

SUPREME COURT OF SEYCHELLES

Reportable/Redact
CS 97/2021

In the matter between:

DENIS BACCO
(rep. by his guardian Alton Bacco)
(rep. by Danielle Belle)

Plaintiff

and

FELIX MATHIOT

1st Defendant

SUJI IMPORTS
(rep. by S. Rajasundaram)

2nd Defendant

Neutral Citation: *Bacco v Mathiot and Anor* (CS97/2021) 12th March 2025
Before: M. Burhan J
Summary: Claim of SCR 450,000 against both Defendants plus interests and costs.
Heard: 20.06.2024, 23.07.2024, 09.10.2024, 18.10.2024, 12.11.2024, 10.12.2024
Delivered: 12th March 2025

ORDER

I give judgment in favour of the Plaintiff and against the 1st and 2nd Defendants jointly and severally in a sum of SCR 180,000.00 (one hundred and eighty thousand) together with interest from the date of filing plaint and costs of this suit.

JUDGMENT

BURHAN J

BACKGROUND

[1] The Plaintiff filed a plaint against the 1st and 2nd Defendants claiming a sum of SCR 450,000.00 from the Defendants on the basis of a *faute* committed by the 1st Defendant whilst being in the employment of the 2nd Defendant that resulted in injuries to the Plaintiff as described in paragraph 5 of the Amended Plaint.

[2] The particulars of the loss and damage claimed are:

a) Moral damage for pain, suffering, trauma and inconvenience	100,000.00
b) Permanent disability and loss of amenities	100,000.00
c) Loss of earning and loss of future earnings	200,000.00
d) Loss of amenities -	<u>50,000.00</u>

TOTAL	450,000.00
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[3] The Plaintiff further avers that as a result of the above injury, he cannot carry on his work as a handyman and since had to stop employment altogether and therefore moves for judgment in his favour, jointly and severally against both Defendants, in the said sum of SCR450,000.00 plus interest and cost of this suit.

[4] The Defendants denied the claim in their answer and the case proceeded to trial.

CASE FOR THE PLAINTIFF

[5] The Plaintiff Denis Bacco was represented by his father (guardian), Mr Alton Bacco, who gave evidence stating that his son was 25 years old at the time of the incident. He stated that he was informed on the 25th of October 2019 that his son was involved in an accident. The person who witnessed the accident had called his wife. Witness stated that before the accident, Denis used to work with him personally because he used to do contract work and they used to cut grass at the Grand Anse radio station, which they called 'BBC'. Denis had thereafter started working at the Cat Cocos for five years and for an Indian company called Suji Imports, as a handyman. The people who worked alongside Denis were a driver, Mr

Mathiot and another Indian colleague. At the company Denis used to load and unload the pickup trucks. He stated that Denis was hit by a pickup truck at the workplace which resulted in him breaking his right foot. The matter was reported to the police by witness and his wife because they wanted the driver to give his statement, as the driver did not go to the police station after the accident.

- [6] The accident affected his son Denis morally, physically and mentally. Witness stated that every time his son hears an ambulance, he thinks of the incident and gets stressed and talks and laughs by himself. He had taken Denis to a mental hospital for treatment as he was unable to represent himself in Court. Witness produced P1, an order of interdiction given by Court dated 26 September 2023. He stated that he gives evidence on behalf of his son as his son is unable to do so.
- [7] Witness described the injuries sustained by his son stating that he had a broken leg. The doctor had put metal in his leg and three clips, and told Denis not to fall again and said the metal would be in his leg until he died. He was being assisted by the Social Security for a few months receiving SCR 2,000. The company he was working in paid him SCR 6,000 per month. Witness identified the payslip of his son as P2. He stated that he and Denis are claiming damages and loss for moral damage in a sum of SCR 100,000. For physical damage SCR 200,000; for the broken leg SCR 100,000. The whole sum claimed he stated is SCR 450,000. Witness stated that he knows the driver of the pickup whose name is Felix Mathiot. Witness stated that they received SCR 50,000 assistance from the insurance company but there was more to come and since they do not know how to read or understand English, they did not really know the procedures. Witness admitted that his wife had signed the insurance documents and he does not know what his wife signed. Insurance document constituting 4 pages dated 11th March was marked as P3.
- [8] Under cross-examination, witness stated that Denis has not been well since the accident occurred. It was suggested to witness that 10 years prior to the accident, Mr. Denis Bacco had been mentally retarded. He admitted he had filed the application to be the guardian of Denis because his son is not able come to court by himself. Witness explained that his son cannot understand certain things and would not be able to process and analyse what is being told. Witness stated that before the accident, doctors never certified that he had this

