



**BETWEEN                      THE ADMINISTRATOR-GENERAL FOR                      CLAIMANT**  
**JAMAICA (Administrator of Estate of Oneaque**  
**Whitter o/c Aneaque Jannelt Whitter, deceased)**

**AND                                      SANJAY ENNIS                                      DEFENDANT**

## 1

white Toyota Station Wagon registered **9996 GF** driven by Norman Marson. The deceased was a passenger in the 2001 Grey Toyota Sedan motor car registered **4731 HN** who sustained multiple injuries. She was transported to the Cornwall Regional Hospital where she succumbed to her injuries, thus causing her estate to suffer loss, damages and incur expenses.

## **THE CLAIM**

- [1] On the 12<sup>th</sup> of February 2020, the Administrator General of Jamaica having been appointed as Administrator of the Estate of Oneaque Whitter o/c Aneaque Jannelt Whitter filed a claim on behalf of her dependent pursuant to the Law Reform (Miscellaneous Provisions) Act and Fatal Accident Act in which damages are being sought for the benefit of the named dependent of Aneaque Whitter o/c Oneaque Jannelt Whitter. The Claimant filed a claim seeking the following:
- i. Damages under the Fatal Accident Act (“FAA”)
  - ii. Damages on behalf of the estate of the deceased under the Law Reform (Miscellaneous Provision) Act (“LRMPA”) iii. Interest pursuant to the LRMPA iv. Such further and/or other relief as this Honourable Court deems just.
- [2] Evidence of service of the Claim Form, Particulars of Claim and Acknowledgment of Service were filed on the 2<sup>nd</sup> of February 2021. The Defendant failed to file a Defence and on February 14, 2022, by order of Master H Carnegie, a default judgment was entered against the Defendant for failure to file a Defence. It is to be noted that the Defendant’s failure to file a Defence means that liability is not in issue with respect to the loss arising under the FAA and the LRMPA and damages are now left to be determined.
- [3] At the Assessment of Damages hearing on the 9<sup>th</sup> of October 2023, the evidence before the Court was largely provided by the accounts of Herbert Whitter (the deceased’s father) and Jason Shand (an employee of the Administrator General of Jamaica).

## THE EVIDENCE OF HERBERT WITTER

- [4] Mr. Herbert Whitter gave evidence that he was the father of Oneaque Whitter o/c Aneaque Jannelt Whitter. He testified that at the time of her death, Ms. Whitter was 24 years old and had a 6-year-old son named Tyquan Tugwell who was born on the 17<sup>th</sup> of January 2012. Mr. Whitter stated that Tyquan is now 12 years old and resides with him and his wife. He is a grade 7 student at a High School in Montego Bay who hopes to attend university in the future.
- [5] In outlining the financial loss to Tyquan, Mr. Whitter stated that Ms. Whitter would spend the sum of **Ten Thousand Dollars (\$10,000.00)** per month on lunch for her son and **Ten Thousand Dollars (\$10,000.00)** per month on groceries. He explained that these sums were in addition to other expenses associated with caring for him. He stated further that the monthly grocery bill for him, his wife and Tyquan is approximately **Eighteen Thousand Dollars (\$18,000.00)** per month. Lunch and transportation for Tyquan cost an additional **Thirty Thousand Dollars (\$30,000.00)** per month and internet fees cost **Six Thousand Five Hundred Dollars (\$6,500.00)** monthly.
- [6] At the time of her passing, Ms. Whitter had been employed to Margueritaville as a cashier, but Mr. Whitter was unable to state what her earnings had been. He informed the Court however that she spent approximately **Nine Thousand Dollars (\$9,000.00)** per month on herself. Three (3) receipts were placed into evidence in proof of the payment of **One Hundred and Thirty-Eight Thousand Two Hundred and Thirty-Nine Dollars and Ten Cents (\$138,239.10)** by Mr. Whitter for his daughter's funeral expenses.

