

PAIN & SUFFERING AWARDS 2013 - 2017

VICTORIA

Prepared by Oliver T Lesage - Barrister

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Case	Brief facts	Injury	Pain & Suffering award	Other information
<i>Swan v Monash Law Book Co-operative</i> [2013] VSC 326	Workplace bullying by the plaintiff's manager.	Mental 'breakdown'.	\$300,000.00.	-
<i>Rosa v Galbally & O'Bryan (No 2)</i> [2013] VSCA 154	The plaintiff successfully sued her solicitors for advising that she abandon her personal injury claim. The plaintiff then appealed her award of damages for pain and suffering.	Fracture vertebrae (C5 level), disc prolapse, carpal tunnel syndrome and depression.	The award of \$56,750 was set aside and substituted with an award of \$285,335.00.	-

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<i>Louisa Herrod v Pandez Holdings Pty Ltd</i> VCC (2 August 2013)	The plaintiff was dancing when a stick protruding from a pot plant pierced her left eye.	Pierced left eye with total loss of vision, and psychological damage.	The jury awarded \$1,000,000.00, which was modified by the statutory maximum prescribed under s28G of the <i>Wrongs Act 1958</i> (Vic).	-
<i>O'Dea v Jones</i> [2013] VCC 1208	The plaintiff took a kite-boarding lesson with the defendant, and collided feet first onto the sand.	Bilateral fractures of the calcaneal bones (heel bones).	\$110,035.00.	-
<i>Victorian WorkCover Authority v Direxa Engineering Australia Pty Ltd</i> (No 1) [2013] VCC 1039	Worker tripped and fell.	Wrist.	\$90,000.00 (Factor A).	Worker unable to enjoy playing the bass guitar, or operate heavier tools, which precluded him from undertaking work as a welder.

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<i>Victorian WorkCover Authority v Direxa Engineering Australia Pty Ltd (No 2)</i> [2013] VCC 1245	Worker suffered injury lifting bags of cement.	Spine.	\$185,000.00 (Factor A).	Ongoing pain, trouble sleeping, and domestic restrictions. The fact that the worker did not take medication or undergo ongoing treatment did not affect the assessment of suffering. The worker lost the capacity to work in construction which he enjoyed. Frustration and anger directed towards his partner was accepted as a psychological reaction to the injury.
<i>Gui v Weston</i> [2013] VSCA 364	The plaintiff was struck by a car crossing the road at night against a red pedestrian light.	Steel frames and screws fitted/placed in the leg.	\$250,000.00 with an 85% reduction for contributory negligence (\$37,500.00).	-
<i>Veljanovska v Verduci</i> [2014] VSCA 15	Injuries from carrying heavy files, and a fall when trying to sit on a chair that had been moved.	Pain related complaints.	\$75,000.00. Reduced by 50% contributory negligence (\$37,500.00).	Considerable body of contradictory evidence, and credibility was a factor.

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<i>Pasqualotto v Pasqualotto (No 3)</i> [2014] VSC 26	Work injury on the family farm.	Back (L3/L4).	\$400,000.00 reduced by 20% contributory negligence (\$320,000.00).	-
<i>Natasha Wilson v Collingwood Store Pty Ltd</i> [2014] VSCA 20	Shelving collapsed on the plaintiff at work. She tried to catch a TV, twisted and wrenched her right knee.	Dislocation of the right knee patella and chondral damage.	\$65,000.00.	The claim was materially complicated by the fact that she had a congenital defect of the affected knee, and had suffered a number of dislocations prior to the accident. Further, an underlying condition justified a discount for the long-term vicissitudes.
<i>Geelong Leather Pty Ltd v Delaney</i> [2014] VSCA 98	The worker was stacking hides when he noticed a twinge and heard a 'popping' sound in his lower back.	Back. Disc protrusion - impinging on right L5 nerve.	\$385,000.00.	Jury award upheld. Beach J commented that the worker was a relatively young man (47 years old), who had suffered a serious long term, and life altering injury.
<i>Victorian WorkCover Authority v Epworth Foundation</i> [2014] VCC 853	Hospital cleaner injured whilst attempting to move a locked hospital bed.	Frozen shoulder.	\$150,000.00. (Factor A).	-

