THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE COURT OF APPEAL

Civil Appeal No. P141/2018
Claim No. CV2009-03303

BETWEEN

WENDELL BECKLES

Appellant

AND

THE ATTORNEY GENERAL OF TRINIDAD & TOBAGO

Respondent

PANEL:
P. Moosai JA
G. Lucky JA
E. Donaldson-Honeywell JA

APPEARANCES:
Mr. M. Seepersad instructed by Ms. V. Seepersad on behalf of the Appellant.

Ms. M. Smith instructed by Ms. L. Persad on behalf of the Respondent

DATE OF DELIVERY: 30th October, 2026.

I have read the judgment of Moosai JA and agree with it.

/s/Justice G. Lucky JA

I too have read the judgment of Moosai JA and agree with it.

/s/Justice E. Donaldson-Honeywell JA

Judgment of Moosai JA

Introduction

1. This is an appeal against the award of damages ordered by a Master of the high court. The award was the product of a remitted assessment of damages exercise, conducted pursuant to an order of the court of appeal.
2. The background facts of this case are no less alarming for their capacity to be concisely stated.
3. The appellant was arrested and charged with the offence of arson in 1999. He was committed to stand trial and remained incarcerated awaiting same. In 2001 his matter was referred back to the magistrates court by the Director of Public Prosecutions for the taking of further evidence. On 18 December 2001, he was discharged by the magistrate. For reasons which defy explanation, the appellant was never released, but in fact remained imprisoned without any lawful justification from 18 December 2001 until 8 September 2009. He attained his freedom after the filing of a writ of habeas corpus.

Procedural History

4. The appellant filed a claim for false imprisonment. The respondent did not enter a defence and default judgment was entered. As disclosed in the reasons of the trial judge, because of indications given at early procedural hearings, the State was allowed to rely on the statute of limitations on the assessment of damages. As a result, the appellant was limited to recovering damages for only 4 of the 8 years that he was falsely imprisoned.
5. For reasons which have no bearing on this appeal, the court of appeal ordered that the assessment of damages be remitted and reheard before a Master.

The Master's Decision

6. The Master's assessment exercise commenced with a summary look at the particulars of the appellant's unlawful imprisonment as set out in his statement of case. The undisputed facts accepted by her are the same as set out in paragraph 3 of this judgment.

7. She then proceeded to examine in some detail the uncontested evidence as revealed in the appellant's witness statement. After noting the appellant's understanding that he had been discharged by the magistrate on 18 December 2001, she thus commenced a step by step assessment of his experiences and consequential mental state from the time that he was returned to jail and to his cell, notwithstanding the fact that he had informed the prison officers that he had been released by the magistrate. Also considered were the conditions in which he was kept throughout his unlawful incarceration.
8. As it pertains to his vocation prior to his imprisonment, she observed that he was employed as an electrician and was paid one hundred and fifty dollars ($150.00) a day, but noted that around the time of his arrest he worked for only two weeks of each month. It was his evidence that he could no longer work as a result of a heart condition with which he had been diagnosed after his release. As a result, he lives on public assistance.
9. The Master concluded her examination of the appellant's evidence by noting the appellant's admission to feeling bad when people looked at and spoke about him, and that people did not believe that he could have been imprisoned for so long without being convicted of anything.
10. On the issue of limitation, the appellant challenged whether the respondent, having not filed a defence, could rely on the limitation period to limit its liability for his false imprisonment to a period of 4 years prior to the filing of his claim. In the Master's view, that issue had already been determined by the docketed judge's order of 4 October 2010 by which the State had been allowed to rely on the statutory limitation period of 4 years. There having been no appeal against the limitation order, it was the Master's view that that order remained binding upon the parties at the assessment exercise before her and declined to reconsider the limitation issue. She found further support in this view by virtue of the court of appeal's order remitting the assessment, observing that it did not touch or concern the said limitation order.
11. The Master's analysis of the law and its subsequent application to the evidence before her was, for the most part, praiseworthy. She appraised herself sufficiently of the law relating to the measure of damages for false imprisonment. The various heads of damage as identified in **Mc Gregor on Damages** (15th Edition 1988) at paragraph 1619, were set out. They included injury to liberty, i.e. loss of time considered primarily from a non-pecuniary viewpoint; injury to feelings, i.e. the indignity, mental suffering, disgrace and humiliation and loss of social status; physical injury, illness or discomfort or effect on health; and pecuniary loss. She then examined the evidence in relation to each head of damage as relevant.
12. The aggravating factors of the case were also considered, which included the filthy and overcrowded prison conditions, the long periods of solitary confinement, that he had been

labelled a 'mad man', the number of years that his pleas had been ignored, his treatment at the hand of other prisoners and the stuffy cell which exacerbated his asthmatic condition.

