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## Recent Burn Damage Awards

Frederick F. Waugh\*

**A** THERMAL INJURY is a traumatic injury caused by excessive heat upon the surface of the body. Such injuries are divided into *scalds* and *burns*. A scald is the result of contact with liquid at a high temperature, while burns are caused by contact with direct flame or heated solids. Both scalds and burns affect the body in the same way. There is damage to the subcutaneous tissue, causing an imbalance in the circulatory system, resulting in severe disturbance of the victim's constitution as a whole.

The degree of injury caused, of course, determines the degree to which the body is affected. Some medical text writers class thermal injuries in six degrees.<sup>1</sup> Others have simplified the classifications into only three degrees.<sup>2</sup> The latter method of classification is familiar to most people and has been used in the cases reported herein.

Further classification has resulted in typing these injuries as to causative factors, such as electrical, chemical, radiation, and solar sources. While these are distinct and separate causes, and of importance to the medical profession in the treatment of the injuries, their effect on the victim is the same, and he is concerned chiefly with being made whole.

The main aftereffects of thermal injuries include scarring, impairment of joints and movable limbs, and tenderness of the injured areas. These are usually permanent in severe cases. Another aftereffect of burns, namely the possibility of contracting cancer, is referred to in Belli's excellent works on the subject of damages.<sup>3</sup>

Considerable progress has been made in the treatment of burns through the development of skin grafting. This process, however, remains a long, tedious and costly treatment, causing particular discomfort to the patient. Physical therapy is used to a great extent in order to restore mobility to injured joints.

In ascertaining damages for thermal injuries, the usual

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\* B.S. in Bus. Admin., Bowling Green State Univ.; Second year student at Cleveland-Marshall Law School.

<sup>1</sup> 1 Taylor's Principles and Practice of Medical Jurisprudence 425 (11th Ed.—1956).

<sup>2</sup> 13 Cyclopedia of Medicine, Surgery, Specialties 877 (1958).

<sup>3</sup> 1 Belli, Modern Trials 667 (1954); 2 Belli, Modern Damages 654 (1959).

elements present in other types of personal injuries must be considered, such as loss of wages, medical expenses, pain and suffering, loss of future earnings, loss of consortium, etc. Presentation of the evidence to the jury is a paramount factor, which can make every difference in the award granted.<sup>4</sup> Photographs,<sup>5</sup> expert testimony,<sup>6</sup> and the display of the evidence on the victim's body,<sup>7</sup> such as scars, discolorations, lesions and physical impairment, can be used in a dramatic manner.

For these reasons, each award stands on its own merits, and past verdicts are useful chiefly to provide general indications of the values of the various thermal injuries.

### Recent Awards In Thermal Injury Cases

\$12,000. Infant, 3, suffered third degree electrical burns on leg when she came into contact with uninsulated, charged wire in migratory camp maintained by defendant. *Evans v. City of Yuma*, 85 Ariz. 229, 336 P. 2d 135 (1959).

\$125,000. Plaintiff suffered "severe burns" when sprayed by sulphuric acid, as result of hose slipping out of place. *Williams v. Stauffer Chemical Co.*, 146 Cal. App. 2d 322, 304 P. 2d 141 (1956).

\$65,000. Plaintiff, purchaser of "brunch" coat, burned severely when coat was ignited by contact with electric stove. First, second and third degree burns on arms, back and legs. *Jelleff v. Braden*, 233 F. 2d 671 (C. A., D. C., 1955).

\$80,000. Plaintiff, 47, was severely burned while working as boilermaker. Suit under F. E. L. A. Burned over an "extensive portion of his body." 25% disability. *Butler v. Watts*, 103 So. 2d 123 (Fla. App., 1958), cert. den. 359 U. S. 926.

\$78,705.75. Plaintiff, while fighting fire caused by "hot box" on train was burned when compressed anhydrous ammonia gas exploded. United States (consignor) failed to properly mark the cargo. Specials totaled \$3,705.75. Held that United States and railroad were concurrently negligent. *U. S. v. Marshall*, 230 F. 2d 183 (9th Cir. Ida., 1956).

\$4,200. Plaintiff, 85 year old female, ignited accumulated gas in basement, causing first and second degree burns on legs, hands and face. *Hill v. Westfield Gas Corp.*, 169 N. E. 2d 726 (Ind. App., 1960).

<sup>4</sup> Goldstein & Shabot, *Medical Trial Technique* page 98 (1942).

<sup>5</sup> 2 Belli, *Modern Trials* 1277 (1954).