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<i>Lakic v TAC</i> [2014] VSC 291	Motor vehicle accident with an unidentified vehicle and driver.	Chronic pain syndrome, associated anxiety depressive illness and PTSD.	\$247,500.00 reduced by 10% (\$222,750.00).	-
<i>Kelly v Culakovski</i> [2014] VCC 950	Plaintiff was shopping when a section of marble fell from a nearby shop front and struck her on the head.	Headaches and migraines.	\$90,000.00.	The plaintiff had a long pre-existing history of headaches and migraines. Her symptoms returned in an aggravated and debilitating form post-accident, and she was unable to work to the same extent as before her accident. The defendant presented evidence that the plaintiff had travelled to Thailand, Bali, Byron Bay, and had skied in Europe, the US and Japan. Her treating doctors were unaware of her lifestyle, and she was found to have grossly exaggerated her condition by stating that she required “around the clock care”.
<i>Danks v Wood</i> [2014] VSCA 196	The worker bumped into co-worker.	Lower back injury.	\$80,000.00 reduced by 20% (\$64,000.00).	On appeal, the majority held that it was open for the jury to conclude that the appellant failed to keep a proper lookout, because she had reason to anticipate her co-worker’s actions, and disregarded a system of warning adopted by employees when moving past each other.
<i>Doulis v State of Victoria</i> [2014] VSC 395	Teacher repeatedly exposed to highly stressful circumstances whilst teaching “feral” classes.	Psychiatric injury.	\$300,000.00.	Justice Ginnane referred to the marked contrast with the plaintiff’s previous condition. He was previously an active, outdoor, bubbly person, and had become a ‘shell of his former self’ with suicidal thoughts. This placed a great strain on his wife, and he could barely cope with basic tasks at home.

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<i>Hudspeth v Scholastic Cleaning & Consultancy Services Pty Ltd (No 7)</i> [2014] VSC 542	The worker (cleaner) slipped and fell trying to clean up a broken soap dispenser.	Disruption of pre-existing degenerative back condition at L4-L5. Tear of the left hip labrum. Anxiety, depression and PTSD.	\$350,000.00.	The defendant submitted that 2 previous back surgeries caused the plaintiff to be symptomatic prior to the incident, and that there was no supporting evidence that the hip injury was caused by the fall. The defendant submitted that the plaintiff's damages must be considered in the context of her pre-existing injury to that lumbar spine and the amalgamation of all the consequences of her failed surgeries, as well as injuries to her shoulders and knees. These submissions were either not accepted or not supported by medical evidence. Contributory negligence was not established either, as there was no evidence (amongst other matters) that she failed to concentrate, or watch where she placed her feet. There was reference to the plaintiff's recovery from her previous surgeries, her active lifestyle prior to her accident, the plaintiff's pain, joint issues, incapacity for work and difficulties with domestic and recreational activities.
<i>Markovska v Golden Star Receptions Pty Ltd</i> [2014] VCC 1816	The 68-year-old plaintiff fell from a raised floor area at a restaurant.	Right ankle ligament tear. Aggravation of right hip needing total hip replacement. Aggravation of lumbar disease. Aggravation of a right shoulder injury.	\$150,000.00.	The defendant did not appear at trial. The plaintiff had ongoing pain since the fall and her symptoms had been managed conservatively with the exception of the right hip which was treated by way of surgery.