problem. In March 2019, when his son was working, he had a small 'retardness' problem at the time. It was suggested to witness that he did not know how the accident occurred to his son. It was put to the witness that because of Denis's mental condition he did not know what he was doing and this contributed towards the accident. Witness denied this suggestion and stated he believes that the driver prior to reversing should have looked behind to see if there was anything and as a driver, he needs to know these things.

[9] Witness testified that during the time that his son had been injured, they had a lot of expenses. They had to pay for transportation and food because there were certain foods provided by the hospital that his son could not eat and also had to provide water. As a parent, he noticed his son was extremely stressed. The salary that his son was bringing home was reduced as he was injured and could not work. Witness stated he is claiming SCR 100,000 for permanent disability from the accident. His son cannot work and does not have a future. His son's brain now functions as a baby and he is an invalid. Witness stated he is claiming SCR 200,000 for the loss of future earnings for the period of time that his son is alive. He was aware of the payment of SCR 50,000 from the insurance. It was suggested to witness that the claim totalling SCR 450,000 cannot be allowed by this court as he has received SCR 50,000 from SACOS which is the insurance company for the 2nd defendant and therefore he would not be able to claim more. Witness testified that he claimed for Denis's damages and he has come on behalf of his son to make the claims. SACOS did not give them the exact sum that Denis should have received in his situation. When he filed the original plaint in September 2021, there was no guardian because Denis could still come to court. It was suggested to witness SACOS had paid the sum of SCR 50,000 in full and final settlement of the claim. He replied that SACOS told them there would be more. SACOS had taken advantage of them because they do not know how to read or write in English.

[10] Witness further stated that after the accident Denis did not work, he was at home. After the accident his son walks with a limp and always has to go to hospital because he feels pain and needs pain medication. If the pain continues, he has to go for an X-ray to check for infections. He stated his son cannot get another job because his doctor says he should not lift heavy things or fall again, as he would have to go for surgery. The accident happened

in 2019. When the first plaint was filed it was in the name of Denis as Plaintiff and this had to be changed because it was certified from the doctor that Denis cannot mentally stand in court and say what happened in his own case.

- [11] Ms Maria Hoareau testified that she lives at La Retraite by the main road in an apartment and could see from her balcony the supermarket below. On the 25 October 2019, she was standing on the balcony in her apartment when she noticed a truck reversing onto the parking of the shop below. She heard a bang and heard somebody shouting but from where she was standing, she could not see the person. She ran down to see what had happened and saw that Mr. Bacco had been hit by the truck. He was lying on the ground and he informed her that the pickup had hit him. Witness called the ambulance, then called her mum who was upstairs, to bring down a towel and water to assist the injured person. They had assisted him and she had phoned his mother and informed her of the incident. The injured was lying on the ground but was conscious. He had told witness that when the pickup was reversing it had hit him. She observed that he was in shock and his leg was swollen. The driver of the pickup was on site as well. Witness stated that she never knew Mr Bacco nor did she know the driver. When the ambulance came the paramedics took him away.
- [12] Under cross-examination, she admitted the shop she was talking about is Chandran Naidu Supermarket at La Retraite. On that particular day she was home because she was off and the incident had occurred around 1:30pm. When she heard the bang and looked, she could only see the front of the pickup. She admitted that she does not know what had happened at the rear end of the pickup. Mr Denis Bacco was the one who told her that the pickup reversed and hit him.
- [13] The Plaintiff next called Dr Telma Betsy. She testified that she had written the medical report in this matter. She had seen Mr Denis Bacco in 2019 in the ward. She produced the medical report prepared by her on the 21 September 2019 as P4 and the follow up report prepared by her colleague dated 30 June 2022 as P5. Mr Denis Bacco had been brought to casualty on the 25 October 2021. When he came to casualty he had sustained an injury on his right leg and was having pain in the thigh and swelling after an accident. It was reported that he was allegedly hit by a reversing truck. On examination, his blood pressure was

