

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

CLAIM NO CV2016-01487

BETWEEN

ASHRAM PARIAGSINGH

CLAIMANT

AND

THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO

DEFENDANT

BEFORE MASTER ALEXANDER

Date of delivery: March 14, 2022

Appearances:

For the Claimant: Mr Che Nevin Dindial instructed by Mr Robert Abdool-Mitchell

For the Defendant: Ms Niquelle Nelson Granville instructed by Ms Laura Persad

DECISION

BACKGROUND

1. The claimant was a corporal of police and, at the material time of the incident, was attached to the La Brea Police Station. During the course of his duties as shift commander, he was walking around the police station, checking to ensure that the compound was safe, when he fell. The fall occurred on May 08, 2012 and resulted in the claimant sustaining personal injuries, damages and consequential losses.
2. The defendant was, at all material times, the employer of the claimant and responsible for providing a safe place of work for its employees. The claimant claimed that the

workplace incident was caused by the negligence of the defendant, its agents, employees and/or servants. The claimant initiated the present proceedings on May 04, 2016 claiming compensation for the injuries and consequential losses suffered. It was his pleaded case that he fell at the back of the building (or behind the reception area) on the concrete floor, and later realized that the cause was water. He obtained judgment on liability from Gobin J on April 10, 2018 who sent the quantum to be assessed by a master. The decision was appealed on March 05, 2018 but no application was made to stay the assessment of damages.

MEDICAL EVIDENCE OF INJURIES

3. There was a wealth of medical evidence/reports produced at the assessment. However, only Dr Adam presented to give oral testimony and/or be cross-examined. All salient aspects of doctors' reports are reproduced hereunder.

Medical report of Dr Clem Ragobar, police surgeon, dated April 03, 2013 diagnosed -

- *back injury that required surgery (admissibility was challenged and it was allowed for the fact that it was given, not the truth of its contents.)*

Medical report of Dr Henry Bedaysie dated April 07, 2014 stated -

- *Examination found lumbrosacral spasm with decreased range of movement, absent ankle jerk, diminished sensation left S1 dermatome and weakness left dorsiflexion.*
- *Laminectomy surgery was done on February 15, 2013 of the L4 and L5 with L5/S1 bilateral undercutting facetectomy, foraminotomies and facet rhizotomies [awarded a 14% whole body impairment and a 50% permanent partial disability.]*

The defendant objected to the report given its technical nature and that it did not have the opportunity to cross-examine the witness to test and clarify the evidence. The defendant also decried the failure to deem his report expert evidence and asked that the opinion therein be excluded.

Medical report of Dr Rasheed Adam dated April 04, 2018 (corrected as May 03, 2018)

stated that the claimant had -

- *Ulna nerve and cervical nerve root involvement at C6 -7;*

- *Lumbar nerve root involvement at L5 S1 residual post-surgery;*
- *Examination shows diminished neck and low back mobility;*
- *Mild spondylosis at C5-C-6 and C6/C7;*
- *Diagnosis is consistent with injuries sustained at the lumbar laminectomy procedure on February 15, 2013 (done by Dr Bedaysie);*
- *Pain in left hand ring and little finger and weakness of handgrip with wasting away of the small muscles of the hand and Grade 4/5 hand weakness, [permanent partial disability related to neck condition and nerve root involvement assessed at 20% (this assessment is separate from that of Dr Bedaysie's above)].*

EVIDENCE OF THE CLAIMANT

4. The claimant's evidence was adduced via his principal witness statement filed on April 24, 2017 and his supplemental witness statement filed on May 14, 2018. He attested to experiencing sharp pains from his lower back to his buttock when he fell. This pain continued unabated even though he was able to get off the floor and limp back to the reception area and eventually the dormitory where he was able to lie down on a bed. He advanced a case of unending pain and suffering from the fall, including pain associated with the surgical procedure. In this regard, the claimant stated that after his lumbar laminectomy surgery on February 15, 2013, he started having pain in his left ring and little finger and a weakened grip. During cross-examination, he admitted that he was now unable to write because of the weakness in his grip and the pain he experiences in his fingers.
5. The claimant stated further that following his injury, his pain and discomfort have been present and that day and night he experiences unrelenting pain. At nights, he sometimes suffers intense leg cramps and has to place pillows around him to alleviate the cramps and help him to sleep. Following surgery, the claimant was warded for five days and was discharged on February 19, 2013. He admitted, however, that after the surgery done by Dr Bedaysie, he experienced significant improvement to his condition and pain reduction, and was left only with neck pains post-surgery.

