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Caution

As of: Jul 07, 2008

**SAJJAD HANIF, a Minor, etc., Plaintiff and Respondent, v. HOUSING AUTHORITY OF YOLO COUNTY, Defendant and Appellant**

**No. C000119**

**Court of Appeal of California, Third Appellate District**

**200 Cal. App. 3d 635; 246 Cal. Rptr. 192; 1988 Cal. App. LEXIS 388**

**April 21, 1988**

**NOTICE:** Certified for partial publication - Pursuant to rule 976.1 of the California Rules of Court, the Reporter of Decisions is directed to publish all portions of this opinion except parts I and II.

**PRIOR-HISTORY:** Superior Court of Yolo County, No. 41898, Harry A. Ackley, Judge.

**COUNSEL:** Robert M. Cole and Cole & Cole for Defendant and Appellant.

James V. Nolan and Chalmers, Sans, Gardner & Nolan for Plaintiff and Respondent.

**JUDGES:** Opinion by Evans, J., with Puglia, P. J., and Marler, J., concurring.

**OPINION BY:** EVANS

**OPINION**

This personal injury action arises out of an accident that occurred on defendant Housing Authority's property in which an automobile struck and injured plaintiff, Sajjad Hanif. Following a bench trial, judgment was entered for plaintiff. Defendant appeals, challenging various of the court's findings and conclusions respecting liability and special damages. We shall modify the judgment to reduce the amount of special damages awarded. As modified, the judgment will be affirmed.

Facts

On September 3, 1979, at about 7 p.m., plaintiff, then seven years old, and Betty Brady, an adult companion, were cutting flowers from oleander bushes along a two-foot strip of land abutting Donelly Circle in Woodland. Donelly Circle is a 26-foot-wide paved, unmarked roadway running through defendant's housing project. The strip of land on which the oleander bushes were planted is directly across Donelly Circle from the housing project and is owned and maintained by defendant. Growth from the tall bushes was spilling across the curb and protruding into Donelly Circle for a distance of one to two feet. Plaintiff dropped his scissors and, in retrieving them, stepped onto the roadway and into the path of an oncoming car being driven by Lydia Ulloa. Plaintiff did not see the car. Brady attempted to pull him out of harm's way, but she was unsuccessful. Both she and plaintiff were struck. The impact forced plaintiff under the car, and he was dragged a considerable distance. He suffered severe and permanent injuries.

According to eyewitnesses Bob Barton and Vernon Washabaugh, who were attending a nearby ice cream vending truck, Ulloa was traveling about 35 miles per hour, and her car was brushing the oleander bushes as it proceeded along the road. Plaintiff was struck by the front of the car midway between the right headlight and the center of the grill. Ulloa did not slow down or alter her course, either before or after striking Brady and plaintiff; she stopped only after Barton had flagged her down.

Ulloa and her passenger, Maria Enriquez, testified they were driving into the sun at the time but that their vision was not significantly impaired. The car's sun