BARBADOS

[Unreported]

Suit No: 358 of 2000

IN THE SUPREME COURT OF JUDICATURE

HIGH COURT

Civil Division

BETWEEN

CHERYL ALLEYNE - PLAINTIFF

AND

THE ATTORNEY GENERAL - DEFENDANT

Before The Honourable Madam Justice Maureen Crane-Scott, Q.C., Acting Judge of the High Court

2007: December 4, 5
2008: January 22, 30
March 28

Mr. P.K.H. Cheltenham, Q.C. in association with Miss. Santia Bradshaw for the Plaintiff
Mr. Roger Barker in association with Miss. Stephna Greenidge for the Defendant

DECISION

[1] **Crane-Scott J:** In this action, Cheryl Alleyne ("the Plaintiff") seeks to recover against the Defendants damages for personal injury and consequential losses sustained by her as a result of a fall which occurred on July 14, 1998 during the course of her employment as a Departmental Aide at the Sir Winston Scott Polyclinic, being premises owned by the Crown in right of its government of Barbados ("the Defendant").

[2] On August 8, 2007, the Plaintiff applied to the High Court and obtained an order for an interim payment in the sum of $50,000.00 on account of damages to be paid to the Plaintiff on or before July 12, 2007.

[3] When the matter came on for trial on December 4, 2007, the Court was advised by Counsel for both parties that the Defendant had conceded liability and that the only issue before the Court related to the quantum of the damages to be paid to the Plaintiff. Judgment was accordingly entered for the Plaintiff and the Court proceeded to hear evidence and arguments in relation to the assessment of damages.

The evidence for the Plaintiff:

[4] The Court heard the oral testimony of 4 witnesses who were presented in support of the Plaintiff's case. These were the Plaintiff, her husband Lennox and 2 medical doctors John Gill and David Corbin. The doctors were two of the numerous medical practitioners whom the

Plaintiff had visited during her arduous and painful search for relief from her symptoms following the accident.

[5] *Testimony of Cheryl Alleyne:* The Plaintiff was duly sworn and informed the Court that in a matter of days she would be 46 years of age, having been born on December 15, 1961. She was married and the mother of four children, all girls, two of whom were still minors. Her husband, Lennox, had no steady job and worked infrequently as a painter and a carpenter.

[6] The Plaintiff also gave evidence in support of her claim at paragraph 3 of the Statement of Claim that sometime on or about the 14th day of July, 1998 while in the course of performing her duties as a Departmental Aide in a sterilization room at the Sir. Winston Scott Polyclinic, she slipped and fell when she stepped in a pool of water which flowed from a leaking autoclave used for the sterilization of equipment.

[7] The wet floor in the sterilization room where the Plaintiff was required to work was no one time occurrence but a constant state of affairs. In the Plaintiff's words, *"the water was always there and came from a leaking autoclave oven"*. She had drawn the wet state of the floor to the attention of the supervisor in charge of the laboratory, Mr. Shirley Boyce and to staff at staff meetings. At other times when the room was flooded, she would also complain. According to her, the problem was never rectified.

[8] Describing the actual fall, the Plaintiff indicated that when she fell, her *"neck went back and her buttocks went down".* She stated that found herself on her back, attempted to get up and fell back again on

her wrist. In short according to the Plaintiff's testimony, she sustained *"a second fall within a fall".*

[9] The Plaintiff was advised by the supervisor to visit one of the polyclinic doctors downstairs and that he would write up a report of the incident.

[10] The Plaintiff was seen by Dr. Belgrave at the polyclinic within 10 minutes of the accident. The doctor offered her some time at home (sick leave) which she declined to take since she advised the doctor that she was not feeling anything and felt O.K.

[11] On the night of the 14th July, 1998, the Plaintiff slept well. However, the following morning her calves and thighs were both stiff. She also felt stiffness in the lumbar region of her back and experienced pain in her neck and head. Pain and stiffness notwithstanding, the Plaintiff went out to work the day after the accident and found herself having to visit the sickbay throughout the day.

[12] She eventually left work early due to her condition and went to see her personal physician. Dr. Alert prescribed an anti-inflammatory medication and ordered a period of sick leave from work. On her follow-up visit to Dr. Alert a few weeks later, her sick leave was extended and she was referred to Dr. Winston Seale who continued to see her at the Queen Elizabeth Hospital on several occasions thereafter.

[13] The Plaintiff informed the Court that she had previously been seen by Dr. Seale in April 1995 when he had treated her in connection with a pain which had developed in her neck after lifting a heavy bucket of marl outside her house one Sunday. The pain in her neck was so acute that she had sought treatment at the Accident & Emergency

Department at the Queen Elizabeth Hospital where she was seen by Dr. Seale. Dr. Seale referred her to the X-Ray Department where a myelogram was performed about six weeks later.

[14] The Plaintiff explained that the myelogram showed that she had a perfect spine. However, she had developed allergic reactions to the dye used in the procedure which had caused her paralysis and head pain which resolved itself within a month or so. Following the myelogram and its complications, she had been able to resume normal activity at home.

[15] The Plaintiff informed the Court that she commenced work at the Sir. Winston Scott Polyclinic in November of 1998 as a Departmental Aide. She testified that during the period between November 1995 when she started work and the date of the fall in July 1998, she had experienced no symptoms of the earlier injury.

[16] The Plaintiff then described the effects of the injury sustained by her as a result of the fall in 1998. She stated that her complaints were centered on her cervical and lumbar spine. She also experienced a numbness and heaviness in her calves mostly on the left side together with tiredness in her thighs, more pronounced on her left side.

[17] After seeing Dr. Seale at the Queen Elizabeth Hospital in 1998, she continued to see Dr. Seale at his private clinic in Belleville. She had also gone to see Dr. Hadley Clarke in 1998 on her own initiative. It was Dr. Clarke who had referred her to Dr. David Corbin. She explained that she had also been seen by Dr. Sean Marquez around the time when she was being medically boarded.

[18] The Plaintiff informed the Court that Dr. Clarke had recommended that she could not work. She stated that the job meant a lot to her and

that she had only just started working in the job in 1995. She enjoyed the job and enjoyed being away from home and the company at work. She explained that in spite of Dr. Clarke's recommendation about her inability to work, she had returned to work since she enjoyed work alot.

