

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE COURT OF APPEAL

Civil Appeal 172 of 2012

CV 2011-01151

BETWEEN

DARRELL WADE

Appellant

AND

THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO

Respondent

Civil Appeal 173 of 2012

CV 2011-01152

BETWEEN

JASON SUPERVILLE

Appellant

AND

THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO

Respondent

**PANEL: P. Jamadar, J.A.
G. Smith, J.A.
J. Jones, J.A.**

**APPEARANCES: Mr. G. Ramdeen for the appellants.
Mr. N. Byam for the respondent.**

DATE OF DELIVERY: Wednesday 22nd May, 2019

I have read the judgment of Jones J.A. and I agree.

**Jamadar JA
Justice of Appeal**

I too agree

**Smith JA
Justice of Appeal**

JUDGMENT

Delivered by J. Jones, JA

1. The appellants, Darrell Wade (“Wade”) and Jason Superville (“Superville”) suffered injury at the hands of servants of the State. In the case of Wade his injuries were inflicted by prison officers and in the case of Superville by police officers. They both appeal the awards of damages made in their favor by a Master. The appeals raise a common issue with respect to the quantum of awards of exemplary damages. Of particular concern in both appeals is the use of comparable awards, both with respect to awards of general damages and exemplary damages, in arriving at an appropriate quantum of damages. Superville’s appeal also challenges the Master’s award of general damages for assault and battery.
2. The law with respect to appeals such as these remains as stated by de la Bastide CJ in **Bernard v Quashie Civil Appeal 159 of 1992** at page 4.

“The principles on which an appellate court should interfere with the award of damages by a trial judge are limited and well known. Essentially, in order to justify its interfering it

ought to find either that the Judge had misdirected himself on the law or on the facts, or that the award was a wholly erroneous estimate of the damage suffered. It is not proper for a court of appeal to substitute its own award merely because it considers that the judge's award was too high or too low. The gap between what the court of appeal considers to be within the range of a proper award, and the award actually made by the judge, must be so great as to render the latter a wholly erroneous estimate of the loss suffered."

The facts

3. According to Superville on Sunday 26th December 2010 at approximately 11pm he was standing near his home when a marked police vehicle approached him. Police officers alighted from the vehicle and began to beat him with wooden batons until he fell unconscious. Thereafter he was detained at the Malabar Police Station until his release the next day, the 27th December 2010. While at the police station he regained consciousness and noticed that he was only in his underwear in a cell. He requested medical attention, but the officers refused and cursed him. Upon his release he was not given any of his items which were seized by the officers and he was made to walk home. Later that day he sought medical attention for his injuries. These facts were not challenged and the Master accepted his evidence. He was awarded general damages in the sum of \$105,000.00 of which \$40,000.00 was for the false imprisonment and \$65,000.00 for the assault and battery. The award included an uplift for aggravated damages. He was also awarded exemplary damages in the sum of \$20,000.00.

4. Wade complained of being beaten by police officers while being held at a holding cell at the Port of Spain Magistrate's Court on 17th December 2009. The Master accepted his evidence. She found that

while incarcerated at the State Prison he was taken to the Port of Spain Magistrate's Court in Port of Spain and placed in a holding cell. On that afternoon he was assaulted and battered on three separate occasions initially by a single police officer then by a group of officers. The attack was unprovoked. He was awarded general damages in the sum of \$60,000 and exemplary damages assessed in the sum of \$15,000.

Superville's appeal against the award of general damages

5. Superville challenges the Master's award of damages awarded for the purpose of compensating him for his pecuniary and non-pecuniary damage. The Master found that Superville was falsely imprisoned for 13 hours and that as a result of the assault he suffered the following injuries:
 - a. Laceration to the his head and lips;
 - b. Laceration to the left side of body above waist;
 - c. Welt marks all over body;
 - d. Bruises about the body (back, buttocks, ribs, waist, arms, calves);
 - e. Extensive pain and tenderness to the chest;
 - f. Tender swelling to the head and
 - g. Extensive scars over the body.

She also accepted his evidence of loss of consciousness.

