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**MACALINTAL v CCT****ADMINISTRATIVE APPEALS TRIBUNAL****Deputy President Mr Galvin****16 November 1993**

**THE APPLICANT CLAIMED COMPENSATION FOR POST-TRAUMATIC STRESS DISORDER SUFFERED AS A RESULT OF OBSERVING AND BEING INVOLVED IN AN ASSAULT ON HER HUSBAND. AWARD: \$2500 PLUS COSTS.**

".... [4] The applicant was assessed by clinical psychologist John Redman on 10 March 1993. He concluded that she had suffered greatly as a result of the incident and added:

"The anxieties, fears and disorder to her mind are persisting and she needs urgent and continuous attention, especially in social group therapy. While she appeared to be quieter and less vocal in protecting her disability than her de facto husband, she nonetheless, is burdened to the point of maladjustment and breakdown". Mr Redman gave evidence to the Tribunal that the applicant suffered from post-traumatic stress disorder. He said that she displays high anxiety rather than depression although [5] some elements of depression are evident. He considers that her degree of disorder is severe with a broad range of fluctuations within that category. He is unsure as to whether the subsequent incidents of racial harassment have compounded the effects of the assault. He considers that the applicant will always experience some residual effects of the trauma suffered by her.

The applicant applied to the Crimes Compensation Tribunal for compensation under the *Criminal Injuries Compensation Act 1983* as the victim of a criminal act. The respondent Tribunal refused her an award concluding that there was no compensable injury involved. She has applied to this Tribunal for review of the decision.

The only expert evidence before the Tribunal at first instance was the report of Mr Hoare which it considered did not evidence anything more than post-traumatic stress reaction. Notwithstanding the difficulty in appropriately assessing Mr Hoare's report in relation to injury particularly applicable to the assault upon the applicant's husband, the evidence of Mr Redman is clear that she suffered post-traumatic stress disorder as a result of that incident. It is apparent that the applicant has suffered distress as the victim of racial abuse and even threat and, for purposes of this claim, it is necessary for the Tribunal to endeavour to identify what extent of mental injury is attributable to the assault. [6] The evidence is that the applicant's disorder fluctuates in intensity. Certainly the applicant appears to have made sufficient recovery not only to find employment but to find satisfaction in doing her job notwithstanding that it is as a security guard the duties of which, when conducted at night time, would not be without some degree of anxiety.

In view of Mr Redman's evidence, I find that the applicant is the victim of a criminal act in that she suffered injury in the nature of post-traumatic stress disorder as a result of observing and being involved in the assault upon her husband. An appropriate award of compensation would be \$2500. Accordingly, I set aside the decision of the respondent and determine that the applicant be paid the sum of \$2500 as compensation for pain and suffering. I also order that the respondent pay the applicant's costs inclusive of counsel's fee (but exclusive of other relevant disbursements) in the sum of \$1000. In relation to other reasonable relevant disbursements, I order that these be paid by the respondent in amounts to be agreed and, in the event of disagreement, I reserve liberty to either party to apply."