[19] The Plaintiff stated that even in December 2007 she was still suffering from the effects of the fall and was not better. She then described the nature of her complaints as follows:

> *"The pain persists in my neck. It affects my two arms. I now have arthritis in my neck and arms. I will be fitted with a brace. My neck no longer bothers me. I have two herniated discs at L1 and L5. They are desiccated on both sides due to the pressure on the discs. My legs give me a tired feeling. Due to the pressure on the discs, I get "hot flashes" in my feet and numbness and burning. A lot of pain. I also get pain in my hips which radiates down to my calves. I also get severe pain in my feet and heel and weakness in my legs. An EMG was done last week by Dr. Moseley. I also have nerve disease from the injury."*

[20] The Plaintiff informed the Court that prior to the accident she used to regularly attend "The Way to Calvary Church" situated at Sargeant's Village in Christ Church and was also very active in the Youth Department.

[21] Prior to the accident also, she used to walk around the Garrison Savannah on evenings about twice a week after work. At the time of the accident in 1998, she was doing 2 to 3 laps around the Garrison.

[22] Describing the effects which the accident had brought about in her family life and her relationship with her children and her husband, the Plaintiff testified as follows:

> *"We no longer attended the church socials because chores were allocated to the children which I could no longer perform. The children had excuses. I tried to do what I could do. This caused some problems with the children. My husband is 52 years. My relationship with him is still intact. I go to church if I feel well but late, usually to the last service. My husband has stopped going to church. He has started drinking. He is under some pressure. My sex life has been affected as a result of the injury. The injury has caused numbness. We do not have sex as often as before. I feel less of a wife to him. This has caused stress on the marriage. My husband had to accompany me to the doctor. His attendance at work became irregular. He was fired from his job on Bay Street. Since the injury, he can't understand me and I can't understand him. The doctors explained the position to him. He says he was only human."*

[23] The Plaintiff then informed the Court about her pre-existing asthmatic condition and the medical complications which have developed as a result of the use of medication such as Pethidine, Codeine and other drugs which had been prescribed following the fall. She has also developed acid reflux and stated that one doctor had advised her that it is difficult to treat her because most of the medication affects her eyes and her asthma.

[24] She stated that the medication prescribed for the pain causes fluid to build up in her eyes resulting in impaired vision in her left eye. She also testified that in 2006 she had experienced a severe asthma attack following the injection of a local anesthetic in her lumbar and cervical spine. According to the Plaintiff, her respiratory system was closing down and she was rushed to the Queen Elizabeth Hospital and admitted.

[25] The Plaintiff pointed out that these complications had arisen as a result of her treatment for the fall. She explained that she had suffered from asthma attacks from an early age but had only experienced asthma attacks on average about twice a year. Since the accident, however, her asthma has become chronic. She had been given another local anesthetic injection in March 2007 and had once again had a severe asthma attack.

[26] The Plaintiff informed the Court that one of her doctors had recommended private home therapy at home to relieve tightness, cramps and pain in place of the injection. This alternative treatment would involve massages and the application of heat packs among other therapies. However, she had not been following this regime because it was expensive and she was unable to afford it since she would require three treatments a week.

[27] The Plaintiff stated that Dr. Moseley had prescribed Amitriptyline for her pain. However, this medication slows down her breathing and causes insomnia at night together with memory loss. Whenever she takes this medication, she observes that she notices impaired memory, for example forgetting where she had put her cell phone. Notwithstanding the side effects of Amitriptyline, the Plaintiff would

sometimes take the drug since she finds that it works well for pain and as an anti-depressant.

[28] The Plaintiff informed the Court that she also suffers from dizziness particularly when standing for long periods. Dizziness was something she had never suffered from prior to the accident, but it is now very noticeable since the accident.

[29] The Court was also informed that the amount of pain which the Plaintiff experiences does not permit her to rest at night. Describing an average night, the Plaintiff indicated that if she goes to bed at 9 pm she is up by 11 pm. She watches television as she cannot get back to sleep. Some nights she might get a good night's sleep but this is very seldom. She has found that when she moves around a lot during the day she experiences intense pain at night and gets little rest. If she does not do much activity, she can usually rest well at night.

[30] The Plaintiff seldom cooks and does no washing. Her husband and sometimes her children have to assist her when she is taking a shower. They also help her to dress.

[31] Turning to her state of mind and emotional health, the Plaintiff stated that the accident has caused her to get very depressed. She could not afford to send her children to school. She advised the Court that her husband had 2 other children and had been locked up for 42 days for non-payment of arrears of maintenance. In early 2007, she visited the Oistins branch of the Welfare Department to obtain a waiver of the $100.00 textbook fee payable in respect one of her children. She testified as follows:

"I went for a waiver letter and had to go through a lot of humiliation to get it. To get the little assistance, the Welfare people look all over your home - under your bed, in the bathroom. The teachers were also very insulting to my daughter. If I was able to give my children breakfast, I couldn't give them lunch money. I had to ask Norma Holder to assist with the one at Community College……I am not physically and emotionally happy right now. My lack of happiness stems from the pain and the fact that there are things that I can no longer do. For example, cooking, washing, sex, going to church. I would sometimes travel to the States to visit my family overseas and can no longer afford this."

[32] Finally the Plaintiff testified that she used to receive a net salary of approximately $1,306.08 per month. She also stated that she was 35 years when she was appointed and would have been required to retire at 67 years. With the consent of Counsel for the Defendant, a one-page sheet displaying 2 pay-slips for the months of June and July 1999 respectively was put into evidence **("CA 13").**

[33] The Plaintiff's evidence-in-chief remained largely unshaken following cross-examination by Counsel for the Defendant. The main area of focus during cross-examination related to whether the Plaintiff had had sight of a Ministry of Health Accident Report form which had been completed by the polyclinic doctor who had examined her shortly after the accident.

[34] The Plaintiff insisted that she did not recall taking a form to the polyclinic doctor. She stated that while she had read the Report, she had not seen Dr. Belgrave's comments on the form. She also denied

that she had given the doctor any information concerning a history of previous back injury. She also testified that she did not complain to Dr. Belgrave that her back was hurting and had not been grimacing in pain.

[35] Another line of cross-examination pursued by Counsel for the Defendant related to a suggestion that prior to the accident in 1998 the Plaintiff had had a past history of back problems. Under repeated cross-examination on this point, the Plaintiff categorically denied that she had ever experienced lower back pain prior to the accident. She reiterated that prior to 1998 she had only experienced a problem with her neck and had had a myelogram to investigate any possible abnormalities in the spine. The paralysis she had experienced following the myelogram had baffled the doctors who had put it down to an adverse reaction to the dye used in the myelogram procedure.

[36] Upon re-examination by Mr. Cheltenham, the Plaintiff again stated that prior to the fall in July 1998, she had experienced a neck pain resulting from lifting a bucket of marl. A myelogram had been performed in 1995 to investigate the spine and complications had developed as a result of her sensitivity to the dye.

