EASTERN CARIBBEAN SUPREME COURT
GRENADA

IN THE HIGH COURT OF JUSTICE

CLAIM NO: GDAHCV2012/0009

BETWEEN:

RAY A. SYLVESTER

Claimant

and

THE ATTORNEY GENERAL OF GRENADA

Defendant

Appearances:
Ms. Karina Johnson of Law Office of G.E.D. Clyne, for the Claimant
Ms. Kinna Marrast-Victor for the Defendant

2013: October 2
2014: March 6.

DECISION ON ASSESSMENT OF DAMAGES

Background Facts

[1] CENAC-PHULGENCE M [AG.]: The claimant filed a claim against the Attorney General in respect of the negligence of the Ministry of Works. The claim was for general damages for negligence, special damages in the sum of $65,551.12 (comprising cost of repairs, labour, estimate, loss of income and value of depreciation), exemplary damages, interest and costs.

[2] The claimant is a taxi driver and the owner and driver of motor vehicle registration number HAA-414 ("the bus"). The claimant operates the bus daily as a tour bus for cruise ship passengers, as designated school transportation for the 3 R's

primary school, night transportation for the staff of Nixon's Electrical and also as a regular bus on the Grand Anse bus route.

[3] The claimant's claim arises out of a most unfortunate accident. On or about 5th March 2010 about 10 a.m., the claimant was driving the bus on the Willis Main Road heading to Anandale Falls, St. George's and was engaged in giving a guided tour to two cruise ship passengers. As the bus approached a corner, the claimant says he slowed down to make way for an oncoming vehicle and then he saw a silk cotton tree which was adjacent to the left side of the road fall and crash onto the top of the bus damaging the front portion.

[4] The claimant avers that approximately one week earlier the top portion of the tree had broken off and fallen down a nearby hill and that the remaining portion of the tree posed a danger to road users. Sometime before 5th March 2011, the claimant says concerned villagers called the Ministry of Works to report the precarious presence of the tree requesting that the remainder of the tree be cut but nothing was done although a workman from the Ministry of Works went out to the site on 4th March 2011. The claimant's position is that the accident and the damage he sustained was as a result of the negligent conduct of the officials/employees and servants/agents of the Ministry of Works.

[5] By consent order dated 7th March 2012, judgment was entered for the claimant for damages to be assessed and costs to be assessed if not agreed.

[6] On 25th March 2013, the claimant filed an application for assessment supported by affidavit. This affidavit has been treated by the Court as a witness statement.[1] In this statement, the claimant states that he took a loan from Republic Bank Grenada Ltd. to purchase the bus in the sum of $30,100.00 and that the outstanding balance is $16,956.47. He provided statements as to his earnings from use of the bus which will be detailed below. The claimant detailed the items of special damage in his affidavit.

[1] Order of 10th July 2013.

[7] The assessment was adjourned on 10th June 2013 to facilitate discussions between the parties. However, the parties were unable to agree on quantum. Directions were then given for filing of submissions and witness statements by the claimant and defendant in accordance with rule 16.3 of the Civil Procedure Rules 2000 (CPR 2000). The claimant filed its submissions on 23rd July 2013 and the defendant on 9th August 2013. I will now deal with the assessment.

Special Damages

[8] The claimant's position is that the defendant has not provided any evidence to challenge the amounts which he claims. The claimant also submits that he has substantiated with documentation those claims that could be substantiated.

[9] The claimant cites in support of his claims for special damages the case of Jennifer Hosten v David Ganpot[2] in which it was stated:

> "...While special damages must be pleaded, particularized and proved, since the defendant has not presented any serious challenge to the value placed on them and since the sum claimed, in the Court's view is reasonable, the Court will allow the amounts claimed under this head."

[10] The claimant also refers to the case of Grant v Motilal Moonan Ltd. and anr[3] and states that the principles stated therein apply to the present case. At paragraph 377a-c, Bernard CJ said:

> "I quite agree that special damage, if sought, must be pleaded and particularized… and that it must be "strictly proved". In regard to the latter requirement the question which necessarily arises, in my view, is what is the degree of this "strictness" that is required? The nearest answer to this seems to be that which Bowen LJ gave in the leading case, Ratcliffe v Evans where he said ([1982] 2 QB at pages 532, 533):
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> 'In all actions accordingly on the case where damage actually done is the gist of the action, the character of the acts themselves which produce the damage, and the circumstances under which these

[2] Grenada High Court Claim Number GDAHCV2008/0161 at para 9 (delivered 8th June 2011, unreported).
[3] (1988) 43 WIR 372 at 377d and 378.