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<i>Victorian WorkCover Authority v The Australian Steel Company (Operations) Pty Ltd</i> [2015] VSC 58	Slipping accident involving 49-year-old worker (cleaner).	Lower back.	\$200,000.00 (Factor A).	Aggravation of pre-existing degeneration in the lumbar spine. The worker developed psychological symptoms as a result of the pain.
<i>Wesfarmers Ltd v Linfox Australia Pty Ltd</i> [2015] VSC 63	Workplace accident while unloading. 44-year-old worker.	Pseudo seizures.	\$225,000.00.	According to Justice Forrest, the worker had experienced a very difficult time since the accident, and especially since the termination of her employment and continuing pattern of pseudo epileptic fits.
<i>Jeffrey v Giles</i> [2015] VSCA 70	Publication of defamatory material on website.	Personal distress, hurt and humiliation and injury to reputation.	\$75,000.00 & \$65,000.00 (2 x plaintiffs).	It was held that the allegations of deceptive behaviour, and attempts to undermine personal and business reputations must have caused considerable distress.
<i>Luzaj v Boldknight Pty Ltd</i> [2015] VCC 485	29-year-old plaintiff dragged from car by nightclub security staff.	Head injury, loss of consciousness, facial scarring, and psychiatric injury.	\$80,000.00.	The plaintiff recovered well, needing minimal ongoing medical treatment for both his physical and psychiatric injuries.

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<i>Fitzpatrick v Moira Shire Council</i> [2015] VCC 527	Council function. 15-year-old plaintiff ran, slipped and struck a desk which then fell on him.	Fracture of the left femur, scarring, irritation and nervous shock.	\$165,000.00.	Medical evidence that the plaintiff's scarring was unsightly, permanent, and interfered with his sporting activities and self-esteem. Post-surgery complications, including the removal of pins, and gait problems.
<i>Srbinovski v Americold Logistics Ltd</i> [2015] VSCA 139	41-year-old factory worker injured when picking/packing.	Lower back injury.	\$50,000.00 reduced to nil pursuant to s 134AB of the <i>Accident Compensation Act 1985</i> (Vic).	Jury verdict upheld. Sufficient medical evidence to undermine the severity of the injury. Credibility issues.
<i>Erlich v Leifer</i> [2015] VSC 499	40-year-old plaintiff suffered past sexual abuse at school.	Psychiatric injury.	\$300,000.00.	The impact of the psychiatric illness on the plaintiff's life had been profound. The self-harm, lengthy in-patient admissions and the need for antidepressant medication were all markers of the significance of the injury.
<i>Vella v Cardona</i> [2015] VSCA 306	Transport accident.	De-gloving injury to right foot.	\$130,000.00. Leave to appeal refused.	Leave to appeal refused. The applicant's credibility and reliability was the subject of extensive challenge in cross-examination. The Court viewed that it was open for the jury to form an unfavourable opinion of the applicant as a witness.
<i>Mathews v Winslow Constructors (Vic) Pty Ltd</i> [2015] VSC 728	42-year-old plaintiff. Abuse, bullying and sexual harassment in the workplace.	Psychiatric injury. Jaw injury from grinding teeth.	\$380,000.00.	The plaintiff described how her lifestyle had been affected by insomnia, jaw pain, and how her relationship had been placed under a great deal of strain.

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<i>Walker v Aussie Disposals Pty Ltd</i> [2016] VSC 255	52-year-old worker injured herself carrying out heavy store person tasks	Lumbar spine injury.	\$100,000.00.	-
<i>Scott v Wanklyn</i> [2016] VSC 382	90-year-old plaintiff stepped into a trench dug on the defendant's property and fell.	Subcapital fracture of the left femur.	\$110,000.00.	The plaintiff continued to suffer from pain and restriction and was unable to return to playing bowls or gardening, and he suffered a considerable reduction in the enjoyment of his life as a consequence. On the other hand, the plaintiff's age and comorbidities were noted.
<i>Taseska v MSS Security Pty Ltd</i> [2016] VSC 252	40-year-old plaintiff injured her right knee lifting heavy passenger bags. Psychological trauma as a result of altercations with passengers. Bullying/harassment by fellow workers.	Right knee injury. Damaged meniscus and associated development of osteoarthritis.	\$250,000.00.	Psychological injury and bullying/harassment claim not made out. Pre-existing hip injuries, and major psychological issues. The knee injury was of considerable significance and was directly related to the bag lifting incident. Forrest J noted the plaintiff's prolonged symptoms of pain, locking and giving way and her candidacy for future knee surgery.

