IN THE SUPREME COURT OF JUDICATURE OF JAMAICA
IN COMMON LAW
SUIT NO. C.L.H 010 OF 2001

BETWEEN	WINNIFRED HUNTER	PLAINTIFF
AND	MICHAEL BROWN	DEFENDANT

Mr. Norman Samuels for plaintiff

No appearance by or for defendant

Heard June 24, 25, 26, 2002 and July 26, 2002

ASSESSMENT OF DAMAGES

Sykes J (Ag)

1. Miss Winnifred Hunter is an octogenarian. Her birth day is February 11, 1919. She has survived, unscathed, the greater part of the twentieth century including World War 2; at least until December 9, 1998. Prior to retirement she made her contribution to this country working as an office attendant.
2. On her retirement she began another career as a self employed person. She baked and sold, one of Jamaica's favourite pastries, cup cakes. This she did until the morning of December 9, 1998, in her eightieth year, when she was struck down by a motor car driven by the

defendant. He took her to the Spanish Town Hospital. While at the hospital she received stitches in the back of her head. She was X rayed. Needless to say she experienced great pain and discomfort while at Spanish Town Hospital. She was treated and sent home the same day.

3. The pain was so excrutiating that it restricted her movements from the left hip to her left foot. She continued treatment at the Spanish Town Hospital until sometime in 1999.
4. In April of 1999, the year of the gas riots (to use the plaintiff's words), which to the best of her recollection was the year after the accident, she entered the University Hospital of the West Indies (UHWI) as a private patient. She cannot recall how long she spent there but it "was a few days well". After she went to UHWI she did not return to the Spanish Town Hospital.
5. Her main physician at UHWI was Dr. Mark Minott. His recommended course of treatment included physiotherapy.

MEDICAL EVIDENCE

6. Dr. Minott's report is dated June 10, 1999. He first saw the plaintiff on February 25, 1999. The report states briefly the history of the plaintiff at the time she presented to the Spanish Town Hospital and what the findings were. At Spanish Town the radiographs of the left knee showed a fracture of the lateral tibial plateau which was depressed ten millimetres. There was marked antero-lateral bruising

over the left knee with painful limitation of movement. Her knee was placed in an above knee plaster-of-paris splint. The knee was reviewed on December 17, 1998 and December 21, 1998. On her second visit the splint was replaced with a full above-knee cast. When she was reviewed at the surgery clinic she complained of pain in the left ankle. Radiographs confirmed that her left ankle had an undisplaced fracture that was healing well. This concludes the medical findings while she was a patient at Spanish Town Hospital.

7. When Dr. Minott first saw her on February 25, 1999 her fracture was eleven weeks old. She complained of persistent pain in the left knee. He noted that she was "a very active lady prior to her injury despite her chronological age". Her left knee had valgus angulation of 15 degrees which compared with 0 degrees on the right. She was referred to KPH for surgery to elevate the depressed fracture. The surgery was successfully done at UHWI on April 17, 1999. Even post surgery she still complained of discomfort in the left knee but it was stable and had a 90 degree range of motion. The purpose of the surgery was to reconstruct the plaintiff's left knee which should provide her with a stable knee that could weight bear evenly throughout its full range of motion. When Dr. Minott issued his report he could not say at that time what the permanent impairment might be since she had not reached the limit of her rehabilition. He said, at the time of his report, that the graft and the outer cortex of the tibial plateau were not fully incorporated and so she was not able to weight bear at

that time. In other word he could not say how successful the surgery was. He thought that the total period of partial disability would be six months. The optimistic prediction of the doctor has not been borne out.

