

THE EASTERN CARIBBEAN SUPREME COURT

**IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION**

SAINT LUCIA

**Case Number: SLUHCV2023/0233 formerly
SLUHCV2019/0326**

BETWEEN:

**[1] JOANNA LOUIS
[2] ROSELLA PIZEY**

Claimants

-and-

**[1] CASTRIES CONSTITUENCY COUNCIL
[2] POLICE OFFICER 573 JN BAPTISTE
[3] CITY POLICE OFFICER NO 14 ESTAVOR PROMESSE
[4] CITY POLICE OFFICER NO 22 MINDI ALCINDOR**

Defendants

Before the Honourable Mr. Justice Alvin Pariagsingh

Appearances: Mrs. Lydia Faisal and Ms. Mertle for the Claimants.
No appearance for the First Defendant at 1:10pm

2024: November 14

**ORAL JUDGMENT REDUCED INTO WRITING
Claimants' Assessment of Damages**

- [1] **PARIAGSINGH, J:** Before the Court is the Claimants assessment of damages pursuant to an order granting them judgment after an uncontested trial conducted on 26 September 2024. The claim was discontinued against the Second Defendant on the basis that there was no proper service on him. The Second, Third and Fourth are all servants and/or agents of the First Defendant, their employer.
- [2] At the trial and at the assessment, the First, Third and Fourth Defendant did not attend or participate despite being present when directions were given and the matter fixed for trial. These are the reasons for my decision on the Claimants assessment of damages.
- [3] Based on the facts provided in the case, the claimants, the Claimants, are entitled to damages for the unlawful actions carried out by the police officers involved in their arrest

and detention. The actions of the defendants particularly the unlawful arrest and detention of the claimants, the excessive force used, and the distress caused form a clear basis for compensation.

- [4] The facts clearly establish that both Claimants were unlawfully arrested and detained. The First Claimant was subjected to handcuffing, physical restraint, and forced into a police vehicle, all without reasonable cause. The First Claimant's shop was left unsecured, and she was not allowed to attend to her business, resulting in further financial losses. Additionally, she was detained for 17 hours in inhumane conditions, suffering further distress from the soiled state of her clothes and the unsanitary cell she was placed in. Similarly, the Second Claimant was arrested and detained for 13 hours, further exacerbating the emotional toll on both Claimants.
- [5] The Claimants were released without charge, further indicating the absence of legal justification for their detention. This pattern of unlawful detention, compounded by the lack of any charge or evidence of wrongdoing, provides a clear basis for the claims of false imprisonment.
- [6] The cases referenced in the judgment such as **Malcolm Payne v. Chief Magistrate**¹ and **Damon James et al v. The Attorney General**² clearly demonstrate that damages are awarded for false imprisonment. The length of detention, as well as the manner of arrest, including the embarrassment, indignity, and distress caused, justifies the damages sought by the Claimants. The Claimants' entitlement to compensation for unlawful detention is strong, given the clear absence of lawful grounds for their arrest. The sums claimed are allowed as they are both reasonable and justifiable.
- [7] The First Claimant suffered significant emotional and physical distress due to the manner of her arrest, which resulted in a miscarriage. While damages for the loss of the fetus itself may not be awarded under typical circumstances, the pain and suffering endured as a result of the excessive force used during the arrest coupled with the subsequent medical issues leading to the loss of the pregnancy should be compensated. The medical report and the First Claimant's own testimony illustrate the direct correlation between the force used during the arrest and her physical trauma, including the pain in her abdomen and the eventual miscarriage.
- [8] The cases referenced, including **Cindy Marti et al v. Mineral Springs Hospital et al**³ and **Bekke v. Spence**⁴, indicate that damages for emotional suffering and the loss of a

¹ ANUHCv2001/0261

² SVGHCv2007/0296

³ 2001 ABQB 586

⁴ [1996] O.J. Capital No. 1007 [Ont. Gen. Div.]

foetus can be justified if linked to physical injury, which, in this case, appears to be the result of the unlawful actions of the police officers. The claim for general damages for pain and suffering is reasonable and justified based on the claimant's experience, which was not only physically painful but emotionally devastating.

- [9] Special damages must be specifically pleaded and proven. The sum claimed in this case by the First Defendant is specifically pleaded. Some of losses suffered are not in the nature of being able to be specifically proven. The Court has a discretion to permit items of special damages even when they are not specifically proven when the loss flows from the tortious act and is reasonable. The claim for special damages relating to the First Claimant's financial losses is justifiable.
- [10] The First Claimant was prevented from securing her business, leading to the loss of cash and stock, including broken bottles of beer. While proving the exact amount of the losses may be difficult, the First Claimant's explanation in her evidence of the circumstances surrounding the incident and the fact that she was unable to secure her shop provides a sufficient basis for an award. The modest sum of \$1,376, representing the lost cash and damaged stock, seems reasonable given the disruption caused by the arrest and the First Claimant's inability to care for her business. Accordingly, these sums are allowed.
- [11] Given the high-handed and unnecessary use of force, as well as the prolonged distress endured by both Claimants, it is also reasonable to award aggravated and exemplary damages. The conduct of the officers was not only unlawful but also excessive, causing unnecessary physical pain and emotional harm. The Claimants were subjected to public humiliation and emotional distress, and the manner of their arrest particularly the physical handling of the First Claimant and the disregard for her dignity calls for compensation beyond mere restitution for direct losses.
- [12] The cases of **Raymond Warrington and Kari Peters v. Cleville Mills and Dean Enville A.K.A Brian Enville v. The Honourable Attorney General** ⁵ indicate that aggravated damages should be awarded in instances of humiliation, distress, and unnecessary physical harm. The public nature of the arrest in a busy area like Jeremie Street only intensifies the Claimants' need for compensation for their loss of dignity and the emotional toll the event caused. The sums claimed are both justified and reasonable.

