



Transcript of Proceedings

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State Reporting Bureau

Date: 21 July, 2003

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

JONES J

Claim No 232 of 1998

AA DEN JAMES GRIFFITHS an infant by his litigation guardian CAROLLYN ANN SOBLUSKY

First Plaintiff

and

KEARNNA CAITLYN SHAE TRIMBLE an infant by her litigation guardian TRACEY TRIMBLE

Second Plaintiff

and

JUSTIN JAMES CRAIG SCOTT TRIMBLE an infant by his litigation guardian TRACEY TRIMBLE

Third Plaintiff

and

BENJAMIN JAMES COOK an infant by his litigation guardian LEANNA FRANCIOSA (nee Cook)

Fourth Plaintiff

and

ANDREW GEORGE MARTLEW

First Defendant

and

STATE GOVERNMENT INSURANCE COMMISSION GENERAL INSURANCE LTD
(ACN 069 065 158)

Second Defendant

CAIRNS

..DATE 14/07/2003

JUDGMENT

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HIS HONOUR: Yes. I will give some brief reasons. On the 15th of December 1994 Craig Adam Griffiths was a passenger in a motor vehicle which went out of control and crashed. Griffiths suffered injuries which resulted in his death.

This action concerns claims made by four infant children for the loss of the deceased's financial support. The first defendant, the driver of the vehicle, was found guilty of dangerous driving and there was clearly negligence in causing the deceased's death.

A number of liability issues have been raised against the deceased. These related to the intoxication of the driver and questions of volens and also the deceased's failure to wear a seatbelt. Some discounting of the amount of damages was appropriate in respect of these matters.

The infant children were born as a result of the deceased's short association with three different women who are now respectively the litigation guardians of the infants. The deceased's support for the children during his lifetime was sporadic and uncertain.

He was only 21 years old at the time of his death. He had worked in a variety of jobs as a tradesman's assistant, lawnmowing, station hand, delivery driver, bar attendant and labourer. He also played music at a nightclub. His periods of employment were interspersed with long periods of unemployment and his receipt of social security benefits.

His assessable income in any of the years of his working life was really of a low order. More than that the amounts which he contributed to the upkeep of the children were quite small.

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There was nothing in the material to indicate that there was likely to be any significant change in this workstyle although one imagines that with the passage of time he would have had more security in his employment and therefore a more reliable and higher income.

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But the question then remains as to whether any income which he did earn in the future would have been applied in a way that went close to meeting the demands of these children. The greater likelihood is that that burden would have fallen to the mothers, any future partner of theirs and to the Social Securities Department.

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These matters, of course, make it somewhat difficult to arrive at any precise calculation as to the loss of financial dependency and make impossible any assessment of what services the deceased would have supplied to these children in the course of their lifetime. Essentially, the task was to assess the loss of a chance based on that rather limited and uncertain information.

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I have been favoured with an opinion by Mr Turnbull of counsel which, on my reading of it, takes into account all the

relevant issues which would touch upon the assessment of the
loss of dependency for each of the claimants.

Having regard to those matters I am satisfied that the
proposed settlement of this action should be sanctioned. Each
of the litigation guardians agrees with this course. The
children themselves are a very young age and the list of
uncertainties which confront their future, of course, is very
long.

I would therefore sanction settlement of the claims of the
first, second, third and fourth plaintiffs in the sums of
\$24,595, \$20,177, \$23,381 and \$22,129 respectively.

I will make orders in terms of the amended draft initialled by
me and placed with the papers. I direct that the opinion of
Mr Turnbull be placed in a sealed envelope and marked "Not to
be opened except with the leave of the Court".
