Lam v Rolls Royce a class action settlement experience
February 5, 2018

The facts.

In 2010 a Qantas A380, shortly after take-off from Singapore had one of its Rolls Royce Trent 900 engines disintegrate. The plane returned to Singapore with the passengers observing the damage to the engine, wing and other parts of the plane. The seriousness of the damage, risk of crashing and imminent death was clear to all on board. The pilots exercised great skill in landing the aircraft. Once on the ground the damaged engine continued to spark and the aircraft was in a lake of escaping aviation fuel. The passengers were held on board for another hour before disembarking. As a result of this near death experience many passengers and crew suffered serious psychiatric injury.

LHD Lawyers commenced a class action under the direction of Michael Hyland and his team in the NSW Supreme Court. John Rowe Barrister was briefed by LHD in the matter. The allegation of liability was against Rolls Royce for negligent design, construction and installation of the engine. The negligence occurred in the United Kingdom which meant the law of England and Wales had to be applied on questions of liability and quantum. The defendant ultimately admitted breach of duty of care and we set about assessing each claimant’s damages claim according to English law.

The Claimants

The nature of the psychiatric injury made the claimants vulnerable. Reliving the trauma in the preparation, presentation and negotiating a settlement was a daunting prospect that compromised each claimant’s capacity to heal. Some of the most seriously affected potential claimants could not face the
prospect and opted out. The lead plaintiff had to be a special person who notwithstanding her injury could cope with the strain of being on the front line of the case for, as it turned out, for five years.

Sandy Lam was a flight attendant on the aircraft. She loved her job and flying. The incident caused her grievous psychiatric injury. She sought early treatment. Sandy returned to work but suffered panic attacks when flying and had numerous periods when she was medically unfit because of her condition but she remained determined. She was clearly honest, articulate, had a medical history that was strongly supportive of her injury and clear evidence of economic loss. She was the ideal person to be the lead plaintiff. It was a big ask but she consented to be the lead plaintiff.

After initially denying liability, the defendant admitted breach of duty and there followed over a year of individual negotiations to settle group members claims. The defendants declined to deal with Sandy’s case until the end thereby causing her significant difficulty in coping but she endured. In December 2017 her case settled being amongst the last to do so.

Settlement has been important to all group members. The fact of the case has caused each of them to relive the event and prevented healing. In every case the settlement has brought closure, relief and a capacity to cope and heal.

For the lawyers acting for the plaintiff and group members it has been our honour to be associated with such a courageous and vulnerable group and a source of great satisfaction to achieve an outcome that enabled them to move on.
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CALL (TEL:1800838481)

General Enquiries
Call: 1800 838 481 (tel:1800838481)
Email: info@lhd.com.au (mailto:info@lhd.com.au)