



[2024] JMSC Civ. 144

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE CIVIL DIVISION

CLAIM NO. 2017 HCV 02343

BETWEEN	FRANKLIN ARBOINE	1ST CLAIMANT
AND	KIMBERLY ARBOINE	2ND CLAIMANT
AND	JASON WILLIAMS	1ST DEFENDANT
AND	MOSES WILLIAMS	2ND DEFENDANT
AND BETWEEN	JASON WILLIAMS	1ST ANCILLARY CLAIMANT
AND	MOSES WILLIAMS	2ND ANCILLARY CLAIMANT
AND	FRANKLIN ARBOINE	1ST ANCILLARY DEFENDANT
AND	KIMBERLY ARBOINE	2ND ANCILLARY DEFENDANT
AND	JAIME ROBERTS	3RD ANCILLARY DEFENDANT

IN OPEN COURT

Mr. Leonard Green and Mr. Nyron Wright instructed by Chen Green and Co. Attorneys-at-Law for and on behalf of the 1st and 2nd Claimants/1st, 2nd, and 3rd Ancillary Defendants.

Mr. Mark Cowan instructed by Nunes Scholefield DeLeon and Co. Attorneys-at-Law for and on behalf of the 1st and 2nd Defendants/1st and 2nd Ancillary Claimants

July 8-9, 2024 and December 17, 2024

Trial – motor vehicle accident – liability – negligence

MOTT TULLOCH-REID; J

BACKGROUND

- [1] A motor vehicle accident occurred in the wee hours of the morning on February 12, 2017. The accident occurred on Constant Spring Road in the parish of Saint Andrew in the vicinity of Springvale Avenue. It involved an Audi Q5 which was being driven by the 3rd Ancillary Defendant and a Mercedes Benz being driven by the 1st Defendant/1st Ancillary Claimant. Neither party has accepted responsibility for the accident and so the issues of liability and damages payable are before me for consideration.

Claimant's case

- [2] The Claimants are the owners of the Audi Q5. At the time of the accident, the motor vehicle was being driven by the 3rd Ancillary Defendant who was the boyfriend of the 2nd Claimant. He gave evidence on behalf of the Claimants. Mr Roberts' evidence as set out in his witness statement is that he is a music producer. On the morning of the accident, he was coming from an event and was travelling with three passengers. He was travelling on Constant Spring Road towards Manor Park. When he got to the stop light at Merle Grove High School, he stopped. When the light turned to green, he proceeded through the light in front of a green motor car. On approaching the vicinity of Spring Vale Road, he slowed down and put his right indicator on as he intended to turn into Spring Vale Road. He was directly across from Phil's Hardware. He positioned himself in the centre of the road to turn right. As he was about to make the right-hand turn, he heard the sound from the engine of a vehicle coming behind him, then heard a boom and the vehicle collided into the rear of the vehicle he was driving.
- [3] The door on his side was damaged and he was unable to open it and so a friend who was travelling in another vehicle had to open it for him. When he stepped out of the Audi Q5, he saw a dark coloured Mercedes Benz SUV. There were about

7 people in the car (six girls and the driver, who is the 1st Defendant). A car came and took the girls away.

- [4] Police officers came on the scene and said they were going to administer a breathalyser test. The 1st Defendant refused to take it. He admitted he was the party at fault. Later however that tune changed, and the owners of the Mercedes Benz said each party should bear the responsibility of fixing their respective motor vehicles. Mr Roberts said he did not agree with that position as he did not cause the accident and the Audi Q5 had been severely damaged because of the actions of the 1st Defendant in his operation of the Mercedes Benz.

Cross-examination of Jaime Roberts

- [5] In cross-examination, Mr Roberts said he had the vehicle from the day before the accident. He had collected it from his girlfriend's residence. He had no set time to return it as he drove the vehicle from time to time. To Mr Cowan's statement that prior to the collision he was at a party, Mr Roberts said he was at a work event in Trench Town in celebration of Bob Marley. He left the party sometime after 3am and headed to his studio. It took some time to leave the party venue.
- [6] Mr Roberts said that when he stopped to turn on to Spring Vale Road, there was another vehicle behind him. He said he had given that information in his Witness Statement but when shown the Witness Statement, he could not identify within the document where he had said so. When it was put to him that there was a vehicle behind him when he was stationary waiting to make the turn was absent from his witness statement because it was not so, he agreed. Mr Roberts also agreed that he did not see any cars approaching from behind. He said he checked his rear-view and side mirrors while he was stationary waiting to turn. Mr Roberts did not agree that had he checked his mirrors he would have seen the Defendant's motor vehicle. He was adamant that he had checked his mirrors but had not seen the

Benz. He agreed that he did not say in his Witness Statement or in the statement he gave to the loss adjuster, that he had checked his mirrors.

