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Recent Head Damage Awards

Eileen Kelley*

H EAD TRAUMA IS RESPONSIBLE for more litigation than any other single bodily mechanical damage.¹ Belli² ranks brain injuries second only to the back and spine in producing permanent and crippling disabilities.

The scope of head injuries may be far-reaching. One author³ classifies skull fractures according to those accompanied by brain injury or without brain injury, and depressed fractures or compound fractures, both with concomitant brain injury. Severity of brain damage is of prime significance in a head injury⁴ and the concomitant permanent or temporary disability may affect the entire body through paralysis of limbs, emotional instability, or loss of the intellectual processes.⁵

The most striking recent example of such an injury is the case of *Sox v. United States*⁶ in which an infant sustained severe and permanent brain damage from prenatal injuries when the mother was involved in an auto collision. The child was rendered totally and completely helpless and dependent for an expected lengthy life span. There was a total loss of over-all muscular control. All natural senses were extinguished including sight and hearing, except some response to touch. Physical and mental development was thwarted.⁷

Fractures of facial bones and areas involving the nose present another classification of head injuries. These injuries produce more disfiguring effects than serious or permanent disability.⁸

Disfigurement is one of the proper elements in the assess-

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¹ Schroeder, *The Head: A Law-Medicine Problem*, Institute of the Law-Medicine Center, West. Res. Univ., p. 28 (1957).

² 5 Belli, *Modern Trials*, 149 (1960); and see for various aspects, Oleck, *Damages to Persons and Property* (1961 revision).

³ McBride, *Disability Evaluation*, 558 f (5th ed. 1953).

⁴ Schroeder, *op. cit. supra*, n. 1, p. 34.

⁵ *Id.*, at 32.

⁶ 187 F. Supp. 465 (D. C. S. C., 1960).

⁷ *Id.*, at 467.

⁸ McBride, *op. cit. supra*, n. 3, p. 374.

ment of damages.⁹ Cosmetic value has developed into a definite basis of claims and affects such intangibles as marriage prospects, humiliation, loss of social companionship and neurotic suffering.¹⁰ The court commented upon the importance of disfigurement in *Rankin County v. Wallace*,¹¹

whether it is true or not . . . that a young girl's face is her fortune, it must be conceded by even the elder members of the opposite sex that it is a valuable asset, the impairment of which results in substantial damages.¹²

The loss of teeth, alone, Belli¹³ has concluded, is seldom a source for a large award unless associated with disfigurement.

Assessment of Damages

The matter of amount of damages rests primarily within the discretion of the jury.¹⁴ The reviewing courts are hesitant to disturb these findings unless the awards are grossly excessive or inadequate.¹⁵ The appellate courts will consider the issue if there has been uncontradicted evidence which indicates that the award is insufficient as a matter of law or there has been an abuse of discretion.¹⁶ Abuse of discretion, according to the court in *Barnett v. Keilig*,¹⁷

. . . is not shown unless it appears that the verdict is the result of passion or prejudice.¹⁸

In *McDonald v. Amason*¹⁹ the Alabama Court of Appeals granted a new trial where the plaintiff's medical and nursing expenses exceeded \$1,500 and found the jury's award of \$500 "grossly inadequate," commenting,

Since the jury's award can only be justified as being for nominal and punitive damages or for punitive damages only,

⁹ *Rankin County v. Wallace*, 230 Miss. 413, 92 So. 2d 661.

¹⁰ Belli, *op. cit. supra.*, n. 2, p. 676.

¹¹ *Supra*, n. 9.

¹² *Id.*, at 664.

¹³ Belli, *op. cit. supra.*, n. 2, p. 605.

¹⁴ *Spica v. McDonald*, 334 S. W. 2d 365, 368, (Mo. Sup. Ct., 1960); *Lutz v. Schendel*, 175 Cal. App. 2d 140, 345 P. 2d 488, 491 (1959).

¹⁵ *McCarthy v. Sebben*, 331 S. W. 2d 601, 604 (Mo. Sup. Ct., 1960).

¹⁶ *Adams v. Pacific Motor Trucking Co.*, 172 Cal. App. 2d 505, 342 P. 2d 351, 352.

¹⁷ 170 Cal. App. 2d 177, 338 P. 2d 477 (1959).

¹⁸ *Id.* at 478.

¹⁹ 39 Ala. 492, 104 So. 2d 716 (1958).

the amount obviously came from a disregard of the judge's instructions.²⁰

Not all awards are altered on appeal solely on the basis of passion or prejudice within their usual meanings. Economic conditions influenced the decision in *Turner v. Hanson*,²¹ where the depreciation of the dollar in the United States was considered in determining the award.²²

An attempt to preserve uniformity of damages in similar cases was suggested as a reason for reducing the amount awarded by the jury in *Higginbotham v. Frasier*.²³

Discussion

The cases cited *infra* are those reported during the years 1956 through 1960. Only those cases are included where the primary injury concerned the head and brain (excluding eyes and ears). The cases have been subdivided into five major categories; (1) multiple head injuries with permanent brain damage, (2) multiple head injuries without permanent brain damage, (including skull fractures and concussions), (3) multiple face and head injuries, (4) injuries of the nose, and (5) injuries of the mouth and the surrounding area. Arbitrary decisions were necessary in selecting a proper category for a case where the injuries overlapped, and the courts' comments were used as a guide for any emphasis placed when considering the amount of damages to be awarded.

