[2026] JMSC Civ. 133

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN CIVIL DIVISION

CLAIM NO. 2017 HCV 02604

BETWEEN	**JODINE TAFARI**	**CLAIMANT**
AND	**RONALD COKE**	**DEFENDANT**

IN OPEN COURT

Ms. Racquel Dunbar instructed by Dunbar & Co. for the Claimant

Mr. Sean Kinghorn instructed by Kinghorn and Kinghorn Attorneys-at-Law for the Defendant

Tort – Negligence – Breach of Duty of Care – Contributory Negligence – Damages

Heard: June 2, 2026, and October 30, 2026

CARR, J

The Claim

[1] The Claimant seeks damages due to the negligence of the Defendant. She avers that on July 16, 2013, the Defendant drove, managed or controlled his Toyota Townace motor vehicle causing it to collide with her Toyota Yaris motor vehicle along Mount Rosser Road in the parish of Saint Catherine. The Defendant filed a defence and counterclaim seeking an order from the Court that the Claimant caused or materially contributed to the accident by her own negligence on that day.

Issues

[2] Whether the Defendant (**Ronald Coke**) is liable to the Claimant (**Jodine Tafari**) because of his negligence in operating his motor vehicle on July 16, 2013, or did Ms. Tafari negligently cause or materially contribute to the accident resulting in damage, loss or injury to Mr. Coke.

Analysis and Discussion

[3] The tort of negligence is proved when a claimant can satisfy the Court on a balance of probabilities as to the following:

a. That they were owed a duty of care by the defendant.
b. That the defendant breached that duty.
c. That because of that breach the claimant has suffered damage, injury or loss and that this damage is not too remote.

[4] Where a defendant avers that the claimant was contributorily negligent it does not negate the claim, however the law provides that there may be a reduction in an award for damages proportionate to the level of contribution found by the Court after careful analysis of the evidence[1].

[5] It is accepted that both Ms. Tafari and Mr. Coke owed a duty of care to each other as users of the road, that their vehicles were damaged, and that they both received injuries because of the collision. The main factor for determination therefore is whether either or both breached that duty of care.

[6] The following documents were agreed at a pre-trial review hearing and admitted into evidence without the need for the makers to attend:

---

[1] Section 3(1) of The Law Reform (Contributory Negligence) Act.

a. Medical Report of Dr. San Lwin dated September 24, 2013.

b. Medical Report of Dr. H.C. Persaud dated July 24, 2013.

c. Priority Loss Adjusters Limited Assessors Report dated August 15, 2013.

d. Priority Loss Adjusters Limited Supplemental Assessors Report dated January 14, 2014.

e. Priority Loss Adjusters Limited Reinspection Report dated February 17, 2014.

f. Loss Adjusters Report prepared by MVA Motor Consultant dated August 19, 2013.

[7] At the commencement of the trial Counsel agreed the documents listed below:

a. Invoice in the sum of $8,665.00 from Priority Loss Adjusters Limited dated February 20, 2014 – Exhibit 1.

b. Invoice in the sum of $4,415.00 from Priority Loss Adjusters Limited dated January 20, 2014 – Exhibit 2.

c. Receipt in the sum of $25,000.00 from North Coast Imaging MRI Services dated September 4, 2013 – Exhibit 3.

d. Receipt in the sum of $32,000.00 from Oniel Bernard for transportation dated September 15, 2013 – Exhibit 4.

e. Receipt in the sum of $32,000.00 from Myat Medical dated September 24, 2013 – Exhibit 5.

f. Photograph taken by Ms. Tafari – Exhibit 6.

[8] The witness statements of Ms. Tafari and Mr. Coke stood as their evidence in chief and they were cross-examined. In cases of this nature the issue is determined entirely on the credibility of the parties.

[9] Ms. Tafari told the Court that on the day in question she was driving her motor vehicle along Mount Rosser main road at about 1:05 p.m. She was driving directly behind a truck that was carrying gravel or sand in the back. The truck kept stopping and moving off and was moving slowly. She said she was looking for the first opportunity to pass it. At a straight section of the road, she looked ahead and saw that the way was clear and proceeded to overtake. While in the process of doing so she observed a white van approaching from the opposite direction. The van was approximately a distance of the length of five vehicles when she first saw it.

