 TLR 50, 78 Sol Jo 784, 32 LGR 428, CA, 38 Digest (Repl) 195	68
Andrews v Freeborough [1967] 1 QB 1, [1966] 2 All ER 721, [1966] 3 WLR 342, 110 Sol Jo 407, CA, 36 (1) Digest (Reissue) 318	137
Antell and Ozolin v Simons (1976) 26 RFL 304	103
Armstrong v South Eastern Rly Co (1847) 11 Jur 758, 36 (1) Digest (Reissue) 362	4
Arpad, The [1934] P 189, [1934] All ER Rep 326, 103 LJP 129, 152 LT 521, 50 TLR 505, 78 Sol Jo 534, 40 Com Cas 16, 18 Asp MLC 510, CA, 41 Digest (Repl) 461	33
Ashcroft v Curtin [1971] 3 All ER 1208, [1971] 1 WLR 1731, 115 Sol Jo 687, CA, 36 (1) Digest (Reissue) 327	57
A-G v Valle-Jones [1935] 2 KB 209, [1935] All ER Rep 175, 104 LJKB 358, 152 LT 513, 51 TLR 239, 79 Sol Jo 126, 34 Digest (Repl) 224	71
Australian Consolidated Press Ltd v Uren [1969] 1 AC 590, [1967] 3 All ER 523, [1967] 3 WLR 1338, 111 Sol Jo 741, PC, 8 (2) Digest (Reissue) 825	37
B	
Bailey v Bullock [1950] 2 All ER 1167, 66 (pt 2) TLR 791, 94 Sol Jo 689, 17 Digest (Reissue) 143	109
Baker v Bolton (1808) 1 Camp 493, 36 (1) Digest (Reissue) 340	111
Baker v Willoughby [1970] AC 467, revsd [1970] AC at p 483, [1969] 3 All ER 1528, [1970] 2 WLR 50, 114 Sol Jo 15, HL, 17 Digest (Reissue) 115	16, 32, 36

	PAGE
Barnet Group Hospital Management Committee v Eagle Star Insurance Co Ltd [1960] 1 QB 107, [1959] 3 All ER 210, [1959] 3 WLR 610, 123 JP 521, 103 Sol Jo 619, [1959] 2 Lloyd's Rep 335, 29 Digest (Repl) 540	68
Barnett v Cohen [1921] 2 KB 461, [1921] All ER Rep 528, 90 LJKB 1307, 125 LT 733, 37 TLR 629, 19 LGR 623, 36 (1) Digest (Reissue) 348	116
Bastow v Bagley & Co Ltd [1961] 3 All ER 1101, [1961] 1 WLR 1494, 105 Sol Jo 930, CA, 17 Digest (Reissue) 224	158
Bates v Stone Parish Council [1954] 3 All ER 38, [1954] 1 WLR 1249, 118 JP 502, 98 Sol Jo 698, 52 LGR 469, CA, Digest Cont Vol A 1170	156
Baugh v Delta Water Fittings Ltd [1971] 3 All ER 258, [1971] 1 WLR 1295, 115 Sol Jo 485, 36 (1) Digest (Reissue) 380	149
Beach v Reed Corrugated Cases Ltd [1956] 2 All ER 652, [1956] 1 WLR 807, 100 Sol Jo 472, [1956] TR 215, 35 ATC 126, 49 R & IT 757, 9 Digest (Reissue) 567	88
Behrens v Bertram Mills Circus Ltd [1957] 2 QB 1, [1957] 1 All ER 583, [1957] 2 WLR 404, 101 Sol Jo 208, 36 (1) Digest (Reissue) 326	72, 99
Bellingham v Dhillion [1973] 1 QB 304, [1973] 1 All ER 20, [1972] 3 WLR 730, 116 Sol Jo 566, 36 (1) Digest (Reissue) 327	57
Benham v Gambling [1941] AC 157, [1941] 1 All ER 7, 110 LJKB 49, 164 LT 290, 57 TLR 177, 84 Sol Jo 703, HL, 36 (1) Digest (Reissue) 383	105, 107
Bennett v Chemical Construction (GB) Ltd [1971] 3 All ER 822, [1971] 1 WLR 1571, 115 Sol Jo 550, CA, 36 (1) Digest (Reissue) 234	59, 152
Berry v Humm & Co [1915] 1 KB 627, 84 LJKB 918, 31 TLR 198, 36 (1) Digest (Reissue) 360	116, 124
