

THE EASTERN CARIBBEAN SUPREME COURT
SAINT VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

SVGHCV2010/0035

BETWEEN

KEVIN CRAIGG a minor
(By his mother and next friend PATRICIA MORGAN)

CLAIMANT

and

ELSWORTH WEEKES

FIRST NAMED DEFENDANT

and

MERVIN DABREO

SECOND NAMED DEFENDANT

and

JIMMY PHILMORE GRANT

THIRD NAMED DEFENDANT

and

BASIL WEEKES

FOURTH NAMED DEFENDANT

Appearances:

Mrs. Zhinga Horne-Edwards for the claimant.

First defendant unrepresented.

Second defendant unrepresented.

Third defendant unrepresented.

Mr. Parnel R. Campbell, with him Ms. Mandella Campbell and Mrs. Cheryl Bailey for the fourth defendant.

2018: Feb. 27
Jun. 5 & 19
Sept. 20
Dec. 19

JUDGMENT

BACKGROUND

- [1] Henry, J.: On March 17, 2007 young Kevin Craigg was walking from his home in Green Hill towards Kingstown. He stopped along the road, close to an area where passengers usually gather to get transport into town. He saw a jeep approaching at high speed. It struck him, resulting in injuries to his person. He was hospitalized and underwent treatment. He was only 13 years old at the time.
- [2] His mother Patricia Morgan brought this claim against Basil Weekes who was driving the vehicle at the time of the accident and his brother Elsworth Weekes the owner of the jeep. Ms. Morgan alleged that the accident arose from a collision between that jeep and a minivan belonging to Mervin Dabreo. It was being driven by Jimmy Philmore Grant. Mr. Dabreo and Mr. Grant are also defendants in this case.
- [3] Ms. Morgan claimed that the accident and resultant injuries to her son were caused by the individual or combined negligence of the two drivers and owners who have denied liability. Mr. Craigg is now an adult and has pursued this claim with his mother. Ms. Morgan and Mr. Craigg seek damages. I find that Jimmy Philmore Grant, Mervin Dabreo and Basil Weekes are liable.

ISSUES

- [4] The issues are:
1. Whether the accident was caused by Mr. Grant's or Mr. Basil Weekes' **negligence** and whether Mr. Elsworth Weekes and/or Mr. Dabreo are vicariously liable for such negligence?
 2. To what relief is Mr. Craigg entitled?

ANALYSIS

Issue 1 – Was the accident caused by **Mr. Grant's or Mr. Basil Weekes' negligence and** if so, are Mr. Elsworth Weekes and/or Mr. Dabreo vicariously liable for such negligence?

- [5] Mr. Craigg provided a witness statement in this matter. It was admitted as his evidence in chief. He was cross-examined by learned counsel Ms. Mandella Campbell on **Mr. Basil Weekes'** behalf. Messieurs Dabreo and Grant declined to ask him any questions in cross-examination. They have thereby accepted his version of the events which transpired on that fateful day.

- [6] Mr. Craigg explained that he was living with my mother at Green Hill at that time and was a student at the West St. George Secondary School. He now lives in England as does his mother. He testified that on Saturday the 17th day of March, 2007 at about 5:00 p.m. he was walking along the main road having left his home in Green Hill. He described it as a sunny afternoon. He was dressed in a bright yellow t-shirt. He stated that he stopped near to a wall where he waited at the side of the road to catch a van into Kingstown.
- [7] Mr. Craigg explained that he was standing at one of the places where people in the Green Hill area usually wait to catch vans into Kingstown. He said that he was facing a side road. He accepted that there was no bus stop sign at that location and acknowledged that it was not a designated bus stop area. He added that it is where everyone waits for a van and that there were no bus stop signs in Green Hill. As he stood there, he saw a minivan coming from the side road. He observed that it stopped and let off a passenger several feet from where the side road joined the main road.
- [8] Mr. Craigg testified that the van then proceeded until it got to the beginning of the main road where it stopped. He noted that the driver of the van sounded the horn. Mr. Craigg recalled that at the same time a jeep was travelling at a fairly fast pace along the main road towards him. He recalled seeing a female in the jeep with her feet up on the dashboard. He said that there was no other traffic on the road. He testified that the jeep pulled towards him, hit him forcefully and then veered off. Mr. Craigg stated that he felt a lot of pain and managed, with much effort and pain, to get to the van to sit in it. He recalled that the jeep did not stop immediately but drove off and everyone was let off.
- [9] Mr. Craigg insisted that the van had stopped when the jeep hit him. He denied that the van hit the jeep. This part of his testimony, although consistent with his witness statement¹, conflicts with the pleadings². **It is also different from Mr. Basil Weekes' version of the events.** Mr. Grant provided no evidence. Neither did Mr. Dabreo was not present at the time. The Statement of Claim alleged that the vehicles collided **as a result of which Mr. Weekes' vehicle struck him and pushed him against the wall.**