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<i>Clarke v Greater Shepparton City Council</i> [2016] VSC 542	53-year-old plaintiff fell over raised storm water pit.	Fracture/dislocation of the left hip requiring surgery. Ligamentous injury to the left knee. Injury to the lower back by way of aggravation of pre-existing degenerative change.	\$275,000.00.	Justice Keogh noted the plaintiff's long and painful rehabilitation, ongoing pain and restriction with incapacity to perform aspects of domestic and personal tasks. The plaintiff's assessment of \$350,000.00 for general damages was discounted, having regard to pre-existing injuries suffered whilst drag racing in 1996. Further, it was concluded that circumstances surrounding the plaintiff's previous police charges and incarceration meant that his life prior to the injury was not as 'rosy' as he painted it to be in his evidence.
<i>Davies v Nilsen</i> [2016] VSC 557	45-year-old plaintiff suffered a motor vehicle accident when aged 24.	Accepted injuries: Neck/upper spine, left shoulder, bruising, intermittent headaches/migraines. Disputed injuries: lower back, left knee, psychiatric response (stress).	\$125,000.00.	Macaulay J referred to the plaintiff's symptoms of pain and headaches which persisted as an undertone to her more severe conditions that were not caused by the accident.
<i>Cook v Karden Disability Support Foundation</i> [2016] VSCA 263	47-year-old applicant suffered a workplace injury while trying to transfer an intellectually disabled person from a wheelchair to a bed.	Neck and right shoulder injuries.	Jury award of \$50,000.00 at trial reduced to nil by s134AB(22) of the <i>Accident Compensation Act 1985</i> (Vic).	Cross-examination disclosed areas where the applicant's evidence was not entirely reliable. The jury was entitled to accept evidence that the incident was not a cause of all of her problems.

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<i>Kalos v Goodyear & Dunlop Tyres (Aust) Pty Ltd & Anor</i> [2016] VSC 715	59-year-old plaintiff tripped on an exposed and protruding metal plate in the workplace.	Right shoulder injury. Full thickness tear of the supraspinatus and infraspinatus tendons.	\$250,000.00.	Severe traumatic injury to the right shoulder requiring 2 x surgical interventions and a manipulation under anaesthetic, plus ongoing conservative management. The plaintiff continued to suffer pain, restriction of movement and dysfunction affecting the right shoulder, and associated anxiety and depression.
<i>Wearne v State of Victoria</i> [2017] VSC 25	62-year-old plaintiff. Workplace bullying.	Psychiatric injury. Exacerbation of a pre-existing chronic adjustment disorder with mixed anxiety and depression.	\$210,000.00.	Dixon J referred to society placing greater value on the loss of enjoyment of life and the experience of pain and suffering, and that awards of damages have markedly increased (citing <i>Willett v Victoria</i> (2013) 42 VR 571; <i>Amaca Pty Ltd v King</i> (2011) 35 VR 280). Dixon J considered the severity and impact of the plaintiff's psychological injury, and the exacerbation of a pre-existing condition.
<i>Parr v Southern Colour (Vic) Pty Ltd & Ors</i> [2017] VCC 337	The 54-year-old plaintiff was injured at work when he fell through a piece of chipboard covering a drainage pit.	Neck and lower back.	\$175,000.00.	Neck and lower back pain requiring constant pain-relief medication. Limited ability to perform physical activities (i.e. wood chopping).

