

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CS 48/2017

[2018] SCSC 865

ROBERT LABICHE

Plaintiff

versus

EDMOND RICHARDSON

Defendant

Heard: 5th September 2018
Counsel: Mr. Joel Camille for plaintiff
Mr. Elvis Chetty for defendant

Delivered: 26th September 2018

RULING

Nunkoo J

[1] Plaintiff is claiming the following as damages from the Defendant:

Loss for inconvenience and distress	Rs 75,000.00
Damage for pain and suffering	Rs 125,000.00
Cost for future medical expenses	Rs 290,000.00
Cost for medical report	Rs 350.00
Total	Rs 450,350.00

[2] The Plaintiff case is that on 27 April 2016 a dog belonging to the Defendant bit him while he was walking along the road. He has averred the following as constituting the faute on the part of the Defendant in his plaint:

Defendant failed at all material time to prevent the dog to roam the public road.

[3] Defendant failed to take any proper supervision of the dog on the public road.

[4] He failed to take heed of the dog and allowed the dog to bite and assault the Plaintiff.

[5] The Defendant has averred in his defence that his dog was within his compound which is fully enclosed and that the spot where the Plaintiff was bitten is also frequented by other dogs.

[6] The Plaintiff called adduced medical evidence. One Doctor Monda, attached as Consultant General Surgeon was called. He testified that the case of the Plaintiff was handled by one Cuban doctor, Dr Marcial Fonte, who is no longer in the country; the medical report was prepared by him. He himself did not know the case in detail but did know it “” generally “as he said. He produced the report and testified as follows thereon: that a gentleman was picked by the ambulance and brought to the hospital where the surgeon found multiple wound on the face, neck, and shoulder. There was laceration over the face and also neck injury.

[7] He also testified that the Plaintiff’s condition was bad and had it not been for the tracheostomy he would have died. He explained the various medical procedures carried out. He confirmed that the sequel from such injuries are long lasting as the nerves are affected.

[8] The Plaintiff testified that after having consumed beer with his friends at a nearby shop, on 26 April at night, when he was returning home when he had reached the gate of the Defendant’s house he heard a roar. As he turned to take another road to his house a dog had already held him by his hand. He had to struggle. After that he found himself at the ICU. He could not go to work for six months and is not totally cured. The Plaintiff who is a policeman in charge of training dogs testified that he is now afraid of dogs and physically he cannot do all the movements.

- [9] In cross the Plaintiff maintained that the gates of the Defendant are not always closed and that normally they are open in the morning.
- [10] The Plaintiff called evidence from one Danny Charlotte. He is a bus driver and was passing along the way around 2 am in the morning when he saw a body lying on the road. He stopped his bus but could not come out; there was a big black dog watching over the body and it prevented him from coming out of the bus. He went to the police for assistance. When the police came the dog was still there; somehow it went inside the property of the Defendant from where it continued to bark.
- [11] One Robin Bonnelame, Senior Flight Officer at the SCAA , who lives next door to Defendant deponed. He said he heard some noise on the road that early morning; he went out to see what was happening. He saw the Plaintiff lying in blood on the road. He also saw one big dog on the property of the Defendant. He had seen 4 or 5 dogs of this type previously on the property of the Defendant. He was emphatic that the dog that bit the Plaintiff was one of those belonging to the Defendant.
- [12] The Defendant has denied being liable and has pleaded that his dog does not roam that area and that there are other dogs of similar breed which frequent that area. He has pleaded that his dog was within his compound at the time of the incident and that his compound is enclosed.
- [13] The Defendant did not testify, however.
- [14] I have gone through the evidence carefully and after a close analysis I am satisfied that the Plaintiff has proved his case on a balance of probabilities. I therefore order the Defendant to pay the total amount of Rs 375,350.00 as damages to the Plaintiff.

Signed, dated and delivered at Ile du Port on 26th September 2018.

S Nunkoo
Judge of the Supreme Court