

**REPUBLIC OF TRINIDAD AND TOBAGO  
IN THE HIGH COURT OF JUSTICE**

**CV 2006 – 02523**

**BETWEEN**

**ASHMEAD JOHAN**

**Claimant**

**AND**

**THE SOUTHWEST REGIONAL HEALTH AUTHORITY**

**Defendant**

Before R. Boodoosingh J.

Appearances:

Mr S. Boodram for the Claimant

Mr K. Harrikissoon instructed by Mr Walesby for the Defendant

Delivered: 31 March 2010

**JUDGMENT**

On 26 August 2002 the claimant was taken to the Point Fortin Area Hospital. He was in an agitated state. He was treated and transferred to the San Fernando General Hospital. He remained some days. He was diagnosed with a left foot drop. He claimed that injections negligently administered by an agent of the defendant caused trauma to the sciatic nerve and that this caused the left foot drop to occur.

The Defendant denied liability raising the possibility that alcoholism may have caused the claimant to suffer this condition.

The main issue for decision was whether on a balance of probabilities the left foot drop was caused by any trauma to the sciatic nerve by the negligent administering of an injection or injections.

This case came to down to an assessment of the evidence of the claimant, that of his witness Faizul Ramjohn and that of Dr Stephen Ramroop as against the evidence of the Dr Victor Munagapati and that of Dr Ravindranath Narine. I did not consider that Dr Ghany's evidence impacted on the issues either way. I found the claimant's evidence to be undermined in cross examination and unreliable. I also preferred the evidence of the witnesses for the defendant as against that of Dr Ramroop.

I found that the claimant arrived at the Point Fortin Area Hospital in a very agitated state. This came out in the evidence of his own witness, Mr Ramjohn who had to get the claimant to attend the hospital by a trick. He had been behaving badly and the claimant's own family had to ask Mr Ramjohn to intervene. I accepted Dr Munagapati's evidence that because of the claimant's "acute psychotic state" he had to order a nurse to administer one intramuscular injection of CPZ to calm the claimant down.

The claimant's evidence was contradictory on this point. In his statement of case 3 injections to his buttocks were mentioned. In his witness statement he spoke of 2. In cross examination he wavered on this point. Dr Ramroop gave evidence that the claimant told him he got three injections from a general practitioner. His witness statement suggested a doctor gave him the injections. He wavered in cross examination saying it may have been a nurse. The injections were at the root of his claim. He had no witness

to support him on this. Given the evidence from his own witness about how much alcohol he had consumed I found I could place no reliance on the claimant's evidence on this important issue. I add that there was ample evidence both from the claimant's witness and the medical records to suggest that the claimant has abused alcohol for a long time. This evidence is important when I considered what was the more likely cause of the patient's foot drop condition.

Assuming, however, that he had received one injection or more than one injection I did not find on a balance of probabilities that the claimant had made a link between that act and his foot drop condition. While Dr Ramroop gave evidence that trauma to the sciatic nerve could cause foot drop there was no evidence to suggest that there was in fact trauma to the sciatic nerve caused by an injection in this case.

The claimant was taken to the San Fernando General Hospital. I have examined carefully the claimant's medical records, which were agreed, and I can find no evidence that supports the trauma of which the claimant spoke. What those records and the evidence of Dr Narine showed was that the claimant was treated to an extent for his foot drop condition but that the claimant failed to cooperate and accept the advice tendered to him. He left without the recommended treatment being administered.

There was then a long break between the claimant leaving the San Fernando General Hospital and then the evidence of his examination by Dr Ramroop. Dr Ramroop's evidence in cross examination was that he saw the claimant first in December 2004, then in January 2005 and then in April 2005. This was a considerable time after the act complained about in 2002. Dr Ramroop's medical report says the patient came to his office on 03/05/05. It further said the claimant had told him he had gone to a private doctor for a check up and had been administered injections. Dr Ramroop's evidence made an assumption that the injections caused the injury without being able to

substantiate it. There is no evidence from him to support the cause of the foot drop condition. It is at best an opinion that trauma can cause such an injury. Both sides accepted that trauma can cause such an injury. What was lacking from the claimant was proof on a balance of probabilities that it had in this case caused the injury.

On the other hand, the defendant brought evidence of Dr Narine who had actually been involved in the assessment and treatment of the claimant immediately following his visit to the Point Fortin Hospital. He is a consultant neurosurgeon. He suggested that there was insufficient testing to come to a conclusion on the cause of the claimant's foot drop but this condition is associated with alcoholism and exposure to lead. Given the history taken he would say it was secondary to alcoholism. He added that if there had been direct trauma to the sciatic nerve the claimant would have had radiating pains in the left leg as this is a feature of such an injury. He said there was nothing to suggest that the claimant complained of this. Dr Narine was cautious in his opinion because he said no specific testing had been done to determine the cause of the foot drop. I preferred his evidence on this score to that of Dr Ramroop who seemed prepared to make an assumption about the cause without advancing any proper basis for so concluding. I note that there was an attempt in the re-examination of Dr Ramroop to elicit evidence which ought to have been put forward in the witness statement if the claimant intended to rely on it. These matters were not the proper subject of re-examination.

The claimant also gave evidence of shock treatment being administered to him at the San Fernando General Hospital. Again, this was not substantiated by the medical records or any other medical evidence tendered by the claimant.

The claim has not been proved. It is unnecessary therefore to deal with any assessment of damages.

The claim is dismissed. The claimant must pay the defendant's costs. The claimant had rather optimistically (given the lack of supporting evidence) claimed \$160,728.00 in special damages. The defendant has asked the court to use this amount as the means of prescribing costs. I think that is a fair way to determine costs in this case. The claimant will pay the defendant costs in the sum of \$33,109.00

Ronnie Boodoosingh

Judge