Best v Samuel Fox & Co Ltd [1952] AC 716, [1952] 2 All ER 394, [1952] 2 TLR 246, 96 Sol Jo 494, HL, 27 (1) Digest (Reissue) 118	71
Billingham v Hughes [1949] 1 KB 643, [1949] 1 All ER 684, [1949] LJR 1147, 65 TLR 246, 93 Sol Jo 181, CA, 17 Digest (Reissue) 89	58
Bird v Cocking & Sons Ltd [1951] 2 TLR 1260, CA, 17 Digest (Reissue) 113	18, 103, 151, 157, 164
Bishop v Cunard White Star Co Ltd [1950] P 240, [1950] 2 All ER 22, 66 (pt 1) TLR 828, 94 Sol Jo 305, 1 Digest (Repl) 172:	128, 130, 131
Blake v Midland Rly Co (1852) 18 QB 93, 21 LJQB 233, 18 LTOS 330, 16 Jur 562, 36 (1) Digest (Reissue) 360	111, 117
Blundell v Rimmer [1971] 1 All ER 1072, [1971] 1 WLR 123, 115 Sol Jo 15, [1971] 1 Lloyd's Rep 110, Digest Supp	41
Bocock v Enfield Rolling Mills Ltd [1954] 3 All ER 94, [1954] 1 WLR 1303, 98 Sol Jo 716, CA, 17 Digest (Reissue) 212	151, 156
Bond v British Railway Board 1970 SLT (Notes) 44	86
Boom v Thomas Hubbuck & Son Ltd [1967] Lloyd's Rep 491	29
Bourhill v Young. <i>See</i> Hay (or Bourhill) v Young	
Bowker v Rose (1978) 122 Sol Jo 147, CA	84
Bradburn v Great Western Rly Co (1874) LR 10 Exch 1, [1874-80] All ER Rep 195, 44 LJ Ex 9, 31 LT 464, 23 WR 48, 17 Digest (Reissue) 125	77
Brayson v Wilmot-Breedon [1976] CLY 682	90
Brennan v Gale [1949] NI 178, 36 (1) Digest (Reissue) 366	56, 124
British Transport Commission v Gourley [1956] AC 185, [1955] 3 All ER 796, [1956] 2 WLR 41, 100 Sol Jo 12, [1955] TR 303, 49 R & IT 11, 34 ATC 305, [1955] 2 Lloyd's Rep 475, HL, 17 Digest (Reissue) 88	2, 7, 11, 42, 43, 75, 86, 144
Brockbank v Whitehaven Junction Rly Co (1862) 7 H & N 834	70
Browning v War Office [1963] 1 QB 751, [1963] 3 All ER 1089, [1963] 2 WLR 52, 106 Sol Jo 957, CA, 36 (1) Digest (Reissue) 319	65, 76

	PAGE
Brunsdon v Humphrey (1884) 14 QBD 141, [1881-5] All ER Rep 357, 53 LJQB 476, 51 LT 529, 49 JP 4, 32 WR 944, CA, 36 (1) Digest (Reissue) 306	7, 74
Buckley v John Allen and Ford (Oxford) Ltd [1967] 2 QB 637, [1967] 1 All ER 539, [1967] 2 WLR 759, 111 Sol Jo 136, 36 (1) Digest (Reissue) 369	131
Burgess v Florence Nightingale Hospital for Gentlewomen Management Committee [1955] 1 QB 349, [1955] 1 All ER 511, [1955] 2 WLR 533, 99 Sol Jo 170, 36 (1) Digest (Reissue) 347	118
Burns v Edman [1970] 2 QB 541, [1970] 1 All ER 886, [1970] 2 WLR 1005, 114 Sol Jo 356, [1970] 1 Lloyd's Rep 137, 36 (1) Digest (Reissue) 355	106, 119

C

Cackett v Earl (1976) Times, 15th October	84
Cain v Wilcock [1968] 3 All ER 817, [1968] 1 WLR 1961, 112 Sol Jo 844, [1968] 2 Lloyd's Rep 440, CA, 36 (1) Digest (Reissue) 384	106
Canadian Pacific Rly Co v Kelvin Shipping Co Ltd, The Metagama (1927) 138 LT 369, 72 Sol Jo 16, 12 Asp MLC 354, 1928 SC (HL) 21, 1928 Sc LT 117, HL, 42 Digest (Repl) 901	28