¹ Filed on 14th July 2014.

² Amended Claim Form filed on 25th February 2010.

- [10] Mr. Basil Weekes testified³ that he is retired and lives partly in Canada and partly in Saint Vincent and the Grenadines. He acknowledged that on Saturday 17th March 2007 at about 6 p.m., he was driving a Suzuki Jeep, registration number PE 644, which belongs to his brother Elsworth Weekes. **He stated that he had his brother's permission to drive the** vehicle. He indicated that he was travelling along the Green Hill road in the direction of Kingstown at a moderate speed of 20 to 25 miles per hour. He stated that one Joann Chandler was sitting in the front passenger seat to his left.
- [11] He recalled that the road was dry, visibility was good and there was no obstruction. Like Kevin Craigg, he saw no other vehicle on the road at the time of the accident. Mr. Weekes noted that there was no sidewalk and no corner at that spot. He explained that on approaching a T-Junction on the Green Hill road, he saw passenger van HL 295 egressing on to the Green Hill road, from a minor road on his right, which forms the T-Junction. He said that he continued driving along the left side of the road. He stated that the passenger van did not stop, but rather emerged out of the junction on to the Green Hill road and collided with the centre post on the right side of his vehicle.
- [12] Mr. Weekes indicated that the road was wide at that spot and allowed for 2 vehicles to pass comfortably. He testified that immediately before the impact between the vehicles he heard his passenger say 'watch out'. He said that as a result of the impact, the rear of PE 644 shifted towards the left and struck a retaining wall.
- [13] Mr. Weekes explained that with the impact, his vehicle went towards the left side of the road. He stated that he understood afterwards that Mr. Craigg was standing in that position. He was adamant that he saw no one. Mr. Weekes stated that he did not see Kevin Craigg along the road prior to the accident, and only briefly after he emerged from the jeep. He said that he was told that his vehicle struck a little boy. He accepted that his vehicle hit Mr. Craigg. He insisted he was paying attention to and **focusing on the road and that's why he missed the little boy.**
- [14] Mr. Weekes stated that he stopped the vehicle, sat in it for a while and then came out. He observed that the driver of HL 295 came out of the passenger van. He said that someone pointed out a little boy sitting in the passenger van which collided with his vehicle. He noticed that the little boy was

³ His witness statement which was filed on 15th August 2011 was admitted as his evidence in chief and he gave oral testimony.

groaning and complaining of pain and that he was eventually taken away in another passenger van. He could not recall if Mr. Craig was wearing a yellow shirt.

- [15] Mr. Weekes acknowledged that he could see the intersection where the accident happened even before he got to it. He estimated that he had it in view from about 2 car lengths away or from about 12 or 14 feet. He said that when he first saw the minivan HL295 it was stationary. He subsequently said that he saw it emerging from the side road so quickly and that he tried to get away but could not. He recalled blowing his horn, screaming and trying to swerve to avoid the collision.
- [16] Mr. Weekes admitted that he did not reduce his speed when he saw the passenger van and did not consider that the van would move out of the intersection into the main road. He insisted that it was his right of way and he therefore continued along the main road. He said there was nothing he could do to alert the van driver of his approach. He kept repeating that it was his right of way. He reiterated that he is an international driver and was driving at a controllable speed at the time of the accident.
- [17] He finally conceded under intense cross-examination that a driver has a duty to take care for other drivers and to consider what others will do. After being pressed, he accepted that even if he has the right of way he must be reasonable to avoid an accident. He was questioned by Mr. Grant and accepted that the van seemed to have stopped at the time. Mr. Grant asked him if he did not see Kevin Craigg on the straight road **and he said 'no'.** **Mr. Grant did not challenge Mr. Weekes'** recollection that the van collided with the jeep before hitting Mr. Craigg. I therefore accept that it did.
- [18] In his Defence, Mr. Weekes pleaded that he was travelling at about 35 mph that day⁴. He denied driving at an excessive speed. Under cross-examination, he maintained that he was travelling between 20 and 25 miles per hour which he considered to be reasonable. He remarked that he is an international driver and as such would travel between 20 to 30 miles per hour. Mr. Weekes offered no explanation why his testimony conflicted with his pleadings regarding the speed at which he was travelling. In view of the fact that his Defence was filed earlier and closer to the date of the

