



HIGH COURT OF AUSTRALIA

Public Information Officer

28 May, 2003

ROSE SHOREY v PT LIMITED AS TRUSTEE FOR McNAMARA AUSTRALIA PROPERTY TRUST, CIC INSURANCE LIMITED (in liquidation) AND VENTURE STORES (RETAILERS) PTY LTD (in liquidation)

The High Court of Australia today allowed an appeal by Ms Shorey.

Ms Shorey suffered soft tissue injuries to her back in a fall in a Blacktown, Sydney, shopping centre in April 1988, when she was 56. She had had surgery in 1986 for a pre-existing degenerative spinal condition and was pain-free, but after the fall her condition deteriorated until she progressed to using a walking stick, the two sticks, then a walking frame and then in 1993 a wheelchair. Ms Shorey was diagnosed as having a conversion disorder, a psychiatric condition said to explain her debilitating symptoms. The New South Wales District Court held the fall was a contributing factor to her condition and that she was not a malingerer, and awarded damages of \$555,212.55 against PT Limited and Venture Stores.

The three respondents did not challenge the District Court's finding that negligence led to Ms Shorey's fall, but appealed to the NSW Court of Appeal seeking a reduction in damages. The Court of Appeal allowed the appeal, although it upheld the finding that Ms Shorey was not malingering. She then appealed to the High Court.

The issue in the appeal was whether Ms Shorey had established that her fall was a cause of her disability.

The High Court, by a 4-1 majority, held that Ms Shorey was not required to prove the fall was the sole cause of her disorder, only that the fall was a cause. Other factors rendered her more susceptible to the consequences of the fall. A long-established legal principle is that defendants must take victims as they find them, even if there is an apparent disproportion between cause and effect.

The High Court allowed the appeal and ordered that the matter be reheard by the Court of Appeal in accordance with the Court's reasons.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*