IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN COMMON LAW

SUIT NO. C.L. B. 182/90

BETWEEN	HERNAL BENNETT	PLAINTIFF
AND	CLIVE RICHARDS	FIRST DEFENDANT
AND	DANIEL EDWARDS	SECOND DEFENDANT

AND

SUIT NO. C.L. L. 091/90

BETWEEN	DOREEN LALOR	PLAINTIFF
AND	CLIVE RICHARDS	FIRST DEFENDANT
AND	DANIEL EDWARDS	SECOND DEFENDANT

CONSOLIDATED CLAIMS IN NEGLIGENCE

John Graham and Hector Robinson instructed
by Broderick & Graham for the Plaintiffs

Christopher Samuda and David Johnson instructed
by Piper & Samuda for the Defendants

Hearing on 20, 21, 22, 23, 24, September, 1993
and 25 March, 1994

Judgment

BINGHAM J.

In this matter the first named plaintiff Hernal Bennett was the rider of a Suzuki 100 motor cycle registered 5062 A which on the night of June 4, 1989 was involved in a collision with a Mini Truck C.C. 067 D registered in the name of Clive Richards the first named defendant and driven by the second named defendant Daniel Edwards. This collision occurred at the intersection of Hagley Park Road and Rainford Road in Saint Andrew.

The second named plaintiff was seated on the pillion of the said motor cycle at the time of the collision.

As a consequence of this collision both plaintiffs received serious injuries from which they were incapacitated for a long period of time. Although both have now recovered from these injuries, they nevertheless still continue to suffer as a consequence of this accident and given the medical evidence will continue to do so for sometime far into the forseeable future.

This claim has been brought by both plaintiffs against the defendants as the registered owner and driver of the truck in negligence in which they claim special and general damages in respect of the damage to the motor cycle (the first plaintiff) and for personal injuries.

The defendants for their part counter-claim in negligence for special damages in respect of the damage to the Mini Truck.

The success or failure of the claims of the first named plaintiff and the defendants are dependent upon the manner in which the issue of liability is determined.

The second plaintiff's claim, however, rests on a more sure foundation. As the pillion passenger on the motor cycle she must succeed on her claim. The only questions which remain to be determined on her behalf are:

(1) The issue of damages and

(2) From which the two parties - the first named plaintiff or the defendants or both does she stand to recover damages.

The Evidence

The Plaintiffs' case

The case as presented for the two plaintiffs when examined had a remarkable degree of similarity. It was to the effect that on the night in question sometime after midnight the first plaintiff was riding his Suziki motor cycle up Hagley Park Road from the Three Miles direction. He was returning from Seaview Gardens. The second plaintiff was on the pillion of the motor cycle. There was another motor-cyclist one Louis Smith who was travelling ahead of them. They had both left the same premises in Seaview Gardens and were heading for a similar destination at the first plaintiff's home on Rainford Road. This road is situated to the right of Hagley Park Road as one proceeds up that road in the direction of Half-Way-Tree. The first

plaintiff resided at that time at 7A Rainford Road.

As the two motor cyclists approached the intersection with Rainford Road, the lead motor cyclist, Louis Smith, was riding thirty feet ahead of the first plaintiff. Smith then turned right into Rainford Road at which point the plaintiff observed a motor vehicle approaching on Hagley Park Road from the opposite direction. At this stage he was about fifteen feet away from the intersection. He stopped on his half of the road close to the white centre line waiting on this vehicle to pass before attempting to turn into Rainford Road. The approaching vehicle which he estimated was travelling at a fast rate of speed of about 40 - 50 miles per hour came over to where he had stopped and hit into the front of the motor cycle. He became unconscious and awoke in the Kingston Public Hospital suffering from multiple injuries.

Under cross examination he denied that the collision occurred as he was attempting to cross over into Rainford Road. A finding that this was so would have clearly amounted to negligence on the part of the first plaintiff as he would have been under a duty to take such reasonable care that he could have executed such a manouvre as crossing the road with safety.

