

FEDERATION OF SAINT CHRISTOPHER AND NEVIS
NEVIS CIRCUIT

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CIVIL)

CLAIM NO NEVHCV2010/20

BETWEEN:

NORRIS FYFIELD

Claimant

AND

[1] GLENROY STEVENS

[2] FOOD CENTER LTD

Defendants

Appearances:

Mr Jason Hamilton for Claimant

Mr Adrian Scantlebury for the Defendants

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2011: March 15; May 3; May 4;
2012: July 3
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Judgment on Assessment of Damages

- [1] LANNS, M: This is an assessment of damages in a claim in negligence arising from a vehicular accident. The issue of liability was determined on 27th July 2010 when judgment was entered against the Defendants for damages to be assessed.
- [2] Norris Fyfield's Motor Vehicle was declared a write off following a collision between his vehicle, which was at the time driven by him, and a Motor Van owned by Food Center and driven by Glenroy Stevens. The collision occurred on 21st October 2009 along the Island Main Road, in the vicinity of West Farm.

The issue

- [3] The main issue to be determined is what amount of damages should the court award to Mr Fyfield?

The measure of damages

- [4] The true measure of loss and damage in a case of this nature must be the difference in the value of the motor vehicle, pre and post accident and not the replacement value, and any consequential loss claimed as a result of the collision.
- [5] Mr Fyfield is entitled to be put in a similar position to that which he would have been in had his vehicle not been damaged. The concept has been referred to as *restitutio in integrum*.

Special damages

- [6] Mr Fyfield seeks to recover special damages in the sum of \$50,350.00 made up as follows:-

(a)	Post Accident Value of motor car	\$ 31,000.00
(b)	Loss of 16 weeks earnings as a sales man from 21 st October 2009 to 1 st February and continuing	\$ 3,600.00
(c)	Cost of hiring vehicle at \$150.00 per day from 24 th October 2009 to 31 January 2012 and continuing	\$ 14,000.00
(d)	Rental of yard space for storage of damaged vehicle From 21 st February 2009 to 2 nd February 2010 at \$10.00 a day and continuing	<u>\$ 1,050.00</u>
Total		<u>\$ 50,350.00</u>

- [7] The obligation rests on Mr Fyfield to prove the special damages which he claims.

The Claimant's evidence

- [8] Norris Fyfield gave evidence through his witness statement. He was cross-examined extensively by Mr Scantlebury, Defendants' counsel.

- [9] Shefton Fyfield, a motor mechanic also gave evidence on behalf of Norris Fyfield.

Pre and Post Accident Value of Motor Car:

- [10] Before the court are four valuation reports in respect of Norris Fyfield's motor car. It appears that of the four, three were furnished on behalf of the Claimant, and two on behalf of the Defendants.

- [11] The Claimant's first valuation report was prepared on 23rd October 2009 by Shefton Fyfield of H & H Auto Body Shop. Mr Fyfield certified that he worked on the vehicle for the past year, and that the vehicle was in very good working condition. He identified the parts that were damaged and needed replacement as the trunk, the rear bumper, the right left and in quarter panel and chassis which was bent. He stated that the cost to repair the vehicle outweighs the actual value of the vehicle. According to Mr Fyfield, the pre-accident cost was \$40,000 and the post accident cost is \$10,000.00. Accordingly, he considered the vehicle a total write off.

(NB. No estimate of the cost to repair the vehicle.)

- [12] The Claimant's second valuation report was prepared on 3rd November 2009 by David Huggins of Huggins Auto Services. Mr Huggins reported that he examined the Claimant's vehicle. He certified that extensive damages was done to the rear section of the vehicle, including trunk lid and finisher, back panel, spare wheel tray, left hand chassis rail, left-hand quarter panel, license plate light and finisher. He opined that the vehicle is considered to be uneconomically repairable. He estimated the pre-accident value at \$35,000.00 and the post accident value of value at \$4,000.00.

No indication as to whether or not he worked on the vehicle before the accident

- [12] The Claimant's third valuation report was also prepared on 3rd November 2009. This valuation was done by Mr Sinclair Hanley of Hanley's Automotive Engineering Co Ltd. According to Mr Hanley's report, there was severe damage to the LH Chassis and the spare wheel panel. The trunk lid, Emblem, LH Rear lamp LH Lamp in Trunk Rear Bumper and Bumper Reinforcement all needed replacements.

- [13] Mr Hanley concluded his report by indicating that the vehicle sustained serious damage and valued approximately \$36,000.00.

[Did he ever work on the vehicle? Why is he silent on the post accident value of the vehicle—why no estimate for repairs

- [14] According to Mr Hanley's Report, Mr Hanley's estimated the SNIC'S first valuation report was prepared by Trevor Cornelius of Men at Work Auto Body Repair Clinic & Motor Vehicle Inspection. It is dated 12th August 2009. Mr Cornelius estimated the pre-accident value at \$20,000.00 and the Salvage value at \$1500.00.

- [10] The third valuation report was prepared on 28th October 2009 by Stanley Grant of Grant's Auto Tech. Mr Grant estimated the pre-accident value at \$23,000.00 and the salvage value at \$5000.00.

Ms Fyfield seeks to recover the sum of \$31,000 as the post accident value of his motor car; and \$81,000.00 for loss of profits from 9th August 2009 to 17th August 2010 being 54 weeks at \$1500.00 per week for a total of \$112,000.00 claimed for special damages.

- [8] The obligation rests on Ms Liburd to prove the special damages which she claims.