[10] She concluded overtaking and resumed her lane. The white van was drifting into her lane and appeared to be wobbling. She moved further left but due to the embankment on that side of the road she could not go much further. She said she also blew her horn. The van came over into her left lane and hit her car. The vehicle was struck from the edge of the right front door to the right rear quarter panel or fender. The impact pushed her car into the embankment to her left. The van continued beyond her car and collided with the truck which was now behind her.

[11] Mr. Coke has another version of the events that day. He stated that he was traveling in the direction of Kingston. He observed a motor vehicle overtaking an international motor truck. The driver of the vehicle attempted to re-enter but did not have enough space. The driver of the truck applied his brakes, cut his speed to avoid a head on collision. During that attempt to re-enter the lane the left side of the vehicle collided with the right side of the motor truck which caused his motor car to collide with the right rear section of the overtaking vehicle.

[12] It is plain to see that the two versions cannot be true as they are diametrically opposed. The assessor's reports were provided with respect to each motor vehicle. Counsel for both parties has asked that the reports be utilized in the examination of the credibility of the parties.

[13] Ms. Tafari's vehicle was first assessed on August 15, 2013. The point of impact was the rear section of the vehicle. The damaged parts included:

a. The right rear door

b. The left rear door

c. The right rear rim

d. The right quarter panel

e. The left quarter panel

f. The left rear lamp

g. The left front rim

h. The right rear lamp

i. The right rear tyre

[14] The evidence contained in the assessor's report is not in line with that of Ms. Tafari. She indicated that Mr. Coke's vehicle hit her vehicle from the edge of her right front door down to the right rear quarter panel/fender. The assessor's report makes no mention of any damage to the right front door. In describing the nature and consistency of the damage, it was reported that the damage appeared to be consistent with an impact to the rear section and a secondary impact to the right causing damage to the right quarter panel, right rear door, right rear rim and other part items located in that area. The initial impact therefore was on the right rear section of Ms. Tafari's vehicle.

[15] Mr. Coke's vehicle was assessed on August 19, 2013. The point of impact was the right front section. The damaged parts included:

a. The right front door shell

b. The right head lamp

c. The right front door mirror

d. The right corner lamp

e. The right fender

[16] The damage to the unit was concentrated to the right front corner of the vehicle.

[17] Based on the assessor's report provided for Ms. Tafari's vehicle I find and accept that there was no impact to the front right door as no such damage was observed, as such Mr. Coke's vehicle collided with the rear of Ms. Tafari's vehicle.

[18] The question to be determined is whether this collision occurred while Ms. Tafari was overtaking the truck or when she had re-entered her lane.

[19] In cross-examination Ms. Tafari indicated that the area she decided to overtake was uphill towards the direction of St. Ann. She could see for a distance of approximately seven car lengths which was estimated at least four hundred to five hundred feet away. The length of the truck she was overtaking was twice the length of her car which was agreed at approximately ten to twelve feet. That would make the length of the truck approximately twenty to twenty-four feet. She could not say what speed she was traveling at the time she was overtaking but she indicated that the truck was moving slowly at the time and as a result she was moving fast enough to pass the truck.

[20] She told the Court that before overtaking the truck she did not see any vehicle coming, yet she could see a distance of approximately four hundred to five hundred feet away. She first saw Mr. Coke's vehicle while in the process of overtaking. She was just about to finish overtaking the truck when she saw Mr. Coke's vehicle. She was just about to get back into her lane. A section of her vehicle was already to her lane. When she saw Mr. Coke's vehicle at this point, he was at a distance of approximately five times the length of her car. She could not say what speed he was traveling at, but she noticed that the vehicle was wobbling. She did not observe a change in speed when the vehicle was approaching but it was just coming towards her.

[21] She said before the collision she slowed down and basically stopped. Mr. Coke's vehicle then left its lane and drifted over into her lane colliding with her vehicle. She also told the Court that Exhibit 6 which pictured Mr. Coke's vehicle along the

roadway with a chalk outline that she said represented where his vehicle rested after the collision, is a distance away from where the collision occurred.

[22] She was asked if Mr. Coke collided with the left rear door of her vehicle and she said that he did not. She explained that Mr. Coke collided with the right rear of her vehicle which pushed her vehicle into the embankment and her left wheel hit the embankment and the physics of it caused her car to come over to the right and she had to steer the car properly to avoid going over to the bauxite. She denied that her vehicle collided with the trailer.