[37] *Testimony of Lennox Alleyne:* The Plaintiff's husband, Lennox Alleyne gave evidence which corroborated the Plaintiff's evidence in many respects.

[38] One area where his evidence was at variance with the Plaintiff's evidence was in relation to the nature of the Plaintiff's previous medical history. Admitting that he was not at home at the time, he recalled that the Plaintiff had told him that she had been using a bucket to put marl around the house and had sought medical attention

for a pain in her back. According to him, his wife went to the doctor and subsequently to the hospital. He recalled that she also had a myelogram and had suffered paralysis and was hospitalized for one week. He recollected that she had fully recovered after about two weeks.

[39] The Plaintiff's husband also testified that the Plaintiff had gotten a job in the Public Service in late 1995. He tearfully described the devastating effect which his wife's injury at work in 1998 had had on their family life. He admitted that he was under pressure due to the fact that the injury had interrupted the dynamics of the home.

[40] He substantially corroborated the Plaintiff's evidence as to the extent of her disability and its impact on the family. He stated:

> *"I do the majority of the cooking and washing. My wife cannot hold-up her hands for long and gets tired very easily. I help to bathe her. The children also help whenever they can. Children tend to be difficult with assisting. I still have to do most chores. The family no longer goes to church socials and she can't sit for very long periods. I get frustrated and no longer attend church. My sex life has been interrupted. There is still a cooperative effort in the household and the children still assist despite their difficulties… My wife was very healthy prior to the fall. Now she does very little. She is mostly in bed watching television. The incident has changed the household for the worse. My wife does not sleep well. She suffers from asthma from the time I knew her. Prior to the accident, her asthma was under control, however, since the accident in 1998 she had to*

be admitted to the Queen Elizabeth Hospital earlier this year due to severe attacks. She has changed. She is now moody. She is jovial sometimes but after 15 minutes or so she becomes moody. I know she takes Zoloft. She is a pharmacy, she takes so much medication. I know that she takes Amitriptyline and when she takes it she gets very drowsy and sleeps for a while, depending on when she takes it. It seems to me that she also gets hallucinations. Since taking the drug she dreams a lot. When she tells me about the dreams, the dreams rationally make no sense. When she takes the medication she gets side effects."

[41] Mr. Alleyne also corroborated the Plaintiff's evidence as to the emotional and financial impact on his wife and the family of the loss of her job. He gave the following testimony:

"My wife discussed her job with me. This was her first real job and she liked it a lot. When she was medically boarded and declared unfit for work, she felt bad. She had now started a journey to help me. We had made plans together. She became depressed. I noticed the change. I have been with her for 27 years. I know her well. She liked meeting people every day. She started to learn about health and the things that can happen to people. Her job was an education to her. On occasion, the family was reduced to resorting to the Welfare Agency."

[42] Cross-examination by Counsel for the Defendant failed to discredit the evidence of the Plaintiff's husband, Lennox Alleyne and he was not re-examined.

[43] *Testimony of Dr. John R. St. C. Gill:* The necessary foundation having been laid, Dr. John Gill was tendered and accepted as an expert witness and gave evidence with respect to the Plaintiff's medical condition. He stated that he had first examined the Plaintiff on October 5, 2001 when she had presented with severe lower back pain radiating into both lower limbs from the back and associated numbness of the lower limbs. He informed the Court that the Plaintiff had informed him that she had slipped and fallen on a wet floor while at work on July 14, 1998.

[44] Dr. Gill stated that when he met the Plaintiff in 2001, she was in a hurry to get back to work. He recalled that she wanted to get back to work because she wanted to support her young family. The Plaintiff had told him she had a daughter who was going into university and she needed to go back out to provide for her education. He felt that the Plaintiff had a positive attitude and was willing to work. He was of the belief that if she was not at work it was likely that she was unable to do so.

[45] Dr. Gill stated that he had subsequently seen the Plaintiff over a period of several years and had prepared a number of reports. He referred in particular to four medical Reports which he had prepared in respect of the Plaintiff's condition which were duly tendered and received in evidence as follows:

1) Undated medical Report of Mr. John Gill prepared in 2003 – **"CA 1";**
2) Medical Report of Mr. John Gill dated May 19, 2006 – **"CA 2";**

3) Correspondence from Mr. John Gill dated November 7th, 2003– **"CA 3";**

4) Medical Report of Mr. John Gill dated December 5th, 2007 – **"CA 4";**

[46] Referring to paragraph 3 of his undated 2003 Report **("CA 1"),** Dr. Gill stated that he had made the following medical findings:

- Decreased range of motion of the neck;
- Trigger points for pain over the left scapular region;
- Diminished straight leg raising;
- Tenderness of the lumbar region of the spine;
- There was no abnormality of tone, power or reflexes of the extremities;
- There was a modest L5/S1 disc hernia observed from MRI imaging of the lumbar spine.

[47] Dr. Gill stated that he had requested the Plaintiff to undergo a second MRI (magnetic resonance imaging) examination which was done at MRI (Barbados) Inc on June 17, 2002. Upon reviewing the MRI Report, Dr. Gill formed the view that the small L5-S1 herniated disc which had shown up in the Plaintiff's first MRI examination in 2000 was not responsible for the Plaintiff's symptoms. He explained that he had diagnosed that the Plaintiff was suffering instead from chronic pain of the back and lower limbs which was most likely initiated by the Plaintiff's fall of 1998 and which was likely to affect her indefinitely.

[48] Dr. Gill explained that from a medical point of view, chronic pain is pain which persists beyond 3 months for which there is no immediate noxious stimulus. Referring to his Report of December 5, 2007, he observed that when he last examined the Plaintiff in 2007, the chronic pain was still a feature of her profile. According to him, it is now a decade since the accident and it is more than likely that chronic pain would be a permanent feature of the Plaintiff's life.

[49] According to Dr. Gill, the treatment regime for patients suffering from chronic lower back pain is either pharmacological or by injection. He explained that in cases where there is no sustainable regime which provides relief, physical means may be used. Such therapies could range from physical and occupational therapy to electrical stimulation supplied by an implanted sub-dermal generator applied to the spinal cord using electrodes.

[50] Dr. Gill referred to his Report of December 5, 2007 and drew the Court's attention to his medical advice to the Plaintiff as follows:

> *"I have advised Mrs. Alleyne that she should consider interventional pain management in the form of a caudal epidural injection..."*

[51] He explained that this method of treatment is conducted by a pain management specialist outside of the Queen Elizabeth Hospital. The explained that one such specialist, Dr. Winston Parris operates out of Duke University in North Carolina and also holds clinics in St. Lucia.