Although the first plaintiff has testified that he stopped his motor cycle and was in a stationary position with his right foot on the asphalt and with the motor cycle close to the white centre line, a situation in which he is supported in his account by the second plaintiff the pillon passenger, I was not at all impressed by this account of how the collision occurred which when examined and assessed is highly improbable and does not accord with either reason or common sense. Given the fact that both motor cyclists left from a common point of departure at Seaview Gardens travelling to the same destination and given the evidence of the first plaintiff that the mode of travel was one in which they were accompanying each other to that destination, Hagley Park Road at the intersection with Rainford Road as both the geography of the area as well as the evidence indicates the area as being a straight piece of road as proceeds in the direction of Half-Way-Tree. In the direction from which the defendant's vehicle was approaching the road is also straight for several chains.

Given the distance that the lead rider Smith was travelling from the plaintiff's estimated to be not more than twenty feet, for him to have been able to safely negotiate his motor cycle into Rainford Road as he did this must of necessity have been just a few moments in time albeit some matter of seconds, given the distance that the first plaintiff was travelling behind him, and the speed that he was approaching at, before the defendant's vehicle would have reached the intersection.

The first plaintiff Bennett was unable to assist the Court as to how long he had his motor cycle in this stationary position awaiting clearance before he was hit by the defendant's vehicle.

I find that the reason for this being so is because he did not in fact stop as he said he did but that he attempted to follow behind the lead rider Louis Smith and to get into Rainford Road before the Mini Truck had reached the intersection. This he did at a time that the defendant's vehicle was approaching the intersection with Rainford Road. In this regard I am of the firm opinion that in all probability it was this manouvre on the plaintiff's part that was the substantial cause of the collision and that in so doing he was in breach of his duty to take reasonable care and accordingly negligent in his manner of operating the motor cycle.

The defendant's case

The account of the second defendant was that on the night in question he was driving a V.W. 1600 motor vehicle referred to by him as a Mini Truck. He was travelling west along Hagley Park Road going towards Three Miles. He estimated the time of the accident as being about 10.45 p.m. He described the motor cycle ridden by the first plaintiff as travelling eastwards along Hagley Park Road. He was travelling at a speed of between 25-30 miles per hour. It was two motor cycles that he saw coming from the opposite direction. They were proceeding one behind the other. It was the motor cycle to the rear (the first plaintiff's) that collided with his vehicle. When his truck was about three quarter to a half a chain from Rainford Road he saw the motor bikes approaching on the right hand side of the road (his left of the road as he proceeded down Hagley Park Road). The first one turned suddenly across the road. The second one, the plaintiff's motor cycle was coming at a speed and could not stop and rode straight into the van.

Under cross examination he admitted that he did not see the lead motor cyclist until he was ten feet away from the intersection with Rainford Road. He denied that coming from the direction of Half-Way-Tree Road that the entrance to Rainford Road

would have been visible long before he got to that distance from the intersection. He admitted, however, that he would have been able to see the intersection from a distance of about thirty feet away. This answer on his part was still not being frank as the defendant also admitted that at that point after negotiating a slight curve the intersection would have been visible for at least two chains. In the light of this admission had the defendant been keeping a proper look-out for other road-users he ought to have seen the two motor cyclists long before a distance of ten feet away from the intersection. The defendant also admitted not seeing them before reaching that distance as "he was not looking for them on his side of the road."

The defendant's duty in this regard was not only to keep a proper look-out for other road-users but given the mandatory direction in section 51(1) of the Road Traffic Act which makes it obligatory on motorists to take such steps as may be necessary to avoid an accident and given the situation in which the defendant placed the two motor cyclists, this ought to have alerted his mind to the fact that they were about to turn into Rainford Road. Their conduct by the manner in which their motor cycles were positioned in the road certainly called for some degree of caution on the part of the second defendant. The fact that the lead motor cyclist was able to cross over into Rainford Road before the collision would have meant in effect that the defendant although aware of a possible manoeuvre by the motor cyclists to their right of the road, made no attempt to stop his vehicle before reaching the intersection.

