

IN THE SUPREME COURT OF SEYCHELLES

ALAIN SAUZIER

PLAINTIFF

VERSUS

1. GERRIS FIGARO

2. ATTORNEY GENERAL

(Rep by the Government of Seychelles)

DEFENDANTS

Civil Side No 329 of 2003

Mr. B. Georges Counsel for the Plaintiff
Mr. B. Hoareau Counsel for the Defendant

JUDGMENT

Perera J

This is a delictual action in which the plaintiff claims damages for personal injuries suffered by him allegedly as a result of a gun shot fired by the 1st defendant in the course of his employment as a Police Officer. The 2nd defendant is sued in a vicarious capacity.

The defendants have admitted liability, and hence the remaining issue is the computation of damages.

The plaintiff's case is that on 28th March 2002, when he was walking in the vicinity of Lodge Street, he heard the sound of a gun shot, and realised that he was injured. Thereafter he collapsed in front of the apartment of a resident in the area. He was then taken to hospital in a Police Jeep. He underwent surgery twice, and was warded in the Intensive Care Unit and discharged two weeks later. The plaintiff showed court a scar towards the middle of the back and a further scar below the shoulder blade. The latter scar was caused by the surgical intervention to remove the pellets. The plaintiff resumed work as a stevedore about three months later. He stated that he was

in pain at the time of the injury and still continues to have residual pains when working in the tuna boats.

As regards loss of earnings, he stated that he received Social Security assistance for one month, and thereafter for two months he was maintained by his family members.

The medical report (P1) of Dr. H.E. Telemaque Senior Registrar in Surgery, Victoria Hospital, states that the plaintiff had a single entry wound 2 x 3 cms in the intercostal space along the posterior axillary line. On performing an exploratory laparotomy, 1500 mls of blood was found in the peritoneal cavity. The spleen was also ruptured, and was actively bleeding. There were two holes in the diaphragm. On the following day, another thoracotomy was performed and a further 300 mls of blood was drained from the Thoracic cavity. There was also a lacerated wound in the lower lobe of the left lung. The doctor concludes that the patient was *“transferred to the ICU immediately post operatively for closer monitoring and he made a completely uneventful recovery and went home after 7 days”*.

Quantum of Damages

In the case of **Suzette Hermitte v. Philip Dacambra & Or (C.S 261/98)**, the Plaintiff was wounded by a stray bullet fired by a Police Officer who was faced with a hostile mob. The bullet ricocheted off the tarmac and entered the thigh. There was only an inlet wound as the pellets were embedded inside the flesh and it was medically determined that surgery to remove them was dangerous. She had therefore a 15% incapacity in the left leg. I awarded a sum of Rs.60,000 for pain and suffering and Rs.15,000 for loss of amenities of life. The Court of Appeal upheld that award, but awarded a further Rs.50,000 for loss of earnings.

In a case, similar to the present case, **Kirt Telemaque v. Jean Vardin & Or (C.S. 332/99)**, the Plaintiff was shot by a National Guard while fleeing

away evading arrest. It was established that he was a mental patient and that when the guard approached him to question him about a complaint of assault, he broke a bottle which was with him, threatened the Officer and ran away. The gun shot inflicted an entry and exit wound on his thigh. An x-ray of the femur showed bone splinters in the soft tissue with an apparent fracture in the lower end of the femur. He, like the Plaintiff in the present case, had a completely uneventful recovery. On a consideration of the award in the Hermitte case (*supra*) I awarded a sum of Rs.45,000 as damages.

In the present case, the injuries were much more severe than in the case of Telemaque (*supra*). The Plaintiff claims Rs.200,000 for pain, suffering, discomfort and residual disability. Undoubtedly, he suffered pain, and was in a state of anxiety and discomfort while in the hospital for one week, where he had to undergo two surgical interventions. Medically, he has no permanent or temporary disability, except for the scars on his body. He is continuing to work as a stevedore, although he claims that at times he suffers pain. On a consideration of the injuries suffered by the Plaintiffs in the cases of Hermitte and Telemaque, (*supra*) and the corresponding awards in those cases, I award a sum of Rs.50,000 for the pain and suffering, and the discomfort suffered by the Plaintiff.

Accordingly judgment is entered in favour of the Plaintiff in a sum of Rs.50,000 together with interest and costs.

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A.R. PERERA

JUDGE

Dated this 14th day of October 2005