[52] Dr. Gill suggested that the Plaintiff would require a package of future medical services in order to obtain relief from her chronic pain condition and to facilitate the achievement of an acceptable quality of

life. Counsel for the Defendant agreed to the preparation of a further medical report by Dr. Gill which would outline a joint pain management regime between the primary care doctor and the pain management specialist. This Report dated January 30, 2008 was subsequently tendered and put in evidence by consent as exhibit **"CA 15"**.

[53] In his Report, Dr. Gill anticipated that the Plaintiff would require at least 3 initial pain treatment sessions in addition to the follow-up that is required. He also estimated that ongoing surveillance of her condition would require at least quarterly visits to her primary care doctor. He noted that the frequency of the anticipated visits for modification of the pain regime or monitoring of the same might increase if there were frequent exacerbations of pain. He accordingly estimated the annual total cost of the Plaintiff's future medical care in the sum of $8,650.00 made up as follows:

Annual medical fees:		
(primary care doctor - 4 visits pain management specialist - 2-3 visits psychiatrist - 4-6 visits)	-	$2,200.00
Annual cost of medications:	-	$3,450.00
3 spinal epidural injections	-	$3,000.00
Total	-	$8,650.00

[54] Asked to clarify the reference in his medical report of December 5, 2007 **("CA 4")** to the Plaintiff having required "psychiatric interventions", Dr. Gill stated that he was aware that she had had such

interventions by reference to her Queen Elizabeth Hospital records. He expressed the view that the interventions had helped but felt that the need for to have future psychiatric interventions had not passed. Dr. Gill pointed out that at least 2 psychiatrists had brought the Plaintiff to this point. He expressed his belief that the services of psychiatrists might still be needed in the future.

[55] In response to a question posed by Counsel for the Plaintiff, Dr. Gill also testified that he was satisfied that the Plaintiff would need domestic assistance to help her with her household chores. He explained that he had made the recommendation for future domestic assistance in view of the fact that her medical history showed that she had repeatedly complained of exacerbated bouts of pain whenever she had dealt with mopping, cleaning or other household chores.

[56] Dr. Gill estimated that the Plaintiff would need someone to assist her with her domestic chores about 2-3 times per week.

[57] Dr. Gill's testimony-in-chief was completely unshaken under cross-examination. Indeed, his answers under cross-examination only served to strengthen the case for the Plaintiff. In answer to a suggestion that the Plaintiff could have been untruthful about her past medical history, Dr. Gill stated that although at the first few visits it would be difficult to tell whether a patient was lying about his or her past medical history, when (as in the Plaintiff's case) a patient is observed over a long period of time it is much easier to form an impression as to whether the patient is lying about his or her past history. He stated over the time he had been seeing the Plaintiff, he had never had any cause to disbelieve what she had told him about her condition.

[58] Questioned about the likelihood of the Plaintiff making a full recovery from her condition, Dr. Gill stated:

> *"I have been seeing the Plaintiff for over a decade. In my experience and from the literature, patients inflicted with this type of back pain almost inevitably never get back to work and inevitably have pain issues into the foreseeable future. We go from the concept of "cure" to "control" of pain. I hold the view that her pain will need to be controlled. Almost inevitably these treatments may only cancel out some of the pain. It is unusual to have a 100% abolition of pain."*

[59] *Testimony of Dr. David O. C. Corbin:* The final witness for the Plaintiff was Dr. David Corbin who was duly tendered and accepted as an expert witness and gave additional evidence regarding the Plaintiff's medical condition.

[60] Dr. Corbin referred to a medical Report dated July 11, 2001 which he had prepared in respect of the Plaintiff which was duly tendered and received in evidence as exhibit **"CA 6".**

[61] Questioned about the Plaintiff's past history as outlined in the report, Dr. Corbin stated that according to the Plaintiff's own account she had had myelography, which had resulted in backache and impaired sensation in the legs from which she did not recover for 9 months and had worn a lumbar corset for 3 weeks.

[62] Dr. Corbin also testified that when he had first seen her in 1999, he had formed the view that the Plaintiff had fully recovered from the

spinal injury which had occurred in 1996 while lifting the bucket of marl.

[63] Referring to the conclusion in his report, Dr. Corbin re-stated that from his own intermittent assessment, the Plaintiff had suffered a recurrent soft tissue injury of the back as a result of her fall in July 1998.

[64] Under cross examination, Dr. Corbin stated that he had based his opinion that the Plaintiff had fully recovered from her past spinal injury on what the Plaintiff had said to him about her past history. He stated that had the Plaintiff not told him about her past condition, it would have been impossible on his examination to determine whether she had a past injury since there was no scar or swelling which would have been indicative of a past injury. Referring to his notes, he indicated that he had verified the Plaintiff's story about her past history and the fact of the 1995 myelogram by obtaining the Plaintiff's Queen Elizabeth Hospital notes.

[65] At the close of the Plaintiff's case, the following medical reports and documents were agreed by both Counsel and received in evidence and marked as exhibits as follows:

1) Undated medical Report of Dr. John Gill – **"CA 1"**;
2) Medical Report of Dr. John Gill dated May 19, 2006 – **"CA 2"**;
3) Correspondence from Dr. John Gill dated November 7th, 2003– **"CA 3";**
4) Medical Report of Dr. John Gill dated December 5th, 2007 – **"CA 4";**
5) Letter/Fax from Labour Department dated January 17, 2008 enclosing current salary rates for domestic assistance – **"CA 5";**
6) Medical Report of Dr. David Corbin dated July 11, 2006 – **"CA 6";**
7) MRI Report dated 04/07/2000 - **"CA 7A";**

8) MRI Report dated 17/06/2002 – **"CA 7B";**
9) Medical Report of Dr. Hadley Clarke dated January 1, 1999 – **"CA 8";**
10) Medical Report of Dr. Hadley Clarke dated June 24, 1999 – **"CA 9";**
11) Medical Report of Dr. Hadley Clarke dated February 2, 2001–**"CA 10";**
12) Medical Report of Dr. Hadley Clarke dated October 20, 2004 – **"CA 11";**
13) Q.E.H. Report dated 2006-07-26 - **"CA 12A";**
14) Q.E.H. Myelogram Report dated 1995-05-17 - **"CA 12B";**
15) Plaintiff's pay-slips for the months of June and July 1999 – **"CA 13";**
16) Ministry of Health Memorandum outlining sick leave taken – **"CA 14";**
17) Medical Report of Dr. John Gill dated January 30, 2008 – **"CA 15";**
18) NIS Office letter dated 2008/02/25 outlining benefits paid – **"CA 16".**

The evidence for the Defence:

[66] One witness, Dr. Sonia Belgrave, was called to give evidence in support of the Defendant's contention that the Plaintiff had a previous history of lower back problems which should be taken into account in determining the award of damages.