<sup>6</sup> *id.* at 649.

<sup>7</sup> 2 Belli, *Modern Trials* 1277 (1954).

\$300,000. Plaintiff, 29, suffered burns over 80% of his body (65% third degree) as result of attempting to light a bottled gas heater. At time of trial, medical bill total was \$52,931.43, and he had lost wages of \$14,742. *Hulke v. International Mfg. Co.*, 13 Ill. App. 2d 571, 142 N. E. 2d 717 (1957).

\$55,000. Plaintiff, minor, burned while using kerosene from railroad switch heater to burn weeds. Suffered "painful injuries." *Svienty v. Pennsylvania Railroad Co.*, 8 Ill. App. 2d 360, 132 N. E. 2d 83 (1956).

\$90,000. Plaintiff, 25 year old female with husband and four small children, was burned in gas explosion of water heater in home, due to defective safety pilot valve. Hospitalized 396 days. 61 operations. Burns covered 50% of her body. *Rauch v. American Radiator and Standard Sanitation Corp.*, 104 N. W. 2d 607 (Iowa, 1960).

\$75,000. Plaintiff, 42 year old electrician, suffered burns resulting in permanent disfigurement. Specials totaled \$4,058.96. *Hover v. MacDonald Engineering Co.*, 183 F. Supp. 427 (D. C., Ia., 1960).

\$6,228. Plaintiff suffered first, second and third degree burns on legs and arms as a result of flame from defective gas stove. Permanent scars. Specials totaled \$689. *Nove v. Hixenbaugh*, 180 Kans. 370, 304 P. 2d 482 (1957).

\$5,653. Plaintiff burned by explosion of natural gas which escaped from gas main into sewer line and then into house where plaintiff was working. First, second and third degree burns of the face, neck, arms, ears and hips. Specials—\$653. *King v. Mason*, 95 So. 2d 705 (La. App., 1957), *affd.* 99 So. 2d 117.

\$45,000. Child burned by using gasoline taken from construction site for weiner roast fire. First, second and third degree burns of face, neck, shoulders and chest. Grafting—3½ months' hospitalization. *Johnson v. Skully Construction Co.*, 255 Minn. 41, 95 N. W. 2d 409 (1959).

\$7,500. Plaintiff, 7, burned on defendant's premises by combustible substance ignited by trash fire. First, second and third degree burns on face, hands, arms and chest. Father awarded \$3,121.60 medical and hospital expenses in addition to award to plaintiff. *Paisley v. Liebowits*, Reported in 11 Negl. Cas. 1378, CCH., (Mo. Supr. Ct., Dec. 12, 1960).

\$31,500. Plaintiff, 33 year old army sergeant, suffered third degree burns of left leg and a displacement of ball of left femur. 60% disability. Skin grafts required. *Van Wye v. Wagner*, 163 Neb. 205, 79 N. W. 2d 281 (1956).

\$250,000. College coed, burned in truck-bus collision, third degree burns of face, hands, arms, legs. \$150,000 to her; \$100,000 to her father for medical expenses. *N. Y. Times*, p. 21 (Feb. 28, 1961). *N. J. Super. Ct.*

\$30,000. Plaintiff, 3, thrust hand and arm into open vat of 50% nitric acid. Third degree burns of hand, wrist, forearm, nose and forehead. 28 days hospitalization. Medicals totaled \$1,880.15. Mother awarded \$6,500. Remittitur of \$3,500 required from mother. *Healing v. Security Steel Equipment Corp.*, 51 *N. J. Sup.* 123, 143 *A. 2d* 844 (1958).

\$150,000. Plaintiff, 9, burned by contact with uninsulated wire of defendant's transformer. Plaintiff climbed fence of electrical substation owned by defendant. Suffered muscle destruction in right leg, abdomen and thoracics. Right leg amputated. Third degree burns of chest extending from clavicle to umbilicus. Permanent disability. Specials totaled \$11,000. \$20,000 award to father. *Wytupeck v. City of Camden*, 25 *N. J.* 450, 136 *A. 2d* 887 (1957).

\$273,345.38. Plaintiff, 22, suffered "hideous and permanent injuries which destroyed ears, nose, arms and eyes, causing total disfigurement." Result of explosion of accumulated gas. *Rix v. Southern Union Gas. Co.*, 66 *N. M.* 424, 349 *P. 2d* 337 (1960).

