

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE**

GRENADA

**CLAIM NO. GDAHCV2023/0261
(FORMERLY CLAIM NO. GDAHCV2020/0467)**

BETWEEN:

DELROY WALKER

Claimant

and

**DARREL JEFFREY
DERON JEFFREY**

Defendants

Appearances:

Ms. Naiesha John-Diarra for the Claimant
No appearance by or for the Defendants

2024: November 14, 15.

ORAL DECISION ON ASSESSMENT OF DAMAGES

- [1] **MICHEL M:** The Claimant ("Mr. Walker") was assaulted and battered by the Defendants ("the Jeffreys") when they inflicted chop wounds to his head and lower back during an altercation on 2nd July 2016. Mr. Walker was subsequently taken to a hospital where his wounds were sutured and dressed and was transferred to the male surgical ward of the General Hospital where he was admitted and underwent x-ray.
- [2] After his release from the General Hospital, Mr. Walker visited a medical centre for follow-up care when his wounds were examined and antibiotics prescribed.
- [3] Mr. Walker subsequently commenced these proceedings against the Jeffreys seeking special and general damages for personal injuries he suffered as a

result of their assault and battery. The Jeffreys filed a defence to Mr. Walker's claim and the matter proceeded towards trial. At pre-trial review, summary judgment on the issue of liability was entered for Mr. Walker with damages to be assessed. The issue of liability having been concluded by the summary judgment, the only issue for the Court to determine on this assessment is how much in compensatory damages is due to Mr. Walker based upon the evidence he has adduced in proof of the special and general damages he has claimed.

[4] The parties previously filed their witness statements for the trial of this claim and an expert medical report was filed in relation to the injuries sustained by Mr. Walker. Mr. Walker filed written submissions together with authorities for this assessment of damages as directed by the judge at pre-trial review. The Jeffreys, however, did not file written submissions nor a notice of intention to be heard on assessment as directed at pre-trial review. The matter first came on for assessment of damages on 15th October 2024 and counsel for the Jeffreys appeared without his clients. The assessment of damages was adjourned to 14th November 2024. The Jeffreys nor their counsel appeared at the assessment of damages hearing on 14th November 2024. The assessment of damages therefore proceeded based on the evidence presented on behalf of Mr. Walker, the expert medical report and the applicable law.

[5] Mr. Walker filed a witness statement on his behalf, a witness statement of his mother, June Walker and a witness statement of his girlfriend, Surana Noel McQueen. Mr. Walker, Ms. Walker and Ms. McQueen all attended court for the assessment of damages and their witness statements were entered as their evidence in chief.

Special Damages

[6] In his statement of claim, Mr. Walker pleaded the following particulars of special damage:

(i)	Medication	\$10.00
(ii)	Medical fees	\$75.00
(iii)	Medical report	\$40.00

(iv)	X-ray	\$50.00
(v)	Loss of earnings	\$21,600.00
(vi)	Transportation	\$250.00
	Total	\$22,025.00

- [7] Special damages, or past pecuniary loss, are financial losses to the date of trial that can be calculated fairly precisely, for example past loss of earnings, past travel expenses, past care and the like. It is well established so as to be considered trite that special damages must be strictly pleaded, and proved. The learned authors of **Mc Gregor on Damages**¹ state:

“Where the precise amount of a particular item of damage has become clear before the trial, either because it has already occurred and so become crystallised or because it can be measured with complete accuracy, this exact loss must be pleaded as special damage.”

- [8] I will therefore consider each item of special damage claim by Mr. Walker.

Medication

- [9] In relation to the claim for medication, I note on the medical form attached to Mr. Walker’s statement of claim that a fee of \$10.00 is indicated for medication. Having further considered Mr. Walker’s evidence as set out in his witness statement, I am satisfied that he should recover this sum.

Medical Fees

- [10] In relation to Mr. Walker’s medical fees, exhibited to his statement of claim were three reports from New Life Medical Centre which each indicate that a fee of \$25.00 was paid. Having further considered Mr. Walker’s evidence as contained in his witness statement, I am satisfied that Mr. Walker has proved the loss of \$75.00 for medical fees and should be awarded this sum.