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<i>Hand v Morris & Anor</i> [2017] VSC 437	The 51-year-old plaintiff was sexually abused as an 8 years old in grade 4 at Eastwood Primary School.	Chronic generalised anxiety disorder.	\$260,000.00.	The plaintiff's mother recalled what her child was like as a boy and the changes in his behaviour post the abuse. Zammit J described the abuse as prolonged, gross and public and that it had a profoundly damaging effect on the plaintiff's self-esteem, confidence and relationships with others. It inhibited his work performance and satisfaction and impaired all facets of his general enjoyment of life. The effect of the abuse and the development of a generalised anxiety disorder was chronic and would endure his whole life. However, Zammit J acknowledged that this was not a case where the abuse had stolen everything from the plaintiff in relation to his enjoyment of life.
<i>Wilson v Bauer Media Pty Ltd</i> [2017] VSC 521	35-year-old plaintiff described as a well-known Australian born actress. Defamation case involving 8 publications stating that the plaintiff was a serial liar and had lied about her name, age and other aspects of her personal life and background.	The plaintiff being devastated and shattered by the publications that held her up to be a phony and a fake at the high point of her career.	\$650,000.00 (including aggravated damages), capped at \$389,500.00.	The plaintiff spent 17 years building her career to a point where she had made it in Hollywood. In assessing general damages, Dixon J referred to the plaintiff being devastated and shattered by the publications that held her up to be a phony and a fake at the high point of her career. Her hurt was substantially aggravated both by the circumstances of publication and by the continuing conduct of Bauer Media up to the verdict. The conduct included a failure to apologise, maintenance of the defence of truth, and disclosure of sensitive information regarding her earnings. This conduct reinforced the need for a substantial damages award according to his Honour. The defamatory attack was said to have significantly extended along the grapevine to search engines and radio commentary.

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<i>Love v TAC (No 2)</i> [2017] VSC 584	Motor vehicle accident with an unidentified vehicle/driver.	Left leg, ongoing neuropathic pain, PTSD with depression.	\$342,000.00 (incl. discount of 10% for contributory negligence).	<p>The plaintiff sustained a serious fracture to his leg. He developed compartment syndrome requiring surgery, and suffered from post-operative infection. He suffered from ongoing pain requiring spinal cord stimulation, which was unsuccessful.</p> <p>The plaintiff's credit and reliability were heavily disputed. He admitted to having a history of significant cannabis use and illicit drug use, and serious pre-existing psychiatric illness including schizophrenia and psychotic episodes, which manifested themselves with hallucinations, hearing voices and having blackouts. The plaintiff also had a number of pre-existing back and shoulder conditions arising from a previous motor scooter accident. In addition, there was competing medico legal evidence as to whether the pain was neuropathic or psychological.</p> <p>There was a dispute as to the impact of the injury on the plaintiff's personal and social life, as he was lonely and helping out at a pizza shop prior to the accident. Zammit J said that: <i>'No matter how dysfunctional a life the plaintiff had before, he now has a life that will be permanently affected by pain which overwhelms all aspects of his life.'</i></p>

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<i>Scarlett-Rhodes v State of Victoria</i> [2017] VCC 1493 (19 October 2017)	<p>Tort - Battery – arrest – excessive force.</p> <p>Plaintiff arrested in a laneway and detained.</p>	Facial and psychological.	\$60,000.00.	<p>Brookes J was satisfied that as a result of the incident, the plaintiff has suffered traumatic injuries to her face, including an undisplaced fracture of the nose, cuts to the left eyebrow and the left cheek, swelling of the left cheek, and grazing of the face.</p> <p>Brookes J considered that the fracture to the nose would have healed physically in approximately 6 weeks' time. Brookes J also accepted evidence that the plaintiff had likely been through an Acute Stress Disorder, but had since been suffering from an Anxiety Disorder with features of PTSD, which had somewhat attenuated, and also a Depressive Disorder, which seemed to be largely in remission. She remained affected by subjective feelings of paranoia towards the police in general.</p> <p>Brookes J accepted that the plaintiff did not overstate her current psychological condition and she conceded that there had been considerable recovery. Her evidence in this regard was in keeping with her overall honesty in the manner in which she gave her evidence.</p> <p>The plaintiff had been resilient with respect to her employment and other aspects of her life, and because her prognosis was overall reasonably favourable.</p> <p>Brookes J considered it appropriate to assess general damages in the sum of \$60,000.00.</p>