Carson v Willets [1930] 4 DLR 977, 65 OLR 456, 17 Digest (Reissue) 101	9
Cassell & Co Ltd v Broome [1972] AC 1027, [1972] 1 All ER 801, [1972] 2 WLR 645, 116 Sol Jo 199, HL, 17 Digest (Reissue) 83	37, 157
Cavanagh v Ulster Weaving Co Ltd [1960] AC 145, [1959] 2 All ER 745, [1959] 3 WLR 262, 103 Sol Jo 581, [1959] 2 Lloyd's Rep 165, HL, 34 Digest (Repl) 261	50, 59
Central Asbestos Co Ltd v Dodd. <i>See</i> Smith v Central Asbestos Co Ltd Ceramic (Owners) v Testbank (Owners). <i>See</i> Testbank, The	
Chaplin v Hicks [1911] 2 KB 786, [1911-13] All ER Rep 224, 80 LJKB 1292, 105 LT 285, 27 TLR 458, 55 Sol Jo 580, CA, 17 Digest (Reissue) 100	9, 64
City of Lincoln, The (1889) 15 PD 15, [1886-90] All ER Rep 272, 59 LJP 1, 62 LT 49, 38 WR 345, 6 Asp MLC 475, CA, 36 (1) Digest (Reissue) 69	28
Clarke v Martlew [1973] 1 QB 58, [1972] 3 All ER 764, [1972] 3 WLR 653, 116 Sol Jo 618, CA, Digest Supp	149
Coenen v Payne [1974] 2 All ER 1109, [1974] 1 WLR 984, 118 Sol Jo 499, CA, Digest Cont Vol D 1059	148
Collins v South of Scotland Electricity Board 1977 SLT 93	73
Cook v Consolidated Fisheries Ltd (1977) Times, 18th January	63
Cook v Wright [1967] NZLR 1034	73
Cookson v Knowles [1977] QB 913, [1977] 2 All ER 820, [1977] 3 WLR 279, 121 Sol Jo 461, [1977] 2 Lloyd's Rep 412, CA, affd [1979] AC 556, [1978] 2 All ER 604, [1978] 2 WLR 978, 122 Sol Jo 386, HL	40, 53, 54
Cooper v Firth Brown Ltd [1963] 2 All ER 31, [1963] 1 WLR 418, 107 Sol Jo 295, 36 (1) Digest (Reissue) 325	57, 80
Cooper v Williams [1963] 2 QB 567, [1963] 2 All ER 282, [1963] 2 WLR 913, 107 Sol Jo 194, CA, 36 (1) Digest (Reissue) 379	119
Cowan v National Coal Board 1958 SLT (Notes 19)	30
Cruikshank v Shiels 1953 SC (HL) 1	138
Cunningham v Harrison [1973] QB 942, [1973] 3 All ER 463, [1973] 3 WLR 97, 117 Sol Jo 547, CA, 17 Digest (Reissue) 117	61, 68, 69, 73
Cutler v Vauxhall Motors Ltd [1971] 1 QB 418, [1970] 2 All ER 56, [1970] 2 WLR 961, 114 Sol Jo 247, CA, 17 Digest (Reissue) 116	36

	PAGE
Cutts v Chumley [1967] 2 All ER 89, [1967] 1 WLR 742, 111 Sol Jo 458, 36 (1) Digest (Reissue) 318	72
D	
Daish v Wauton [1972] 2 QB 262, [1972] 1 All ER 25, [1972] 2 WLR 29, 115 Sol Jo 891, CA, 36 (1) Digest (Reissue) 323	60, 79
Dalglish v Glasgow Corpn 1976 SLT 157	16, 94, 95
Dalton v South Eastern Rly Co (1858) 4 CBNS 296, 27 LJCP 227, 31 LTOS 152, 4 Jur NS 711, 6 WR 574, 36 (1) Digest (Reissue) 350	117
Daniels v Jones [1961] 3 All ER 24, [1961] 1 WLR 1103, 105 Sol Jo 568, CA, 36 (1) Digest (Reissue) 357	51, 123, 132
Daniels v Sir Robert McAlpine & Sons Ltd (1971) 11 KIR 141	58