8. Dr. Dundas saw the plaintiff over one year later on September 6, 2000. He says that she complained of pain and soreness in the left knee for the past two years. She outlined to him the history of her injury and treatment. One of her complaints was that she had to give up her egg farming. She also had to give up her baking as this required her to stand for long hours. He said that she could not weight bear - a clear indication that the surgery was perhaps not as successful as was anticipated.
9. When he examined her she had a 3 cm deficit in the left thigh circumference and 1cm deficit in the left calf circumference. The left knee could flex 114 degrees compared to 128 degrees for the right knee. Collateral and cruciate ligaments were stable and she had patello-femoral crepitus in the left knee. X rays revealed that the fracture of the left tibia had healed. However the doctor was impeded in his analysis because he did not have the original x rays to compare with the ones that were done for his examination. He noted that there were significant problems in relation to the strength of the knee with resultant osteoarthrosis and restriction in range of motion. There was also a deficit in her left thigh and calf circumference. The doctor noted that the plaintiff now required the use of a cane full time.

10. Dr. Dundas' prognosis was not good. Her status will continue to deteriorate in view of her age and she will not be able to resume her egg farming or pastry business. The residual disability was 24% of the whole person.

11. Between the visits to Dr. Minott and Dr. Dundas the plaintiff was treated by a physiotherapist at Apex Health Care Associated. A report was prepared by the physiotherapist. She was first seen on June 8, 1999. At that time she was not weight bearing. She was wearing a hinged knee brace and walked with auxillary crutches. The significant findings were 0-40 degrees of active flex of left knee; fair muscle power in left hip ~~and knee~~; good muscle power in left ankle. There was swelling of the left knee with increased skin temperature at the knee. Physiotherapy ended on July 2, ~~1999.~~ When this form of treatment stopped the functional active knee flex of left knee was 0 - 102 degrees; muscle power at hip and knee was good; swelling of the knee was reduced and skin temperature at the knee was normal. She was now ambulant with the help of a quad cane. She was seen a total of eleven times. The treatment was obviously beneficial.

RESULT OF INJURIES

12. The plaintiff says that her left knee is still painful. Pain killers no longer help. She has stopped taking them. She now walks with the help of the cane. Since the date of the accident she can no longer move about as freely as before. She had to stop baking because she could no longer stand for the long period

required. Her daughter now helps her at home. The daughter has had to give up her job to be her nurse. She has had to cease egg farming. In effect she no longer works. She now has a 24% disability of her whole person. Dr. Dundas is of the view that "this status will continue to deteriorate in view of her age and he "[does] not see her being able to resume her livelihood in the future". The phrase "this status" could only be referring to her whole person disability. In other words her disability will increase with age.

SPECIAL DAMAGES

13. The plaintiff claims a substantial sum for special damages comprising the following items:

14.

MEDICAL EXPENSES

A.	Dr. Mark Minott	$ 7,000.00
B.	Dr. Grantel Dundas	$ 9,500.00
C.	Cost of X rays	$ 3,800.00
D.	Transportation	$ 3,500.00
E.	Medication & drugs	$ 1,250.00
F.	Loss of earnings	$ 261,000.00
	Sale of eggs $2,000/wk	
	For 58 weeks and	
	continuing	
	Sale of pastry $2,500/wk	
	For 58 weeks and	
	continuing	
G.	Cost of domestic help	$145,000.00
	TOTAL	**$431,050.00**

15. By notice of amendment to statement of claim dated March 25, 2002 that was served on the defendant the plaintiff indicated that she was going to amend the statement of claim by adding the items listed below under special damages:

A.	Further office visits (Dr. Minott)	$ 10,000.00
B.	Costs of surgery	$ 107,000.00
C.	Estimated Cost of future surgery	$ 115,000.00
D.	Further costs of X ray	$ 4,200.00
E.	Cost of physiotherapy	$ 7,300.00
	TOTAL	**$243,500.00**

16. By another notice on intention to amend the statement of claim ~~dated~~ April 15, 2002 which was served on the defendant the plaintiff indicated that she intended to add the item listed below to special damages:

A.	Cost of hospital accommodation	$42,091.91

17. The notice to amend statement of claim dated March 25, 2002 was personally served on the defendant on March 27, 2002 by Noel Henry who knew the defendant personally. Likewise the notice of intention to amend the statement of claim dated April 15, 2002 was personally served on the defendant by Noel Henry on April 15, 2002. The notices indicated that the amendments were going to applied for at the hearing of the assessment that was set for a previous date namely

April 19, 2002. The assessment was adjourned and finally held on the days indicated at the beginning of this judgment.