13. The Master then proceeded to determine the appropriate level of award for general damages. Of particular note was her brief but apropos consideration of the question as to whether the awards made in constitutional cases were relevant to cases in tort. Relying on the dicta of Lord Bingham in the Privy Council decision of **Subiah v Attorney General [2008] UKPC 47**, she concluded that the awards were in fact relevant to awards in comparable tort cases since in both instances the awards are determined on the basis of ordinary principles.
14. In the premises, the Master explored similar cases from the jurisdiction, including those relied upon by the appellant. In those cases specifically, the Master observed that the periods of detention ranged from 12 days to 36 days and the awards for general damages ranged from $100,000.00 to $280,000.00. The two constitutional cases of **Attorney General v Selwyn Dillon CA 245/2012** and **Mukesh Maharaj v Attorney General CA 118/2010** were also looked at by the Master. In **Selwyn Dillon**, compensatory damages were awarded by the court of appeal in 2018 for inconvenience, distress, and suffering in the sum of $2.5 million. To this was added an additional $200,000.00 to vindicate the constitutional rights. Dillon had been unlawfully incarcerated for a period of 20 years, which the Master noted far exceeded the period of detention in the immediate matter. In the 2015 decision of **Mukesh Maharaj**, the claimant was awarded $450,000.00 by the court of appeal for the deprivation of his liberty for a period of 5 years. The Master determined that although the period of detention was similar, there was considerably more evidence of hardship suffered by the appellant in this case than in **Mukesh Maharaj**.
15. The Master was not satisfied that there was adequate proof of loss of income resulting from the appellants unlawful incarceration from 2005, leading her to make no award for special damages.
16. In the Master's view, this was a case that justified an award of exemplary damages. In her words:

> "*This was beyond question a most egregious case of neglect and carelessness by prison authorities with dire consequences for the victim who was robbed of 4 years and more of his life. It was incumbent on the court to strongly express its condemnation of such administrative incompetence with a substantial award of exemplary damages.*"

In determining an appropriate sum, she considered the guidance espoused in **Aaron Torres CA 84/2005**, bearing in mind the particular degree of vulnerability of the appellant and the high need for deterrence.

17. Thus, the Master made the following order:

"*1) The first defendant shall pay the claimant general damages assessed in the sum of $800,000.00 with interest at the rate of 2.5%* per annum from September 11, 2009 to April 27, 2018.
2) The first defendant shall pay the claimant exemplary damages in the sum of $100,000.00.
3) The first defendant shall pay the claimant costs on the prescribed scale."

The Appeal

18. The issues for determination on this appeal were significantly narrowed at the hearing. From counsel for the appellant's statements, it was made apparent that it was accepted that the statute of limitations applied and that the Master was correct to limit the assessment of damages to the period of 4 years. This could have been the only basis upon which the appellant proceeded to indicate to this court that he would no longer be pursuing the issue of loss of earnings in light of the Master's conclusion, and that her further finding with respect to the appellants loss of earnings being unrecoverable for the reasons given, was the correct one.
19. Our own reservations as to the correctness of the Master's decision specifically as it relates to that issue aside, what remained was the appellant's global challenge to the quantum awarded by way of general and exemplary damages.

Submissions of the Parties

20. The basis of the appellant's challenge to the quantum of damages awarded is two-fold. Firstly, notwithstanding the application of the limitation period and the attendant consequence that damages cannot be recovered for that period, it has always been an accepted principle in tort that the tortfeasor must take his victim as he finds him. This means therefore that any assessment of damages for the permissible period of 4 years must take into consideration that the appellant would have already by that time suffered 4 prior years of unlawful detention. Secondly, the assessment exercise was flawed to the extent that the Master considered the awards made in constitutional claims and other mixed tort claims. This inevitably led to the inappropriate award made as these cases were incompatible with the specific facts of the appellant's false imprisonment claim, that is, that it was unlawful and unjustified from the start.
21. For both these reasons, the appellant submits that the Master fell into error as a matter of law in assessing an appropriate award of damages, leading to the inordinately low sum ordered to be paid by the respondent.
22. The respondent in turn submits that the Master was correct in her approach to the assessment exercise and that she correctly applied the learning in **Subiah** to the present case.