Davies v Powell Duffryn Associated Collieries Ltd (No 2) [1942] AC 601, [1942] 1 All ER 657, 111 LKJB 418, 167 LT 74, 58 TLR 240, 86 Sol Jo 294, HL, 36 (1) Digest (Reissue) 368	116, 123, 135, 137, 151
Davies v Taylor [1974] AC 207, [1972] 3 All ER 836, [1972] 3 WLR 801, 116 Sol Jo 864, HL, 36 (1) Digest (Reissue) 349	44, 117, 121
Davies v Whiteways Cyder Co Ltd [1975] QB 262, [1974] 3 All ER 168, [1974] 3 WLR 597, 118 Sol Jo 792, [1974] 2 Lloyd's Rep 556, [1974] STC 411, [1974] TR 117, 53 ATC 180, 36 (1) Digest (Reissue) 351	129
Dennis v London Passenger Transport Board [1948] 1 All ER 779, 64 TLR 269, 92 Sol Jo 350, 17 Digest (Reissue) 117	61, 79
Dick v Burgh of Falkirk 1976 SLT 21	138
Dixon v Bell (1816) 5 M & S 198, 1 Stark 287, 36 (1) Digest (Reissue) 139	30
Dodds v Dodds [1978] QB 543, [1978] 2 All ER 539, [1978] 2 WLR 434, 121 Sol Jo 619	114
Dolbey v Goodwin [1955] 2 All ER 166, [1955] 1 WLR 553, 99 Sol Jo 335, CA, 36 (1) Digest (Reissue) 350	127
Domsalla v Barr [1969] 3 All ER 487, [1969] 1 WLR 630, 113 Sol Jo 265, CA, Digest Cont Vol C 1073	144
Donaghey v Boulton and Paul Ltd [1968] AC 1, [1967] 2 All ER 1014, [1967] 3 WLR 829, 111 Sol Jo 517, HL, Digest Cont Vol C 377	26
Donnelly v Joyce [1974] QB 454, [1973] 3 All ER 475, [1973] 3 WLR 514, 117 Sol Jo 488, [1973] 2 Lloyd's Rep 130, CA, 17 Digest (Reissue) 117	69, 73
Doughty v Turner Manufacturing Co Ltd [1964] QB 518, [1964] 1 All ER 98, [1964] 2 WLR 240, 108 Sol Jo 53, CA, 36 (1) Digest (Reissue) 63	26
Doyle v Nicholls (1978) 122 Sol Jo 386	54
E	
Eachus v Leonard (1962) 106 Sol Jo 918	148
Edgar v Postmaster General 1965 SLT 158	73
Edmeades v Thames Board Mills Ltd [1969] 2 QB 67, [1969] 2 All ER 127, [1969] 2 WLR 668, 113 Sol Jo 88, [1969] 1 Lloyd's Rep 221, CA, Digest Cont Vol C 1102	149
Eley v Bedford [1972] 1 QB 155, [1971] 3 All ER 285, [1971] 3 WLR 563, 115 Sol Jo 369, 17 Digest (Reissue) 118	85
Esso Malaysia, The [1975] QB 198, [1974] 2 All ER 705, [1974] 3 WLR 341, 118 Sol Jo 681, [1974] 2 Lloyd's Rep 143, 2 Digest (Reissue) 178	115
Evans v Bartlam [1937] AC 473, [1937] 2 All ER 646, 106 LKJB 568, 53 TLR 689, 81 Sol Jo 549, 50 Digest (Repl) 169	157
F	
Fair v London and North Western Rly Co (1869) 21 LT 326, 18 WR 66, 36 (1) Digest (Reissue) 313	3, 11, 46, 56, 91

	PAGE
Fairley v John Thompson (Design and Contracting Division) Ltd (1973) Times, 10th February	56
Falconer v Cochran (1837) 15 Sh (Ct of Sess) 891, 17 Digest (Reissue) 133	37
Farley v North East Metropolitan Regional Hospital Board (1954) Times, 9th November	108
Farmer v Rash [1969] 1 All ER 705, [1969] 1 WLR 160, 113 Sol Jo 57, 36 (1) Digest (Reissue) 377	30
Finnie v Cameron [1979] SLT 57	140
Fitter v Veal (1701) 12 Mod Rep 542, Holt KB 12, 1 Salk 11, 1 Ld Raym 692, 17 Digest (Reissue) 94	7