On the defendant's account, therefore, given the position in which he placed the two motor cyclists, he took no precautionary measures such as stopping his vehicle in an attempt to avoid a collision. I would accordingly hold that he was in breach of the duty placed on him by section 51(1) of the Road Traffic Act and also negligent.

The duty placed on the rider changing direction such as the first plaintiff is higher than that on the approaching motorist the second defendant and in that regard I hold that the first plaintiff was 60% to blame and that the second defendant 40% to blame for the collision.

As there is no issue as to ownership or agency both the first plaintiff and the first defendant are liable on the claims and counter claim.

Damages

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Special Damages

This part of the claim of the first plaintiff falls to be assessed under the following heads:-

a) Loss of earnings

b) Cost of hospitalisation

c) Cost of opthalmological treatment

d) Cost of physiotherapy

e) Cost of transportation

f) Clothing lost and damaged

g) Cost of repairs to motor cycle

h) Cost of assessors report

Loss of Earnings

The claim for loss of earnings of the plaintiff was agreed on by counsel at a sum of $37,500.00

Cost of hospitalisation

An examination of the particulars of injuries claimed as well as the evidence led in support revealed that the plaintiff suffered some fourteen separate injuries for which he had to be treated and this necessitated him being hospitalised for a period of six months and undergoing a total of nine surgical operations. Mr. Delphin Jackson the Personnel Manager at Kingston Wharves Limited the company to which the plaintiff is employed, gave evidence of his role in monitoring the plaintiff's condition and attending to his needs during the period of his hospitalisation and recuperation. He spoke of the amount which to his personal knowledge the company paid to the Newport Medical Group, a firm of doctors who were responsible for attending on and treating the plaintiff. This sum which was stated by the witness to be $101, 000.00 is allowed.

Cost of Opthalmological treatment

This sum paid to Dr. Calder for treatment by him to the plaintiff's eyes was agreed on by counsel and an award for $1,350.00 is made.

Cost of physiotherapy

This item was also agreed on by counsel at a sum of $840.00.

Cost of transportation

Although the total sum claimed under this head was $1,750.00 the evidence led in support limits the sum recoverable under the claim to six round trips for follow-up examination and treatment at $40.00 per trip, a total of $240.00, which is the sum awarded.

Clothing lost and damaged

The total sum claimed under this head was $420.00. The evidence led in support limits the claim to one pair of dungarees costing $40.00 and this is the amount awarded.

Cost of repairs to motor cycle

The amount claimed under this head was $11,717.00 and is based upon the estimated costs of the repairs required to be done on the motor cycle. The parts required and the cost of labour was checked and verified by Mr. Colin Young of Motor Insurance Adjusters an experienced Loss Adjuster of some twenty-five years experience in this field. His evidence in relation to the estimated damage to the motor cycle was not challenged and is allowed.

Cost of the Assessors Report

This sum being $350.00 paid to Mr. Young for the assessment of the repairs required to the motor cycle and preparing his report which sum was evidenced by him as being $350.00 was not challenged and is allowed. When quantified the total sum awarded for special damages is therefore $153,037.

General damages

This part of the claim falls to be considered under the following heads:-

a) Future Medical Expenses

b) Handicap on the labour market

c) Pain and suffering and loss of amenities

Future Medical Expenses

This head of the claim for general damages relates to the replacement of teeth by bridge work of a dental nature to be performed at an estimated cost

of $35,300.00 being the cost of two bridges and extra visits to the dentist. This sum was claimed under the head of special damages but was dealt with by learned counsel for the plaintiff in his closing address under the head of general damages, as issue was taken by learned counsel for the defendants to the matter being considered as special damages. There is, however, no challenge made to the evidence of Dr. Yvonne Stultz as to the estimated cost of the dental work to be performed, hence an award is made accordingly.

Treatment for correction of double vision

Also considered as a possible future medical expense under the head of general damages was this claim for $6,000.00.

