

Williams v Milotin (1957) 97 CLR 465

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Facts

- The Plaintiff sustained injury when he was struck by a motorbike allegedly ridden negligently by the Defendant
- The Plaintiff, a child, brought the cause of action as negligence about 3.5 years after the accident occurred.
- The Statute of Limitations Act 1936 (SA) provided that there was a 3 year time limit, with some exceptions including: “any other actions which would formerly have been brought in the form of actions called trespass on the case: shall, save as otherwise provided in this Act, be commenced within six years.”
- The Plaintiff argued that they could bring the action within six years, because they could have formerly (before the law was changed) brought it as a trespass case.
- The Defendant argued this was not possible.

Issue

- Could the Plaintiff bring the case beyond 3 years but before 6?

Held

- The Court held that the proper interpretation of the Act was that trespass on the case could be brought up to six years after the event.
- In so holding, the Court carefully examined the wording of the statute and in particular the significance of the phrase “save as otherwise provided in the Act”.
- They held that in truth, it had little effect on the Plaintiff’s case as it simply meant there may be other sections of the Act that are applicable (for example, those relating to

Quote

“The true meaning and effect of s 35 and s 36 is that six years shall be the period of limitation for an action of damages based on negligence which formerly might have been brought as an action on the case in which the damages formed the gist of the action and negligence giving rise to the damage formed the conduct by reason of which it became actionable.”