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<i>Gann v Hosny [2017]</i> VSCA 303 (20 October 2017)	Appeal. Intentional tort – Assault.	Psychiatric injury.	\$300,000.00.	<p>The applicant, Mr Gann is famous for his appearance acting as the character 'Wilfred'. The applicant's appeal was on grounds that the plaintiff had procured damages by fraud as: he had engaged in work since assault; had obtained accident compensation payments by deception; and, had allegedly engaged in perjury when giving evidence at trial. Leave to appeal was refused as the applicant failed to establish that the damages judgment was procured by Hosny's fraud</p> <p>As to general damages, the respondent was entitled to damages for his pain and suffering and loss of enjoyment of life flowing from the assault. It was clear that the impact of the assault upon him had been devastating. Prior to the assault he was a happily married man with no pre-existing psychiatric history and with a solid work history. He was working two jobs, paying off a mortgage and socialising regularly. He was outgoing and loved going out and going to the theatre. As a result of the assault, he suffered chronic severe and debilitating PTSD. He had been unable to work at all since September 2009 and had lost his ability to do the work he enjoyed as an attendant and bus driver. His marriage broke up as a result of his deteriorating psychological condition. His house had to be sold. He was homeless, scared of people, had panic attacks and suicidal thoughts. He had a history of self-harm including setting himself alight and an incident of pouring boiling water over himself. He would binge drink and smoke twice as many cigarettes as before the assault. His diabetes had been compromised by the poor diet he kept due to the side effects of medication for the psychological symptoms suffered as a result of the assault.</p> <p>In all the circumstances, the trial judge assessed general damages in the sum of \$300,000.</p>

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<i>Brook v Kempton & Ors</i> [2017] VSC 661 (27 October 2017)	Assault post 21 st birthday attendance. Plaintiff repeatedly punched and kicked. Defendants pleaded guilty to charges.	Facial fracture, brain damage, PTSD, adjustment disorder with depressed mood, hearing loss, tinnitus, scarring.	\$165,000.00.	<p>The plaintiff was the victim of a serious and unprovoked assault by the three defendants. The fracture to the right side of his jaw was found to be relatively asymptomatic, but it was accepted that the plaintiff suffered some intermittent ongoing pain associated with eating and talking, and that there was a possibility of future deterioration.</p> <p>The plaintiff suffered a closed head injury. Any acquired brain injury was held to be at the very mild end of the spectrum. The ongoing difficulties with concentration and memory were more likely to be associated with the PTSD and adjustment disorder with depressed mood. There was at least the possibility of those psychiatric conditions improving with time. It was noted in that regard that the plaintiff had maintained an excellent work record and had the benefit of supportive relationships with his partner, her children, and his extended family.</p> <p>The plaintiff's right hearing loss, tinnitus, and the unsightly scarring to his chin and below his lip were also taken into account.</p>
<i>Damjanovic v Kah Australia Pty Ltd (trading as Bayview Eden)</i> (ABN 51 052 003 139) [2017] VCC 1657 (16 November 2017)	Worker cleaner injured due to repetitive and arduous cleaning duties. Alleged breaches of the <i>Occupational Health and Safety Regulations</i> 2007.	Cervical spine, left shoulder.	\$250,000.00.	<p>O'Neill J accepted that as a result of her injuries, the worker suffered from relatively constant pain in the neck and shoulder with exacerbation. The injuries required physiotherapy, medication and some injections into the neck and shoulder. She took medications including Lyrica, Endep and Panadol. Her sleep was affected, in particular when she turned over in bed at night.</p> <p>She was restricted in a range of heavier domestic activities, and her husband did most of these.</p> <p>O'Neill J accepted that her injuries resulted in the loss of her employment, which she found not only satisfying and rewarding, but through which she developed social relationships.</p>