[7] Mr Roberts was shown Figure 18 in Exhibit 3, the report prepared by Advanced Insurers Adjusters. He agreed that Figure 18 was an accurate illustration of the point of the collision and the roadway on which the collision took place. He agreed that the accident took place in the right southbound lane. He did not know when the Benz entered the right southbound lane as he did not see it behind him. He said his car entered the right southbound lane before the Benz did and disagreed with Mr Cowan's suggestion that the Benz had entered the southbound lane while his vehicle was stationary in the northbound lane. He agreed that in order to make the turn his vehicle would have to lie in a horizontal position across the southbound lane. However, when shown Figure 18 and asked if he agreed that the Q5 was not in a horizontal position but in a diagonal position, he responded by saying "*That is what they drew*". When it was put to Mr Roberts that his vehicle was not in a horizontal position right before the accident, he disagreed. When it was suggested to Mr Roberts that his vehicle was in a diagonal position because he had just started to make the turn on to Spring Vale he disagreed.

[8] Mr Roberts agreed that the point of impact was the right rear corner of the Q5. He was unable to say how long he was stationary before he began making the turn but disagreed that it was more than 3 minutes. He said vehicles passed him coming down from the direction of Manor Park. He admitted that he did not take a breathalyser test after the accident because he also refused to do so. He said that the first time he saw the Benz was after the accident when he came out of his motor vehicle. He also disagreed with the suggestion that the headlights of the Benz were on because he did not see them in his rear-view mirror. He disagreed with the suggestion that he did not see the headlights because he failed to check his rear-view and side mirrors. He also disagreed with the suggestion that the accident happened because he turned suddenly into the pathway of the Benz. He

did not agree with the suggestion that the reason the accident happened was because he failed to consider whether any vehicles were coming behind him. He said he had checked.

Re-examination

- [9] In re-examination Mr Roberts spoke of a green Nissan motor vehicle which was positioned in the middle lane at the intersection of Dunrobin and Constant Spring Road at the traffic light. He indicated that his motor vehicle was in the right lane.

Defendant's case

- [10] Mr Jason Williams was the sole witness on behalf of the Defendants. His evidence is contained in his Witness Statement filed on October 1, 2020. He said he was driving the Mercedes Benz along Constant Spring Road heading towards Mannings Hill Road. His headlights were on and there were no other cars on the road. There were four persons travelling with him. When he got to the intersection of Constant Spring Road and Dunrobin Avenue, he stopped in obedience to the traffic light which was showing red. His car was in the middle lane and his was the only car waiting to go through the light.
- [11] While he was stationary at the stop light, he noticed a car stationary ahead of him in the left lane. It had been there for some time and was directly across from Springvale Avenue, in the vicinity of Phil's Hardware. When the lights turned to green, he proceeded through the intersection and as there were no cars coming from the opposite direction, he put on his right indicator, positioned his motor vehicle in the lane to the right of the lane in which the SUV had stopped to pass. He blew his horn and sped up to pass and that is when the Q5 suddenly and without warning turned right across his path. Mr Williams said he was unable to

swerve from the Q5 as he was too close, but he applied his brakes and blew his horn.

[12] The result of the collision is that the left front section of his vehicle collided with the back right section of the Q5. Mr Williams informed the Court of the structural damage to his motor vehicle as well as the sums he had to pay to have the vehicle towed and to obtain Assessor's reports and other documents to support his case.

[13] His evidence is that he was not distracted or tired on the morning in question. He says it is Mr Roberts who was negligent in his handling and operation of the Q5 as he turned across his path when it was unsafe to do so.

Amplification

[14] Mr Williams denies having had any alcoholic beverages to drink between Saturday and Sunday. He also said he did not refuse to take a breathalyser test. He said he was not asked to take one. He said there were no vehicles behind the Q5 when he saw it from the stoplight. He said he did not see any indicator flashing on the Q5 at any point in time. He said when he just entered the right southbound lane, the Q5 was not in that lane, it was in the northbound lane.