A summary of the total awards for multiple head injuries resulting in permanent brain damage and those cases that did not is presented in Table I. Table II presents the range and median amounts of the various categories. Comparing the amounts given for injuries with permanent involvement with that of the less damaged group, the awards are about six times greater. Caution must be used, however, inasmuch as these figures are based upon a limited number of cases, and the inherent problem in this type of survey, *i.e.*, the nature of bodily injury, defies rigid classification.

²⁰ *Id.* at 719. (This case involved willful and wanton negligence.)

²¹ 247 Iowa 669, 75 N. W. 2d 341, (1956).

²² *Id.* at 344.

²³ 92 So. 2d 89, 93 ff (La. App., 1957), rehear. den. cert. den.

Table I
**Comparison of Total Awards for Multiple Head Injuries With
 and Without Permanent Brain Damage**

	1960	1959	1958	1957	1956	Total
Permanent Brain Damage	\$448,000	\$254,880	\$255,500	\$281,103	\$144,091	\$1,382,574
No. of Cases	7	5	9	8	5	34
Without Perm. Brain Damage	\$120,409	\$ 96,000	\$ 31,750	\$ 35,217	\$ 27,751	\$ 321,127
No. of Cases	12	12	6	8	8	46

Table II
**Range and Median Amounts of Awards For Head Injuries
 During 1956-1960**

	Range	Median
Permanent Brain Damage	\$260,000—\$500	\$25,000
Without Perm. Br. Dam.	50,000— 500	3,000
Nose Injuries	35,000— 300	2,000
Face and Head Injuries	56,000— 250	2,500
Mouth Injuries	70,000— 100	2,100

Reviewing the cases which specifically referred to permanent disfigurement in assessing the amount of damages, a rough comparison of the total yearly awards is presented in Table III.²⁴

Table III
**Comparison of Awards for Emphasis of Disfigurement and Lack
 of Emphasis**

	1960	1959	1958	1957	1956	Total
Emphasized No. of cases	\$50,444 5	\$20,500 2	\$130,050 5	\$31,000 5	\$18,500 2	\$250,494 19
Unemphasized No. of cases	\$ 7,750 6	\$ 8,900 7	\$ 39,750 11	\$24,165 8	\$80,300 5	\$160,865 38

The cases which considered disfigurement as a material element tended to be about sixty-four per cent higher than those which omitted any reference to this fact. The only year surveyed in which disfigurement awards were less than those not specifically mentioned was 1956.

²⁴ Cases used in this table include only those under subdivisions referring to injuries to the mouth, nose and multiple facial and head injuries.

Multiple Head Injuries With Permanent Brain Damage**1960**

\$260,000. Infant, pre-natal injuries.²⁵ FTCA. *Sox v. United States*, 187 F. Supp. 465 (D. C. S. C.).

\$70,000. Male, permanent brain damage. *Zeglen v. Adamson*, 208 N. Y. S. 2d 282 (App. Div.).

\$38,000. Man, 70, deep contusions of skull, contusion in frontal portion of head, subdural hematoma detected and removed several months after accident, rendered mentally incompetent, physically helpless. *Ruggles v. Selby*, 25 Ill. App. 2d 1, 165 N. E. 2d 733.

\$30,000. Man, 24, fractured skull, cerebral concussion. Total and permanent loss of smell and sense of aromatic taste, total hearing loss in left ear, partial right ear loss, frequent headaches, dizziness. *Beineke v. Terminal Railroad Ass'n. of St. Louis*, 340 S. W. 2d 683 (Mo. Sup.), rehear. den.

\$25,000. Girl, 2½, compound chipped fracture of outer and inner table of skull, tongue laceration, 6-inch flap laceration of skull, concussion, post-concussion syndrome, 38% hearing loss, tongue deformity, brain damage, slight skull depression. *Arno v. State*, 20 Misc. 2d 995, 195 N. Y. S. 2d 924 (Ct. Cl.).

\$17,000. Welder, 37, eye permanently injured, brain impairment. Change of vocation necessary. *James v. Bowman*, 331 S. W. 2d 866 (Ark. Sup.), rehear. den.

\$8,000. Girl, 16, forehead cuts, cuts across nose, over eye, on either side of jaw and tongue. Became unusually nervous, evidence of loss of intelligence due to organic deterioration of brain. *Harkrider v. Cox*, 334 S. W. 2d 875 (Ark. Sup.).

1959

\$100,000. Family man, 33, severe brain damage, permanently disabled, severe mental condition. Additional award of \$65,000 for past and future loss of earnings. *Ismail v. City of New York*, 18 Misc. 2d 818, 181 N. Y. S. 2d 848 (Tr. T.).

\$72,380. Graduate surgical nurse, 39, skull fracture, intercranial hemorrhage, bruises, lacerations, underwent brain surgery. Permanent disfigurement, permanent impairment of memory, thinking inhibition. *White v. State*, 18 Misc. 2d 441, 188 N. Y. S. 2d 865 (Ct. Cl.).

²⁵ See text, *supra*, n. 6.

\$55,000. Male, 28, severe brain damage, speech impairment, permanent inability to coordinate on right side of body. Additional \$123,500 for past loss of earnings and future diminished work capacity. *Southern Truck Leasing Co. v. Manieri*, 325 S. W. 2d 912 (Tex. Civ. App.), rehear. den.

\$24,500. Boy, 4, fractured skull, lacerated brain tissue, symptoms of brain injury—probable petit mal epileptic seizures. *Prizio v. Penachio*, 146 Conn. 452, 152 A. 2d 507 (Sup. Ct. Err.).

\$3,000. Housewife, permanent brain injury, future nausea, headaches. Incapable of performing usual household tasks. Award grossly inadequate—remanded on damages' issue. *Swartzfager v. Southern Bell Telephone & Telegraph Co.*, 236 Miss. 322, 110 So. 2d 380.