Fitzpatrick v Moore [1962] NI 152	84
Fletcher v Autocar and Transporters Ltd [1968] 2 QB 322, [1968] 1 All ER 726, [1968] 2 WLR 743, 112 Sol Jo 96, [1968] 1 Lloyd's Rep 317, CA, 36 (1) Digest (Reissue) 315	19, 20, 22, 46
Flint v Lovell [1935] 1 KB 354, [1934] All ER Rep 200, 104 LJKB 199, 152 LT 231, 51 TLR 127, 78 Sol Jo 860, CA, 36 (1) Digest (Reissue) 317	104, 151
Flowers v George Wimpey & Co Ltd [1956] 1 QB 73, [1955] 3 All ER 165, [1955] 3 WLR 426, 99 Sol Jo 564, [1955] 2 Lloyd's Rep 293, 36 (1) Digest (Reissue) 325	81, 86
Fontin v Katapodis (1962) 108 CLR 177	38
Forster v Pugh [1955] CLY 741, 20th October	96
Fowler v Grace (1970) 114 Sol Jo 193, Times, 20th February	5
Foxley v Olton [1965] 2 QB 306, [1964] 3 All ER 248 n, [1964] 3 WLR 1155, 108 Sol Jo 522, 36 (1) Digest (Reissue) 325	84
Franklin v South Eastern Rly Co (1858) 3 H & N 211, [1843-60] All ER Rep 849, 31 LTOS 154, 4 Jur NS 565, 6 WR 573, 36 (1) Digest (Reissue) 350	117
Fraser v Berkeley (1836) 7 C & P 621, 2 Mood & R 3, 17 Digest (Reissue) 132	37
Fricker v Benjamin Perry & Sons Ltd (1973) 16 KIR 356	62

G

Gage v King [1961] 1 QB 188, [1960] 3 All ER 62, [1960] 3 WLR 460, 104 Sol Jo 644, 36 (1) Digest (Reissue) 328	71
Gallagher v Imperial Chemical Industries Ltd 1970 SLT (Notes) 41	84
Gavin v Wilmot-Breedon Ltd [1973] 3 All ER 935, [1973] 1 WLR 1117	125
George v Pinnock [1973] 1 All ER 926, [1973] 1 WLR 118, 117 Sol Jo 73, CA	39, 152
Gilbertson v Harland & Wolff Ltd [1966] 2 Lloyd's Rep 190	59, 126
Glover v London and South Western Rly Co (1867) LR 3 QB 25, 37 LJQB 57, 17 LT 139, 32 JP 39, 17 Digest (Reissue) 149	74
Goodburn v Thomas Cotton Ltd [1968] 1 QB 845, [1968] 1 All ER 518, [1968] 2 WLR 229, 112 Sol Jo 17, CA, 36 (1) Digest (Reissue) 363	123
Gorris v Scott (1874) LR 9 Exch 125, 43 LJ Ex 92, 30 LT 431, 22 WR 575, 2 Asp MLC 282, 2 Digest (Reissue) 401	24, 25
Gourley's Case. See British Transport Commission v Gourley	
Grand Trunk Rly Co of Canada v Jennings (1888) 13 App Cas 800, 58 LJPC 1, 59 LT 679, 37 WR 403, 4 TLR 752, PC, 36 (1) Digest (Reissue) 372	130, 131, 133
Grant v National Coal Board [1956] AC 649, [1956] 1 All ER 682, [1956] 2 WLR 725, 100 Sol Jo 224, HL, 33 Digest (Repl) 901	24, 26
Gray v Barr [1971] 2 QB 554, [1971] 2 All ER 949, [1971] 2 WLR 1334, 115 Sol Jo 364, CA, 15 Digest (Reissue) 1140	117
Gray v Deakin [1964] NZLR 852	47
Green v Costello [1961] NZLR 1010, 46 Digest (Repl) 423	38

	PAGE
Grein v Imperial Airways Ltd [1937] 1 KB 50, [1936] 2 All ER 1258, 106 LJB 49, 155 LT 380, 52 TLR 681, 80 Sol Jo 735, 42 Com Cas 10, CA, 8 (2) Digest (Reissue) 602	113, 154
Griffiths v R and H Green and Silley Weir Ltd (1948) 81 Ll L Rep 378	101
