



## HIGH COURT OF AUSTRALIA

6 November 2013

JOHN DALY v ALEXANDER THIERING & ORS  
[2013] HCA 45

Today the High Court unanimously allowed an appeal against a decision of the Court of Appeal of the Supreme Court of New South Wales, which had held that s 130A of the *Motor Accidents Compensation Act* 1999 (NSW) ("the MAC Act") did not preclude an award of damages in respect of the treatment and care needs of a participant in the Lifetime Care and Support Scheme ("the Scheme") where those needs had been met by services rendered gratuitously.

On 28 October 2007, the first respondent suffered catastrophic and permanent injuries in a motor vehicle accident. Since that time, he has been a participant in the Scheme established under the *Motor Accidents (Lifetime Care and Support) Act* 2006 (NSW) and administered by the Lifetime Care and Support Authority of New South Wales ("the Authority"). Pursuant to arrangements between the Authority and the second respondent (the first respondent's mother), a significant part of the first respondent's domestic care provided for under the Scheme was undertaken gratuitously by the second respondent.

The first respondent sued the appellant (the driver of the motor vehicle allegedly at fault) for damages in negligence, claiming, among other things, the value of the services provided by the second respondent. In reliance upon s 130A of the MAC Act, the appellant denied liability for that part of the claim on the basis that it was for economic loss in respect of the first respondent's treatment and care needs which were already provided for under the Scheme.

The Court of Appeal held that, to the extent that the first respondent's treatment and care needs were not paid for, they were not provided for under the Scheme, and might therefore be regarded as economic loss compensable by an award of damages.

The High Court held that s 130A of the MAC Act precluded participants in the Scheme from recovering damages for economic loss in respect of their treatment and care needs which were provided for under the Scheme, even though they were rendered gratuitously.

*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.*