

Case Study of an Injured Tasmanian Worker

Wayne Clayton

Thirty-year-old Wayne Clayton, of Launceston, was an active husband and father who enjoyed football, cricket and playing with his children, aged 6 and 11.

He had been working as a driver/storeman for a removal company for 11 years when a serious workplace accident changed his life forever.

In 2003, Wayne was reversing a forklift when he collided with a storage container that was sticking out. His foot slipped off the controls and became trapped between the container and the forklift. Despite his safety boots, the first and second toes, and the top of a third toe, were ripped from Wayne's left foot.

It had been raining and the moisture caused Wayne's foot to slip from the control pedal, which had no grip. Since his accident, the company has modified its forklifts, installing grip on the pedals and safety guards around the vehicles.

Wayne spent two days in hospital where his toes were amputated. He was in bed for four months in almost constant pain, followed by two months in a wheelchair. He then spent another six months on crutches learning to walk.

Today, Wayne walks with a lean and suffers knee problems due to the change of his gait. He also experiences electric-shock-like feelings in his toes, which occur on virtually a daily basis.

Although he tried, Wayne's injuries made it impossible to return to work. While he had been with the company for 11 years, he was still employed as a casual and was therefore not



eligible for long service leave or any other entitlements.

He remained unemployed for two-and-a-half years but is now driving trucks for another company on a trial basis.

Despite the severity of his injuries, Wayne was assessed as having a Whole Person Impairment of 11 per cent. Under Tasmania's changed workers' compensation laws, this meant that Wayne was not eligible for common law damages.

He relies on financial assistance from extended family and his wife had to increase her hours of work to make ends meet. Wayne is also unable to participate in social sport and has difficulty playing with his children.

As Wayne says: "My injuries are plain for everyone to see when I take off my shoe. The accident wasn't my fault and it is unfair that I should have to struggle financially simply because it happened at work."

For more information visit www.taslawsociety.asn.au/tort

Fairer Compensation for Injured Workers



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