169/96, heart rate 87, his thigh was swollen and painful and he could not move properly. An X-ray was done and it showed the fracture.

- [14] He was subsequently admitted to D'Offay ward for surgery. The surgery was done on the 28 October 2019. He remained stable in the ward but he had high blood pressure and he received treatment for high blood pressure. The report stated the diagnosis was that he had a displaced fracture on the right femur and was diagnosed with hypertension. She stated that the injury was on the right femur and thigh bone and can affect his movement. The femur was broken; it is mentioned in the report as displaced because it is not a clean break. He was reviewed until he was discharged on 2 October 2019. He started walking on crutches but could not bear his weight. She stated that after the surgery of the femur, the patient could not walk and at least for three months' patient would not be able to put the weight of his body on the leg.
- [15] The second medical report dated the 28 January 2020 that is three months after the surgery states the X-ray done indicated that there was good formation of the bone which showed that the wound was healing. He was still walking with crutches and he was instructed to do physiotherapy and a light duty certificate was issued for him to provide to his workplace. The next review was on the 12 May 2022. At the final review, he was able to walk bearing his full weight with no limp and no support required. However, as mentioned that he could not work in his previous capacity and his workplace was not accepting the light duty and he was referred to the occupational health department to assist him find another job that he is able to perform. In her opinion the injury was of temporary nature. The doctor further stated that she would not know whether this accident has affected him psychologically.
- [16] Under cross-examination the doctor testified that from exhibit P4 she stated that the date of the surgery was 28 October 2019 and the patient was thereafter put on traction to try to align the bone, this was the standard protocol for the patient. Although the surgery of Mr Bacco was done three days after, it is classified as a serious accident. He was discharged on the 2 November 2019, four days after the surgery with no pain or complaints. He was able to walk independently with crutches. When asked about callus formation, she explained that callus is the term given to the new bone that is formed after a fracture. At that time the hospital also recommended physiotherapy. The final review was on the 12

May 2022. The doctor further stated that the nature of the disability was temporary but it depends on each patient individually. The fractured bone, had been fixed surgically but it takes time for rehabilitation. During the time of final review hospital administration has advised him to refrain from heavy duty works. But at the same time light weight work was permitted.

- [17] The doctor further stated that because the bone that was broken is the most dominant bone in the thigh, even if they say temporary it is not easy and it would take time for the patient to recover. It could be temporary, if the patient is young but it takes time for rehabilitation to be done. The doctor agreed that the report does not say anything about whether this is a permanent disability or a full disability. She admitted that Mr Denis Bacco, in his final review was told not to do heavy duty and was advised to do light duty. For that reason, he could not work. He was referred to occupational health to assist him. There they assess the patient as to what he can or cannot do and accordingly recommend a job that is more suitable. If the patient was doing a very hard job after assessment, they might recommend that he change his job to another one that is lighter. His work was interrupted by the accident.
- [18] Sub Inspector Eric Bastienne, attached to the Central Police station stated that in 2019, he was posted at Anse Etoile, as the officer in charge of the traffic investigation. He remembers doing a police report in respect of an accident on one Denis Bacco. The title of the report is 'Vehicle Accident Involving Vehicle S22846 Occurred at La Retraite'. Witness produced the police report as exhibit P6. He produced the statement of Mr Denis Bacco as P7 in which he describes the accident. It is clear from his report that the Plaintiff was injured when working for the 2nd Defendant when a pickup, driven by the 1st Defendant reversed and hit him during the delivery of goods, whilst the Plaintiff was employed and performing his duties for the 2nd Defendants at the workplace. Witness had thereafter recorded the statement of the driver of the vehicle and one Iyyapam.
- [19] Witness admitted he recorded the statement of the Plaintiff when he was in pain and in the hospital. He also recorded the statement of Mrs Bacco. He was unaware of any criminal proceedings against the driver. He stated that no one from SACOS called him to ascertain

