



[2026] JMSC Civ. 22

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

CIVIL DIVISION

CLAIM NO. SU2013 HCV00749

BETWEEN Constantine Richards CLAIMANT

AND The Transport Authority 1st DEFENDANT

AND The Attorney General of Jamaica 2nd DEFENDANT

Raymond Samuels, instructed by Samuels and Samuels, for the claimant.

Nicholai Bedassie and Janoi Pinnock, instructed by the Director of State Proceedings, for the defendant.

Heard: January 12, 2026 and February 13, 2026

Claim for detinue, conversion, negligence, assault and battery- Claimant operating his vehicle unlawfully – Elements of torts claimed for – Whether claimant met his burden of proof – Section 33 of the Constabulary Force Act

ANDERSON K. J

[1] The claimant filed this claim on February 8, 2013 and by agreement between the parties, an amended particulars of claim was filed on December 18, 2025.

[2] The claimant has claimed against the defendants, for damages for detinue, conversion, assault and battery and negligence and wrongful interference with goods.

Claim for damages for detinue and conversion

[3] As regards the claimant's claims for detinue and conversion, both of those claims, must fail. They must fail because both of those claims require the Claimant to prove, on a balance of probabilities, that there was an unconditional demand for the return of the relevant motor vehicle to him and that there was a refusal, after a reasonable time, to comply with such demand. In that regard, see: **Kirk Lofters & The Attorney General of Jamaica & Deputy Superintendent Cleon March – Claim No. 2006 HCV01625, at paragraph 14; and Clerk & Lindsell on Torts, 16th ed. (1989), at paragraphs 22-24 – 22-32; and Carl Brown & The Attorney General of Jamaica and anor. [2013] JMSC Civil 151, at paragraphs 21 & 22 & 37 & 38.**

[4] In this case, there was no evidence whatsoever led that the claimant had ever made an unconditional demand to any crown servant or agent, or to the Transport Authority for his vehicle to be returned to him.

Burden and standard of proof

[5] As regards the claimant's claims for damages for negligence & assault and battery, just as with respect to the entirety of his claim, it was the claimant that had the burden of proof and the standard of proof that was to have been not by him, was proof on a balance of probabilities.

Claim for damages for negligence

[6] This court has applied the law in the renowned case of **Donoghue v Stevenson [1932] AC 562**, as to the elements of the tort of negligence.

[7] According to the claimant, there was no reasonable and/or probable cause for the seizure of his vehicle by police personnel, acting in collaboration with personnel from the Transport Authority at the relevant time. The claimant has not disputed the defendants' evidence on a particular matter of fact, which was provided via their witness

who was a Senior Route Inspector at the time of her testimony, names Claudia Campbell. At the material time – February 27, 2007, the said Ms. Campbell was then a Route Inspector employed by the Transport Authority and she was one of the members of the Transport Authority who were involved on the relevant occasion, in the work which resulted in the claimant's vehicle having been seized.

[8] That particular matter of fact is that one Inspector L. Barnes was along with Ms. Campbell and others, on that work operation, which led to the seizure of the Claimant's vehicle. Additionally, it was the Claimant's own evidence, in answer to the question which was asked of him, during his examination in chief evidence, which was permitted to have been provided to this court by him orally, since the Claimant is literacy challenged, that being: *'Did they tell you why they were seizing your vehicle?'* to that query, the Claimant promptly responded: *'Dem seh me a run robot.'* This court has taken judicial notice that the Jamaican phrase, *'run robot'* is often used in Jamaica by Jamaicans and is well known as meaning that one is using a private vehicle to operate as though it is a licensed public passenger vehicle, even though that is not so. The defendants have contended all along, in respect of this claim, that that is precisely the reason why the claimant's vehicle was seized and that at all, material times, the defendants had reasonable and probable cause to seize same.

[9] It should be noted at this time, that in respect of this claim, there is no evidence whatsoever, as regards what has happened to the claimant's vehicle, since it was seized, save and except that after it was seized, it was first then taken to the Transport Authority's office on Maxfield Avenue and thereafter, it was taken to the Transport authority's compound on Lyndhurst Road.

[10] What has happened in respect of the claimant's vehicle, since it was left at the Transport Authority's compound on Lyndhurst Avenue, is that it was sold by the Transport Authority. See para. 12 (iii) of the defendant's joint defence, in that regard. There has been no assertion made by the claimant in his statement of case and no evidence given by either party, even remotely suggesting otherwise.

