

1948

*Present* : **Howard C.J.**

GEERIS APPU, Appellant, and SEYDEEN, P. S. 262,  
Respondent

*S. C. 253—M. C. Balapitiya, 60,121*

*Grievous hurt—Incised wound caused by sharp weapon—Piece of bone chipped off—Penal Code, s. 311.*

An incised wound cutting into the bone and chipping off a piece of the bone is grievous hurt within the meaning of section 311 of the Penal Code.

**A**PPPEAL from a judgment of the Magistrate, Balapitiya.

*K. C. de Silva*, for accused appellant.

*Arthur Keuneman*, Crown Counsel, for the Attorney-General.

May 3, 1948. HOWARD C.J.—

In this case it has been contended that the injury inflicted by the appellant on the complainant did not amount in law to grievous hurt and I have been referred in that connection to the case of *Inspector of Police v. Pedrick*<sup>2</sup>.

<sup>1</sup> (1918) 5 C. W. R. 146.

<sup>2</sup> (1944) 45 N. L. R. 62.

The head-note of that case is as follows :—

“ An injury caused to a bone by a cut, which does not indicate that the bone was broken or cracked, is not grievous hurt within the meaning of section 311 of the Penal Code. ”

Now in this case the doctor's evidence was to the effect that the complainant had a curved incised wound just behind the right ear 2 inches long and half an inch deep cutting into the bone of the skull and chipping off a piece of bone half an inch long caused by a sharp weapon. In view of the fact that a piece of the bone was chipped off, it is impossible to contend that there was no fracture or dislocation of the bone. There is no substance then in this point of law which has been taken.

With regard to the facts, the Magistrate has given a careful judgment and I am not prepared to say that he came to a wrong conclusion, even though there was a conflict of evidence.

The appeal is dismissed.

*Appeal dismissed.*

