



## HIGH COURT OF AUSTRALIA

Public Information Officer

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ATTORNEY-GENERAL FOR THE NORTHERN TERRITORY OF AUSTRALIA v  
CAMERON OWEN CHAFFEY AND SANTOS LIMITED  
SANTOS LIMITED v CAMERON OWEN CHAFFEY AND ATTORNEY-GENERAL FOR  
THE NORTHERN TERRITORY OF AUSTRALIA

Northern Territory legislation providing that employers' superannuation contributions were not to be treated as part of earnings for compensation paid to an injured worker was constitutionally valid and did not amount to an acquisition of property, the High Court of Australia held today.

Mr Chaffey was injured in September 2003 while working for Santos as a maintenance operator at Mereenie Gasfield, 200km west of Alice Springs. Santos accepted liability to pay compensation pursuant to section 53 of the *Work Health Act*. During Mr Chaffey's employment, Santos made superannuation contributions on his behalf of 10 per cent of salary, but did not continue to make these as part of his compensation payments. In 2004 the Full Court of the NT Supreme Court held in *Hastings Deering (Australia) v Smith (No. 2)* that "remuneration" included employers' superannuation contributions. The Act was then amended to exclude these contributions from the definition of "normal weekly earnings", backdated to 1 January 1987.

Justice Dean Mildren referred two questions to the Full Court of the Supreme Court for determination. These were whether before and whether after the commencement of the amendment, 26 January 2005, it constituted an acquisition of Mr Chaffey's property inconsistent with section 50 of the Commonwealth *Northern Territory (Self-Government) Act*. Section 50 provides that the legislative power of the NT Assembly does not extend to the making of laws for the acquisition of property other than on just terms. By majority, the Full Court answered Yes to both questions. The NT Attorney-General intervened in the Full Court proceeding and instituted its own appeal to the High Court. Santos also appealed.

The High Court unanimously allowed both appeals. It held that section 53 of the *Work Health Act*, which imposes obligations upon employers to make payments to injured workers, is subject to the rest of the compensation scheme set out in the Act's Part V, as amended from time to time. The method prescribed for quantifying the amount of compensation payable by an employer had not been fixed in permanent form at the date of Mr Chaffey's injury and was always subject to change. Therefore, there was no acquisition of property and section 50 of the *NT (Self-Government) Act* had no application to the change made to the *Work Health Act*. The Court held that both questions should be answered No.

- *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.*