[11] What is also not disputed between the parties, is that said vehicle has never, since the time of its seizure, been returned to the claimant and furthermore, the Claimant has never made any unequivocal demand for same to be returned to him. He has neither done so, orally or in writing, whether by himself or by anyone else acting on his behalf in that regard, bearing in mind that as earlier stated, the Claimant is admittedly, literacy challenged.

[12] Thus, this court is now left to consider whether the defendants acted negligently in having seized the claimant's vehicle.

[13] Of course, in considering the claim for damages, for negligence, this court has applied the law as regards the elements of the term of negligence, as set out in **Donoghue v Stevenson** (op.cit) and as carefully distilled, over time, in several cases, emanating from England and Jamaica.

[14] **Section 13 (1) (b) and (2) (a) (v) of The Transport Authority Act** specify that an, *'Inspector or a Constable may at any time stop and inspect any vehicle which he reasonably suspects is operating as a public passenger vehicle contrary to relevant road traffic enactments'* and that, *'An Inspector or a Constable shall have power to seize any vehicle which is being operated or used as a public passenger vehicle without a licence issued for such operation or use.'*

[15] On February 27, 2007, when the Claimant's vehicle was seized, the Road Traffic Act (as it then was), provided that where a Constable or an Inspector designated as such under the Transport Authority Act has reasonable cause to believe that a person has used or caused or permitted a vehicle to be used in contravention of Section 61, the Constable or Inspector may seize the vehicle. **Section 61 (i) of that Act** (as it then was), provided that, *'no person shall use or cause or permit a motor vehicle to be used on any road as a public passenger vehicle unless he is the holder of a licence... to use it as a vehicle of that class in accordance with the provisions of this part ..'* These legal provisions are, in effect, the same as will be referred to in the Transport Authority Act, further on, in those reasons.

[16] In this case, the claimant gave evidence that he was a mechanic and was a mechanic at the time when his vehicle was seized. According to him, he would use his vehicle to go to where he needed to carry out his work as a mechanic. However, he also gave evidence that on the relevant day when his vehicle was seized, he was picking up unknown persons in his car. He had, he admitted, picked up one student. He gave no evidence whatsoever, as to why he picked up that student and had her be driven by him, in his vehicle. According, to his evidence, that student was unknown to him. Why then, did he stop his vehicle and allow her to be driven by him, in his vehicle? He has provided to this court, no explanation for that. When asked by lead defence counsel, the question: *'You just randomly pick up students that you don't know?'* The claimant's response was telling: *'Just one student.'* That was a telling answer, because it makes it clear to this court that the claimant wants this court to believe that he randomly picked up this student on the relevant occasion and dropped her off at Rose Town. I do not believe the claimant's account, in that regard.

[17] Instead, I believe the account which was provided to this court, by Ms. Claudia Campbell, who was, on February 27, 2007, a Route Inspector employed by and working with the Transport Authority. Her evidence was that she saw the claimant collect a student who was clad in a blue tunic and a white blouse, into his vehicle, when his vehicle was then situated in the vicinity of the Chinese Cemetery and driving along while being followed by police and Transport Authority personnel, of whom she was one, who were then driving along, in two separate vehicles. It is clear to me that at that stage, the claimant did not realize that he was being followed by those vehicles and that his activities while in his vehicle, were then being closely observed by at least one of the persons in those two vehicles which were then following him, namely: Claudia Campbell, who was then a Route Inspector and is now a Senior Route Inspector, employed by the Transport Authority.

[18] I have accepted Ms. Campbell's evidence, in its entirety. She appeared credible and the account which she has given, of the disputed facts in this case, is far more credible than was the claimant's account of same. Ms. Campbell gave evidence that she saw one student enter the claimant's vehicle on the relevant occasion, after having

signalled by having stretched out her hand and moved it upwards and downwards. Later on, Ms. Campbell saw a student who attended St Andrew Technical High School alight from the claimant's vehicle and handed the driver who was then the claimant, what appeared to be paper money, whereupon, in turn the claimant threw some coins in her hand. She also gave evidence that she saw the claimant while driving the said vehicle, stop same on Waltham Park Road, in the vicinity of Woodpecker Avenue and pick up a woman there, who entered his vehicle and sat in the front passenger seat of same. She was clad in a yellow top and jeans pants and after having picked her up there, the claimant would have driven away his vehicle from there, while tooting his horn and with his finger pointing in the same direction. According to the said Ms. Campbell's account of the relevant events, while she was travelling in a vehicle that was then following and therefore, behind the vehicle which the claimant was admittedly driving that day, that being a vehicle which admittedly, according to the claimant, was not then licensed as a public passenger vehicle, the claimant slowed down his vehicle, in the vicinity of the Chinese Cemetery. At that time, a student who was then wearing a blue tunic and white blouse, was seen by Ms. Campbell, to have stretched out her hand in an upward and downward movement, at which time, the claimant's motor vehicle stopped and the student then entered the claimant's vehicle the speed off, going in and out of traffic.

