

IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION

CIVIL ACTION NO: HBC 551 of 2007

BETWEEN : **PRAKASHWA NAND** f/n Parma Nand of Lot 2, Koronivia Road,
Nausori, Unemployed.

PLAINTIFF

AND : **SUVA CITY COUNCIL** a body Corporate duly constituted under the
Local Government Act. Cap 125.

DEFENDANT

BEFORE : Justice Riyaz Hamza

COUNSEL : Mr. Daniel Singh for the Plaintiff
Ms. Prem Narayan for the Defendant

JUDGMENT

- [1] The Plaintiff commenced this action by way of a Writ of Summons, issued on 30 November 2007.
- [2] In the Statement of Claim attached to the Writ the Plaintiff submits that he was employed as a driver with the Defendant. The duties of the Plaintiff as a driver, inter alia, was driving a 3 ton truck used for hauling materials to and from the Defendant's depot at Samabula as and when required on instructions from the Defendant, its authorised servants and or agents.

- [3] On or about 11 August 2005, while in the course of his employment at Nasese, the Plaintiff was disembarking from the Defendant's truck, when his right leg slipped off the truck's side-steps and landed awkwardly into a pothole covered with rain water, which resulted in injury to his right leg.
- [4] The Plaintiff claims that the said fall was caused by the negligence and/or breach of statutory duties by the Defendants, their servants or agents.
- [5] As a consequence of the said accident, the Plaintiff claims he suffered injury, loss and damages.
- [6] He describes the particulars of negligence as follows:
- (a) Failing to provide a safe and proper non-slipping side-step to the truck despite the Plaintiff giving warning to that effect.
 - (b) Failing to ensure that proper non-slip covering encased the side-step on the truck.
 - (c) Failing to examine and notice the side-step was unsafe to use and failing to repair it to a safe and useable condition despite the Plaintiff giving warning it was once damaged and repaired but was still unsafe.
 - (d) Failing to institute or enforce any or any adequate system of inspection and maintenance of the side-step whereby the said defect might have been detected and remedied before the same was used by the Plaintiff.
 - (e) In the premises the Defendant failed to provide or maintain safe means of access or egress from the truck, failed to maintain or repair the side-step and exposed the Plaintiff to an unnecessary risk of injury.

[7] The Plaintiff claims that he sustained a closed spiral fracture of the proximal 1/3 of right fibula and distal tibia with common peroneal nerve palsy (fractures on his right ankle). He underwent interlocking rodding of his right tibia using the SIGN rod 30mm x 10mm, by visiting American Orthopedic surgeons on 15 August 2005. He was reviewed in clinic on 8 occasions. His fracture has united. He is able to partially dorsiflex his right ankle. He complains of significant anterior knee pain and his right leg is externally rotated 20°. He had been advised for removal of his SIGN rod.

[8] In the circumstances, the Plaintiff claims the following reliefs:

1. General damages for pain and suffering and loss of amenities of life.
2. Past Economic loss and special damages.
3. Future economic loss.
4. Costs of future care.
5. Interest on the award.
6. Costs.

[9] The Defendant filed its Statement of Defence on 20 December 2007. Subsequently, on 26 October 2015, the Defendant filed Summons seeking leave to file an Amended Statement of Defence. Leave being granted, the Amended Statement of Defence was filed on 30 November 2015.

[10] The Defendant denied that they breached any duties owed to the Plaintiff under common law, employment contract or statute. The Defendant submitted that:

- (a) The Plaintiff was provided with safety boots to ensure that the Plaintiff's feet and legs were fully protected;
- (b) Safety boots was provided to the Plaintiff in January 2005 and at no time did the Plaintiff return the safety boots to state that the boots were worn out;

- (c) Ensuring that the truck driven by the Defendant was fully serviced in accordance with the Land Transport Authority regulations; and
- (d) Ensuring that the vehicle was well maintained and kept in a good and working conditions.

[11] The Defendant further claims that the Plaintiff's fall from the truck was an accident and alternatively due to the sole negligence and/or contribution of the Plaintiff. The particulars of contributory negligence on the part of the Plaintiff were outlined as follows:

- (a) Failing to look out at the ground when disembarking from the truck;
- (b) Failing to ensure that the laces of his safety boots were properly tied so that he did not get entangled on them;
- (c) Jumping from the truck without looking;
- (d) Failing to take reasonable care given that it was a rainy day and he was aware and/or ought to be aware that the ground surface was wet when disembarking from the truck; and
- (e) Parking the truck on a wet surface part of the roadside when he knew or ought to have known that it could cause him difficulty in disembarking.