¹ 18th edn. at para 44-012.

Medical Report

- [11] In relation to the medical report, Mr. Walker stated that he paid the sum of \$50.00 for the report but has claimed the sum of \$40.00 in his claim. Mr. Walker did not provide a receipt for payment of the medical report and stated in his witness statement that through inadvertence or otherwise he lost some of his receipts due to the passage of time. Notwithstanding the absence of a receipt, based on Mr. Walker's evidence, I am satisfied that this was an expense he incurred as a result of the incident and that the sum of \$40.00 for a medical report is reasonable. I would therefore award Mr. Walker the sum of \$40.00 for the medical report.

X-ray

- [12] Mr. Walker did not provide proof of payment of the \$50.00 for an x-ray; however, having considered Mr. Walker's evidence and in the absence of any evidence to the contrary, I am satisfied that he would have had to incur the cost of an x-ray and I do not consider the sum of \$50.00 to be unreasonable. I would therefore award Mr. Walker the sum of \$50.00 for the x-ray.

Transportation

- [13] Mr. Walker resides in Conference and the General Hospital is in St. George's and the Medical Centre is located in Sauteurs. In his witness statement, Mr. Walker stated that he was picked up at the General Hospital by his girlfriend and his brother. He further stated that he had to travel by taxi from Conference to Sauteurs to have his wounds dressed at the medical centre and thus incur transportation costs. Mr. Walker stated that on average the taxi fare from St. George's to Conference is \$150.00 and from Conference to Mirabeau it is \$60.00.
- [14] Mr. Walker provided invoices for trips with his witness statement. In his witness statement he stated that he paid about \$360.00 in transportation costs. Mr. Walker, however, is only able to recover such sums in special damages as is specifically pleaded in his statement of claim. In his statement of claim, he sought special damages for transportation in the sum of \$250.00. Having

considered Mr. Walker's evidence and there being no evidence to the contrary, I am satisfied that he should be awarded the sum of \$250.00 for transportation costs as pleaded.

Loss of Earnings

- [15] In his witness statement, Mr. Walker stated that following the incident he spent one month in bed and during that time he was unable to work. He stated that at the time of the incident he was a farmer engaged in the trade of selling soursop earning on average \$800.00 daily. He stated that he therefore lost an income of approximately \$21,600.00.
- [16] Mr. Walker has provided no receipts, bank statements or documentary evidence to properly identify these past earnings. As I indicated previously, Mr. Walker stated in his witness statement that through inadvertence or otherwise, his receipts were destroyed due to the passage of time.
- [17] Mr. Walker, however, provided a bundle of invoices purportedly issued for the sale of soursop by his girlfriend and brother who he stated took over his customers and continued the trade of buying and selling soursop. He presumably provided the bundle of invoices to show the earnings he was most likely to make from the sale of soursop. These invoices are all from the year 2019 and 2020, some three to four years after the incident. The invoices range from \$364.00 to \$1,624.00 per sale of a quantity of soursop at \$4.00 per pound.
- [18] I find this evidence to be difficult to use to ascertain Mr. Walker's loss of income. First, as I stated, he provided no documentary evidence to show his past earnings. The bundle of invoices for the sale of soursop are for a period three to four years after the incident and Mr. Walker stated he was unable to work for a month after the incident. The invoices also do not reflect consistent daily sales, but periodic sales over a one-year period. There is no way of ascertaining constant daily earnings for a month.

[19] I entertain doubt that Mr. Walker would earn \$21,600.00 in a month from the sale of soursop based on the evidence he has presented. I consider it much more likely that he had periodic, albeit constant sales in a month.

[20] I do however accept Mr. Walker's evidence that he was unable to carry out his trade for a month after the incident and that he suffered loss of as a result, but the evidence to quantify the loss is lacking. Where loss has undoubtedly been suffered but not quantified, it is the duty of the Court to recognise the loss by an award that is not out of scale.² Doing the best that I can with the evidence of Mr. Walker which I consider to be lacking, I would award him the sum of \$8,000.00 for loss of earnings.