## THE EVIDENCE OF JASON SHAND

- [7] Mr. Jason Shand gave evidence that he is a Senior Case Officer, employed to the Administrator General of Jamaica and his core function is to collect assets of the estate, settle liabilities and distribute assets to beneficiaries after liability is

settled. He stated that on the passing of Ms Whitter, he assumed responsibility for the administration of her estate which included liaising with her beneficiaries. Through him, the following documents were placed into evidence:

- a. Instrument of Administration issued by the Administrator General for Jamaica on the 20th day of May 2019;
- b. Copy Burial Order for Oneaque Whitter;
- c. Copy Birth Certificate for Oneaque Whitter;
- d. Copy Birth Certificate for Tyquan Timoy Tugwell;
- e. Copy Gordon Funeral Services receipts dated July 17, 2018, July 17, 2018, and July 31, 2-18, numbered 0045;
- f. Oneaque Whitter' Payslip - Margaritaville - Pay Advice for period ending June 2, 2018.

[8] The payslips provided show that at the time of her death, Ms Whitter's net weekly salary was **Twelve Thousand Seven Hundred and Forty-Nine Dollars and Thirty-Seven Cents (\$12,749.37)**.

## **SUBMISSIONS**

### **DAMAGES UNDER THE LAW REFORM MISCELLANEOUS PROVISION ACT**

[10] In written submissions, Ms Lawrence made reference to Section 2 of the Law Reform (Miscellaneous Provisions) Act which allows an action to be filed on behalf of a beneficiary to an estate seeking an award for:

- I. Loss of expectation of life;
- II. Funeral Expenses;
- III. Special Damages; and
- IV. The "lost years" of earning capacity.

### **Loss of Expectation of Life**

[11] Counsel cited the case of **Rose v Ford** [1937] AC 826 wherein it was confirmed that a claim for loss of expectation of life can be brought on behalf of the estate of the deceased. Ms Lawrence acknowledged that a conventional sum is usually awarded under this head of damages. She submitted that applying the principles in the Court of Appeal decision of **The Attorney General v Devon Bryan (Administrator for the estate of Ian Bryan)** [2013] JMCA Civ 3 and taking into account the Consumer Price Index for October 2023, a reasonable award for loss of expectation of life would be **Two Hundred and Nine Thousand One Hundred and Fifty-Six Dollars Sixty-Three Cents (\$209,156.63)**.

### **Special Damages**

[12] Ms Lawrence asked for an award in the sum of **One Hundred and Thirty-Eight Thousand Two Hundred and Thirty-Nine Dollars and Ten cents (\$138,239.10)** as having been incurred for funeral expenses.

### **Pain and Suffering**

[13] In respect of this award, Learned Counsel relied on the case of **The Attorney General v Devon Bryan (Administrator for the estate of Ian Bryan)** [2013] JMCA Civ. 3 in which the court awarded the nominal sum of **One Hundred and Thirty Thousand Dollars (\$130,000.00)** for pain and suffering as Ian Bryan died within three hours of receiving a gunshot wound. Ms Lawrence argued that an updated award of **Two Hundred Thousand Dollars (\$200,000.00)** would constitute a reasonable sum for pain and suffering as the Police Report makes it clear that Ms Whitter's death was not instantaneous. Counsel submitted that a further adjustment should be made to this figure to take into account the current CPI, as such the appropriate award would be **Two Hundred and Twenty-Five Thousand Five Hundred and Eighty-Six Dollars and Thirty-Four Cents (\$225,586.34)**.