⁴ At paragraph 5(a) of his Defence which was filed on 16th April 2010.

accident, when his memory would have been expected to have been more accurate, I accept that the 35 mile per hour approximation in his Defence is perhaps closer to the truth.

[19] Mr. Craigg said that he knew the driver of the van, Jimmy Grant having travelled in that vehicle before. He recounted that after the accident, the driver of the jeep got out and was arguing about his vehicle. He heard the driver of the jeep tell the driver of the van to stay on the scene until the police got there.

[20] Mr. Craigg explained that eventually a second minivan came and he was lifted out of the first minivan placed in the second van and taken to the hospital. He was unable to walk at that point in time. On arrival at the Accident and Emergency Department of the Milton Cato Memorial Hospital he was seen by a nurse and admitted as a patient. He was discharged after approximately 12 days. About a week later, he travelled to Trinidad for further medical attention which was administered over a period of two weeks.

[21] His mother Patricia Morgan testified that she was at work that day when her son telephoned her. **She explained that she spoke to the minivan's conductor by phone and then proceeded to the hospital where she saw her son.** She observed that he appeared to be in a lot of pain. She subsequently went to the scene of the accident and later returned to the hospital. She was not cross-examined.

Mervin Dabreo's case

[22] Mr. Dabreo was shown a witness statement that was filed on his behalf on 11th August 2011. He said he was unable to read it. He identified the signature on it as his handwriting but was adamant that the witness statement was not his. The record reveals that his legal practitioner at that time was Mr. Carlyle Dougan Q.C.⁵. Mr. Dabreo was unrepresented throughout the trial. Mr. Dougan Q.C. was not present and in his absence the court was unable to conduct a *voir dire* to ascertain whether the witness statement was voluntarily made by Mr. Dabreo and contained his account. He insisted that he had nothing that he wished to say about the accident.

⁵ Based on the contents of the Acknowledgement of Service filed on 4th February 2010, subsequent orders and the backing on the witness statement.

- [23] The witness statement was not authenticated by another individual and contained no representation or attestation clause to the effect that it was read over to Mr. Dabreo before it was signed. It contained no statement which reflected that Mr. Dabreo understood it before his signature was placed on it. It was therefore excluded from evidence.
- [24] Mr. Dabreo was allowed to give oral testimony. It appeared that he was academically and intellectually challenged. Throughout his testimony statements and questions had to be repeated and explained to him. He stated that he is 39 years old and is a farmer by occupation. He indicated that he had attended school up to senior primary level.
- [25] Under cross-examination, Mr. Dabreo testified that he owned a Toyota Hiace vehicle and he could **not recall the 'licence plate'/registration number** initially. He subsequently accepted that the registration number was HL295. He explained that he employed Jimmy Philmore Grant to drive it on his behalf. He admitted that Mr. Grant was driving that vehicle **in his employ (Mr. Dabreo's)** on 17th March 2007 when it was involved in an accident at Green Hill. He stated that he is aware that someone was injured during the course of that accident. At first he could not say whether it was an adult or child. He later stated that it was a child. He said that he did not visit the scene after the accident.

