



THE SUPREME COURT OF NORWAY

On 8 December 2017, the Supreme Court gave judgment in

HR-2017-2352-A, (case no. 2017/691), civil case, appeal against judgment,

I.
A
B
C
D
E
F
G

(Counsel Karoline Henriksen)

v.

H

(Counsel Øystein Storrvik)

I
J
K

(Counsel Øivind Sterri)

II.
H

(Counsel Øystein Storrvik)

v.

C
D
E
F
A
B
G

(Counsel Karoline Henriksen)

III.

I (Counsel Øivind Sterri)

v.

B

A

G (Counsel Karoline Henriksen)

IV.

J (Counsel Øivind Sterri)

v.

A

B (Counsel Karoline Henriksen)

V.

K (Counsel Øivind Sterri)

v.

E

F (Counsel Karoline Henriksen)

O P I N I O N :

- (1) Justice **Matheson:** The case concerns a claim for compensation for lost income from sale of sexual services. The question is whether the claim is recoverable under tort law.
- (2) By Oslo District Court's judgment of 25 August 2016, H, K, J and I were convicted of assault and robbery. K and J were also convicted of other offences. The findings of facts for the determination of guilt were concluded with the district court's judgment.
- (3) The conviction involved four incidences of assault and robbery committed by various constellations of the offenders. The aggrieved parties consisted of eight women, who were all prostitutes. The women were robbed in their homes or in hotel rooms. In three of the incidences, the offenders had gained access to the whereabouts of the women by entering into an agreement for purchase of sexual services.
- (4) Before the district court, seven of the women claimed compensation for the loss they had suffered from being unable to sell sexual services for a limited period of time after the robberies due to the injuries and trauma the assaults had inflicted on them. Their individual loss was estimated to NOK 50,000, which is held to cover two weeks of income.

- (5) The district court did not award compensation for the loss of income, holding that the claims were not recoverable under tort law. The court referred to *Norske Lov* [Norwegian Act from 1687] 5-1-2 and to system concerns taking as its starting point that the purchase of sexual services is an offence. However, the women did receive compensation for non-economic loss and for the cash and objects of which they had been deprived.
- (6) The women required a new hearing of the claims for compensation, see the Criminal Procedure Act section 434. Borgarting Court of Appeal ruled on 1 February 2017 that the loss of income was recoverable under tort law. The parties agreed that the individual loss amounted to NOK 50,000 if compensation were to be measured. However, due to failing presentation of evidence, the court held that a loss exceeding NOK 15,000 for each of the women had not been substantiated.
- (7) H, K, J and I have submitted an appeal to the Supreme Court on the court of appeal's application of the law when ruling that the claim is recoverable under tort law. I applied for reinstatement due to his non-compliance with the time of appeal. The Supreme Court's Appeals Selection Committee granted reinstatement in its order of 29 June 2017.
- (8) C, D, E, F, A, B and G have submitted an appeal on the court of appeal's application of the law when measuring the compensation.
- (9) In its decision of 29 June 2017, the Supreme Court's Appeals Selection Committee granted leave to the appeals of H, K, J and I. Leave was granted to the appeals of C, D, E, F, A, B and G as concerned the issue whether the court of appeal was bound by the parties' agreement on the size of a possible compensation.
- (10) The appellants *H, K, J and I* have briefly contended the following:
- (11) According to the Supreme Court judgment Rt-1999-2013 (the sterilisation judgment), compensation can only be claimed for losses that are recoverable under tort law. Hence, the court of appeal wrongly assumes that *non-recoverability* of a loss requires a special legal basis under tort law.
- (12) The issue to consider is whether the loss suffered is recoverable in light of a broad balancing of interests.
- (13) The sale of sexual services is legal. However, the Penal Code 2005 section 316 prohibiting the purchase of sexual services shows that prostitution is highly undesirable in society. The same is reflected in the Penal Code 2005 section 315 prohibiting pimping and renting of premises clearly meant for prostitution. In the preparatory works, the lawmaker has made it clear that prostitution involves a gross abuse of a vulnerable group and that it must be combated.
- (14) Recoverability of lost income from prostitution is not consistent with this. It would entail an indirect acknowledgement of a future, highly undesirable activity that involves a criminal act by the buyer.
- (15) It is also part of the overall picture that agreements for purchase of sexual services conflict with *Norske Lov* 5-1-2 stating that agreements "contrary to Law or Decency" are

not binding. The requirement for coherence in the legal system entails that a loss of income arising from such events is not recoverable.