1958

\$85,000. Schoolboy, 16, worked half-time, brain and internal injuries. Mentality reduced to that of five-year old, custodial care needed for remainder of life. *City of Jackson v. Reed*, 233 Miss. 280, 102 So. 2d 342, motion to correct judgment denied, 103 So. 2d 6.

\$70,000. Carpenter, 38, brain damage, substantial memory loss, severe headaches. *Lantex Construction Co. v. Lejsal*, 315 S. W. 2d 177 (Tex. Civ. App.).

\$45,000. Service station attendant, 40, serious and permanent brain injury, earning capacity substantially destroyed. *Johnson v. Brewer*, 228 Ark. 946, 311 S. W. 2d 301.

\$20,000. Boy, 9, struck head, producing thalamic epilepsy which would grow progressively worse. *Melford v. Gaus & Brown Construction Co.*, 17 Ill. App. 2d 497, 151 N. E. 2d 128, 66 A. L. R. 2d 528.

\$15,000. Railway machinist, 48, substantial facial disfigurement, traumatic neurosis for three years. FELA. *Hunter v. St. Louis Southwestern Railways Co.*, 315 S. W. 689 (Mo. Sup.), modified and rehear. den.

\$10,000. Minor girl, right hemiplegia, almost complete paralysis of right side of body, arm and leg. Award was policy maximum. *Bourgeois v. Fidelity & Casualty Co.*, 102 So. 2d 532 (La. App.), rehear. den.

\$5,000. Girl, 4, head trauma, post-concussion syndrome, occipital scalp wound, speech impairment, personality change.

Zarillo v. State, 12 Misc. 2d 692, 177 N. Y. S. 2d 146 (Ct. Cl.).²⁶

\$5,000. Woman, cerebral concussion, neck and low back strain, precipitated psychoneurosis with permanent partial disablement. Amount raised from \$3,800.²⁷ *Wilkinson v. State*, 14 Misc. 2d 616, 178 N. Y. S. 2d 55 (Ct. Cl.)

\$500. Teen-age girl, serious permanent brain damage, also nervous system. Award held grossly inadequate, since medical expenses were over \$1,000. New trial granted. *McDonald v. Amason*, 39 Ala. 492, 104 So. 2d 716.

1957

\$111,103.42. Crane helper, 24, electrocution. Brain damage, permanent physical and psychological changes, post-shock encephalitis with involvement of basal ganglia and hypothalamus. Pain and suffering included in award. *Stark v. Lehigh Foundries*, 388 Pa. 1, 130 A. 2d 123.

\$40,000. U. S. Marine, drill instructor, 27, permanent and serious brain injuries, hemiparesis, permanent facial injuries, jaws, teeth, eyes, left limbs, considerable disfigurement. *Griffing v. Atlas Van Lines, Inc.*, 153 F. Supp. 10 (D. C. S. C.).

\$30,000. Policeman, 36, multiple skull fractures, cerebral concussion, contusions and abrasions to scalp and forehead, permanent loss of smell and impairment of taste. *Pedek v. Wegemann*, 275 Wis. 57, 81 N. W. 2d 49.

\$25,000. Railroad conductor, skull fracture, some irreversible brain damage, blood clot requiring surgery, severe scalp laceration, loss of sense of smell and sex drive, impairment of memory, ability to concentrate, ability to sleep, visual disturbances, headaches, irritability. *Gibson v. Kennedy*, 23 N. J. 150, 128 A. 2d 480.

Boy, 7, fractured skull affecting brain, partial paralysis to right limbs, speech affected, subject to convulsions. *Milicevich v. Paterline*, 388 Pa. 346, 131 A. 2d 129.

Woman, 36, brain concussion, line fracture of nasal bones, permanent scarring and disfigurement of face, psychoneurosis. *Luchansky v. J. V. Parish, Inc.*, 70 Ohio L. A. 1, 157 N. E. 2d 388 (Ohio App.).

²⁶ Rev'd and claims dismissed, no negligence, 8 A. D. 2d 651, 185 N. Y. S. 2d 101; motion to prosecute appeal as poor person and assignment of counsel granted, 6 N. Y. 2d 990, 191 N. Y. S. 2d 968, affm'd, 7 N. Y. 2d 943, 198 N. Y. S. 2d 314.

²⁷ 11 A. D. 2d 621, 200 N. Y. S. 2d 99 (1960).

\$15,000. Girl, 6, skull fracture, lacerations, intra-cranial bleeding, permanent metal disc inserted, subsequent abnormal EEG suggesting a pre-disposition toward convulsions. *Fort Wayne Transit, Inc. v. Shomo*, 127 Ind. 542, 143 N. E. 2d 431.

\$10,000. Boy, 2, three fractures of jaw bone, multiple bruises lacerations. Speech impediment, severe brain damage, "child is mentally retarded . . . condition would not improve . . . never be able to carry on any gainful employment."²⁸ *Sonne v. Booker*, 310 S. W. 2d 526 (Ky. App.), rehear. den.

1956

\$79,841.04. Man, 48, compound depressed fracture of parietal bone, cerebral contusion, subdural hematoma, 3rd nerve paralysis with aphasia and ptosis, paralysis of some eye muscles, hemianopia of eyes, transverse fracture of right patella, no sense of taste or smell, severe personality changes. FTCA.²⁹ *O'Toole v. United States*, 140 F. Supp. 672 (D. C. Del.).