## Loss of Earnings (loss years of earning capacity)

### **The Multiplier**

- [14] Ms Lawrence submitted that at the time of her death, Ms. Whitter was 26 years old and in good state of health. Learned Counsel commended the decision of **Jamaica Public Service Co. Ltd. v Elsada Morgan** (1986) 23 J.L.R. 138 as instructive, as in that matter, the Claimant was twenty-five (25) years old at the time of death and a multiplier of fourteen (14) years was approved by the Court of Appeal. Learned Counsel also relied on the decision of **Alicia Dixon (Administratrix of the Estate of Christopher Dixon) v Harris and the Attorney General**, delivered on February 25, 1993, in which Harrison J. (Ag), also approved a multiplier of fourteen (14) for a 27-year-old Pilot.

### **The Multiplicand**

- [15] On the question of the appropriate multiplicand, Ms Lawrence acknowledged the reasoning of the Court of Appeal in **Dyer and Dyer v Stone** (1990) 27 J.L.R 268, that *"the principle established for assessing the loss of future earnings for the loss years is firstly to ascertain from credible evidence what the net income of the deceased was at the time of death."* Learned Counsel submitted that at the time of her death, Ms Whitter was employed as a Cashier at Margaritaville Caribbean Group where she earned a weekly net salary of **Twelve Thousand Seven Hundred and Forty-Nine Dollars and Thirty-Seven Cents (\$12,749.37)** with an annual net income of **Six Hundred and Sixty-Two Thousand Nine Hundred and Sixty-Seven Dollars and Twenty-Four Cents (\$662,967.24)**.
- [16] Counsel asked the Court to apply the percentage approach adopted in **Harris v Empress Motors Ltd** [1984] 1 WLR 212 at 216 - 7 and argued that Ms Whitter's personal expenses would not have exceeded 40% of her income, given that she had a minor dependant for whom she was financially responsible at the time of

her death. Counsel submitted that Ms Whitter's personal expenditure and her beneficiary's level of dependency should be calculated as follows:

Total annual Income	<b>662,967. 24</b>
Less Total annual personal	<u>- 265 186.90</u> expenditure
Total Dependency of	<u><b>\$397 780.34</b></u>
deceased's Family	

- [17] The total figure representing the dependency of the deceased's family would then be 60% of her total earnings. Ms Lawrence, submitted that adopting this calculation, the court should award loss of earnings as follows:

**Loss of earnings for pre-trial years**

May 2018 - October 2023 = 5 years and 5 months

Pre-Trial loss of earnings= **\$397,780.34 x 5.5 = \$2,154,643.51**

**Loss of earnings for post-trial years**

November 2023 - June 2032= 8 years and 7 months

Post-Trial loss of earnings= **\$397,780.34 x 8.7(remainder of multiplier) = \$3,414,281.25**

Total Loss to the estate = **\$5,568,924.76**

- [18] In concluding her submissions on this area, Ms Lawrence contended that in light of the foregoing, the appropriate award under the LR(MP)A should be computed as follows:

- |      |                             |                       |
|------|-----------------------------|-----------------------|
| (i)  | Loss of Expectation of life | <b>\$ 204,658.63</b>  |
| (ii) | Loss of Earnings            | <b>\$5,568,924.76</b> |

(iii) Pain and Suffering \$ 225,586.34

(iv) Funeral Expenses and Special Damages \$ 138,239.10

TOTAL AWARD:\$ 6,137 408.83

### **DAMAGES UNDER THE FATAL ACCIDENT ACT (FAA)**

[19] Ms Lawrence submitted that pursuant to these pleadings, a claim for damages is also available under the Fatal Accident Act (hereinafter referred to as the FAA) for the benefit of the deceased near relations. Section 2 of this Act defines a near relation as "*a wife, husband, parent, child, brother, sister, nephew or niece of the deceased persons.*"

[20] Counsel submitted that in the instant case, the dependents of the deceased were:

- a. Tyquan Tugwell, son of the deceased, who was 6 years old at time of Ms Whitter's death (d.o.b. January 17<sup>th</sup>, 2012); and
- b. Herbert Whitter, father of the deceased.

