



HIGH COURT OF AUSTRALIA

Public Information Officer

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JACK PLEDGE v ROADS AND TRAFFIC AUTHORITY, BLUE MOUNTAINS CITY COUNCIL AND
NADIA CATHERINE RYAN by her tutor Heather Ryan

NADIA CATHERINE RYAN by her tutor Heather Ryan v JACK PLEDGE, BLUE MOUNTAINS CITY
COUNCIL AND ROADS AND TRAFFIC AUTHORITY

The High Court of Australia today overturned a judgment of the New South Wales Court of Appeal and ordered that the Court of Appeal reapportion liability among Mr Pledge, the RTA and Blue Mountains Council.

Nine-year-old Nadia Ryan was severely injured when struck by Mr Pledge's vehicle on a service road beside the Great Western Highway at Blaxland in the Blue Mountains as she and her father and sister were about to cross the road in July 1994. They had walked through thick shrubbery planted on a nature strip between the service road and the highway. Ryan momentarily released his daughter's hand and Nadia walked forward on to the roadway.

The RTA designed the service road, the Council designed the parking beside the service road and both bodies were responsible for the nature strip. The vegetation prevented the family and Mr Pledge from seeing each other properly. Mr Pledge also claimed he was distracted by another car reversing from a parking space. Nadia sued Mr Pledge, the RTA and the Council for negligence.

NSW Supreme Court Justice John Dunford, who visited the service road during the trial, held that Mr Pledge was negligent in driving too fast, although he was within the speed limit, and failing to keep a proper lookout, that the RTA was negligent in the design and construction of the nature strip, and that the Council was negligent in not properly maintaining the vegetation and allowing parking bays at a 90-degree angle. He held that a traffic sign warning drivers of pedestrians or suggesting a slower speed was needed. Justice Dunford ordered Mr Pledge to pay \$2,925,000 in damages and the RTA and the Council a total of \$3,712,500, adjusted to \$4,781,250 against Mr Pledge and \$1,856,250 against the RTA and the Council after judgment on cross-claims. Nadia's damages were reduced by 10 per cent because of her contributory negligence in failing to look both ways before crossing.

The High Court held that the Court of Appeal erred in three respects in absolving the RTA and the Blue Mountains Council from responsibility for Nadia's injuries. The errors were: having no proper basis for preferring photos of the scene over the evidence of witnesses; reliance on time, speed and distance calculations that were too uncertain to be more than mere speculation; and failing to give sufficient weight to the advantage that Justice Dunford had by visiting the accident site. The High Court did however uphold the Court of Appeal's findings that the absence of traffic signs and provision of perpendicular parking spaces did not amount to negligence by the RTA and the Council.

The High Court unanimously allowed both appeals and remitted proceedings to the Court of Appeal for reapportionment of liability between Mr Pledge, the RTA and the Council and for determination of remaining issues not decided by the High Court, including costs.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*