[12] The Defendant further submitted that, by its report dated 15 June 2010, the Plaintiff was declared fit to report to work by the Medical Board. The Plaintiff has recommenced working as at 26 June 2010. Therefore, there is no need for future care not has the Plaintiff sustained any loss.

[13] The Defendant had continued to pay the Plaintiff the total wages, together with the bonuses, since the accident till 26 June 2010, when the Plaintiff recommenced employment.

[14] Accordingly, the Defendant moved that the Plaintiff's Statement of Claim against the Defendant be dismissed.

[15] The Minutes of the Pre-Trial Conference record the following:

The following matters are agreed

The Plaintiff

1. The Plaintiff was born on 20 June 1967.
2. The Plaintiff is married.

The Plaintiff's employment with the Defendant

3. The Plaintiff was employed with the Defendant since 21 June 2002.
4. The Plaintiff was employed as a labourer with the Defendant and subsequently became a driver.
5. At the commencement of his employment, the Plaintiff was remunerated at the rate of \$7070.00 (Seven Thousand and Seventy dollars).
6. The Defendant provided the Plaintiff with a pair of safety boots for work as a health and safety measure for the scope of Defendant's work during the course of his employment.
7. The Defendant provided a safety boots in January 2005 prior to the accident.

The Plaintiff's injuries

8. The Plaintiff was injured on 11 August 2005.
9. The Plaintiff sustained injuries when he got out of the truck and his right leg twisted and he fell.

10. Upon the Plaintiff being injured, he was taken to the CWM Hospital immediately.
11. The Plaintiff was diagnosed as suffering from:
 - (a) closed spiral fracture of the proximal
 - (b) right fibula and distal tibia 1/3 with common nerve palsy
12. The Plaintiff was admitted at the Hospital for a period of 12 days as follows:
 - (a) 11 August 2005 to 19 August 2005 – 9 days for the fracture
 - (b) 13 December 2007 to 15 December 2007 – 3 days for removal of the rod
13. On 15 August 2005, the Plaintiff underwent an open rodding of his right tibia and was mobilized on crutches prior to discharge on 19 August 2005.
14. The fracture had united.
15. On 14 December 2007, the rod was removed as his fracture had reunited.
16. In 2007, the Plaintiff was admitted to the hospital for chest pain.
17. The Plaintiff last attended to the Orthopedic Clinic on 19 November 2009.
18. Since the injuries the Plaintiff did not return to work from the date of injury until 26 June 2010.

The Plaintiff's remuneration

19. Since the injuries the Plaintiff continued to receive his wages.
20. On 12 August 2005, Notice was given under the Workmen's Compensation Act of the Plaintiff's injuries.

21. The Plaintiff has received the following:

<i>Year</i>	<i>Period of payment</i>	<i>Amount Paid</i>
2005	August – December	3,516.56
2006	Jan to Dec	9,929.00
2007	Jan to Dec	10,227.36
2007	Sick leave and bonus	710.73
2008	Jan to Dec	10,449.04
2008	Sick leave and bonus	728.22
2009	Jan to Dec	10,238.63
2010	Jan to Dec	<u>5,242.00</u>
	TOTAL	\$51,044.54

22. On 11 May 2010, the Plaintiff was examined by the Medical Board.

23. The findings of the medical board are as follows:

- (a) The Plaintiff is able to walk without support.
- (b) The right knee joint was stable.
- (c) Full recovery of the common peroneal nerve palsy.
- (d) X-ray revealed that both the fractures were well united with good alignment.

And that the Plaintiff was fully recovered and able to work as a driver.

24. On 24 June 2010, the Defendant gave the Plaintiff notice to return to work.

25. The Plaintiff recommenced employment on 26 June 2010 as a driver.

26. The Plaintiff is employed in the same capacity as a driver of light weight vehicles.

The following matters are in issue

(a) Liability

Is the Plaintiff's claim in tort of negligence or accident and/or statutory duties

- (i) The Plaintiff fell from the truck whilst getting off the truck. Was the Plaintiff's falling from the truck an accident?
- (ii) If the answer to (i) is yes, then is the Plaintiff entitled to any compensation under the Workmen's Compensation Act?