> acts are done, must regulate the degree of certainty and particularity with which the damage done ought to be stated *and proved*. As much certainty and particularity must be insisted on, both pleading and proof of damage, *as is reasonable, having regard to the circumstances* and to the nature of the acts themselves by which the damage is done. To insist upon less would be to relax old and intelligible principles. To insist upon more would be the vainest pendantry." [*emphasis supplied*]

[11] Bernard CJ continued at paragraph 378j:

> "…I must pose a question whether in this country it is unreasonable, in a case of this kind, for a person to be unable to produce bills for clothing, groceries, watches, …and/or for that matter to remember their time of purchase. To my mind, the answer is clearly in the negative and to expect or to insist upon this is to resort to the "vainest pendantry".

[12] The claimant contends that in our society bus men do not keep account of their earnings on a daily basis save as to contracts. It is not likely that a taxi man or a bus driver could say with precision how much he has made in a month. The sums will vary but it is not usual or reasonable for persons such as bus drivers to keep written records.

[13] The claimant says that he therefore substantiates what he can by producing evidence of his income in respect of the contracts but has given the court averages in respect of what he makes in his usual routes. He submits that the amounts are not unreasonable in the circumstances given that he has been able to service his loan for the bus, maintain the said bus and pay a conductor. He submits that despite the lack of documentation, the sums claimed should be awarded.

[14] The defendant for its part submits that while they can agree with the principles of law espoused by the claimant, the evidence presented by the claimant is far from sufficient for the application of these principles for the benefit of the claimant and/or as prayed by the claimant.

[15] The defendant states the law clearly which is that the purpose of an award of damages is to put the claimant in the position he would have been in, but for the defendant's conduct.

[16] The general principle is that special damages must be averred and proved. The proof does not necessarily require full documentation but the Court can take notice of the circumstances of the matter before it and make reasonable conclusions/awards/decisions thereon based on what the claimant presents. The defendant submits that the claimant has not sufficiently averred or proved his damages to justify an award being made as prayed.

The claims

Loss of Income

[17] The claimant claimed special damages for loss of use. The claimant's position is that during the time the bus was inoperable he was still expected to make payments towards the loan and that he lost earnings of approximately $6,540.00 per month for 6 months totalling $39,240.00. The claimant provided details of his loss of use as follows:

- the sum of $1,100.00 per month from 3 R's primary school which sum is paid in cash. There was no documentary evidence to support this amount;
- the sum of $1,200.00 per month from Nixon Electrical. This amount is supported by a letter dated 13th June 2012 from the Administrator of Nixon's Electrical, Sallie-Ann Nixon;
- the sum of $200.00 per day after expenses from regular Grande Anse bus route. There was no documentary evidence provided to support this amount;
- the sum of US$150.00 per day when he does cruise tours. On the day of the accident, the claimant says he was on his first cruise tour for the day which lasts 2 ½ hours and were it not for the accident he would likely have worked for another 4 hours. For the tour he was on at the time of the accident, he would have been paid US$40.00 plus US$100.00 for the rest of the day. This is supported by a letter dated 15th June 2012 from Secretary, Grenada Taxi & Tour Guides Association St. George's, Michael Lamothe in which he explains the practice and that the claimant was on a

private tour at the time of the accident and that for the association, a work turn is 8 persons at US$20.00 per person;

- the sum of $3,000.00 per month when he "runs taxi" for the SGU students. There was no documentary evidence provided to support this amount.

Analysis

[18] The defendant's first contention is with the period for which loss of use is being claimed. The claimant claims loss of use for six [6] months. The defendant says that based on the estimate of repairs which shows work hours of 89 hours to complete the repairs on the vehicle that would amount to eleven [11] days. They say that the claimant has not provided any evidence to support the amount of time taken to repair the bus and therefore submit that at best they can concede to eleven [11] days.

[19] In cross-examination in answer to counsel for the defendant, the claimant provided ample reason why it took him so long to repair the bus. His evidence was that it took one month to repair the bus. He had reported the accident to his insurers after the accident and was instructed to go to the Ministry of Works. The claimant gave evidence that he went to the Ministry of Works in March 2011 and there was a back and forth with them for three months. All this time the bus was just sitting there whilst he waited for the Ministry of Works. It obviously appears that the claimant decided to see after his own repairs after three months of waiting, and those repairs he said commenced in July 2011.