6. As to his loss of amenities, he stated that he was now unable to sit for more than thirty minutes without shifting or experiencing pain and discomfort. He also experiences challenges with walking for long periods and, currently, he walks with the aid of a walking stick. It was his evidence further that he could no longer do household chores such as cutting grass, sweeping or lifting anything that weighs more than five pounds, such as a gas tank, flour bag or even groceries. He averred that now he relied on his wife and children to complete these tasks for him. He has lost his enjoyment of sexual intercourse with his wife, which has caused major problems in his marriage. It was his evidence further that his enjoyment of sporting activities dwindled, as he could no longer participate in football, cricket, jogging or running with family and friends. He painted an evidentiary picture of living a lonely life, as his social interactions were reduced drastically. The significant reduction in his amenities was captured in the medical evidence thus:

His current disability status indicated that he is presently unable to work in any capacity because of his continuing neck and back symptoms. His household assistance is similarly affected. His recreational sports of cricket and exercise have had to be stopped. His social activity curtailed and his marital activities severely affected compromising his family life.

[Dr Adam's report dated May 03, 2018 paragraph 5]

7. The above evidence was influenced by Dr Bedaysie's report who stated that the claimant was likely to be prevented for the remainder of his life from performing one or more tasks of his accustomed occupation but that it did not impair his ability to perform less demanding or other types of employment. As regards the assessment of the claimant's disability in terms of a percentage figure, the court was mindful that it was not to be influenced by this term of art in the context of an assessment of damages¹. The claimant also admitted that he was able to drive his vehicle although he experienced pain when

¹ *Theophilus Persad & Capital Insurance Ltd v Peter Seepersad* Civ App Nos 136 & 137 of 2002 per Kangaloo JA at pages 7-8

turning sharp corners. He then stated that this changed and, subsequently, he began to suffer loss of vision in his right eye and blurry vision in his left eye and now he no longer drives. There was no link made with the vision and the tort engaging the present proceedings.

8. The claimant averred to having suffered a loss of pecuniary prospect. He stated that he had plans, after his retirement, to re-enter the Trinidad and Tobago Police Service as a special reserve police officer for five years. He has provided no evidence to prove this but maintained that it was his dream to do so. He also stated that, as an alternative, he wanted to join a security company, post retirement. As to his future prospects, he stated that based on his present physical capabilities he was unable to pursue any avenue to earn income despite his substantial policing experience of thirty-two years, which he alleged would have guaranteed him employment with security companies. This opportunity was removed from him by his injuries.
9. In the view of the court, the claimant was a forthright witness and generally unshaken in his testimony. He gave clear and convincing evidence of his pain and suffering and consequential losses. He stated that he would have likely continued to work post retirement but provided no proof as to the intended employment opportunities. Cross-examination did not affect the credibility of the claimant, however, and, generally, his evidence was found to be reliable.

DISCUSSION

A. THE LAW AND GUIDING PRINCIPLES ON THE ASSESMENT

10. The law and applicable principles at an assessment of damages have been traversed extensively and hold no uncertainty. The challenges would usually reside with evidentiary issues and the proper approach to be taken by the assessing court in arriving at the quantum. Generally, this court would require litigants to comply with its directions for documentary evidence and in the absence of same will be guided by the law and time

honoured principles. A claimant who approaches a court for compensation for personal injuries must be prepared, therefore, to prove the losses that allegedly flowed from his pleaded injuries. The court would then determine what would constitute fair compensation for the wrong, with the aim of achieving *restitutio in integrum*.

