



Quiz

Evidence of Pre-Existing Impairments in Personal Injury Claims

1. What must be established in order to claim damages for non-economic loss arising from a personal injury under the *Wrongs Act 1958* (Vic)?
 - a. That the injury resulted in a permanent impairment
 - b. That the injury was a significant injury
 - c. There is no limitation on when damages for non-economic loss can be claimed
 - d. Damages for non-economic loss are never available under the *Wrongs Act*
2. What is the threshold of permanent impairment required to establish that a claimant suffered from a "significant injury"?
 - a. 3 percent
 - b. 5 percent
 - c. 10 percent
 - d. 15 percent
3. How can a respondent challenge a decision of an approved medical practitioner who assesses the claimant as having a "significant injury"?
 - a. Refer the matter to a Medical Panel
 - b. Refer the matter for a hearing on the merits in the Supreme Court
 - c. Identify an error of fact and seek merits review in the Supreme Court

- d. Identify an error of law and seek judicial review in the Supreme Court

4. What was the basis upon which the plaintiff argued that the Medical Panel had erred?
 - a. The Medical Panel had failed to take into account medical treatment that the claimant had received elsewhere and its impact on his recovery
 - b. The Medical Panel had failed to take into account an injury that the claimant had suffered two years prior to the football injury
 - c. The Medical Panel had failed to take the football injury into account as a pre-existing or unrelated impairment
 - d. The Medical Panel had failed to take into account the claimant's intervening acts in continuing to play football after his injury

5. What did Emerton J ultimately find in reviewing the Reasons of the Medical Panel?
 - a. The Medical Panel erred by not specifically referring to the permanent impairment flowing from the football injury
 - b. The Medical Panel incorrectly conflated "injury" and "impairment" when considering the impact of the football injury
 - c. The Medical Panel referred to the specific evidence of permanent impairment flowing from the football injury and was entitled to disregard it as unpersuasive
 - d. It could be inferred that the Medical Panel took into account the football injury and found no evidence of permanent impairment arising from it

Answers:

1. b 2. b 3. a 4. c 5. d