[19] The claimant's vehicle eventually entered onto Spanish Town Road in the vicinity of Rose Town, the claimant stopped his vehicle. A student who then attended the St. Andrew Technical High School then alighted from the claimant's vehicle and handed to the claimant what appeared to be paper money, whereupon, the claimant in turn, then threw some coins in her hand. It was then, that the vehicle in which Ms. Campbell was then seated along with an Inspector of Police and at least one other Transport Authority employee, who would then have been the driver of the unmarked vehicle that Ms. Campbell was in, throughout the relevant events, seated within, pulled to the side of the claimant's motor car, at which time, Inspector of Police – Inspector Barnes, gave to the claimant, a clear instruction to pull to the left the roadway. At that time though, instead of having done that, he drove away from that location, by having sped off.

[20] According to the claimant, he did that at that time, because he wanted to avoid harm to himself that he thought, at that time, could be caused to him, by persons in unmarked vehicles, which he realized were then following his vehicle, in the vehicles that those persons following, were then in.

[21] Notably though, there was uncontradicted evidence given at trial, by the only defence witness – then Route Inspector, Ms. Campbell, that all personnel in the vehicles that were then following the claimant's vehicle, were then dressed in their prescribed uniforms. Why then, wouldn't the claimant have slowed his vehicle and pulled over to the left of the roadway, when his vehicle was in the vicinity of Rose Town, when the Inspector of Police, then in his prescribed uniform, had exited the unmarked vehicle which he was in, as a passenger and directed the claimant to do that ? The claimant's explanation in that regard, defies both logic and common-sense and I have concluded that same is definitely, untrue. In fact, I have concluded that most of the claimant's evidence, particularly, the disputed aspects thereof, were untrue. The claimant drove away from the area where he had been directed by the Police Inspector to pull over and stop his vehicle, because he knew that he was carrying out unlawful activities with his vehicle, in collecting in that vehicle various persons, transporting those persons to various locations for hire, when that vehicle of his was not then licensed to do so. Based on all of that which I have already stated, the claimant's claim for wrongful interference with goods, must and does fail.

[22] Eventually though, in the vicinity of the Denham Town Police Station, the vehicles that the Transport Authority and police personnel were then in, pulled alongside the claimant's vehicle, after having, according to the claimant's account, which I have rejected, fired three (3) gunshots prior to having pulled alongside the claimant's vehicle.

[23] That was what the claimant said, during his examination-in-chief evidence, which was given orally at trial, because the claimant although having provided to this court a certified witness statement in the proper form as required for a witness who is literacy challenged, as is the claimant, nonetheless, because of that challenge of his, would

have been unable to identify his witness statement, at trial. Accordingly, on the application of his counsel, during trial, for the claimant to be permitted to provide his evidence-in-chief to this court orally, this court then permitted same to occur.

[24] While under cross-examination through, the claimant's account of relevant alleged events in that specific respect, changed quite dramatically, in that he then admitted that he never saw any police officer fire their weapon, on that day. According to him, he heard shots fired and saw, *'police service vehicle behind me.'*

[25] Why then did the claimant specifically allege in his amended particulars of claim which he certified as having been read over to him and as stating facts that are true, to the best of his knowledge and belief, at paragraph 4 – as follows: *'On the 27th day of February 2007 the Claimant let off someone from his motor vehicle and was proceeding along Waltham Park Road in the parish of St. Andrew. The servants and /or agents of the 1st Defendant proceeded to follow the claimant and they were joined by Police Officers who illegally fired several shots after the claimant's vehicle in which passengers were present.'*? This court has concluded that, as many liars often do, the claimant sought to exaggerate the relevant events, because he knew that he was lying and therefore, no doubt, felt that he needed to do so, in order to enable his account to appear credible. Regrettably for him, his exaggerations such as the one re the alleged discharge of gunshots by the police personnel, have only served to help this court reach the conclusion that the claimant had lied about the disputed events which are relevant for present purposes.

[26] Ms. Campbell, the Route Inspector at the relevant time, continued to provide to this court, important evidence, which this court has also accepted as being true.