[20] I therefore cannot in the face of this evidence agree with the defendant that the period of loss of use should be 11 days. The claimant is entitled to loss of use for the period March to July 2011 as by his evidence he got the bus back in the first weekend in August 2011. The period for loss of use would be five months.

[21] The defendant in response to the claims made for loss of income submits that the information supplied is far from sufficient. The defendant says that the claimant has "referenced" a contractual arrangement with 3 R's Primary School but no

documentary evidence is produced. This is a fact. It would however seem that if the claimant was being paid monthly by 3 R's Primary School that he could have substantiated this claim with a letter from the school verifying that he is indeed paid by them monthly. While I take the point that the nature of the claimant's business is not one where he would have documentation for all his income, the claimant must seek to provide the Court with sufficient proof of his claims. I find that this is not the case here.

[22] The defendant also takes issue with the claimant's claim of $200.00 per day from the Grande Anse route after expenses saying that there is no evidence of what the expenses are. In cross-examination, the claimant in answer to counsel for the defendant said that the amount claimed in relation to this item was the figure before expenses which appeared to me to be an error. Although the defendant objects to this figure they have provided the Court with no evidence of what is reasonable in the circumstances.

[23] The defendant submits that the claimant does not reference the length of the cruise season to justify the amount of money he says he would have earned. In cross-examination the claimant testified that the cruise season ran from October to May so that the period when he would this particular loss would relate to would be March to May, a period of 3 months.

[24] The defendant says that the claimant mentions income from taxi runs without any specifics to justify the figure claimed.

[25] The defendant also submits that the although the claimant has claimed income from various sources, it is reasonable to conclude that all of these sources do not operate or could not have operated daily during the period for which the claimant seeks loss of use. The claimant in cross-examination gave evidence of how he sometimes operates in more than one area. He gave evidence that during the cruise season he also works at the University and also does the Grande Anse route. He said he made a couple of trips before he went to the cruise ship stand. He went on to testify when asked how often he operated as a St. George's

University taxi, that he did that every day. During the day, he could get called and he would leave the stand and go and do that job. Sometimes, he said he could get called early in the morning or at night. The claimant's testimony does square with the life of a typical bus driver who will do any job they can get, a phenomenon commonly referred to as 'hustling'.

[26] The defendant submits that the claimant has failed to provide sufficient particulars of his sources of income and his expenditure to justify the figure claimed per month as loss of income. The defendant relies on the cases of Malcolm Joseph et al v Alison Charles[4] and Christopher McMaster v The Attorney General et al[5] to support its contention that the claimant should only receive a nominal sum.

[27] The defendant says that if the Court is minded to award an amount for loss of use, it should be guided by the insurance industry standard which they say is on average $150.00 per day. This is clearly based on practice in the insurance industry. However, in Hazel Augustin et al v Allan St. Ange,[6] the Court awarded a daily loss of use of $250.00 and saw no reason to discount this figure. In Tropical Builders v Gloria Thomas,[7] a sum of $150.00 per day was awarded for loss of use of a non-profit making chattel.

[28] The defendant has suggested $150.00 per day. However, I think in the circumstances, the sum of $200.00 per day is more than reasonable for a bus driver, and I can see no reason and none has been provided to discount that figure further. The original sum claimed in the Malcolm Joseph case was way in excess of $200.00 per day and can be distinguished from this case.

[29] I am also persuaded by the dicta in the Grant case which must be read in its totality. The case at bar is a typical case where one would not expect a bus driver to be able to prove all his income via written documentation. What the Court needs to be satisfied of is that the amounts claimed are reasonable in the

[4] Grenada Claim Number 77 of 2002, delivered 6th February 2003, unreported.
[5] St. Vincent High Court Claim SVGHCV2009/0326 (delivered 3rd June 2011, unreported).
[6] Saint Lucia High Court Claim SLUHCV2006/0170 (delivered 7th August 2013, unreported).
[7]Antigua and Barbuda High Court Claim ANUHCV2004/0228 (delivered 22nd May 2007, unreported).