- (16) The fact that prostitution income is subject to tax on par with other service income does not change this system concern. In practice, such income is rarely reported to the tax authorities.
- (17) Moreover, the total absence of reporting of the income of a highly heterogeneous group magnifies the evidence challenges with regard to potential measuring.
- (18) In its judgment HR-2016-2491-A, the Supreme Court ruled that ringleaders had to recover the income they had taken from the prostitutes. However, this does not imply that future loss of income is recoverable. The Supreme Court expressly left this issue open.
- (19) If the losses were to be deemed recoverable, there is however consensus that the women's individual loss is NOK 50,000.
- (20) H has submitted this prayer for relief:

"Judgment is to be given in favour of H in all the appellants' claim for compensation for the loss of income.

- (21) K, J and I have submitted this prayer for relief:

- "1. Judgment is to be given in favour of K.**
- 2. Judgment is to be given in favour of J.**
- 3. Judgment is to be given in favour of I."**

- (22) The appellants, *C, D, E, F, A, B and G* have briefly contended the following:
- (23) Norwegian compensation law protects a broad spectre of interests. The loss for which compensation is claimed is caused by physical injuries resulting in a reduced ability to work and a loss of income. Personal integrity and the ability to work are firmly protected by tort law. Special reasons are required for excluding such strongly rooted interests from the traditional protection. Such reasons are not present.
- (24) By criminalising the purchase – and not the sale – of sexual services, the lawmaker has taken an indirect stand that income from prostitution is legal income. In addition, such income is subject to tax. Non-recoverability is not consistent with the legal framework governing such income.
- (25) The penal provision on the purchase of sexual services is not a moral code, but it is implemented to make it harder for a vulnerable group to end up – or remain – in prostitution. The activity of purchasing sexual services was just as undesirable before the penal provision was implemented as it is today. The fact that the activity is undesirable cannot dictate whether the loss is recoverable. Moreover, recoverability will not promote prostitution in conflict with the purpose of the penal provision.

- (26) The increased acknowledgement of prostitutes as a vulnerable group has changed the public's view on their situation. Today, the view of prostitution as something immoral is aimed more at the buyer of sexual services than at the seller. This is also an international trend. The prostitutes' vulnerability and need of social protection indicate that their loss of income caused by injury is protected by tort law.
- (27) A different outcome would be offensive. There is no reason why an injuring party should escape the liability he would otherwise have assumed, only because the sufferer is a prostitute. If the loss of income is a result of criminal acts, the lack of recoverability under tort law may lead to increased cynicism from perpetrators and ringleaders towards prostitutes, of which our case is an example.
- (28) Although estimating compensation for lost income from prostitution may involve evidence challenges, these are not larger than the challenges that may arise when estimating other types of compensation. General rules on the burden of proof will apply, and potential challenges cannot dictate whether or not the actual loss is recoverable.
- (29) If the prostitutes' income should not be deemed recoverable, this would demonstrate a choice of values indicating that not all people deserve the same status and protection of interests.
- (30) C, D, E, F, A, B and G have submitted this prayer for relief:
- "1. H is liable towards C for compensation for lost income of NOK 50,000.**
 - 2. H is liable towards D for compensation for lost income of NOK 50,000.**
 - 3. H and K are jointly liable towards E for compensation of NOK 50,000.**
 - 4. H and K are jointly liable towards F for lost income of NOK 50,000.**
 - 5. H, J and I are jointly liable towards A compensation for lost income of NOK 50,000.**
 - 6. H, J and I are jointly liable towards B for lost income of NOK 50,000.**
 - 7. H and I are jointly liable towards G for lost income of NOK 50,000."**
- (31) *My view on the case*
- (32) I will start by addressing some general starting points regarding the recoverability of income from prostitution under tort law.
- (33) According to case law, it is a basic condition for compensation that the loss for which compensation is claimed is recoverable under tort law. This is set out in, among others, the Supreme Court judgment Rt-1999-203 (the sterilisation judgment) and in Rt-2013-1689 (the antenatal diagnostics judgment), where the Supreme Court concluded in both cases that the loss was not recoverable.
- (34) As emphasised in the sterilisation judgment, the question is not whether there are reasons for *excluding* protection, as this applies even if the injuring party's liability derives from provisions in the law. On page 206 of the judgment, the following is stated:

"A has asserted that the liability for compensation derives from the provisions in the Compensatory Damages Act and that any exemption from the rules of law requires a specific reason. I do not share this view. The Compensatory Damages Act does not answer all questions as to which losses are protected by tort law. A loss such as the one in the case at hand is not mentioned in the preparatory works. The question regarding compensation must be decided irrespective of the law."