6. Superville contends that the award of general damages was too low. He submits that the Master failed to consider his evidence of loss of amenities and that in any event, with respect to both the *Cornilliac v St. Louis* factors and the uplift for aggravated damages, the award was not in keeping with comparable cases. He says that the fact that the Master did not give any sufficient reason for the award of general damages entitles this court to intervene and consider the award of damages afresh. He further submits that had the Master

properly considered the evidence of the threatening remarks made to him and of his being cursed, taunted, insulted, humiliated and laughed at during and after the beating the award would have been more in the vicinity of \$150,000.00 for his general damages.

7. It is trite law that in assessing compensatory damages a judge or master (the assessor) is required to consider the factors set out by Wooding C.J. in **Cornilliac v St Louis (1965) 7 WIR 491**. These factors include the loss of amenities suffered as a result of the injury. It is apparent from a reading of the Master's reasons that she did not take that factor into account. Superville gave evidence of a loss of amenities. He gave evidence of his inability to go out and lime every night as he used to because he was in constant fear of vehicles passing him. According to him if a vehicle stops close to him he is cautious and frightened. His evidence was unchallenged and the Master seems to have accepted it in its totality. While the extent of Superville's loss of amenities could be considered minor the Master was required to take his loss into consideration in assessing Superville's general damages. Her failure to do so is an error of law that entitles us to intervene and consider the award afresh.
8. The question is whether we ought to interfere with the award. At the end of the day we will still be required to consider whether the sum ordered is outside the limit of what could be considered an appropriate award or, as was stated by de la Bastide, within the range of a proper award.
9. In order to ascertain whether the award falls within the permissible range of awards for this type of matter it is necessary to examine comparable cases, that is, cases in which the injuries are similar and have been inflicted under relatively similar circumstances. In her judgment in dealing the compensatory damages for the assault and battery aspect of the case the Master referred to the cases of: Sean

Wallace v AG CV 2008 -04009 and Michael Bullock v AG 2007-01766. The only basis given by the Master for arriving at her conclusions on quantum was to distinguish both of these cases. In Wallace she concluded that the beating and assault was far worse than that suffered by Superville. In Bullock she concluded that the injuries were far more severe than those inflicted on Superville.

10. The assessment of damages is not an exact science. No two sets of facts are exactly alike nor are the effects of the actions complained of the same for each victim. In addition when considering earlier cases the assessor must make allowance for the decline in the purchasing power of the dollar as a result of inflation. The practice of simply applying the formula contained in The Lawyer for updating older decisions was discouraged in Bernard v Quashie. According to de la Bastide CJ at page 7:

“...What I would say, however, is that any such formula should be used, with some care. They should not be regarded as simple mathematical solutions to the difficult problem of assessing damages. There are other guides apart from indices of this sort.

The fact of the matter is that damages are being assessed almost on a daily basis. And therefore, in the course of time the amounts awarded for injuries of the same type do increase incrementally over years and one has got to be guided as well not only by awards made several years before converted in accordance with some formula, but also one must have regard to other comparable contemporaneous awards. There is no single simple solution. It is a complex exercise which cannot and should not be reduced to a simplistic mathematical calculation.”

11. Before us Superville relies on the cases of Pitman v Attorney General CV2009-00683; Kenny v Attorney General T62 of 1997; Harry v Attorney General HC3615 of 2002; Sealy v Attorney General CV2010-04390; Abraham v Attorney General CV2009-00635 and Bernard v Quashie Civil Appeal 159 of 1992. It cannot be disputed that these are comparable cases. They all concern personal injuries suffered at the hands of servants of the State, in particular police and prison officers, and they all include an element of aggravated damages. So too were the cases of Wallace and Bullock considered by the Master.
12. Insofar as Bernard v Quashie and Kenny v the AG are concerned given the vintage of the cases those awards are of limited assistance. Of more relevance are the more recent awards. The following table shows the range of more recent awards for similar injuries suffered in similar circumstances.

Bullock v Attorney General and others CV2007-01766 delivered on 9 th February 2009.	Loss of six teeth, severe pain about the body, swollen jaw and bleeding from mouth.	\$130,000 inclusive of aggravated damages
Harry v Attorney General delivered on 24 th July, 2009	Lacerations to legs, swelling and soft tissue injuries and bruising about the body, swelling of hands and feet, lacerations on	\$100,000 inclusive of aggravated damages.

	back, constant pain in both legs, pain in the back, cramps in feet	
Sean Wallace v Attorney General CV2008-04009 delivered on 2 nd October 2009	Abrasions to face, swelling and tender welt to shoulder, things, calves, back, chest, arms, abdomen, laceration to inner lip	\$160,000 inclusive of aggravated damages.
Pitman v Attorney General CV2009-00683 delivered on 18th December, 2009	Soft tissue injuries	\$90,000 inclusive of aggravated damages
In Abraham v Attorney General CV2009-00635 was delivered on July 22nd 2010	cuts about the body which necessitated stitches, severe body pain, welt marks about the body, headaches and back pain.	\$120, 000 inclusive of aggravated damages
Owen Goring v	Scars on back, lacerations to face,	\$100,000 inclusive of aggravated damages.