The evidence of Dr. Calder adduced in support was equivocal in nature as he would appear to be saying that at this point in time the plaintiff despite this condition is able to function without the need for surgery or the use of any visual aids aimed at correcting this problem. Moreover there is no guarantee that surgery even if attempted will succeed in correcting the problem entirely as there is the likelihood of the need for other such procedures in the future. Even, if surgery was recommended however, a matter which was not being considered at present, the plaintiff having regard to his long period of hospitalisation and recuperation coupled with the several surgical procedures to which he had been subject was not prepared to undergo any further surgery in the distant future.

The fact, therefore that the plaintiff given his present condition is nevertheless able to function without the need for surgery to correct this condition and is able to cope without the need for special spectacles I would not be minded to make any award in respect of this portion of the claim.

Handicap on the Labour Market

The plaintiff notwithstanding his serious injuries has managed because of his long association with his employers to be able to retain his position as a general worker with that company. There is the present risk, however, that his services could be dispensed with as a result of his injuries this being because he is no longer able to function on the job as efficiently as he did prior to the accident.

It was against this background that learned counsel for the defendant has submitted that an award of $50,000.00 could be considered as a reasonable sum to compensate the plaintiff under this head. Learned counsel for the plaintiff took no issue with this suggestion and that is the sum awarded.

Pain And Suffering And Loss of Amenities

This falls to be considered on the basis of the nature of the injuries suffered by the plaintiff, the period of his disabilities with some discounting to allow for the fact that he has been fully compensated for income lost during the time that he was away from work while laid up in the hospital and recuperating from the effects of the accident.

It may be convenient at this stage to refer to the report of Professor Sir John Golding, O.J., K.T., F.R.C.S. noted orthopaedic surgeon who saw and examined the plaintiff on 21st July, 1992. His report (Exhibit 2) reads as follows:-

> "I examined Mr. Bennett for the purpose of writing this report the 15th July, 1992. Mr. Bennett was complaining of a limp due to the shortening of his leg and a feeling of weakness and stiffness of the left hand. He was also complaining of an occasional ache in his right thigh and above the left knee after prolonged exercise.
>
> Mr. Bennett stated that following a motor cycle accident he had been unconscious for a considerable period. He had suffered fractures of both right and left femur. He had also sustained injuries to his left arm and had needed a tendon transfer operation to the left wrist because of damage to the radial nerve which had left him with a wrist drop.
>
> On examination he was seen to be somewhat euphoric. He stated that he had gone back to work two years ago as a messenger which he was able to perform satisfactorily. There was some abduction deformity of his left wrist

associated with a deformity of the ulna side of his hand where he had sustained fractures of the 4th and 5th metacarpals. There was slight reduction of pronation and supination of the left forearm and a 20% reduction in the range of flexion and extension of the wrist. There was a full range of motion of the left elbow. There was some loss of 15 degrees of abduction of the shoulder and a 10 degree of lack of external rotation of the left arm compared with the right.

Mr. Bennett had made a good recovery from severe injuries. He has a disability of 15% of the left lower extremity due to the shortening and in addition he has a loss of 2% due to the wrist abduction and 3% of the upper extremity due to wrist flexion loss, a 10% loss due to limitation of the shoulder and a 15% loss due to loss of power grip. This summated to a 17% loss of function of his left upper extremity and 6% loss of the left lower extremity due mainly to shortening. He had impairment of the whole person of at least 22%."

Given the nature of the injuries and the degree of disability Mr. Samuda relied upon the following awards from Mrs. Khan's valuable compilation of Personal Injury Awards volumes 2 and 3:

1. C.L. T. 073/1980 Michael Thomas vs. James Arscott and Earl Patterson, Volume 2, page 56, an assessment of Vanderpump J. on 18th October 1984. Award of $40,000.00 for pain and suffering.

2. C.L. F. 054/1983 Noel Falconer vs. Alfred Cooke, Volume 2, page 92, an assessment of Malcolm J. on 20th November 1985. Award of $25,000.00 for pain and suffering.

3. C.L. B. 544/1980 Isiah Brown vs. Dr. Leo March, Volume 2, page 99, before Patterson J. on 9th April 1986. An award for $28,000.00 for pain and suffering and loss of amenities.