circumstances. A bus driver should not be deprived of his damages simply because written contracts or documentation is not the norm or practice in his trade but as said earlier the claimant must seek to provide evidence sufficient enough to assist the Court and not allow the Court to go on a speculative exercise. I repeat the words of Bernard CJ in the Grant case: "As much certainty and particularity must be insisted on, both pleading and proof of damage, *as is reasonable, …"*

[30] I therefore conclude on the area of loss of use/income as follows:

(a) the sum of $1,100.00 per month from 3 R's primary school – not allowed. This amount was not substantiated and I think that it could have been;

(b) the sum of $1,200.00 per month times 5 months from Nixon Electrical – allowed. Total = $6,000.00;

(c) the sum of $200.00 per day after expenses from regular Grande Anse bus route – allowed. The period of loss is five months as discussed above. The total loss would be $1400.00 per week times 4 weeks times 5 months which totals $28,000.00;

(d) the sum of US$150.00 per day when he does cruise tours. Based on the evidence provided, it is not clear what the average income of the claimant on a daily basis would be, how many trips he does on average per day how many days a week he does trips during the cruise ship period. This information would have assisted the Court in determining whether the US$150.00 per day claimed is reasonable or not. I am afraid that the letter dated 15th June 2012 from Michael La Mothe, Secretary, Grenada Taxi & Tour Guides Association St. George's is not very helpful as it does not speak to the claimant's situation but provides general information. In these circumstances, I cannot allow US$150.00 per day for the period claimed. What I think is reasonable is that the amount which the claimant said he would have made for the day of the accident which is US$140.00 should be awarded to him;

(e) the sum of $3,000.00 per month when he "runs taxi" for the SGU students. Although the defendant gave evidence that he does do the trips for St. George's University, there was no documentary evidence to support this amount claimed and it is difficult to assess this figure as it relates to arbitrary calls for a taxi. There is no evidence of the average number of trips made in any one month and how much each costs. I therefore will not allow the amount claimed for the taxi runs.

The amount awarded as loss of income/use is therefore $34,380.66.

Conductor

[31] At the time of the accident, the claimant says he employed a conductor whom he had to pay $240.00 per week. There was no evidence provided by the claimant as to whether he had to continue paying the conductor despite the fact that the bus was not on the bus route. I therefore find that this amount has not been proven or justified.

The cost of the loan

[32] The claimant states he had been out of work for 5 months thereby causing him to lose revenue for that period as he had to pass on any work which he got to other operators. He says he was forced to borrow $19,200.00 to purchase the parts and to repair the bus and this he supports with a statement from Caribbean Microfinance Grenada Ltd. The loan fee was $2,800.00 and the monthly repayment $773.50.

[33] The defendant submits that the claim for the loan fee is being made in the absence of evidence that the loan was in fact taken and used to repair the bus. However, the document produced from Microfin dated 21st June 2011 clearly shows that the purpose of the loan being offered was to facilitate vehicle repairs. That the loan was indeed taken cannot be doubted as evidenced by the Promissory Note dated 22nd June 2011 which is signed by the claimant and also

by the receipts evidencing payment of the monthly instalment. That the vehicle was repaired is not in issue. However, what the claimant has failed to prove is the payment of the sum of $2,800.00. None of the documents produced evidence this amount.

[34] The defendant further submits that the nature of the claimants business would require that his bus be covered with comprehensive insurance which would have allowed him to collect from his insurers and to mitigate his damages. The defendant further submits that the claimant has not provided any information on his insurance and claims or any reason why he had to take the loan.

[35] I totally reject this submission in light of the dicta of Barrow J in Malcolm Joseph et al v Alison Charles so that there is no need to even discuss whether the claimant had insurance on the bus. In that case Barrow J said:

> "… It was the defendant who had the primary duty to act promptly. I reject the proposition that because the claimant had comprehensive insurance cover that displaced the defendant's primary obligation. That insurance cover is for the benefit of the claimants, not for the benefit of the defendant. It is settled law that a claimant[s] need not take steps to mitigate his loss by recovering from a third party what may be payable by the third party to the claimant: The Liverpool (No. 2) [1963] P. 64."

[36] I however agree with the submissions of the defendant that the amount of $2,880.00 has not been proven and I therefore do not award this amount.

Depreciation

[37] The claimant states in his affidavit/witness statement that the depreciation in value of the bus as a result of the accident is $4000.00 although in the statement of claim it is stated as $8000.00. There is no evidence produced to support either figure.