Applicable Law

- [26] The Motor Vehicle and Road Traffic Act⁶ (**'the Act'**) prescribes the speed at which motor vehicles are to travel on the roads in Saint Vincent and the Grenadines. Section 46 and the Second Schedule to the Act⁷ provide that on the roads outside of Kingstown, vehicles other than motor omnibuses and lorries must travel at a maximum speed of 30 mph.
- [27] Regulation 26 (2) and (5)(g) respectively provide that while driving, a driver must:
1. ensure that he is always in a position to have full control of the vehicle and have a full view of the road and traffic ahead of the motor vehicle; and

⁶ Cap. 483 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009.

⁷ Paragraph 2.

2. not turn from one road into another unless he can do so without obstructing other traffic on the road; and if he causes risk or accident while doing so he will be held to have been obstructing traffic.

[28] Those provisions impose a duty on drivers of motor vehicles to exercise care while travelling on the roads. The duty requires a driver to exercise special care at crossroads. Drivers emerging onto major roads from minor roads are equally obligated to give way to traffic on the major road. In similar fashion drivers on major roads have a corresponding duty to exercise care to avoid collisions with vehicles emerging from minor roads.⁸

[29] These principles have been illustrated in decided cases such as Cheryl Edwards Administratrix of the estate of Janique Lewis v Etnel Mills. Rawlins J. explained in that case that:

'Drivers of motor vehicles are under a duty to exercise due care on the road. They are expected inter alia to determine what other users of the road are doing. They are expected to manoeuvre their vehicles in order to prevent and avoid accidents. They are expected to use and observe proper signals, signals must be kept clear and unambiguous and as far as practicable in keeping with the Highway Code. They must exercise due care and attention at all times.'⁹

[30] **Mr. Craigg's claim is one in negligence.** Mr. Craigg alleged that Mr. Grant and Mr. Basil Weekes contributed to the accident and his injuries by their negligence. It is trite law that negligence is established where a claimant proves on a balance of probabilities that a defendant pursued a course of conduct on breach of a duty to the claimant, which resulted in damage or loss to the claimant.¹⁰ In Blyth v Birmingham Waterworks Co. 3 Alderson B opined:

'Negligence is the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, **or doing something which a prudent and reasonable man would not do.'**¹¹

The court will be guided by the foregoing principles in determining the issues in this case.

⁸ Halsbury's Laws of England Vol. 89 (2011) para. 26.

⁹ ANUHCv1998/0168.

¹⁰ Donoghue v Stevenson [1932] UKHL 100.

¹¹ [1865] 11 Ex 781.

Jimmy Grant

- [31] Mr. Craigg submitted that judgment in default should be entered against Mr. Grant because he filed no acknowledgement of service and no defence. **The court's records confirm this.** However, the existence of pleadings without evidentiary proof would not suffice.
- [32] **Furthermore, aspects of Mr. Craigg's case against Mr. Grant are in the alternative.** On one hand, he alleged that the accident which resulted in his injuries was caused **by reason of Mr. Grant's** negligence in driving the passenger van on a minor road, at its junction with the main road. **Alternatively, he pleaded that by reason of Mr. Grant's and Mr. Basil Weekes' negligence,** a collision occurred between the two vehicles at the said junction, as a result of which he was injured.
- [33] Mr. Craigg itemized the elements of negligence against the defendants. He claimed that Mr. Grant was driving at an excessive speed; failed to keep a proper lookout at the junction; emerged onto the junction of the two roads without first ascertaining or ensuring whether it was safe to do so; failed to give the Suzuki jeep sufficient time to go past the junction in safety; failed to see the Suzuki jeep in time to avoid a collision; failed to give any adequate warning of his approach; failed to give any sufficient or timely warning of his intention to turn from the minor road into the major road; collided with the Suzuki jeep at the junction; failed to stop, slow down, swerve or otherwise manage or control his vehicle to avoid the collision. In the circumstances, the court must examine the evidence to see which of the alternatives is established.
- [34] Mr. Craigg submitted that in order to obtain a judgment in default against a party, it must be shown that the said party has been served with the claim form but has failed to file an acknowledgment of service or a defence within the time limited for doing so by rule 12.5 of the Civil Procedure Rules **2000 ('CPR')**. This is so. Mr. Craigg referred to an affidavit of service by Vadeesha John in which she deposed that the notice of proceedings to Mr. Grant had been published in two issues of a local newspaper in accordance with the court order of 17th day of May, 2010 and exhibited.
- [35] Mr. Craigg contended that pursuant to CPR 5.14, the court is entitled to find that Mr. Grant thereby had notice of the proceedings, the court having deemed it to be good service. He submitted further that the court is required to deal with the claims against Mr. Grant and Mr. Dabreo at the same

time, in accordance with CPR 12.9(2)(b). Mr. Grant and Mr. Dabreo made no submissions on this issue.