\$181,520.94. Plaintiff, 19, suffered "severe permanent injuries" in same explosion as previous case. Actions consolidated. *Ibid.*

\$150,000. Plaintiff, female, burned by explosion while lighting propane gas heater. *N. Y. Times*, p. 8 (Jan. 8, 1960). *N. Y. Supr. Ct.*

\$56,720. Plaintiff, 64, was tugboat engineer. Suffered first, second and third degree burns on hand which required grafting. Action under the Jones Act. Jury verdict.

Loss of Earnings—Past .....	\$18,125
Loss of Earnings—Future .....	23,595
Pain and Suffering .....	33,280
	\$75,000

Court held that the award for pain and suffering was too high. Reduced to \$15,000. *Anderson v. McAllister Lighterage Company*, 157 *F. Supp.* 384 (E. D. N. Y., 1957).

\$5,000. Plaintiff, construction worker, was burned by high tension wires knocked down by cable of crane of defendant-owner-operator of crane. Third degree burns of right foot and

thigh, leaving scars. Second and third degree burns on hands. Specials totaled \$2,423. *Pasqua v. Gardi* (N. Y. Supr. Ct., Mineola). Reported in 2 *Statewide Jury Verdicts*, Metropolitan N. Y., Issue No. 2 (Nov., 1960) p. 68.

\$25,000. Defendant No. 1-Tenant hired Defendant No. 2-Floorscraper to remove inflammable scrappings and compound from floor of Defendant No. 1's apartment. Plaintiff-porter was burned when material exploded upon being placed in the incinerator. Second degree burns of chest, first degree burns of face, causing permanent scarring. Inhalation of flames burned respiratory tract. Specials totaled \$1,042.01. *Hughes v. Sherman* (N. Y. Supr. Ct., Brooklyn). 2 *Statewide Jury Verdicts*, Metropolitan N. Y., Issue No. 2 (Nov., 1960) p. 65.

\$27,500. Plaintiffs injured by explosion resulting from leak in gas main. Both suffered first, second and third degree burns on hands and face. Plaintiff No. 1 had specials of \$2,045.95. Awarded \$17,500. Plaintiff No. 2 had specials of \$684. Awarded \$10,000. *Weitz & Savoy v. Consolidated Edison of New York, Inc.* (N. Y. Supr. Ct. Brooklyn), 2 *Statewide Jury Verdicts*, Metropolitan N. Y., Issue No. 1 (Oct., 1960) p. 6.

\$3,000. Female tenant burned while taking shower when faucet burst. Second and third degree burns of lower abdomen and legs. Inflammation of skin areas and subcutaneous tissue of right leg, both thighs and right ankle. Specials totaled \$209.76. *Fullenbaum v. Chiapparelli* (N. Y. Supr. Ct. Bronx) 1 *Statewide Jury Verdicts*, Metropolitan N. Y. Issue No. 3 (June, 1960) p. 6.

\$8,250. Child burned by torch tumbler, a burning device, improperly placed at construction site. Second and third degree burns of face and hands. Skin grafts, permanent disfigurement. *Bolshenbroeck v. Tully*, (N. Y. Supr. Ct., Bronx) 1 *Statewide Jury Verdicts*, Metropolitan N. Y. Issue No. 3 (June, 1960) p. 3.

\$50,000. Plaintiff, tenant, burned by explosion of gas stove purchased from defendant seller by co-defendant-landlord. First and second degree burns to face, chest and eyes. Specials totaled \$544. *Taylor v. Teller*, (N. Y. Supr. Ct., Bronx) 1 *Statewide Jury Verdicts*, Metropolitan N. Y., Issue No. 2 (May, 1960) p. 11.

\$5,560. Newborn infant wrapped in towel and placed on tray with hot water bottles beneath for 1½ hours. Third degree burns on both buttocks. Skin grafts. Specials totaled \$560. \$5,000 award to infant. Medical expenses to father. *Conley v. Rochester St. Marys Hospital*, (N. Y. Supr. Ct., Rochester) 1

*Statewide Jury Verdicts*, Upstate N. Y., Issue No. 4 (July, 1960) p. 19.

\$35,000. Plaintiff, 3, was burned when defendant-city set a rubbish fire and left it unattended. First, second and third degree burns. Required six skin grafts and six months' hospitalization. *Carter v. City of Greensboro*, 249 N. C. 328, 106 S. E. 2d 564 (1959).

\$135,000. Plaintiff, 33 year old married woman, suffered first, second and third degree burns on 45% of her body. Impairment of joints of elbows, wrists and fingers. Cause of injury was explosion of accumulated gas resulting from leaks in gas lines into basement. Husband received \$15,000 for loss of consortium and services. Plaintiff awarded \$120,000. *Spargur v. Dayton Power and Light Company*, 109 Ohio App. 37, 163 N. E. 2d 786 (1959).

