

## IN THE SEYCHELLES COURT OF APPEAL

[Coram: A.Fernando (J.A) , M. Twomey (J.A), F. Robinson (J.A)]

### Civil Appeal SCA 18/2016

(Appeal from Supreme Court Decision CS 37/2011)

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Greg Jacques

Appellant

Versus

Jhowla Manoo

1st Respondent

The Government of Seychelles

2nd Respondent

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Heard: 04 May 2018

Counsel: Mr Gabriel for the Appellant

Mr Hoareau for the first Respondent

Mr Kumar for the second Respondent

Delivered: 11 May 2018

## JUDGMENT

### F. Robinson (J.A)

#### THE BACKGROUND

1. This is an appeal from the judgment of the learned Judge dismissing the claim of the Appellant, Greg Jacques, in an action in delict under Articles 1382 and 1384 of the Civil Code of Seychelles Act, for damages brought against the Defendants, Dr Jhowla Manoo, a *préposé* of the Government of Seychelles and the Government of Seychelles on its part for damages caused by its *préposés*.
2. Greg Jacques instituted proceedings in the Supreme Court against Dr Manoo and the

Government of Seychelles for damages arising out of the medical and surgical treatment he received at Victoria Hospital. Greg Jacques complained in his plaint that —

"3. On the 4<sup>th</sup> February, 2010, following a visit by members of the medical staff of the 2<sup>nd</sup> Defendant, Plaintiff was admitted on D'Offay ward, Victoria Hospital after he was found to be unwell with fever, marked pallor and having discharging sinus over the left lateral thigh. Plaintiff was placed under joint medical care of the urologist and orthopaedic medical staff of the 2<sup>nd</sup> Defendant.

4. Following, the above referred diagnosis, Plaintiff underwent surgery for exploration, debridement of the discharging sinus, on the 5<sup>th</sup> February 2010 and the said surgical operation was conducted by the 1<sup>st</sup> defendant, acting in his capacity as the prepose of the 2<sup>nd</sup> Defendant.

5. Plaintiff avers that the said surgical operation was wrongly and negligently diagnosed and performed by the 1<sup>st</sup> Defendant, the 2<sup>nd</sup> Defendant or its prepose...

6. After the said operation and as a result of the poor medical attention administered onto the Plaintiff, the Plaintiff's injuries were further aggravated and the said Plaintiff had to be attended on several occasions in the operation theatre for further dressing and irrigation and change of drain.

7. The said injuries were caused by the fault and/or negligent of the 1<sup>st</sup> Defendant and were compounded by the fault and/or negligent of the 2<sup>nd</sup> Defendant whether by itself, its servants or agents."

Dr Manoo and the Government of Seychelles have, in their plea, denied the claim of Greg Jacques. The issue before the learned Judge concerned whether or not Dr Manoo or any other medical officer or employees of the Government of Seychelles committed any negligent act or omission in the course of medical and surgical treatment given to Greg Jacques at the material time which engaged the liability of the Government of Seychelles.

