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" THE IMPLICATIONS OF THE 1984 AMENDMENT TO THE CIVIL  
LAW ACT ON QUANTUM OF DAMAGES. "

By :

MUZAFEK BIN MOHD YUSOFF

DIPLOMA IN LAW

INSTITIUT TEKNOLOGI MARA

SHAH ALAM

SELANGOR.

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CHAPTER ONE(A) GENERAL BACKGROUND

Anybody who has evr had the duty of assessing damages either the courts or outside then is fully aware of the difficulties with which that duty is beset. Question of liability are often difficult enough, but decisions of the courts over many years and the invalueable work of the textbook writers have provided a clear guide to the principles which govern liability. But it can never be possible to formulate any such clear guide in the assessment of damages, though certain principles have become clear enough. For each case depends upon its own peculiar and particular facts, and experiences has shown that the the facts can vary almost infinitely.

It was these circumstances which led Lord Wright to say in DAVIS V POWELL DUFFRYN that :

" There is generally so much room for individual choice that the assessment of damages is more like the exercise of discretion than an ordinary act of decision. "

How often has a judge said to himself when confronted with terrible human tragedy --- the complete lost of sight or the complete paralysis of the body, e.g.

what Byrne J. said openly in RUSHTON V NATIONAL COAL BOARD:<sup>2</sup>

" This is a case in which money cannot really  
compensate at all..."

And yet compensation must be assessed in money even if  
it arrears to be, "measuring the immeasurable", as  
Romer L J said when reviewing the assessment made by  
Byrne J in the same case.

Sometimes the assessment is made in court  
after the hearing of much conflicting evidence ; some-  
times it is made by the assessors to insurance compan-  
ies and sometimes it is made by counsel who advice on  
payment into court or whether money paid into court  
shall be taken out.

Damages can never be standardised and the de-  
cision in any one particular case may not be much of  
much help in deciding another. In practice, assessors  
to the damages - counsels, adjusters, valuers, and even  
judges had oftenly made referrences to books <sup>3</sup> which  
gathers together into one volume the reported and un-  
reported decisions and classifies them most carefully  
as a guide of most valueable kind.

In BRADY V THE YORKSHIRE TRACTION CO. LTD.<sup>4</sup>  
Singleton L J appears to have considered the publica-  
tion, analysis and use of classified assessment in