11. In the present matter, the seminal principles applied were set out in ***Cornilliac v St Louis***²: (i) the nature and extent of the injuries sustained; (ii) the nature and gravity of the resulting physical disability; (iii) the pain and suffering endured; (iv) the loss of amenities suffered; and (v) the effect on pecuniary prospects. These ***Cornilliac*** principles are used to assess general damages, which are not precisely quantifiable. The court examined above the relevant medical evidence that satisfied these heads, giving the requisite weight to same especially as there was no contradiction in the medical evidence. It was noted that counsel for the defendant rejected all the medical evidence produced at the trial including that of its own police doctor, Dr Clem Ragobar. The defendant, however, has placed no contrary medical evidence before the court. Therefore, the court accepted the reliability and credibility of the medical evidence, particularly that of Dr Adam which was tested under cross-examination. In the circumstances, it will not undertake any further exploration of the totality of the evidence before it. Moreover, the arguments made by counsel for the defendant as to the disability figure were valid, and needed no further ventilation at this juncture³. The court will now embark on the comparative exercise to arrive at the quantum for general damages.

12. At this stage, the court would bear in mind that the comparative approach held great sway in the current exercise but it was an imperfect one: see ***Persad v Peter Seepersad and Others***⁴. It meant that the court was required to assess this claimant's pain and suffering in the context of his own unique facts and by recognizing that pain is subjective. In the present proceedings, also, the court bore in mind that perfect compensation is not

²(1965) 7 WIR 491 by Wooding CJ (as he then was) at page 492

³ Supra note 1

⁴ PC 86 of 2002

achievable⁵. Of further note was the statement that, “[T]he assessment of damages for a personal injuries claim should be a straight forward arithmetical exercise. The guidelines which inform a court’s decision in this regard are well known; the point of departure invariably being the seminal Court of Appeal case of *Cornilliac v St. Louis*.”⁶

13. In determining what quantum would be fair, full and adequate compensation for the claimant’s injuries, the court sought to reach an award that approximated as closely as possible to complete compensation for the injuries he suffered. In so doing, the assessment was based on consideration of all circumstances of the claimant’s case. The court also considered the effects of inflation on the value of the dollar over the years and the economic situation and that the award was a single one. In arriving at the award, the court proceeded cautiously in using arithmetical calculations and took account of the need to return the claimant to his pre-accident position.

B. COMPARATORS

14. The following comparators were provided as a platform for the quantum to be awarded with counsel for the claimant and defendant submitting \$200,000 and \$80,000 respectively, as fair compensation for his pain and suffering:

- ***Roger Rampersad v T&TEC***⁷ where there were degenerative changes in the back at the L5/S1 levels; post-traumatic syndrome; scalp neuralgia; lower back and neck strain and erectile dysfunction. The claimant had lumbar laminectomy and discectomy surgery, with limited success and, subsequently, continued to experience cervical spondylosis greater at C3/4 and lumbar spondylosis at L4/5 less L5. He was awarded \$155,000 for pain and suffering.

Comparatively, some of the injuries suffered here were more extensive and/or different to those of our claimant. Further, the same surgery was done in both cases but with

⁵ *Thomas v Ford and Ors* Civil App 25 of 2007

⁶ (1965) 7 WIR 491

⁷ HCA S-923 of 1999 delivered on September 28, 2012 by Alexander M

different outcomes. Our claimant's award must be pegged at a lower range than this one to be fair and appropriate.

- ***Irving Williams v MIC Institute of Technology***⁸ where a claimant had multi-level disc herniation at L3/L4 and L4/L5 and L5/S1 levels with nerve root compression, cervical spondylosis, impingement syndrome of his left shoulder and osteoarthritis of his right knee. On examination, X-ray of his right knee showed severe tricompartmental osteoarthritis desiccation. He suffered continuing daily pains in the back, neck and shoulder; his quality of life deteriorated and he was unable to perform basic physical actions without unbearable pain and he was continuously anxious, stressed and embarrassed. He was ascribed a 30% permanent partial disability and was awarded \$160,000 in general damages.

