

# **Damages for Personal Injury and Death**

**5th Edition**

**Edited by  
David Kemp QC**

**LONGMAN** 

# Damages for Personal Injury and Death

*Fifth Edition*

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## Acknowledgements

'Actuarial Assessment of Damages' by J H Prevett (Chapter 7) includes material from an article by the same author that originally appeared in 35 MLR 140, 257, and we are grateful to the *Modern Law Review* for permission to refer to and reproduce this material.

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## Preface to Fifth Edition

The first edition of this book was an edited record of a conference on damages for personal injury held in 1979. As such, it merely reflected topics chosen for their particular interest at the time and was not intended to cover the whole subject. This genesis dictated the scope and structure of the previous four editions. With this edition we have broken free of these constraints and aim to present a concise but comprehensive account of the principles and practice applicable to the assessment of damages in personal injury litigation.

We have sought to provide a general introduction to the subject, including relevant statutes and rules of court. We have included the full judgment of Rose J in *Cassel v Hammersmith & Fulham Area Health Authority* to illustrate how the court deals with the assessment of damages in a case of serious disability. We do not attempt in the space available to include awards for various types of injury: other works exist for this purpose. We have, however, included in Chapter 3 some extracts from the Guidelines issued by the Judicial Studies Board to give a rough idea of the general level of damages currently awarded for non-pecuniary loss. We have expanded the chapter on future pecuniary loss to set out in more detail the court's approach to assessing this head of damage and have included there passages from the Law Commission's recent Consultation Paper on this topic. Furthermore a new chapter on the incidence of benefits has been added. We have brought the law up-to-date as of 1 March 1993.

So far as more experienced readers are concerned, we shall be content if this edition fulfils the prophecy made by a kind reviewer of the first edition that the book would 'become a useful vade-mecum for practitioners'.

D A McI K  
1 March 1993

## Preface to First Edition

Earlier this year Legal Studies and Services Limited arranged a conference at the Royal Lancaster Hotel, London, on damages for personal injury and death. The emphasis was on the practical approach to this class of litigation. The speakers included Mr Thomas Saunt, Mr Alan Hughes, Mr John Prevett and myself.

This book is an edited record of those parts of the proceedings at the conference that the speakers felt could usefully be reproduced in print. It also includes additional material that was not available at the conference; for example, a consideration of the important decision of the House of Lords in *Lim Poh Choo v Camden and Islington Area Health Authority*, which was given on 21 June 1979 and reported at [1979] 3 WLR 44; extracts from the judgment of Smith J in *Taylor v Glass* (see Appendix B), where the award of £293,000 plus £17,000 interest is the highest recorded award so far made by an English court (there is an appeal pending on quantum); and an expanded contribution from Mr Prevett, an actuary who has made a special study of actuarial evidence in this class of litigation and who has given expert evidence in a number of serious personal injury cases. The latter includes material from an article by Mr Prevett in 35 MLR 140, 257, and we are grateful to the publisher of the *Modern Law Review* for permission to reproduce this material.

At the conference I drew attention to the then unreported case of *Walker v John McLean & Sons Ltd*, now reported in [1979] 1 WLR 760. I expressed the view that the courts should make awards that kept up with inflation more fully than they had done in recent years. This is one of the topics considered in my post-script to the conference, which is the last chapter of this book. Some recent awards show that the courts have already applied the reasoning of the Court of Appeal in *Walker's* case. *Taylor v Glass*

mentioned above is one example. Others are: the £262,500 agreed award approved by the court in *Shewan v Kensington, Chelsea and Westminster Area Health Authority* (*Daily Telegraph* 30 October 1979), the £269,700 award in *Croake v Brent & Harrow Area Health Authority* (*Daily Telegraph* 6 November 1979) and the £200,000 award in *Hyde v Tameside Area Health Authority* (*Daily Mail* 30 October 1979).

The appendices contain various statutory provisions and rules of court that are referred to in the main text. They also include extracts from two recent decisions illustrating the court's approach in practice to the assessment of damages. One of these is the case of *Taylor v Glass* already mentioned; the other is *Chambers v Karia*, a decision of O'Connor J in which he had to consider a number of problems, including the assessment of 'lost earnings during the lost years'. So far as I know this is the first case in which a trial judge has had to apply the ruling of the House of Lords in *Pickett's* case. In addition, there is a table showing the value of the pound sterling at various dates. I hope that practitioners will find it useful to have this material conveniently accessible.

D A McI K  
November 1979

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