

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

CLAIM NO.: 251 of 2001

BETWEEN:

ALEX BAPTISTE

Claimant

and

EVE BALLANTYNE
ARNETTE THOMAS

Defendants



Appearances:

Mr. R. F. Williams and Ms. R. Knights for Claimant

Mr. S.E. Commissiong and Ms. S. Commissiong for Defendants

2006: March 17

JUDGMENT

- [1] **BRIAN COTTLE, MASTER:** The claimant rode a bicycle down a hill and collided with the vehicle driven by the defendant. He received severe injuries the most serious of which was to the spinal cord. Dr. P. De Freitas found that the claimant sustained complete paraplegia due to a fracture of the second lumbar vertebra.
- [2] The Defendants were found to have been 25% responsible for the accident by the Court of Appeal. The damages to be awarded to the claimant now stand to be assessed.

SPECIAL DAMAGES

[3] The Claimant pleaded the following items of special damages:

- | | | |
|-----|------------------|-----------|
| (a) | Medical Report | \$ 25.00 |
| (b) | Medical Report | \$ 25.00 |
| (c) | Hospital Charges | \$ 425.00 |

(d)	Medical Bill	\$800.00
(e)	Treatment	\$ 50.00
(f)	Legal Fee	\$ 20.00

[4] Of course the legal fee cannot be recovered. The claimant annexed receipts for all these amounts to his witness statement. I thus award the claimant the sum of \$1,325.00 ÷ 4 = \$331.25. as special damages.

GENERAL DAMAGES

Pain, Suffering and Loss of Amenities

[5] Counsel for the Claimant cited the case of Gailus Mathurin and Joachim Mathurin v Andrew Paul SLU HCV 2002/0867 in which a paraplegic claimant was awarded \$240,000.00 for pain, suffering and loss of amenities. An analysis of that award reveals that \$90,000.00 was for pain and suffering. It also appears that the injuries to Mr. Mathurin were more serious than those to the instant claimant. There is no suggestion of incontinence on the part of Mr. Baptiste. I thus award the claimant \$65,000.00 for pain and suffering.

Loss Of Amenities

[6] No special loss of amenities was pleaded. Clearly though, the claimant, a young vigorous man, has been struck down in his prime. In his affidavit in support he testifies as to his sporting and sexual prowess. The claimant in the Mathurin case was a locally well recognized sportsman. He had even been awarded a Sportsman of the Year in St. Lucia. I award the claimant \$35,000.00 for loss of amenities.

Domestic Services

[7] The claimant says that his physical condition requires him to rely on others to cook, clean and wash for him. He puts the cost of obtaining these services at \$800.00 per month. The statutory rate for manual unskilled labor is \$25.00 daily (Wages Regulation S R & O 12 of 2003). The cost of domestic assistance in a quiet country district like Sandy Bay is apt to be slightly lower. I find that the sum of \$400.00 per month will be sufficient to provide the

claimant with the required domestic assistance. The claimant is now 29. He is likely to require domestic assistance for the rest of his life. I adopt a multiplier of 15. I thus award the claimant $\$400.00 \times 12 \times 15 = \$72,000.00 \div 4 = \$18,000.00$.

Loss of Future Earnings

[8] From the evidence, the claimant was unemployed. His earning of \$40.00 per day was not supported by any independent evidence. The claimant admitted that his working was sporadic. I am not satisfied that the claimant has established on a balance of probabilities that he was engaged in any continuous employment. I make no award for this item of loss.

Loss of Earning Capacity

[9] It is uncontroverted that the accident reduced the claimant from being a vigorous young man capable of manual labor to a wheelchair bound paraplegic. He no longer has the capacity to earn what he could have earned before the accident. Mr. Commissiong suggests that as the evidence is unsatisfactory that the claimant was employed and had no starting income I should make no award. This argument misses the point that what the claimant has lost is not his wages in future but his ability to earn those wages. He is clearly at a severe disadvantage on the job market. He has no special skills and now his bodily strength is stripped from him. I find that a sum of \$20,000.00 is apt to compensate the claimant for his loss of earning capacity. Dividing that amount by 4 I award the claimant \$5,000.00.

Future Medical Care

[10] The claimant will have to have his wheel chair replaced from time to time. The claimant says that one costs \$825.00 and needs to be replaced biannually. Having regard to the age of the claimant, I award the claimant the sum of $\$825.00 \times 10 = \$8,250.00 \div 4 = \$2,062.50$ for this item.

[11] The total award for the claimant is thus:

Special Damages = \$ 331.25

General Damages

Pain and Suffering 65,000 ÷ 4 = \$16,250.00

Loss of Amenities 35,000 ÷ 4 = \$ 8,750.00

Domestic Assistance 72,000 ÷ 4 = \$18,000.00

Loss of Earning Capacity 20,000 ÷ 4 = \$ 5,000.00

Future Medical Expenses 8,250 ÷ 4 = \$ 2,062.50

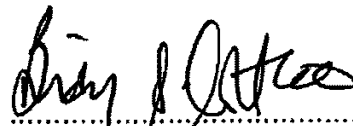
TOTAL AWARD \$50,393.75

COSTS

[12] I award the claimant costs of \$14,050 being prescribed costs. I have not divided the costs award by 4 as I have already discounted the damages in arriving at the value of the claim.

INTEREST

[13] Interest is awarded to the claimant at six per cent (6%) from judgment until payment.



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Brian S. Cottle
MASTER