Comparatively, the injuries were dissimilar.

- ***Edmund Taitt v Kenny Rampersad & Ors***⁹ where the claimant suffered with severe neck pains, erectile dysfunction and found standing or walking for a long period problematic. He was bedridden for approximately four to six months and it took him six months before he could shower on his own. There was evidence that he experienced continuous pain throughout his body. His social activities were limited; he was unable to go to the beach or enjoy his pre-accident style of life. There was no surgery done as it would have been of limited value and he was awarded \$125,000 for pain, suffering and loss of amenities.
- ***Stephan Martin Fernandez v Torrence Daniel and Capital Insurance Company Limited***¹⁰ where a claimant suffered from headache, neck pain and pain/numbness of both hands; cervical spine tenderness; hyperesthesia of the fingers and hands; upper fracture of the upper 3 incisors; and cervical cord contusion at C4/5 level. He also experienced weakness on the left side of his body; paraesthesia of the right index finger; mild weakness of the left limbs; and loss of normal cervical lordosis consistent with paravertebral muscle spasm. He was awarded a permanent partial disability of 50% and \$165,000 for damages. Comparatively, the injuries suffered by this claimant bore some similarities to ours but there was no mouth injury in the present matter.

⁸CV2017-01897 delivered on December 05, 2019 by Rahim J

⁹HCA 1052 of 2006 delivered on April 06, 2009 by Ventour J

¹⁰CV2007-04800 delivered on 2013 by Alexander M

- ***Evans Moreau v The Port Authority***¹¹ where a 43 year old received a lash to the head and suffered pain in the neck, radicular symptoms in both arms, cervical spondylosis, cord and nerve compression of C4/5 and C5/6, back pains, weakness in both arms and difficulty in climbing stairs, inability to sit and stand for short periods. He was awarded \$200,000 in 2010.

Comparatively, the injuries of this claimant were similar to those suffered by ours.

- ***Kurlene Pierre v Miles Almondoz & Co and Trinidad and Tobago Insurance Company Limited***¹² where the claimant/passenger (25 years) suffered injuries to her neck, both knees, right shin and bruises to the left eye from an accident. The appeal was allowed, save for the cost of future surgery and further medical care (not pursued). The adjusted award for general damages was \$110,000; loss of future earnings of \$576,000; special damages of \$18,000; and future medical care of \$125,000.

Comparatively, the injuries did not share much equivalency with our claimant's injuries, so this comparator was of limited utility.

- ***Munroe Thomas v Malachi Forde***¹³ where the claimant sustained soft tissue injuries to his buttocks, two fractured ribs and an L4/5, L5/S1 radiculopathy or nerve compression at the spinal level which caused low back pain and paresthesia or pins and needles in the leg for which he underwent surgery. He suffered bruising and bleeding to the elbows and knees. He also suffered from a kidney and sexual dysfunction but it was unclear if these conditions related to the accident. Dr Bedaysie performed surgical intervention and assessed him with a 50% permanent partial disability. He was awarded \$100,000 in general damages, which was undisturbed by the Court of Appeal; adjusted to December 2010 to \$117,013.

Comparatively, our claimant suffered no fractures but there was some equivalency with the other injuries and those sustained by our claimant. This comparator was useful in the current exercise.