Negligence

- (iii) If the answer is no to (i) above, then what caused the Plaintiff's fall from the truck whilst getting out?
- (iv) What was the duty of the care the Defendant owed to the Plaintiff?
- (v) Was the Defendant's duty of care to the Plaintiff include modification to the side step of the vehicle?
- (vi) Was the truck driven by the Plaintiff defective in any manner?
- (vii) Was the Defendant negligent?
- (viii) Was the Plaintiff's falling from the truck whilst getting off caused by himself?
- (ix) Did the Plaintiff cause and/or contribute to his falling from the truck whilst getting off from the truck?

Statutory duties

- (x) What are the statutory duties existing between the Plaintiff and the Defendant?

(xi) Did the Defendant breach any statutory duties?

In the event that liability is established against the Defendant then:

(b) Quantum

Damages

(xii) What is the special damages suffered by the Plaintiff?

(xiii) What is the special damages the Plaintiff is entitled to claim?

(xiv) What is the proper compensation as general damages and loss of amenities for the injuries suffered by the Plaintiff?

(xv) Is there any future pain and suffering?

(xvi) What is the nature of the future suffering?

(xvii) Is there any costs associated with future suffering?

(xviii) Is there any future care that must be taken into account?

(xix) If in the affirmative to (xii) what is the appropriate compensation for future suffering?

(xx) Is there any loss of earnings suffered by the Plaintiff?

(c) Costs

(xxi) Is the Plaintiff entitled to costs?

(xxii) Is the Plaintiff entitled to any interests?

(xxiii) Is the Plaintiff entitled to any interest on the award of general damages?

THE PLAINTIFF'S CASE

[16] During the hearing the following witnesses gave evidence on behalf of the Plaintiff:

1. Prakashwa Nand - The Plaintiff (PW1)
2. John Prem - A work mate of the Plaintiff at the Suva City Council (SCC) (PW2)
3. Dr. Ronald Ritesh Kumar - Senior Medical Officer CWM Hospital (PW3)

[17] The following documents were also tendered to Court as Exhibits by the Plaintiff:

- P1 - Permanent Impairment Assessment Report in relation to the Plaintiff, dated 26 May 2016.
- P2 - Medical Report issued by Dr. Sitiveni Traill, dated 24 November 2006.
- P3 - Medical Report issued by Dr. Sitiveni Traill, dated 8 July 2008.
- P4 - Report of the Medical Board.
- P5 - Medical Report issued by Dr. E. D. Taloga, dated 21 October 2008.
- P6 - Notice by Employer of Accident in terms of the Workmen's Compensation Act (L.D. Form/C/1).

[18] It has been admitted that the Plaintiff (PW1) was born on 20 June 1967 and is married. It is also admitted that the Plaintiff was employed with the Defendant since 21 June 2002. The Plaintiff was employed as a labourer with the Defendant and subsequently became a driver.

[19] The Plaintiff testified that on 11 August 2005, around 8.00-8.30 in the morning, he had been driving a Mitsubishi Canter 3 tonne truck (Registration No. CJ 913). It had been

raining at the time. The witness testified that he had got off the truck on Queen Elizabeth Drive, near the ANZ Stadium. He opened the door and put his right leg on the side-step. At the same time he was holding onto the bar on the hood of the truck with his left hand. As soon as his right leg landed on the side-step, he had slipped and his leg had gone into a small pot hole. His leg got broken and twisted to one side.

- [20] The Plaintiff testified that the side-step of the truck was about 1 foot from the floor and was at an angle. He described the dimensions of the side-step as 15-16 inches long and 6-7 inches wide and was made out of steel plate, was rusty and in a bad condition. It did not have any rubber padding on it.
- [21] The witness testified that he was always complaining about the condition of the side-step. He stated that he had complained about the side-step to the garage supervisor Karan Bale and garage foreman, Hemant Kumar.
- [22] He admits that at the time of the incident, he was wearing safety boots provided by the Defendant. The boots had been provided about 6-7 months prior to the incident and was in good condition.
- [23] Upon the Plaintiff being injured, he was immediately taken to the CWM Hospital. The Plaintiff had sustained a closed spiral fracture of the proximal 1/3 of right fibula and distal tibia with common peroneal nerve palsy (fractures on his right ankle). On 15 August 2005, the Plaintiff underwent an open rodding of his right tibia and had to use crutches. On 14 December 2007, the rod was removed as his fracture had reunited. (All these matters had been agreed upon by the Plaintiff and the Defendant).
- [24] The next witness for the Plaintiff was John Prem (PW2). He had been working at the SCC for 21 years. He was the Plaintiff's leading hand. He had been working on the day the incident took place. He described the truck driven by the Plaintiff as an old vehicle. It was about 15-20 years old. The side-step was not in a right position. It was at an angle. The side-step was supposed to have a grip (checker plate), but there was no such grip. The side-plate was plain.