General Damages

[21] General damages for assault and battery are based on the same heads of damages such as pain and suffering and loss of amenities, loss of expectation of life and loss of earnings. Accordingly, general damages are normally assessed by reference to the well-known guidelines laid down in **Cornilliac v St. Louis**³ which, broadly speaking, compensate for actual injuries sustained, pain and suffering, loss of amenities and loss of pecuniary prospects.

[22] The learned authors of **Mc Gregor on Damages**⁴ also provide useful guidance on the approach to an assessment of damages on a claim for assault and battery. The learned authors state:

"In so far as an assault and battery results in physical injury to the claimant, the damages will be calculated as in any other action for personal injury. However, beyond this, the tort of assault affords protection from the insult which may arise from interference with the person. Thus a further important head of damage is the injury to feelings, i.e. the indignity, mental suffering, disgrace and humiliation that may be caused. Damages may thus be recovered by a claimant for an assault, with or without a technical battery, which has done him no physical injury at all. While damages for the injury to feelings may be given without their being classified as aggravated damages, it is usual

² Charlton Greer v Alstons Engineering Sales and Services Limited [2003] UKPC 46.

³ (1965) 7 WIR 491.

⁴ 18th ed para 37-001.

to find, in such authorities as there are, that the court does make its award one of aggravated damages.”

[23] Mr. Walker did not make a claim for aggravated damages and did not place any evidence before the Court as to any injury to feeling. Based on Mr. Walker’s claim, he has claimed general damages for pain, suffering and loss of amenities in relation to the personal injuries he suffered.

[24] It is recognized in our jurisdiction that in approaching an award for general damages, the practice is to “grant a global sum for general damages for pain and suffering and loss of amenities, considering these against the background of the nature and extent of the injuries sustained and the nature and gravity of the resulting impairment and physical disability.”⁵ There is no precise measure of the award and all that can be done is to award such sum within the broad criterion of what is reasonable and in line with similar awards in comparable cases as represents the Court’s basic estimate of the [claimant’s] damage”.

[25] It is well settled that in assessing general damages, the court has to consider: (1) the nature and extent of injuries suffered; (2) the nature and gravity of the resulting physical disability; (3) the pain and suffering endured; (4) the loss of amenities suffered; and (5) the extent to which the claimant’s pecuniary prospects have been affected.⁶

Nature and Extent of Injuries Suffered

[26] Mr. Walker was 34 years old at the time of the incident, having been born on 16th November 1981. Mr. Walker’s injuries are detailed in his witness statement and the expert report of Dr. Keishon Regis.

[27] In his expert report, Dr. Regis stated that Mr. Walker was seen and examined on 2nd July 2016 at Princess Alice Hospital. He stated that physical examination of Mr. Walker revealed a 10 cm laceration to the parieto-temporal region of the head. He further noted that there was bleeding from the wound with tenderness

⁵ Kathleen McNally v Eric Lotte and CITCO (BVI) Ltd. BVIHCV2001/0068 (delivered 2nd July 2003, unreported)

⁶ See Cornillac v St Louis (1965) 7 WIR 491.

to palpation. Dr. Regis further noted that there was also an 8 – 10 cm laceration to the right hip with bleeding and tenderness to palpation. He stated that swelling was noted in vicinity of the wounds.

[28] Dr. Regis stated that the 10 cm laceration that was noted to Mr. Walker's head was likely inflicted by a sharp object, e.g. a cutlass or knife, with moderate force being applied. He stated that the wound was sutured and the suture would be removed after about seven days. Mr. Walker received 11 stitches for this wound.

[29] Dr. Regis stated that complete healing whereby tissue strength would be at around 80% of normal would occur in two to three months. Dr. Regis further stated that as part of the healing process, scars could remain for many years. Dr. Regis noted that there was pain and minimal swelling in the vicinity of the injury. He explained that pain, swelling and redness are markers of inflammation which is the body's natural response to tissue injury.

[30] Similarly, Dr. Regis stated that the 8 cm – 10 cm laceration to Mr. Walker's right hip was likely inflicted by a sharp object with moderate force being applied. He stated that the wound was sutured and the suture would be removed in seven days. Mr. Walker received 10 stitches for this wound.

