

\$160,000 award for football injury

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Legal Reporter

A small depression near an in-ground sprinkler on a football field has become a \$158,232 liability as result of a NSW court ruling that a footballer who trod in it during a game was entitled to that sum in compensation.

A judge of the NSW District Court awarded Mark Sutton damages recently for the ankle injury he suffered during a football match in Wagga Wagga.

Mr Sutton, who is now 35, twisted his ankle during a tackle when his foot got caught in a hole or depression on a field maintained by Wagga Wagga City Council.

The injury had a significant impact on his ability to do manual labour. He was awarded damages of close to \$160,000, including \$70,000 for pain and suffering and \$80,000 for reduced earning capacity.

The NSW Court of Appeal last week dismissed an appeal against the decision.

Its unanimous decision, delivered by Justice Roderick Meagher, did not mention the code concerned but referred only to a game that involved running, being tackled and passing the ball.

The court recognised that footballers doing these things were unlikely to have much time to check the ground they were running on. It was, on the other hand, the council's responsibility to make sure the ground was safe to play on.

The court was disinclined to discuss reasons why Mr Sutton's story about the hole's existence should be disbelieved. The District Court had accepted the story and such a finding was "unassailable".

Justice Meagher did not think awarding Mr Sutton \$70,000 for pain and suffering was excessive, given the likelihood of his suffering arthritis in later life. Nor could an award of \$80,000 for lost earning capacity, which amounted to just \$87 a week, be described as excessive.