\$30,000. Girl, 10, compound depressed skull fracture along eye socket, laceration of left eardrum, collarbone and rib fracture. Permanent disabilities: scar and deformity in left anterior temporal region, partial paralysis of face muscles, recurring headaches, reduction of intellectual capacity. *Montalto v. Fond du Lac County*, 272 Wis. 552, 76 N. W. 2d 279.

\$24,000. Truck driver, 27, cerebral concussion, brain laceration, skull fracture, impaired speech, personality change, memory loss. *Lapchenko v. State*, 2 Misc. 2d 478, 153 N. Y. S. 2d 364 (Ct. Cl.).

\$6,250. Boy, 17, multiple contusions and abrasions, severe contusion of brain, probable brain lesion, partial paralysis of right side of face, limbs, frequent headaches, impaired vision. *Mendoza v. Rudolf*, 140 Cal. App. 2d 633, 295 P. 2d 445.

\$4,000. Infant male, cerebral injuries resulting in epilepsy. *Winchester v. Buff*, 2 A. D. 2d 929, 156 N. Y. S. 2d 453.

Multiple Head Injuries Without Permanent Brain Injuries

1960

\$50,000. Boy, 7, partially crushed skull, necessitating four operations, permanent scars and skull depressions, hair will not

²⁸ p. 529.

²⁹ Award included: medical expenses, \$7,110.90; loss of wages, \$12,514.50; future earnings, \$50,495.64; past pain and suffering, \$9,000.

grow in certain places, permanently disfigured. *Clover Fork Coal Co. v. Daniels*, 340 S. W. 2d 210 (Ky. App.), modified on den. rehear.

\$22,500. Brakeman, 23, frontal scalp laceration, skull fracture, cerebral concussion. Award excessive remanded.³⁰ *Marty v. Erie Railroad Co.*, 62 N. J. Super. 458, 163 A. 2d 167, cert. den., 164 A. 2d 849.

\$15,000. Man, three large permanent scars of forehead and arm, two permanent scars on right cheek and lower lip, fractured skull resulting in headaches, loss of teeth. *Price v. Nicholson*, 340 S. W. 2d 1 (Mo. Sup.).

\$15,000. Female, head injury, causing visual field of right eye to be impaired. Headaches, dizziness, post-concussional syndrome, permanent. *Neal v. Linnell*, 156 Me. 1, 157 A. 2d 231.

\$6,000. Male, 6, cerebral concussion, severe scalp lacerations, avulsion of cheek, laceration of ear lobe. Future surgery necessary. *Coish v. State*, 23 Misc. 2d 117, 203 N. Y. S. 2d 748 (Ct. Cl.).

\$3,159. Male, cerebral concussion, face and scalp lacerations, headaches. *Coish v. State, Ibid.*

\$2,500. Schoolboy, 12, kicked in head. Cerebral concussion. *Brooks v. Board of Education of City of New York*, 205 N. Y. S. 2d 777 (Tr. T.).

\$2,000. Girl, 6, head and some body injuries. Award held adequate since blows sustained did not cause subsequent seizures or convulsions. *Muscarello v. Peterson*, 24 Ill. App. 2d 262, 164 N. E. 2d 282.

\$1,500. Boy, 7, cerebral concussion, multiple contusions, abrasions. Court described award as "just and liberal." *McCandless v. Southern Bell Telephone & Telegraph Co.*, 239 La. 983, 120 So. 2d 501 (App.).

\$1,000. Male, shock, bruises, severe head contusion, brain concussion of several days duration, amnesia for short period. *Allen v. State Farm Mutual Automobile Ins. Co.*, 120 So. 2d 372 (La. App.).

Boy, 6, brain contusion, complete recovery at time of trial. First trial award of \$10,200 held excessive and remanded. Present award held adequate and not nominal. *McCluskey v. Poloha*, 166 A. 2d 334 (Pa. Super.).

³⁰ Improper references to back injury, unsupported by evidence in trial judge's charge, p. 172 f.

\$750. Male, mild cerebral concussion with minor, if any residual effects. *Robinson v. Great American Indemnity Co.*, 120 So. 2d 855 (La. App.).

1959

\$35,000. Male, 73, serious and permanent injuries including fractured skull, concussion, lacerations over right eye, bruises and body contusions, comminuted hand fracture. Hospitalized 28 days in precarious condition. *Stoner v. Colvin*, 236 Miss. 736, 110 So. 2d 920.

\$22,500. Female, 22, lost twelve teeth, part of alveolar process of both jaws broken out necessitating reconstructive surgery. Brain concussion with hemorrhages, profuse mouth bleeding. Cannot read or watch television because of blurred vision; injuries to cervical vertebra and ankle prohibit housework. *Massey v. Berlo Vending Co.*, 329 S. W. 2d 772 (Mo. Sup.).

\$9,500. Male, 1, depressed fracture of frontal parietal region of skull, leaving 2-inch oblique scar. *Ortiz-Ortiz v. Carroll Transport, Inc.*, 193 N. Y. S. 2d 803 (Spec. & Tr. T.).

\$5,000. Female, skull fracture, brain concussion, headaches, dizziness. Thirteen days hospitalization and one month recuperation. *Ward (Horton) v. Cozzi*, 20 Ill. App. 297, 156 N. E. 2d 222.

\$4,500. Truck farmer, severe head injury, scalp cut open to bone, severe recurring headaches, dizziness. No permanent disability claimed, but future work impaired. *Nelson v. Molina*, 53 Wash. 2d 412, 334 P. 2d 170.

\$3,000. Male, severe cerebral concussion, head and body contusions, unconsciousness, headaches, dizziness. *Jenkins v. Audubon Insurance Co.*, 110 So. 2d 221 (La. App.).