- (35) The loss in our case does not, in my opinion, make this starting point inapplicable. In the Supreme Court judgment Rt-2013-1689 (the antenatal diagnostics judgment), the mental injury was not deemed protected by tort law. The same must apply to physical injuries.
- (36) In my view, the overall issue is whether the loss deserves protection by the legal system, see also Hagstrøm and Stenvik, *Erstatningsrett* [tort law] 2015, page 48.
- (37) In the judgments I have referred to, the recoverability of loss has been determined based on an overall assessment. The recoverability of lost income from prostitution must also be determined based on an overall assessment. It will have to rely on an individual assessment of the concern for the sufferers and society's interest in general.
- (38) I emphasise that the case at hand questions the recoverability of a *short-term loss* of income from prostitution – i.e. a temporary loss. I will not consider what the situation would be if the ability to earn a living was lost for a long period of time. I mention nevertheless, on a general level, that in the event of such a long-term loss, it should not be automatically assumed that the person engaging in prostitution at the time of the injury will do so forever. In the event of long-term injuries, it cannot be ruled out that a more general view on the significance of the lost ability to make a living will be prominent and justify recoverability of also the future loss in accordance with general criteria.
- (39) I will now turn to the individual assessment of the legal protection of income from prostitution.
- (40) To me, it is natural to start with the fact that the *purchase* of sexual services is an offence, see the Penal Code section 316 subsection 1 a. The punishment is fines or imprisonment of up to 6 months or both. On the other hand, *the sale* of sexual services is not included in the description of the offence. In the preparatory works, it is also expressly stated that the person selling such services is exempted from the general accomplice liability in the Penal Code, see section 15, cf. Proposition to the Odelsting no. 48 (2007-2008) page 14. Hence, the sale of sexual services is *legal*.
- (41) The Ministry's arguments for criminalising the purchase of sexual services are presented very briefly in the Proposition. They read as follows, see the Proposition page 8:

"The Ministry proposes to continue the consultation paper's proposition regarding a general prohibition against the purchase sexual intercourse or services. Like the clear majority of the consultative bodies, the Ministry finds that a general prohibition against the purchase of sexual services is a necessary means to catch those who purchase such services from victims of human trafficking. A general prohibition would also contribute to reducing the recruitment of new customers and to preventing the prostitution market from further increasing."

- (42) Both on page 7 and page 16 of the Proposition, it is stated that the criminalisation must be considered in context with other measures against human trafficking and relief efforts for those already engaging in prostitution. The idea was to monitor the consequences of the

prohibition carefully, both with regard to how the law is enforced and to its effects on the possibilities of social measures among the prostitutes.

- (43) With respect to the Proposition, the Parliament Standing Committee on Justice emphasised that "human trafficking is slavery of our time", see Recommendation to the Odelsting no. 3 (2008-2009) page 5. The Committee stated further:

"... The Committee will not accept an ever-increasing international trafficking in human beings. This is serious organised crime involving gross violations of the victims' human rights. Human beings are not commodities.

...

The Committee will mention that the PRO centre has estimated that there are around 2,500 prostitutes in Norway. It is assumed that many of them are victims of human trafficking. In Norway, prostitution takes place on the street and indoors, with both Norwegian and foreign prostitutes. Trafficking in human beings is prohibited under Norwegian law. So is the purchase of sexual services from anyone under the age of 18 and pimping. This alone is not enough. The efforts of the police and prosecution authorities must be increased. Currently, too few cases are absorbed in the legal system in Norway."

- (44) On page 5 of the Committee Recommendation, various majority fractions refer to the facts that prostitution is a social problem that must be combated by a broad spectre of efforts, that the prostitutes are a versatile group and that the efforts must be wide-reaching. Furthermore, it is held that those who have ended up in prostitution deserve our solidarity and the chance to create a different life. A majority then states:

"As long as the purchase of sexual services is legal, Norway will, according to the majority of the Committee, be an attractive venue for human trafficking and trafficking of foreign prostitutes for criminal networks. The majority thus supports a prohibition against the purchase of sexual services and deems that this is the appropriate means to change attitudes, reduce the demand and thus the market for prostitution, and intensify the combat against human trafficking. A prohibition against the purchase of sexual services may contribute to changing the attitudes and consciousness of the sex-buyer. This would be a way of showing that we, as a society, resent the idea that the human body can be bought. The majority emphasises, however, that the combat against prostitution cannot be won by single measures alone. Wide-reaching efforts must be implemented involving several means of reducing human trafficking, helping trafficking victims and helping prostitutes out of a difficult situation."