- [36] Mr. Craigg highlighted several of the provisions of the CPR which govern the making of a judgment in default of acknowledgment of service and defence. The CPR stipulates that a Request must be made in Form 7¹². Mr. Craigg did not file a request for default judgment. Further, in view of the alternative components of his claim against Mr. Grant, Mr. Craigg would have needed to apply (pursuant to CPR 12.10 (4) and (5)) for the court to determine the terms of the judgment. He did not. I make no order for judgment in default. Instead, I now consider the evidence to determine whether of the alternative allegations of negligence have been established against Mr. Grant.
- [37] **None of the witnesses gave any testimony about Mr. Grant's speed on that day. I make no finding** that he was driving at an excessive speed. Mr. Craigg alleged that Mr. Grant emerged from the junction without first ascertaining or ensuring that it was safe to do so. However, he testified that the vehicle being driven by Mr. Grant was stationary at the intersection. Mr. Basil Weekes insisted that Mr. Grant had emerged from the intersection. Having regard to the testimony as adduced and there being no refutation by Mr. Grant, it strikes me that he did so. I am of the opinion that he did.
- [38] Mr. Craigg alleged that Mr. Grant failed to give the Suzuki Jeep any sufficient time to go past the junction in safety, failed to see the jeep in time to avoid the collision at all and failed to give the Suzuki jeep any or any sufficient time to go past the junction in safety. He provided no testimony about such matters.
- [39] Mr. Basil **Weekes pleaded that Mr. Grant's vehicle emerged onto the main road and collided with** the Suzuki jeep, violently propelling it towards the wall on the left side of the road, which it struck. He maintained this account in his testimony. I accept that the two vehicles collided. I resolved the conflicting testimony by accepting Mr. **Weekes'** account. I therefore accept that Mr. Grant attempted to enter the Green Hill main road when Mr. Weekes was travelling along it in the Suzuki jeep and when it was unsafe to do so. I find too that this contributed to the collision between the van he was driving and the jeep being driven by Mr. Weekes.

¹² CPR 12.7.

[40] Mr. Craigg alleged further that Mr. Grant was also negligent in failing to give any or any adequate warning of his approach; failing to give any or any sufficient or timely warning of his intention to turn from the minor road into the main road; failing to stop, slow down, swerve or in any other way so to manage or control his motor vehicle so as to avoid the collision. Mr. Craigg led no evidence which established any of those matters. No one else did. I find therefore that Mr. Grant was not negligent in those respects.

Mervin Dabreo

[41] Mr. Dabreo did not dispute that Mr. Grant was in his employ at the time of the accident and was **driving the minivan on his (Dabreo's) behalf and for his benefit. In deciding whether Mr. Dabreo is vicariously liable for Mr. Grant's negligence, the court must ask itself whether Mr. Grant's** wrongful behaviour was so closely connected with the acts that he was authorized to do so by Mr. Dabreo that it can be said that he committed the wrongful act while on the job.¹³ I am satisfied that Mr. Grant was actively engaged in his job for Mr. Dabreo when he conducted himself and drove negligently **as described. Mr. Dabreo is therefore vicariously liable to Mr. Craigg for Mr. Grant's** negligent driving. I so find.

Mr. Basil Weekes

[42] Mr. Craigg alleged that Mr. Basil Weekes was negligent in a number of ways. He pleaded that Basil Weekes drove at an excessive speed. Basil Weekes admitted that he was travelling between 20 mph and 35 mph. I reject his testimony that he was travelling at the moderate speed of 20 miles per hour. To the extent that he acknowledged in his defence that he was travelling above the speed limit, Mr. Basil Weekes conceded that he was driving at an excessive speed. Based on the surrounding circumstances he and Mr. Craigg described, this accords with reason and logic. I find that he was driving above the speed limit and too fast in the circumstances.