\$2,500. Female, cerebral concussion, forehead abrasions, hemorrhage about bridge of nose producing a hematoma, intermittent headaches. Additional award of \$12,000 for conversion neurosis as result of accident. *Humphries v. Delta Fire & Casualty Co.*, 116 So. 2d 130 (La. App.).

\$2500. Male, owner and operator of service station, struck by golf ball. Brain contusion. *Rasmussen v. Richards*, 7 Wis. 2d 22, 95 N. W. 2d 791.

\$2,000. Railway laborer, scalp laceration, cerebral concussion, visual disturbance, headaches. *Alvares v. Rush*, 108 So. 2d 797 (La. App.).

\$1,500. Female, sub-cutaneous hematoma on back of head, alleged cerebral concussion, body bruises. *Barnett v. Keilig*, 170 Cal. App. 177, 338 P. 2d 477.

\$500. Female minor, mild cerebral concussion, headaches for four-month period, hip bruise. *Janice v. Whitley*, 111 So. 2d 852 (La. App.).

1958

\$12,500. Army sergeant, 23, severe intra-cranial injuries, fractures of minor facial bones, two residual, slight facial blemishes, fractured femur. *Mershon v. Cutrer*, 100 So. 2d 295 (La. App.).

\$9,000. Man, 57, severe frontal scalp lacerations with profuse bleeding, scalp injury an incident of cerebral concussion, continued headaches, fracture of two fingers. *Dilg v. Chametznik*, 163 F. Supp. 188 (D. C. N. Y.).

\$5,000. Truckdriver, brain concussion, dizziness, loss of consciousness, recurring headaches. *Gibson v. A. P. Lindsey, Distributor, Inc.*, 233 Miss. 853, 103 So. 2d 345.³¹

\$2,750. Woman, cerebral concussion, facial lacerations, mouth lacerations, loosening of teeth requiring removal, severe headaches and pains. *Mengle v. Shields*, 53 N. J. Super. 76, 146 A. 2d 524.

\$1,500. Boy, 7, cerebral concussion, multiple contusions, temporary headaches, no permanent injuries. Reduced from \$3,000—"from the evidence, . . . injuries were superficial and of a minor nature, accompanied by very little suffering."³² *McCandless v. Southern Bell Telephone & Telegraph Co.*, 101 So. 2d 704 (La. App.), aff'd, 239 La. 983, 120 So. 2d 501.

\$1,000. Girl, 7, mild skull fracture, not of good health prior to accident, thus suffering probably more intense than for normal child. Jury award of \$750 inadequate. *Triche v. Papania*, 102 So. 2d 319 (La. App.).

1957

\$10,000. Girl, 7, brain concussion, head and nose bruises, nose disfigured, headaches. *Sattler v. Coulter*, 307 P. 2d 838 (Okla. Sup.).

³¹ Trial court's order of \$2,500 remittitur reversed and jury award reinstated, p. 345.

³² p. 713.

\$9,000. Girl, 15, concussion, scalp contusion, headaches, nervousness, frequent blackouts. *Benton v. Pellum*, 232 S. C. 26, 100 S. E. 2d 534.

\$5,500. Male, skull fracture, brain concussion, numbness of left side of face and teeth, will lose two teeth, deviated septum, facial twitch, left maxilla fracture. *Evans v. Pennsylvania Railroad Co.*, 154 F. Supp. 14 (D. C. Del.).

\$3,000. Male, skull fracture, two operations, headaches for eight months. \$1,500 held inadequate. *Employers Liability Assurance Corp. v. Excel Machine Works*, 95 So. 2d 679 (La. App.).

\$2,500. Man, cerebral concussion, loss of consciousness, headaches, dizziness. *Lukes v. Darnett Realty Corp.*, 4 A. D. 2d 912, 166 N. Y. S. 2d 792.

Male, brain concussion, recurring headaches, head pain, some body bruises.³³ *Smee v. Checker Cab Co.*, 1 Wis. 2d 202, 83 N. W. 2d 492.

\$2,217. Female, loss of tooth (\$300 claim reduced to \$7.50, replacement value), cerebral concussion (\$500), permanent cheek scar (\$150), multiple cheek bruises, bridge of nose, mental pain, suffering and anguish without permanent injury (\$1,000). *McCrary v. Great American Indemnity Co.*, 92 So. 2d 742 (La. App.).

\$1,500. Man, cerebral concussion, contusions, laceration of mouth, upper eyelid, abrasions to thigh. *Carson v. Thibodeaux*, 99 So. 2d 367 (La. App.).

1956

\$18,000. Boy, 5, speech impediment, no organic brain damage or other psychological or neurological results, lacerated cheek, lip, permanent scar, loosened teeth, minor contusions, abrasions. FTCA. *Marino v. United States*, 234 F. 2d 317 (2d Cir.).

\$6,000. Woman, 38, lacerated scalp requiring sutures, blackened eye, jaw injury, loosened front teeth, symptoms of skull fracture, concussion. Remittitur of \$3,000 or new trial ordered.³⁴ *Sheiman v. Sheiman*, 143 Conn. 222, 121 A. 2d 285.

³³ Trial court's award was allowed to stand "with hesitation." Question whether jury might have failed to discriminate between pain and suffering from prior abdominal condition and that which caused the present injuries. p. 495.

³⁴ Testimony supporting possible future disability and suffering was too conjectural as basis for such award and jury must have included compensation for it. p. 287.

\$5,000. Longshoreman, dizziness, headaches from head blow. *Saunders v. Pool Shipping Co., Ltd.*, 235 F. 2d 729 (5th Cir.).