[21] The decision of **Cookson v Knowles** (1978) 2 All E.R. 604, was commended as providing useful guidance with particular emphasis on the summary of the principles for assessing damages in Fatal Accident Cases which were stated as follows:

- (1) In the normal fatal accident case, the damages sought, as a general rule, are to be split into two parts.
  - (a) The pecuniary loss which it is estimated the dependants have already sustained from the date of death up to the date of trial ('the pre-trial loss') and;
  - (b) The pecuniary loss which it is estimated they will sustain from the trial onwards ("the future loss ") / [post-trial loss].



- (2) Interest on the pre-trial loss should be awarded for a period between the date of death and the date of trial at half the short-term interest rates current during that period.
- (3) For the purpose of calculating the future loss, the "dependency" used as the multiplicand should be the figure to which it is estimated the annual dependency would have amounted by the date of trial;
- (4) No interest should be awarded on the future loss; and
- (5) No other allowance should be made for the prospective continuing inflation after the date of trial.

### **The Multiplicand**

- [22] Ms Lawrence submitted that applying the percentage of dependency which was previously calculated as 60%, the multiplicand for the purpose of assessment under the Fatal Accidents Act is **Three Hundred and Ninety-Seven Thousand Seven Hundred and Eighty Dollars and Thirty-Four Cents (\$397,780.34)**.

### **The Multiplier**

- [23] Ms Lawrence submitted that applying the principles in the decision of **Knauer (Widower and Administrator of the Estate of Sally Ann Knauer) v Ministry of Justice** [2016] UKSC 9, the multiplier under the Fatal Accidents Act should be calculated from the date of trial. Learned Counsel submitted that based on the likely trial dates of 2025/2026 and the possibility that the earnings of the deceased would have increased by this stage, a multiplier of 15 is appropriate.
- [24] Counsel submitted that, adopting this approach, the sum of **Three Hundred and Ninety-Seven Thousand Seven Hundred and Eighty Dollars and Thirty-Four Cents (\$397,780.34)** would be multiplied by 5.5 years, the latter being the period between the date of death and the assessment date, the total amount being **Two Million One Hundred and Eighty-Seven Thousand Seven Hundred and Ninety-One Dollars and Eighty-Seven Cents (\$2,187,791.87)**. The multiplicand

of **Three Hundred and Ninety-Seven Thousand Seven Hundred and Eighty Dollars and Thirty-Four Cents (\$397,780.34)** per annum would then be multiplied by 9.7 the multiplier for the remaining years, which amounts to **Three Million Seven Hundred and Seventy-Eight Thousand Nine Hundred and Thirteen Dollars and Twenty-Three Cents (\$3,778,913.23)**. The total award to Tyquan under the Fatal Accident Act would be **Five Million Nine Hundred and Ninety Six Thousand Seven Hundred and Five Dollars and Ten Cents (\$5,996,705.10)**.

- [25] Ms Lawrence acknowledged that given the bar against double recovery, the deceased's dependents would only be able to claim pursuant to the LRMPA since their share of the award under that statute exceeds the award which would be made pursuant to the FAA.

## **DISCUSSION AND ANALYSIS**

- [26] It is settled law that where an individual is injured as a result of the wrongful act, neglect or omission of another, he is permitted at common law to sue the person who has committed the wrong and to obtain damages. If the individual dies from the injuries wrongfully inflicted; an action brought in tort for personal injuries also dies. Since 1955 however, legislation has provided that the claim against the individual who caused the injury survives the death of the injured party. Section 2(1) of *the Law Reform (Miscellaneous Provisions) Act* addresses the situation in the following terms:

***“Subject to the provisions of this section, on the death of any person after the commencement of this Act all causes of action subsisting against or vested in him shall survive against, or as the case may, for the benefit of, his estate.”***

- [27] This provision of the LRMPA is for the benefit of the estate of a deceased person as pursuant to same, the personal representatives are vested with the right to bring a claim in order to recover damages for the benefit of the estate of

the deceased. In circumstances where death has been caused by an act or omission which gives rise to a cause of action, the damages recoverable for the benefit of that estate are calculated without reference to any loss or gain to the estate consequent on the death of an individual. A sum in respect of funeral expenses may however be included as part of such an award.