[38] I adopt the approach of Michel J in Luigi Wells v G4S Security Services (Grenada) Limited.[8] In that case, Michel J in looking at the issue of depreciation claimed, had this to say:

> "On the issue of depreciation, the Claimant merely states in his Affidavit that his vehicle would have suffered depreciation by reason of the accident, for which he asked to be compensated in the sum of $1,500. No evidence was presented to this Court to prove that by reason of the damage to the Claimant's motor car, and notwithstanding the repairs thereto, the market value of the car was reduced by $1,500 or any amount whatsoever. I would accordingly adopt and adapt the words of Chief Justice Sir Vincent Floissac in the unreported Eastern Caribbean Court of Appeal case of Joseph Horsford v Bernard Jarvis [Civil Appeal No. 14 of 1994] where the Learned Chief Justice stated:
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> > 'The [Claimant] was awarded the cost of repairs to his [car]. He failed to prove (by appropriate evidence) that by reason of the damage to the [car] and notwithstanding repairs thereto, the market value of the [car] was or would have been reduced. In these circumstances, this is not an appropriate case for the award of damages for depreciation or diminution in value of damaged property.'"

Based on this approach, the amount claimed as depreciation cannot be awarded.

Cost of repairs, labour and estimate

[39] The cost of parts to repair the bus was claimed at $10,278.12, cost of labour at $7,941.00 and estimate at $92.00 and these are also supported by receipts.

[40] The defendant in response to this claim says that the invoice for parts lists items which the claimant has not proved were either destroyed or damaged. The claimant they say only alleges that the front of the bus was damaged without identifying the parts which were damaged but presents and invoice for a number of parts. The defendant contends that there being no proof of specific damage to the bus, the invoice in the absence of receipts cannot evidence damage to the bus. In the absence of strict proof, only nominal damages should be allowed.

[8] Grenada Hih Court Claim GDAHCV2008/0416 at para 15, (delivered 23rd June 2009, unreported).

[41] The defendant further contends that the claimant's invoice to prove the costs of the repairs lists items which are not reflected in his estimate of repairs. The defendant therefore submits that these items, having not been accounted for as items to be replaced or repaired on the estimate of repairs, should not be allowed.

[42] The defendant states that the claimant's estimate of repairs lists items to be either replaced or repaired but there is no evidence that these items were damaged or destroyed by the falling tree. The claimant, they say, alleges that the tree fell from the left side, but the damage claimed for is to the right side of the bus. The defendant therefore submits that the claimant should not be awarded damages based on the invoices presented.

[43] It is to be noted that the amounts claimed for costs of repairs, cost of labour and the estimate of repairs are all substantiated by invoices. There is no evidence to show that these invoices are false or that the amounts claimed were never incurred. As for the defendant's submissions on the fact that some of the items listed in the cost of repairs/labour are not contained in the estimate of repairs, I think it fair to say that that is not unreasonable. The estimate of repairs is, as it suggests, simply an estimate based on an initial assessment. The actual repairs and replacement of parts would be only ascertained when the vehicle is actually repaired. I can therefore find no persuasion in this argument.

[44] It is not open to the defendant having accepted liability to say at the stage of assessment that the damage claimed was not sustained or that the damage was on the left side instead of the right. In effect these are points which ought to be raised in a defence by the defendant claiming that he was not responsible for the damage sustained. We are past this stage of the proceedings. This argument therefore is also not persuasive.

[45] I have no reason to doubt that the claimant did expend the amounts claimed. In cross-examination, the claimant said that he got the estimate of repairs from Peg's Enterprises but someone else did the work based on that estimate and he paid them. He admitted that he did not get an estimate from that other person but used

the estimate that he had got. There is nothing to contradict this evidence and having seen the claimant, I have no reason to doubt his evidence.

[46] I therefore find that the amounts claimed for costs of parts in the sum of $10,278.12, costs of repairs in the sum of $7,941.00 and the cost of the estimate of repairs in the sum of $92.00 have all been proven.

Exemplary Damages

[47] The claimant asks that the court award him exemplary damages of $30,000.00. The claimant cites paragraph 1190 of Halsbury's Laws[9] which states that 'exemplary damages are awarded to punish a defendant and vindicate the strength of the law'. The claimant contends that the tree in question posed a danger, was on the only route to a popular tourist site during the tourist season, the authorities were informed and they came, inspected and yet did nothing.