Cross-examination Mr Williams

[15] In cross-examination Mr Williams said he saw the Claimants' motor vehicle when he was stationary at the traffic lights at the intersection of Constant Spring and Dunrobin Road. He said the Q5 was about 200m away from him. He saw the back lights of the vehicle. He said the distance from the traffic lights to Spring Vale Road is approximately 150m. He said the Q5 was positioned in the left northbound lane when he saw it. He did not think the collision was a major one. He said the

vehicles hit. He disagreed that his vehicle hit the Q5. He agreed that the collision caused the Q5 to move directly off the road over to a right fence. He said the collision moved the Q5 approximately 5 metres.

- [16] At Mr Green's suggestion that he was driving his motor vehicle at a fast speed just before the collision, Mr Williams said he was driving at 55km/hr because he had sped up to overtake the Q5. He said he was not able to swerve from the vehicle although he had seen it 180m in the distance because the Q5 turned suddenly in his path. He disagreed that it was his speed which caused him to not avoid a rear collision. He disagreed that he was not careful in his approach of the vehicle that was stationary ahead of him. He said he blew his horn, indicated and followed all the road codes. He disagreed with the suggestion that he and his parents said each party should bear their own costs to repair the damaged vehicles. He also said he had no conversation with Mr Roberts concerning who was at fault.

Re-examination

- [17] Mr Williams said prior to speeding up to 55km/hr to overtake the Q5 he was travelling at 30km/hr.

- [18] Agreed items of Special Damages and Documents

i.	Loss of Use	\$ 240,000
ii.	Claimant's wrecker fees	\$ 28,000
iii.	Claimant's costs of assessment reports	\$ 12,000
iv.	Cost of Claimant's police report	\$ 3,000
v.	Total loss of vehicle	<u>\$ 4,050,000</u>
	Total (Claimant)	\$4,333,000
vi.	Loss of Use Defendant	\$ 240,000

vii.	Defendant's wrecker fees	\$ 12,500
viii.	Defendant's costs of assessment reports	\$ 12,440
ix.	Total loss of Defendant's vehicle	<u>\$3,280,000</u>
	Total (Defendant)	\$3,544,940

Exhibits

i.	Mendez Livingston Report	Exhibit 1
ii.	Report Auto Assessors	Exhibit 2
iii.	Report Advanced Insurance Adjusters	Exhibit 3

Submissions on behalf of the Defendants

[19] Both oral and written submissions were allowed. Written submissions were confined to evidence raised solely in cross-examination. As the Defendants called a witness on his case, Mr Cowan was permitted to make submissions on behalf of his client first. He began by relying on the case of **Challoner v Williams and anor [1975] 1 Lloyd's Report 124,126** in which Lord Justice Megaw said that he would not disagree with the view that

"...one who is minded to turn his car across the road has got a duty, and a high duty, of care to traffic that may be using that part of the road and may be inconvenienced or put in danger by the manoeuvre of a car turning across. That applies both to traffic coming in the other direction, with which one would normally primarily be concerned and also with the possibility that someone may be seeking to pass the turning car, travelling in the same direction."

Mr Cowan is of the view that the 1st Defendant was not negligent in his use of the roadway but that it was Mr Roberts who was negligent because when he proceeded to turn the motor vehicle across the roadway, he had a duty to persons travelling in the same direction who would wish to pass his turning car.

[20] He also argued that alleged breaches of the Road Code are not determinative as to questions of negligence and that questions of negligence are highly fact sensitive. He relies on the case of **Leighton Samuels v Leroy Hugh Daley [2019] JMCA Civ 24** in which the principle as set out in the case of **Powell v Phillips [1972] 3 All ER 864** was confirmed. Mr Cowan has asked this Court to adopt the recommendation which Foster-Pusey JA had made in the **Leighton Samuels case** as to how a trial judge should approach cases where the Road Code was breached but negligence is also in issue. Some of the questions the trial judge was to ask herself are:

- a. Did the [respondent] put on his indicator and check his rear-view mirror before executing the turn?
- b. Was the [motor vehicle] stationary at the time the [appellant] began to overtake it?
- c. Where was the [appellant] positioned immediately before the [respondent] began to execute the turn?
- d. Where was the [motor vehicle] positioned in the roadway when the collision occurred?
- e. Where was the point of damage on the [motor vehicle]?
- f. Whose account of how the accident happened was more credible?

