

AMLS

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN COMMON LAW

SUIT NO. C.L. W 181 OF 1999

BETWEEN	FAITH WILSON	PLAINTIFF
AND	DEENAH'S AUTO &TRANSPORT LIMITED	1 ST DEFENDANT
AND	MICHEAL BAILEY in person	2 ND DEFENDANT

Miss Karen Gray for plaintiff

The defendants were unrepresented

Heard: April 23, 2002

ASSESSMENT OF DAMAGES

JONES, J. (Ag.)

The plaintiff Faith Wilson is a twenty-three year old nurse residing at Trevennion Park Road in the parish of Kingston. On August 21, 1998, she was travelling in a motor car on the Lyssons main road and was involved in an accident. The car belonged to Deenah's Auto & Transport Limited and was driven by Mr. Michael Bailey. The plaintiff said that after the impact when she came out of the car she was bleeding from the mouth and lip. She said that the little finger on the right hand was broken. She said she was weak and dizzy and when she recovered she was taken to the Princess Margaret Hospital in St. Thomas and later transferred to the Kingston Public Hospital in Kingston.

Liability has not been denied and therefore it leaves only for damages to be assessed. The report from the hospital is set out below:



HOSPITALS (SOUTH EAST REGION) MANAGEMENT BOARD

KINGSTON PUBLIC HOSPITAL
NORTH STREET, KINGSTON
JAMAICA, W.I., (876) 922-0210 9

*Any reply or substantial reference to this
Communication should be addressed to the
CHIEF EXECUTIVE OFFICER and the following
Reference quoted:
Ref: 51-58-83*

May 14, 2001

Ms. Karen W. Gray
Attorney-at-Law
51A Duke Street
Kingston

Dear Sir,

Medical Report re: Faith Wilson

This is to certify that Faith Wilson, 23 year old female patient was seen at the Kingston Public Hospital, Facio-Maxillary Clinic on August 24, 1998 with history of being involved in a motor vehicle accident and sustained injuries to the face and right little finger.

Examination of the patient showed swelling of the left cheek and left intraorbital area. There was sutured laceration over the lower lip with loss of two (2) teeth in the lower jaw. There was also pain and deformity of the right little finger.

X-ray done showed fracture of left zygomatic bone, multiple fracture of the palate and fracture of the lower alveolar. X-ray of the right hand showed fracture of the proximal phalanx of the right little finger.

Closed reduction and K wire pinning of the proximal phalanx fracture was done on August 28, 1998. Patient was also admitted to the Kingston Public Hospital on September 1, 1998 and Facio-max Surgeon had done open reduction and internal fixation of the fracture zygomatic bone, fracture palate and fracture alveolar was done on September 2, 1998.

Patient was discharged from the hospital on October 3, 1998 and was followed up in both Orthopaedic and Facio maxillary Clinics.

When she was last seen in the Orthopaedic Clinic on April 10, 2001, there was reduced range of movement of the proximal interphalangeal joint of right little finger. Patient was unable to flex the little finger fully. The range of movement of the little finger was 0° to 90°. The percentage of permanent disability is 10% of the finger and 3% of the right hand.

Sincerely,

Dr. N. N. Than
Resident
Orthopaedic Department

The plaintiff received treatment in respect to her teeth from Dr. Green and it is recommended that she put in a five unit bridge together with root canal therapy on five teeth estimated to cost \$102,000.00. The report of Dr Green is set out below:

Dr. Winston Green, DDS
Dental Surgeon

10-12 Melmac Avenue
Kingston 5

Telephone: 929-6704
Fax: 968-2861

May 19, 2000

Ms. Karen W. Gray
Attorney-at-Law
51A Duke Street
Kingston

Dear Ms. Gray,


Re: Dental Report - Faith Wilson

This is to certify that Miss Faith Wilson, age 25 years, was seen at my office on May 17, 2000 with history of being involved in a motor vehicle accident on August 21, 1998 in which she sustained injuries to the face.

Miss Wilson complained of extreme sensitivity in the upper left region of her mouth. On examination, upper left region consisting of teeth numbers 1, 2, 3, 4, 5 (5) were extremely painful and sensitive to the touch.

I have recommended that she proceed to have Root Canal Therapy done on all five (5) teeth to resolve this situation. She may further be required to have these teeth crowned.

Yours sincerely


Dr. Winston Green, DDS
Dental Surgeon
DR. WINSTON GREEN
DENTAL SURGEON

The plaintiff referred me to the case of *Paul Downer vs. Tyrone Chen & Anor* at page 157 of Harrison's "Assessment of Damages for Personal Injuries". That case was a motor vehicle accident where the plaintiff had the following injuries:

*"Missing incisor tooth
Loose, soft tissue-gums right mandible
Sutured laceration to chin
Swollen tender deformed right thigh
Comminuted fracture of the right femur on an alveolar segmental fracture of the mandible"*

The plaintiff in that case had 15% permanent partial disability of the right foot or 6% of the whole person. He did not lose consciousness, but remained in the hospital for six months. He was awarded \$300,000.00 in general damages. That award is \$877,065.50 in today's dollars.

In *Charley Brown vs. Byron Cummings* at page 61 of Harrison's book (supra) the plaintiff had lacerations and abrasions to the face; fracture of the left mandible and cheek bone; multiple abrasions over the body, including the upper and lower limbs. The plaintiff in that case suffered permanent deformity of the left side of the face and disability of the function of the jaw. Pain and suffering and loss of amenities were assessed at \$50,000.00 on January 10, 1992. In today's dollars that would amount to \$232,873.45. I assess that the two cases represent a range from high to low and accordingly will use the middle point between those two awards.

General Damages are assessed as follows:

Pain & suffering and loss of amenities	\$554,969
Future medical care	<u>\$102,000</u>
Total General Damages	\$656,969

Interest is awarded at the rate of 6% per annum from the date of service of the writ of summons up to today.

Special Damages	\$65,400
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Interest on special damages is awarded on the sum of \$65,400 with interest at the rate of 6% per annum from August 21, 1998, up to today.

Judgment for plaintiff for sum of \$722,369 with cost to be taxed, if not agreed.

May 3, 2002