

IN THE WEST INDIES ASSOCIATED STATES SUPREME COURT

HIGH COURT  
(APPELLATE DIVISION)

ANTIGUA

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Civil Appeal  
No. 5/1967.

In the Matter of an appeal from the Acting Additional  
Magistrate, District "B"

BETWEEN:

CYNTHIA STUART by her next friend ASHTON WILLOCK Appellant

and

PETRONELLA BACHELOR and CATHERINE BACHELOR Respondent

Before: Louisy, J.

Berridge, J. (Acting)

20th December, 1967

J U D G M E N T

Two notices of appeal in respect of Civil Cases No. 58/1966 (Cynthia Stuart by her next friend Ashton Willock v. Petronella Bachelor and Catherine Bachelor) and No. 1/1967 (Petronella Bachelor v. Cynthia Stuart) and one Recognisance were filed in respect of this matter.

At the outset it was pointed out to counsel for the appellant that it would be necessary for him to elect in respect of which suit the recognisance was filed and counsel elected suit No. 1/1967 abandoning his appeal in suit No. 58/1966 in respect of which costs were accordingly awarded the respondent in the sum of \$10.08. The remaining appeal before the Court is from a decision of the learned Magistrate District "B" given on the 11th January, 1967, whereby the defendant/appellant was ordered to pay the plaintiff/respondent the sum of \$22.50 being special damages in respect of an assault and battery committed by her upon the plaintiff/respondent.

/ At the hearing .....

At the hearing it was argued by counsel for the appellant that the special damage alleged at the trial was not pleaded as special damage in the writ originally, nor by amendment, and that no amount of damages should be awarded under that particular head relating to a lost wrist watch in respect of which the Magistrate had awarded \$10.00.

Counsel for the respondent expressed himself as being unable to support the Magistrate's decision in this particular respect.

We are of the opinion that there is substance in the argument of counsel for the appellant. Special damage must be alleged with sufficient particularities to inform the defendant of the nature and extent of the loss sustained.

The appeal is allowed and the Magistrate's decision is varied by substituting one award of \$12.50 for \$22.50.

There will be costs to the appellant in the sum of \$25.20.