



Dominica. Official Gazette.

Published by Authority

VOL. CXXXVI

ROSEAU, THURSDAY MARCH 7, 2013

No. 10

Departmental and Other Notices

IN THE HIGH COURT OF JUSTICE
COMMONWEALTH OF DOMINICA

DOMHCV2005/0029
[CIVIL]

Between:

Peter Winston	<i>Claimant</i>
<i>and</i>	
Dianne Telemaque	<i>Defendant</i>

Before:

The Hon. Justice Brian Cottle

Appearances:

Mrs. Gina Dyer-Munro for the Claimant
Mrs. Hazel Johnson for the Defendant

[2011: November 23rd
[2012: September 10th

JUDGMENT

[1] COTTLE J: The claimant sustained personal injuries in a motor vehicle accident for which the defendant was entirely responsible. This is the assessment of damages due to him to compensate him for his loss and injuries. At the time of the accident the claimant was 30 years of age. At the date of assessment he was 36 years. The significant injuries the claimant suffered was to his spine. The MRI showed evidence of an

annular tear at L4/5 level and disc protrusion causing right lateral recess stenosis. At L5/S1 level there was also mild diffused annular bulging with minimal narrowing of the right lateral recess, a potential site for nerve root irritation or impingement.

- [2] The claimant's injury required surgical management. Strangely, though the claimant consulted with Mr. H Bedaysie, Consultant Neurosurgeon in 2005, it was not until July 2008, some 6 years after the accident that Mr. Bedaysie performed surgery on the claimant. He says that up to that time he endured extreme pain which was not alleviated by rounds of physiotherapy, chyroblocks acupuncture and spinal manipulation.
- [3] In December 2008 the claimant went back to Mr. Bedaysie for a report and follow up treatment. He was administered an injection of lignocaine and depomednol to manage reported myofascial pains. Mr. Bedaysie thought he was 60% improved after surgery and expected maximum medical improvement could take up to 2 years. When he was again seen in 2011, Mr. Bedaysie thought that he had attained maximum medical improvement and assessed his permanent partial disability at 50% and his whole person impairment at 15%.
- [4] At the time of the accident the claimant was employed as a Customs and Excise officer performing guard duties. His basic salary was \$1,280.35 per month. By April 2009 this had increased to \$1,788.75. In his Affidavit in Support of the assessment the claimant