

In the Court of Appeal

Large and others -v- Haggis

Alex Harris, a professional snooker player, is outraged by an eighteen month ban from tournament snooker imposed upon him by the sport's governing body. He decides to make a protest at the finals of the 1996 World Snooker Championships. During the evening session which is being broadcast live to an estimated audience of nine million people, Alex rushes from the audience and holding a huge home-made firework. Lighting its fuse, he announces that "This protest is to highlight the vicious and unjustified ban imposed upon me, the People's Champion, and to remind the viewing public that, in these days of automated, acne-ridden clones who masquerade as players, I am the one person still capable of producing fireworks on a snooker table." Having tragically mistimed his speech, the firework explodes whilst he still holds it, and Alex is engulfed in flames. He dies in hospital five days later.

Mandy Large, a model is in the audience and witnesses the whole shocking event. Until five weeks ago, she was Alex's girlfriend and is pregnant with his child. As a consequence of what she sees, Mandy suffers psychiatric damage and miscarries.

Nessie Haggis, Alex's mother, is watching the event at home. She also suffers psychiatric damage.

Sam Byrne, an off-duty fireman, who rushed from the audience to try to extinguish Alex, also suffers psychiatric damage.

At trial, Copout J says that he has the following opinions:

- the psychiatric damage suffered by Maggie would not have been suffered by an observer who was not pregnant and that there is thus no need to consider the proximity of her relationship to the deceased;
- that Nessie was not in sight or sound of the accident;
- that Sam, as a fireman, could not reasonably be foreseen to suffer psychiatric damage in such circumstances as he should have shown sufficient fortitude to withstand any suffering.

Accordingly, Copout J gives judgment to the Haggis estate, holding:

1. that there is no duty of care to avoid causing psychiatric damage:
 - a) attached to the negligent infliction of injury to oneself,
 - b) arising from a particular susceptibility of a plaintiff.
2.
 - a) that there is no duty of care owed to a professional rescuer;
 - b) that the viewing of a tragedy on television constitutes a novus actus interveniens.

Mandy Large, Nessie Haggis and Sam Byrne appeal to the Court of Appeal on all points.

This problem is taken from the third round of the Observer-ESU-Lovell White Durrant Mooting Competition 1996-97, and was provided courtesy of the English Speaking Union.