[21] Mr. Cowan submits that the Claimants have led no evidence as to the speed that the Defendant was travelling at. The only evidence as to speed came from Mr Williams, who said he was going his fastest at 55km per hour when he was overtaking the Q5. Mr Roberts said he pressed the gas pedal before the collision. The place the vehicle rests after the collision cannot be a determinant of speed. In addition, Mr Roberts did not check either his rear or side mirrors before he made the turn. His evidence is that he heard a sound, but he did not see the Benz before the collision. Exhibit 3 has pictures of the Benz with its headlights on but Mr Roberts said he saw no headlights. At 4:30am the headlights would be on and his

failure to see the headlights meant that Mr Roberts did not take due care and attention to the roadway to see vehicles which were approaching him as he made the turn or waited to make the turn.

- [22]** Mr Roberts' manoeuvre of the Q5 was sudden and without warning. The greater the suddenness the less blame is to be put on the Defendant since he would not have been in a position to prevent the accident. The accident occurred in the right southbound lane and not the left which means that Mr Roberts was early in his manoeuvre. In addition, Mr Roberts' evidence is that Figure 18 of Exhibit 3 is an accurate description of the collision. If the slant of the Q5 is taken into account, then it becomes clear that the Q5 did not straighten up to turn into Springdale and as such it was early in its manoeuvre, and this again demonstrated the suddenness of the turn.
- [23]** Thirdly, argues Mr Cowan, is where the damage was done. The damage was done to back of the Audi and not a direct hit to the side.
- [24]** As to whether Mr Roberts' indicator was on is a matter of credibility. Mr Williams was said to be a truthful witness. He gave his evidence more confidently and fluently. Mr Roberts was forgetful and did not know the answer to many questions. Mr Roberts' evidence is to be seen as unreliable and unhelpful because he just does not know. Mr Williams had a full view of how the accident happened. He was at the stoplight, saw the Q5 ahead of him and the Claimant has brought no evidence to challenge Mr Williams' version of events.
- [25]** Mr Cowan closed his oral submissions by saying that the reconstruction report was not challenged in so far as the measurements and illustrations are concerned but he said that the conclusion as to who caused the accident was challenged.

Claimant's submissions

- [26] Mr Green's submissions were succinct. He reminded the Court that this case was one which involved a claim in negligence. One party acted negligently. The issues of breach and duty were to be considered when examining the manner in which the 1st Defendant drove his motor vehicle to determine if it was that manner of driving which caused the collision. Mr Green submitted that the 1st Defendant had seen the Claimants' motor vehicle some distance ahead of him when he was stationary at the traffic light at the intersection of Constant Spring Road and Dunrobin Road. He therefore had a duty of care to take special precaution when undertaking the manoeuvre to pass a vehicle which had stopped in the road at 3am in the morning.
- [27] He submitted further, that there was unchallenged evidence that the Benz collided into the rear of the Q5. This, he says, swings the pendulum of liability strongly in favour of Mr Roberts. The impact caused the Q5 to spin clockwise and hit the Phils Wall which was on the other side of the road. This means the Benz was not being driven slowly. This was not a mere fender bender. Mr Williams in cross-examination had said he would not describe the accident as major but that the vehicles "*had just hit*". Mr Green said that this was more than a fender bender. Mr Green argued that since the collision was an impactful one, when the pictures were examined and the overwhelming evidence, the reasonable inference that should be drawn is that the driver of the Benz was driving at a high rate of speed.
- [28] He went on to say that based on how the Q5 was impacted, then it must have been angled to make the right turn and that the suggestion that the Q5 turned suddenly into the path of the Benz is not to be accepted as it was inconsistent with the facts of the case. The blowing of the horn, trying to swerve and inability to avoid the accident were more consistent with reckless and careless driving in the wee hours of the morning in question.

- [29] Mr. Green argued that it was more probable that Mr. Roberts had driven his vehicle to a particular point, put on his right indicator and positioned his vehicle to make a right turn when the speeding Benz approached from the rear and made a manoeuvre which caused the Benz to crash into the Q5 and that is where and how liability is to be decided. Mr. Williams did not at any point in his Witness Statement, challenge Mr. Roberts' evidence that he had on his right indicator.
- [30] He ended his submissions by saying that on a balance of probabilities, the Court is to find in favour of the Claimants case that the 1st Defendant was negligent in the operation of his motor vehicle, and it was he who caused the collision. The Court is to enter judgment in favor of the Claimants with cost to them to be taxed if not agreed.

