

IN THE DISTRICT COURT HELD AT DZODZE ON THURSDAY THE 3RD OF NOVEMBER,2022 BEFORE HIS WORSHIP NELSON DELASI AWUKU, DISTRICT MAGISTRATE.

Suit No. A2/44/2022

LAMBERTHA KASSAH

}

PLAINTIFF

VRS

TSOENAMAWU DODOR & ANOTHER

}

DEFENDANTS

JUDGMENT

PARTIES

PLAINTIFF - PRESENT

DEFENDANTS - PRESENT

BACKGROUND:

Per a Writ of Summons and Statement of Claim filed on the 14th of June, 2022, the Plaintiff prayed for the following;

- a. *Recovery of an amount of GHC 15,342.00 being the expenses incurred by the plaintiff for injury sustained in an accident negligently caused by 1st and 2nd defendants.*
- b. *An order against the defendants jointly and severally to pay for expenses to be incurred for further treatments.*

- c. *An order for defendants to jointly compensate plaintiff with an amount of GHC 20,000.00 for loss of earnings due to the inability to go about her normal duties.*
- d. *Cost and any further order(s) as the court deem favourable.*

PLAINTIFF'S CASE

Plaintiff averred that she is a National Service Personnel teaching at the Weta Senior High School.

Plaintiff averred that on 3rd April, 2022 she was travelling on a motor bike with registration number M-21 VD 1289 towards Weta.

The Plaintiff stated that, on that same day the 1st defendant was riding a tricycle with registration number M-21 VR 3180 belonging to the 2nd defendant with one Korsoku Mark sitting beside her.

The plaintiff stated that upon reaching a section of the road the 1st defendant in attempting to maneuver past a pothole negligently veered off his lane into the lane of the bicycle behind which she was sitting.

The Plaintiff stated that their bicycle was knocked down in the process, causing her to sustain injury and was rushed to the St. Anthony Hospital for treatment.

The Plaintiff stated that she suffered multiple fractures on her thigh as a result of which she had to undergo surgery causing her to incur huge expenses.

The plaintiff stated that she has so far spent GHC 15,342.00 as expenses on medical bills out of which the defendants paid only GHC 800.00.

The plaintiff states that she has not fully recovered and is undergoing further treatment but the defendants have failed to assist with the medical bills and have also not compensated her.

THE CASE OF DEFENDANTS

The defendants filed a response to the plaintiff's statement of claim dated 5th October, 2022 in which they denied the claim that they have only paid GHC800.00 in support of the plaintiff.

The defendants stated that they have paid a total of GHC 2,500.00 to support the plaintiff and prayed for more time to make further payments to the plaintiff.

Upon a request by the defendants and with the consent of the plaintiff, the matter was referred for settlement.

However, settlement broke down because the parties could not agree on the compensation and mode of payment.

SUMMARY OF EVIDENCE

The plaintiff filed the following exhibits in support of her case;

- a. Exhibit A series – Medical bill receipts
- b. Exhibit B Series – Photographs of plaintiff's injured condition
- c. Exhibit C – Police medical form and medical report
- d. Exhibit D – Police accident report

THE LAW AND THIS CASE

Order 8 rule 4(2) of the District Court Rules, 2009 (C.I 59), provides that, *“Where it appears that the defence put up by the defendant does not amount in law to a defence to the plaintiff’s claim the court shall give judgment for the plaintiff without proceeding to a hearing or trial”*.

In the response filed by the defendants, they did not contest the claims by the plaintiff but only prayed for time to assist the plaintiff. The defendants were not clear in their pleadings on what exactly they intend to offer to the plaintiff and how much time they will need to do that.

Considering the fact that some expenses had already been incurred and the possibility exists to incur further debts, it would have been appropriate for the defendants to make clear commitments on the assistance they intend to offer.

When a claim for damages is included in an action, the plaintiff or claimant is required under the law to provide evidence in support of the claim and to give facts upon which the damages could be assessed. **(See Martin v Barclays Bank (GH) Ltd [2017 – 2018] 1 SCGLR 800)**.

The plaintiff attached Exhibit A series, which are receipts covering cost of drugs and treatment. From the receipts submitted, the court in its calculations arrive at a total of GHC 10,342.00 for expenses incurred on drugs and medical expenses.

The court also observed that an additional document attached to Exhibit A series details out further expenses made without receipts. Some of the items listed are in the nature such that receipts could have been obtained for the services. The failure to provide receipts for them puts the court in the position such that it is unable to grant for those expenses.

However, the expenses on blood, drugs and transport listed on that document are expenses that the court considers most probable to have been incurred in the natural development of things. A total amount of GHC 2,080.00 is granted in respect of those expenses in addition to the amount proven by the receipts.

The plaintiff states that she is a National Service personnel with the Weta Senior High School but no document was tendered in confirmation of her appointment and earnings. She also failed to provide specific details on how much loss she stands to incur economically due to her condition, therefore making it difficult for the court to award damages for such losses.

General damages are such as the law will presume to be the natural or probable consequence of the Defendant's Act. They arise by inference of law and need not therefore be proved by evidence. *See Delmas Agency Ghana Ltd. V Food Distributors International Ltd. [2007-2008] SCGLR 748 and Kwadjo v Speedline Stevedoring Co. Ltd. [2017-2018] 2 SCGLR 101.*

From Exhibits B series and by observing the condition of the plaintiff during her attendance to court, the court is left in no doubt to believe that the plaintiff in her current state has been denied the opportunity to embark on any economic activity. It is also foreseeable from her current state that the plaintiff will require some further treatment in order to regain full recovery.

On the basis of such considerations, a further award of GHC 10,000.00 is granted to the plaintiff as general damages

CONCLUSION

In summary, the reliefs of the plaintiffs are granted against the defendants as follows;

- a. Specific damages of GHC 12,422.00
- b. General damages of GHC 10,000.00

Cost of One thousand Ghana cedis (GH¢1,000.00) is awarded to Plaintiff against Defendants.

NELSON DELASI AWUKU
MAGISTRATE