

Article 22 of the Convention in respect of claims made for death or injury pursuant to Article 17 of the Convention and to allow the compensatory damages recoverable to be determined and awarded by reference to the law of the domicile of the passenger.

By September 1998 seventy carriers had signed the Agreement on measures to implement the IATA Intercarrier Agreement and most including Qantas but not Ansett had implemented the Agreement. If proceedings are proposed the carrier should be asked whether it has implemented the Agreement.

The importance of the Intercarrier Agreement is that provided the require-

ments of Article 17 are satisfied then compensatory damages can be claimed by the passenger in the jurisdiction of their domicile and damages can be awarded by the domestic court, without any monetary limitation, in accordance with the law of the place of domicile. Punitive damages cannot be awarded, however, irrespective of the law of the place of domicile.

The Convention and the Convention as amended limited the jurisdictions where a claim for damages could be brought to a court in the territory of one of the contracting parties to the Convention which had jurisdiction where the carrier was ordinarily resident,

the carrier had its principal place of business, the carrier had an establishment by which the contract was made or the place of destination; Article 28. Where the Intercarrier Agreement applies there is now an additional jurisdiction, the place of domicile of the passenger. ■

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Thredbo families seek civil damages

By MALCOLM BROWN

A group of seven Thredbo victims' families yesterday started civil proceedings for damages in the NSW Supreme Court.

Ms Kate Williams, a solicitor with the Canberra legal firm Bernard Collaery and Associates, which is representing the families at the inquest, said civil action was possible even though the coroner's inquest, conducted by the State Coroner, Mr Derrick Hand, was still in progress.

An application had been made before Justice James seeking group litigant status.

Ms Williams said the NSW National Parks and Wildlife Service and the Snowy Mountains Hydro Electrical Authority had not been represented yesterday, despite being served notice that the action was being taken.

The other parties, the Roads and Traffic Authority, Lend Lease, the Snowy River Council, and Kosciusko-Thredbo Amal-

gamated Holdings had been represented.

Justice James adjourned proceedings until December 14 to allow the two other parties time to file an appearance.

Ms Williams said that about 13 other families of victims represented at the inquest by Mr Michael Green, QC, from the Office of Legal Representation, were free to join the civil proceedings.

At yesterday's hearing, a civil engineer involved in the development of Thredbo Village in the early 1960s said that when he had heard news on July 31 last year of a fatal landslide at Thredbo, he had told his wife he thought he knew the spot.

Mr John Clarence Turner, who went to Thredbo in 1961 to build a road, said he thought the landslide had been in the area of the Winterhaus Lodge, which was the steepest part of the village, the ground rising at an angle of 45 degrees.

In fact, the landslide had been to the east of Winterhaus, in land not then developed but also very steep. Eighteen people died in the landslide, which wiped out Carinya and Bimbadeen Lodges. Mr Turner said the land on which those lodges were to be built was recognised at the time as very steep, with streams running through it and subject to run-off from the Alpine Way.

The inquest heard yesterday that as early as 1961, during early development at Thredbo, the development company Civil and Civic had been very concerned with areas of potential slip.

Questioned by Ms Ruth McColl, SC, counsel assisting the inquest, Mr Turner said that in 1961-63, Civil and Civic, which had employed him, had been aware of the risk of erosion in steep country, and had carried out landscaping around one hotel development.

He agreed that the risk of

slippage was greatest in damp conditions or near a stream and that there were many springs in the development area. He also agreed that by the winter of 1962, Civil and Civic was interested in developing as much land at Thredbo as possible.

At that time, as far as he was aware, he was the only person at Thredbo with expertise in development on steep country. He did not know of anyone in Civil and Civic at the time who had expertise in soil mechanics.

Ms McColl showed Mr Turner correspondence at the time which referred to one lot on Bobuck Lane, near the scene of the later disaster, as being an "unbuildable slip area".

He agreed that the information would not have been news to the person receiving it, and that consideration was being given at the time as to whether the area described as "unbuildable" was in fact buildable.

The hearing resumes today.

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