18. Both amendments were granted as I am satisfied that the defendant was told of the intention to amend the statement of claim and the actual amendments were enumerated in great detail.

19. The total claim under the head of special damages after the amendments stands at $716,641.91.

20. The plaintiff claims $17,000.00 for visits to Dr. Minott. The receipts tendered only amount to $14,000.00. Only this sum of money can be recovered (exhibits 6a-6f).

21. In respect of the expense for treatment from Dr. Dundas $9,500.00 was claimed. That is supported by a receipt in the amount claimed and so is recoverable (exhibit 7).

22. The total sum claimed for X ray is $8,000.00. The receipts tendered in evidence is for $11,000.00. Only $8,000.00 can be recovered. This is because of the rule that special damages must be specifically pleaded and proved (exhibit 4a & 4b).

23. The sum claimed for transportation is $3,500.00. It is well known that only expenses incurred in seeking medical treatment and care are recoverable provided, of course, that they are reasonable. A total of sixty one (61) receipts were tendered in support of this item. I have examined them all and three were disallowed because the evidence did not establish that the trips to which those receipts relate were for medical treatment or care. However as will be shown she cannot recover more than the sum pleaded under

this item despite the fact that the evidence established that she spent a much greater sum.

24. On May 21, 1999 the plaintiff traveled from Blue Cross, where Dr. Minott's surgery is located, to the Port Authority building at a cost of $250.00 and then from that building to Edgewater at a cost of $450.00. There was no evidence explaining this travel arrangement. It may be that she went on private business or it may have been related to her medical care and treatment. The burden is on her to justify the expense and this she has not done so this amount cannot be recovered.

25. On July 24, 1999 she traveled to the Apex Medical Centre to deliver a request from her attorney to the center at a cost of $240.00. This is a litigation expense that is not recoverable in this manner and is not allowed.

26. The other receipts are in respect of her travel by taxi to Dr. Dundas, Dr. Minott, Spanish Town Hospital, Nuttall Hospital, University Hospital, the Heart Foundation of Jamaica and Apex Medical Centre. She received physiotherapy treatment at Apex. She traveled by taxi to each of the persons and places mentioned. I find that the expenses were reasonable and necessary. She was not and is still not able to walk without assistance.

27. The total sum proved in respect of traveling to the doctors and other places for treatment was $18,040.00. Only $3,500.00 was pleaded and only that amount can be recovered. No notice was given to the defendant that the increased amount was being claimed and neither was there an application to amend the

statement of claim. Even if there were such an application it would not have been granted.

28. Fifteen receipts were tendered in support of the item for medication and drugs (exhibit 10). The receipts exceeded the sum claimed. The plaintiff can recover the sum pleaded which was $1,250.00.

29. The cost of surgery ($107,000.00) was established. That is recoverable.

30. The medical evidence in the instant speaks to future surgery. This surgery would be for debridement of the left knee and the removal of implants. This purpose of this surgical procedure is to remove foreign matter from the knee and to remove whatever apparatus was placed in the knee. The cost of future surgery is a future pecuniary loss and so cannot be recovered as a part of special damages in the sense of an expense or liability already incurred. This means that the future cost of surgery of $115,000.00 can be recovered but no interest will be awarded on it.