Attorney General CV2010-03643 delivered on 3 rd August 2011	swelling of body and sever swelling to face and head, welt marks on body, haematomas about body, soft tissue injury about body	
Sealy v Attorney General CV2010-04390 was delivered on 27 th October 2011	A laceration three centimeters in length and two inches deep to the head and bruises about the body.	100,000 inclusive of aggravated damages
Ijaz Bernadine v Attorney General CV 2010-02956 2 nd October, 2013	Ecchymosis to right eye, laceration to eyebrow, black and blue marks to body, soft tissue injuries	\$55,000 inclusive of aggravated damages.
Emran Ali v Attorney General CV 2012-02695 delivered on 20 th	Swelling to right side of head, haematoma and swelling left side of face, swelling and bruising to face, head, chest, shoulder, instep and hand.	\$55,000 inclusive of aggravated damages

March, 2014		
Fabien La Roche v Attorney General C.V. 2008-00038 delivered on 14 th October 2014	Bruises, swelling, pain and discomfort to head, neck, back, abdomen, groin.	\$30,000 inclusive of aggravated damages
Chet Sutton v Attorney General CV2011-01191 delivered on 30 th September, 2015	Burst lip, scrapes, cuts, bruises and other soft tissue injuries about the body and his jaw	\$70,000 inclusive of aggravated damages
Mustapha Ghanny v Attorney General CV 2015-01921 delivered on 19 th February, 2016	Soft tissue injuries; bruising, contusions and ecchymoses in his right shoulder; bruising, contusions, and ecchymoses to right and left anterior aspects of the chest, contusions, and ecchymosis to right mandibular region.	\$55,000 inclusive of aggravated damages

<p>Corneal Thomas v Attorney General CV2012- 05160 delivered on 6th October, 2016</p>	<p>Soft tissue injury to neck and left shoulder, muscle spasms, stiffness and pain to those areas, loss of consciousness due to head injury</p>	<p>\$35,000</p>
<p>Shaban Mohammed v Attorney General CV2010- 04804 delivered on 16th February, 2017</p>	<p>Flexion deformity of the third digit on left hand, pain and tenderness to the back and left hand, soft tissue injury to the back and left hand, cerebral concussion</p>	<p>\$65,000 inclusive of aggravated damages.</p>

13. At the time of the assessment therefore the comparable cases included but were not limited to Wallace and Bullock. Insofar as the Master simply discounted these cases she erred. These were cases that ought to have been considered by her to arrive at a suitable range of awards. Thereafter, after arriving at a suitable range, the Master ought to have determined where in that range Superville fell, make appropriate adjustments in accordance with the specific facts before her, including inflation, and arrive at an appropriate award.
14. The table shows that a suitable range for Superville's assault and battery claim (inclusive of aggravated damages) is between \$90,000.00 (Pitman) and \$160,000(Wallace). Superville's injuries

were more severe than Pitman's but less severe than Wallace's. Given the fact that the awards on Pitman and Wallace were made in 2009, taking into account the effect of inflation and the purchasing power of the dollar, the sum of \$130,000.00 inclusive of aggravated damages is an appropriate award in the circumstances.

15. The question for our consideration here is whether this difference is sufficiently great to justify our interference. The award falls within the suitable range of awards for injuries of this kind. In accordance with the guidance in **Bernard v Quashie** to justify an interference by a court of appeal the difference between the two awards must be so great as to render the award under appeal a wholly erroneous estimate of the loss suffered. In this case we think that the appropriate increase to \$130,000.00 is borderline in relation to the Bernard v Quashie principle. However, in our opinion, the awards in this area have been generally too low. Accordingly the award of \$105,000.00 is set aside and the appeal against this part of the order is allowed and the sum \$130,000.00 substituted in its place.

