

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CS 32/2014

[2014] SCSC 295

CECILE MARIA

Plaintiff

versus

MRS. MARY-MAY VALENCIA

Defendant

Heard: 4 August 2014
Counsel: Mr. J. Renaud for plaintiff
Defendant – Not Available
Delivered: 4 August 2014

JUDGMENT

Karunakaran J

[1] The plaintiff in this matter by a plaint dated the 22nd of October 2013 came before this Court claiming the sum of Rs.1,506,000/- against the defendant for loss and damages which she allegedly suffered as a result of a fault committed by the defendant. The defendant was duly served with a summons. However, the defendant despite service defaulted appearance. Hence, the Court granted leave for the plaintiff to proceed with an ex-parte hearing.

- [2] On the strength of the uncontroverted evidence adduced by the plaintiff ex-parte in this matter, I am satisfied of the following facts;-
- (i) At all material times the plaintiff was a pedestrian and the defendant was the owner of a motor vehicle registration number S14253.
 - (ii) On the 21st July 2012 the said motor vehicle registration number S14253 while driven by the defendant hit the plaintiff, who at that time was walking by the pavement opposite Chez Deenu Supermarket; and
 - (iii) As a result of the negligent operation of the motor vehicle by the defendant at the material time, the plaintiff suffered injury to her coccyx and she had to undergo medical treatments.
- [3] As a result of the accident, I find that the plaintiff did suffer loss and damage for which the defendant is bound in law to make good.
- [4] I carefully perused all the medical reports produced by the plaintiff in this matter. On the strength of the medical reports, I am satisfied that the plaintiff was seen in the SOPD on the 17th of December 2012 by the physician for a scheduled visit. During this visit the plaintiff complained of lower back pain and was referred to an orthopaedic surgeon for evaluation. She was seen by an orthopaedic surgeon on the 14th January 2013 in the SOPD. Physical examination revealed tenderness in the coccygeal area and an X-ray of the lower back revealed a dislocation of the coccyx. She was subsequently treated with some simple analgesics.
- [5] Also, I carefully perused the police report dated the 16th April 2013, which clearly shows that the plaintiff while walking by the pavement at Quincy Street opposite Chez Deenu Supermarket was hit by the defendant's car while she was driving the said vehicle. Furthermore, I am satisfied that the defendant did not stop nor did she report the accident either to the police or to the insurance company.
- [6] In view of all the above, I am satisfied more than on a balance of probabilities that the plaintiff suffered bodily injuries as a result of the negligent operation of the vehicle S14253 driven by the defendant Mrs. Mary-May Valencia of Pointe Aux Sel, Mahe,

Seychelles. However, when I look at the particulars of loss and damages it appears to me that the amounts claimed are exaggerated. Having taken into account the entire circumstances of this case, I award the following sums which I believe reasonable and appropriate in this case.

[7] (1) In respect of damage;-

(i) For tenderness in the coccygeal area;

(ii) Dislocation of coccyx;

(iii) The serious pain she suffered from injury to coccyx;

(iv) The general pain and discomfort when sitting with the injury; and

(v) The prognosis of the fact that this injuries might eventually worsen her conditions and there is a possibility it might even lead to paralysis.

[8] For all the above injuries I award a global sum of Rs.300,000/-

[9] (2) In respect of inconvenience, anxiety, distress, lack of amenities and moral damage I award globally the sum of Rs.200,000/-.

[10] (3) In respect of loss allegedly suffered by the plaintiff for medical report, I award Rs.1000/- , and for the cost of transport I award Rs.5000/-.

[11] In summing up, I enter judgment for the plaintiff and against the defendant in the total sum of Rs.506,000/- with interest on the said sum at 4% per annum, the legal rate, as from the date of the plaint and with costs.

[12] Judgment entered for the plaintiff accordingly.

Signed, dated and delivered at Ile du Port on 4 August 2014

D Karunakaran
Judge of the Supreme Court