

## CUMULATIVE TABLE OF CASES REPORTED

### Motor Vehicle Reports

Bailey v Harriss (TASSC — Tennent J) (2016)	<b>78.81</b>
Chaplin v Lane (TASFC — Full Court) (2016)	<b>78.142</b>
Dent v Calcagno (NSWCA — Full Court) (2016)	<b>78.299</b>
<b>Eicas v Dawson</b> (SASCFC — Full Court) (2016)	<b>78.434</b>
Fox v Vinicombe (WASC — Allanson J) (2016)	<b>78.320</b>
Godden v Queensland (QSC — Mullins J) (2016)	<b>78.120</b>
Insurance Australia Ltd (t/as NRMA Insurance) v Cornish (NSWSC — Davies J) (2016)	<b>78.337</b>
<b>Insurance Australia Ltd (t/as NRMA Insurance) v Milton</b> (NSWSC — Beech-Jones J) (2016)	<b>78.391</b>
Issa v Australian Alliance Insurance Company Ltd (t/as Shannons Insurance) (NSWSC — Harrison AsJ) (2016)	<b>78.1</b>
Jausnik v Nominal Defendant (No 5) (ACTSC — Mossop AsJ) (2016)	<b>78.230</b>
Kerr v R (NSWCCA — Full Court) (2016)	<b>78.191</b>
Kirby v Western Australia (WASCA — Full Court) (2016)	<b>78.380</b>
Lehn v R (NSWCCA — Full Court) (2016)	<b>78.353</b>

*(Continues on p ii of cover)*

**CUMULATIVE TABLE OF CASES REPORTED** — *continued*

Linfox Australia Pty Ltd (ACN 004 718 647) v Transport Accident Commission (VSC — Keogh J) (2016) **78.177**

Morton v Scott (TASSC — Tennent J) (2016) **78.109**

Motor Accidents Insurance Board v Motor Accidents Compensation Tribunal (TASFC — Full Court) (2016) **78.135**

**New South Wales v Wenham** (NSWCA — Full Court) (2016) **78.501**

Nominal Defendant v Adilzada (NSWCA — Full Court) (2016) **78.71**

**Nominal Defendant v Dowedeit** (NSWCA — Full Court) (2016) **78.472**

Nominal Defendant v Smith (QSC — Martin J) (2016) **78.106**

O'Reilly v Harris (WASC — Hall J) (2016) **78.273**

Priovolidis v R (NSWCCA — Full Court) (2016) **78.59**

R v Etheridge (QCA — Full Court) (2016) **78.88**

R v Mackenzie (QCA — Full Court) (2016) **78.327**

**R v Turner** (QCA — Full Court) (2016) **78.409**

**Silvestri v R** (NSWCCA — Full Court) (2016) **78.421**

Singh v Cooper (ACTCA — Full Court) (2016) **78.210**

Spaulding v Eirth (TASFC — Full Court) (2016) **78.23**

Townsend v O'Donnell (NSWCA — Full Court) (2016) **78.283**

## CASES JUDICIALLY CONSIDERED IN THIS PART

Black v R [2010] NSWCCA 321, considered 78.421

CSR Timber Products Pty Ltd v Weathertex Pty Ltd (2013) 83 NSWLR 433; [2013] NSWCA 49, considered 78.501

Harrigan v R (2005) 45 MVR 352; [2005] NSWCCA 449, considered 78.421

Hughes v R (2008) 49 MVR 420; 185 A Crim R 155; [2008] NSWCCA 48, considered 78.421

Insurance Australia Ltd (t/as NRMA Insurance) v Banos (2013) 65 MVR 312; [2013] NSWSC 1519, considered 78.391

Primmer v R (2015) 71 MVR 300; [2015] NSWCCA 155, considered 78.421

R v AB (2011) 59 MVR 356; [2011] NSWCCA 229, considered 78.421

—v AB (No 2) [2011] NSWCCA 256, considered 78.421

—v Balic (2005) 44 MVR 35; [2005] QCA 212; [2005] QCA 212, considered 78.409

—v Frost; Ex parte Attorney-General (Qld) (2004) 149 A Crim R 151; [2004] QCA 309, considered 78.409

—v Hopper [2011] QCA 296, considered 78.409

—v Ibrahim (2003) 40 MVR 183; [2003] QCA 386, considered 78.409

—v Jurisic (1998) 45 NSWLR 209; 29 MVR 49, considered 78.421

—v Lennon [1999] QCA 192, considered 78.409

—v Moody (2016) 75 MVR 201; [2016] QCA 92, considered 78.409

—v Price (2016) 75 MVR 89; [2016] NSWCCA 50, considered 78.421

—v Slater [1997] QCA 42, considered 78.409

—v Vessey (1996) 23 MVR 286; 86 A Crim R 290, considered 78.409

—v Whyte (2002) 55 NSWLR 252; 37 MVR 1; [2002] NSWCCA 343, considered 78.421

—v Wilde; Ex parte Attorney-General (Qld) (2002) 135 A Crim R 538; [2002] QCA 501, considered 78.409