Exemplary Damages

16. Both appellants challenge the Master's award of exemplary damages. Their submissions in this regard are multifaceted. They submit, first of all, that the Master ought to have applied the principles as stated in the case of *Torres v PLIPDECO*¹. Secondly, they submit, that the award of exemplary damages should be increased because of the frequency of brutality by prison and police officers towards inmates and members of the public. The inference being that an increase in the awards of exemplary damages would result in a lower incidence of police brutality. Finally during the

¹ (2007) 74 WIR 431

course of the oral hearing they suggest that given the wide disparity in awards for exemplary damages in comparable cases there is a need to rationalize these awards.

17. The Master gives no basis for either of her awards of exemplary damages. Indeed research conducted by us shows this is not unusual. The general position that seems to apply is that, after concluding that an award of exemplary damages is appropriate, the assessor simply arrives at a figure without identifying the factors influencing the quantum. If reasons are provided it is generally to the need for an award of exemplary damages rather than a justification of the quantum or to the need to increase the award to act as a deterrent to future breaches.
18. In this regard while the purpose of an award of exemplary damages is different than that of an award of compensatory damages the method of arriving at an award of exemplary damages ought not to be much different than the method used to arrive at an award for compensatory damages. The figure arrived at should be one which in the mind of the assessor satisfies the criteria for exemplary damages, aligns with awards in comparable cases and meets the justice of the case.
19. Unlike compensatory damages-

“The object of exemplary damages is to punish and includes notions of condemnation or denunciation and deterrence (see *Rookes v Barnard* [1964] 1 All ER 367 at 407, [1964] AC 1129 at 1221). Exemplary damages are awarded where it is necessary to show that the law cannot be broken with impunity, to teach a wrongdoer that tort does not pay and to vindicate the strength of the law (see *Rookes v Bernard* [1964] 1 All ER 367 at 411, [1964] AC 1129 at 1227). An award of exemplary damages is therefore directed

at the conduct of the wrongdoer. It is conduct that has been described in a variety of ways such as harsh, vindictive, reprehensible, malicious, wanton, willful, arrogant, cynical, oppressive, as being in contempt of the plaintiff's rights, contumelious, as offending the ordinary standards of morality or decent conduct in the community and outrageous." per **Mendonca JA in Torres v PLIPDECO**².

20. Although essentially a case on the applicability of exemplary damages in breach of contract cases the decision in Torres sought to provide general guidance on the manner in which a court should exercise its discretion in making an award for exemplary damages.
21. Torres determined that an award of exemplary damages has to be proportional to the defendant's conduct. Proportionality had to be examined in several dimensions, namely: (i) the blameworthiness of the defendant's conduct, (ii) the degree of the vulnerability of the plaintiff, (iii) the harm or potential harm directed specifically at the plaintiff, (iv) the need for deterrence, (v) after taking into account penalties both civil and criminal which had been or were likely to be inflicted on the defendant for the same conduct, and (vi) to the advantage wrongfully gained by the defendant from the misconduct.
22. According to Warner JA at paragraph 55 of the judgment:

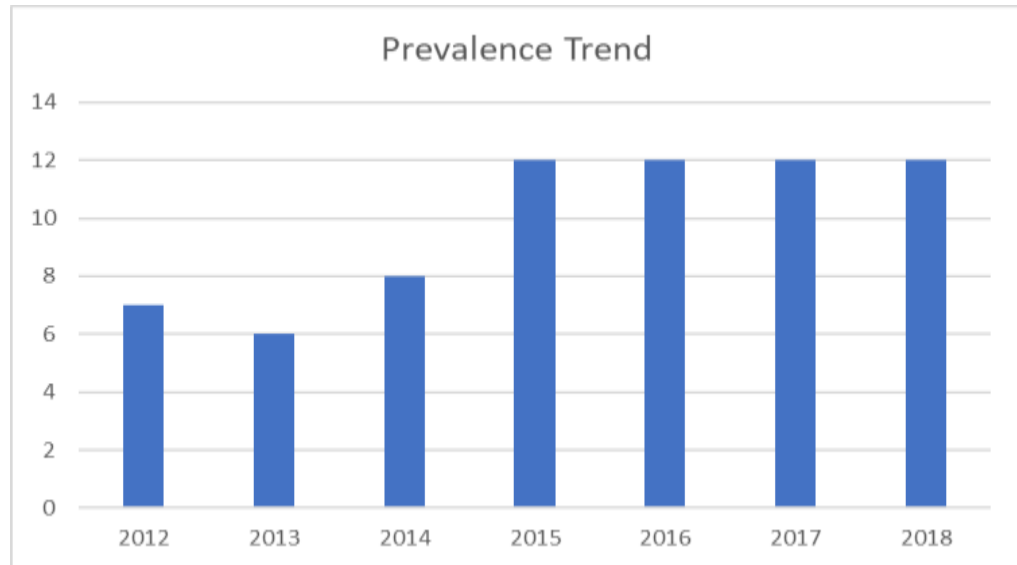
"the award ought to be proportionate to the defendant's conduct. If therefore a defendant misused his ascendancy or trust against another in a vulnerable position then an award to express public outrage and to deter further breaches ought to be made. If a defendant has already been punished then that factor ought to go towards reducing the amount.