[31] Like with the other laceration, Dr. Regis stated that healing would take about two to three months and a scar could remain for many years after. There was pain and minimal swelling in the vicinity of injury. He noted again that pain, swelling and redness are markers of inflammation which is the body's natural response to tissue injury.

[32] Dr. Regis stated that Mr. Walker was given a voltaren injection for pain and later transferred to the General Hospital for further management. He stated that x-rays of the hip and skull were requested which were to have been done at the General Hospital.

[33] Dr. Regis stated that Mr. Walker was expected to have a good prognosis with regaining of full functioning of the body structures involved. He noted however, that scarring from the injuries were expected to remain indefinitely.

The nature and gravity of the resulting physical disability

- [34] Based on the medical report of Dr. Regis, it does not appear that Mr. Walker suffered any permanent physical disability, however he would have scarring at the site of the wounds indefinitely. Mr. Walker however still complaints of headaches and back pain.

Pain and suffering endured

- [35] As previously stated, Dr. Regis noted that there was pain and minimal swelling in the vicinity of Mr. Walker's injury.
- [36] In his witness statement, Mr. Walker detailed the pain he felt immediately after he was injured in the incident with the Jeffreys and during his recovery. He stated that after he was assaulted, his brother came to help him and told him he got chopped. He stated that his brother helped him and put him in his vehicle. He stated that he was in intense pain before becoming unconscious. He stated that he did not remember anything until he woke up in the Princess Alice Hospital. He stated that he was in excruciating pain whilst the sutures were being administered by the doctors at the hospital.
- [37] Mr. Walker stated that he was in intense pain whilst on the 40-minute drive in the ambulance to the General Hospital in St. George. Mr. Walker stated that at the General Hospital he was administered intravenous fluids (drips) he stayed at the General Hospital for a few hours and signed medical forms to be self-discharged. He stated that he was informed to continue medical treatment after leaving the Hospital.
- [38] Later, on or about 4th July 2016 he visited the New Life Medical Centre where his wounds were examined and he was prescribed antibiotics and ibuprofen. He was seen several more times at the centre and was informed on one occasion that his wounds had an infection and would need to take more antibiotics.

Loss of amenities suffered

- [39] Mr. Walker explained that after the incident he was unable to fully care for himself as he did prior to the incident and as a result he had to rely on the assistance and financial support from his family members for his daily necessities.
- [40] Mr. Walker stated that prior to the incident he enjoyed diving in the sea and the river, practicing martial arts, climbing trees, hiking and outdoor activities with his family and backflips. He stated that he is no longer able to enjoy these leisure activities as a result of the incident.
- [41] Mr. Walker stated that as a result of the incident he suffers from headaches and memory loss due to the trauma to his head and he has problems walking. He stated that he did not suffer from these issues prior to the accident.
- [42] Mr. Walker's girlfriend, Ms. McQueen, also stated in her witness statement that after the incident and during the time of his recovery, Mr. Walker was unable to bend and complained of headaches. She stated that he did not sleep in his bed and she had to get him a beach chair so he could sleep in an upright position.
- [43] Ms. McQueen also noted in her witness statement that Mr. Walker was active before the incident enjoying the leisure activities but that since the incident he was unable to enjoy those activities. She also noted that she has observed that since the incident Mr. Walker tends to forget things easily.
- [44] It is noteworthy that Dr. Regis does not state in his expert medical report that Mr. Walker suffered any loss of amenities as a result of the incident. It appears from his report that the only lasting effects on Mr. Walker would be scarring at the wound sites. The Claimant has therefore not provided medical evidence to support his contention of loss of amenities. The Court only has before it his evidence and that of his girlfriend, Ms. McQueen.

Effect on pecuniary prospects

- [45] Mr. Walker stated that he was in bed for one month after the incident and was unable to work. He explained that since the incident, he has been unable to continue the trade of buying and selling soursop and he continues to suffer from serious back pain and is unable to climb trees. He stated that he handed over his customers to his brother and his girlfriend to continue the trade of selling soursop. Mr. Walker further stated that because of the incident, he had to engage in animal husbandry which brings in a lower income to that of the sale of soursop.