Discussion

23. For ease of reference, we note that based on the limitation period applied, the duration for which the appellant was compensated for his false imprisonment was that 4-year period from 8 September 2005 to 8 September 2009. He was not compensated for the period from 18 December 2001 to 7 September 2005.
24. We begin by commending the Master's marshalling of the evidence before her. The written decision clearly reflected the evidential matters forming the foundation of the exercise. As to her approach on the law, we have no difficulty with her reliance on **Subiah** for the proposition that the awards in constitutional matters could properly serve as a reference point when conducting an assessment of damages for the purposes of tortious litigation. As Lord Bingham's judgment recognised, the award is determined on the basis of ordinary principles irrespective of the originating nature of the claim. A practical example of applicable concomitant ordinary principles would be the recognition of the need to ensure that the assessment exercise and subsequent awards are tailored to the exclusive facts of the matter. If such considerations remain at the fore, many of the concerns raised by the appellant will be allayed, as the rationale behind the award will reflect the distinct contemplations.
25. We are constrained to note however, two areas in which the Master erred in the conduct of the assessment exercise.
26. We begin by reiterating that damages for prolonged periods of false imprisonment are assessed globally, with specific attention paid to the facts and the actual harm suffered by the claimant. It is pellucidly clear from the reasons provided that the Master addressed her mind to the task of ensuring that the damages awarded to the appellant were circumscribed to that period of 4 years that was not statute barred from recovery. It is at this intersection that the Master faced an apparent difficulty.
27. The Master was undoubtedly correct to eschew making any award for the initial period of 4 years, based on limitation. It does not follow however that this necessitated an approach which failed to consider the relevant impact of that period of incarceration on any assessment of potential injury to feelings suffered by the appellant within the actionable scope of time. In our view, any fact-sensitive and realistic approach to assessment must acknowledge that the appellant's mental state could not simply be viewed through that window in insolation. It is as the appellant submits, the appellant must have been taken as he was; and what he was at the relevant time was a man who had already been subjected to a protracted period of false imprisonment.

28. Whilst the court was at pains to find case law directly addressing the point, it was somewhat successful in locating two English authorities through which the principle posited can be extrapolated. In the case of **Muuse v Secretary of State for the Home Department [2010] EWCA Civ 453**, the court of appeal summarised the first instance quantum exercise. In assessing the effect of the incarceration on Mr Muuse, the court noted that he was concerned and anxious about what was to happen to him, and that this concern would have increased the longer that he remained detained. In **Adegboyega v Secretary of State for the Home Department [2024] EWHC 2365 KB**, the court set out the various heads of damage for false imprisonment, and noted also that on the facts, the claimant's frustration, anger and anxiety would have increased with the length of his unlawful detention, which must be taken into account when assessing compensation.
29. In the instant matter, the appellant gave evidence that he was scared, frustrated and confused. In his own words, he began to suffer from depression, and started to believe that he would never get out of jail and that he would die there. He believed that he had been abandoned by everyone, a thought that was undoubtedly exacerbated by the fact that his parents never visited him throughout his detention. This evidence was not only uncontested, but wholly accepted by the Master. At paragraph 28 of her reasons she succinctly and correctly recongised his mental state and attendant suffering, but somehow concluded that this "*continued for 4 years before he was released as a result of habeas corpus proceedings brought on his behalf*." With the greatest of respect to the Master, it is wholly unrealistic to have concluded that the appellant's mental distress and suffering would have been confined only to that period of time for which the law permitted him to be compensated. To our minds, the better approach would have been to recognise that those 4 years immediately preceding the period for which he was to be compensated, undoubtedly impacted his mental state, and while no damages could accrue to him for that statute barred period, any award ought to properly reflect the toll that that period would nonetheless have taken.
30. In other words, the appellant's mental slate was not clean, and the assessment exercise in its application ought not to have presumed such. From his evidence, it can reasonably be inferred that at some point throughout his incarceration, his increased frustration, anger and anxiousness inevitably plateaued, with his self-stated depression setting in.
31. It should also not be overlooked that case law consistently recognises that the sense of shock associated with false imprisonment is at its peak for the initial period following the detention. This observation is made to highlight the fact that in the particular circumstances of this case,

the appellant's shock may even have been higher than most, given that he was unlawfully returned to prison conditions immediately after being expressly released.

32. In any event, the overarching point is that for the period for which he was to be compensated, his mental state had worsened beyond the norm, a fact which the Master failed to consider.
33. The second aspect of the assessment exercise in which the Master erred can be briefly canvassed. In considering the aggravating factors of the case which attracted further compensation, the appellant submits that the Master failed to give credence to the fact that his freedom was only secured by way of writ of habeas corpus and not through the recognition and correction of its error by the State. We find ourselves in agreement, and hold the view that this was a particularly aggravating feature because it not only amplifies the careless incompetence of the relevant authorities, but legitimately raises the question as to what may have become of the appellant had he not made such an application. From all appearances, this was a very real risk.
34. In light of our conclusions on these two aforementioned issues, we consider this case to be one in which an alteration of the sum awarded by the Master is justified: see **Bernard v Quashie CA 159/1992 p 4**.

Disposition

35. In the premises, the appeal is allowed.
36. Having regard to the failure of the Master to fully assess and account for the mental suffering of the appellant as part of her assessment exercise, as well as her failure to consider the additional aggravated feature that the appellant was only able to secure his release through a writ of habeas corpus application, we are of the view that an appropriate award for general damages is the sum of one million dollars.
37. In all other respects, the order of the Master is affirmed.
38. We will hear the parties on the issue of costs.

/s/Justice P. Moosai JA