² see paragraph 77

The award ought not to be extortionate. The defendant must not be unfairly prejudiced.”

23. Torres therefore identifies the criteria to be taken into account in making an award for exemplary damages. Broadly speaking the appeals before us deal with physical injury at the hands of servants or agents of the State. In cases of this type the difficulty arises with the last three considerations identified in Torres: deterrence, taking into account penalties or possible penalties that may be inflicted on the wrongdoer and the advantage gained by the wrongdoer. As we shall see while generally appropriate to awards of exemplary damages the special nature of cases like these under appeal make these factors a less appropriate consideration than in other types of cases where awards of exemplary damages are made.
24. This brings us to the second feature of these appeals. In the absence of any empirical evidence in support of its submissions on the need to increase the awards to deter the commission of similar torts in the future and the need to rationalize these awards the appellants and the respondent agreed to provide us with a joint note identifying, among other things, awards of exemplary damages made during the period 2012-2017 against the State for false imprisonment, malicious prosecution and assault and battery.
25. Additionally, the parties were to make individual written submissions on the conclusions to be drawn from the information provided as regards any ascertainable trends in the awards. Despite two extensions of time for this to be done, the information has not been provided by either party.
26. Research conducted by the Judiciary for the period January 2012 to December 2018 on awards for exemplary damages in cases of this type, that is, cases involving physical injury at the hands of agents

of the State does not suggest any correlation between awards of exemplary damages and deterrence. For the period January 2012 to December 2018 there were 69 cases in which the State was found liable for assault and battery, false imprisonment and malicious prosecution and awards of exemplary damages made. This is illustrated by the graph found below.



27. Insofar as the purpose of an award for exemplary damages is to deter the commission of similar offences it is clear that the awards have not achieved their purpose. As the graph shows despite awards for exemplary damages there were more litigated incidents of tortious behavior by police and prison officers in the years 2015-2018 than in any of the previous years. That the awards do not seem to be a deterrent is not surprising since these are awards paid by the State and not by the offenders. To date as far as we are aware there has been no attempt by the State to have the offenders penalized for the breaches of the law committed by them.
28. Similarly insofar as one of the purposes for awards of exemplary damages is to punish the offender for wrong behavior, for the same reason, this also has not been achieved by the awards. The empirical evidence suggests that awards of exemplary damages in these cases

do not have the effect of either punishing or deterring servants of the State from committing similar offences. Neither will the awards have such an effect until steps are taken by the State to make these offenders personally liable by way of disciplinary procedures. Increasing the awards for the purpose of deterrence or punishment therefore will not achieve its stated purpose.

29. In a judgment given in the cases of James Raymond; Marvin Scott; Ryan Stephens; Christopher Lewis and Junior Collins against the Attorney-General CV Nos: 2016-00029; 2016- 00030; 2015-04152; 2015-04153 and 2015-04154 respectively Kokaram J. made out a case for and awarded what he termed a “split award” of exemplary damages. A portion of which is paid to the Claimant and a portion paid into court to establish a court administered fund for programmes or non-governmental organisations approved by the Court to assist both prisoner and prison officers in the reduction of levels of violence in the prison. Kokaram poses that awards of this type will serve the dual purpose of indicating the Court’s disapproval of the impugned behaviour and also avoid granting a “windfall” to the claimant who has already been compensated for the injury suffered.

