

IN THE SUPREME COURT OF SEYCHELLES

FRANCOIS KILINDO

PLAINTIFF

VERSUS

1. JULIEN BEAUDOUIN

2. HERMAN MARIA CO. (PTY) LTD

(Rep by its Managing Director Mr Herman Maria)

DEFENDANTS

Civil Side No 119 of 2000

Mr. S. Rouillon for the Plaintiff

Mr. J. Renaud for the Defendant

JUDGMENT

Perera J

This is a delictual action in which the Plaintiff is claiming damages arising out of a collision between his vehicle bearing No. S 11965 and that of the 1st defendant, bearing No. S. 9023. The 2nd defendant is the owner of the latter vehicle. The accident occurred on 15th April 2000.

As the Defendants have conceded liability, the only issue before the Court is the quantum of damages. The Plaintiff has abandoned the claim for loss of "no claim bonus and the payment of excess". Accordingly, the claim is limited to-

1. *Loss of earnings and continuing at Rs.500 per day* *Rs.40,000*
2. *Moral damages* *Rs.50,000*

Rs.90,000

The Plaintiff testified that consequent to the accident, his vehicle which he was using as a Taxi was completely written off. He stated that four weeks after the accident he received Rs 53,000 from the State Assurance Corporation (SACOS), he obtained a loan of Rs.130,000 on 18th May 2000 from the Development Bank (DBS) and purchased a new vehicle about 1½ months later for Rs.140,000. However, the Land Transport Division did not at first authorize

the use of that car bearing No. S. 754 as Taxi, but later on Appeal, authority was granted by letter dated 24th May 2000 (P8), subject to a condition that it could be used only for a period of two years after which it should be replaced by a new one. The Plaintiff further testified that he could not use the car immediately thereafter due to certain mechanical defects, and that it took more than six months for him to recommence his taxi business. He claimed that his minimum income per day was Rs.500. The claim under the head of loss of earnings is Rs.40,000, which at the rate of Rs.500 per day is for 80 days (*or 2½ months*). There is no evidence that the Plaintiff could not commence his Taxi business after the Land Transport Division gave permission on 24th May 2000, which was about 40 days after the accident. Hence accepting that as a Taxi driver the Plaintiff earned about Rs 500 per day on an average, I would limit the claim to 40 days and award a sum of Rs.20,000 in respect of loss of earnings.

Under the head of moral damages, it is reasonable to accept that the Plaintiff was inconvenienced as a result of the accident. As a Taxi driver by profession, he not only suffered pecuniary loss, but also mental anguish. In these circumstances, I award a sum of Rs.5000 as moral damages.

Judgment is accordingly entered in favour of the Plaintiff in a sum of Rs.25,000 together with interest and costs.

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A.R. PERERA

JUDGE

Dated this 10th day of October 2005