

**IN THE MAGISTRATE'S COURT**  
**OF THE REPUBLIC OF VANUATU**

*(Civil Jurisdiction)*

Civil Case No. 157 of 2002

**BETWEEN:** ERIC TASARE  
Plaintiff

**AND:** THE GOVERNMENT OF THE  
REPUBLIC OF VANUATU  
First Defendant

THE COMMISSIONER OF  
POLICE JOINT COMMAND  
HEAD QUARTERS  
Second Defendant

JAMES ARU  
Third Defendant

**Coram:** Magistrate MACREVETH

*Mr. BOAR for the plaintiff*  
*Mr. NAKOU for the defendants*

**JUDGMENT**

This case shares similar facts of Civil Case no.158 of 2002 whereby the plaintiff is seeking relief from the court for damages arising out of a road accident caused on the 25/11/99 by the negligent driving of the third defendant, James Aru, a state policeman. The compensation sought is to award the plaintiff for the pain he suffered which is attributable to his injuries.

I have chosen not to repeat the legal argument and comments surrounding the first issues put before this court for determination. By this I refer to the issue of whether the third defendant was acting in the course of his employment when he caused the accident. (see at P.2-3 of my decision on Civil case no. 158 of 2002).

Having said so, I will now move on to assess the quantum of general damages .In deciding a just and fair figure; it has to be born in mind that medical evidence are vitally

important to this court. The gathered evidence contained in the plaintiff's sworn affidavit reveals the following reports .

1. Dr Paul Brooks medical report , annexed "A" dated 27 September, 2002 reads "*Mr Tasare sustained head, chest and left knees injuries and suffered from haemoptysis for approximately 2-3 weeks according to a nurse practitioner, Morris Honore.*

*On examination he was tender over the piraspinal muscles of his lower lumber region moreso... over the left posterior superior iliac spine .His left knee reveal a likely ruptured lateral collateral ligaments, laxity of his medical collateral ligament and normal ligaments. He had pain on compression of both menisci.*

*The plaintiff also describes on going back pain, left knee and altered sensation over the right side of his forehead with a watery right eye . His symptoms are worse with heavy loads".*

2. Dr Spooner's medical report annexed "B" dated 18/11/02 states "*on examination the plaintiff described ongoing headache with watery eyes, painful left knee- joint when walking and lower back pains on left hip joint . He complained of reduced labour and numbness over the left eye brow extending to the left temporal region.*"

Oral evidence given in court also confirms the above symptoms. He told this court that as a consequence of the accident he now experiences ongoing pain of his left knee and cannot engage himself in heavy work load in the village .

The particulars of the plaintiff's injuries in the statement of claim appears in these words;

- i. cut on left head
- ii. cut on left foot
- iii. cut on chest

During the course of cross-examination, the plaintiff testified that he was only given Panadol during his 2 visits to the hospital for treatment. He was not hospitalised either thus, in my view it is apparent that his injuries are not severe. However, he maintained that even today he is still experiencing moderate pain on back and knee .

\* Upon <sup>check spelling</sup> considerating the facts and evidence; damages is awarded in these figures;

**1. Special damages.**

- |                     |          |
|---------------------|----------|
| a) Medical expenses | 3000VT   |
| b) Transport costs  | 30,000VT |

**2. General damages**

- |                       |           |
|-----------------------|-----------|
| a) pain and suffering | 100,000VT |
|-----------------------|-----------|

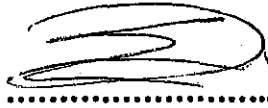
- b) reduced labour 100,000VT
- c) Future medical expenses 50,000VT

In addition, it is further ordered;

1. That the defendants pay interest of 10% per annum from the date of judgment until completion of payment.
2. Costs to be borne by the defendants

**DATED at Port Vila this 26<sup>th</sup> day of March, 2003 .**

**BY ORDER OF THE COURT**



MAGISTRATE E. MACREVEL

