

**Supplementary
Submission
No 26a**

INQUIRY INTO PERSONAL INJURY COMPENSATION LEGISLATION

Organisation: Border Attorneys
Name: Mr Terence O'Riain
Telephone: 02 60415190
Date Received: 07/03/2005

Subject:

Summary

Our client is Mark Griffith who is currently 29 years old and lives in Swan Hill, Victoria. This is a matter under the Motor Accidents Compensation Act NSW.

On 12 May 2000 our client along with two mates had finished work (Shearing) on a farm out of Ivanhoe. At approximately 6pm they left the premises in one of the mate's 4WD heading towards Balranald. On their travels they stopped at the Homebush Pub located approximately 35km from Balranald. Both Mark's mates consumed a large amount of alcohol and our client being a non-alcohol drinker consumed Coke. Upon leaving the Pub our client took the keys and drove about 20km towards Balranald and pulled up because both mates were skylarking. Mark left the engine idling and they all exited the vehicle to urinate. The owner without warning got into the driver's seat and began to spin the car around in a circle. He then began to head towards Mark who began to run towards the bank but the driver's side of the bull bar struck him at the back which knocked him to the ground and then the 4WD ran completely over him front and back wheels.

As a result of the above our client suffered five fractured ribs at the ostovertebral cartilage area at the back, right hemothorax requiring five-unit blood transfusion and a collapsed right lung.

Our client still suffers considerable disability and it is not disputed that he will never be able to return to his pre-injury occupation as a Shearer and woodcutter.

The driver was imprisoned as a result of pleading guilty of negligent driving occasioning GBH.

Our client continues to suffer difficulties with heavy labour work.

Mr Griffiths was employed as a store-person at Autobarn in Swan Hill. He was terminated 23rd August 2001. He moved his family from Balranald to Swan Hill for the purpose of gaining employment. His fiancée left with their two young children to return to Balranald. The reason for the separation was due to the noticeable change in Mr Griffith's personality eg. easily aggravated, increase in temper and began to consume alcohol. Note that he and his fiancée had been sweethearts since they were 10 years old.

Further he feels he is now a pariah in his town where his family had lived for generations. This is due to local hostility that the driver was jailed and because of a perception that he will receive a huge and to the townspeople's minds an unjust amount of compensation. This is due to the skewed and alarmist campaign by the media and Premier regarding the recovery of compensation for injured persons.

In fact he will receive nothing for pain and suffering. He has been assessed as having a zero impairment by the criteria laid down by the NSW government. Note that if he were injured under common law he would receive a large amount but not even losing his whole lifestyle and occupation will change the decision of the assessor due to the method of assessment. Further a court can hear the whole story of the above and by law not award anything for pain and suffering.

It seems that access to compensation is entirely dependent on whether you are injured in politically sensitive circumstance. If Mr Griffiths had been 'lucky' enough to suffer the above in the Waterfall incident then he would be properly compensated but his considerable and intense pain and suffering is worth nothing because it happened out of the public eye.

The systems instigated by the state government are unfair and unjust.