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ADMINISTRATIVE APPEALS TRIBUNAL***MUNRO v CCT*****Deputy President Mr Galvin****16 August 1993****THE APPLICANT SUFFERED BRUISING AND LACERATIONS TO HIS HEAD AND BODY AFTER BEING ATTACKED BY A GANG OF PERSONS. AWARD: \$2500 PLUS COSTS.**

"... [4] In his evidence to the Tribunal, the applicant identified two mild scars where his face and neck has been slashed and told the Tribunal that he experienced tenderness in the area of the facial scar and was constantly aware of it. Following the assault, his knees were sore for two weeks and his face sore for a few days. His face remained tender for a month. He also experienced tenderness to his right elbow – and to his left shoulder. He gave the following further evidence:

Following the incident, he was afraid to go anywhere lest he encounter any member of the group who had been involved in the incident. He experienced bad dreams about the matter and was worried whilst he was working as an electrician that he might encounter any member of "the gang". The bad dreams continued for about six months. Constrained by fear, he did not venture out of doors until three or four months had [5] elapsed. The gang members still scare him and cause him to want to hide. The group involved were members of a gang known as DTC (Dedicated To Crime). Those who had inflicted the wounds upon him were subsequently charged. In summary, the applicant suffered minor physical discomfort for one to two weeks and some tenderness for about a month. He did not seek any professional medical assistance in regard to his nightmares and fears saying that he just wanted to forget about the matter.

The applicant's mother, Pamela Anne Munro, gave the following evidence. In the months following the assault upon her son, he was nervous about going anywhere and always had to have someone accompanying him when he went out. Whereas he had previously been a "fairly happy-go-lucky kid", he became very nervous. He had never been in a fight in his life and was not an aggressive person, even in sport. It was about six months before he got back to some state of normality. I consider that the applicant and his mother were frank and honest in the giving of their evidence and neither appeared in any way to exaggerate the applicant's experience or injuries. Having regard to the evidence, I find that the applicant was the victim of a criminal act when he was [6] assaulted outside the 7-Eleven store and that, in consequence, he suffered slashes to the face and neck and other minor physical injury. He also suffered consequential anxiety and nightmares.

The Crimes Compensation Tribunal awarded him \$1500 for pain and suffering. Whilst acknowledging that criminal injuries compensation is not equivalent to common law damages but is rather in the nature of solatium, I nevertheless am of the view that this award is inadequate in the circumstances. Having regard to awards in other cases, I consider the sum of \$2500 to be appropriate. Accordingly, I vary the decision of the respondent and award the sum of \$2500 to the applicant for pain and suffering. I order that the respondent pay the applicant's costs which I fix at \$1,200."