⁵ DOMHCV2006/0038

INTEREST:

- [13] Pre-Judgment interest will attract on the awards made, save and except the awards for aggravated and exemplary damages, at the rate of 3% per annum from the date of the indicate (for special damages) and from the date of filing (for general damages) to today. Interest shall accrue on all sums at the rate of 6% per annum from today's date to the date of satisfaction of the debt.

COSTS:

- [14] The Claimants are entitled to their costs of this claim. These costs will be assessed on the prescribed scale using the value of the claim as the value of the awards made plus all pre-judgment interest.

CONCLUSION:

- [15] The Claimants are entitled to compensation for the unlawful actions of the police officers. The unlawful arrest, excessive use of force, and distress caused by their actions justify both special and general damages. The award of damages should reflect not only the financial losses sustained due to the shop being left unsecured but also the physical, emotional, and psychological harm caused by the unlawful and humiliating treatment the Claimants endured.
- [16] The claims for aggravated and exemplary damages are warranted given the level of distress, pain, and humiliation experienced by the Claimants during their unlawful arrest and detention. The sum of \$55,000 for the First Claimant and \$40,000 for the Second claimant, as requested, is not excessive when considering the violation of their rights and the distress caused by the unlawful actions of the police.
- [17] In light of the case facts, the legal precedents, and the emotional and physical suffering the claimants endured, the court should consider awarding the relief sought in the claim to appropriately compensate the claimants for their losses and suffering.
- [18] On the issue of aggravated damages, the First Claimant is entitled to aggravated damages in the sum of \$10,000.00 and Second Claimant in the sum of \$5,000.00.

ORDERS:

[19] For these reasons I make the following orders:

- 1) The First, Third and Fourth Defendants shall pay the First Claimant damages and costs assessed as follows:
 1. Special damages in the sum of **\$1,376.00** together with pre-judgment interest at the rate of 3% per annum from the date of the incident (2 September 2017) to the date of judgment (14 November 2024) (2,630 days in the sum of **\$298.57**) and thereafter, interest is to accrue at the rate of 6% per annum from today to the date of satisfaction of the judgment debt;
 2. General damages for assault, trespass to the person and trespass to property in the sum of **\$50,000.00** together with pre-judgment interest at the rate of 3% per annum from the date of the filing of the claim (26 June 2019) to the date of judgment (14 November 2024) (1,966 days in the sum of \$8,079.45) and thereafter, interest is to accrue at the rate of 6% per annum from today to the date of satisfaction of the judgment debt;
 3. General damages for unlawful arrest and detention in the sum of **\$55,000.00** together with pre-judgment interest at the rate of 3% per annum from the date of the filing of the claim (26 June 2019) to the date of judgment (14 November 2024) (1,966 days in the sum of **\$8,887.40**) and thereafter, interest is to accrue at the rate of 6% per annum from today date to the date of satisfaction of the judgment debt;
 4. Aggravated and exemplary damages in the sum of **\$10,000.00** with no pre-judgment interest but with post- judgment interest at the rate of 6% per annum from today's date to the date of payment.
 5. Costs on the prescribed scale on the value of the awards made, including pre-judgment interest (total award plus pre-judgment interest to the date of judgment **\$133,641.42**) calculated in the sum of **\$21,705.18** together with post judgment interest at the rate of 6% per annum from today's date to the date of payment of the debt.

2) The First, Third and Fourth Defendants shall pay the Second Claimant damages and costs assessed as follows:

1. Damages for unlawful arrest and detention in the sum of **\$40,000.00** together with pre-judgment interest at the rate of 3% per annum from the date of the filing of the claim (26 June 2019) to the date of judgment (14 November 2024) (1,966 days in the sum of **\$6,463.56**) and thereafter, interest is to accrue at the rate of 6% per annum from today's date to the date of satisfaction of the judgment debt
2. Aggravated damages in the sum of **\$5,000.00**, with no pre-judgment interest but with post-judgment interest at the rate of 6% per annum from today's date to the date of payment.
3. Costs on the prescribed scale on the value of the awards made, including pre-judgment interest (total award plus pre-judgment interest to the date of judgment **\$51,463.56**) calculated in the sum of **\$10,219.53** together with post judgment interest at the rate of 6% per annum from today's date to the date of payment of the debt.



**Alvin Pariagsingh
Judge**

By the Court,

Registrar