[67] *Testimony of Dr. Sonia Belgrave*: At the outset, Dr. Belgrave indicated that she had no independent recollection of the Plaintiff's visit to the Sir. Winston Scott Polyclinic in July 1998. She described the procedure which is to be employed when an employee of the Ministry of Health is injured at work. She confirmed that upon an employee being injured at work, the matter is reported to the Head of Department and an accident form is obtained. According to her, one of the polyclinic doctors then examines the patient and completes the form and signs it.

[68] Dr. Belgrave was shown a Ministry of Health Accident Report in respect of the Plaintiff which she duly identified as having been

signed by her. The Report was tendered in evidence and marked **"AG1".**

[69] Dr. Belgrave stated that upon the Plaintiff's presenting to her, she would have taken a history from the Plaintiff in accordance with standard procedure. Dr. Belgrave indicated that when a patient presents with back problems, she would usually make an inquiry as to any previous history of back problems because she was aware that any acute trauma of the back would further exacerbate that problem.

[70] Referring to her Report, Dr. Belgrave testified that she had found the Plaintiff to be limping and grimacing with pain. According to the doctor, physical examination had revealed marked tenderness over the left lower back and hip joint, with pain elicited on hip flexion. She had assessed the Plaintiff to be suffering from soft tissue injury and muscle spasm.

[71] Referring to her note in the Ministry of Health Accident Report **("AG1")** concerning the Plaintiff's "long history of back problems", Dr. Belgrave stated that she would have learned about the Plaintiff's "long history of back problems" from the Plaintiff herself. She confirmed that following the one visit in July 1998 she had had no further contact with the Plaintiff.

[72] On cross examination by Mr. Cheltenham, Dr. Belgrave testified that when she examined the Plaintiff, she was suffering from an acute injury. She also stated that at the time of the visit, the Plaintiff's focus was on her recent back trauma and that she would have needed a second consultation to properly assess the nature of her past back problems.

[73] **The Defendant's Submissions on Damages:** In his address, Counsel for the Defendant, Mr. Barker submitted that the Defendant had always contended that the Plaintiff was suffering from a pre-existing back injury. He argued that although the Defendant was unable to establish that the Plaintiff was still suffering from the effects of the pre-existing injury at the time of her fall in 1998, the evidence of the pre-existing injury had come from the Plaintiff herself. He asked the Court to apply what he termed "a degree of commonsense" and to find that the Plaintiff had consistently alluded to a history of back problems and to take this fact into account in determining the award.

[74] While conceding that the Defendant had admitted liability for the accident and that the Plaintiff should be compensated for whatever loss and damage she had suffered, he nevertheless urged the Court not to ignore the Plaintiff's own evidence of a previous back injury when assessing damages.

[75] Turning to the Plaintiff's claim for general damages for pain and suffering in the region of $90,000.00, Mr. Barker cited the cases of ***Vickerage v. Rotherham Metropolitan Borough Council (1997)*** Kemp & Kemp Personal Injury Practice- paragraph ref: E3-054 and ***Cashman v. Westland Group PLC (1998)*** Kemp & Kemp Personal Injury Practice- paragraph ref: E3-067/1.

[76] He submitted that Dr. Gill's testimony as to whether the Plaintiff's condition would lead to a complete recovery or continue indefinitely was inconclusive. In the circumstances, he urged the Court to consider an award of $50,000.00 as reasonable for the Plaintiff's pain,

suffering and loss of amenities given the inconclusiveness of the medical evidence.

[77] Counsel for the Defendant, Mr. Barker conceded that the Plaintiff would be entitled to an award of general damages for loss of congenial employment. The test he submitted is for the Plaintiff to show loss of a job which the Plaintiff loved, appreciated or enjoyed. He submitted that while the evidence showed that the Plaintiff loved her work, it was the interaction with persons at work that gave her most satisfaction as opposed to her actual duties in the laboratory.

[78] He urged the Court to limit the award under this head to the one-hour lunch break during which the Plaintiff would have interacted with persons in the reception area. He submitted that an award of between £1,500 to £2,000 or Bds $5,000.00 would be reasonable for loss of congenial employment as opposed to the amount of Bds$20,000.00 which the Plaintiff had claimed.

[79] Turning to the Plaintiff's claim for general damages for future domestic assistance, Mr. Barker submitted that the daily rate claimed of $35.00 per day at 3 times per week was not unreasonable. He however submitted that a multiplier of 12 was more appropriate instead of the multiplier of 16 suggested by Counsel for the Plaintiff.

[80] Mr. Barker indicated that in view of Dr. Gill's Report of January 30, 2008 **("CA15")** he was not disputing the claim for future medical expenses. He however submitted that the figure of $900.00 used for the cost of airfare to St. Lucia should be reduced to $700.00.

[81] Referring to the various items of Special damages set out in the Plaintiff's Written Submissions, Mr. Barker indicated his agreement to the following items:

1) Medical Expenses - $7,440.00;

2) Additional Expenses - $5,250.00

[82] Referring to pages 12 to 13 of the Plaintiff's Written Submissions, Mr. Barker indicated that he had great difficulty with the Plaintiff' claim for special damages of $637,367.04 for past loss of earnings. He queried the number of weeks claimed for and also suggested that the figure needed to be revised to set-off NIS benefits received by the Plaintiff during the period 1998 to 2002 when the Plaintiff was medically boarded.

[83] **The Plaintiff's Submissions on Damages:** Counsel for the Plaintiff, Mr. PKH Cheltenham, Q.C. relied on his Written Submissions filed on January 28, 2008 together with the Addendum on the Issue of Future Medical Care filed on January 30, 2008.

[84] Responding to Mr. Barker's submissions in relation to the need for a set off in respect of NIS benefits [See paragraph 82 above] Mr. Cheltenham conceded that a set-off was necessary in view of sections 52 and 53 of the **National Insurance Act, Cap.47**. He undertook to urgently obtain from the NIS Department a statement showing the total NIS benefits received by the Plaintiff and to provide the same to the Court.

[85] Mr. Cheltenham advised the Court that he had re-calculated the figure of $637,367.04 set out in the Written Submissions as special damages under the head of past loss of earnings. After agreement with Counsel for the defendant, Mr. Barker, he submitted that the amount claimed as past loss of earnings was now $122,839.26 from which would need to be deducted an amount equivalent to the total NIS benefits received by the Plaintiff.

