

**NEW YORK**

**\$40,000 GROSS VERDICT**

**- INEBRIATED PEDEST-**

**RIAN STRUCK BY CAB - FRACTURED KNEE - Action involving a 20 year old pedestrian in which the plaintiff contended that as a result of the negligence of the defendant cab driver, who failed to stop at a red light, he was struck, sustaining a fractured knee - The cab driver left the scene of the accident and the defendant denied that his taxi was involved in the accident - The decedent died from unrelated causes approximately 2 years after the accident - The evidence disclosed that prior to crossing the street, the decedent had been drinking with two prostitutes - One of these women testified that she wrote down the license plate of the defendant's cab and produced a piece of paper listing the defendant's license plate number - The prostitute related that she did not speak with the investigating police officer and the officer's report indicated that an unidentified driver had left the scene - The plaintiff pointed, however, to the officer's memo book which contained the defendant's license plate number - The plaintiff further argued that since a cabbie would maintain log books listing locations traveled, and since the defendant failed to produce these records, his position should not be given much**

**weight - The defendant further maintained that the decedent was overwhelmingly comparatively negligent because he was inebriated - In support of this position, the defendant pointed to the testimony of the prostitute, the report of the investigating police officer, and the hospital records - The prostitute had further indicated that she had been drinking heavily and the defendant maintained, therefore, that her position should not be given much weight - The plaintiff, who produced no medical testimony, introduced the hospital records which indicated that the decedent sustained a fractured knee - The report further discussed the pain the decedent experienced and the medication which was prescribed - The defendant pointed to other portions of the records which indicated that the decedent stated that his wife, from whom he had previously separated, would come back to him because he was going to bring an action relating to his injuries - The report further discussed the decedent's history of alcoholism and suicidal thoughts - The Court instructed the jury that any damages would be limited to the day of the incident and the time of hospitalization - The jury found the defendant 85% negligent, the decedent 15% negligent and the \$40,000 award was reduced accordingly. Brown vs. Provident Taxi Corp. Index no. 939/81; Judge Burton**

**Sherman, 6-27-85. NY supreme, Attorney for plaintiff: Harry I. Katz of Flushing Queens; Attorney for defendant: Mitchell Korder of Eppinger, Reingold, and Fremont in Larchmont, N.Y.**