4. C.L. E. 11/1986 Calvin Edwards vs. Arthur Kelly, Volume 3 page 15, before Malcolm J. on 3rd October, 1990. An award of $50,000.00 for pain and suffering.

5. C.L. H. 75/1987 Marcia Hemmings vs. Patrick Watson and T. Geddes Grant Limited. Volume 3, page 11, an assessment by Panton J. on May 1988, a settlement arrived at during trial of the action. An award of $130,000.00 for future loss of earnings and pain and suffering and loss of amenities.

6. C.L. R. 186/1985 Barbara Roberts vs. Omkar Parshad Volume 3, page 78 an assessment by Bingham J. on 2nd December, 1988. Award of $105,000.00 for pain and suffering and loss of amenities.

7. Supreme Court Civil Appeal 40/90 Hepburn Harris vs. Carlton Walker Volume 3, page 85, before Rowe P. Morgan J.A. and Gordon J.A. (acting) on 10th December 1990, an award of $100,000.00 made by Langrin J. in May 1990 for pain and suffering and loss of amenities affirmed on appeal.

8. C.L. S. 341/1984 Carlton Smith vs. James et al, Volume 3, page 95, an assessment before Patterson J. on 25th October, 1988. An award for $180,000.00 for pain and suffering and loss of amenities.

In relying on these authorities Mr. Samuda suggested that an award of $350,000.00 to $380,000.00 for pain and suffering ought to be regarded as reasonable in the circumstances.

Learned counsel for the plaintiff has relied upon the following awards from Mrs. Khan's compilation:-

1. C.L. S.116/81 Judith Shrouter by next friend Monica Shrouter vs. Walden Walters, Volume 3, page 1 before Ellis J. on 27th February, 1987. An award of $180,000.00 for pain and suffering and loss of amenities.

2. C.L. C. 81/87 Michael Campbell vs. Ernest Allen, Volume 3, page 5, a permanent partial disability of 20% in each leg. An award of $297.250.00 for pain and suffering and loss of amenities by Harrison J. on 29th September, 1989.

3. C.L. H.047/81 Lindo Harris vs. Baron McKenley, Volume 3, page 8. An award of $280,000.00 for pain and suffering and loss of amenities on 15th March, 1989 by Marsh J.

4. C.L. D. 49/87 Derrick Downie vs. Vincent Yee Sang et al, Volume 3, page 133. An award of $140,000.00 for pain and suffering and loss of amenities by Langrin J. on 12th December, 1984.

Based on the above awards and given the nature of the injuries suffered by the plaintiff, the personality change which the plaintiff has experienced, as well as the total impairment of his whole person assessed by Professor Golding at 22% I am of the opinion that none of the eight awards cited by Mr. Samuda although helpful are of much assistance. The only award which comes within the range of meritingsome consideration being C.L. S. 341/1984 Smith v. James and that being a matter in which the plaintiff's injuries were assessed at 60% of the whole person is clearly out of proportion to the instant case.

Mr. Graham has submitted that an award of $2,000,000.00 would be more in keeping with the justice of the plaintiff's claim. Given the absence of an expert evidence supporting any evidence of a personality change on the plaintiff's part I would rule out that aspect of the matter in arriving at an award under this head of the claim. Of the cases referred to by Mr. Graham I would regard Campbell vs. Allen and Harris vs. McKenley (referred to supra) as being nearest in relevance to the instant case.

The degree of disability in this case would suggest that with some slight adjustment upwards an award in the range of say $320,000.00 for pain and suffering in September 1989 when the award in Campbell was made ought to meet the justice of this case. This sum when converted into the money of the day using the latest consumer price indices prepared by the Statistical Institute of Jamaica would result in a present award of $1,380.000.00.

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Liability having been apportioned as between the first plaintiff Hernal Bennett and the defendants the damages to be awarded to the second plaintiff Doreen Lalor now falls to be assessed.