31. The cost of the physiotherapy was $7,300.00. That sum was established by the evidence.

32. The bill from the University Hospital was $42,021.91. This is supported by a receipt. It can be recovered.

33. In dealing with the item of loss of earnings. The most reliable evidence came from Miss Carol McClennon the daughter of the plaintiff. Miss McClennon produced written records of the pastry and egg farming operations of her mother. It was Miss McClennon who kept these records. I accept her evidence as being reliable and trustworthy. She says that she started keeping the records from 1997. She says that her

mother earned $2130.00 per week from the sale of eggs and $2,900.00 per week from the sale of pastry. It will be noted that both sums given by Miss McClennon exceed those pleaded. Thus the calculation of loss of earnings can only be based upon the $2000.00 per week for egg sales and $2,500.00 per week for pastry sales. The pleadings say that the claim for loss of earnings is for fifty eight (58) weeks and continuing.

34. In order to see if the plaintiff can recover loss of earnings up to the assessment it is necessary to examine the Court of Appeal's decision in ***Thomas v Arscott*** (1986) 23 J.L.R 144. In that case the plaintiff phrased his claim for loss of earnings in this way:

"Loss of earnings from the 18/11/82 to the 13/5/83 at $160 per week and continuing - $3,840."

31. It was proved in evidence that the loss continued up to the date of trial. The learned trial judge reserved judgment on June 15, 1984. Judgment was delivered on October 18, 1984. On that date the judge awarded the sum of $9,369.00 up to June 15, 1984 the date of the trial. On appeal counsel for the plaintiff contended that the learned trial judge had erred in restricting the award to June 15. The award should reflect the loss up to October 18, 1994, the date judgment was delivered. Counsel for the respondent also contended that the learned trial judge erred but for a different reason. He said that the learned trial judge should not have awarded more than $3,840.00 unless there was an amendment to the pleadings. Indeed

at the trial counsel for the defendant raised objection to the judge's award but counsel for the plaintiff did not apply to amend the statement of claim to reflect the larger amount that had been proved.

32. The Court of Appeal agreed with counsel for the defendant and reduced the judge's award on this item from $9,369.00 to $3,840.00.

33. The court held that effect of the phrase "***and continuing***" only gave advanced notice that the sum claimed was not final.

34. The pleadings were very specific in terms of the time for which the claim was made and quantum. The dates were given ~~which~~ made the actual number of weeks for which the claim was made ascertainable.

35. The learned President emphasised in that case that special dam~~ages must~~ (not ought) be specifically pleaded **and** proved. That is the underlying principle.

36. In the instant case the number of weeks is known. It is stated as fifty (58) eight weeks. The sum claimed is also stated. The difference in the way that the period was expressed between ***Thomas's case*** (supra) and the present case cannot lead to a difference in principle.

37. Applying Thomas principle to the present case I conclude that the plaintiff cannot recover any loss of earnings for a period greater than fifty (58) eight weeks. No application was made to amend the statement of claim in this regard to reflect the increased amounts.

38. The loss of earnings from egg sales using the figure of $2000.00 per week (the figure pleaded) for

fifty eight (58) weeks is $116,000.00. The loss of earnings from pastry sales using the figure of $2,500.00 per week (the figure pleaded) for fifty eight (58) weeks is $145,000.00. The total sum for loss of earnings for fifty eight weeks (58) is $261,000.00. This is the amount recoverable.

39. What has been said about the loss of earnings applies equally to the claim for cost of domestic help. Any sum to be awarded cannot exceed the sum of $145,000.00. It would seem that this sum was arrived at on the basis that the cost was $2,500.00 per week for fifty eight (58) weeks. The medical reports and the testimony of the plaintiff have made it clear that domestic help was in fact necessary. The fact that the help came from her daughter who I am told gave up her job and was being paid by her mother does not alter the situation. It is not the source of the help, but the cost that is important. I hold that the plaintiff can recover $145,000.00 as the cost for domestic help.