[25] The final witness for the Plaintiff was Dr. Ronald Ritesh Kumar (PW3). He is employed as an Orthopedic/Surgical Registrar at the CWM Hospital and is a Senior Medical Officer. He has held that post of Surgical Registrar for the past 6 years. The Doctor is an Accredited Assessor of Impairment.

[26] On 26 May 2016, the Doctor had conducted an assessment of the permanent impairment for the lower limb fracture that the Plaintiff sustained in August 2005. The Permanent Impairment Assessment Report in relation to the Plaintiff has been tendered to Court as P1. As per the said report, the total whole person impairment for the Plaintiff is stated as 22%. The Doctor testified in Court as to how he arrived at that figure.

[27] With that the case for the Plaintiff was closed.

THE DEFENDANT'S CASE

[28] During the hearing the following witnesses gave evidence on behalf of the Defendant:

1. Dr. Emosi Taloga - Consultant Orthopedic surgeon CWM Hospital (DW1)
2. Konrote Pau Sai - Plant Pool Foreman at SCC (DW2)
3. Manasa Nete - Mechanical Supervisor at SCC (DW3)
4. Jawahir Lal - Human Resources Manager at SCC (DW4)

[29] The defence also tendered to Court Exhibit D1-Letter, dated 29 June 2010, issued by the Defendant to the Plaintiff- RE: Resumption of Work.

[30] The 1st witness for the Defendant was Dr. Emosi Taloga (DW1). He is a Consultant Orthopedic surgeon CWM Hospital. He is also a Consultant at the Suva Private Hospital. The Doctor testified that he was the Chairperson of the Medical Board which

was convened to assess whether the Plaintiff was fit to return to work. The Report of the Medical Board has been tendered as Exhibit P4. Dr Taloga stated that the Medical Board had decided that the Plaintiff had recovered well from his injury and was able to return to work as a driver.

- [31] In cross examination, the witness admitted that he had examined the Plaintiff on 21 October 2008. The said Medical Examination Report of Dr. Taloga was tendered to Court as P5.
- [32] The next witness called by the defence was Konrote Pau Sai (DW2). He was working as a Plant Pool Foreman at the SCC, since 15 September 2014. His duties includes looking after the fleet of vehicles at the Samabula Depot. All SCC vehicles that are used for Council purposes are parked at the Samabula Depot. He supervises the drivers and maintenance of the vehicle. The drivers have to inspect the vehicles daily and report any defects.
- [33] The witness testified that the Mitsubishi Canter truck (CJ 313), was an older model of its kind. This vehicle was there in the depot when he commenced work in 2014. However, it has since been grounded. He said that there are minor changes in the design of the new model. The handle on the pillar and foot-steps are there in the new model as well.
- [34] The next witness called by the defence was Manasa Nete, Mechanical Supervisor at SCC (DW3). He has been working at SCC since May 2014. The Plant Pool Foremen, including Konrote Pau Sai, report to him.
- [35] The witness testified that there is a folder allocated to each vehicle. The folder is opened when there is a complaint made by the driver or the Plant Pool Foreman. This folder is maintained throughout the life time of the vehicle.
- [36] The witness had brought to Court the vehicle folders (there were 2 folders) in relation to Vehicle CJ 313. One folder was for LTA fitness and the other for vehicle repairs. As

per these folders the witness stated that Vehicle CJ 313 had been purchased brand new by SCC, in 1991. Thus in 2005, the vehicle was 14 years. It was grounded in August 2014.

[37] Manasa Nete stated that no complaints regarding the foot-steps has been recorded in the folders. There are no complaints recorded during the period 2005-2014 either.

[38] In cross examination he admitted that the shape and size of the foot-steps would be different in the new model of the Mitsubishi Canter. There is a rubber pad mounted on the foot-steps of the new model, which acts as a grip and prevents slipping.

[39] The final witness for the Defendant was Jawahir Lal, the Human Resources Manager at SCC. He joined the SCC in 1990, as a Maintenance Officer. He was promoted as Human Resources Manager in 2013. At the time the Plaintiff joined SCC in 2002, he was Maintenance Officer.

[40] He testified to his numerous duties and responsibilities. When an employee joins SCC, a personal file is opened and all details are stored in that file. The witness testified at length as to the personal file details of the Plaintiff.

