

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CS 80/2015

[2017] SCSC 158

NADIN DODIN
Plaintiff

versus

JONATHAN GEERS
Defendant

Heard: 21st of February 2017
Counsel: Mr. Durup for the plaintiff
Mr. Derjacques for the defendant
Delivered: 21st of February 2017

JUDGMENT

Nunkoo J

- [1] The plaintiff is claiming R800, 200.000 as damages from Defendant following a road accident in which he was injured. He is alleging that Defendant was negligent and therefore liable to compensate him.
- [2] The facts alleged are as follows. On 7th December 2014, around 3 am, the defendant collided with his car from the opposite direction. This happened at Bois de Rose, Victoria.
- [3] The claim is as follows:

Moral damages for pain, suffering, distress, discomfort, disability, shock and anxiety - Rs 800,000.00

Medical Report - Rs. 200.00

- [4] Medical evidence was adduced in respect of the injury and the treatment as well as its sequel. Plaintiff had received injury in his knees and in his eyes.
- [5] Plaintiff called the ophthalmologist, Dr Rolland Barbe, who had treated the plaintiff. He stated that the plaintiff upon examination was found to have sustained a laceration in the right eye on the eyebrow and the upper lid. The wound was sutured and when he was last examined in July the wound had healed.
- [6] But he noted there was inversion at the level of the eyelashes and about three or four were inverted and this had to be removed from time to time. He also noted that there was some misalignment of the upper lid in the right eye and this would require epilation every two to three months. He confirmed that there was no problem with the vision of the eye except for the fact that the eyelash caused a new sense and this would require regular epilation.
- [7] The next witness was the orthopedic surgeon who explained that the injury in the right knee required surgery as X-ray revealed that he had sustained a fracture of the patella. Plaintiff was hospitalized for four days. He also stated that the plaintiff has recovered but he may suffer pain when climbing stairs and his knee may become swollen. He also stated that such patients develop osteoarthritis.
- [8] The plaintiff described his injury and showed the knee. He admitted having recovered but stated to the court that he could not run as before and that he had to go for epilation of the eyelashes regularly.
- [9] Liability is admitted by the Defendant and the only issue is the quantum of damages. Counsel for defendant failed to make any submission on this issue though he was given adequate opportunity to do so.
- [10] Counsel for plaintiff has submitted on the quantum. He has referred the court to the following cases: *Farabeau Casamar Seychelles Ltd (2012) SLR 170* where for almost

similar injury, moral damages for pain and suffering, distress and inconvenience, loss of amenities and permanent disability in the amount of Rs. 350,000.00 was awarded.

[11] Counsel for plaintiff has also drawn the attention of the court to the fact that there is an upward trend in the assessment of damages in view of rising inflation. The court does take judicial notice of this fact.

[12] The plaintiff has also suffered injury to his eye lid which will not heal completely and will require to regular treatment.

[13] Judgment is hereby given in favour of the plaintiff for the sum of Rs 760,200.

Signed, dated and delivered at Ile du Port on 21st of February 2017.



S Nunkoo
Judge of the Supreme Court