

Judgement Book

**IN THE SUPREME COURT OF JUDICATURE OF JAMAICA**

**IN COMMON LAW**

**SUIT NO. C.L. R054 OF 1990**

BETWEEN	ROY REID	PLAINTIFF
AND	FOREST INDUSTRIES DEVELOPMENT COMPANY LIMITED	DEFENDANT

Mr. Winston Spaulding, Q.C. and Mr. Norman Harrison for plaintiff

Mr. Dennis Morrison, Q.C. and Mrs. Donna Scott-Mottley for defendant

**Heard:** 26<sup>th</sup>, 27<sup>th</sup> and 28<sup>th</sup> September, 2000 and 6<sup>th</sup> April 2001

**JAMES G.G. J.**

On the 18<sup>th</sup> day of July, 1989 the plaintiff was injured while travelling back to the defendant's headquarters at Twickenham Park in St. Catherine. He was driving a truck belonging to the defendant when the steering and braking mechanism ceased to function and the truck crashed into the side of the bridge on Spanish Town Road, near to Riverton City.

Liability is not in issue and all that remains is for damages to be assessed.

The plaintiff is a heavy duty mechanic, he was employed by the defendant as a mechanic/repairman. He sustained several injuries and was hospitalized for about one year altogether.

Dr. Warren Blake had seen the plaintiff on 18<sup>th</sup> July, 1989, the very day of the accident. He was admitted to the Kingston Public Hospital. The doctor detailed the injuries he saw then as follows:-

- (a) He had a 2 cm traversable laceration to the left forehead
- (b) Tenderness over left clavicle
- (c) 2 cm contused wound over the dorsal aspect of the proximal interphalangeal joint of the right middle finger.
- (d) Similar 2 cm contused wound to the dorsal aspect of the proximal interphalangeal joint of the right index finger
- (e) 2 cm jagged laceration to the dorsum of the metacarpal phalangeal joint of the right thumb.
- (f) Laceration to eye and ear.
- (g) Three lacerations to the right left of 5 cm, 8 cm, 20 cm.  
There was bone protruding from the 20 cm laceration.
- (h) Multiple lacerations to the left lower limb area, 15, cm.  
Lacerations on the medial aspect and three 20 cm lacerations on the lateral aspect.

(i) The left thigh was swollen and there was deformity.

X-rays were taken and showed fracture of distal third of left femur, fracture of the mid shaft of right tibia and fibula, fracture of the right lateral malleolus

The doctor recommended certain surgical procedures but due to financial difficulties only some of these procedures were carried out.

On 8<sup>th</sup> April, 1991 the plaintiff was admitted to St. Josephs Hospital where he had internal fixation and bone grafting. He went home on 14<sup>th</sup> April, 1991. He returned to that hospital on 8<sup>th</sup> February, 1995 when he had an operation done to his right leg.

The plaintiff was seen by the doctor on many occasions when he was x-rayed and treated. A medical report dated 25<sup>th</sup> February, 1999 shows that the plaintiff was seen and treated by doctor Blake on 9<sup>th</sup> and 20<sup>th</sup> February, 1995, 26<sup>th</sup> June, 1995 and 19<sup>th</sup> February, 1999. In that report the doctor stated that the plaintiff's total permanent disability 'equates to thirty-one percent (31%) whole person impairment.'

Doctor Guyan Arscott, a Consultant Plastic Surgeon, saw the plaintiff on 22<sup>nd</sup> February, 1999, the doctor stated that the plaintiff had an unhealed ulcer over the lower one third (1/3) of his right leg. It was the doctor's opinion that this ulcer would be difficult to heal. The patient would need

prolonged hospital stay followed by skin grafting. An estimation of the cost of 'surgical management' will be one hundred thousand dollars (\$100,000).

Doctor Aggrey Irons, a Consultant Psychiatrist saw the plaintiff on 14<sup>th</sup> June, 1993, 13<sup>th</sup> January, 1994 and again on 7<sup>th</sup> April, 1999. The doctor concluded that the plaintiff suffered from a severe post traumatic stress disorder with marked disabilities in the areas of depression, sexual dysfunction and memory loss. He had a residual psychological disability of about thirty percent of normal function. According to the doctor, the plaintiff will continue to need treatment indefinitely.

The evidence of the doctors confirm in every particular what the plaintiff said in evidence about his physical and mental condition. He had experienced much pain and discomfort, both physical, emotional and psychological.

In assessing damages I bear in mind the medical evidence together with the plaintiff's own testimony. I take into account all the evidence including that of Mr. Bruce Excell, Mr. Dwight Reid and Mr. Clifford Thompson. The submissions by the attorneys have been helpful. I have been guided by the authorities to which I have been referred. These include

the following cases:

***Angie Moore v Mervis Rahman Suit No. C.L. 1984 M544***

***Linden Palmer v Donald Mendes Suit No. C.L. 1990 D072***

***Dietrich v Chen 21 JLR 323***

On the cases of the evidence and the submissions I award damages as follows:

General damages for pain and suffering and

Loss of amenities	\$4,000,000
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Future earning capacity	4,448,600
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Special Damages	<u>7,134,632.21</u>
	\$15,583,232.21

Interest on \$4,000,000 at 6 % per annum from 18<sup>th</sup> July 1990 to 6<sup>th</sup> April 2001 and Interest on \$7, 134,632.21 at 6 % per annum from 18<sup>th</sup> September, 1989 to 6<sup>th</sup> April, 2001.

Costs to be taxed if not agreed.

Execution stayed for six weeks.