any facts from him in respect to this case. Mr Felix Mathiot who was driving the pickup also made a statement that he was the driver and employed by Suji Imports.

[20] Thereafter the Plaintiff closed his case and the defence proceeded with their defence.

CASE FOR DEFENDANT

[21] The Defendants opened their case by calling Mr Narajan Chetty representing the 2nd Defendant who stated he was fully responsible for the 2nd Defendant Company and admitted that the 1st Defendant was employed by the 2nd Defendant as a driver who is still working for the company. He admitted that the Plaintiff too was working in his company as a handyman and had been paid a salary but after the accident, he stopped coming to work. He denied the claim of SCR 450,000 and stated that SACOS, his insurance company had paid the Plaintiff a sum of SCR 50.000 as full and final settlement. In his opinion he believed the amount was enough.

[22] Under cross examination he stated that the Plaintiff was getting a salary of SCR 6800 plus overtime. He denied he had terminated the Plaintiffs employment and stated that his mother had come after the accident and told him he was not coming to work and to settle his money. He had worked only for four years. The mother had gone to employment and they had calculated how much he should pay and he had paid it the same day. He admitted that at the time of the accident he had not been at the office but had visited the Plaintiff in hospital. He admitted that the accident occurred as a result of his driver reversing the vehicle. He admitted it was a serious accident and stated he had also visited him at his house after he left hospital. He admitted that the vehicle that hit the Plaintiff had the registration number S22846. He denied that the accident had affected the Plaintiff psychologically. He stated that he had seen the Plaintiff a few days back and he was okay. He reiterated the fact that all employment benefits had been paid to the Plaintiff and produced a document to affirm same exhibit D1.

[23] The next witness Anne Bastienne, a Claim Executive attached to SACOS for 30 years, stated that she works with all the claims including the one before this court. She confirmed that Suji Imports is her client that is insured. Since they are insured, they have an insurance

policy. She described the procedure in making a claim. She further stated that the value of the claim will be assessed by Mr Shah, the lawyer representing SACOS, who will then decide how much to pay the client. In this case there was a claim from Suji Imports. The driver of the pickup was reversing and hit the client. As the claim form was received by SACOS they verified the name of the claimant as Denis Bacco. His mother came to SACOS for the claim. They had asked Mr Kieran Shah for his opinion and SACOS had paid a sum to Mr Denis Bacco. Witness showed a release form and a letter of acceptance signed by Mr Denis Bacco accepting the offer. They then proceeded with payment. Witness produced the letter of Mr Bacco as D2, Witness explained that SCR 50,000 was the payment for the injury that Mr Denis Bacco had sustained. She confirmed that the SCR 50,000 paid was in full and final settlement of the claim. Witness also showed a release form dated 11 March 2020, signed by the mother to show that Mr Bacco has received the SCR 50,000 as the final payment. Document was produced and marked as exhibit D3. The mode of payment was by cheque.

