

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: 55/2015

Civil Side : 43/2015

[2017] SCSC 9

MARYLENE MARIA
Of Beau Vallon, Mahe Seychelles

PLAINTIFF

Versus

HEALTH CARE AGENCY
Represented by the Attorney General
Of Seychelles

FIRST DEFENDANT

And

GOVERNMENT OF SEYCHELLES

SECOND DEFENDANT

Heard: 9 November 2016
Counsel: Mrs Natasha Burian for Plaintiff
Ms Michelle St Ange for Defendants
Delivered: 16 January 2017

- [1] This action was originally commenced under two separate case files, namely, CS 0043-2015 and CS 0055-2015, but there was consolidation of the separate actions by consent. This was right and proper since each plaint recorded the same plaintiff and the same facts and circumstances from which the claim arose. The First Defendant was sued in its capacity as the body corporate providing medical services and health care on its premises at North East Point, Mahe. The Second Defendant is brought into the action since the First Defendant falls within the responsibility of Ministry of Health which is a Department of the Government of Seychelles. Defences were lodged on behalf of both Defendants.
- [2] On further consideration of the issues the First and Second Defendants admitted liability. Parties were unable to agree the appropriate quantum for an award of compensation in favour of the Plaintiff and accordingly I heard evidence from the Plaintiff and also Doctor Rodriguez Barrios a private medical practitioner, who also produced his two medical reports dated 20th and 28th January 2015. Thereafter each Counsel made submissions in writing to the Court in respect of quantum.
- [3] FINDINGS.
- [4] I have considered the averments in the plaints, the facts and circumstances of the cases, the evidence adduced and the submissions.
- [5] Briefly the facts were that the Plaintiff, fifty years of age, was visiting a relative at the North East Point Hospice on twenty fourth December 2014. As it was getting dark she decided to close a sliding window in the bedroom. While she attempted to do so the window came off the rails, struck the Plaintiff on the left arm causing bleeding and injury. She received immediate treatment from the staff at the hospice and was referred to the English River Medical Centre. The wound on her arm was stitched and she was given painkillers and anti-inflammatory tablets. The injury was monitored by medical staff. The Plaintiff complains of continuing intermittent pain in her forearm with a tingling feeling which causes continued discomfort in her arm and hand. She still complains of numbness and swelling in her forearm and hand. She experiences difficulty in carrying out normal household tasks and has to have assistance from her husband and members of her family.

She complains that she has been left with unsightly scarring and deformity of her forearm.

- [6] She decided to seek further medical opinion from Doctor Martin Rodriguez Barrios, a private practitioner. With exploratory surgery he found that fatty tissue was putting pressure on the medial nerve which would cause the continuing pain, numbness and stiffness in the left forearm. The fatty tissue was removed in minor surgery. Nevertheless he was of the opinion that as a result of the compression of the nerve the Plaintiff may continue to suffer some residual pain, swelling and numbness in her left forearm and hand.
- [7] I have considered all the evidence and legal authorities produced by Counsel. I am satisfied that justice will be served by an award of SR 30,000.
- [8] There will hence be Judgment in favour of the Plaintiff for the sum of Thirty Thousand Rupees jointly and severally against the First and Second Defendants and with costs and interest from the date of the filing of the first plaint, namely, 12th May 2015.
- [9]

Signed, dated and delivered at Ile du Port on 16 January 2017