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<i>Collins v Staminirovitch</i> [2017] VSCA 342 (23 November 2017)	Transport accident. Appeal.	Head, facial, loss of smell, hearing, headaches, visual impairment, dental injury, altered sensation in the face, scarring, injuries to the right shoulder, spine, neck and right knee, PTSD, anxiety, depression, impaired memory/ concentration, and an adjustment disorder.	\$100,000.00.	<p>The trial lasted 3 weeks. 15 witnesses gave evidence. 8 medical reports were read into evidence. The jury assessed the applicant's pain and suffering damages in the sum of \$100,000. The applicant sought leave to appeal the verdict on grounds that the amounts awarded by the jury for pain and suffering were manifestly inadequate and not reasonably open on the evidence. Further, the jury erred in not rejecting the evidence given by A/Professor Doherty concerning the plaintiff's injuries and the impact of those injuries on her pain and suffering, enjoyment of life and earning capacity.</p> <p>The Court of Appeal held that it was a matter for the jury whether it accepted Doherty's revised views about the applicant's psychological state being tied up in a separate proceeding against Hungry Jack's.</p> <p>The jury was also entitled to take into account the evidence that since the accident the applicant had undertaken an entrepreneurial course, had re-partnered with the respondent, and had given birth to a second child, thus undertaking the further responsibilities of parenthood.</p> <p>It was open to the jury to proceed on the basis that the principal physical injury consisted of the comminuted fracture to her nasal bones. Further, the jury was entitled to conclude that, after undergoing 6 surgical procedures, the applicant had substantially recovered from that injury.</p> <p>It was held that the evidence relating to the applicant's injuries, and on the view of that evidence most favourable to the verdict, it could not be concluded that the verdict of the jury, in respect of those damages, was not reasonably open to it.</p>

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<i>Sheila Savage v Monash University</i> [2017] VCC 1774 (1 December 2017)	48-year-old plaintiff. Occupier's liability case. Slip and fall whilst walking across a median strip crossover located between two roads at the Monash University.	Left ankle. Initially a minor strain. Deteriorated post arthroscopic surgery. Chronic pain disorder.	\$275,000.00.	<p>The injury was initially a minor strain of the ankle. It was treated by an arthroscopy because of continuing symptoms. The plaintiff developed a chronic pain disorder.</p> <p>She described every day as being a challenge to her. She was in constant pain, particularly in the winter such that she did not want to leave her house. Warm weather caused her ankle to swell and made it difficult to move around. Her ability to walk was limited. She used a walking stick and a cam walker.</p> <p>Her medications included Panadeine forte, Norspan, and Panadol Osteo. She suffered from variable pain in her lower spine. Her weight increased from 95 kg to 145 kg.</p> <p>She described herself as being a resilient person before her injury being able to cope with the demands of working in the security industry. In contrast she described her current mental state as being negative, depressed and anxious with a tendency to be forgetful.</p> <p>She had lost her ability to work which made her feel sad. She described her ability to cook, clean or work in the garden as lost to her. She was denied the ability to engage in any real activity with her 13-year-old son.</p> <p>She said that water falling on her foot in the shower felt "<i>like someone throwing nails.</i>" The plaintiff said that when she sleeps she lies on her stomach with her ankle hanging over the bed so that it is not touched by the sheets as the pressure of the sheets aggravated her condition. The plaintiff has not been able to share a bed with her husband for many years.</p>

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<i>Meli v Ceva Logistics (Australia) Pty Ltd & Anor</i> [2017] VSC 739 (12 December 2017)	The worker was injured when eight metal load securing gates in the rear of a tautliner trailer fell on him.	Fractured pelvis. Ongoing severe lower back pain, shoulder pain and pelvic/hip pain. Chronic pain syndrome and complex regional pain syndrome. PTSD. Depressed mood. Anxiety.	\$598,360.00 (statutory maximum).	<p>The accident had a devastating impact upon the worker physically, psychologically and upon his personal relationships with his wife and two children.</p> <p>Prior to the accident, he lived life to the full. He had a very active social and recreational lifestyle. This was demonstrated by photographs at trial. The physical and psychological impact of injuries sustained by the worker had been extremely serious. Seven years after the accident he suffered from PTSD which was left untreated.</p> <p>His depressed mood and anxiety meant that he found it difficult to leave the house. He spent all of his time in a recliner chair or in bed. His wife likened the family home to a morgue. He had been hospitalised on 6 occasions for his psychological condition, and he had attempted suicide on 2 occasions.</p> <p>The worker suffered from regular falls. He soiled himself regularly and his wife had to assist him with toileting. He was prescribed a strong cocktail of medication for both his physical and psychological conditions. He had 7 surgical procedures (3 on his back, 2 on his right shoulder and 2 on his left shoulder).</p>