[24] Under cross-examination, she stated when assessing the damage, Mr Shah decides the amount. After checking the medical report Mr Shah assessed the claim and told them they had to pay Mr Bacco SCR 50,000. Witness was unable to recall whether she saw the patient with Mr Shah nor does she recall the extent of the injury of Mr Denis Bacco. She was uncertain if Mr Shah had got the opinion of a doctor whilst assessing the amount. She stated it was she who wrote the words full and final settlement. She typed it and put it in the letter to the Plaintiff. Witness was shown the letter and identified it. She admitted Mr Bacco made a claim for a sum of SCR 450,000 for the injury but was offered SCR 50,000. The assessment of his medical situation would depend on Mr Shah the lawyer of SACOS. She admitted SACOS does not have a medical officer. When they have car accident claims they have their assessor. She admitted she was unaware of the final medical report done on 12 May 2022, D4. Witness was not informed that the case was coming before the court or was in court at that time.

[25] She stated she had informed them that this payment would be in full and final settlement and she explained to them what that means. Witness explained that full and final means if you have sustained an injury, she pays the sum as a final payment and that you are not

supposed to come again to look for more money. Witness admitted that the medical certificate states that Mr Bacco is scheduled for follow-up treatment by an orthopaedic doctor as an outpatient. Witness was questioned as to how they came to a decision when he is still undergoing treatment. She stated that normally they tell him to go to his appointment and after his appointments he can come back to SACOS. It was suggested to witness that as Mr Bacco according to the medical report was still undergoing treatment they should have waited for the final report prior to making a full and final settlement. Witness stated that if he brought in more medical reports, they would have known that he is still undergoing treatment

[26] Witness Anne Bastienne further stated she was unaware that interim payments were made to persons. She was asked why the organisation put down full and final settlement when the organisation can provide interim payment. Witness explained that is because Mr Denis Bacco wrote a letter accepting the SCR 50,000 as full and final payment (D2). Witness stated she was not aware that Mr Bacco did not know how to read or write. Witness testified that she considered the amount of SCR 450,000 claimed by Mr Bacco too excessive. Document P9 was produced through witness. In her opinion witness stated that SCR 50,000 is a reasonable sum. Witness further stated that though the medical report says that he will have to follow-up on his treatment witness had not received any further certificate. She further stated that there was no medical report to confirm that Mr Bacco became permanently disabled and there was no medical report shown to SACOS that he was not able to work or that he will not be able to earn anything.

[27] Dr Iglesias Acosta testified that he has been working in the Republic of Seychelles for 3 years and is a general comprehensive doctor in psychiatric treatment. He stated that he had treated a person by the name of Denis Bacco. He produced his report as D4. He affirmed that Denis Bacco had been having mental issues since schooldays. He stated that psychological issues have not had any impact on the physical issues but physical issues can display psychological mental symptoms. When he had seen Mr Bacco he was with his parents and had difficulty walking and some physical problems. He was not able to answer the assessment questions. He got easily irritated, he was not easy or corporative and he was not able to understand all the questions. Mr Bacco had been on medications for a long time

for his medical condition. Dr Acosta read the conclusion of his report in court. He stated that based on the clinical observation and assessment of the patient, he was of the opinion that Mr Bacco will not be able to answer questions in court and will not be able to form an appropriate understanding. Under cross-examination, he stated that the physical component affects the mental health of a person. He does not consider Mr Bacco as a strong minded person. He stated that even with mental limitation or not, if someone receives as a consequence of an accident a physical limitation due to an injury that it will cause a psychological impact. If someone has a mental problem, it could affect him more but doctor stated that in this case he could not say because Mr Bacco was not answering to his questions, so he cannot confirm.

[28] Thereafter, the defence closed their case. Both parties were given time to file submissions

ANALYSIS & FINDINGS

[29] Having thus carefully taken into consideration both the evidence of the Plaintiff and the Defendant and the submissions of both parties, it is clear that the Defendants do not deny the incident resulting in the *faute*. There is no denial by the Defendants that the accident occurred whilst the Plaintiff was working in the 2nd Defendant Company and the Plaintiff was hit by a vehicle driven by the 1st Defendant, an employee of the 2nd Defendant Company. Mr Chetty admits all these facts. It is the finding of this Court that the act of reversing and hitting the plaintiff is in itself a negligent act and therefore a *faute*. It is clear from the evidence which is uncontested that both the 1st Defendant who drove the vehicle is liable and the 2nd Defendant vicariously liable as the 1st Defendant was acting within his scope of employment with the 2nd Defendant at the time the *faute* was committed resulting in injuries to the Plaintiff.