The plaintiff's claim falls to be assessed under the following heads:-

Special Damages

The particulars of special damages claimed the following:

a)	Loss of Earnings	$ 4,800.00
b)	Cost of transportation	1,227.00
c)	Cost of hospitalisation and medication	4,560.00
d)	Items of extra nourishment	1,625.00
e)	Items of clothing lost	350.00
		$ 12,562.00

Loss of Earnings

The plaintiff worked as a baby sitter prior to the accident. As such she earned a salary of $250.00 per week. She said that she has not worked since the accident. She has tried to get a job as a baby sitter but so far she has been unsuccessful. She said that she can no longer manage that job and it appears that she either has no other marketable skills or has not tried to involve herself in some other type of occupation. What is clear is that she is obliged to take such reasonable steps to mitigate her loss and I am of the view that she has not gone about that task in any meaningful manner. The injuries that she suffered although of a serious nature did not result in any loss of limbs nor has it affected her mentally or in a manner as to interfere with her functioning at the level that she was before the accident. Her demeanour in the witness box while giving me the impression that she was of a simple minded nature did not suggest to me that she is unemployable. It is also of some significance that the male plaintiff who suffered far more serious injuries was back at work after one year.

From this evidence it is not known, however, just when the plaintiff was sufficiently recovered from her injuries so as to be able to re-commence working. Given the period during which the male plaintiff was absent from work and in the absence of any medical evidence as to when the plaintiff was considered as being fit enough to resume working I would consider a period of six months suggested by

counsel as being a reasonable period for her total recuperation. This would take into account the fact that she was in hospital for six weeks, her leg was in cast for about three to four months, and there was follow-up treatment of about ten weeks after the removal of the cast.

In the circumstances using the amount of $250.00 per week as the base figure she would be entitled to recover for loss of earnings $6,500.00.

b) Cost of transportation

c) Items of clothing lost

These two items which were not challenged by the defence were both proven on the evidence to be $240.00 for the former and $350.00 for the latter. As there was no evidence led to establish items (c) and (d) this would result in the total sum recoverable for special damages amounting to $7,090.00.

General Damages

This falls to be assessed under the following heads:-

(1) Loss of future earnings

(2) Handicap on the labour market

(3) Pain and suffering and loss of amenities

Although the learned counsel for the plaintiff has submitted that the plaintiff ought to be awarded compensation under this head upon the basis of loss of future earnings as she has tried unsuccessfully over the period since recovering from her injuries to obtain work. I agree with the submission of learned counsel for the defendants that there was no medical evidence led to support the fact that the plaintiff is permanently disabled and as such has been rendered incapable of working. Her claim therefore, falls to be considered as one to be compensated for her handicap on the labour market, on the grounds that it is her present condition due to the injuries that she received which was the inhibiting factor standing in the way of her being able to obtain gainful employment. Learned counsel for the defendant had suggested a sum of $20,000.00 as a reasonable award under this head. The submission of learned counsel for the plaintiff suggested no sum under this head electing as he did to deal with the claim as being one for loss of future earnings for which using a multiplier formula he arrived at a sum of $46,000.00.

Based upon the 16% impairment of the whole person suffered by the plaintiff I would consider a sum of $30,000.00 as a reasonable award under the heading of Handicap On The Labour Market.

Pain and Suffering and Loss of Amenities

The plaintiff suffered fractures to the lower third of the right tibia and femur. She also suffered multiple abrasions all over her body. She spent six weeks in Kingston Public Hospital during which period her abrasions healed leaving scars. She was discharged after the period of six weeks with her right leg in a cast.

An examination of Miss Lalor by Professor Sir John Golding on July 15, 1992 in his written report (exhibit 3) prepared on the following day disclosed the following condition:-

> "On examination there was multiple scars particularly with the left forearm and both lower extremities, more severe around the outer side of the left ankle. The right lower extremity was 1½ inches shorter than the left. The fracture of the femur had united with about 15% of external tortion. There was a good range of motion of the right knee but flexion of the left knee was restricted to 95%. There was an almost full range of motion of the right ankle but reduction of the motion of the right subtalar and midtarsal joints."