Award of General Damages

- [46] Mr. Walker seeks a total award for general damages for assault and battery in the sum of \$190,000.00. Learned counsel for Mr. Walker submitted that the Court should award Mr. Walker the sum of \$70,000.00 for pain and suffering and \$20,000.00 for loss of amenities. To support this award, learned counsel for Mr. Walker submitted several decisions for the Court to consider comparable awards in making an award to Mr. Walker for pain suffering and loss of amenities. These cases are detailed in the written submissions filed by learned counsel for Mr. Walker on 19th August 2024.
- [47] I have read and considered all the cases submitted by learned counsel for Mr. Walker and have been guided by them where appropriate. I however did not find that the injuries received by the claimants in those cases were generally comparable to the present case. Whilst taking those cases into account, the Court, through its own efforts, found the following cases involving lacerations for review.
- [48] In **McLean v Byone**,⁷ the claimant was assaulted and was struck with a cinder block on the left side of his head. He sustained a 4 cm laceration to the left parietal region of the scalp. He was admitted to hospital and was off work for three months. A CT scan revealed no evidence of acute intracranial hemorrhage

⁷ Saint Vincent and the Grenadines claim no. 463 of 2006 (delivered 3rd July 2009, unreported).

or skull vault fracture. He was awarded the sum of \$15,000.00 in 2009 for pain suffering and loss of amenities.

[49] In **Herman Forde v Grenada Steel Works Ltd.**,⁸ the claimant, a truck driver, was a lawful visitor on the defendant's company's premises. Whilst at the back of the truck, some of the sheets being loaded slipped and struck the claimant leaving him trapped and hanging upside down. A piece of steel caught him in the leg and ran up into his leg whilst the galvanized sheets cut through the other side of the leg. The claimant was transported to hospital where his cuts were sutured. One hundred and ten stitches were required. He could hardly walk and could not weight bear. He was discharged from hospital but attended the outpatient clinic on a daily basis. He was unable to drive his truck for six (6) weeks. At trial the claimant stated that he still experienced pain and described himself as disabled and weak. He was unable to sit or stand for any length of time and walked with a limp. The court accepted that there was still some residual pain and discomfort. The claimant was awarded \$108,000.00 in general damages for pain, suffering and loss of amenities.

[50] In **Kathy Badenock v Coreas Hazells Inc.**,⁹ the claimant was walking into a store owned by the defendant when she cut her toe on a metal sink being displayed in the defendant's store. The claimant suffered a 2 cm laceration on the left great toe which impacted the hallicius longus tendon. The claimant underwent two surgical interventions. The wound healed with an elevated hypigmented, hypertrophic scar which required plastic surgery. She made a full recovery with just a normal scar remaining. The court found no evidence of physical disability and did not accept that such a small scar could have a debilitating impact on her social activities as alleged by the claimant. There was no impact on her pecuniary prospects. The claimant was awarded \$17,000.00 in general damages for pain suffering and loss of amenities.

⁸ GDAHCV2001/0629 (delivered 7th April 2004, unreported).

⁹ SVGHCV2013/114 (delivered 20th March 2014, unreported).