30. This however is not the focus of these appeals. Of more concern to us here is the wide range of awards of exemplary damages made in these cases. Like with compensatory damages awards of exemplary damages in comparable cases should provide a guide for future awards. This is not to detract from the principles espoused in Torres but rather it is a recognition that when “the dimensions” are the same the awards should be similar. That said for our purposes an important take away from the Kokaram judgment is need to bear in mind when making awards for exemplary damages that however repugnant the behavior the claimant has already been compensated for the damage suffered.

31. Of course no two cases are exactly alike. There may be cases where the behavior under scrutiny is far more abhorrent than in others. But awards of exemplary damages, even more so than compensatory damages, lends itself to uniformity in awards. The difficulty for the assessor is in establishing a suitable range of awards from the comparable cases. Our research reveals that the awards of exemplary damages in these 69 cases ranged from \$5,000.00 to \$100,000.00. A table showing the range of awards is annexed and marked A.

32. An examination of the cases comprising Table A reveal that in the majority of cases the assessor gives no basis for arriving at the quantum of the award. Generally where reasons have been provided it is simply to justify a larger than usual award on the basis that a greater award will act as a greater deterrent. The absence of reasons by the assessor in arriving at the quantum of the award coupled with the wide range of awards in comparable cases hints of arbitrariness and makes them less reliable as comparators. Awards based on the guidance given in *Torres* and a consideration of awards in other comparable cases will go a long way in reducing the apparent randomness and unpredictability in awards of exemplary damages.

33. I propose to examine the awards to ascertain whether there is any discernable range of awards that can be applied. Before doing so two recent awards bear some consideration. In both cases the awards at the higher end of the scale. In the case of **Ijah Braithwaite v The Attorney General Civil Appeal 99 of 2012** in an oral judgment delivered in March 2018 the Court of Appeal awarded the appellant the sum of \$80,000.00 as exemplary damages. In the case of **Wendell Beckles v The Attorney General CV 2009 03303** the award was \$100,000.00.

34. **Braithwaite** was a case in which no award for exemplary damages was made by the trial judge. In these circumstances the principles espoused in *Bernard* as to the limits in interfering with the quantum of a trial judge's award did not apply. In *Braithwaite*, as in the appeals before us, the defendant's conduct was blameworthy; the appellant was an inmate in prison and therefore a vulnerable position and the attacks were directed specifically at him. While taking account of the decision in *Torres* as to the type of conduct that will attract an award of exemplary damages unfortunately the oral judgment does not give any guidance as to how the quantum of exemplary damages was reached. It is however on the higher end of the range of awards for exemplary damages in the comparable cases. Unfortunately the lack of full reasons for the decision does not assist us in determining what motivated such an award.
35. The case of **Wendell Beckles** arose out of a different fact matrix. In that case the appellant, using the words of the first instance judge, had been lost in jail. He remained in custody for some 8 years after being discharged in 2001. Initially he was awarded damages in the sum of \$2,100,000.00 in damages inclusive of general, aggravated and exemplary damages. The Court of Appeal quashed that award and remitted the assessment of damages to a Master. On the 5th September 2018 the Master awarded \$800,000 in general damages and \$100,000 in exemplary damages. In coming to the decision on the quantum of exemplary damages the Master considered the principles in *Torres* but gives no assistance how she arrived at the quantum. For the purpose of arriving at a suitable range of awards in these appeals therefore *Beckles* is certainly not a comparable case.
36. The first step in arriving at the range of awards applicable to the cases on appeal is to establish what are the comparable cases. The

key feature of the appeals at hand is the element of physical injury at the hands of the agents of the State. An examination of Table A reveals 36 such cases with the awards ranging between \$5,000.00 to \$ 100,000.00. Since as a general rule justification for these higher than usual awards have been deterrence the fact that these higher awards have not had that effect coupled with the warning in Torres against extortionate awards leads me to discount the higher awards.

