

1.17/94

ADMINISTRATIVE APPEALS TRIBUNAL***YOUL v CCT*****Deputy President Mr Ball****17 November 1993**

THE APPLICANT CLAIMED COMPENSATION FOR INJURIES SUSTAINED AS A RESULT OF AN ASSAULT UPON HIM. INJURIES INCLUDED BROKEN DENTURES, BRUISING TO THE BODY AND FACE AND PERMANENT VISUAL LOSS OF VISION EQUIVALENT TO 25% LOSS OF EFFICIENCY OF VISION IN ONE EYE. AWARD: \$5,000 PLUS COSTS.

"[1] This is an application made to this Tribunal for a review of a decision of the Crimes Compensation Tribunal awarding the Applicant the sum of \$3000 as compensation for pain and suffering. The 51 year old Applicant was the victim of an assault and robbery near the Footscray Railway Station on the 15th of August 1991. [2] As a result of the assault, the Applicant suffered head injuries, eye injuries, broken dentures and bruising to the body and face. In the assault, the unidentified assailants stole a wallet containing personal papers and \$760 cash, a jacket and keys. The Applicant went home and at the insistence of his family reported the matter to the Police at the Footscray Police Station on the 17th of August 1991. As a result of the assault, the Applicant was admitted to the Royal Victorian Eye and Ear Hospital on the 31st of August 1991 and discharged on the 3rd September 1991. Whilst hospitalised, the Applicant underwent an operation for a Left Retinal Detachment. Following release from hospital the Applicant resumed his employment with Nachi (Australia) Pty Ltd where he is employed as a Telephone Sales Clerk. During the hearing before me, evidence was given by the Applicant and by his daughter that he is still suffering from pain in his eye from his injuries, suffers from depression and has difficulty focussing his left eye while at work and when reading. The evidence indicates that his ability to read is significantly restricted. [3] After considering the evidence put to me, I consider that it cannot be established that the Applicant is suffering from post-traumatic stress disorder as no expert evidence of such condition has been given. However, after considering the evidence and particularly the report of the Consultant Ophthalmologist Mr David Gale, I consider that the amount awarded to the Applicant for pain and suffering should be varied. In a report dated 20 July 1993, Mr Gale said:

"It is therefore my opinion that as a result of the assault in which he was involved, he had an indirect injury to his left eye which resulted in him developing a retinal detachment. It is my opinion that the condition is now static and that as a result of the detachment he has a permanent visual loss of vision equivalent of 25% loss of efficiency of vision of his left eye. It is my opinion that his prognosis is good and one would not anticipate any further complications arising from this incident."

Having regard to the evidence as to the Applicant's pain and suffering and other decisions of this Tribunal, I am of the view that an appropriate award for pain and suffering should be \$5000 and accordingly I will vary the decision of the Respondent by substituting this amount for the amount awarded to the Applicant. [4] I will also make an order for payment of the Applicant's costs and the expense incurred in obtaining the written report from Mr Gale.