[23] She said that it was Mr. Coke's vehicle that passed her car and hit the truck behind her. The truck had stopped at this time. When she looked in her rear-view mirror, she observed that the van driven by Mr. Coke had stopped further down the road behind her and was partially in her lane by the truck. When she observed Mr. Coke's vehicle it was wobbling and drifting over into her lane just before it collided with her vehicle it was coming directly into her lane. At some point it started to come straight towards her vehicle.

[24] Counsel Ms. Dunbar asked the court to find that Mr. Coke's version of events did not ring true because of the position that the vehicle was found to have rested after the collision based on Exhibit 6. It is my considered view that Exhibit 6 cannot assist the Court. Firstly, there is no evidence from the person who created the chalk outline that would substantiate any finding as to its accuracy. Secondly the photograph clearly depicts another truck and not the truck that Ms. Tafari was overtaking. Thirdly, it cannot assist in determining the position of the vehicles at the time of the collision since it is clear from the evidence that Mr. Coke's vehicle travelled some distance from the point of impact.

[25] I have also considered Ms. Dunbar's submission that Mr. Coke's reference to a head on collision must be interpreted to mean that he was in a head on collision with the truck as there could be no head on collision with Ms. Tafari's vehicle. I

find that the head on collision that he referred to is that of the truck rear ending Ms. Tafari's vehicle which is what caused the driver to apply his brakes.

[26] In examining Ms. Tafari's evidence I did not find that she was wholly truthful in her account of the collision. If Mr. Coke's vehicle was coming directly towards her then how did he hit the right rear section of her car. The evidence in her examination in chief as to where the damage started on her motor vehicle would be more consistent with a somewhat direct hit by Mr. Coke's vehicle, however that is directly contradicted by the damage reported by the assessor's. I did not accept her evidence in this regard.

[27] Further, this was a straight road and Ms. Tafari said she was going uphill and at a good pace because she had to pass the truck. At the time I find that she was anxious to pass the truck because it was moving slowly and dirt and or debris was falling from the back.

[28] Ms. Tafari had a greater duty of care at this point as she was now encroaching in the opposite lane. She had a duty to keep a proper lookout as well as to ensure that her vehicle did not obstruct or interfere with oncoming traffic.

[29] I did not find that she was paying close attention to the road, she was able to pass the truck in what she described as a few seconds, yet she did not see Mr. Coke's vehicle until she was halfway through overtaking, on a road that she described she had a view of for more than four hundred feet. Unless Mr. Coke was traveling at lightning speed, I find it difficult to accept that she did not see his vehicle as she started to overtake.

[30] Additionally, there was no indication from the assessor's report that Mr. Coke's vehicle was malfunctioning on the day of the collision. It was in good working condition. Why then would it have been wobbling on a straight road and then suddenly heading straight in her direction even after she blew her horn. According to her evidence he did not turn or swerve from her vehicle but came straight. In

summary it was wobbling and then it just stopped wobbling and came straight in the direction of her vehicle.

[31] I find that in Ms. Tafari's haste to overtake the truck she did not take due care and caution to ensure that she was doing so at a point in the roadway that was safe.

[32] What of Mr. Coke? Ms. Dunbar has submitted that even if the Court accepts that Ms. Tafari was negligent, Mr. Coke did not do anything to avoid the collision. In cross-examination Mr. Coke told the Court that the road was not a straight road and that there were both broken and unbroken white lines in that area. He said that at the point where the collision occurred, he could see a distance of approximately thirty-five feet. When he first saw Ms. Tafari's vehicle it was a distance of about twenty feet away. He said the truck was about forty feet in length, and he was unable to see the entire truck prior to the collision. He agreed that at no time was his vehicle, the Yaris and the truck beside each other along the roadway.

[33] Mr. Coke did not state in his witness statement that on seeing Ms. Tafari's vehicle he did anything to avoid the collision. When that suggestion was made to him during cross-examination, he said that he did something to avoid the accident. There was no re-examination to clarify what that was. Ms. Dunbar has submitted that Mr. Coke had a duty to try to avoid the collision. While this is accepted it is my view that had it not been for the obstruction caused by Ms. Tafari's vehicle the collision would not have occurred.

[34] I wish to address one other issue. Ms. Dunbar asked several questions and made suggestions to Mr. Coke about the damages to the motor truck and who paid for that damage. Both Ms. Tafari and Mr. Coke have stated that the truck was hit that day but there is no evidence from the truck driver before the Court. I cannot speculate as to any of the suggestions made to Mr. Coke; I am also not of the view that I need to make a conclusive finding as to which vehicle (Ms. Tafari or Mr. Coke) collided with the truck. The important factor for my consideration is how the

collision occurred between Ms. Tafari and Mr. Coke. I find and accept that Ms. Tafari was negligent in the overtaking of the truck and therefore solely responsible for the collision that resulted in damage to Mr. Coke's vehicle as well as his injuries.