\$400,000. Plaintiff No. 1, female infant, 6. Plaintiff No. 2, female infant, 8. Plaintiff No. 3, father, 38. First, second and third degree burns caused by explosion which killed mother and wife, \$150,000 for each infant. \$91,500 to father. \$8,500 for property damage. *Cleveland Plain Dealer*, p. 1 (March 22, 1960). (Ohio).

\$1,000. Plaintiff, 30 year old female, burned by beauty salon operator, who dyed plaintiff's hair. Chemical burns of neck, face and scalp. Specials totaled \$357.50. *Lenahan v. Ohio Fuel Gas Company* (Ohio Common Pleas Ct., Lucas County) 2 *Statewide Jury Verdicts*, Western Ohio, Issue No. 4 (Apr. 1960) p. 7.

\$180,000. Plaintiff employed by United States in Ordnance Department. Suffered burns when defectively manufactured atomic cannon exploded. First, second and third degree burns. Totally disabled at time of trial. Court held U. S. and co-defendant jointly negligent. *Drake v. Treadwell and United States* (D. C. W. Pa.), Reported in 11 Negl. Cas. 1343, CCH (Nov. 18, 1960).

\$10,000. Plaintiff suffered first and second degree burns as result of escaping steam. Required 23 days in hospital. Specials totaled \$1,270. *Eckman v. Bethlehem Steel Co.*, 387 Pa. 437, 128 A. 2d 70 (1956).

\$350,000. Plaintiff, 34, was severely burned in contact with electric wires. First, second and third degree burns. Brain damage, nervous condition, amputation of left leg and permanent damage to heart, foot and chest. *Lebeck v. Wm. A. Jarvis, Inc.*, 145 F. Supp. 706 (E. D. Pa., 1957), modified, 250 F. 2d 285.

\$5,000. Plaintiff, 39, was severely burned on various parts of his body due to contact with electric wires. Unable to work at same type of job, and was forced to accept job paying 40% less than one previously held. *O'Connell v. Roefaro*, 391 Pa. 52, 137 A. 2d 325 (1958).

\$111,103.42. Plaintiff, 24, suffered first, second and third degree burns on all extremities as result of contacting electric wires. Brain damage and nervous system affected. Specials totaled \$12,500. *Stark v. Lehigh Foundries*, 388 Pa. 1, 130 A. 2d 123 (1957).

\$65,000. Plaintiff, 12 year old boy, climbed pole and was burned by contact with transformer apparatus on platform affixed to pole. Plaintiff thrown to ground, suffering severe electrical burns on various parts of body. \$7,000 awarded to mother in addition to plaintiff's award. *Hyndman v. Pennsylvania Railroad Company*, 396 Pa. 190, 152 A. 2d 251 (1959).

\$60,000. Plaintiff, 28 year old carpenter, ran into fire to save two men supposedly trapped in flames. Third degree burns on 12% of his body. Permanent, progressively worsening contracture of right leg. Specials totaled \$5,771. *Henschel v. Lieberman* (D. C., Phila.) 1 *Statewide Jury Verdicts*, Penna. Issue No. 4 (July, 1960), p. 20.

\$40,000. Plaintiff, 35 year old male engineer, was driving eastward on Pennsylvania Turnpike in blinding snowstorm. Struck in rear and involved in multiple car collision. Fire broke out and plaintiff suffered second and third degree burns on buttocks and legs. Specials totaled \$9,000. *Lazcano v. Elam* (Common Pleas Ct., Westmoreland County) 1 *Statewide Jury Verdicts*, Penna., Issue No. 4 (July, 1960) p. 48.

\$80,000. Plaintiff, 16, was employed part-time as janitor by defendant pharmacy. Burned while burning trash containing a highly inflammable liquid. First and second degree burns of chest, arms and shoulders. Third degree burns on both lower legs, buttocks and left arm. Permanent scars. Specials totaled \$11,538. Total disability at time of trial. *Quinlan, Guardian for Carr, v. Johnson Manor* (D. C., Phila.) 1 *Statewide Jury Verdicts*, Penna., Issue No. 4 (July, 1960) p. 21.

\$50,000. Plaintiff suffered severe burns on both feet necessitating amputation of all but one toe on each foot as a result of coming into contact with electric wires. Specials totaled \$2,500. Court authorized \$10,000 attorney's fees from the award. *Epps v. U. S.*, 187 F. Supp. 584 (M. D., S. C., 1960).