

CRAIG HOBBS

Formal Qualifications, Experience and Areas of Practice

I graduated from the *University of Tasmania* with an LLB in 1976.

I was admitted and enrolled as a *Practitioner* of the *Supreme Court of Tasmania* in 1978 and have practised continuously as a litigation practitioner both as Solicitor and Counsel since my admission.

I ceased practice as a Solicitor in 2005 to take up practice exclusively as a Barrister at the Independent Bar.

Throughout my career I have practised in all areas of litigation and have extensive experience as Counsel both at Trial and Appellate level.

Initially my primary interest and direction was criminal litigation. However, in addition, a significant proportion of my early practice included civil litigation.

Following my admission in 1978 I developed extensive advocacy experience as Counsel specialising in criminal litigation, appearing regularly in the Supreme Court, including as Counsel for the accused in a murder trial in 1986 – *R v Turner*.

However, my practice gradually evolved and I became more predominantly involved in civil litigation, and from around 1990, and prior to commencing practice exclusively as a Barrister at the Independent Bar, I tended towards almost exclusive specialisation in personal injury and fatal accidents litigation, including as Counsel on brief from other firms.

As a Barrister at the Independent Bar since 2005 I have expanded the areas within which I practise which now includes the following:-

- Fatal Accidents;
- Personal Injuries;
- Medical Negligence;
- Workers Compensation (Federal and State);
- Wills, Succession and Estates;
- Testators Family Maintenance;
- Equity and Trusts;
- Building and Construction;
- Commercial;
- Consumer Law; and
- Crime.

Cases

Prominent cases where I have acted as Counsel that have proceeded to Trial include the following:-

- **R v Turner** (1986) Crime – Murder – Not guilty – Insanity
- **Dodge v Matcham** [1988] TASSC 30 (FC) Appeal and Cross-Appeal – MVA – Personal injury claim – Principles relevant to appeals relating to damages considered
- **Cule v Leighton Contractors Pty Ltd and J M K Constructions Pty Ltd** [1992] TASSC 35 Slicer J – Industrial accident – Severe injuries – Liability contested and apportioned with finding of contributory negligence – Damages assessed
- **Leighton Contractors Pty Ltd and JMK Constructions Pty Ltd v Cule** [1993] TASSC 89 (FC) Appeal and Cross-Appeal regarding liability apportionment and damages
- **Tetapo and others v Marsland and the Hydro-Electric Commission** [1996] TASSC 111 Cox J – Fatal accident involving aircraft and the death of the pilot and 3 passengers
- **Pester v Marsland and Hydro-Electric Corporation** [1997] TASSC 124 (FC) Appeal against finding with regard to liability by Trial Judge
- **Pester v Marsland and Hydro-Electric Corporation** (1998) High Court H3 1997 Special Leave application seeking leave to appeal from the decision of the Full Court
- **Moorcroft v Speed** [1998] TASSC 91 Cox J – MVA – Personal injury claim – significant injuries – claim for substantial loss of earning capacity and other components.
- **Dewing v St Lukes (Anglican Church in Australia) Association** [1999] TASSC 39 Wright J – Workplace accident – Severe injuries – Liability contested and apportioned with finding of contributory negligence – Damages assessed
- **Luttrell v McLennan** [2005] TASSC 79 Blow J – MVA – Personal injury claim – significant injuries – claim for substantial loss of earning capacity and other components.

- **McLennan v Luttrell** [2006] TASSC 44 (FC) Appeal against assessment of damages by Trial Judge
- **Cawthorn v Rawlings** [2009] TASSC 119 Tennent J – Fatal accident – Log truck roll-over and collision with motor vehicle driven by deceased – liability established against driver of log truck
- **Rawlings v Cawthorn** [2010] TASFC 8 (FC) Appeal against finding of Trial Judge dismissed
- **Partridge v Hobart City Council and others** [2010] TASSC 62 Porter J – Slip and fall accident – Salamanca Square – Plaintiff sustaining severe injuries – findings of credit adverse to Plaintiff – Liability apportioned and damages assessed – Future probable receipt of Commonwealth benefits taken into account as relevant to discounting for contingencies in assessing damages for future loss of earning capacity
- **Partridge v Hobart City Council and others** (FC) (Hearing : September 2011) (Decision pending at the time of this entry) Appeal and Cross-Appeals against findings by Trial Judge as to liability and damages – The approach taken over 25 years by Tasmanian courts with regard to the future receipt of Commonwealth benefits as relevant to assessing damages for future loss of earning capacity challenged as wrong in law
- **Potts v Frost** [2011] TASSC 55 Porter J – Motor cycle accident – Rider (Defendant) and pillion passenger (Plaintiff) sustained injuries resulting in paraplegia – Liability apportioned 70% : 30% – Damages assessed in substantial sum reduced to take account of contributory negligence – Several legal issues of Australia wide interest and relevance raised for determination
- **Potts v Frost** (FC) (Hearing : May 2012) Decision pending at the time of this entry – Appeal and Cross-Appeal against conclusions reached by Trial Judge as to liability and damages – Conclusions as to legal principle challenged by both Appellant and Respondent

Recent cases of interest where I have acted as Counsel that have resolved prior to Trial include the following:-

- **Case 1** (finalised 2006) Medical negligence – **Fatal Accidents Act** claim – Deceased hospitalised for hip replacement surgery – Asserted failure to

administer post-surgery prophylactic anti-coagulant medication – Deceased died as a result of embolism

