

**HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
(Ormerod, J.)  
25<sup>th</sup> November, 1955  
HOWARD v. THE MINISTER OF PENSIONS AND  
NATIONAL INSURANCE**

**JUDGMENT**

MR. JUSTICE ORMEROD: This is an application by Arthur Howard for leave to appeal against a decision of the Ministry dated the 24<sup>th</sup> February, 1945, when the Tribunal decided that vertigo, of which he was complaining, was not due to the administration of streptomycin, which was part of the course of treatment which he had for tuberculosis, the tuberculosis being admittedly attributable to his war service.

At the present time, the Applicant is about 64 years of age. He joined the Royal Air Force in September, 1939, and served until August, 1945, but he had served before 1939 and in fact had served in the 1914-1918 war. He was discharged in 1945 suffering from tuberculosis. He was admitted to hospital in 1947 and an operation for thoracoplasty was performed upon him, probably in three stages (there is some little doubt about it) up to June of 1948. During that period at the age of about 58, he received an injection of streptomycin, amounting to one grain each day, for 63 days. He was discharged from hospital in October, 1948 and appears to have made no complaint of dizziness even to his own doctor until January or February 1951, more than a year after his discharge from hospital, and probably more than 18 months after the administration of streptomycin.

There was a considerable difference of medical opinion in this case. The opinion of Dr. Friend and another surgeon was that the vertigo, from which this man admittedly suffers now, was certainly due to streptomycin. The administration of streptomycin does from time to time, particularly in elderly people, produce symptoms of this kind arising from labyrinthine degeneration in the ear apparently set up by the drug. That is agreed by doctors on both sides. The medical evidence adduced by the Ministry and the evidence of the independent specialists called in was that although it is true that a condition of vertigo may be caused by the administration of streptomycin, in this case the vertigo was not caused in that way. There was evidence that in 1941 Mr. Howard complained of vertigo and I think another factor which weighed with the Ministry was that there was this gap from some time in 1948, when the administration of streptomycin ceased, to the beginning of 1951, during which there was no complaint of vertigo.

The Ministry formed the view that streptomycin was not the cause of the condition from which this man unfortunately suffers now, but that it was probably the result of a degenerative condition of the labyrinth of the left ear known as Meniere's disease. That was the evidence before the Tribunal. The Tribunal had before them this conflict of evidence. There was the Report on the one hand of the Medical Services Division of the Ministry and other doctors who had examined the Applicant on behalf of the Ministry, and on the other hand there was the evidence of the two doctors, who had examined the man on his own behalf. The Tribunal having considered the whole of that evidence decided that the Ministry had discharged the burden of proof which was upon them to

show that this man's condition was probably not due to the administration of streptomycin.

**HOWARD v. THE MINISTER OF PENSIONS AND NATIONAL  
INSURANCE**

It is argued by Mr. Read, who has I think put before the Court every point that could properly be put in this case, that the burden of proof upon the Ministry is a heavier one than is normal because they accepted an additional burden by reason of the fact that symptoms of this kind are frequently set up as a result of the administration of streptomycin. That matter was before the Tribunal and they were fully aware of the burden of proof which rests on the Ministry. Having considered the whole of the evidence they decided that the burden had been discharged and in those circumstances there is nothing this Court can do to interfere with their decision. It may be right or it may be wrong. That is not for me to judge, and indeed it is no part of my duty to have to do it. It is a matter entirely for the Tribunal to consider the evidence and to come to a conclusion upon the evidence. They have considered the evidence and have come to a conclusion.

As I have said time and again in these cases the mere fact that there is a difference of medical opinion does not mean that there is a doubt and therefore the Appellant must have the benefit of it. There is only a doubt if the Tribunal, having considered the whole of the evidence, are left in doubt, in which case the burden of proof has not been discharged. That was not so in this case. The Tribunal gave a decision and there was evidence to support it, and therefore this court can not interfere.

In these circumstances I propose to grant leave to appeal and dismiss the appeal.