

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

Civil Case No.01 of 2011

BETWEEN: FAMILY DAN TAO
FAMILY NUMAKE SUM
FAMILY FRED SIMON

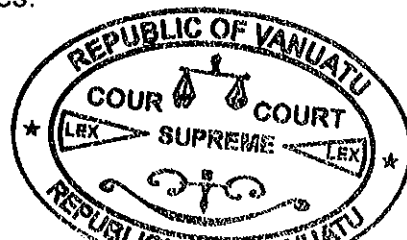
Claimants

AND: CHIEF TESS IAPATU
CHIEF JIMMY IAPUT
CHIEF TAO ELIJA
CHIEF TESS IAVIL
NOEL MOUKRA
NOKLAM FIRI
IAWILU TESS
NICKLAM TESS
TAO HUNGIN TESS
DAVID KASU
MOIK KASU
SAMUEL NASAMEL
DAVID IATIKROU
PAUL IALA
DAVID ESRA
MAN BOB
IAVIS TESS IAVIL
NOWATA KASU
KASU KUAO
IAUKOLE TESS
TOM MOSES
NALAU IAPATU
KWEWAN IAWIAP
PHILIP TESS IAVIL
TARICK IORAM
LOIC IAUKASASIN
PEAU KALIPA
EZEKIEL IATKEA
CLAY NIPIKNAM
SAM KANI
JOHN NOKAWI

Defendants

RULING


1. This referral from the Magistrate's Court, Tanna is ostensibly based on a lack of jurisdiction "*where the amount claimed or value of the subject matter is six million vatu (VT6,000,000) and exceeds the Magistrate's Court to try as per Magistrate's Court (Civil Jurisdiction) [CAP. 130] section 1 (a)*".
2. In summary, the claim in this case is for damages for personal injuries, pain and suffering by the claimants when they were attacked in Lounamilo village, Tanna, by the defendants. The claimants also claim special damages in the amount of **VT50,000** for transport costs incurred in seeking medical treatment for their injuries.



3. Although the claimants' have purportedly quantified the amount that they are claiming by way of general damages, that amount is no more than an estimate without proof and does not and cannot bind the Court which has the ultimate duty to determine and assess the quantum of general and special damages payable to the claimants in the event that the claim is successful or upheld (see: **Section 4** of CAP. 130 which is relevant in this regard).
4. I accept that the medical reports discloses an array of bodily injuries were sustained during the defendants' attack on the claimants including lacerations that required suturing, as well as swelling and tenderness of various parts of the body.
5. The existence of such injuries however, is only part of the evidence that the Court will consider in awarding damages in this case. In addition, the Court will need to consider the level of impairment (if any) that has resulted from the injuries, as well as evidence of the fear, pain and suffering that might have been experienced by the claimants during and after the attack, and, any consequential loss arising directly from the claimant's injuries.
6. Finally, even if the claimants' estimation of the damages is correct or accurate (which I very much doubt), the fact remains that there are three (3) sets of claimants involved and therefore each claimant family unit which itself is comprised of several adult members, would be theoretically entitled to an award of VT2 million which figure is within the civil jurisdiction of the Magistrate Court to award.
7. For the foregoing reasons, this referral is returned to the Tanna Magistrate's Court with a direction that the claim be dealt with in its normal course.

DATED at Isangel, Tanna, this 16th day of December, 2011.

BY THE COURT


D. V. FATIAKI
Judge.

