

ST. VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO. SVGHCV521 / 2000

BETWEEN:

HENDREN "HOBBS" HUGGINS

Claimant

and

**1. SILTA M. JAMES
2. JAVIN JAMES**

Defendants

Appearances:

Mr. Stanley K. John for the claimant

Miss Maferne T. Mayers-Oliver for the defendant

2002: October 24

2003: May 16

JUDGMENT

ALLEYNE J.

[1] Henderson "Hobbs" Huggins is a retired gentleman in his late 70's. On 16th March 2000 he was driving his car at Arnos Vale. Some school children, including his grandchildren, were passengers in the car. A car belonging to Silta James and driven by Jarvis James, approaching from the opposite direction at what Mr. Huggins described as a terrific speed, crashed into Mr. Huggins' car causing extensive damage, to the extent that Mr. Huggins' car was written off. Mr. Huggins and one of his passengers were injured and were transported to the hospital by ambulance. Mr. Huggins was treated, X Rays were taken, he was fitted with a

cervical collar and was discharged. The next day he went to see Dr. Cecil Cyrus, who had been his doctor for over 30 years. Mr. Huggins was later seen by Dr. Harold Rampersaud on 24th July 2000, at the request of the defendants' lawyers. Dr. Rampersaud had also treated Mr. Huggins over a period of about 20 years. Both doctors were familiar with Mr. Huggins.

[2] The issue for consideration was the quantum of damages to which Mr. Huggins is entitled in respect of his injuries. There were medical and other expenses, and loss of amenities of life, but no loss of earnings or other special damages claimed, other than special damages of \$3,593.40 which are not disputed, and the court unhesitatingly awards that sum as special damages.

[3] **THE MEDICAL EVIDENCE:** Dr. Cyrus, a surgeon for 41 years, saw Mr. Huggins the day after the accident, and several times thereafter up to October 2002. Mr Huggins complained about limited movement of the neck, pain in the upper area of the back and shoulder, with limited movement of the left arm; pain in the entire right side of the back running down to the hip, ending with cramp and numbness in the right side down to the feet, causing difficulty with walking and the need to use a cane for stability; pain in the upper neck causing headaches mainly on the right half of the head, running from the back to the neck, along the right ear and upwards; and constant draining of the sinus. Dr. Cyrus reported that Mr. Huggins walked into his consulting room "like a crippled old man, back arched, neck held stiffly, supported on a stick". Dr. Cyrus, while conceding that a man of Mr. Huggins' age would inevitably be suffering from osteoarthritis of the spine, nevertheless asserted that Mr. Huggins had not presented any significant symptoms before the accident, and that the accident precipitated the onset of symptoms, which, in Dr. Cyrus's words, "have now progressed to make his life miserable."

[4] Under cross examination Dr. Cyrus said that in December 1999 Mr. Huggins was suffering from a bleeding acute peptic ulcer. He agreed that an earlier accident, in

1997, of which he was not aware and for which he had not treated Mr. Huggins, could have brought on earlier symptoms of osteoarthritis.

- [5] Dr. Rampersaud, who saw Mr. Huggins only in July, some 4 months after the accident, nevertheless claimed to have treated him for osteoarthritis of the neck, back and both knees in August 1997. He also treated him, over the years, for diabetes, hypertension, sinusitis and various other complaints, and was aware that Mr. Huggins had been hospitalised for one day in the past in 1997, as a result of a motor accident, for which Dr. Rampersaud had not treated him.
- [6] Dr. Rampersaud said that on his visit in July 2000 Mr. Huggins walked into his office “in no apparent distress in his walk or demeanour.” He said that Mr. Huggins moved his head fully to look over his left shoulder, and had no apparent discomfort in crossing his legs. Mr. Huggins complained of pain, but Dr. Rampersaud said that he found good movements in all directions with no noticeable limitation. There was no muscle wasting or loss of sensation and sense of position. X Rays showed marked degenerative changes especially in the lumbar/sacral vertebrae and in both hip joints. He was of opinion that the injuries were by that time fully healed and that all of his present symptoms are related to his chronic degenerative osteoarthritic condition. In this respect he differed radically from Dr. Cyrus’s opinion.
- [7] On an assessment of the evidence, I am of the view that the accident must have had a continuing debilitating effect on this elderly gentleman. I accept Dr. Cyrus’s opinion that the accident would have aggravated the pre-existing condition and precipitated symptoms which might not otherwise have appeared as acutely as they did following the accident. I think these conditions would have continued in their debilitating effects, and that Mr. Huggins would have suffered a loss of quality of life. Given his age and pre-existing condition, however, I would estimate the general damages arising as a result of this accident rather conservatively.

[8] I thank learned counsel for the various authorities cited. I would award for general damages the sum of \$10,000.00 for pain and suffering and loss of amenities, and \$3,593.40 for special damages, with costs of \$750.00 for the attendance and reports of Dr. Cyrus, and legal costs of \$2,600.00.

Brian G.K. Alleyne
High Court Judge