Stanyard v R [2013] NSWCCA 134, considered 78.421

Tickle Industries Pty Ltd v Hann and Richardson (1974) 130 CLR 321; 2 ALR 281, considered 78.501

Workers Compensation Nominal Insurer v Nominal Defendant (2013) 64 MVR 542; [2013] NSWCA 301, considered 78.501

**STATUTES, RULES, ETC CITED IN THIS PART**

**NEW SOUTH WALES**

Crimes Act 1900 . . . . . **78.421**  
 Crimes (Sentencing Procedure) Act 1999 . . . . . **78.421**  
 Motor Accidents Compensation Act 1999 . . . . . **78.391**  
     s 7A . . . . . **78.501**  
     s 7B . . . . . **78.501**  
     s 138 . . . . . **78.472**  
     Div 1 . . . . . **78.472**  
     Pt 1.2 . . . . . **78.472**  
 Motor Accidents (Lifetime Care and Support) Act 2006 . . . . . **78.391**

Workers Compensation Act 1987  
     s 151Z(1)(d) . . . . . **78.501**

**QUEENSLAND**

Penalties and Sentences Act 1992  
     s 161B3(a)(i) . . . . . **78.409**

**SOUTH AUSTRALIA**

Civil Liability Act 1936 . . . . . **78.434**  
 Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001 . . . . . **78.434**

## INDEX OF CASES IN THIS PART

### ADMINISTRATIVE LAW

**Judicial review** — Decision of assessor refusing to exempt a claim from statutory assessment process — Where insurer alleged that the first defendant had made false and misleading statements about the extent of his injuries — Where insurer relied on allegedly inconsistent statements made by the first defendant but did not specify which were misleading — Where it was alleged that the assessor failed to address the insurer's claim for exemption because of a failure to identify which statement was misleading — No error shown: *Insurance Australia Ltd (t/as NRMA Insurance) v Milton* 78 MVR 391

### CRIMINAL PROCEDURE

**Sentence** — Appeal — Three counts of driving in a manner dangerous causing grievous bodily harm — Appeal in respect of one count only — Whether the sentence on that count was manifestly excessive — Whether the discount for an early plea of guilty was adequate — Whether the total accumulation of that sentence upon the sentences for the other two counts was appropriate: *Silvestri v R* 78 MVR 421

### CRIMINAL PROCEDURE

**Sentence** — Appeal — Where applicant pleaded guilty to (inter alia) one count of dangerous operation of a motor vehicle causing grievous bodily harm while adversely affected by an intoxicating substance — Where the applicant drove dangerously while under the influence of methylamphetamine, while on bail, while disqualified from driving, and with an overloaded vehicle — Where the applicant was pursued by two police vehicles and avoided a tyre deflation device before colliding with a parked vehicle, resulting in three of his five passengers sustaining injuries which were sufficiently serious to amount to grievous bodily harm — Where the applicant was sentenced to 6 years' imprisonment for the dangerous operation offence which was declared a serious violent offence — Where the applicant alleged that the serious violent offence declaration rendered his sentence manifestly excessive: *R v Turner* 78 MVR 409

### NEGLIGENCE

**Blameless accident** — Where successful claim for damages against Nominal Defendant in lower court — Whether respondent was hit by a motor vehicle or fell from balcony — Where primary judge found collision with motor vehicle most likely cause of respondent's injuries — Where respondent found lying on footpath with serious injuries — Challenge to factual finding of respondent's rest position on footpath — Whether inconsistent with witness and expert evidence — Where competing witness evidence and police photographs of site of accident — Challenge to factual finding of respondent's belief he was hit by a car — Where respondent gave contemporaneous account to police and hospital staff of going out to corner shop — Credibility of respondent — Whether primary judge erred in finding expert evidence of little assistance — Consistency of expert evidence with nature of respondent's injuries and other evidence: *Nominal Defendant v Dowdeit* 78 MVR 472

**Contributory negligence** — Whether primary judge erred in finding contributory negligence by respondent and assessing reduction in damages at 50% — Where finding that respondent's failure to look caused accident — Where relatively quiet street — Where little otherwise known of circumstances of accident — Whether assessment manifestly inadequate or excessive: *Nominal Defendant v Dowdeit* 78 MVR 472

**Motorcycles** — Apportionment of damages: *Eicas v Dawson* 78 MVR 434

### PRACTICE AND PROCEDURE

**Costs**: *Eicas v Dawson* 78 MVR 434

### WORKERS COMPENSATION

**Worker employed by appellant** — Worker injured in motor accident — Accident caused by truck driven and owned by respondents — Respondents conceded motor accident was a "blameless motor accident" — Deemed fault in blameless motor accident — Worker recovered worker's compensation payments from appellant — Appellant sought indemnity from respondents — Whether appellant entitled to rely upon the "blameless motor accident" provisions: *New South Wales v Wenham* 78 MVR 501

### WORDS AND PHRASES

**"damages"** — "contributory negligence" — "apportionment": *Eicas v Dawson* 78 MVR 434

(Continues on p vi of cover)

INDEX — *continued*

**WORDS AND PHRASES**

**“injury...caused under circumstances creating a liability in some person other than the worker’s employer”:** *New South Wales v Wenham* 78 MVR 501