Special Damages

[35] Mr. Coke claimed damages and outlined particulars of injury as well as particulars of special damages.

[36] The sum of One Hundred and Forty-Three Thousand Four Hundred and Sixty-Three Dollars and Forty-Two Cents ($143,463.42) was claimed for special damages. The breakdown is as follows:

a. Medical expenses and continuing - $25,000.00

b. Cost to repair motor vehicle - $113,463.42

c. Transportation expenses - $5,000.00

[37] The only item that Mr. Coke has proved is the repair cost of the motor vehicle. He has not outlined in his witness statement any cost associated with medical treatment or transportation. As such special damages are awarded in the sum of $113,463.42 (One Hundred and Thirteen Thousand Four Hundred and Sixty-Three Dollars and Forty-Two Cents).

General Damages

[38] In assessing damages for personal injuries, the objective is to return the claimant to the position they would have been in, or as close as possible, had the negligent act not occurred. I am guided by the principles established in **Cornilliac v. St Louis**[2] as to the relevant considerations in this regard, that is, (a) the nature and extent of the injuries sustained; (b) the nature and gravity of the resulting physical disability; (c) the pain and suffering endured; (d) the loss of amenities suffered;

---

[2] (1965) 7 WIR 491

and (e) the extent to which the claimant's pecuniary prospects have been materially affected as a consequence of the injuries.

[39] A medical report from Dr. H.C. Persad outlined the following injuries:

a. Contusion to the neck – cervical spine.

b. Contusion to both elbows.

c. Contusion to both knees.

d. Contusion to both legs (anti tibial areas – shins).

[40] The injuries were not considered serious however he should have followed up for any possible disabilities. It would not appear that there was any follow-up as there are no other medical reports on behalf of Mr. Coke.

[41] In determining an appropriate award for the Defendant's injuries, the decisions in **Reginald Stephens v. James Bonfield & Anor**[3], and **Daniel Thompson and Yanique Thompson v. Sean Steward and Winchester Watson**[4] were considered.

[42] In **Stephens v. Bonfield**, the plaintiff suffered an abrasion of the left leg and bruise on the right foot. He had pain for about four weeks. He was awarded $40,000.00 in September 1996. This figure updates to approximately $388,860.76 (CPI 153.6 August 2026).

[43] In **Thompson v. Steward**, one claimant suffered soft-tissue injuries to the left elbow and right knee, with bruising to the elbow and pain in the knee. The other claimant suffered soft-tissue injury to the buttock, contusion to the right medial proximal leg and post-traumatic headache. Both claimants received analgesics and muscle relaxants and were discharged. There was no follow-up medical

---

[3] Khan Vol 4, page 212
[4] [2022] JMSC Civ 84

evidence demonstrating continuing symptoms or permanent impairment. The court regarded the injuries as minor. They were each awarded $300,000.00 in general damages in June 2022 before a 50% deduction for contributory negligence. The $300,000.00 award updates to approximately $378,325.12.

[44] The claimant's injuries in **Thompson** are the most comparable to the instant case. Mr. Coke sustained contusions to the neck, both elbows, both knees and both legs. The evidence does not establish that these injuries resulted in any significant or lasting physical disability or functional limitation. An award of $400,000.00 (Four Hundred Thousand Dollars) is therefore appropriate in the circumstances.

Costs

[45] Given that the sum recoverable by Mr. Coke falls within the monetary jurisdiction of the Parish Court any order for costs in this case should be in accordance with the Parish Court Tariff of Fees.

Orders:

1. Judgment for the Defendant on the claim and the Claimant on the counter claim.

2. General Damages are awarded to the Claimant on the counter claim in the sum of $400,000.00 (Four Hundred Thousand Dollars) with interest at the rate of 3% per annum from January 25, 2018, to October 30, 2026.

3. Special Damages are awarded in the sum of $113,463.42 (One Hundred and Thirteen Thousand Four Hundred and Sixty-Three Dollars and Forty-Two Cents) with interest at the rate of 3% from July 16, 2013, to October 30, 2026.

4. Costs to the Claimant on the Counter Claim in accordance with the Parish Court Tariff of Fees to be taxed if not agreed.