

**HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION**

(Ormerod, J.)

27th July, 1953

GILLAN v. THE MINISTER OF PENSIONS

JUDGMENT

MR. JUSTICE ORMEROD: This case must go back. There should be another report of the Medical Services Division in which they should confine their comments on the facts to medical matters only and not express an opinion as to whether or not the evidence with regard to the fall should be accepted as a question of fact. That is one of the reasons why the case should go back. The other one is because quite clearly on their own reasons as given they have misinterpreted an important paragraph in the report of the Medical Services Division by saying that such a fall as that claimed "would not be a common cause of a prolapsed disc". Nothing of the kind is said in the report. I hope that I have made my meaning clear.

MR. ASHWORTH: Yes, my Lord.

MR. JUSTICE ORMEROD: I hope that the Medical Services Division will realise that although it is obviously essential for them to come to a conclusion about the facts upon which they based their opinion it is not their function to express a view of the facts as facts except when they relate to matters of medical opinion which will enable them to express a medical view.

MR. EVANS: My Lord, the application will be granted, leave to appeal will be given, and the case will be remitted for further consideration.

MR. JUSTICE ORMEROD: The application will be granted; there will be leave to appeal and the case will be remitted to the Tribunal for further consideration.

MR. EVANS: If your Lordship pleases.