\$3,500. Boy, 13, mild concussion, complete recovery, occasional headaches, no fracture. Remittitur of \$1,000 ordered or new trial. *Karnes v. ACE Cab Co.*, 287 S. W. 2d 378 (Mo. App.).

\$2,500. Schoolboy, 9, multiple skull fractures, severe concussion, possible impaired vision of one eye. *Guillory v. Le Moine*, 87 So. 2d 798 (La. App.).

\$1,251.01. Man, minor head injuries, headaches, dizziness, some possibility of impaired taste and smell, no residual complaints. *Eiswirth v. Allstate Ins. Co.*, 86 So. 2d 133 (La. App.).

\$1,000. Boy, 1, bruise with slight concussion in occipital region, semicomatose. Award of \$2,000 excessive. *Palmer v. Fidelity and Casualty Co. of New York*, 91 So. 2d 77 (La. App.).

\$500. Pregnant woman, head injuries, headaches persisted until birth of child. *Palmer v. Fidelity & Casualty Co. of New York*, *Ibid.*

Multiple Facial and Head Injuries

1960

\$22,500. Woman, irregular cuts on forehead and nose, some permanent scarring. Drastic face change, likely to be permanent, future humiliation and emotional disturbance as result. *Hanlon v. Pomeroy*, 102 N. H. 407, 157 A. 2d 646.

\$17,744. Married woman, 27, severe face and head injuries, fractures of cheekbone and arch going to skull, compound fracture of jaw bone, loss of three teeth, severe hemorrhage of tissues surrounding eyes and nose, slight moderate displacement of nose (permanent, but surgically correctible). Embarrassment because of disfigurement. *Fields v. Jackson*, 102 Ga. App. 117, 115 S. E. 2d 877, rehear. den.

\$2,000. Female, receiving treatment for removal of superfluous hair, sustained non-permanent facial injuries. *Tsamourtzis v. Bergdorf-Goodman Co.*, 201 N. Y. S. 2d 912 (Tr. T.).

\$1,500. Boy, 16, severe facial lacerations needing seven stitches, soreness, headaches, imperceptible scars on forehead, nose. Body contusions and bruises, severe shock and pain. *Kliebert v. Marquette Casualty Co.*, 119 So. 2d 545 (La. App.), rehear. den., 119 So. 2d 548.

\$1,000. Girl, 3, facial lacerations, four scars which can be improved by plastic surgery. Jury award of \$2,000 modified—remittitur or new trial ordered. *Makowski v. Ehlenbach*, 11 Wis. 38, 103 N. W. 2d 907.

\$500. Female, small permanent facial scar from dog bite or scratch. *Duffy v. Gebhart*, 157 A. 2d 585 (Del. Super.).

1959

\$18,500. Married woman, 22, loss of part of cheek, partially repaired by three surgical attempts and further surgery necessary. Permanently disfigured. *Husted v. French Creek Ranch, Inc.*, 79 Wyo. 307, 333 P. 2d 948.

\$1,800. Girl, 4, lacerated cheek, 2.5 cm scar, head, body abrasions. *White v. State*, 18 Misc. 2d 441, 188 N. Y. S. 2d 865 (Ct. Cl.).

1958

\$56,000. Garage mechanic, crushed facial bones, fractured jaw, stripping of teeth, optical damage, disfigurement, shock, extended hemorrhage, mutilation. *Brown v. Shirks Motor Express*, 393 Pa. 367, 143 A. 2d 374.

\$23,000. Married woman, 44, in retail sales and jobs requiring public contact. Loss of four teeth, severe concussion, facial lacerations requiring 100 stitches, injury to left facial nerve, other injuries. Permanent disfigurement, some improvement predicted from plastic surgery.³⁵ *Winston v. Weiner*, 2 Wis. 2d 584, 87 N. W. 2d 292.

\$17,500. Male, face caved in, fractured nose, fractured jaw in four places, chin fracture, loss of tooth, palate split from roof of mouth, severe face, lips, head lacerations and bruises. Past and future pain and suffering. *Vidrine v. Southern Farm Bureau Casualty Ins. Co.*, 105 So. 2d 279 (La. App.), rehear. den.

\$15,000. Married woman, 29, multiple lacerations to forehead, eye cheek, 350 stitches. Unsightly scars, continuing pain from eye injury, face will be permanently scarred and disfigured. *Holmes v. Toothaker*, 52 Wash. 2d 574, 328 P. 2d 146.

\$4,500. Water well driller, 57, fractured cheek bone, broken nose, injuries to eyes, neck, shoulders, impairment of breathing and restriction of vision. Original award of \$2,000 inadequate. *Neely v. Cotton Baking Co.*, 106 So. 2d 811 (La. App.).

³⁵ Major portion of award as compensation for the facial injuries and past and future pain and suffering.

\$2,500. Boy, 11, inmate at state school, fall. Scalp lacerations, fracture of parietal bone. *Reyes v. State*, 9 Misc. 2d 808, 170 N. Y. S. 2d 633 (Ct. Cl.).

\$2,500. Longshoreman, 63, scalp laceration, dizziness, neck stiffness from cervical sprain. Short period of disability.³⁶ *Piscopo v. United States*, 167 F. Supp. 777 (D. C. N. Y.).

\$1,500. Girl, 2, forehead scar 1½ inches; expert testimony that scar would not enlarge nor change color from present state. Sole injury. Original award of \$12,000 reduced as excessive. *Billiot v. Noble Drilling Corp.*, 102 So. 2d 569 (La. App.).³⁷

\$1,050. Woman, minor lacerations of face, forehead, serious cuts on right eyelid—disfiguring. Leg abrasions, stiffness for 4 months. *Thomas v. Rosenthal*, 100 So. 2d 555 (La. App.), rehear. den.

