

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CS 233/2010

[2015] SCSC 74

VALENCIA CAMILLE

Plaintiff

Versus

JOHN JOSEPH – 1st Defendant

SEYCHELLES PUBLIC TRANSPORT CORPORATION – 2nd Defendant

Defendant

Heard: 4 February, 2015

Counsel: Mr. Nichol Gabriel for the plaintiff

Mr. Kieran Shah for the defendants

Delivered: 18 March 2015

JUDGMENT

McKee J

- [1]** On 16th October 2009 the Plaintiff was a passenger in a bus driven by the 1st Defendant and owned by the Second Defendant. The 1st Defendant is an employee of the 2nd Defendant. On the said date in the course of a journey on the Sans Soucis Road, Mahe the bus overturned resulting in injury to the Plaintiff. Liability is admitted.

- [2] The Plaintiff claims damages based on vicarious liability. The only dispute is the quantum of damages to be awarded to the Plaintiff in this matter.
- [3] As a result of the overturning of the bus the Plaintiff suffered injuries. A medical report is submitted in support of this claim and is referred to for its terms. There were detailed written Submissions made by Counsel for the Plaintiff and Counsel for the Defendants. Each Counsel submitted legal authorities for consideration.
- [4] The medical report dated 24th February 2010, that is, some 4 months after the incident, intimates that the Plaintiff was seen by a medical practitioner on the same day as the incident occurred.
- [5] The medical report read as follows;
- [6] “The above named [Valencia Camille-the Plaintiff] was seen in Casualty on 16/10/2009 after involvement in a Road Traffic Accident. She was travelling in an SPTC bus which allegedly overturned. She sustained injury to the head and was complaining of pain and swelling on the left side of face and bleeding from the left ear.
- [7] On examination she was fully awake with no neurological deficit. She had a localized swelling on the left frontal area with some tenderness. She had a small superficial laceration of the left pinna but no bleeding from the inside the ear. There was no other evidence of injury to the rest of the body.
- [8] A CT Scan of the head chest and neck were done and were all normal. She was started on some simple analgesia and admitted for neurological observation which was completely uneventful. She was discharged the next day to be followed up in her local clinic.

- [9] She represented to Casualty on 29/10/09 [*i.e. some 2 weeks after the incident*] and 15/12/09 [*some 8 weeks after the incident*] complaining of pain and swelling in her left knee. Examination of the knee each time was unremarkable and X-ray of the same knee was normal. She was given further analgesia and referred for physiotherapy.”
- [10] There was no further medical report.
- [11] I find that when the bus overturned and came to a sudden halt the Plaintiff’s head came into contact with a hard object in the bus causing injury to the left side of her head and left ear. At the time of first visit to the hospital she did not complain of pain in her knee and it is difficult to make a definitive finding that this later complaint of discomfort resulted from the incident. The period of time between the date of the incident and return to the hospital was too long to infer a direct connection.
- [12] I find that the Plaintiff did not suffer from any continuing medical condition as a result of the injuries sustained on 16th October 2009.
- [13] In respect of the personal particulars of the Plaintiff, on the date of the incident, she was twenty four years of age. There are no further particulars of her personal circumstances or family background. There is no evidence that she had been employed prior to or at the time of the incident, or if she was, the dates of employment or earnings. There is no evidence before the Court of educational qualifications or prospects of future work and earning capacity. In view of the paucity of information I make no award in respect of special damages. However in respect of general damages the Appellant is on firmer ground.
- [14] The Plaintiff is entitled to an award of damages or compensation for the pain and suffering resulting from the incident. The Plaintiff suffered two injuries to the head, none of which was serious. There was no loss of faculty. The Plaintiff spent a precautionary night in hospital and I have taken this into account in my assessment of damages. In my

view, the injuries could not be considered serious. I have considered the nature of the injuries and the general range of previous awards as submitted.

[15] In the event I consider that an award in damages of RS 20,000 would be appropriate, fair and reasonable in all the circumstances.

[16] THUS, I enter Judgment for the Plaintiff against the Defendants in the total sum of RS20, 000 with interest on the said sum at 4 % per annum – the legal rate - as from the date of the Complaint, and with costs.

Signed, dated and delivered at Ile du Port on 18 March 2015.

C McKee
Judge of the Supreme Court