[43] Mr. Craigg alleged further that Mr. Basil Weekes failed to keep any or any proper lookout or to have any sufficient regard for traffic at the junction of the referenced roads or for pedestrians on the road, including him. I agree that Mr. Basil Weekes was not paying due care and attention while he was driving. This is borne out by his admission that he did not see Kevin Craigg at the side of the

¹³ Lister and Others v Hesley Hall [2002] 1 AC 215.

straight road although visibility was good, there was no obstruction and no other vehicles on the road.

[44] Mr. Craigg charged that Mr. Basil **Weekes failed to see Mr. Grant's passenger van turning or attempting to turn from the minor road into the main road in sufficient time to avoid the collision or at all; failed to blow his horn or otherwise alert him that there was a problem so that he might take avoiding action; and failed to stop, slow down, swerve or in any other way so to manage or control his motor vehicle so as to avoid the collision.** The evidence in this case revealed that Mr. Weekes **was perhaps the only person who was unaware of Kevin Craigg's presence at the side of the road.** Just as glaring was his insistence that he had the right of way and that this trumped any improper move by Mr. Grant or other road users.

[45] Mr. Craigg was credible and forthcoming as a witness. Not so Mr. Basil Weekes. Mr. Weekes was less than frank. While forceful in giving his account, he was evasive in respect of material aspects of the case. I do not believe him when he said he was not distracted. Having regard to the scenario describe by Mr. Craigg, it strikes me that as he was driving along the main road, Mr. Weekes would have been reasonably expected to have noticed Mr. Craigg in his bright yellow shirt. His repeated answers that he did not, suggest that he was not being attentive as any careful driver would have been.

[46] Mr. Grant filed closing submissions on 11th October 2018. He purported to refute a number of assertions made by Mr. Basil Weekes. It appears that he misunderstood (and understandably so) the purpose of closing submissions. He is a lay person. It was explained to him that he would not be able to provide evidence at this stage. Those aspects of his submissions which seek to supply evidence are excluded from consideration.

[47] **Mr. Grant submitted that Mr. Weekes' testimony demonstrated that** he was not aware of his surroundings when he admitted that he could not recall if the area where the accident happened as sparsely or densely populated. He contended too that Mr. Weekes could have brought his vehicle to a stop two car lengths from the collision if he was driving at a moderate speed as he claimed. He queried why Mr. Weekes did not stop when he saw the van approaching.

- [48] Mr. Grant argued that the accident is not his fault because Mr. Weekes admitted that the vehicle was stationary. He submitted that Mr. Weekes should have seen Kevin Craigg wearing a bright yellow t-shirt if he was driving between 20 to 25 mph. The findings of fact regarding his involvement in the accident demonstrate that he was negligent in a number of respects on that date and further that such negligence contributed partially to the collision which resulted in Mr. Craigg being injured.
- [49] Having heard the witnesses, I formed the opinion that this accident could have been avoided if Mr. Basil Weekes had applied his brakes or swerved his vehicle away from Mr. Craigg. Regrettably, he did not see Mr. Craigg. I am led to the irresistible conclusion that he failed to see the young man because he was distracted. Mr. Weekes was insistent that he was reasonable in all the circumstances and used reasonable care and attention. The facts reveal that he was not.
- [50] I find that Mr. Craigg has proven that Mr. Basil Weekes was negligent by failing to blow his horn or otherwise to alert him (Craigg) that there was a problem; and by failing to stop, slow down, swerve or in any other way so to manage or control his motor vehicle to avoid the collision. I am also satisfied that Mr. Weekes and Mr. Grant equally contributed to the accident by their negligent conduct on that day.
- [51] They **both failed to have due regard to each other's presence on the road. This failure constituted a breach of duty as drivers of motor vehicles. They failed to observe common courtesy for other road users and failed to apply good judgment in their driving. I find that their negligent driving caused the accident which resulted in injuries to Mr. Craigg. I turn next to consider the case against Mr. Elsworth Weekes.**

Elsworth Weekes

- [52] In certain circumstances, an owner of a vehicle may be liable for the negligence of a person who is **driving the vehicle with his (the owner's permission)**; where for example he is driving it for the **owner's purposes or partly so**¹⁴. However, mere permission does not transfer such liability to the owner¹⁵. Nothing emerges from the evidence which leads me to conclude that Mr. Basil Weekes was driving the jeep for his **brother Elsworth Weekes' purposes on that March afternoon. I make no**

¹⁴ Klein v Calouri [1971] 1 WLR 619.