- [51] In the recent decision of **Solomon Brathwaite v Randy Lalsee et al**,¹⁰ the claimant and the defendants were in an altercation when he was assaulted by the defendants. The claimant was inflicted with chops wounds from a cutlass by the defendants. The claimant received lacerations to the right hand, right arm and abrasions to the back. He sustained a deep wound to the right hand resulting in damage to the palmar digital nerves to the right index and middle fingers and flexor and extensor tendon injuries in the right hand. The claimant's right hand was operated on under general anesthesia and during the operation it was observed that there was damage to a section of the flexor digitorum profundus (FDP) tendon to the right middle finger, section of extensor tendons to right index and middle fingers and nerve damage at the laceration site in the palm of the claimant's right hand. Repairs of nerve and tendons were performed to the right hand, his wounds were closed, and immobilization was done. The claimant was discharged from hospital but subsequently had a back slab removed in Trinidad less than a month later. The claimant's grip strength of the right hand was 70% of that of the left. As a result of the wounds he received, he had permanent scars on the right arm, right scapular region, right flank and right hand.
- [52] The Court awarded the claimant general damages of \$40,000.00 for pain and suffering and \$30,000.00 for loss of amenities suffered also considering the effect on his pecuniary prospects.
- [53] Having considered the evidence placed before the Court, aside from the scarring, the medical report did not speak to any long-lasting physical impairment from the assault, however there is clear evidence from Mr. Walker that he still suffers from the effects of the incident as he complains of back pain and headaches. Mr. Walker was fortunate to have been able to self-discharge from the hospital the following day and did not have to undergo any major surgery as the Claimant in **Solomon Brathwaite**, and the injuries he sustained were overall less severe. His injuries, however, are more serious than those in **McLean** and **Badenock**, mainly because he received serious lacerations in two different areas.

¹⁰ GDAHCV2022/0371 (delivered 6th May 2024, unreported).

- [54] Although Mr. Walker indicated that he has suffered loss of amenities, this is not borne out in the expert medical evidence he has placed before the Court. The report of Dr. Regis does speak to the effect of his injuries on the enjoyment of the things he did before. I, however, do take cognizance of the matters set out in Mr. Walker's witness statement as it relates to loss of amenities.
- [55] Mr. Walker's evidence as to his pecuniary prospects is wanting. He simply states he now has to do animal husbandry instead of the buying and selling of soursops and this earns him less. The injuries he received, however, would have an effect on the type of physical work he did before the incident. This will be kept in mind in making an award to the Claimant for general damages for pain suffering and loss of amenities.¹¹
- [56] In making an award to Mr. Walker, I have considered the nature and the extent of his injuries. He received serious chop wounds to his head and his back. He is still feeling the effects of those wounds to this day and it has affected his livelihood. Having considered the nature and extent of Mr. Walker's injuries, the scarring he received as a result of the injuries, the pain and suffering endured, and his evidence as to his loss of amenities, and the effects the assault and battery has had on his pecuniary prospects, and taking all these matters into account in considering awards made in comparable cases referred to in the written submissions on behalf of Mr. Walker and in the cases found by the Court, I would award Mr. Walker general damages of \$48,000.00 for pain, suffering, loss of amenities and diminution of pecuniary prospects.
- [57] I note that learned counsel for Mr. Walker in her written submissions was seemingly inviting the Court to make a separate award of \$100,000.00 for loss of future earnings.
- [58] As previously discussed, Mr. Walker has not properly substantiated his pre-accident earnings when he worked in farming selling soursop. Further, he has given no proper evidence as to his earnings after the incident. His only evidence

¹¹ See *Michael De Costo v Antigua Masonry Products Limited* ANUHCv2010/0456 (delivered 11th April 2012, unreported).

is that because of the incident, he had to engage in animal husbandry which brings in a lower income to that of the sale of soursop.

[59] Based on the evidence before the Court, it is virtually impossible for the Court to make a finding as to any loss of future earnings by Mr. Walker to make a separate award in this regard. The medical evidence of Mr. Walker taken together with the paucity of evidence as to his income does not support an award for loss of earnings, nor an award for loss of earning capacity (**Smith v Manchester** award).

[60] In support of this conclusion, the Court relies on the judgment of the Court of Appeal in **Terrence Amedee v Marcus Modeste**¹² where Michel JA at paragraph 16 of the judgment stated:

Loss of future earnings is the loss occasioned to an injured party consequent on his inability to work as a result of the injuries which he sustained or the diminution in his income consequent on his diminished capacity to work as a result of his injuries. **To qualify for this award, the injured party must satisfy the court by medical or other cogent evidence that he was rendered incapable of working or his ability to work was impaired to the extent that the income which he earned from his employment was lessened as a result of his injuries.** There was no such evidence in this case.” (Emphasis added).