[30] The 2nd Defendant however contests the quantum of the claim made by the Plaintiff which amounts to SCR 450,000.00 which they state is manifestly excessive.

[31] It is the contention of the Defendants that the Plaintiff deliberately avoided coming to court to prevent the court from analysing his claim of permanent disability. However, on perusal of the medical certificate and analysis of the medical evidence given by Dr Iglesias Acosta,

it is clear that the Plaintiff was in a state that he would not be able to answer questions in court due to his low capacity to understand adequately and form an appropriate judgment. Therefore, the suggestion that the Plaintiff deliberately avoided court bears no merit.

[32] Learned Counsel for the Defendant in cross-examination suggested contributory negligence on the part of the Plaintiff. He even suggests that it was Denis Bacco's mental condition, as he did not know what he was doing, that contributed towards the accident. However, other than the Plaintiff being hit by a reversing vehicle driven by the 1st Defendant, no other evidence exists to indicate that the negligence of the Plaintiff was a contributory factor to the accident. The evidence of Mr Chetty attempts to partially blame the Plaintiff for not moving aside but he admits he was not present when the accident occurred and was relying on the CCTV camera footage at the place where the incident occurred. However the CCTV footage was never produced in court. Therefore, the suggestion that there was contributory negligence on the part of the Plaintiff fails.

[33] Learned Counsel for the Defendants also brought to the notice of Court that a sum of SCR 50,000 has been paid by the insurance company of the 2nd Defendant to the Plaintiff as full and final settlement. I am of the view that this sum is grossly inadequate. Witness, Bastienne under cross-examination admitted that the medical certificate she relied on in her file in assessing the claim, states that Mr Bacco is scheduled for follow-up treatment by an orthopaedic doctor as an outpatient. Therefore, it is clear the payment was not made after his treatment had been concluded for them to consider a full and final settlement. The mere fact that they put the words "*Full and find (sic) settlement of discharge and satisfaction*" does not mean anything when the claimant is still undergoing treatment. It could only be considered as an interim payment as provided for in the form D3 produced by the insurance.

[34] The mere fact that the Plaintiff received the said sum does not preclude the Plaintiff from filing action against the Defendants, although the amount paid could be considered in the quantum of damages awarded. This was held in the case of Jacques v Property Management Corporation (385 of 2006) [2011] SCSC 13 (22 February 2011) where the court held that "*the liability of the tortfeasor is extinguished or reduced in proportion to the amount received by the claimant from the insurer of the tortfeasor. At the same time, it should not*

be misconstrued that any payment received by the claimant from the insurer of the tortfeasor would automatically exonerate the tortfeasor from total liability. Only when the claim is fully paid or so declared by the court, the tortfeasor's liability shall extinguish."

[35] The next defence taken up by learned Counsel for the Defence is that there is no permanent injury or disability caused to the Plaintiff as neither the medical evidence nor the medical certificate presented before Court indicated any evidence of permanent disability. He contends that the injured Plaintiff has had physiotherapy as prescribed by the medical team, and none of the findings indicate a permanent disability. The Plaintiff's only injury was a displaced fracture of his right femur, which was treated with a regular and standard minor surgery followed by the usual physiotherapy. On this basis, the Defendants disputes the claim of permanent disability and stated all the Plaintiff had was discomfort. It is the Defendants' contention that discomfort suffered can be addressed as an inconvenience caused and can be addressed as moral damages. However, the Defendant submits that the claim of SCR 100,000 is excessive as in the case of Mounac and Another v Benoiton Construction Company Ltd (102 of 2009) [2010] SCSC 26, where this Court had ordered a sum of SCR 20,000 and SCR 7,500 as moral damages.

