

SUPREME COURT OF QUEENSLAND

CITATION: *Beaton v Sibley* [2002] QSC 358

PARTIES: **SALLY-ANN MARGARET BEATON**
(applicant)
v
ANNE-MARIE SIBLEY
(respondent)

FILE NO/S: S691 of 2002

DIVISION: Trial

PROCEEDING: Application for criminal compensation

ORIGINATING COURT: Supreme Court at Townsville

DELIVERED ON: 29 October 2002

DELIVERED AT: Townsville

HEARING DATE: 4 October 2002

JUDGES: Cullinane J

ORDER: **Applicant awarded compensation in the sum of \$31,875.00**

CATCHWORDS: CRIMINAL LAW – PARTICULAR OFFENCES – OFFENCES AGAINST THE PERSON – where respondent pleaded guilty to unlawful wounding with intent to disable – where applicant suffered significant scarring and moderate post traumatic stress disorder – determination of entitlement to compensation under *Criminal Offence Victims Act 1995 Qld* (as amended) – assessment of compensation according to statutory compensation scheme

Criminal Offence Victims Act 1995 (Qld) (as amended)

COUNSEL: M Fellows for the applicant
No appearance for the respondent

SOLICITORS: Shine Gouldson Lawyers for the applicant
No appearance for the respondent

[1] This is an application for compensation under the *Criminal Offence Victims Act 1995*.

[2] The Applicant who was born on the 27th July 1973 was attacked by the Respondent with a knife on the evening of 17th May 2000.

- [3] The Respondent did not appear on the application.
- [4] The Respondent pleaded guilty to unlawful wounding with intent to disable and was sentenced to 4 years imprisonment with a recommendation that she be eligible to be considered for parole after 1 year.
- [5] There had been an altercation between the Respondent and a friend of the Applicant earlier in the evening. The Applicant had intervened and had punched the Respondent causing her to release her hold on the Applicant's friend.
- [6] Later in the evening the Applicant was approached by the Respondent demanding that she provide the Respondent with her address. The Applicant ignored her. The Applicant left the hotel and noticed that the Respondent had followed her. She turned and told the Respondent to leave her alone but the Respondent continued towards her. The Applicant whilst backing away from the Respondent fell over a small brick wall onto a garden bed and it would seem that whilst she was lying upon the ground the Respondent inflicted a number of stab wounds with a knife she had on her. There were in all a total of some 8 stab wounds, one to the left elbow, one to the left side of the abdomen, one to the left side of the buttocks, two or three to the left upper leg and one to the groin.
- [7] The Applicant has not suffered any impairment of function of any part of her body but suffers significant scarring in consequence of the attack upon her and also suffers a post traumatic stress disorder.
- [8] The scarring is the subject of a report of Dr Jenkins, a plastic and reconstructive surgeon. He describes the scarring in some detail.
- [9] Some of the scarring is associated with pain particularly that on her left leg and she has a loss of feeling over the front on the left thigh. Her left buttock has a significant scar which is atrophic and conspicuous. There are a number of scars over the anterior aspect of her left thigh. There is a scar on the left arm which is pigmented and conspicuous. On the left side of the abdomen there is an atrophic and conspicuous scar and there is a linear scar running over her left labia majora which is pale and relatively inconspicuous.
- [10] Dr Jenkins thinks that the scarring on the buttock, left arm, left anterior thigh and left abdomen could be revised surgically at a cost of about \$5,000-00.
- [11] The Applicant is self conscious about the scarring and tends to dress to conceal the scars. People comment to her when the scars are exposed.
- [12] The Applicant, according to Mr Morgan a registered psychologist, suffers, as I have said, from a post traumatic stress disorder. She has some nervous episodes and tends to be irritable. She often thinks about the events. There is some avoidance behaviour and she has reduced her social activities. She does not go out alone.
- [13] There was an incident of self-harm shortly after the incident.
- [14] For quite some time she used alcohol to excess and she suffered some degree of depression.

- [15] She currently works and is engaged to be married.
- [16] She lost some 12 months work following the accident during her recovery from the injuries she sustained.
- [17] Mr Morgan assesses her post traumatic stress disorder as moderate.
- [18] The injuries were sustained in circumstances which must have been terrifying to the Applicant who was in fear for her life. She has made a good recovery and as I have said suffers no impairment of bodily function.
- [19] Nonetheless she has ongoing sequelae of the incident which are significant.
- [20] Claims are advanced under two heads.
- [21] These are item 26 and item 32 of the schedule.
- [22] The first of these relates to a stab wound (severe). Under this head an award in the range of 15% to 40% of the scheme maximum can be awarded. I am satisfied this is the appropriate item in the schedule so far as the stab wounds and consequent scarring are concerned. I award compensation in the sum of \$18,750-00 in respect of this claim.
- [23] I am also satisfied that the item under which the claim for mental shock is made is the correct one. This permits an award of compensation in the range of 10% to 20% of the scheme maximum. I allow a sum of \$13,125-00 (which represents 17.5% of the scheme maximum) in respect of this claim.
- [24] The total sum of compensation is \$31,875-00.
- [25] I award the Applicant compensation in the sum of \$31,875-00.