[27] She further testified that after the claimant's vehicle had finally stopped and had three vehicles then alongside it belonging to police, the Transport Authority, that she then observed that the female who had entered the claimant's vehicle in the vicinity of Woodpecker Avenue, had alighted from the claimant's vehicle, whereupon, she then began behaving in a boisterous manner, slammed the car door and threw what appeared to be a hundred dollar (\$100) note. At that time, Inspector Barnes approached

the driver and although she did not hear what Inspector Barnes then said, she then heard the claimant shouting '*fi wah, fi wah.*' The claimant then gave his name and address and he was warned for prosecution for operating his private motor car as a public passenger vehicle without having the required road licence to do so. The claimant's vehicle was then seized and taken to the Pound, by a wrecker.

[28] The claimant gave to this court, quite detailed evidence during examination-in-chief as well as cross-examination, as to any person or persons who were in his vehicle during the time when he was driving said vehicle on the road that day, prior to his having been warned for prosecution and his vehicle having been seized and taken to the Pound. The claimant also provided to this court, background information as to what use he usually used his vehicle to do, at the relevant time.

[29] According to his account in that regard, he is a vehicle mechanic and he would use that vehicle of his, which was a Toyota Corolla motor car with licence plate No.9358 DP, to do his service work, that is, driving around and if anyone called him to do mechanic work, he could then use that vehicle of his, to go to them. Nonetheless, the claimant gave no evidence whatsoever, that on the relevant occasion when he was being followed, by other vehicles in which there were then, Transport Authority and police personnel vehicles, he was then headed to any particular client, or intended client of his, at any particular address, or even that he was then driving his vehicle for any other specified reason. That lack of evidence is, to my mind, quite revealing. It revealed that the claimant was lying to this court.

[30] According to the claimant, during his examination-in-chief evidence, while he was driving his vehicle along Waltham Park Road, a Toyota Kingfish vehicle then came beside his vehicle and tried to stop him. At that time, there was, he testified, one schoolgirl in his vehicle. Of course, as I have already recounted of the evidence, the claimant did not stop his vehicle at that time, but instead, drove away from there.

[31] The claimant was asked by his counsel, during his examination-in-chief evidence, the question: '*How did that person get into that vehicle?*' (Question asked in

respect of the said school girl). The claimant's answer was as follows: *'Coming down the road and seeing true me coming down the road.'*

[32] The claimant did not, even in the slightest, try to provide to this court, any reason at all, as to why he collected that schoolgirl into that vehicle of his, on the relevant occasion. The claimant did though, testify that he did not know the student that he had allowed to enter and remain in his vehicle on that occasion, which was a time when he was driving said vehicle. I have therefore concluded that on the relevant occasion, contrary to his evidence before this court, the claimant was utilizing his vehicle, as though it was a licensed public passenger vehicle which was lawfully able to collect and transport passengers to their desired locations thereafter and that he did so, at a cost for each passenger.

[33] That no doubt, is why, during his cross-examination evidence, the claimant when asked the straightforward question: *'Do you agree with me that you were picking up unknown persons in your car, on that day?'* answered 'Yes,' in response to that question.

[34] Later on, during his cross-examination evidence, the claimant gave evidence, that the only person that he picked up, in his vehicle, on that relevant occasion, was one student. Remember though as earlier quoted, that claimant had asserted in his amended particulars of claim, which was filed in January 13, 2026, just exactly as he had long before then, in his original particulars of claim, also at paragraph 4 thereof, that when he was driving along Waltham Park Road on that occasion, passengers were then present in his vehicle.

[35] The claimant, in this court's considered view therefore, even as to whether he had, on the relevant occasion, one, or more than one passenger in his vehicle, also lied. I believe that the claimant had passengers in his vehicle, throughout the time or at least, on various occasions, while his vehicle was being trailed by other vehicles, on the relevant day.

[36] The next question that needed to have been answered by this court nonetheless though, is whether on the relevant occasion, the crown's servants or agents acted with lawful authority when they detained and thereby, seized the claimant's vehicle? I am of the view that they did indeed act with lawful authority in having done so.

[37] **The Transport Authority Act**, coupled with that which is the law as regards what constitutes, '*reasonable suspicion*,' provide, in the particular context which is relevant in this particular case, that lawful authority. **Section 13 of The Transport Authority Act** which is an Act of Parliament that has been in existence since as of 1986 and which was last amended in 2005, sets out the several bases for the stopping of a vehicle, the inspection of a vehicle and the detention and seizure of a vehicle and the basis for the sale of a vehicle and specifies who are the categories of persons or governmental entities/authorities, that can do each of same.