¹¹CV2006-03958 delivered by Best J on September 29, 2010

¹²CA Civil App No 2 of 2012 delivered on March 10, 2015

¹³Civil App No 25 of 2007 delivered on April 06, 2011

- ***Kenny Toussaint v Tiger Tanks Unlimited***¹⁴ where the claimant suffered an interspinous ligament strain; left S1 joint strain; bilateral L5 nerve root irritation and L4-L5 disc herniation. He was advised to have a L4-L5 discectomy surgery and was awarded \$90,000 for pain and suffering.
- ***Chandra Baboolal v Pricemart Clubs (Trinidad) Limited***¹⁵ where the claimant suffered lumbar spondylosis, disc herniation at L2/L3 and L4/L5 levels, a back sprain, a grade 2 sprain of her left ankle lateral ligament, mild soft injury to her neck, back, left thigh and knee. She was advised to use a walker and crutches and underwent physiotherapy and hydrotherapy. The claimant had lumbar laminectomy and discectomy surgeries but there was no improvement in her level of pain. The back pain was accepted as being a permanent feature of her life; and her injuries had a significant impact on her mobility and her quality of life deteriorated. She was awarded \$80,000 for pain and suffering. Comparatively, the injuries suffered by this claimant and treatment were similar to ours but the surgical outcomes differed. This comparator was helpful.
- ***Lennard Garcia v Point Lisas Industrial Port Development Corporation Limited***¹⁶ where a 60 year old claimant sustained injuries twice; initially from a fall after slipping on some oil at the defendant's workplace and then at the hospital when he was dropped from a stretcher. His injuries were to his upper right shoulder, left palm, soft tissue injuries to his back and right knee; persistent right-sided sciatica; degenerative spinal stenosis at L4-5 and L5-S1 levels. He experienced daily lower back pain, which was radiating down his left leg to his knee posteriorly, and there was triggering of the left middle finger in his left palm. He also had mild prolapses of the L3-4, L4-L5 and L5-S1 discs; mild spinal canal stenosis at L3-L4, L4-L5 and L5-S1 areas of the discs; some nerve root entrapment on the left side; pain when sitting, standing and walking; weakness in his left leg and wasting of his left quadriceps muscle from the nerve being pinched by the prolapsed disc. Medical evidence pointed to the claimant getting moderate to severe lower back pain for the rest of his life with the only means of relief being analgesia and if he loses weight. He was awarded \$80,000 in 2013.

¹⁴CV2014-00513 delivered by Rajkumar J on April 19, 2016

¹⁵CV2016-00216 delivered by Wilson J on July 17, 2020

¹⁶CV2010-03061 delivered by Alexander M on September 19, 2013

Comparatively, the injuries here bore a close affinity to those of the present claimant.

- ***Reshma Choon v Industrial Plant Services Limited***¹⁷ where while descending a flight of steps, the claimant slipped on a liquid substance and fell. She suffered a mild bulge in the spine in the area of the L5 S1 with minimal narrowing of the exit foramina and was treated conservatively first with medicine. She showed signs of nerve root irritation/compression and had surgery to remove the L5/S1 disc that is laminectomy and discectomy. The claimant was found to be exaggerating her symptoms post-surgery so not credible and was awarded \$90,000; as updated to December 2010 to \$102,841.

Comparatively, this was a well-aligned comparator in terms of injuries suffered and medical procedure done. The present claimant, however, also had additional injuries so could attract a higher award.

- ***Donna Bidesia v The AG***¹⁸ where the claimant suffered fractured ribs, a fractured mandible and lower back pain from L5/S1 disc prolapsed and a brief loss of consciousness. She underwent surgery for the fractured mandible four days after the accident, and was on a liquid diet post-surgery. She was awarded \$90,000; updated to December 2010 to \$103,431.

Comparatively, this was not a helpful comparator given the nature and extent of injuries suffered by this claimant.

15. Generally, the comparators were helpful in providing a range within which the current award can fairly be fixed. The exercise required some adjustments to factor in the dated awards and the assessment of the equivalency of the injuries. Such an exercise is never helped by an analysis involving the mere lifting of judicial awards, without proper explanation, and blind application to the present facts. Comparator awards are guides to determining what might constitute a just and appropriate quantum in a given case and it was no different in the present proceedings. The court embarked on a proper weighting of all relevant considerations and found it fair and appropriate to award the claimant \$115,000 for his pain and suffering and loss of amenities.