GENERAL DAMAGES

40. In this assessment I have to consider whether there should be an award for loss of earning capacity and loss of future earnings. I say this because the clear evidence is that she was self employed at the date of the accident despite her age. I do not think that merely because she was seventy nine years old at the date of the accident she should be deprived of any award under these heads if they are found to be applicable. The fact that she had retired as an office attendant is, to my mind, no bar to an award under

these heads on the basis that her working life had ended. One career had ended and another began. It is clear to me that her working life had continued but in a different vocation. She had merely changed her career.

41. In the leading judgment of ***Gravesandy v Moore*** (1986) 40 W.I.R. 222 the Court of Appeal of Jamaica through Carey J.A. said a page 223:

> In the case of loss of future earnings, the court is therefore concerned with quantifying an item of special damages which, provided that the evidence is adduced, is comparatively easy to assess. Loss of earning capacity is an item of general damage co-terminous with pain and suffering. What the court is being asked to assess is the plaintiff's reduced eligibility for employment or his risk of future financial loss.

His Lordship continued at page 224

> The claim for loss of earning capacity is more likely than not to arise in cases where the plaintiff is employed at the time of trial or assessment……in our opinion the principles therein stated, apply equally to a plaintiff who is self employed as was the respondent in the present case. ***Plainly, if the possibility or risk exists that the plaintiff will be unable to perform and so have to close his business, he is in precisely the same situation as an employee who loses his job.*** (My emphasis)

Finally at page 225

> *The chance or risk must depend, in the first place, on the degree, nature or severity of the injury and the prognosis for full recovery. Where, as in the present case, the extent or percentage disability was not known, it is*

> *impossible to begin to attempt a quantifying of the risk. Further, there was evidence that although the leg could never be as before, it was probable that it would improve by the time his next visit to the doctor was scheduled. Then there are other factors about which evidence would need to be adduced; for example, the length of the rest of his working life, the nature of his skills, and the economic realities in his trade and location. This would be necessary to put a court in a position to assess the chances of obtaining other employment or continuing in some other business.*

42. In the case of ***Mark Scot v Jamaica Pre-Pack Limited*** Suit No. C. L. S 279/1992, delivered October 26, 1993 Courtenay Orr J held that the plaintiff who was made unemployable by the tortfeasor's negligence was entitled to recover for both loss of earnings and loss of earning capacity. The plaintiff in that case had an 11% disability of the whole person. He tried to get employment after his injury but his injuries made it virtually impossible for him to keep any job he actually got.

43. His Lordship said of the plaintiff in that case at page 11:

> *His injury has created a serious weakening of his competitive position.* ***His is not merely a risk of unemployment, but a fact,…a plaintiff is just as deserving of compensation under this head even if he is not employed at the date of trial.*** (My emphasis)

44. The learned judge found support from Browne L.J. in ***Cook v Consolidated Fisheries Ltd*** (The Times, January 17, 1977).

45. Dr. Dundas said that in his opinion she would not be able to resume her livelihood.

46. These losses for the plaintiff in this case are very real losses. She was an earning at seventy nine years old. There is nothing to suggest that she would have been unable to operate her business for a few more years. Clearly she has defied conventional wisdom and experience. For the reasons she must be compensated for her loss.

47. I am reminded by the Court of Appeal of Jamaica that the "principle governing the award of damages for injuries in tort is to compensate **the victim** in order to restore her, as far as money can, to the position in which she would have been, if the tort had not been committed" (see Harrison J.A. ***Monex Limited v Derrick Mitchell & Camille Grimes*** SCCA No. 83/96, delivered December 15, 1998, page 5). As Courtney Orr J said in ***Scott's case*** (supra) which I adopt for this case: the plaintiff is no longer at risk of being unemployed; it has become fact. The goal is full and adequate compensation that is not excessive. The learned Justice of Appeal added these important words "[t]here must be evidence on which a judge bases his award, and difficulty of assessment should not preclude him from doing so" (see ***Monex*** (supra) page 6).