- **Case 2** (finalised 2006) *Testators Family Maintenance Act* - Testator aged 90 at the date of his death in mid 2005 and a widower and no family – Applicant age 50 and the child of the Testator conceived during a casual relationship – Applicant had been aware the Testator was her father for many years – Applicant made first contact with the Testator in late 2004 and thereafter intermittent contact – Entire estate left to an elderly couple who were close friends of the Testator – Modest estate – Application based on lost years without support – Moral duty
- **Case 3** (finalised 2007) Succession – Proceedings seeking reconstruction of lost Will – Will made utilising will kit – competing claims by the husband and other family members
- **Case 4** (finalised 2007) *Fatal Accidents Act* claim – Death of wife of Plaintiff due to injuries sustained when a defective balcony collapsed at a residential dwelling
- **Case 5** (finalised 2007) Trusts – Family trust – Proceeding taken to remove Trustee and to recover real estate owned by the Trust and registered in the name of the Trustee
- **Case 6** (finalised 2007) MVA – Plaintiff seriously injured – Other driver fatally injured – Plaintiff an accomplished cricketer with likely State level attainment leading to potential for Australian side selection – destruction of this potential and loss of opportunity and resultant loss of earning capacity due to injuries sustained
- **Case 7** (finalised 2008) Medical negligence – *Fatal Accidents Act* claim – Deceased hospitalised for prostate surgery – Experienced fainting episode post surgery – Asserted failure by attendant medical practitioner and others to identify and diagnose potential development of deep vein thrombosis and the risk of resultant pulmonary embolism – Asserted failure to treat appropriately – Subsequent death resulting from pulmonary embolism
- **Case 8** (finalised 2008) MVA – *Fatal Accidents Act* claim – Tragic accident resulting in death of deceased occurring at same location where her sister

had died in a MVA several years before – Claim by the parents and child of the deceased

- **Case 9** (finalised 2009) MVA – Common law claim for psychiatric injury by mother of deceased fatally injured in tragic MVA – refer **Case 8**
- **Case 10** (finalised 2009) Equity – Proceedings *in personam* to recover real estate transferred by Plaintiff to Defendant as part of a loan transaction – Indefeasibility of title – Trusts – Allegations of misleading and deceptive conduct, unconscionable conduct and equitable fraud
- **Case 11** (finalised 2010) MVA – **Fatal Accidents Act** claim – Prominent medical practitioner fatally injured – Claim by spouse and children – Complex commercial and trust issues involved in quantifying the claim for loss of financial support
- **Case 12** (finalised 2011) MVA – substantial brain injury and spastic tetraplegia caused in MVA in WA – Applicable law that of locus – Plaintiff confined to a motorised wheelchair and requiring 24 hour residential care – substantial claim
- **Case 13** (finalised 2011) MVA – left sided hemiplegia (brain injury related paralysis) and other injuries caused in MVA occurring in SA – Vehicle driven by Plaintiff hit in rear by a bus – Plaintiff who was taking anti coagulant medication for a pre-existing medical condition initially sustained a severe cervical acceleration/deceleration injury leading to the development of a subdural haematoma and the resultant hemiplegia condition – Issue relating to causation – Plaintiff confined to a wheelchair – Substantial claim including components for ongoing residential care and associated medical costs – Law of locus (SA) applicable to assessing claim generally and individual components
- **Case 14** (finalised 2011) Medical negligence – **Fatal Accidents Act** claim by family of deceased and common law claim for psychiatric injury by wife of deceased – Deceased attended hospital complaining of severe headaches and associated symptoms – Asserted failure by medical staff to entertain possible and variable diagnosis of subarachnoid haemorrhage and to provide appropriate treatment – Deceased died several days after presentation as a result of brain aneurism – Potential issues re **Tabet v Gett** and pleading in contract as well as tort to cover this eventuality – Potential issues re

proportionate liability and separate proceedings instituted against referring GPs to cover this eventuality

- **Case 15** (finalised 2012) Building and construction claim – Federal Court – Complex action – Multiple causes of action – Assertions against architect and contractor (both corporations) pleaded in contract, tort and breach of *Trade Practices Act* provisions and action pleaded against company directors in tort and breach of *Trade Practices Act* provisions
- **Case 16** (finalised 2012) Succession – Intestacy – *Relationships Act* – Proceedings seeking declarations that a person with whom the deceased had cohabited intermittently for brief periods was not entitled on intestacy

Publications

I am the author of the following articles – refer to ***Home Page – News – Author*** for the link to these articles:-

- ***Limitation Periods : A State-By-State-Round : Tasmania***

Precedent – Australian Lawyers Alliance – Issue 76 September/October 2006

- ***Fatal Accidents Act 1934 – A Practical Guide and Useful Hints When Considering and Quantifying Claims***

Law Letter – Journal of the Law Society of Tasmania – 2006 Issue 93 – *Part 1 of 2 Part Series* – Issue 94 – *Part 2 of 2 Part Series*

- ***Fatal Accidents Act 1934 – Claims for Domestic Services – No Longer Available?***

Law Letter – Journal of the Law Society of Tasmania – 2008 Issue 102

- ***Damages – Personal Injury Litigation – Loss of Earning Capacity – Future Anticipated Receipt of Centrelink Benefits – Contingencies – An Issue in Need of Resolution***

Law Letter – Journal of the Law Society of Tasmania – 2009 Issue 103

- ***Proportionate Liability – Fatal Accident Claims***

Law Letter – Journal of the Law Society of Tasmania – 2012 Issue 115

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