

Perils to Cyclists Failing to Wear Helmets

Although argument rages as to how much wearing a cycling helmet can prevent injury, most members of the public are likely to say that wearing a helmet is better than not wearing one. It is certainly a rare thing for parents to allow their children to go cycling without wearing a helmet.

As well as the possible physical perils of not wearing a helmet a High Court Judge has now made comments which could in future lead to cyclists injured by others having their compensation reduced because of their failure to wear a cycling helmet.

In the case of *Smith v Finch*, Mr Justice Griffith Williams handed down Judgement on the 22 January 2009 in the High Court when he said in one of the clearest judicial statements to date on this issue:

“There can be no doubt that the failure to wear a helmet may expose the cyclist to the risk of greater injury...” He went on to say that, subject to proof that wearing a helmet would have prevented or made the injuries less serious, *“... any injury sustained may be the cyclist’s own fault.”*

In the case itself Mr Smith waiting to turn right into a driveway was injured when Mr Finch riding his motorcycle in the same direction at excessive speed tried to overtake him on the offside. Mr Smith tragically suffered brain damage from the violent rotation of his skull as he was struck and then from striking the back of his head on the ground when he fell. Although Mr Finch was found to be at fault, it was argued that Mr Smith was also at fault due to his failure to wear a cycling helmet.

On the evidence Mr Justice Griffith Williams was unable to conclude that wearing a helmet would have made any difference to Mr Smith’s injuries. However had such evidence been available to him it seems that he would have been ready to consider the extent to which Mr Smith was to blame and therefore the amount by which his compensation had to be reduced.

Since 1975 in the case of Froome v Butcher it has been the case that the failure of a motorist to wear a seatbelt (which was not made compulsory by law until much later) can and very often does result in a finding that the motorist is partly to blame for their injuries and operates to reduce their compensation. Whilst the wearing of cycling helmets is not compulsory yet it seems the Courts are increasingly willing to hold cyclists to blame should they fail to do so.

If you or someone you know has been involved in a cycling accident where a helmet was not worn you should seek specialist legal advice. A reduction in compensation is not automatic and is only possible where it can be proven that wearing a helmet would have made a difference. The writer has successfully defeated an argument by a motorist's insurance company that a cyclist injured by the motorist should bear some responsibility for his injuries by arguing that the injuries would have been no less severe even had a helmet been worn.

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