48. In this case it is known that the plaintiff was skilled at making pastries. It has been proven that she had the energy to operate a small scale egg farm. There is no evidence that she was incapacitated prior to the accident. The evidence has established that the injury was severe. The doctor has said that the prospects of full recovery are not good. She now has a

24% whole person disability. The doctor says that she is likely to get worse. The injuries have destroyed her ability to work and have in fact prevented her from earning. I would think that all the relevant factors identified in the ***Gravesandy case*** (supra) are present in this case except the length of her working life. The usual retirement age is either 60 or 65 years. Those ages are usually relevant to persons who are employees. They are of no relevance to persons who are self employed. As I said already although she had retired as on office helper she was self employed earning from her pastry and egg farming business. Having regard to her apparent good health and undoubted vigour I would use age eighty (84) four as her "retirement age" for this case.

49. In calculating her future loss I will use the income that she would have earned had she not been injured. The evidence is that she would have earned $5,030.00 per week. There was no evidence that his sum was likely to increase. For one year her gross income would be $261,560.00. No evidence on any possible tax exemption was presented to the court. I will assume that her income is taxable. The current rate of personal income tax is approximately twenty five percent of gross income. Applying this percentage her net income would be $196,170.00.

50. Carey J.A. in ***Kiskimo Ltd. v Deborah Salmon*** SCCA No. 61/89 (delivered February 4, 1991) made it clear that when the court is taking into account factors such (i) that an award under this head is being made now and not in the future; and (ii) other contingencies, any adjustment should be reflected in

the multiplier and not the multiplicand. Taking this into account I would use a multiplier of one.

51. As far as loss of earning capacity is concerned this will be dealt with by including it in the overall award. This method is said to be one of the acceptable ways of dealing with this item of general damage (see Gordon J.A. at page 4 in ***George Edwards v Dovan Pommells*** SCCA No. 38/90 delivered March 22, 1991). I am aware of the judgment of Campbell J.A. in ***United Dairy Farmers Ltd. v Lloyd Goulbourne*** (1984) 21 J.L.R. 10. There the learned Justice of Appeal said that loss of earning capacity is well suited to instances where there is no satisfactory evidence to sustain an award for future loss of earnings (see page 18B). I do not understand this to mean that if there is evidence to sustain both heads then either one or the other and not both should be awarded. They are quite separate and distinct and serve different purposes. One is to compensate the plaintiff for the plaintiff's reduced eligibility for employment (loss of earning capacity) and the other is to compensate the plaintiff for a real loss of future income (loss of future earnings).

52. I will now deal with the cost of future nursing care. Dr. Dundas said in his report that her condition is likely to deteriorate with age. The plaintiff now has to rely on her daughter for nursing care. There was no evidence indicating how long this care would be needed especially having regard to her age and the nature of the injury. The question is how long is she likely to live? How long is she likely to require nursing care? I would say that her life expectancy is eighty five years. This would be another seventy two

weeks. She pays her daughter $2,500 per week at present. The court has to take into account that nursing care will still be needed even if her daughter stops providing the service. For one year this would be $180,000.00. I apply a multiplier of one (1). I believe that this is a reasonable sum and so I award the sum of $180,000.00 as the cost of future nursing care.

53. I will now deal with loss of amenities, pain and suffering and loss of earning capacity.

54. Counsel referred to ***Patrick Lawrence v Frank Cole*** [Suit No.C.L. 1988/L076], Harrison and Harrison, *Assessment of Damages for Personal Injury*, at page 397.The plaintiff in that case suffered from fracture of the lower pole of the right patella with a chip out of the right medial femoral condyle; right knee swollen, bleeding and tender; abrasion around the right eye. The disabilities were double vision, a permanent 18 cm long scar on the medial parapatella area; 5cm quadriceps deficit on the right side which can only flex to 86%; course movement of the joint and degenerative change related to the femoral condyle. Permanent disability was 21% of affected limb and an additional 10% for extensive loss of muscle bulk. He had continuous back ache and developed pain in knee when sitting, driving or standing too long. There was the prospect of future degenerative changes in the joint. A knee replacement at his age would last only 5-6 years. The general damages assessed on October 18, 1990 were $120,000.00. The cpi then was 154.5. The current cpi placed before the court was 1475.9. The current value of that award is $1,143,369.92.