\$250. Infant boy, 18 months, cut over eye, head cut which was not serious. Trial court's award of \$750 reduced as being excessive. *Morton v. American Employers Insurance Co.*, 104 So. 2d 189 (La. App.).

1957

\$15,000. Assembly and machine worker, plastic surgery, permanent facial scars, permanent loss of sensation of right lobe of head, facial muscle impaired. Reduced from \$22,500 because disfigurement would be improved with further surgery. *Antonelli v. Tumulo*, 390 Pa. 68, 132 A. 2d 285.

\$7,000. Male, facial lacerations, head lacerations, 66 stitches, loss of 4 teeth, small ankle bone fracture with 3% disability. \$16,500 excessive, option of remittitur or new trial on damages only. *Twist v. Aetna Casualty Surety Co.*, 275 Wis. 174, 81 N. W. 2d 523.

\$5,000. Girl, 15, lower jaw broken, two teeth knocked out, multiple facial lacerations, fracture of both cheekbones, facial scars. Disfigurement emphasized. *Rankin County v. Wallace*, *supra* n. 11.

\$4,500. Boy, 6, generalized contusions and abrasions, deep cheek lacerations and upper lip, fractured collarbone. Disfigurement, but cosmetic surgery not advised. Reduced from \$8,500. *Higginbotham v. H. E. Frasier*, *supra*, n. 23.

\$3,500. Boy, 5, severe head lacerations, severe permanent scarring on both sides of forehead, other fractures. Disfigure-

³⁶ Additional award of \$4,500 for loss of earnings.

³⁷ Reversed on other grounds, 236 La. 793, 109 So. 2d 96

ment, surgery not advised. *Higginbotham v. H. E. Frasier, supra*, n. 23.

\$2,000. Minor boy, four inconspicuous facial scars, longest being two inches and their coloration blending into skin tone, mild cerebral concussion, for which nominal damages included. *Distefano v. Delta Fire & Casualty Co.*, 98 So. 2d 310 (La. App.).

\$1,735. Male, cut over left eye needing 10-12 stitches, fracture of maxillary antrum of left side of face, injury to antorbital and supra-orbital facial nerves, numbness in left cheek, loss of vision in one eye for two weeks, severe headaches. *McCormick v. State*, 5 Misc. 2d 582, 161 N. Y. S. 2d 666 (Ct. Cl.).

\$1,000. Telephone operator, X-shaped cut on back of head, 16 stitches. Back injury due to fall not supported by evidence. *Vogrin v. Forum Cafeterias of America*, 308 S. W. 2d 617 (Mo. Sup. Ct.), rehear. den.

1956

\$16,000. Girl, 6½ years old, deep laceration with partial avulsion to right cheek and upper lip, extending to floor of nose. Lacerations of muscles of mouth and cheek, forehead, partial paralysis of seventh nerve. Three operations, 8 cm U-shaped scar, permanent disfigurement and scarring will cause embarrassment. FTCA. *Zaccari v. United States*, 144 F. Supp. 860 (D. C. Md.).

\$4,250. Man, injuries of face, head, eyes, requiring numerous stitches. Hip and left sacrum, requiring crutches. *Meier v. Holt*, 347 Mich. 430, 80 N. W. 2d 207.

\$2,500. Girl, 17, multiple face and forehead cuts, portion of left eyelid torn away, some permanent disfigurement. Reduced from \$5,000. *Stroud v. Standard Accident Insurance Co.*, 90 So. 2d 477 (La. App.), rehear. den.

\$2,000. Boy, 2½ years, result of fall, noticeable and permanent scar on forehead, bruises, which had healed. *Turner v. Hanson*, 247 Iowa 669, 75 N. W. 2d 341.

Female, multiple facial cuts, 35 stitches. *Johnson v. Whitfield*, 89 So. 2d 413 (La. App.), rehear. den.

\$1,800. Woman, 44, Y-shaped laceration ½-inch long above left eyebrow, contusions around eyes, face, forehead, shoulders, abrasions of leg. \$3,000 held excessive, remittitur or new trial ordered. *Faun v. Farmer*, 289 S. W. 2d 144 (Mo. App.).

Injuries to the Nose**1960**

\$6,200. Woman, comminuted nose fracture, permanent disfigurement of face, fracture of six teeth. *Bolam v. L. & N. Railroad*, 183 F. Supp. 556 (D. C. Ohio).³⁸

\$3,500. Minor girl. Depressed fracture of nasal bones, displacement of fragments, swelling of soft tissues, award for pain, suffering, some permanent disfigurement. *Hoffpauir v. Southern Farm Bureau Casualty Ins. Co.*, 124 So. 2d 409 (La. App.).

\$500. Woman, 60, compound fracture of nasal bones, lacerations, broadening of nasal bridge causing permanent deformity, nasal obstructions. *Hinkel v. R. H. Macy, Inc.*, 201 N. Y. S. 2d 211 (Tr. T.).

1959

\$2,000. Woman, laceration on nose bridge, fracture at end of nasal bone, headaches. Amount reduced from \$3,000 because of excessiveness for pain and suffering. *Savoie v. Hebert*, 107 So. 2d 859 (La. App.).

\$2,000. Girl, 16, fractured nose, surgery to straighten, slight residual deformity causing self-consciousness, shock. *Carlisle v. Parish of East Baton Rouge*, 114 So. 2d 62 (La. App.), rehear. den.

\$2,000. Boy, 4, broken nose, no permanent injury but scar on nose tip. Cuts, bruises, shock. *State of Maryland v. Thomas*, 173 F. Supp. 568 (D. C. Md.).

