

**Summary of Judgment**

**BUCIC v ARNEJ PTY LTD [2019] VSC 330**

**20 May 2019**

The Court has awarded a plaintiff damages in the sum of $1,043,000 for injuries that he suffered whilst working as a self-employed brick cleaner on a building site in Keilor. The defendant was the building company which, at that time, was the occupier of the premises.

The plaintiff pleaded his case under Part IIA of the *Wrongs Act 1958* and, in the alternative, under Part 3.5 of the *Occupational Health and Safety Regulations 2007*. The defendant denied any negligence and/or breach of statutory duty. It further pleaded contributory negligence and voluntary assumption of risk.

The plaintiff alleged that, on 30 October 2007, he fell approximately 4.5 metres from scaffolding that was incomplete and/or inadequately secured. He claimed that the fall aggravated or exacerbated his pre-existing degenerative back condition such that he required three bouts of surgery culminating in a spinal fusion. He further claimed that the fall caused or materially contributed to the onset of a debilitating neck condition. He also claimed psychiatric and cognitive injuries as responsive to his physical injuries. The defendant contended that the Court could not be satisfied on the evidence that the plaintiff fell in the way alleged and, even if it could, that his injuries were not caused or materially contributed to by the fall.

The Court found that the plaintiff fell from a raised scaffolding baywhich lacked guardrails at either end. It held that the defendant breached its duty of care as occupier of the premises by allowing the plaintiff to work on scaffolding that was self-evidently deficient. The Court was not satisfied that there was any contributory negligence on the part of the plaintiff and rejected the defendant’s *volenti* defence. Significantly, it found the fall was causative of the plaintiff’s injuries, including his back, neck, psychiatric and cognitive injuries.

The Court allowed $1,043,000 in damages under the following heads:

1. General damages, $300,000
2. Economic loss, $475,000
3. Attendant care, $235,000
4. Medical and like expenses, $33,000

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**NOTE**: This summary is necessarily incomplete. It is not intended as a substitute for the Court’s reasons or to be used in any later consideration of the Court’s reasons. The only authoritative pronouncement of the Court’s reasons and conclusions is that contained in the published reasons for judgment.