

## **BLYTH v VAN DEN HEEVER 1980(1)SA191(A)**

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### **SUMMARY**

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- Appellant sustained fractures of the right radius and ulna (bone in right forearm).
- After the Respondent (a medical practitioner) operated to reduce the fracture sepsis set in, together with an ischemic condition.
- Appellant suffered much pain and suffering as a result thereof and even after other operative procedures performed by other practitioners, he was left with a clawlike right arm.
- In an action against the Respondent, the trial Judge described the arm as 'a shrunken clawlike appendage of extremely limited functional value', but he held that although the Respondent had been negligent, such negligence had not been proved to have been causally connected with the damage ultimately sustained and had granted absolution from the instance with costs.
- In an appeal, the Court found that the Respondent had been negligent in his post-operative treatment of the Appellant in that he had failed to diagnose and take the necessary prompt action for ischemia as a reasonably skilled and careful medical practitioner would have done, and that if he had done so the fractures would have probably healed and full use of the arm would have been regained - his negligence had caused or contributed to the ultimate catastrophe.
- The Court held that this conclusion established the liability of Respondent to Appellant.
- The Court further that in computing prospective damages, that the general practice of taking into account certain future possibilities (in this case possibility of a future amputation) which had not been shown to be possible should be allowed.

- The decision in the Court a quo reversed.
- The Court established negligence on the part of the Respondent.
- Delictual negligence which is causally linked to the damages suffered to the situation – this enquiry resolves itself into the following questions:
  - Whether a reasonably skilled and careful medical practitioner in the position of the Respondent would have realized that a serious ischemic condition was developing or threatening to develop in the Appellants forearm, and, if so, when he would reasonably have come to realize this;
  - Whether there was remedial action which could have been taken;
  - Whether the same notional practitioner would have known of this remedial action and would have realized that this had to be taken;
  - Whether the remedial action if taken would have prevented the damage suffered by the Appellant; and
  - Whether the Respondent himself failed to take such remedial action.
- The negligence was causally connected with the damages sustained by the Appellant.