[48] The claimant cites the Antiguan case of Dr. Mathurin Jurgensen v Public Utilities Authority[10] in support of this claim and says that the Government in their lethargy exhibited cynical disregard as to the danger which they exposed the public to on a daily basis and that this lethargy must be punished.

[49] The claimant says:

> "We have seen it too often but this particular case resulted in damage and as a consequence, the defendant must be made an example, must be made to feel the weight of the law in disregarding the rights of its citizens in jeopardizing the health not only of its citizenry but the foreign persons who could have been injured as a consequence of this accident."[11]

The claimant therefore asks the Court to find that exemplary damages are warranted and the sum claimed is reasonable.

[50] The defendant says that the question is whether the actions or inactions as alleged by the claimant meet the necessary threshold for an award of exemplary

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[9] 4th edn., 2007, Vol. 12.
[10] Claim No. 529 of 2004 at para 42 and 58, (unreported).
[11] Paragraph 28 of the Claimant's submissions filed 23rd July 2013.

damages to punish oppressive, arbitrary or unconstitutional conduct. The defendant submits that there is no evidence to support the allegation of oppressive or arbitrary conduct and there has been no claim of any breach of the Constitution. It is the defendant's position that the descriptions proferred by the claimant are exaggerated, unjustifiable and inflammatory in light of the evidence in the case.

[51] The defendant says that the case of Jurgensen relied on by the claimant is not comparable to the case at bar. They say Jurgensen was decided largely on the basis that the defendant's conduct was in cynical disregard for the claimant's rights having calculated that the economic benefit to be derived from their actions would probably exceed the damages. The defendant says that in the case at bar the claimant has not asserted that there is any deliberate disregard of any right to which he was entitled nor that there was any calculation of economic benefit to the Government.

[52] The defendant also does not think that the case of Asot A. Michael v Astrar Holdings[12] applies to this case as in that case the evidence was that the claimant suffered a history of frustrations which he suffered at the hands of officials which were deliberate and were for Mr. Michael's own convenience. The defendant contends that in light of the evidence, it cannot be said in light of the appearance of the alleged danger and a visit by officials the day before the accident shows lethargy or cynical disregard on the part of the Government. The defendant therefore submits that no award of exemplary damages should be made as there is no basis upon which such damages can be justified.

[53] The case of Rookes v Barnard[13] is the leading authority on the award of exemplary damages. There are three categories of cases in which awards of exemplary damages continue to be legitimate, though not mandatory as whether to make an award is in the court's discretion. The three categories are (1) express authorisation by statute; (2) oppressive conduct by government officials and (3)

[12] Antigua and Barbuda Civil Appeal Nos. 17 of 2004 and 15 of 2004, (delivered 23rd May 2005, unreported).
[13] [1964] AC 1129.

conduct calculated to result in profit. Having reviewed the evidence I do not see how an award of exemplary damages is justified in this case. There was no evidence of any oppressive conduct by the Government or any actions on their part which suggests that they flouted any of the claimant's rights or that their inaction would somehow have given them an advantage. I therefore make no award of exemplary damages.

General Observations

[54] In assessment of damages applications, evidence is critical. A claimant cannot simply assert things without evidence to support the assertions. Even where, as in this case the claimant is a bus driver and it is understandable that he would not be able to produce documentary evidence for all of his claims, the Court must nonetheless be satisfied that sufficient proof has been given and must not be left with evidence so scant that it has to make assumptions to ascertain what is reasonable. I find that in this case the claimant could have assisted himself by providing more detailed evidence by way of affidavit especially where he did not have documentary evidence by way of written contracts.

General Damages

[55] There was no evidence led by the claimant on the claim for general damages and accordingly no award is made.

Award

[56] The order on the assessment of damages is as follows:

The claimant is awarded special damages as follows:

(1)	Cost of repairs, parts and estimate	-	$18,311.12.
	Loss of income	-	$34,380.66
	Total special damages	-	$52,691.78

(2) Interest on the sum of $52,691.78 at the rate of 6% per annum from the date of the claim to the date of payment.

(3) Prescribed costs of $3,556.70 (being 45% of $7,903.77, pursuant to Appendix C of Rule 65 Civil Procedure Rules 2000 as amended).

Kimberly Cenac-Phulgence
Master [Ag.]