- (45) The preparatory works show that the prohibition in section 316 is justified among other things by the vulnerability of the prostitutes and their need of protection and help. At the same time, the arguments give a clear message that prostitution is a highly undesirable activity for reasons of criminal and social policy. The current prostitution market is, beyond doubt, directly linked to ringleaders, human trafficking and criminal networks.
- (46) The undesirability of prostitution is also expressed through the strict criminal liability for activities connected to the sale of sexual services. The Penal Code 2005 section 315 provides punishment for organising the prostitution of others – pimping.
- (47) The provision also involves punishment for anyone who rents out premises that are clearly meant for prostitution "or exercises gross negligence in this respect". This is punished by a fine or imprisonment of up to six years.

- (48) The strict sanctioning of such renting is demonstrated in the Supreme Court judgment Rt-2011-868. The case concerned confiscation of income from renting to prostitutes. A man who had rented out several flats in which prostitution took place had been acquitted of violation of the Penal Code 1902 section 202, corresponding to the Penal Code 2005 section 315, due to, among other things, the lack of guilt. The Supreme Court held nevertheless that the acquittal did not prevent confiscation of the rental income since it concerned proceeds from an act that was otherwise punishable. The following is stated in para 22:

"... Nor is it so that renting to someone engaging in prostitution is legal as long as the landlord in question does not 'understand this'. Objectively speaking, this is an offence from the moment the prostitution commences."

- (49) According to the Penal Code 1902 section 34, corresponding to the Penal Code 2005 section 67, "proceeds from a criminal act shall be confiscated", was thus applicable.
- (50) Hence, society regards prostitution as highly undesirable, and the legislation broadly criminalises acts that can be linked to such an activity. When selling sexual services is not an offence, this is out of concern for the prostitutes themselves, who are deemed to constitute a weak and vulnerable group. In my view, this strongly suggests that a loss of future income from prostitution cannot not be recoverable under tort law.
- (51) A central aspect of my assessment is that the loss of income is dependent on *future purchasing* of sexual services. Although a claim for compensation for lost, future income from prostitution does not directly concern compliance with an agreement with illegal or offensive contents, see *Norske Lov 5-1-2*, recoverability must be based on an assumption that such a purchase would have been carried out without the injury, which means that the buyer of the service would have had to have committed a crime. Considering the context in the legal system, it is hard to base a legal claim on such a starting point.
- (52) In my view, this starting point is not changed by the fact that income from prostitution is subject to tax, see Zimmer, *Lærebok i skatterett* [Tax law manual] (2014) page 139. Tax law is based on other concerns than tort law. Moreover, income from prostitution is not in practice reported for taxation.
- (53) The concern for the sufferer's *need of payment* suggests that a temporary loss of income from prostitution is recoverable. It is true that the loss is not compensated at the time the sufferer may need it the most, as compensation is normally paid after a long period of time. Where the tortious act is an offence, as in the case at hand, compensation is normally not paid until after a conviction and/or after applications for public compensatory arrangements are granted. Moreover, as I mentioned in the introduction, the compensation situation in the event of more long-term injuries would be different.
- (54) Another concern suggesting that the loss is recoverable is that it would be a random advantage to the injuring party if he were to escape liability for the loss he has caused. However, as long as it involves an injuring party from the prostitution environment or other criminal environment, I will assume that this is of little practical importance. Claims for compensation between these players are rarely resolved in court. I assume that it is equally uncommon that they are resolved directly.

(55) Some will surely deem such a lack of protection as offensive and likely to cause more instability for an already vulnerable group. In my view, however, it is the aggregate social effort to help and support prostitutes that counts the most.

(56) I also find that the concerns for the need of compensation that I have mentioned, in a field where they are in conflict with overall interest of society, must be balanced against the effects of recoverability for *prostitutes as a vulnerable group*.

(57) I assume that criminalisation of the purchase of sexual services has had as its object to restrict the market. In Report 2014/30 from Vista Analyse on "Evaluation of the prohibition against the purchase of sexual services", commissioned by the Ministry of Justice and Police Security in 2014, the following is stated on page 178:

"We find that it is a bit early to establish that the prohibition has contributed to the public having a more negative view on the purchase of sex. The prohibition must have been in effect longer before one may conclude. Nevertheless, we have clear indications that Norwegians, especially young people, have a more negative view on the purchase of sex than older people do. Just like in Sweden, it may give fewer debutants in the sex market and thus reduce the demand in the long term."