[28] The result of this is that the deceased's estate can recover damages for the loss which she would have sustained prior to her death and for which compensation could have been recovered had she survived to pursue the action. As such, the damages which are typically recovered would be for pain and suffering borne by the deceased up to the time of death, loss of expectation of life and prospective loss of earnings during "*the lost years*". Damages have also been awarded for funeral expenses.

[29] In addition to the authorities cited by Counsel, the effect of this provision was examined in ***Vinton Miller (Administrator of the Estate of Weston Miller, the deceased) v Caribbean Producers Jamaica Limited and Kirk Hillary*** [2015] JMSC Civ. 250 where Campbell J reviewed the background to the LRMPA and at paragraph 7 of the judgment stated as follows:

*"At common law, the death of either the tortfeasor or his victim would normally extinguish the possibility of an action. The Law Reform (Miscellaneous Provisions) Act, 1955, changed the common law by providing that; on the death of any person, all causes of action (with few exceptions) subsisting or vested in him should survive for the benefit of his estate."*

[30] Section 3 of the ***Fatal Accidents Act***, under which this action is also brought, makes provisions in similar terms. If the injured person dies, his personal representatives can maintain an action for the benefit of his estate and claim damages on behalf of his dependants to recover any balance of loss which it can be proved that they have sustained.

- [31] The rights conferred by the ***Fatal Accidents Act*** on the dependants of the deceased person are in addition to and not in derogation of any rights conferred for the benefit of the estate of the deceased. The effect of this statute as acknowledged by Learned Counsel is that a sum recovered under ***Law Reform (Miscellaneous Provisions) Act*** shall be taken into account in assessing damages under the ***Fatal Accidents Acts***.

### **Special Damages**

- [32] In addition to the claim for general damages under the respective headings, the Claimant also seeks to recover special damages in this action. The particulars of Special Damage is itemized as follows:

(a) Funeral Expenses in the sum of **One Hundred and Thirty-Eight Thousand Two Hundred Thirty-Nine Dollars and Ten Cents (\$138,239.10)**

- [33] In the course of the hearing, documentary proof of this expense was provided. The documents have been carefully reviewed and are accepted by the Court as establishing a proper basis on which this award can be made.

### **LOSS OF EXPECTATION OF LIFE**

- [34] In determining the appropriate award to be made under this head of damages, I also considered the decision of ***Ainsworth Blackwood (Administrator of estate Ainsworth Blackwood Jnr. deceased) v Naudia Crosskill et al*** [2014] JMSC Civ. 28 in which Fraser J examined the legal principles outlined in his earlier decision in ***Tyler Horatio Wedderburn (Personal Representative of Estate Amanie Dominic Wedderburn) v The Attorney General and Police Constable Vernon Ellis*** [2013] JMSC Civ. 153.
- [35] The facts in the ***Blackwood*** decision are that on the 13<sup>th</sup> of February 2007 Ainsworth Blackwood Jr. was injured while riding his bicycle along the Heartease main road in the parish of St. Thomas. The injuries were sustained when he was

hit by a motorcar which was being driven by one defendant and owned by the other.

