Recent Burn Damage Awards

Frederick F. Waugh

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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. Others have simplified the classifications into only three degrees. 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.

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


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

2 13 Cyclopedea of Medicine, Surgery, Specialties 877 (1958).

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. Photographs, expert testimony, and the display of the evidence on the victim's body, 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


$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 Goldstein & Shabot, Medical Trial Technique page 98 (1942).
6 id. at 649.
$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).


$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).


$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.


$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.


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


$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.

<table>
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<tr>
<th>Loss of Earnings—Past</th>
<th>$18,125</th>
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<tr>
<td>Loss of Earnings—Future</td>
<td>23,595</td>
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<tr>
<td>Pain and Suffering</td>
<td>33,280</td>
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$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


$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


$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).


$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).


$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).


$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).