(58) This is stated on page 180:

"Our conclusion is that the prohibition has contributed to less prostitution, fewer ringleaders, reduced supply and reduced demand compared to what would have been the case today without the prohibition."

(59) And on the same page:

"Our conclusion is that the prohibition has contributed to less prostitution in Norway. Lower earnings in the prostitution market may also have increased the incentives for participating in programs and finding alternatives sources of income. Thus, the prohibition has had a subduing effect on the recruitment to the Norwegian prostitution market."

(60) In my view, the protection of income from prostitution may contribute to a generalisation of a highly undesirable activity and obstruct the subduing effects the criminalisation of such purchase appears to have had on the demand for sexual services.

(61) In addition, the prostitution market seems to be most active in places with the best framework conditions. I refer to the report from Vista Analyse, on page 179:

"In 2008, the world suffered from a financial crisis. The sex markets were also affected. The demand sank, and so did the prices. Norwegian economy did far better than the economy of other countries. Without the prohibition, there is reason to assume that more foreign prostitutes would have come to Norway. Norwegians' and immigrant workers' ability to pay has remained high compared to other countries. In the same way as work immigration is driven by job opportunities or chances of finding better paid jobs than abroad [*sic*], prostitutes, and not to mention ringleaders controlling the prostitutes, may be tempted by income opportunities in the Norwegian market. Prostitution in Norway is currently dominated by women from Africa and Eastern Europa. There is also a large group of women from Thailand and South America with permanent residence in Norway because of marriages with Norwegian men. Despite the declining prices and reduced income opportunities in Norway, the Norwegian market is still lucrative compared to e.g. the markets in Spain and Italy. For women and men without rights in Norway in the form of work permits or similar permits in other

European countries, prostitution is often the only income option. A reduced demand as a result of the purchase prohibition and higher costs as a result of enforcement of the prohibition against pimping contribute to making Norway a less attractive country for prostitution."

(62) Altogether, I find that the nature of the prostitution market overshadows the possible negative consequences the individual prostitutes may suffer from the lack of recoverability. The risk that recoverability has negative consequences for the prostitutes as a group also overshadows the fact that some might find it offensive that an injuring party is not liable for the prostitute's temporary loss of income. I repeat that the compensation situation in the event of more long-term losses would be different. It should also be taken into account that any asset of which a prostitute has been deprived is protected by tort law.

(63) Consequently, I have concluded that the appeal has succeeded.

(64) I vote for this

J U D G M E N T :

1. Judgment is given in favour of H.
2. Judgment is given in favour of K.
3. Judgment is given in favour of J.
4. Judgment is given in favour of I.

(65) Justice **Falch**: I have concluded that the injured parties – hereinafter also referred to as the women – are entitled to the compensation they have claimed. My view differs from that of Justice Matheson, both in terms of the legal starting point and the individual assessment of whether a loss of income from prostitution is recoverable.

(66) The women were robbed and physical and mental harm was inflicted on them. They are thus entitled to compensation for their economic loss from their respective injuring parties. This is consistent with the Compensatory Compensation Act section 3-1 setting out that compensation for personal injury "shall cover the loss suffered" including loss of future income. Hence, to me the starting point is this: It is set out by law that the affected party's individual loss of income is recoverable.

(67) The consequence is that an exemption must be made from section 3-1 if the women are not to be compensated for their losses. I agree with Justice Matheson that not all loss items are automatically recoverable, as set out in the sterilisation judgment to which he has referred. But since Supreme Court case law contains few such examples, I find that an exemption from section 3-1 requires special arguments.

(68) In my view, exemptions must be sought based on other parts of the legislation.

(69) The fact that the purchase of sexual services was criminalised in 2009 is of particular significance, as accounted for by Justice Matheson. Certain acts that contribute to or profit from other people's prostitution are also punishable. But the sale of sexual services

has not been criminalised, nor can the seller be punished for contributing to the purchase. The lawmaker's choice in this respect is based on the idea that the prostitutes constitute a vulnerable group that, according to a Parliament Committee majority, "deserves solidarity and must be given the chance to create a different life", see Recommendation to the Odelsting no. 3 (2008-2009) pages 5 and 6.

