

Summary of McMeekin J's Quantum Decisions

Date	Case Name & Court	Age	Injury	Dominant ISV	s.4 Uplift?	Occupation	Past Eco. Loss	Future Global Award	Gratuitous Care
07.08.09	<i>Platen v Monadelphous Workforce P/L</i> [2009] QSC 222 Supreme Bundaberg McMeekin J	47 (M)	\$35,000 Neck injury & psych Surveillance – credit issues.	-	-	Scaffolder	\$246,515.00	\$20,400 1 year for future economic loss at \$400/wk	-
23.09.09	<i>Britten v CPT Manager Limited</i> [2009] QSC 306 Supreme Rockhampton McMeekin J	37 (F)	\$26,000 severe complex fracture of right ankle 4% WPI	ISV of 20	-	Child Care Worker	\$80,000	\$295,000 Loss of \$530/wk for 28 years to age 60; discounted by 30% for contingencies and residual earning capacity	-

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16.12.09	Krieger v Bundaberg City Council [2009] QSC 412 Supreme Rockhampton McMeekin J	50 (M)	\$75,000 Disc prolapsed C7/T12 25% Nave and Williams Onset of unrelated conditions had worsened effects of compensable neck injury	-	-	Plasterer and skilled labourer	-	\$75,000 Unemployable, but had subject accident not occurred the developing symptoms of unrelated neuropathy and bilateral carpal tunnel would have caused Plaintiff's employment to come to an end. Global award for future economic loss to reflect chance that but for accident Plaintiff may have found some form of suitable employment to enable work around developing neuropathy and carpal tunnel.	-

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16.12.09	Luck v Civil Mining and Construction [2009] QSC 413 Supreme Rockhampton McMeekin J	50 (M)	\$30,000 Thoracic spine - 2% increase in pre-existing thoracic injury; reflects fact that had subject accident not occurred probably would have had reasonably significant pain due to earlier accident. Concluded Plaintiff condition worse but not significantly so	n/a	-	Labourer	\$40,000	\$35,000 Global award due to modest increase in restrictions brought about by small increase in thoracic impairment	-

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30.03.10	Hoppe v Burns [2010] QSC 490 Supreme Rockhampton McMeekin J	37(M)	<p>\$65,000¹</p> <p>compound injury to the right upper arm involving deeper structures;</p> <p>20 percent division of the median nerve and five percent division of the musculocutaneous nerve;</p> <p>loss of sensation in his thumb, index and middle finger of his right hand and altered sensation on the medial side of his right forearm;</p> <p>Dr Nave assessed the impairment at 32 percent loss of efficient use of the right arm and equated that to 19 percent whole person impairment</p>	-	-	Labourer	<p>\$70,000</p> <p>After first having discounted by 40% because of lack of motivation to work and poor work history generally.²</p>	<p>\$170,000</p> <p>Allowed \$250 per wk until the age of 67³ discounted by 15%.</p> <p>Assessed residual earning capacity at 50% and factored low motivation when assessing overall net wkly wage</p>	-

¹ *Bathis v Startrack Express & Ors* [2009] QCS 331 referred to.

² At para [57].

³ At para [63].

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22.06.10	Bezant v Davis & Anor [2010] QSC 229 Supreme Rockhampton McMeekin J	54(F)	\$45,000 Fractured pelvis/hip, adjustment disorder, laceration/scarring to the scalp and minor head injury (concussion)	Item 127 ISV 25	20% uplift - allowing an ISV of 30	Yoga instructor	\$10,400 over a 5 year period	\$65,000 As a rough guide - \$50 pw over 16 years as a yoga teacher, and \$35,000 as a global sum reflecting the general impact on her prospects of obtaining and maintaining clerical or the like positions (\$300 x 11 years (444) x 25%).	Met the threshold - Past \$30,980 Future 34 years, and discounting as required on the 5% tables, results in an assessment of \$86,590.00.
13.10.10	Appo v Stanley & Anor [2010] QSC 383 Supreme Mackay McMeekin J	41(m)	\$68,000.00 Broken nose, and lacerations to the face with soft tissue injury to the arms. The significant injury was to his neck. Two discs in the cervical spine were damaged. He has undergone surgery on two occasions involving discectomy and fusion from the C5 to C7 vertebrae.	Item 86 – “severe cervical spine injury” ISV 40	No Multiple injuries, apart from the neck injury, are modest in their impact... assess an ISV of 40	Jockey	\$273,000.	\$460,000.00 \$1,200/wk until retirement at 50 years, discounted by 30% for injuries, suspensions and contingencies. \$310,000.00 Adopted 50% of earnings from age of 50 years until pension retirement and contingencies. \$150,000.00	Nil in the past and agreed for the future at \$24,660.00