H	
Hadley v Baxendale (1854) 9 Exch 341, [1843-60] All ER Rep 461, 23 LJ Ex 179, 23 LTOS 69, 18 Jur 0358, 2 WR 302, 2 CLR 517, 17 Digest (Reissue) 102	33
Haigh v Royal Mail Steam Packet Co Ltd (1883) 52 LJQB 640, [1881-85] All ER Rep 177, 49 LT 802, 48 JP 230, 5 Asp MLC 189, CA, 36 (1) Digest (Reissue) 352	113
Haley v London Electricity Board [1965] AC 778, [1964] 3 All ER 185, [1964] 3 WLR 479, 129 JP 14, 108 Sol Jo 637, 63 LGR 1, HL, Digest Cont Vol B 241	35
Hall v Ross (1813) 1 Dow 201, HL, 17 Digest (Reissue) 100	9
Hall v Wilson [1939] 4 All ER 85, 56 TLR 15, 83 Sol Jo 961, 36 (1) Digest (Reissue) 362	48
Hambridge v Harrison (1973) 117 Sol Jo 343	149
Hare v British Transport Commission [1956] 1 All ER 578, [1956] 1 WLR 250, 100 Sol Jo 189, 8 (1) Digest (Reissue) 85	72
Harris v Bright's Asphalt Contractors Ltd [1953] 1 QB 617, [1953] 1 All ER 395, [1953] 1 WLR 341, 97 Sol Jo 115, 51 LGR 296, 36 (1) Digest (Reissue) 42	68
Harris v Taylor (1953) 19th December	108
Hart v Griffiths-Jones [1948] 2 All ER 739, 36 (1) Digest (Reissue) 385	129
Hartley v Sandholme Iron Co Ltd [1975] QB 600, [1974] 3 All ER 475, [1974] 3 WLR 445, 118 Sol Jo 702, [1974] STC 434, Digest Cont Vol D 271	90
Hay v Hughes [1975] QB 790, [1975] 1 All ER 257, [1975] 2 WLR 34, 118 Sol Jo 883, [1975] 1 Lloyd's Rep 12, CA, 36 (1) Digest (Reissue) 370	117, 127
Hay (or Bourhill) v Young [1943] AC 92, [1942] 2 All ER 396, 131 LJPC 97, 167 LT 261, 86 Sol Jo 349, HL, 17 Digest (Reissue) 146	98
Haynes v Harwood [1935] 1 KB 146, [1934] All ER Rep 103, 104 LJB 63, 152 LT 121, 51 TLR 100, 78 Sol Jo 801, CA, 36 (1) Digest (Reissue) 246	28
Heaps v Perrite Ltd [1937] 2 All ER 60, 81 Sol Jo 236, CA, 36 (1) Digest (Reissue) 313	96, 101
Hearnshaw v English Steel Corpn Ltd (1971) 11 KIR 306	62, 65
Heatley v Steel Co of Wales Ltd [1953] 1 All ER 489, [1953] 1 WLR 405, 97 Sol Jo 149, CA, 36 (1) Digest (Reissue) 369	130
Hennell v Ranaboldo [1963] 3 All ER 684, [1963] 1 WLR 1391, 107 Sol Jo 829, CA, 51 Digest (Repl) 643	147
Heron II, The, Koufos v C Czarnikow Ltd. <i>See</i> Koufos v C Czarnikow Ltd	
Hetherington v North Eastern Rly Co (1882) 9 QBD 160, 51 LJQB 495, 30 WR 737, 36 (1) Digest (Reissue) 348	117
Hewson v Downs [1970] 1 QB 73, [1969] 3 All ER 193, [1969] 2 WLR 1169, 113 Sol Jo 309, 36 (1) Digest (Reissue) 320	84
Hicks v Newport Abergavenny and Hereford Rly Co (1857) 4 B & S 403 n, 36 (1) Digest (Reissue) 372	130
Hinz v Berry [1970] 2 QB 40, [1970] 1 All ER 1074, [1970] 2 WLR 684, 114 Sol Jo 111, CA, 17 Digest (Reissue) 147	99
Hobbs v London and South Western Rly Co (1875) LR 10 QB 111, [1874-80] All ER Rep 458, 44 LJQB 49, 32 LT 252, 39 JP 693, 23 WR 520, 17 Digest (Reissue) 136	109