¹⁷CV2006-00574 delivered by Smith J in 2010

¹⁸HCA 1918 of 1999 delivered by Sobion M in December 2008

C. LOSS OF FUTURE EARNINGS

16. The claimant claimed loss of future earnings on the basis that he had intentions of becoming a special reserve police officer for a five year period after retirement. He pleaded that his injuries now rendered him unable to work so he could not pursue employment opportunities post-retirement. It was submitted that he would lose approximately \$11,200 per month for a period of five years in the global sum of \$672,000. In the alternative, the claimant pleaded that he had the options and/or intentions of joining a private security firm or being a taxi driver. He gave no sum as a global prospective loss for these post retirement careers and called no evidence in chief to show likely earnings from these opportunities.
17. His counsel submitted that he was fifty-six years old and asked that a multiplier of five years be used to calculate his loss of future earnings, using the traditional multiplicand/multiplier method. Before consideration can be given to the applicable method for calculating prospective loss, the court must determine if the present circumstances would give rise to such an award. The factual context of the present matter shows that the claimant was on sick leave from the date of the accident May 08, 2012 until he reached the mandatory age of retirement, which was 55 years. He received full salary up to retirement. As at the assessment, he was 60 years of age having been born on March 30, 1961.
18. An award for loss of future earnings would be available where a claimant showed that there was continuing loss of earnings linked to the accident¹⁹. It is evident that continuing loss of earnings post-assessment can be total or partial, in which case the remarks of Hamel-Smith JA in *Public Transport Service Corporation v Nerahoo Sookhoo*²⁰ were instructive:

¹⁹Civ Appeal No 25 of 2011

²⁰Civ App No 21 of 1993

It is true that a man may be disabled from having work that he has no talent for anything else and is unable to find light work. Such a man has obviously lost all his earning capacity and it is only fair that he be compensated on the basis of total loss.

19. Where the loss of earning is partial, however, then the fair approach would be to compensate the claimant on a partial loss basis. In **Nerahoo**²¹, the Court of Appeal adopted the partial loss assessment of the appellant's loss of future earnings where he was not found to be unemployable. In that case, the Court of Appeal stated that the onus was on the appellant to prove that he attempted to obtain some other job and could not. That in the absence of that evidence, his future loss could not be assessed on a total loss basis. The Court of Appeal further accepted that, although the appellant's PPD was assessed at 50%, an appropriate deduction of the multiplicand would be 35% based on his low income.
20. Counsel for the claimant submitted that an award for loss of future earnings or loss of earning capacity be considered on the traditional basis. The defendant's counsel resisted the grant of any such award and pointed to the fact that the claimant worked until he retired compulsorily from the police service. It would appear that counsel for the defendant was not prepared to consider any form of award for loss of future earnings or loss of earning capacity. In the view of the court, the claimant suffered an injury, went on sick leave but earned income until his retirement. It was considered whether there was justification for consideration of any award for loss of future earnings on the basis of the pleaded case. Undoubtedly, the court has the power to make an award where a claimant was employed or unemployed at the date of the trial. The court also has the power to grant an award where an employed claimant faces a substantial or real risk that he might lose this employment at some future time because the injury has disadvantaged him in getting another job or an equally well paid job: **Moeliker v A Reyrolle and Co Ltd**²². The Court of Appeal has clarified that an award for loss of earning capacity is not

²¹Supra note 20

²² [1957] 1 ALL ER9; see also *Smith v Manchester Corp (1974) 17 KIR 1*

dependent on a claimant being employed at time of the assessment but can be available in cases where there is evidence of a disadvantage in the labour market (i.e. whether the claimant is employed or unemployed)²³. There is no confusion on the issue as it was made clear that it does not make any difference to the availability of the award that the claimant was not actually unemployed at the time of the trial: see *Cooke v Consolidated Fisheries Ltd*²⁴.

21. In the present matter, the claimant sought compensation for his retirement period, when he claimed he would have been working. The court noted that many people continue working post their retirement and could find no reason to dismiss the claimant's claim that he intended to continue working. However, he failed to provide any evidence that he had firm intentions or had taken any active steps to secure such employment post retirement. During cross-examination, he conceded that there was no guarantee that he would have been working as a special reserve police officer after retirement. He gave evidence for the first time in cross-examination that the proposed security firm that he intended to work with had guaranteed him work because of his experience. This averment was barebacked as it failed to reveal the name of the company or to detail the likely remuneration package or to provide documentary proof. Further, no one from that security company was called to corroborate the evidence given in cross-examination.