[86] Counsel for the Plaintiff referred to the Addendum on the Issue of Future Medical Care filed on January 30, 2008 and submitted that the Plaintiff's claim for general damages for future medical expenses had been revised upwards to $130,000.00 in the light of Dr. Gill's oral testimony and his addendum report of January 30, 2008 and the projections contained therein.

[87] Turning to the Plaintiff's claim for general damages for future domestic assistance and loss of future earnings respectively and the question of the appropriate multipliers to be employed, Counsel for the Plaintiff submitted that in the Written Submissions, a multiplier of 16 had been suggested for both heads. He submitted, however, that the multiplier to be employed in assessing general damages for future domestic assistance had necessarily to be higher than that utilized for future loss of earnings.

[88] He cited the Privy Council appeal from Trinidad & Tobago of ***Peter Seepersad v. Theophilus Persad & Capital Insurance Limited*** **[2004] UKPC 19** where a multiplier of 16 years purchase was allowed in arriving at an award of general damages for the Plaintiff's loss of future earnings.

[89] In view of the distinction to be made between the multipliers for the two heads, Counsel for the Plaintiff accordingly advised the Court that he was prepared to request the adoption of a revised multiplier of 15 in respect of the Plaintiff's claim for future loss of earnings, while at the same time urging the adoption of a multiplier of between 16.5 to 17 for the Plaintiff's claim for future domestic assistance.

[90] Turning finally to the Plaintiff's claim for an award of general damages of $90,000.00 for pain, suffering and loss of amenities, Mr.

Cheltenham submitted that the Plaintiff's case was that the Plaintiff's pre-existing condition had disappeared and was not operative at the time of her fall in 1998.

[91] He submitted that the Plaintiff had never down played the fact that she had a pre-existing injury. She had informed her various medical doctors of her previous condition and Dr. Gill as well as Dr. Corbin had both expressed the view that the Plaintiff's back pain had been initiated by the fall at work in 1998.

[92] Mr. Cheltenham referred to Dr. Gill's undated 2003 Report **("CA 1")** and stressed that the Plaintiff's pre-existing condition had related to neck pain resulting from her having lifted a bucket of marl in 1995. According to Dr. Gill's report, she had suffered complications from a myelogram examination and was allegedly paralyzed but had made a full recovery and was able to work and did not experience any back pain.

[93] Mr. Cheltenham re-capped the evidence in relation to the effects of the fall on the Plaintiff's body, her emotional health, marriage and family life and on her life in general. Referring also to the inability of the Plaintiff to engage in gardening or to enjoy sex with her husband, Mr. Cheltenham described her as having been reduced to a shell of a lady.

[94] He cited the case of ***Vincent Pilgrim v. Eric Fitzgerald Drayton [Unreported] H.C. B'dos Civil Jurisdiction No.1556 of 1988*** where the Plaintiff was awarded general damages of $52,500.00 for pain and suffering. He pointed out that unlike the current case, the Plaintiff in ***Pilgrim's case*** had suffered no psychological elements. He submitted that the uplift factors in the current case should give the Plaintiff a

significantly higher award and urged the Court to consider an award in the region of $80,000.00 to $90,000.00.

[95] I now turn to the assessment of the Plaintiff's damages in this case.

The legal principles:

[96] It is a well established principle of the law of damages that a person who sustains personal injuries as a result of the negligence of another may recover damages both for his pecuniary losses as well as his non-pecuniary losses. Pecuniary losses include the loss of earnings and other gains which a Plaintiff would have made had he not been injured and the medical and other expenses to which he is put as a result of the injury, while non-pecuniary losses generally fall into two broad heads, namely pain and suffering, and loss of amenities of life. [See **McGregor on Damages, 16th Edition**, **paragraphs 1556-1558**]

[98] When a Court is assessing damages for pecuniary loss the general principle is that the Court should award the injured party such a sum of money as will put him (or her) in the same position as if he (or she) had not sustained the injuries. [See per Lord Blackburn in ***Livingston v. Rawyards Coal Co (1880) 5 App. Cas. 25***]

[99] It is also recognized that in assessing damages for pecuniary losses, arithmetical precision is not always possible, since in estimating future loss a Court must make certain assumptions and adjustments based upon the evidence. In short, in assessing pecuniary losses, the Court is seeking to estimate a financial compensation for a financial loss resulting from the injury. [See per Lord Scarman in ***Pickett v. British Rail Engineering (1980) A.C.136 at 168B-D***]

[100] The concept of full compensation *(restitution in integrum)* which is central to the assessment of damages for pecuniary loss, is, however,

not possible when a Court is assessing the level of damages to be awarded for a Plaintiff's non-pecuniary losses. The best that the Court can do is to put a monetary value upon the deprivation which the injured person has suffered and to arrive at a fair estimate taking into account all relevant considerations. **[**See per Earl Jowitt in ***British Transport Commission v. Gourley [1956] A.C. 185,*** Also **McGregor on Damages, 16th Edition**, **paragraph 1558]**

[101] In assessing the amount of damages to be awarded in this matter, the Court will, for convenience and bearing the foregoing considerations in mind, follow the several heads of non-pecuniary and pecuniary losses claimed by the Plaintiff and which are set out in the Plaintiff's Written Submissions filed on January 28, 2008 and the Addenda thereto.

General Damages – (a) The Plaintiff's non-pecuniary losses:

[102] *(i) Pain, Suffering and loss of amenities:* The Court has taken due note of the oral evidence of the Plaintiff's husband that his wife had previously sought medical attention in 1995 for a pain in her back after she had lifted a heavy bucket of marl in the yard. [See paragraph 38 above] The Court has also considered Dr. Belgrave's note in the Ministry of Health Accident Report **("AG 1")** concerning the Plaintiff's "long history of back problems." [See paragraph 71 above]

[103] Notwithstanding this evidence which tends to suggest the presence of a pre-existing back condition, the Court nonetheless accepts the Plaintiff's oral testimony (unshaken under cross-examination) that she had in fact suffered a neck pain in 1995 while lifting the bucket of marl. [See paragraph 35 above] The Court also accepts the medical evidence of Dr. Winston Seale **("CA 12A")** and Doctors Gill and

Corbin that the Plaintiff had suffered complications from a myelographic examination which had been undertaken in 1995 to investigate the cause of her neck pain. The myelogram had caused her paralysis, backache and impaired sensation in the legs. The Court is therefore satisfied as stated in Dr. Winston Seale's QEH report of July 26, 2006, that a temporary numbness to the legs or lower back pain are common complications of myelography.