Analysis and Conclusion

- [31] The 1st Defendant's evidence is that there was a single lane of traffic going towards Manor Park on Constant Spring Road. He then goes on to say that when he observed there were no vehicles coming from the opposite direction, he applied his right indicator and positioned his vehicle in the right-hand lane to pass the stationary Q5 that was in the left lane. At the time the accident happened, as the 1st Defendant rightly indicated, there was single lane traffic heading in the direction of Manor Park after crossing the traffic lights at the intersection of Constant Spring Road and Dunrobin Road. Three lanes were at the stop light at Merl Grove High School. One turned left on to Dunrobin Road, the middle lane was expected to proceed towards Manor Park and the right lane could turn back down Constant Spring or continue towards Manor Park where those motorists would merge into one lane with the motorists travelling in the middle lane. There was therefore no left or right lane on the side of the road heading towards Manor Park. There was one lane. If, however, a motorist is intending to make a right turn, it is expected

that that motorist is to position his motor vehicle to the right of the single lane in anticipation of making the right turn. He is expected to so position his car, with his right indicator on and wait until it is safe to make the turn. The 3rd Ancillary Claimant says he was so positioned. The 1st Defendant says this is not true.

- [32] To solve this conflict, the Court must consider the drawings provided by the experts which have been agreed by the parties. I will begin with Exhibit 3 which I shall refer to as the “Thomas Report”. In that report photographs of both the Q5 and Benz after the accident are provided. There is obvious damage to both motor vehicles. Worthy of note is the damage to the Q5. The damage is primarily located to the right rear panel, which according to Mr Thomas, collapsed the frame to as far to the right rear wheel. The deepest area of crush was at a point which was in alignment with the right rear door hinge pillar. This signifies the point of impact. The right rear wheel axle was then pushed into the wheel well. The damage to the Benz indicated that it struck the Audi with its right front section. Its right fender was damaged as was its right side shield and bonnet, and left fender and left side shield among other things. The right front of the motor vehicle collapsed to a depth of approximately 2.49ft which indicates that that part of the motor vehicle bore the brunt of the impact. Also of note, is Mr Thomas’ report that

*“The northbound lane and southbound lanes are separated by a **single solid white line** signifying to motorists a ‘No-Overtaking Zone’”.*

- [33] This is not surprising since, at that time, there were minor roads and business places on the other side of the roadway which motorists heading in the direction of Manor Park, would want to access. It would mean that it would not be safe to overtake at those points of the roadway, in anticipation that a motorist may want to make a right turn on to any minor road or into any business place on the other side of the roadway.

[34] Mr Roberts' evidence as contained in Exhibit 3 is that as he was turning right, he heard a sound like a car speeding up, so he pressed the gas pedal more to speed up to get off the main road. He did not see the vehicle. He just heard it. He tried to get out of the way and then he felt the impact. This evidence is in keeping with the result of the accident. Had Mr Roberts suddenly turned into Mr Williams' motor vehicle, then his right front panel would be damaged, not the right rear and the left front panel of the Benz would be damaged not the right front. Mr Roberts seems to have almost been out of the lane when the Benz collided into the vehicle he was driving. I agree with Mr Thomas' conclusions as contained in the reconstruction report which read as follows:

"the facts established, confirms that the Audi was already in a turned position across the right lane to enter Springvale Avenue when the Mercedes approached from behind and attempted to overtake in an overtaking zone and struck the rear of the Audi. This action was the primary and dominant cause of the accident. The Mercedes driver was solely at fault in the accident."

[35] I am aware of the principle of law as set out in the case of **Powell v Phillips** to which Mr Cowan referred. I accept that breaching the Road Code does not automatically create a presumption of negligence, however failure to observe any provisions of the Road Code may be prima facie evidence of negligence (see **Jamaica Omnibus Services Limited v Gordon (1971) 12 JLR 487**). In order to prove a defendant was negligent, the claimant must show that the defendant had a duty to him as a user of the road, the defendant breached that duty and as a result the claimant sustained loss. The question this Court must answer is whether the 1st Defendant in overtaking the 3rd Ancillary Claimant as he was in the process of making a right turn was negligent? Did the 1st Defendant attempt to make that manoeuvre when it was unsafe to do so?