- [36] At trial, his father Ainsworth Blackwood Snr. testified that his son was fourteen years old when he died, that at the time of his death he was in grade 8 and had been attending the Yallahs Comprehensive High School. He gave evidence of his son's favourite subjects and also indicated that he, the deceased, had always expressed a desire to attend university and his ambition was to become a police officer. The father also testified that his son had expressed an intention to take care of his parents.
- [37] In arriving at a moderate award of **One Hundred and Eighty Thousand Dollars (\$180,000.00)** under this head, at paragraphs 51 and 52 of his judgment, Fraser J outlined the proper approach to be followed:

*"[51] Recently in **Tyler Horatio Wedderburn (Personal Representative of Estate Amanie Dominic Wedderburn) v The Attorney General and Police Constable Vernon Ellis** [2013] JMSC Civ. 153, I reviewed in detail the basis on which awards under this head are made. I quoted from Lord Morris of Borth-y-Gest in **Yorkshire Electricity Board v Naylor** [1968] AC 529 at page 545 where he stated: 'It is to be observed and remembered that the prospects to be considered and those which were being referred to by Viscount Simon L.C. in his speech were not the prospects of employment or of social status or of relative pecuniary affluence but the prospects of a 'positive measure of happiness' or of a 'predominantly happy life'.*

*[52] As I noted in Wedderburn where the circumstances are very similar to those in the instant case, the sum awarded is a conventional one therefore the age of the deceased is not to be used as a basis for the making of the award. Having reviewed a*

*number of authorities and allowing for the significant devaluation of the Jamaican dollar which had occurred between the time of some of the cases reviewed and the Wedderburn case I awarded the sum of \$180,000.00. Though there has been some further slippage of the currency since that decision it is not at this point significant, and I would therefore make the same award of \$180,000.00 in this case.” (emphasis supplied)*

- [38] Additional support for the award of a moderate conventional figure is also found in the decision of **Angela Diana Brooks-Grant (Administrator of the Estate of Michael Grant, deceased) v Western Regional Health Authority and The Attorney General of Jamaica** [2016] JMSC Civ. 240 wherein while determining the appropriate sum to be awarded under this heading, Brown-Beckford J stated thus:

*[19] “it is settled that a conventional sum is to be awarded and that although there has been some controversy as to what a conventional sum is, it appears that this sum is to be considered on a case by case basis and is calculated at the discretion of the court”.*

- [39] The learned judge then conducted a comprehensive review of a number of authorities before making an award of **Two Hundred Thousand Dollars (\$200,000.00)**. In the instant claim, the Claimant has sought an award of **Two Hundred and Four Thousand Six Hundred and Fifty-Eight Dollars and Sixty Three Cents (\$204,658.63)** which is in keeping with sums previously awarded. In considering this sum, I note that there has been significant slippage in the value of the currency since this claim was filed and allowing for an adjustment in that regard, I am of the view that an award of **Two Hundred and Twenty-Five Thousand Dollars (\$225,000.00)** would still represent a moderate and conventional sum in all the circumstances.

## PAIN AND SUFFERING

- [40] While the **Devon Bryan** decision confirms that a Claimant can seek an award under this head of damages, the Court made it clear that there would have to be cogent evidence of pain and suffering to undergird same. On a careful review of the evidence, it was noted that while reference has been made to the contents of the Police Report and what it disclosed, this document was never placed in evidence. Additionally, there was no medical evidence presented to confirm the assertion that Ms Whitter had not died on impact. Given these omissions, the Court is constrained in terms of award that can be made under this head of damages and a nominal award in the sum of **One and Fifty Hundred Thousand Dollars (\$150,000.00)** is deemed as most appropriate.

## LOST YEARS/LOSS OF FUTURE EARNINGS

- [41] In respect of the claim for lost years, Ms Lawrence outlined that at the time of her death, Ms Whitter was a 26-year-old cashier employed to Margueritaville with annual earnings at **Six Hundred and Sixty-Two Thousand Nine Hundred and Sixty-Seven Dollars and Twenty-Four Cents (\$662,967.24)**. The birth certificate of Ms Whitter indicates however that she was born in 1994 which would mean that she was in fact 24 years of age at the time of her passing.
- [42] In relation to the relevant considerations of the pecuniary loss suffered, the Court acknowledges that these are helpfully laid out in ***JPS Ltd v Elsada Morgan and another***. Applying the percentage approach which was also considered in ***Attorney General v Devon Bryan (Administrator of the Estate of Ian Bryan)*** (*supra*), it is reasonable to conclude that since the deceased had only one child her income would have been spent on herself and her son and this division could conceivably have been in the range of 40% on herself and 60% on her offspring. This conclusion is further supported by the evidence of her father who indicated that she spent approximately **Nine Thousand Dollars (\$9000.00)** on herself

each month and no less than **Twenty Thousand Dollars (\$20,000.00)** on her son.