[41] With that the Defendant rested their case.

[42] At the conclusion of the hearing both Counsel for the Plaintiff and Counsel for the Defendant were granted time to file written submissions. Accordingly, the parties filed detailed written submissions, and referred to several case authorities, which I have had the benefit of perusing.

ANALYSIS AND DETERMINATION

[43] From the facts of this case the primary issue for determination is the issue of liability.

LIABILITY

[44] As per the Minutes of the Pre-Trial Conference the issue of liability has been broadly described in the following form:

Liability

Is the Plaintiff's claim in tort of negligence or accident and/or statutory duties

- (i) The Plaintiff fell from the truck whilst getting off the truck. Was the Plaintiff's falling from the truck an accident?
- (ii) If the answer to (i) is yes, then is the Plaintiff entitled to any compensation under the Workmen's Compensation Act?

Negligence

- (iii) If the answer is no to (i) above, then what caused the Plaintiff's fall from the truck whilst getting out?
- (iv) What was the duty of the care the Defendant owed to the Plaintiff?
- (v) Was the Defendant's duty of care to the Plaintiff include modification to the side step of the vehicle?
- (vi) Was the truck driven by the Plaintiff defective in any manner?
- (vii) Was the Defendant negligent?
- (viii) Was the Plaintiff's falling from the truck whilst getting off caused by himself?
- (ix) Did the Plaintiff cause and/or contribute to his falling from the truck whilst getting off from the truck?

Statutory duties

- (x) What are the statutory duties existing between the Plaintiff and the Defendant?
- (xi) Did the Defendant breach any statutory duties?

[45] I have already summarized the evidence of all the witnesses who gave evidence during the hearing. The Plaintiff clearly testified as to incident which led to his injury.

As per his testimony he had opened the door of the truck and put his right leg on the side-step. At the same time he was holding onto the bar on the hood of the truck with his left hand. As soon as his right leg landed on the side-step, he had slipped and his leg had gone into a small pot hole.

- [46] The Plaintiff states that the side-step of the truck was at an angle. It was made out of steel plate, was rusty and in a bad condition. It did not have any rubber padding on it. He further testified that he was always complaining about the condition of the side-step. He stated that he had complained about the side-step to the garage supervisor Karan Bale and garage foreman, Hemant Kumar.
- [47] This position was further corroborated by John Prem (PW2). He described the truck driven by the Plaintiff as an old vehicle. It was about 15-20 years old. He confirmed that the side-step was not in a right position. It was at an angle. The side-step was supposed to have a grip (checker plate), but there was no such grip. The side-plate was plain.
- [48] The Defendant counters this position and claims that the Plaintiff's fall from the truck was an accident and alternatively due to the sole negligence and/or contributory negligence of the Plaintiff.
- [49] It is admitted by both parties that the Defendant provided the Plaintiff with a pair of safety boots for work as a health and safety measure and for the scope of Defendant's work during the course of his employment. Prior to the accident, the Defendant had provided safety boots in January 2005 (about 7 months prior to the incident).
- [50] The Defendant submits that although the vehicle was purchased in 1991, it was well maintained and kept in a good and working condition. Further that there were no complaints regarding the foot-steps that has been recorded in the vehicle folders.
- [51] However, it has been admitted by the defence witnesses that there is a rubber pad mounted on the foot-steps of the new model of the same Mitsubishi Canter vehicle, which acts as a grip and prevents slipping.

[52] Considering the totality of the aforesaid evidence, I hold that the Plaintiff has established on a balance of probabilities that his fall from Vehicle CJ 313, on 11 August 2005, was due to the negligence of the Defendant, its authorised servants and or agents. The Defendant owed a duty of care to the Plaintiff. The said duty of care extends to the proper maintenance of the vehicles used by its employees, including the side-step of the vehicles. However, they have failed to conform to the standard of care required under the law and have thereby breached that duty of care owed to the Plaintiff.

[53] It is the opinion of this Court that the Defendant has failed to establish that the Plaintiff's falling from the truck, while getting off, was caused by himself or that the Plaintiff caused and/or contributed to his falling from the truck.

[54] The next issue to determine is whether the injuries to the Plaintiff were caused as a direct result of the negligence of the Defendant. This element is commonly referred to as causation under the law of torts.

[55] The Plaintiff testified that as soon as his right leg landed on the side-step, he had slipped and his leg had gone into a small pot hole. His leg got broken and twisted to one side. Therefore, it is clear that the injury was sustained as a direct result of the fall and that there was no intervening cause which could have led to the injury.