[61] At paragraph 26 of the judgment, Michel JA went on to discuss an award for loss of earning capacity:

“On the actual facts and applicable law, it may well have been open to the Master to make an award for loss of earning capacity. Such an award is referred to as a **Smith v Manchester** award. In giving judgment in this Court in the case of **Steadroy Matthews v Garna O’neal**⁸ (BVIHCVAP2015/0019 (delivered on 16th January 2018) unreported). Michel JA stated the following:

“... a Smith v Manchester award is made in a situation in which the injured party is in regular employment at the date of the trial but has a partial disability resulting from the injury which puts him at a disadvantage in the labour market because he may lose his employment and may not be able to get another similarly-remunerated job. In such a situation, the English Court

¹² SLUHCVP2022/0001 (delivered 9th November 2023, unreported).

of Appeal in *Smith v Manchester* considered that it would be impractical to try to work out a multiplier and a multiplicand on which to arrive at an award for loss of earnings and that the better approach was to make an award to the injured party for loss of earning capacity consequent on the injuries sustained.”

- [62] Having considered the evidence before the court and the authorities, the court is unable to make a separate award to Mr. Walker in respect of any loss of earnings or loss of earning capacity. What the Court could do, which it has, is to have regard to the effect of the incident on Mr. Walker’s pecuniary prospects in making an award of general damages using the approach set out in **Cornillac v St Louis**.

Gratuitous Care

- [63] Learned counsel for the Claimant invited the court to make a modest award to Mr. Walker for gratuitous care. This was not specifically pleaded by Mr. Walker as special damages however, learned counsel for the Mr. Walker in her written submissions submitted that the Court can make such an award as part of general damages. The Court entertains doubt as to whether this is appropriate in relation to past care as a pre-trial loss rather than future care, however, Mr. Walker did plead in his statement of claim that after the incident he was unable to fully care for himself as he did prior to the incident and had to rely on the assistance and financial support from his family members for his daily necessities.
- [64] In my view, Mr. Walker, by pleading these fact,s would have placed the Defendants on warning that the compensation he was claiming would extend to domestic care.
- [65] In her witness statement, Mr. Walker’s girlfriend, Ms. McQueen stated that she had previously helped Mr. Walker selling soursops but after the incident, Mr. Walker was unable to take care of himself and therefore she stayed home to care for him and could not work. I accept this evidence.
- [66] Mr. Walker in his claim did not place a value on the domestic care he received, however, I believe a nominal award of \$1,000.00 for gratuitous care would be

reasonable. This would not be an award to Mr. Walker, rather he is expected to hold the award on trust for Ms. McQueen.¹³

Interest

- [67] Mr. Walker is awarded interest on his awards of special damages and general damages. In making an award of interest, the Court is guided by the judgment of the Court of Appeal in **Terrance Amedee v Marcus Modeste**.

Costs

- [68] Mr. Walker is entitled to prescribed costs in accordance with Part 65 of the **Civil Procedure Rules (Revised Edition) 2023**.

Disposition

- [69] In light of the foregoing, the Jeffreys shall pay Mr. Walker the following:
- (1) Special damages in the sum \$450.00 together with interest at the rate of 3% per annum from the date of each of the expenses allowed (\$10.00 for medication; \$75.00 for medical fees; \$40.00 for medical report; \$50.00 for x-ray; \$250.00 for transportation) to the date of this order.
 - (2) Nominal damages of \$8,000.00 for loss of past earnings together with interest at the rate of 3% per annum from 3rd August 2016 (one month after the accident) to the date of this order.
 - (3) General damages for pain suffering and loss of amenities in the sum of \$48,000.00 together with interest at the rate of 6% per annum from the date of service of the claim to the date of this order.
 - (4) The sum of \$1,000.00 for gratuitous care together with interest at the rate of 3% per annum from the date of the incident to the date of this order.
 - (5) 75% of prescribed costs on the global award in accordance with rule 65.5 of the Civil Procedure Rules (Revised Edition) 2023 and CPR Part 65, appendices B and C.
 - (6) Post judgment interest at the rate of 6% per annum until payment in full.

¹³ See Halsbury's Laws of England at para. 451.

[2] I wish to thank learned counsel for the Claimant for her assistance to the Court.

Carlos Cameron Michel
High Court Master

By the Court

Registrar