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Supreme Court hears important fatal accidents appeal in *Knauer v MOJ* [UKSC 2014/0217]

On 28th January 2016, 7 Supreme Court Justices heard a 'leapfrog' appeal in the case of *Knauer v Ministry of Justice*.

The purpose of the appeal is to bring the law on assessment of damages for future loss in fatal accident cases in line with personal injury cases. This is the first time in a generation that the Supreme Court has had an opportunity to 'remedy an anomaly and defect'. For the appeal to succeed the Court will have to depart from the decision of the House of Lords in *Cookson v Knowles* [1979] AC 556 which laid down the rule that the multiplier should be calculated at the date of death, not at the date of trial. The current law often leads to under-compensation – and makes a difference of over £50,000 to the bereaved claimant in *Knauer*.

The Claimant emphasised that the approach of the House of Lords in *Wells v Wells* [1999] 1 AC 345, together with the advent of the Odgen Tables, had altered the way in which the Courts quantified future losses; pointed out the injustice of the current method and referred to the various first instant judges who had disagreed with *Cookson* in principle but felt bound to follow it, as well as the Law Commission's recommendations relating to this issue.

In brief submissions, the Defendant's counsel accepted that the current position was unsatisfactory, but argued that reform was a matter for Parliament, bearing in mind that other aspects of the Fatal Accidents Act (such as ignoring benefits flowing from the death) were relatively generous to the Claimant and were ripe for reform. It was accepted on behalf of the MOJ that the Supreme Court had the power to reverse *Cookson v Knowles*.

The Court has reserved its decision. The outcome of the appeal will have serious implications for the calculation of damages in all fatal accident claims. While it is always difficult to predict the outcome of any case, it is fair to say that the Claimant's submissions were favourably received.

Watch this space!



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