

SAINT LUCIA

THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE  
(CIVIL)

Claim No. SLUHCV2000/ 0040

BETWEEN:

- (1) RAQUEL WILLIE-TROTMAN
- (2) DOUGLAS TROTMAN
- (3) TEFERI TROTMAN minor acting and represented herein  
by his mother RAQUEL WILLIE-TROTMAN

Claimants

and

LAZARUS PAUL

Defendant

**Appearances:**

Mrs. Petra Nelson for the Claimants

Mr. Marcus- Peter Foster for the Defendant.

-----  
2004: June 24, July 01  
-----

**JUDGMENT**

1. **HARIPRASHAD-CHARLES J:** On 21<sup>st</sup> September 2001, the Claimants filed a Writ of Summons indorsed with Statement of Claim seeking damages for the loss of their vehicle and minor personal injuries which is alleged to have resulted from a motor vehicular accident on 17<sup>th</sup> July 2000.
2. On 11<sup>th</sup> February 2002, Mr. Paul was served personally with the Writ of Summons and Statement of Claim. On 8<sup>th</sup> April 2003, the Claimants obtained a Judgment in Default of acknowledgement of service. This Judgment was served on Mr. Paul some four months later.

3. On 14<sup>th</sup> April 2004, the Claimants filed a Notice of Application with supporting affidavit and exhibits asking the Court to assess damages in the matter. These documents were served on Mr. Paul on 5<sup>th</sup> May 2004. The date set down for the hearing of the assessment of damages was 16<sup>th</sup> June 2004. On that date, Mr. Marcus Foster appeared and informed the Court that he was recently retained to represent Mr. Paul and he needed some time to put his house in order.
4. Having persuaded the Court to grant the adjournment, the Court made the following Order:
  - (i) Assessment of Damages is to be heard on Thursday, 24<sup>th</sup> June 2004.
  - (ii) That the parties file and exchange skeleton arguments on or before 22<sup>nd</sup> June 2004.
5. It is important to state that the Claimants complied with the Order of the Court. Mr. Paul did not. In the intervening period, Mr. Paul filed an application as well as an affidavit in support to set aside the Default Judgment. No draft defence was exhibited to that application. It is also important to note that this application was not served on the Claimants when the application came before the Court on 24<sup>th</sup> June 2004.
6. On the 24<sup>th</sup> June, the Court proceeded to hear the application for assessment of damages since there was no other 'procedurally correct' application pending before the Court.
7. Mr. Foster appearing as Counsel for Mr. Paul partook in the assessment of damages. In the end, the Court assessed special damages at \$23,980.00. As the Court was about to proceed with the application to assess general damages, Mr. Foster persuaded the Court to grant yet another adjournment. Once again, the Court obliged. The Order of the Court read as follows:
  - (i) Special Damages assessed at \$23,980.00 to the Claimants.
  - (ii) General Damages is to be assessed on Thursday, 1<sup>st</sup> July 2004 (no more adjournments).
  - (iii) Costs of the day to the Claimants in the sum of \$600.00.

8. On 1<sup>st</sup> July 2004, Mr. Foster never showed up at Court. Mr. Paul was present and orally informed the Court that Mr. Foster had since filed a Notice of Appeal. The Court proceeded to assess general damages.

**Indra Hariprashad-Charles**

High Court Judge

31<sup>st</sup> December 2004