[56] Considering the aforesaid, I hold that the Plaintiff has succeeded in proving on a balance of probabilities that his injuries were caused as a direct result of the negligence of the Defendant.

QUANTUM

[57] The next issue for this Court to decide is the quantum of damages that should be awarded to the Plaintiff.

- [58] In his Statement of Claim the Plaintiff claims special damages and general damages. Under the head general damages he claims damages for pain and suffering and loss of amenities of life.
- [59] It is a universally accepted principle that special damages must be specifically pleaded and proved. In the instant case, what has been pleaded is special damages in the sum of \$1,347.60 (for medical expenses-\$253.00, for transport-\$677.00 and loss of earnings- 417.60). Although, it is stated in the Statement of Claim that the Plaintiff's loss and damages are continuing and that he would be filing an up to date schedule of special damages before the trial of this case, it was not done.
- [60] The Plaintiff said in evidence that he incurred transport expenses of \$500.00-\$600.00, for his several visits to hospital and back home; and about \$300.00 for purchasing medicines. What has been pleaded as special damages is transport expenses of \$677.00 and purchasing medicines \$200.00. Accordingly, I make order that the Plaintiff is entitled to \$800.00 as special damages [transport expenses- \$600.00 and cost of medicines \$200.00].
- [61] As to general damages. It is clear from all the evidence led in Court that the Plaintiff underwent much pain and suffering as a result of his injuries. The parties have agreed that upon the Plaintiff being injured, he was taken to the CWM Hospital immediately. It is also agreed that the Plaintiff had sustained a closed spiral fracture of the proximal 1/3 of right fibula and distal tibia with common nerve palsy. As a result that the Plaintiff was admitted at hospital for a total of 12 days. It is also agreed that on 15 August 2005, the Plaintiff underwent an open rodding of his right tibia and was mobilized on crutches prior to discharge on 19 August 2005. On 14 December 2007 the rod was removed as his fracture had reunited.
- [62] The injuries suffered by the Plaintiff have been corroborated by medical evidence. On 26 May 2016, Dr. Ronald Ritesh Kumar, had conducted an assessment of the permanent impairment for the lower limb fracture that the Plaintiff sustained in August 2005. The Permanent Impairment Assessment Report in relation to the

Plaintiff has also been tendered to Court as P1. As per the said report, the total whole person impairment for the Plaintiff is stated as 22%.

- [63] In assessing the general damages, I have given due consideration to the fact that the Defendant had continued to pay the Plaintiff all his remuneration, from the date of his injury until 26 June 2010, when the Plaintiff had returned to work. This sum has been agreed by parties as \$51,044.54. Therefore, the Plaintiff is not entitled to past economic loss.
- [64] In assessing the general damages, I have also considered the future economic loss or future care that the Plaintiff would require, especially considering the total whole person impairment of 22%.
- [65] In the circumstances, considering all the facts of this case, I make order that the Plaintiff is entitled to \$50,000.00 as general damages.

COSTS AND INTEREST

- [66] In terms of the Law Reform (Miscellaneous Provisions) (Death and Interest) Act and decided case authorities, I order that interest at 6% per annum on general damages to be paid to the Plaintiff from the date of service of the writ to the date of trial. Further I order that interest at 3% per annum on the special damages to be paid to the Plaintiff from the date the cause of action arose to the date of this judgment.
- [67] Further, in terms of the Law Reform (Miscellaneous Provisions) (Death and Interest) (Amendment) Act No 46 of 2011, I order interest at 4% per annum on the judgment sum (\$50,800.00) from the date of judgment until the date of realization.
- [68] I further order costs of \$3,000.00, which is summarily assessed.

FINAL ORDERS

Accordingly, I order the Defendant to pay the Plaintiff:

1. \$50000.00 as general damages.
2. \$800.00 as special damages.
3. Interest at 6% per annum on the general damages from the date of service of the writ to the date of trial; and interest at 3% per annum on the special damages from the date the cause of action arose to the date of this judgment.
4. Interest at 4% per annum on the judgment sum (\$50,800.00) from the date of judgment until the date of realization.
5. Costs of \$3,000.00, which is summarily assessed.




Riyaz Hamza
JUDGE
HIGH COURT OF FIJI

AT SUVA

Dated this 14th Day of June 2018

Solicitor for the Plaintiff : Daniel Singh, Barrister & Solicitor, Suva.
Solicitor for the Defendant : Prem Narayan, Barrister & Solicitor, Suva.