



IN THE HIGH COURT OF SIERRA LEONE
COMMERCIAL AND ADMIRALTY DIVISION
FAST TRACK COMMERCIAL COURT

Case No: FTCC 022/16

THE MATTER BETWEEN:

IBRAHIM KARGBO

- PLAINTIFF

AND

SIERRA LEONE GUOJI CONSTRUCTION &
INVESTMENT CORPORATION LIMITED

- DEFENDANT

REPRESENTATION

GEVAO & ASSOCIATES

- COUNSEL FOR THE PLAINTIFF

J. K. LANSANA ESQ.

- COUNSEL FOR THE DEFENDANT

BEFORE THE HON. MR. JUSTICE SENGU M. KOROMA J.A

JUDGEMENT DELIVERED ON THE 14TH, JULY, 2016

31. This is a continuation of my Judgment dated 15th June, 2016 in which I ordered that the Defendants were liable to the Plaintiff for damages for negligence to be assessed and also liable for special damages to be assessed. I shall dispose of both issues in that Order.

DAMAGES FOR NEGLIGENCE

32. This claim is in the nature of general damages. In the Writ of Summons herein, the Plaintiff claimed damages for negligence in the sum of Le 1,000,000,000.00 to include damages for pain suffered by the Plaintiff and loss of amenity.

33. The principles governing the assessment of damages in a personal injury matter were clearly laid down by LIVESEY-LUKE CJ in the case of **IDRISSA CONTEH-V-ABDUL J. KAMARA (1980) S.C CIV.APP.NO 2/79** and applied by the Sierra Leone Court of Appeal in **MANKA S. KANU AND HAWA FULLAH CIV.APP.** delivered on the 29th May, 1980 Per Marcus-Jones JA. In the **IDRISSA CONTEH** Case, Livesey-Luke CJ had this to say “The most important principle applicable is that General Damages must be fair and reasonable compensation for damages suffered and that perfect compensation is not possible or permissible. The Judge making the assessment must do his best to arrive at a fair and reasonable estimate and for this purpose he may use certain aids by considering the award of damages under various heads of damages.

34. The accepted heads are the bodily injuries sustained, the pain and suffering endured, past, present and future to health, loss of amenities, loss of expectation of life and present and present and future financial loss. But the Judge is not obliged to state the amount awarded under each head.

35. His duty is to satisfy himself that at the end of the day, the total of the sums awarded under the various heads is fair and reasonable.

36. The learned Chief Justice then referred to the statement of Lord Denning MR in **FLETCHER-v-AUTOCAR AND TRANSPORTATION LIMITED (1968) 2 WLR 743 C.A** which reads inter-alia at page 748.

“In the first place, I think he has attempted to give a perfect compensation in money, whereas the law says that he should not make that attempt. It is an impossible task. He should give a fair compensation. In the second place, I think that the Judge was wrong to take each item as a separate head of compensation. They are only aids to arriving at a fair and reasonable compensation.”

37. Marcus-Jones JA in the Manka S. Kanu and Hawa Fullah Case (supra) stated that there is a considerable risk in just adding up the items. There is the risk of over-lapping.

38. However, in the words of Lord Morris of Both-Y-Gest in **H.WEST & SON LTD-vs-SHEPPERD (1963) 2 WLR 1359** at page 1368, HL.

“But money cannot renew the physical frame that has been battered and shattered. All that Judges and courts can do is to award sums which must be regarded as giving reasonable compensation. In the process there must be the endeavour to secure some uniformity in the general method of approach. By common assent awards must be reasonable and must be assessed with caution.”

APPLICATION OF THE LAW TO THE FACTS

39. As this is a Judge's Summons for final Judgment, all the Court has is Affidavit evidence. In paragraph 5 of the Affidavit in support, it was averred that the Plaintiff whilst in the course of his employment, loading a container belonging to the Defendant, one roll of zinc rolled over and fell on his left foot. He sustained compound fracture and was rushed to the emergency hospital where his left limb was amputated. The Plaintiff had sleepless nights, pain and as a result of the amputation of his left limb. An artificial limb had by that time been fixed on the Plaintiff.

40. The Plaintiff called Dr. Bambino Suma-Pw 1. He testified that the Plaintiff was referred to their medical facility in Makeni seeking rehabilitation as a result of the amputation of his left limb. An artificial limb had by that time been fixed on the Plaintiff. In his assessment of the Plaintiff's left limb, the Doctor discovered that the Plaintiff was suffering from pain. As a result, the Plaintiff was requested to report at the hospital after one week for further examination. During the second examination, it

was discovered that the amputation was not properly completed and so he had to carry out another surgery on the Plaintiff. The Doctor tendered his medical report which was marked as Exhibit IK6. In it the Doctor opined that *“Mr. Ibrahim Kargbo was amputated on the 7th July, 2015 making him permanently disabled at the age of 42 years. Mr. Kargbo is an amputee now and limited to many activities and permanently disabled for life.”*

41. I have looked at the evidence of the Plaintiff and that of the medical doctor and concluded that the Plaintiff has sustained bodily injuries amputation of left limb, endured pain and suffering past, present and future injury to health, loss of amenities, present and future financial loss (present and future earnings). I therefore award the Plaintiff the sum of Le 32,000,000.00 as damages for negligence which I consider is fair and reasonable having regard to the evidence and circumstances.

SPECIAL DAMAGES

42. I note that in the Affidavit in Opposition, it was deposed that the Defendant paid for medical expenses at the Emergency hospital, donated blood and provided feeding for the Plaintiff. This was not controverted. I shall therefore take it into consideration in awarding special damages.

43. The Plaintiff did not adduce evidence regarding cost of nursing help, costs of continuing medical centre. However I am aware that such expenses are incurred in such circumstances and will therefore awarded the sum of Le 10,000,000.00 under this head.

44. Cost of rehabilitation surgery to the residual limb-Le 35,000,000/00.
This head was proved by the tendering of a Makeni Regional Hospital receipt dated 20th August, 2015-Exhibit "B".

45. Cost of travelling expenses incurred by the medical doctor-Le 7,000,000/00-Exhibit "C" and "C2" and "C3".

Total: Le 51,000,000/00.

46. The other items claimed have not been proved.

47. In the circumstances, I Order as follows:

1. That the Defendant pays the Plaintiff the sum of Le 320,000,000.00 as damages for negligence.
2. That the Defendant pays the Plaintiff the sum of Le 51,000,000/00 as special damages.
3. Costs to the Plaintiff assessed at Le 35,000,000/00.



Hon. Justice Sengu M. Koroma JA.