

TERRITORY OF ANGUILLA

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

CLAIM NO AXAHCV2011/0059

BETWEEN

RALEIGH PETERS

Claimant

AND

ALAN GUMBS

Defendant

Before Master Pearletta E Lanns
Dated 12th December 2011

Appearances

Ms Paulette Harrigan for Claimant
Mr Alan Gumbs in person

Assessment of Damages

[1] **Lanns, M:** On 18th September 2008, the Claimant was mounting a pavement in Stoney Ground, when he was struck down by a motor vehicle Registration Number P 6000 driven by the Defendant. The Claimant sustained injuries described as:

- (i) Concussion with Loss of Consciousness
- (ii) Cerebral Contusion with contrecoup injury
- (iii) Skull fracture

- (iv) Axonal Shear Injury
- (v) Partial Complex Seizures with generalization and loss of consciousness
- (vi) Cervical and lumbo-sacral radiculopathy
- (vii) Left Rotator Cuff Injury
- (viii) Left Knee focal dysfunction
- (ix) Unrelated mild peripheral neuropathy.

[2] On 1st September 2011, the Claimant commenced proceedings against the Defendant alleging negligence and claiming damages for the loss and damages suffered as a result of the accident.

[3] The Defendant did not acknowledge service or file a defence. As a consequence of which judgment in Default of Acknowledgement of service was entered against him for damages to be assessed. This is the assessment.

[4] UPON this matter coming on for assessment of damages following entry of Judgment in Default of Acknowledgment of Service and Defence; AND the court being satisfied that the judgment was validly obtained; AND upon considering the evidence, submissions and authorities in support of the assessment; And taking into account the age of the Claimant, the nature and extent of the injuries sustained by him, the nature and gravity of the resulting physical disability; the pain and suffering endured; his loss of amenities, the extent to which his pecuniary prospects have been affected; And being guided by comparable cases such as

- (i) **Lincoln Carty v Lionel Patrick**- Claim No SKBHCV1998/0054, delivered 29TH June 2009;
- (ii) **Randy James v Leroy Lewis et al** Claim No ANUHCv 2007/0403 delivered 31st July 2009;
- (iii) **Bernice Jeremiah and Talitha Jeremiah v Royston Gilbert et al** GDA HCV2008/0038; delivered in 2010

It is hereby ordered that damages are assessed as follows:

- | | | |
|-----|--|-----------------------|
| [1] | Special damages | EC\$ 27,598.05 |
| [2] | General damages | |
| | (a) Pain and suffering and loss of amenities | EC\$155,000.00 |
| | (b) Loss of earning future earning capacity | EC\$ 75,000.00 |
| | (c) Future medical expenses | |
| | (i) Physiotherapy | EC\$ 960.00 |
| | (ii) Surgery and associated expenses | EC\$ 48,409.83 |
| | (iii) Medication (EC\$308 x 12 x 10) = | EC\$ 36,960.00 |
| | (iv) Future care EC\$600.00 x12 x 5 = | <u>EC\$ 36,000.00</u> |
| | Total general damages | EC\$352,329.83 |
- [5] Interest at the rate of 2.5 per cent per annum on the sum of EC\$27,598.05 from the date of the accident to today 13th December 2011;
- [6] Interest on the sum of \$155,000 from the date of service of the claim to today 13th December 2011.
- [7] Post judgment interest on the total judgment sum of EC\$379,927.88 at the rate of five per cent per annum from today's date until date of final payment.
- [8] Costs agreed in the um of EC\$22,795.00.

Pearletta E. Lanns
Master