[104] Additionally, the myelogram report itself **("CA 12B")** had revealed no significant abnormalities of the spine and the Court holds that the Plaintiff had recovered fully from the 1995 neck pain and the adverse effects of the myelogram by the time of her fall in 1998.

[105] Against the foregoing findings of fact, the Court is satisfied that the chronic back pain condition from which the Plaintiff now suffers is directly attributable to the fall which she sustained during the course of her employment as a Departmental Aide at the Sir Winston Scott Polyclinic in 1998.

[106] The Court accepts the Plaintiff's oral testimony which was corroborated a) by the several medical reports which were adduced in evidence and b) by the oral testimony of her husband and Drs. Gill and Corbin) that she started to feel pain on the morning immediately following the day on which she fell. Additionally, the medical findings in the Ministry of Health Accident Report **("AG 1")** clearly indicate that when the Plaintiff was seen by Dr. Belgrave on or about July 15, 1998, the Plaintiff was *"limping and grimacing with pain".*

[107] The Court is satisfied that since her fall in 1998, the Plaintiff has seen a succession of medical doctors for her painful symptoms which have not resolved and continue to the present time. In addition to her initial

visit to Dr. Belgrave, the Plaintiff consulted Drs. Hadley Clarke, John Gill and David Corbin. A review of the medical reports reveals that the Plaintiff had been under the care of Dr. Hadley Clarke since October 22, 1998. She was first diagnosed as having sustained soft tissue injuries to the neck and lower back. She was also suffering intense pain and suffering and had a poor response to the regime of medication, bedrest and cervical collar. She also experienced severe occipital headaches, intermittent pain in the neck, lower back and shoulders and difficulty elevating the shoulders. [See **("CA 8")**]

[108] By the time of Dr. Clarke's second and final report dated June 24, 1999 **("CA 9"),** the Plaintiff had been seen for eleven (11) additional visits. Her principal symptoms at that time were headaches, recurrent pain in the neck and lower back and the inability to perform activities including bending and lifting. There was also restriction of spinal mobility in the neck and lower back.

[109] Although the Plaintiff had been treated with a regime of narcotic analgesics, anti-inflammatory drugs, muscle relaxants, anti-depressants, physiotherapy, cervical collar and bed-rest, her symptoms were only partially responsive to the treatment regime and according to Dr. Clarke, she remained partially disabled. In his report of June 24, 1999, Dr. Clarke expressed the view that the Plaintiff was developing chronic pain syndrome and would require further management. She was then referred to Dr. David Corbin.

[110] The Plaintiff was next seen by Dr. Hadley Clarke on January 29, 2001. It is evident from Dr. Clarke's report of February 2, 2001 (**"C.A. 10"**) that on January 29, 2001 (almost 2 ½ years post-accident) the Plaintiff was still suffering from the effects of the fall. The Court

accepts the findings of Dr. Clarke that the Plaintiff was experiencing recurrent pain in the back which was aggravated during sitting, standing or lying prone or supine for any prolonged period. She was also suffering from radicular pain and fatigue in her left leg as well as weakness of her lower limbs and numbness of the feet.

[111] The Court accepts Dr. Clarke's medical opinion that the Plaintiff sustained soft tissue injuries of the neck and low back as a result of the fall and that these injuries had evolved into a chronic pain syndrome, resulting in severe and prolonged pain and much suffering. The Court also accepts Dr. Clarke's opinion expressed in his 2001 report that the Plaintiff is permanently disabled and unable to function in the workplace.

[112] The Court also accepts the oral testimony of Dr. John Gill together with his medical findings contained in his 5 medical reports received in evidence at the trial. Dr. Gill's findings corroborate the diagnosis of Dr. Hadley Clarke that the Plaintiff was suffering from chronic pain of the back and lower limbs which was most likely initiated by the Plaintiff's fall of 1998 and which was likely to affect her indefinitely.

[113] The Court also accepts the expert medical opinion of Dr. John Gill contained in his medical report of January 30, 2008 **("CA 15")** that the Plaintiff would require a package of future medical services in order to obtain relief from her chronic pain condition and facilitate an acceptable quality of life.

[114] During her oral testimony, the Plaintiff stated that her job as a Departmental Aide at the Polyclinic meant a lot to her. [See paragraph 18 above] She had only just started working in the job in 1995, some 3 years prior to the accident. She enjoyed the job immensely and

enjoyed being away from home and the human interaction at work. The impact of the injury on the Plaintiff and in particular, her inability to work and provide for her family as a result of the injury was corroborated by the oral testimony of her husband. [See paragraph 41 above]

[115] The Court has no difficulty in accepting that as a result of her injury and the resulting permanent disability, the Plaintiff had lost her first real job. It was a job that she enjoyed a lot. A job that enabled her to provide financially for her family. The job was in her husband's words, *"an education to her"*. This conclusion is also fortified by Dr. Gill's oral testimony with respect to the Plaintiff's positive attitude towards work and her haste to return to work following the fall. [See paragraph 44 above.]

[116] The Court was invited by Counsel for the Plaintiff to quantify the loss that the Plaintiff suffered in having to give up the job which she enjoyed and to make a specific award to the Plaintiff under a separate head of damages for loss of congenial employment. The Court, however, declines so to do and has opted instead to make a discrete increased award for the loss of enjoyment which the Plaintiff derived from her job under the more usual head for pain, suffering and loss of amenities. The Court's reasons for adopting this approach are discussed in more detail between paragraphs [118] to [122] below.

[117] Having regard to the totality of the evidence, the respective legal submissions, the applicable law and the foregoing findings of fact, the Court is of the view that an award of $ 85,000.00 is a reasonable assessment of the pain, suffering and loss of amenities suffered by the

Plaintiff in this case *(inclusive of the loss of enjoyment which she derived from her job).*

[118] *(ii) Loss of congenial employment:* Although this head was not specifically pleaded in the Statement of Claim, a claim for an award of general damages for loss of congenial employment was included in the Plaintiff's Written Submissions filed on January 28, 2008 together with the Addendum thereto filed on January 30, 2008.