Based on the above Professor Golding was of the view that the plaintiff had reached maximum medical improvement. Her condition was then assessed to an impairment of 16% of the whole person.

Mr. Samuda while not relying on any authority has suggested an award under this head of $115,000.00 to $145,000.00.

Mr. Graham for his part has suggested an award of $800,000.00 to $900,000.00. He relied for support on the following awards from Mrs. Khan's compilation on Personal Injury Awards in the Supreme Court of Jamaica:-

1. Judith Shrouter by next friend Monica Shrouter vs. Walden Walters

   Volume 3 page 1 (referred to supra)

2. Michael Campbell vs. Ernest Allen, Volume 3, page 5 (referred to supra)

3. Lindo Harris v. Baron McKenley, Volume 3, page 8 (referred to supra).

The several cosmetic defects on her legs, thigh and forearm, was also a factor which the plaintiff as a young woman, it falls to be considered in arriving at a high award in the circumstances.

Having considered these awards and given the nature of the plaintiff's present condition I am minded to follow the award in the Shrouter case (supra). Although the injuries in that case resulted in a 70% disability as against that suffered by the plaintiff in the instant case the whole body impairment was 15%. The fact of there being brain damage in the Shrouter case, however, would result in the award in this case being reduced to one of $120,000.00 in February 1987. When converted to the money of the day using the consumer prices indices supplied by the Statistical Institute of Jamaica (November 1993) the result is an award under this head of $700,000.00.

The Defendant's Counter Claim

The particulars of special damages in the counter claim sought to recover the sum of $25,800.00 arrived at as follows:-

1.	Cost of repairs to motor vehicle registered PP 650 B	-	$ 15,000.00
2.	Assessors Fee	-	600.00
3.	Loss of use	-	10,000.00
			$ 25,800.00

The evidence adduced in support of this claim fell far short of the strict proof required to establish it, the evidence being limited to the bare ipse dixit of the 2nd defendant. He testified that the defendant's vehicle had been repaired by a mechanic one Danny but no-one was called to state how the sum claimed for repairs to the vehicle was arrived at, or for that matter in relation to the claim for loss of use, how long the repairs took. As to the claim for Assessors fee and wrecker fee, here again no oral or documentary evidence supporting the testimony of the defendant was forthcoming.

The evidence led to support the counter claim again brings to mind the admonition of Lord Goddard C.J. In Bonham-Carter v. Hyde Park Hotels Ltd. [1948] T.L.R. 177 at 178 where on not too dissimilar facts the noble Lord said:-

> "Plaintiffs must understand that if they bring actions for damages it is for them to prove their damage, it is not enough to write down the particulars and so, to speak, throw them at the head of the Court, saying: "this is what I have lost, I ask you to give me damages." They have to prove it."

In light of the above the requisite proof being lacking the counter claim is rejected.

In summary, the results are as follows:-

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Judgment for the plaintiff against the defendants for $1,618,337.00 with costs to be agreed or taxed being:-

(i)	General damages for Pain and Suffering and Loss of Amenities	-	$ 1,380,000.00
(ii)	Future Medical Expenses	-	35,300.00
(iii)	Handicap on the Labour Market	-	50,000.00
Special Damages			153,037.00

C.L. L.091/90

Judgment for the plaintiff Doreen Lalor against the plaintiff Hernal Bennett and the defendants for $737,090.00 with costs to be agreed or taxed being:

(i)	General Damages for Pain and Suffering	-	$ 700,000.00
(ii)	Handicap on the Labour Market	-	30,000.00
(iii)	Special Damages	-	7,090.00

Counter Claim

C.L. B.182/90

No award made.

Damages and award for costs to be apportioned between first plaintiff and the defendants to the extent that the parties have been found to be blameworthy.

Final judgment entered for plaintiff Hernal Bennett for $647,334.80 with costs to be agreed or taxed.

Interest awarded on special damages at 5% as from June 4, 1989 to March 25, 1994, and on general damages for pain and suffering and loss of amenities at 3% as from July 25, 1990 (the date of entry of appearance) to March 25, 1994.