37. The bulk of the awards, 26 out of the 36 range between \$20,000.00 to \$50,000.00. Of those 26 the most frequent award was \$20,000.00. There were 8 awards of \$20,000.00 within the period under review. The second most frequent award within that range was \$50,000.00. There were 6 awards of \$50,000.00 thereafter the next two most frequent awards was \$25,000.00 and \$40,000.00. Here there were 5 awards each.
38. Insofar as there can be said to be a range of usual awards from the High Court for exemplary damages in cases involving physical damage by agents or servants of the State therefore the range seems to be between \$20,000-\$50,000.00 with awards of \$20,000 and \$50,000 being the most frequent. There seems to be no distinction made between the quantum of awards made for persons in the custody of the State and members of the public.
39. In the instant appeals there is no dispute that an award of exemplary damages was appropriate. Applying the Torres guidance it is clear that the conduct of the servants of the respondent were worthy of blame. In addition the appellants were vulnerable. In the case of Wade, as prisoner in the care and custody of the State, he was particularly vulnerable. In the case of Superville the police officers were in a position of power over him. He was a bystander faced with uniformed police officers in a marked police vehicle

armed with police batons. In both cases the harm was directed specifically at the appellants.

40. In Superville the Master awarded the sum of \$20,000.00. This is within the range of the awards of exemplary damages in comparable cases and accords with the most frequent award made. In accordance with the learning in *Bernard v Quashie* this award therefore cannot be said to be a wholly erroneous estimate of what is to be considered an appropriate award.
41. In *Wade* the Master awarded the sum of \$15,000.00. This is slightly lower than the range of awards in comparable cases. In addition examining the facts in the light of the first two considerations established by *Torres*, that is blameworthiness of the defendant's conduct and the degree of vulnerability the facts in *Wade* disclose that, being an incarcerated prisoner and under the care and custody of the State *Wade* was in a more vulnerable position than *Superville*. In considering the blameworthiness dimension, he suffered three separate unprovoked assaults first by a single officer and thereafter by a group of officers.
42. Applying *Torres* and the principle of proportionality therefor and bearing in mind the awards made in comparable cases it would seem to me that the award of exemplary damages in *Wade* should be at the higher end of the range of awards made in the comparable cases. In my opinion an award between \$30,000.00- \$40,000.00 would accord with the *Torres* principles, awards in comparable cases and meet the justice of the case. In the circumstances the sum of \$35,000.00 is an appropriate award for exemplary damages in the case of *Wade*. An award of \$15,000.00 therefore represents a wholly erroneous estimate of what would be considered an appropriate award. In these circumstances we, as a Court of Appeal, would be entitled to interfere with the award.

43. Accordingly, in the case of Superville, the appeal is allowed in part and the award of the Master in general damages varied from the sum of \$105,000.00 to the sum of \$130,000.00. Similarly in the case of Wade that part of the appeal that challenges the award of exemplary damages is allowed and the order of the Master varied to award the sum of \$35,000.00 in exemplary damages.

Judith Jones
Justice of Appeal

Table A

Year	Case	Quantum Awarded
2012	CV2009-03089 Bisham Seegobin v The Attorney General	\$5,000
	CV2007-03035 Kelvin Singh v The Attorney General	\$10,000
	CV2009-00988 Dave Moore v The Attorney General and others	\$10,000
	CV2010-04134 Peter Deacon v The Attorney General	\$10,000
	CV2009-02792 Razack Mohammed v The Attorney General	\$20,000
	CV2009-03485 Hakim Braithwaite v The Attorney General	\$40,000
	CV2010-02956 Ijaz Bernadine v The Attorney General	\$90,000
2013	CV2008-04038 Latchmipersad Siew v The Attorney General	\$10,000
	CV2011-00224 Tommie Chansun v The Attorney General	\$20,000
	CV2010-04771 Allister Maharaj v The Attorney General	\$20,000
	CV2011-02084 Arcola Derey v The Attorney General	\$25,000
	CV2011-02277 Sadheekee Thompson v The Attorney General	\$25,000
	CV2007-02297 Nigel Mayers v The Attorney General	\$50,000
2014	CV2009-04698 Gerald Rampersad v The Attorney General	\$5,000

	CV2013-00397 Sham Jagdeo v The Attorney General	\$15,000
	CV2012-00144 Kerron Welcome v The Attorney General	\$20,000
	CV2008-00036 Tesfer Jones v The Attorney General	\$25,000
	CV2008-00038 Fabien La Roche v The Attorney General	\$40,000
	CV2011-03482 Marvin Johnson v The Attorney General	\$45,000
	CV2010-04096 Shaleem Mohammed v The Attorney General	\$45,000
	CV2012-02695 Emraan Ali v The Attorney General	\$90,000
2015	CV2012-02226 Joel Roop v The Attorney General	\$10,000
	Civil Appeal 251 of 2012 The Attorney General v Fitzroy Brown and others ³	\$10,000
	Civil Appeal 251 of 2012 The Attorney General v Fitzroy Brown and others	\$10,000
	CV2012-00914 Jacqueline Charles v The Attorney General	\$15,000
	Civil Appeal 251 of 2012 The Attorney General v Fitzroy Brown and others	\$20,000
	Civil Appeal 251 of 2012 The Attorney General v Fitzroy Brown and others	\$20,000
	Civil Appeal 251 of 2012 The Attorney General v Fitzroy Brown and others	\$20,000

³ In the case of The Attorney General v Fitzroy Brown and others 5 awards were made.