- (70) I derive from this, like Justice Matheson, that income from prostitution is lawful on the prostitutes' part. The income cannot be confiscated by the authorities, and, like other forms of income, it is subject to tax. I therefore believe that *consistency* in the legislation implies that an injuring party is liable for the loss of such income. If the income is accepted, the loss of the same must also be accepted. Moreover, I find that this legislation is based on a principle that the legal position of the prostitutes shall not be affected by other people's crimes committed in connection with the prostitution.
- (71) Thus, the regulation in the Penal Code is not an argument for excluding income from prostitution from legal protection. On the contrary, I find that this regulation suggests that a loss of such income is recoverable.
- (72) Based on *Norske Lov 5-1-2*, the general assumption has been that agreements on prostitution are "against ... decency", and thus invalid. The reasoning seems to have been that it is contrary to general moral standards to commercialise people's sexual life. In addition, such agreements often entail an improper exploitation of the prostitute. Because the attitude in recent decades has developed towards placing more blame on the customer, it is possible that unpaid remuneration for prostitution acts already committed can be collected in courts. Here, I refer to Hauge, *Ugyldighet ved formuerettslige disposisjoner*, 2009, pages 442-447.
- (73) I do not deem it necessary to settle the reach of *Norske Lov 5-1-2*, as it does not clearly determine the scope of legal protection the prostitutes currently have under their agreements. In any case, I cannot see how this rule justifies there is no recoverability for a loss of income from prostitution.
- (74) I agree with Justice Matheson that prostitution is deemed undesirable by society. This is demonstrated by the provisions in the Penal Code and the preparatory works to which both he and I have referred. To me, however, it is significant that the very act of awarding compensation as claimed does not promote prostitution. The compensation does not enforce any act of prostitution, nor is it conditional on such an act being committed. It is only a question of making a financial calculation of a hypothetical course of events.
- (75) The parties have argued in various manners the effects of awarding compensation for lost income from prostitution, including the potential effects on society's attitudes towards prostitution. I find that an exemption from the Compensatory Damages Act section 3-1 cannot be based on such effects, especially because they are uncertain – some even highly uncertain. Nevertheless, I will point at the following:
- (76) Society's view on players in the prostitution market has developed in recent decades. Currently, prostitutes are referred to as a vulnerable group in need of society's solidarity, protection and help, cf. the preparatory works to which I have referred. This has not always been the case. The customers, on the other hand, have faced more severe criticism, possibly also after the amendment was made in the Penal Code in 2009. In the evaluation

made by Vista Analyse for the Ministry of Justice and Public Security in 2014, and as quoted by Justice Matheson from page 178, there are "clear indications" that Norwegians, especially young people, in recent years have developed a more negative view on the purchase of sexual services.

- (77) In my opinion, a judgment in favour of the women will enhance this development. The prostitutes will enjoy a form of protection – a legal protection – if exemption is not made from the injuring parties' duty to compensate the prostitutes' loss of income. Prostitutes face an increased risk of violence and other exploitation by customers, ringleaders and others, of which the case at hand is an example. If lost prostitution income should not be recoverable, the consequences of harming prostitutes will be fewer than the consequences of harming others. It may, as mentioned by justice Matheson, contribute to their lack of safety. Thus, to me this group's special need of legal protection is crucial. It suggests that their loss of income is recoverable on the same terms as loss of income suffered by other people.
- (78) In light of this, I cannot see that prostitution will become "normal" or more easily tolerated in society if compensation is awarded. There is no reason to believe that the attitudes towards prostitution will become more positive if prostitutes exposed to violence have their losses compensated by the injuring party.
- (79) On these grounds, I have concluded that there is no basis for excluding lost prostitution income from being recoverable under the tort law.
- (80) The parties agree that each of the injured women have suffered a loss of income of NOK 50,000.
- (81) Consequently, I vote in favour of awarding each of the injured women NOK 50,000 to be paid by their respective injuring parties. Injuring parties who have committed the tortuous acts together are jointly and severally liable for the payment.
- (82) Justice **Indreberg:** I agree with the justice delivering the second opinion, Justice Falch, in all material aspects and with his conclusion.
- (83) Justice **Berglund:** I agree with the justice delivering the leading opinion, justice Matheson, in all material aspects and with his conclusion.
- (84) Chief Justice **Øie:** Likewise.
- (85) Following the voting, the Supreme Court gave this

J U D G M E N T :

1. Judgment is given in favour of H.
2. Judgment is given in favour of K.

3. Judgment is given in favour of J.
4. Judgment is given in favour of I.