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22.10.10	Husband v Hikari (No 42) Pty Ltd [2010] QSC 398 Supreme Rockhampton McMeekin J	48(F)	disc herniation, laminectomy – a whole person impairment in the range of 10% to 13%. Significant asymptomatic pre-existing degenerative changes. \$55,000.00	n/a	n/a	Retail	\$39,800 Broken periods of pre-accident earnings. Longest job 9 months. Further loss only provided for jobs which were curtailed because of the injury and not all work for other reasons. Cost of travel deducted.	\$145,000 ⁴ \$300/wk to 65 years Adopted the plaintiff's last high paying job as a standard of pay she might achieve if uninjured, apportioned about 50% as residual earning capacity and discounted it by 20% ⁵ .	-

⁴ *Purkess v Crittenden*;[4] *Watts v Rake*;^[5] *Hopkins v WorkCover Queensland*.^[6] Rather the evidence of vulnerability to the development of symptoms needs to be brought into account as one of the factors in weighing up the hypothetical future of the plaintiff if uninjured: *Malec v JC Hutton Pty Ltd*.^[7] Following *Malec* the evidential onus on the defendant to disentangle competing causes is made easier as the Court is concerned with competing possibilities not probabilities: *Seltsam Pty Ltd v Ghaleb*.^[8]

⁵ 15% as the usual discount for contingencies (cf *Waller v McGrath* [2009] QSC 158 at [50]- [53]) but note that in cases where there is significant vulnerability a discount of a third has been adopted – see for example *Hopkins v WorkCover Queensland* [2003] QSC 257 confirmed on appeal: [2004] QCA 155.

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25.03.11	Koven v Hail Creek Coal Pty Ltd [2011] QSC 051 Supreme Mackay McMeekin J ⁶	46(M)	Drs Saxby and Cook concurred as to a 5% whole person impairment with Dr Cook suggesting a 12% impairment of the left lower limb (ankle). \$60,000.00	-	-	Drag Line Miner	\$170,000.00	\$495,000.00 The current net average wkly wage (including \$38/wk - bonuses) of \$1,687 was adopted for 15 year period until retirement but was discounted by 20% until age 60 and by 50% from 60 to 65 yrs. Residual income earning capacity at \$500 net per wk for the first 10 years and \$250 net per wk for the remaining five years.	Adoption of the "hybrid scenario" in <i>Cameron v Foster</i> \$15,000.00

⁶ An excellent decision for a general discussion of all the principles as well as novel awards for meal allowances, travel, and interest on superannuation.

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22.06.11	Allwood v Wilson & Anor [2011] QSC 180 Supreme Rockhampton McMeekin J	51(M)	\$45,000 Item 127 ("moderate pelvis or hip injury")	ISV 25	20% ⁸ ISV 30	Heavy machine / plant operator	\$110,000 \$1077 net pw x 160wks = \$172,320 and discounted by 35% - Largely adopting Vincents' report	\$220,000 \$1,027 x 26 wks & discounted by 40% (\$25,000) \$50,000 for global allowance of the risk of failure of the hip replacement and revision \$120,000 for restrictions despite a successful outcome \$25,000 for the lost chance or prospect of working to 70 years of age	Past \$20,000 Future \$25,850 ⁹
24.08.11	Hughes v Tucaby Engineering Pty Ltd [2011] QSC 256 Supreme Mackay McMeekin J	48(M)	\$55,000.00 Non dominant shoulder - horrendous tears – Dr Cook has assessed the extent of the impairment using the AMA Guides (5th edition) as at about 17% to 18% of the shoulder and 10% to 11% of the whole person	n/a	n/a	Underground fitter on the mines	\$34,447.00	\$343,000.00 \$1,188 through to age 60 years with a 30% discount for contingencies and then for a further 5 years with a 90% discount. Noting very few workers in the mining industry worked post 60 years of age	

⁷ An excellent discussion of CLA and other quantum principles

⁸ [30] – [34].

⁹ A helpful analysis of the matters to consider for future care when operations and convalesce is envisaged.

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21.11.11	Hooper v King [2011] QSC 324 Supreme Rockhampton McMeekin J	59(F)	\$18,000 Soft tissue damage to the cervical spine – 5% Drs Nave and Fitzpatrick Scarring – 2% Driving phobia – PIRS – 5% Dr Flanagan	10	50% ¹⁰	Hairdresser	\$118,000 Based on: 2 days/6mth; 3 days/18; & fulltime from 2009 - Discounted by 35% ¹¹	\$130,000 \$859 x 6 yrs/45%	\$30,000 for past based of \$27.50/hr ¹² \$85,000 Adopting four hours per wk at \$40 per hour over 29 years discounted by 35%
10.02.12	Perfect v MacDonald & Anor [2012] QSC 11 Supreme Rockhampton McMeekin J	16(M)	\$18,000 Item 97 Shoulder injury Dr Gillett Others: Scarring, coccygeal injury and tooth	15	-	Student	Nil	\$200,000 Discussed at length the prejudice and potential loss as a diesel mechanic, being vulnerable on the open labour market or reduced profit if self employed. An excellent review of the principles and especially for those cases where lost capacity is marginal.	-

¹⁰ [18] & [19].

¹¹ Allowing for degenerative back and costs of employment [43].

¹² [80] & [81].

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