	CV2013-00844 Dillon Ramirez v The Attorney General and others	\$25,000
	CV2011-04459 Ricardo Youk-See; Randy Youk-See; Kairon Baptiste v The Attorney General ⁴	\$100,000
	CV2011-04459 Ricardo Youk-See; Randy Youk-See; Kairon Baptiste v The Attorney General	\$100,000
	CV2011-04459 Ricardo Youk-See; Randy Youk-See; Kairon Baptiste v The Attorney General	\$100,000
2016	CV2011-02454 Ferdinand Joseph; Michael Sylvester and Christopher Thorne v The Attorney General and another ⁵	\$10,000
	CV2011-02454 Ferdinand Joseph; Michael Sylvester and Christopher Thorne v The Attorney General and another	\$10,000
	CV2011-02454 Ferdinand Joseph; Michael Sylvester and Christopher Thorne v The Attorney General and another	\$10,000
	CV2012-05160 Corneal Thomas v The Attorney General and another	\$20,000
	CV2015-03116 Nigel Superville v The Attorney General	\$30,000
	CV2015-03117 Annette Superville v The Attorney General	\$30,000
	CV2015-03118 Sue McLean v The Attorney General	\$30,000

⁴ In the case of Ricardo Youk-See and others v The Attorney General 3 awards were made.

⁵ In the case of Ferdinand Joseph and others v The Attorney General and others 3 awards were made.

	HCA2270 of 2011 Johnathan Moore v The Attorney General	\$40,000
	CV2014-00736 Ryan Henry and others v The Attorney General and others ⁶	\$40,000
	CV2014-00736 Ryan Henry and others v The Attorney General and others	\$40,000
	CV2015-01921 Mustapha Ghanny v The Attorney General and another	\$60,000
	CV2011-04213 Harridath Maharaj v The Attorney General	\$65,000
2017	CV2016-00741 Jason Giles v The Attorney General	\$5,000
	CV2015-03142 Marvin Pascall and another v The Attorney General	\$20,000
	CV2015-00198 Winston Blades v The Attorney General	\$25,000
	CV2012-04736 Azard Ali v The Attorney General	\$25,000
	CV2010-04804 Shaban Mohammed v The Attorney General	\$35,000
	CV2015-02596 Marcus Shaw v The Attorney General	\$45,000
	CV2016-00029 Jason Raymond v The Attorney General	\$50,000
	CV2016-00030 Marvin Scott v The Attorney General	\$50,000
	CV2016-04152 Ryan Stephens v The Attorney General	\$50,000

⁶ In the case of Ryan Henry and others v The Attorney General and others 2 awards were made.

	CV2016-04153 Christopher Lewis v The Attorney General	\$50,000
	CV2016-04154 Junior Collins v The Attorney General	\$50,000
	CV2012-02813 Dave Cowie v The Attorney General	\$75,000
2018	CV2016-04653 Richard Darsoo v The Attorney General and another	\$10,000
	CV2015-01346 Roodal Arjoon v The Attorney General	\$20,000
	CV2017-01077 Anisha Raffick v The Attorney General	\$20,000
	CV2010-04093 Antonio Sobers v The Attorney General	\$25,000
	CV2016-02922 Allister Richards v The Attorney General	\$30,000
	CV2015-02893 Keon Quow v The Attorney General	\$30,000
	CV2016-04122 Gerard Scott v The Attorney General	\$30,000
	CV2015-02892 Michael Douglas v The Attorney General	\$30,000
	CV2015-03348 Darryl Bishop v The Attorney General	\$50,000
	Civil Appeal 99 of 2012 Ijah Braithwaite v The Attorney General	\$80,000
	CV2009-03303 Wendell Beckles v The Attorney General and others	\$100,000