[36] **Bourhill v Young [1943] AC 92** establishes the principle of law which states that a driver of a motor vehicle on the road has a duty to take care not to cause damage

to other road users (including other motorists) or to their property. In order to do this, the driver must keep a proper lookout (see **Almon v Jones (1974) 12 JLR 1474**) and avoid excessive speed. He must reduce his speed in order to manoeuvre his vehicle in the case of emergencies. Lord MacMillan expressed the duty of care as follows:

“Proper care connotes avoidance of excessive speed, keeping a good lookout, observing traffic rules and signals and so on. Then to whom is the duty owed question sign again I quote and accept the words of Lord Jameson:

‘... to persons so pleased that they may reasonably be expected to be injured by the omission to take such care.’

The duty to take care is the duty to avoid doing or omitting to do anything the which may have as its reasonable and probable consequence injury to others and the duty is so to those to whom injury may reasonably and probably be anticipated if the duty is not observed.”

- [37] One of the rules of the road for overtaking in Jamaica is that the motorist is not to overtake at intersections. Overtaking is not permitted at intersections, road junctions, curves, bends or the brow of a hill. An intersection is a place at which two roads intersect. It would therefore be negligent for a motorist to attempt to overtake at a point in the roadway where two roads intersect especially at a point in the road where a motor vehicle was positioned to make a turn.
- [38] Based on the damage, which was done to both motor vehicles, I do not accept the 1st Defendant’s evidence that the Claimant was not positioned to make a turn on to the Springvale Avenue. I find instead that when the 1st Defendant attempted to overtake the Claimants’ motor vehicle at that point of the road, especially on a point of the road that was marked with an unbroken white line, he did not keep his duty of care to the Claimants in mind and as a result he breached that duty of care which he owed to them, thus causing the accident which led to the Claimants suffering loss and damage.

[39] The 1st Defendant's evidence is that he was travelling initially at 30km/hr then when he attempted to overtake the motor vehicle, he sped up to 50km/hr. I will comment on two things. I am not convinced that at that time of the morning the 1st Defendant would be travelling in a Mercedes Benz motor car at 30km/hr and then sped up to 50km/hr to overtake the Q5. I believe that I am correct in coming to that conclusion based on the extent of the damage caused to both motor vehicles. The impact at the point of the collision pushed the Q5 to the other side of the roadway so that it collided into the Phils Wall. Had the Benz being travelling at a slow or reasonable rate of speed, the damage would not have been as extensive, and the Q5 would not have travelled over that distance when impacted. I agree with Mr Green that this was not a fender bender. I do not accept Mr Williams' description of the accident as being "just a hit." It was more than "just a hit" and the extent of the damage to both cars and where the Q5 ended after the collision, speaks to the fact that the Benz must have been speeding on the morning in question.

[40] I find that on the facts of this case and the evidence before me, that Mr. Roberts' account of how the accident occurred was the more credible account as it coincides with the evidence contained in the expert report of the adjuster, Mr Peter Thomas. In addition, even without that evidence, based on the damage to both motor cars, as I have stated in paragraph 32 above, if Mr Roberts had turned suddenly on Mr. Williams, then the right front of the Audi would be damaged and not the right rear panel. I find that the 1st Defendant did not take due care in the operation of his motor vehicle when he attempted to overtake the Q5, and I find that he was speeding on the morning in question. He was negligent in the operation of his motor vehicle and is solely liable for the damage to property and loss suffered by the Claimants as a result of the collision.

Damages

[41] As per the agreement made by the parties at the start of the trial Damages are assessed as follows:

a. Loss of Use of Motor vehicle	\$ 240,000
b. Wrecker fees	\$ 28,000
c. Cost of Assessment Damage Reports	\$ 12,000
d. Cost of police report	\$ 3,000
e. Loss of Vehicle	<u>\$4,050,000</u>
Total	\$4,333,000

[42] Conclusion

- i. Judgment is granted in favour of the Claimants/Ancillary Defendants against the Defendants/Ancillary Claimants.
- ii. The Defendants/Ancillary Claimants are to pay the Claimants, Special Damages in the amount of \$4,333,000 plus interest at 3% per annum from February 12, 2017 to December 17, 2024.
- iii. The Defendants/Ancillary Claimants are to pay the Claimants/1st, 2nd and 3rd Ancillary Defendants costs, which are to be taxed if not agreed.
- iv. The 1st and 2nd Claimants/1st, 2nd and 3rd Ancillary Defendants' Attorneys-at-law are to file and serve the Judgment.

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T. Mott Tulloch Reid
Puisne Judge