¹⁵ Morgans v Launchbury [1973] AC 127.

such finding. I also make no finding that Elsworth Weekes was for any other reason vicariously responsible for Basil **Weekes' negligence. He is not liable to Mr. Craigg.**

Issue 2 – To what relief (if any) is Mr. Craigg entitled?

[53] Mr. Craigg is seeking special damages, general damages, interest on the judgment sum and costs. He is entitled to recover from Mr. Dabreo, Mr. Grant and Mr. Basil Weekes such damages as for all losses which flowed naturally and reasonably from the accident. Those matters were not the subject of the trial, which was limited to a finding on liability.

[54] An assessment must be conducted to determine those amounts. It is therefore ordered that Mr. Dabreo, Mr. Grant and Mr. Basil Weekes shall pay to Kevin Craigg damages to be assessed on application to be filed by Mr. Craigg on or before January 31st 2019. Mr. Craigg is also entitled to interest at the statutory rate¹⁶. He is to file and serve his application for assessment of damages on or before 31st January 2019.

Costs

[55] As the successful party against Mr. Grant, Mr. Dabreo and Mr. Basil Weekes, Mr. Craigg is entitled to recover his costs. Mr. Elsworth Weekes has succeeded in his defence and is entitled to costs from Mr. Craigg. Accordingly, Mr. Grant, Mr. Dabreo and Mr. Basil Weekes shall pay to Mr. Craigg prescribed costs pursuant to CPR 65.5(2)(a), to be calculated based on the amount awarded for damages. Mr. Craigg shall pay to Mr. Elsworth Weekes prescribed costs of \$7,500.00 pursuant to CPR 65.5(2)(b).

Miscellaneous

[56] This case had a tortuous unfolding which must have been frustrating to the parties. The parties have exhibited tremendous patience throughout the proceedings which were protracted over several years. Even at the trial stage, the hearings had to be aborted on a number of occasions due to the technical difficulties experienced by the court in maintaining electronic connection, to sustain participation by the clamant and two of the defendants who attended the trial largely by video link. There were no less than three adjournments attributable to the lack of service of Notices of Hearing on parties. This falls below the level of service which parties are entitled to receive. I apologize on

¹⁶ Section 4 of the Interest Act, Cap. 27 of the Revised Laws of Saint Vincent and the Grenadines, 2009.

behalf of the court office and the administration of justice system for the inconvenience caused to the parties. Your patience and understanding are appreciated.

ORDER

[57] It is declared and ordered:

1. (a) Jimmy Philmore Grant and Basil Weekes are liable to Kevin Craigg in negligence.
(b) Mervin Dabreo is vicariously liable **for Jimmy Philmore Grant's negligence.**
2. **Kevin Craigg's claim against Elsworth Weekes is dismissed.**
3. Jimmy Philmore Grant, Mervin Dabreo and Basil Weekes shall pay to Kevin Craigg damages, to be assessed, on application to be filed and served by Kevin Craigg on or before 31st January 2019.
4. Jimmy Philmore Grant, Mervin Dabreo and Basil Weekes shall pay to Kevin Craigg:
 - (a) interest on the judgment sum at the rate of 6% per annum, pursuant to section 27 of the Eastern Caribbean Supreme Court (Saint Vincent and the Grenadines) Act¹⁷; and
 - (b) prescribed costs pursuant to CPR 65.5(2)(a) based on the damages assessed under subparagraph 3 of this order.
5. Kevin Craigg shall pay to Elsworth Weekes prescribed costs of \$7,500.00 pursuant to CPR 65.5(2)(b).

[58] I am grateful to counsel for their written submissions.

Esco L. Henry
HIGH COURT JUDGE

By the Court

Registrar

¹⁷ Cap. 24 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009.