

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

HIGH COURT CLAIM NO. 171 OF 2003

BETWEEN:

ERMINE CHARLES

Claimant

V

**EZRA HERBERT
EWORTH STEVENS**

Defendants

Appearances:

Richard Williams for Claimant

Olin J.B. Dennie for Defendants

2005: December 2

DECISION

- [1] **MASTER COTTLE:** The Claimant is the mother of Glenford Charles. Glenford Charles was killed in an accident on 26th September 2001 when he was a pedestrian on the Spring Village road. He was struck by a passenger van owned by the Defendant No. 1 and driven by the second Defendant.
- [2] The Claimant sued on her own account as a dependent of her deceased son and on behalf of his estate as Administratrix. Judgment was awarded the Claimant for damages to be assessed and costs. This is the assessment of damages.

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SPECIAL DAMAGES:

- [3] The Claimant pleaded a loss of \$3,600.00 as special damages being the sum of \$600.00 to the grave diggers and \$3,000.00 for the coffin. I accept the evidence adduced by the Claimant in this regard and I award the amount of \$3,600.00 claimed as special damages.

THE SURVIVAL ACTION:

- [4] Loss of Expectation of Life.

The award under this head is a modest conventional sum. Shanks J thought that in 2005 it was right that this award be slightly increased. He awarded the amount of \$3,500.00 under this head in the case of Mary Augustine Jallim v Joseph Ghiwaroo SLU HCV2003/0483. I agree with the Learned Judge and award the Claimant here the sum of \$3,500.00 for the deceased's loss of expectation of life.

- [5] The Lost Years.

The deceased was 33 at the time of his death. He was a mason earning \$160.00 per day. I take his work week to be a normal 5-day work week and thus his weekly earnings would have been \$300.00 or $300 \times 50 = 15,000$ per year. The deceased was unmarried and there is no evidence that he had any children. From his annual income I must deduct what he would have spent on himself. In cases where the deceased is married but there are no children it is normal to assume that he would have spent one-third of his income on himself. Where there are children this is usually reduced to one quarter. Here the deceased had no wife or children. I therefore proceed on the basis that he would have expended one-half of his income on himself. Deducting fifty percent (50%) from his annual income I arrive at a multiplicand of \$7,500.00. Having regard to the age of the deceased I adopt a multiplier of 14. The award under this head is $\$7,500.00 \times 14 = \$105,000.00$.

- [6] The Dependency Action.

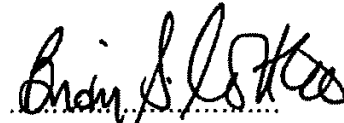
The Claimant is now aged 65. She says that the deceased supported her by giving her \$300.00 each month. From the date of the accident to the date of judgment this amounts

to $\$300.00 \times 48 = \$14,400.00$. For the loss of that dependency in the future, using a multiplicand of $\$300 \times 12 = \$3,600.00$ and adopting a multiplier of 4 I award a further $\$14,400.00$. I adopt the multiplier of 4 as the Claimant is now aged 65. It is not unlikely that had the deceased survived he might have married and started a family of his own which would have reduced his ability to support his mother as he had hitherto done.

- [7] The total award to the Claimant under this head is thus $\$14,400 + \$14,400 = \$28,800.00$.
- [8] Clearly the Claimant cannot recover under both heads as this would amount to a duplication of award (see Civil Appeal No. 6 of 1998 – St. Vincent – Tripple General Contracting Co. Ltd. v Hermina Spencer.)

THE AWARD:

- [9] I award the Claimant the sum of $\$112,100.00$ and prescribed costs of $\$25,815.00$.


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Brian S. Cottle
MASTER