[119] In his submissions, Counsel for the Defendant, Mr. Barker appears to have conceded that it was permissible for an award to be made under this head. However, the Court is of the view that while there is case-law which clearly establishes loss of congenial employment as a separate head of damages, it is not uncommon for judges to incorporate an award for loss of congenial employment into an increased award for pain and suffering and loss of amenities. [See **2002 Journal of Personal Injury Law, Issue 3/02** at pages 284-286]

[120] Furthermore, it appears that a claim for damages for loss of congenial employment must be specifically pleaded, and additionally, the Plaintiff must establish that he has suffered "a real loss…not mitigated by any enjoyment from his present work." [See **PIBA Personal Injury Handbook, Third Edition,** paragraph 9.54 at page 162]

[121] In the light of the foregoing learning on the subject and due to the fact that loss of congenial employment was not specifically pleaded in the Statement of Claim, the Court declines to make a separate award under this head and the Plaintiff's claim for a separate award of $20,000.00 for loss of congenial employment is accordingly disallowed.

[122] As indicated above, the Court has, however, opted instead to make a discrete increased award for the loss of enjoyment which the Plaintiff derived from her job as a Departmental Aide under the more usual head for pain, suffering and loss of amenities. [See paragraphs [114] to [117] above.]

General Damages – (b) The Plaintiff's pecuniary losses:

[123] *(iii) Future Loss of Earnings:* The Plaintiff was initially unable to work for a period of ten (10) months. On her return to work on May 18, 1999 she experienced persistent pain in the neck and back which limited the effective execution of her duties. As a consequence, Dr. Clarke recommended that her duties be restricted. Despite this, she was unable to continue employment because of the pain associated with her injuries.

[124] The Plaintiff was medically boarded and declared medically unfit on May 1, 2001. Her net annual salary at the time of the accident was $16,764.96. In his written submissions, Mr. Cheltenham suggested a multiplier of 16. However, during the course of his oral submissions, he revised the suggested multiplier down to 15 on the basis that a higher multiplier should be applied in the case of the Plaintiff's claim for future domestic care in view of the fact that such care would extend beyond her working life. For his part, Mr. Barker submitted that a multiplier of 12 was more appropriate.

[125] After giving due consideration to the matter, the Court is of the view that a figure of 14 years purchase should be allowed in this case. Applying that multiplier to the multiplicand of $16,764.96, the

amount to be allowed for future loss of earnings comes to $268,239.00.

[126] *(iv) Future Domestic Assistance:* The Plaintiff claimed the sum of $87,360.00 under this head claiming a rate of $5,460.00 per annum (or $35.00 per day at 3 times per week) and using a multiplier of $16^{1/2}$ to 17. For his part, Mr. Barker while agreeing to the daily rate and the suggested 3 times per week urged the Court to use a multiplier of around 12.

[127] After giving the matter due consideration and bearing in mind the Plaintiff's age, the nature of her injuries and resulting disability, the Court is of the opinion that a multiplier of 17 is reasonable in this case. Applying this multiplier to the multiplicand of $5,460.00 the amount awarded for future domestic assistance is $ 92,820.00.

[128] *(v) Future Medical Care:* Counsel for the Defendant agreed to this head of general damages in the amount of $130,000.00. Having examined the rationale set out in Dr. Gill's Report of January 30, 2008, the Court finds the proposals for the Plaintiff's future medical care set out therein to be eminently reasonable and an award is therefore made in the sum of $130,000.00 under this head.

Special Damages:

[129] *(a) Past Domestic Assistance:* A claim for special damages of $49,140.00 for past domestic assistance was included in the Plaintiff's Written Submissions and the Addendum thereto. Counsel for the Plaintiff submitted that the claim was made under this head for the gratuitous care which the Plaintiff's husband provided in doing the domestic chores since the accident occurred.

[130] In the light of the oral testimony of both the Plaintiff and her husband, taken together with the medical evidence of Dr. John Gill that the Plaintiff has been unable to perform her household chores due to the frequency and intensity of her pain and requires domestic help to assist her, the Court is satisfied that a sufficient legal basis has been established for an award under this head. Further support for such an award may also be found in the cases of ***Hunt v. Severs [1994] 2 A.C. 350***, ***Housecroft v. Burnett [1986] 1 All E.R. 332*** and ***Assinder v. Griffin [2001] All E.R. 356***.

[131] The sum of $ 51,345.00 is therefore awarded in respect of the past domestic services rendered by the Plaintiff's husband. In accordance with the principle established in ***Hunt v. Severs***, *(cited above)* the award is to be held in trust for the husband as the care giver. The Court accepts the commercial rate of $35.00 per day claimed, and the award is calculated on the basis of $5,460.00 per annum (or $35.00 per day at 3 times per week) from the date of the accident until trial: i.e. December 4, 2007.

[132]*(b) <u>Past loss of earnings:</u>* This item of special damages was agreed at $122,839.26. However, in the light of the NIS Memorandum dated 2008/02/25 outlining the total benefits paid to the Plaintiff which was submitted by Counsel for the Plaintiff and received in evidence as exhibit **("C.A. 16"**) there is to be deducted or set-off from this amount in accordance with section 52 of the **National Insurance and Social Security Act, Cap. 47** the sum of $35,917.79 being the statutory deductions to be taken into account in calculating the Plaintiff's past loss of earnings and made up as follows:

(i) Injury benefit - $11,267.72

(ii) one half 30% Final Disablement pension: $1,078.14	-	$ 539.07
(iii) one half 100% Increased Disablement pension: $48,222.00	-	$ 24,111.00
Total deduction/set-off	-	$35,917.79

An award of $86,921.00 is therefore made under this head.

[133] *(c) Past medical and related expenses:* This item of special damages was agreed at $7,440.00 and is approved by the Court.

[134] *(d) Additional expenses:* This item of special damages was agreed at $5,250.00 and is approved by the Court.

Summary of the Awards:

[135] In summary, the awards which the Defendant shall pay to the Plaintiff are as follows:

General Damages

(i) Pain, Suffering and Loss of Amenities	-	$ 85,000.00
(ii) Future Loss of Earnings	-	$268,239.00
(iii) Future Domestic Assistance	-	$ 92,820.00
(iv) Future medical care	-	$130,000.00
Total General Damages	-	$576,059.00

Special Damages:

(a) Past domestic assistance	-	$51,345.00
(b) Past loss of earnings	-	$86,921.00
(c) Past medical expenses	-	$ 7,440.00
(d) Additional expenses	-	$ 5,250.00
Total Special Damages	-	$150,956.00

Interest:

[136] The above awards will bear interest on the Special Damages at the rate of 4% per annum from the date of the issue of the Writ until today and thereafter at 8% per annum until payment, and on the General Damages at the rate of 8% per annum from today until payment.

Costs:

[137] The Plaintiff is entitled to her legal costs, certified fit for two attorneys-at-law to be agreed or taxed.

Maureen Crane-Scott
Acting High Court Judge