[36] When one considers the evidence peculiar to this case, this Court is satisfied on the evidence before it that the Plaintiff was having a mental weakness at the time of the accident and was employed by the 2nd Defendant as a handyman. This job entails heavy duties like carrying of heavy objects and otherwise dealing with same. After his treatment he was referred to the occupational health department which recommended light duty and therefore he was not able to carry out his normal duties which he was performing earlier. Although the injury was not classified as a permanent injury, the effect of the injury on an already retarded person was permanent resulting in him losing his will to work, no doubt aggravated by the fact that he was medically advised to do light work. This is supported by medical evidence as Dr Betsy states that the nature of disability was temporary but it depends on each patient individually. Dr Iglesias Acosta who affirmed that the Plaintiff had been having mental issues since school days further stated that psychological issues may not have any impact on the physical issues but physical issues can display psychological mental symptoms. He further stated that even with mental limitation or not,

if someone receives as a consequence of an accident a physical limitation due to an injury that it will cause a psychological impact.

- [37] On consideration of this evidence and the evidence before court in its entirety including the evidence of the Plaintiff's father Mr Alto Bacco his guardian, it is clear to this court that the injury had a permanent effect on the Plaintiff in that the physical injury caused resulted in the psychological mental symptoms which was he lost his will to work. I am satisfied that the Plaintiff has proved his case on a balance of probabilities.

QUANTUM

- [38] Therefore it is the view of this Court that the Plaintiff is entitled to his claim of (a) moral damages for pain and suffering and (b) for injury caused (not permanent injury), and (d) for loss of amenities.

- [39] Learned Counsel for the Plaintiff referred to the SCA case of Maria v Health Care Agency & Anor (SCA 2 of 2017) [2019] SCCA15 (9 May 2019) which held that:

“An appellate court needs to be guided by the following legal principles, set out in several decided cases, when considering the adequacy or inadequacy of an award of damages, namely:

- i. Whether the trial court had acted on a wrong principle,*
- ii. Whether the amount awarded is manifestly high or low,*
- iii. The circumstances of each case have to be taken into account,*
- iv. The court needs to have regard to comparable cases as there must be consistency,*
- v. Give due consideration to the rate of inflation and the socio-economic situation reflected in the increase in the cost of living.”*

- [40] Therefore, I also take into consideration that there must be consistency with comparable cases and consider the cases of Otieno v Seychelles Public Transport Corporation [2017] SCSC 85 Nourrice v Agrippine to [2020] SCSC 49 and the case of Mondon v Georges and another {2020} SCSC 707 where under similar circumstances similar amount of

compensation was ordered. It is to be borne in mind that the Mounac case referred to by learned Counsel for the Defendants was as far back as 2010, and does not reflect the current socio-economic situation nor the increase in the cost of living and inflation.

[41] For all the aforementioned reasons, I proceed to award a sum of SCR 100,000 (hundred thousand) for moral damages and for pain and suffering in respect of claim (a), A sum of SCR 80,000 (eighty thousand) for only injury caused in respect of claim (b) and a further sum of 50,000 (fifty thousand) for loss of amenities in respect of claim (d). I make no order for damages in respect of damages claimed under (c) of the Particulars of loss and damage.

a) Moral damage for pain and suffering trauma and inconvenience	100,000.00
b) Injury	80,000.00
d) Loss of amenities -	<u>50,000.00</u>
TOTAL	230 000.00

[42] I make order that the Plaintiff is entitled to damages in a total sum of SCR 230,000.00 (two hundred and thirty thousand). The amount of SCR 50,000 paid by SACOS to be reduced from the said amount.

[43] I therefore give judgment in favour of the Plaintiff and against the 1st and 2nd Defendants jointly and severally in a sum of SCR 180,000.00 (one hundred and eighty thousand) together with interest from the date of filing plaint and costs of this suit.

Signed, dated and delivered at Ile du Port on the 12th March 2025.



12. March 2025

M. Burhan J

