

# Cost of raising a child claims revisited

*Melchior and Melchior v Cattanach and State of Queensland*

Supreme court of Queensland, 23 August 2000

The Queensland Supreme Court was recently required to revisit the "costs of raising a child" issue in a wrongful conception claim.

The action arose out of the birth of a child despite the prior performance of a sterilisation procedure on the child's mother. The parents succeeded in proving breach of duty.

Justice Holmes had the benefit of *Viewers v Connolly*, however in this matter the child suffered no particular disability.

The case is interesting as judgement was delivered following the House of Lords decision in *McFarlane v Tayside Health Board*.

Justice Holmes awarded compensation for the costs of raising the child

notwithstanding the *McFarlane* decision and notwithstanding the New South Wales Court of Appeal decision in *CES v Superclinics*.

The Court dealt with those actions as follows:

Decisions of the House of Lords under New South Wales Court of Appeal must of course be highly persuasive; and were there a single distinct line of reasoning to be discerned from either case I should follow it. However, given the divergence of the approach, I can see no alternative but to distill from those decisions the reasoning which appeals to me as sound.

Having set himself that task, Justice Holmes considered public policy arguments, the distributive justice approach,

causation/remoteness, the fair just and reasonable test and considerations arising from *Perre v Apand* (Pure Economic Loss).

Ultimately the plaintiffs succeeded and the Court awarded damages to the Plaintiff for this head of damage of approximately \$20,000 for the past and \$85,000 for the future.

I understand that the decision is the subject of an appeal. **PL**

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## Tasmanian Branch of APLA

The Tasmanian Branch has elected  
*Roger Baker* as its President.

Vice-President is *John Green*.

Secretary is *Kassie James*.

Treasurer is *Richard Gruber*.

Committee members are Brian Hilliard,

Chris Webster, Simon Cooper and

Rod Collins.

The Tasmanian Branch has been fairly inactive mainly because the threat to common law through amendments to the Workers

Compensation Act appeared to have subsided. But recently we have been informed that there is a paper before cabinet which might limit access to common law and enquiries are being made as to the extent of that paper.

It is intended to contact various politicians and to form an alliance with the TTLC to defeat any attempt to limit common law.