\$500. Boy, 4, repeated nosebleeds due to slight injury of septum. *Durham v. United States*, 174 F. Supp. 410 (D. C. Md.).

1958

\$35,000. Female, 21, almost complete amputation of nose, severe disfigurement which surgery could not completely alleviate. *Johnson v. Stoveken*, 52 N. J. Super. 460, 145 A. 2d 801.

\$2,500. Female, 22, injury to bridge of nose, deviation of septum, complete loss of direct vision of one eye, 1½-inch scar over eye and bridge of nose, scalp lacerations, also of forehead, leg. Award inadequate, new trial granted. *Watford v. Simon*, 163 F. Supp. 664 (D. C. Pa.).

³⁸ Award included \$1,434.97 for medical expenses, loss of wages and personal property loss.

\$2,000. Girl, 13, fractured nose corrected by surgery. Reduced from \$5,000. *Montgomery v. Vigil*, 65 N. M. 107, 332 P. 2d 1023.

1957

\$2,000. Male, deep lacerated wound on nose bridge, swollen nose, treatment to drain frontal sinuses. Bruises and contusions of head, hemorrhages under skin of eyes, nervous tension. *Rothman v. Centanni*, 95 So. 2d 34 (La. App.), rehear. den., cert. den.

\$300. Girl, 10, ecchymosis and bruises about bridge of nose, persistent nosebleeds, hematoma over left eyebrow, tenderness of forehead. Evidence did not sustain counsel's contention as to seriousness of injuries and court would not say award was grossly inadequate. *Rafanelo v. Capobianco*, 85 R. I. 493, 133 A. 2d 639.

Injuries to the Mouth Area

1960

\$2,250. Woman, 25, lost two teeth, cut tongue and lips, facial bruises, fractured toe. No lost time from employment. *Spica v. McDonald*, 334 S. W. 2d 365 (Mo. Sup.).

\$500. Adult male, injury to mouth and lips, false teeth broken, injured knee, some inconvenience and pain for one week.³⁹ *Guillory v. Farmer's Automobile Insurance Co.*, 120 So. 2d 84 (La. App.).

1959

\$2,000. Girl, 11, small laceration of inside of lower lip, deep arc-shaped laceration below chin leaving permanent scar which will enlarge. Trial award of \$800 inadequate. Court recommended \$2,000 or new trial. *Geren v. Fitzgerald*, 9 A. D. 2d 825, 192 N. Y. S. 2d 875 (App. Div.).⁴⁰

\$500. Minor female, lacerated lip, loosened teeth needing dental care. *Laukaitis v. Kikta*, 20 Misc. 2d 449, 189 N. Y. S. 2d 673 (Tr. T.).

\$100. Male, slight lip laceration, slight bruises on head, loss of two work days and visited physician twice. *Moore v. Shreveport Transit Co.*, 115 So. 2d 218 (La. App.).

³⁹ Award included loss of use of automobile for one week.

⁴⁰ Affm'd. as modified, 183 N. Y. S. 2d 46, rearg. den. and appeal granted, 185 N. Y. S. 2d 740.

1958

\$5,000. Woman, ate salami in which bone fragment was embedded. Severe lacerations of palate, loss of three molars, infection, pain, discomfort when wearing dental plate. *Lore v. DeSimone Bros.*, 12 Misc. 2d 174, 172 N. Y. S. 2d 829 (Sup. Ct.).

\$1,000. Girl, 15, eating canned salmon which contained metal fish tag. Fracture of central upper incisor, cheek infection. *Greenberg v. Lorenz*, 12 Misc. 2d 883, 178 N. Y. S. 2d 407 (App. T.), 34 N. Y. L. J. 1446, 69 Yale L. J. 1109.

\$500. Boy, 10, damage to teeth, which were of age that made replacement a necessity. *Hollins v. Pittsburgh Railways Co.*, 188 Pa. Super. 141, 146 A. 2d 622.

1957

\$7,500. Male, 27, medical student. Permanent injuries, fracture of upper and lower jaw bones which had to be wired into place. *Grandbush v. Grimmett*, 227 Ark. 197, 297 S. W. 2d 647.

\$3,000. Woman, publicity and promotional writer, ate roll containing glass. Loss of upper right lateral tooth, broken at gumline, another tooth damaged, gum laceration. Could not have dental impressions taken until healed, causing "temporary" disfigurement. Verdict of \$1,415 inadequate. *Conklin v. Hotel Waldorf Astoria Corp.*, 5 Misc. 2d 496, 161 N. Y. S. 2d (N. Y. City Ct. Tr. T.)

\$2,630. Farm worker, 28, broken jaw with 25-30% disability, loss of six teeth, four removed. Award of \$3,500 in excess of special damages proven, remittitur ordered and accepted. *Southwell v. DeBoer*, 163 Neb. 646, 80 S. W. 2d 877.

1956

\$70,000. Woman, 57, compound fracture of mandible, multiple contused wounds of mouth, lips and chin, compound fracture of ankle, knee injury, bruises. Permanent disability of jaw—40% vertical movement, less than 50% lateral, 10% masticating efficiency. Arm injury. Brain concussion and emotional upset. FTCA. *O'Toole v. United States*, 140 F. Supp. 672 (D. C. Del.).

\$25,000. Female, three or four teeth loosened and removed, broken bridge, cut mouth, permanent numbness of lower lip, superficial knee injury. Reversed and remanded because award was "shockingly excessive." *Conley's Admr. v. Ward*, 291 S. W. 2d 568 (Ky. App.), modified on den. of rehear.