55. Learned counsel for the plaintiff relied on the case of ***Wilbert Honeywell v Jannette Roach*** [Suit No. C.L. 046 of 1993] Khan, *Recent Personal Injury Awards made in the Supreme Court of Judicature of Jamaica*, Vol. 4 at page 54. The award, by consent, was $575,000.00. The whole person impairment arrived at was 13%. Of the total awarded $450,000.00 was for loss pain and suffering and loss of amenities. It is not clear from the report what comprised the balance. I do not think the case is of much utility.

56. Mr. Samuels also referred to the case of ***Noel Robinson v The Attorney General & Sgt. Lascelles Buckley*** [Suit No. C.L. 1992 R 173], Khan, *Recent Personal Injury Awards made in the Supreme Court of Judicature of Jamaica*, Vol. 4 at page 50. The plaintiff was in a motor vehicle accident. His left knee was swollen and he had a comminuted fracture of the medial tibial condyle. Counsel stressed the fact that in that case the whole person impairment was 14% compared to 24% in the instant case.

57. Finally Mr. Samuels referred to ***Lillian Livermore v Casbert Morrison*** [Suit No. C.L. 1998 L 127]. In that case the medical evidence did not indicate any percentage whole person disability but the learned judge took it into account. The general damages awarded were $2,000,000.00. The Court of Appeal reduced the amount by 25% on the basis that no permanent partial disability was expressed by the doctor. The plaintiff's age was taken into account. She was 30 years old. The assessment was done on October 1, 1999. The court was not told what was the

cpi at that time and so cannot use the approved formula to update this award.

58. Lord Roche said in ***Rose v Ford*** [1937] AC 826, 829 that impaired health and vitality is a loss of good thing in itself.

59. Taking into account the injuries suffered by the plaintiff and the fact that she now has a whole person disability of 24% I believe that an award of $850,000.00 is appropriate for pain and suffering and loss of amenities. The sum of $50,000.00 is awarded for loss of earning capacity.

FINAL AWARD

60. Special damages

Medical expenses

Dr. Mark Minott	$ 14,000.00
Dr. Dundas	$ 9,500.00
Cost of X rays	$ 8,000.00
Transportation	$ 3,500.00
Medication and drugs	$ 1,250.00
Cost of medication	$107,000.00
Cost of physiotherapy	$ 7,300.00
Bill from UHWI	$ 42,021.91
Loss of earning	$261,000.00
Cost of domestic help	$145,000.00
TOTAL	**$598,571.91**

Interest is awarded on **$598,571.91** sum at the rate of 6% per annum from the date of accident (December 9, 1998) to date of judgment (July 26, 2002).

The items listed, namely, loss of future earnings, cost of future nursing care and cost of future surgery, are special damages in the sense that they are quantifiable at the time of assessment but they are future losses. They have not yet been incurred. No interest is awarded on these items.

Loss of ~~future~~ earnings	$196,170.00
Cost of future nursing care	$180,000.00
Cost of future surgery	$115,000.00

General damages

Pain and suffering & loss of amenity	$850,000.00
loss of earning capacity	$ 50,000.00

Interest awarded at 6% on the sum of $900,000.00 date of service of writ of summons (January 25, 2001) to date of judgment (July 26, 2002).

The award of interest in the manner indicated on the special damages and general damages is based upon the principles enunciated by Lord Denning M.R on ***Jefford v Gee*** [1970] 2 Q.B. 130.

Costs to the plaintiff in accordance with Schedule A of The Rules of the Supreme Court (Attorney's at Law's Costs) Rules 2000.