22. The court gave serious consideration as to whether it ought to entertain any such award post-retirement especially as the sum sought was huge and unsubstantiated. It was considered that each claimant's case must be determined on its own facts. In the present matter, the claimant gave clear evidence that he would have continued to work post retirement and the court accepted that he was truthful in that regard. The court then considered the evidentiary yardstick to ground such an award and whether it was satisfied. First, the medical evidence would have been critical to establish that he could no longer pursue any available employment after he retired. Dr Adam's evidence was

²³ *Ramnarine Singh v Ganesh Roopnarine, The Great Northern Insurance v Johnson Ansola* Civ App No 169 of 2008

²⁴ [1977] ICR 635

that the claimant's disability would have excluded him from any kind of work that he intended to do. During cross-examination, Dr Adam was clear that his disability assessment related to any kind of work that he was going to attempt to do, "*which work would have the same type of physical activity as a police officer.*" It was unclear whether this prognosis also excluded the claimant from any work that he did not intend to do but could qualify for despite his disability. His medical evidence stopped short of saying that he was unemployable or totally incapacitated from all jobs or even identifying that he was medically unfit to perform lighter duties. What was clear on the evidence was that he was disadvantaged in his future earning capacity on the labour market but his injuries did not preclude him from seeking work of a less demanding nature or alternatively in a different field.

23. In the court's view, also, it was necessary for the claimant to establish that he would have secured employment, post retirement, in the positions he claimed were available to him. He called no proper evidence to show that he would have worked in the alternative jobs and the likely salaries he would have earned. Even if the court would have considered these alternative options, the evidence was simply insufficient to ground an award. As to his claim that he had intentions of working as a special reserve police officer, he also provided no evidence that he would have been a likely candidate for this job. He could have called the evidence of other retired officers with his experience who would have secured such a position or the recruitment officers to identify the criteria for such a job and indicate his likely selection. The court was also at a loss as to how he came to know of the salary attached to this position. The silence as to the relevant evidence did not assist the court to arrive at a decision that he would have qualified post retirement for selection as a special reserve police officer. It was unclear if that position was filled by retirees or not or what criteria would have qualified someone to obtain that job and what was the relevant remuneration package. The court had no such information before it to assist with the determination and it was not prepared to engage in guesswork that a police officer would necessarily qualify for and obtain the job of a special reserve police officer once he was retired. This claim for loss of future earnings was not properly made out or proved and it was not entertained by the court. The issue of the requisite

multiplicand and multiplier did not arise in the circumstances and so was not addressed in this decision. Loss of future earnings was disallowed, as being unsupported by the evidence.

D. FUTURE SURGERY

24. In his report, Dr Adam stated that a medical procedure known as cervical anterofusion will assist the claimant with his neck symptoms and was available at the cost of \$80,000. This sum included the fee for hospitalization and all other costs and was awarded.

E. SPECIAL DAMAGES

25. The claimant claimed that he expended \$3,300 on medical visits to Dr Adam and for his attendance at the trial of the assessment. He provided two receipts dated April 28, 2018 and May 03, 2018 in the global sum of \$800 so was allowed to recover \$800 for medical expenses. There was no evidence led as to the attendance fee or even a specific sum requested so no award was made.

DISPOSITION

26. It is hereby ordered that the defendant do pay the claimant as follows:

- i. General damages in the sum of \$115,000 with interest at the rate 2.5% per annum from May 09, 2016 to March 14, 2022.
- ii. Special damages in the sum of \$800 with interest at the rate of 1.25% per annum from May 08, 2012 to March 14, 2022.
- iii. Future surgery in the sum of \$80,000.
- iv. Costs as assessed in the sum of \$40,908.49.

Martha Alexander
Master of the High Court

MARTHA ALEXANDER
MASTER OF THE SUPREME COURT OF
TRINIDAD AND TOBAGO