[43] I agree that it is reasonable given Ms Whitter's age to use a multiplier of 15 years and the multiplicand of **Three Hundred and Ninety-Seven Thousand Seven Hundred and Eighty Dollars and Thirty-Four Cents (\$397,780.34)** which represents 60% of her annual net earnings. I agree that the award would be calculated taking into account the loss which would accrue for the pre-trial and post-trial years. In respect of the pre-trial years, the relevant sum to be awarded amounts to **Two Million One Hundred and Eighty-Seven Thousand Seven Hundred and Ninety-One Dollars and Eighty-Nine Cents (\$2,187,791.89)** whereas the post-trial loss is **Three Million Four Hundred and Sixty Thousand Six Hundred and Eighty-Eight Dollars and Ninety-Nine Cents (\$3,460,688.99)**. The total figure to be awarded under this head of damages is **Five Million Six Hundred and Forty-Eight Thousand Four Hundred and Eighty Dollars and Eighty-Eight Cents (\$5,648,480.88)**.

[44] As previously stated, the Claimants have also sought damages pursuant to the FAA, Ms Lawrence has candidly accepted that any award to be made under this legislation would be impacted by the award made under the LRMPA as the Claimant is barred from recovering under both. In analysing the sum which would be recoverable under this legislation, I agree that the multiplicand of **Three Hundred and Ninety-Seven Thousand Seven Hundred and Eighty Dollars and Thirty-Four Cents (\$397,780.34)** and multiplier of 15 years would be appropriate for the calculation of the likely award. Adopting this formula, the figure for the pretrial years amounts to **Two Million One Hundred and Eighty-Seven Thousand Seven Hundred and Ninety-One Dollars and Eighty-Nine Cents (\$2,187, 791.89)** and the post-trial years **Three Million Eight Hundred and Forty-Eight Thousand Four Hundred and Sixty-Nine Dollars and Twenty-Nine Cents (\$3,848,469.29)**. The total award payable under the FAA would be **Six Million and Forty-Six Thousand Two Hundred and Sixty-One**



**Dollars and Sixteen Cents (\$6,046,261.16).** This figure would be marginally less than the sum which would be payable under the LRMPA and in these circumstances, I agree that the Claimant would be entitled to recover under the latter.

## **CONCLUSION**

**[45]** In light of the foregoing findings, the following orders are made herein:

1. Special Damages are awarded in the sum of **One Hundred and Thirty-Eight Thousand Two Hundred and Thirty-Nine Dollars and Ten Cents (\$138,239.10)** with interest thereon at the rate of 3% per annum from May 20<sup>th</sup>, 2018 to November 8<sup>th</sup>, 2023;
2. General Damages for loss of expectation of life awarded in the sum of **Two Hundred and Twenty-Five Thousand Dollars (\$225,000.00)** with interest thereon at the rate of 3% per annum from December 7, 2020 to November 8<sup>th</sup>, 2023.
3. Damages awarded for pain and suffering in the sum of **One Hundred and Fifty Thousand Dollars (\$150,000.00).**
4. Damages awarded for lost years (loss of earnings) in the sum of **Five Million Six Hundred and Forty-Eight Thousand Four Hundred and Eighty Dollars and Eighty-Eight Cents (\$5,648,480.88).**
5. Attorneys' costs awarded in the sum of **One Hundred and Fifty Thousand Dollars (\$150,000.00).**
6. Claimant's attorney to prepare, file and serve the Judgment herein.