

**Recent Future Economic Loss Decision**  
***Sutton v Hunter & Anor* [2002] QCA 208**

Judges: Bond JA and Crow & Mellifont JJ  
Hearing the decision of Freeburn J of 7 October 2021

Court: Queensland Court of Appeal

Delivered: 25 October 2022

Decision: Appeal allowed and increased quantum award from \$314,345 to \$543,988 and amending a costs order that the Second Defendant (Allianz) pay the Plaintiff's costs on an indemnity basis and the costs of appeal on a standard basis

Basis of Appeal:

The most relevant aspects of the decision appear from paragraphs 86 onwards of the joint judgment.

The Appellant contended that:

- (1) The primary judges' finding that the Appellant would gradually return to work over the next 2 years and recover by the end of 2025 was a finding without evidential basis and against all of the evidence, including that of Dr Chalk;
- (2) The primary judges' allowance of 2 days per week into the future was an underassessment of the Appellant's prospects of future work capacity.

Trial judge accepted Dr Chalk's evidence over that of Dr Lotz, psychiatrist, concerning the Claimant's future work capacity and made an award for FEL in the sum of just over \$70,000 on that basis.

However, the Court of Appeal substituted that sum with an award of \$307,000 for FEL based on the following:

- That the Plaintiff had suffered a 50% loss of work capacity equivalent to \$600 net per week and would suffer that loss for 17 years.
- The Court of Appeal then discounted that sum on the 5% tables and by 15% for vicissitudes.