



Hall Payne Lawyers win workplace injury claim for Grader Driver

Date: Tuesday October 6, 2015

Hall Payne Lawyers (“HPL”) recently acted for a grader driver (“John”) who sustained injuries to his lower back over time whilst working 12 hour shifts on an 11 day on 3 day off roster. The cause of John’s injury was attributed to repeated exposure to whole body vibration during the years he spent working long shifts as a grader driver with limited to no rotation of his duties.

John’s employment had been terminated as a result of the work injury and he was experiencing significant financial hardship.

The workers’ compensation insurer (“the insurer”) rejected John’s application for compensation alleging his employment did not cause the injury.

On Behalf of John, HPL lodged an Application for Review of the insurer’s decision with the [Workers’ Compensation](#) Regulator. The review was successful however the employer appealed the Regulator’s decision to the Qld Industrial Relations Commission. In the weeks leading up to the hearing, the Employer finally conceded the Appeal accepting John’s injury was work related.

This win meant that John now had an entitlement to compensation for his work related injury and he could now access common law damages.

On behalf of John, HPL commenced a claim for damages however, as part of John’s injury had been sustained outside the 3 year limitation period that applies to a claim for damages at common law, the matter was not without its difficulties. Despite these considerable hurdles, [Hall Payne Lawyers](#) was successful in extending the limitation period which allowed the claim to proceed at common law. The defendant strongly denied liability in the claim stating they had taken all necessary steps to manage the risk of injury.

The matter proceeded through the pre-court process but failed to resolve after two separate attempts at settlement negotiations. As the matter could not be resolved in the pre court process, HPL commenced proceedings in the Supreme Court of Qld on behalf of

John. In the lead up to trial, the defendant finally made an offer that was sufficient to compensate John for his past and future losses of income, pain and suffering, superannuation and medical expenses. On the advice of HPL, John settled his claim for damages. He was very happy with the outcome and relieved he could achieve such a good result without having to proceed to Court.

John's case is important in that the defendant finally acknowledged that plant operators faced a foreseeable risk of injury when working long hours over rough and uneven terrain. As a result of John's case, the defendant introduced a new Zero Harm policy to manage the risk of plant operators sustaining injuries as a result of repetitive exposure to whole body vibration in circumstances similar to John's.

If you suffer an injury or illness that impacts your ability to work then contact our Senior Associate [Cale Fryer](#) or our Principal [Linda Brangan](#) on (07) 3017 2400 or complete an [online inquiry form](#).