[38] For the sake of brevity, for present purposes, I will refer to the relevant portions of **section 13 of The Transport Authority Act**; but before doing so. It should be noted that in **section 13**, where reference is made to '*Inspector*' or '*Constable*,' such quoted terms are referring to a Route Inspector employed under the Transport Authority Act as being an, '*Inspector*' and a police officer, being a, '*Constable*.' See **sections 2 and 12 of The Transport Authority Act** and **section 2 of The Interpretation Act** in that regard. In the present case therefore, the Inspector of Police who was in the Transport Authority's unmarked vehicle, along with the then Route Inspector, who is now employed by the Transport Authority as a Senior Route Inspector, namely: Claudia Campbell, is to be considered for the purposes of the Transport Authority Act, as being a, '*Constable*.'

[39] **Section 13 (1) (b) of The Transport Authority Act** specifies that: '*An Inspector or a Constable may at any time stop and inspect any vehicle which he reasonably suspects is operating as a public passenger vehicle contrary to the relevant road traffic enactments.*'

[40] There was no evidence given at trial, whether by means of hearsay or direct oral evidence from him, by Inspector Barnes. It was Inspector Barnes who stopped the

claimant while the claimant was driving his vehicle. So the first question now is: Did Inspector Barnes have, at the relevant time, reasonable cause to suspect that the claimant was then operating his vehicle as a public passenger vehicle without the requisite road licence which would have served to legally authorize him to do so. I have drawn the reasonable inference from the proven facts, that Inspector Barnes had reasonable cause to so suspect.

[41] The next question is: What is reasonable cause to suspect? In answering that question, I have relied on the text: **Clerk & Lindell on Torts, 20th ed. (2010)**, in which the learned authors have stated as follows, at paragraph 15-69: *‘Reasonable grounds for suspicion are not to be equated with prime facie proof of guilt, as the former may properly being based on matters which would not be admissible in evidence ... the test is simply whether in, all the circumstances the objective information available to the constable supports reasonable grounds for suspicion of guilt. .. there is no general or absolute rule that a constable must make all practicable inquiries to confirm or dispel his suspicions before making an arrest.’* In that regard, see: **Dumbell v Roberts [1944] ALL ER 326, at 329.**

[42] **Section 13 (2) (v) of The Transport Authority Act** provides that, *‘An Inspector or a Constable shall have power to seize any vehicle which is being operated or used as a public passenger vehicle without a licence issued for such operation or use.’*

[43] The claimant’s counsel has, in written and oral submissions made to this court, prior to the trial’s commencement and during the trial, respectively, made much of the undisputed fact that although the claimant was admittedly warned for prosecution for operating his private motor car as a public passenger vehicle without the required road licence to do so, nonetheless, the claimant was never actually criminally charged with any offence related to such then alleged, unlawful usage of his private motor car. In reality though, the fact that the claimant was not criminally charged is of absolutely no relevance to the question which must be answered by the court, at this stage, which really is: Did the, ‘Constable’- Inspector Barnes, have reasonable cause to suspect that the claimant was, at the relevant time, operating or using his private motor car as a

public passenger vehicle without a licence issued for such operation or use? If he did, then he would have had lawful authority to seize the claimant's motor car, which was exactly what he did.

[44] As earlier stated by this court, in those reasons, it is the considered view of this court, that such reasonable cause for suspicion did exist in the mind of Inspector Barnes at the relevant time. Thus, the seizure of the claimant's vehicle, was lawfully, carried out by the crown's servants or agents.

[45] **Section 13 (3) (c) of The Transport Authority Act** provides that: *'Where under this section a vehicle is seized – if the vehicle remains in the possession of the police or Authority for more than six months the vehicle may subject to such conditions as may be prescribed under the Road Traffic Act, be sold by the police or the Authority to recover – the cost of storage.'*

[46] In the defendant's defence, the defendant alleged that the claimant's vehicle was sold by the Transport Authority in or around November of 2008. The claimant led no evidence at trial, suggesting otherwise and additionally, filed no reply to the defendant's defence. In the circumstances, I have accepted the uncontracted assertion as made in paragraph 12 (iii) of the defendant's defence, that the claimant's vehicle was sold by the Transport Authority – which it should be noted, is the, *'Authority'* referred to, in **section 13 (3) (c) of The Transport Authority Act**, in or around November of 2008 – that having, it should now be carefully noted, been done, nearly twenty-one (21) months after the claimant's vehicle was seized and within a context wherein there had been reasonable cause for the seizure of same and the claimant had made no demand whatsoever, to either the police or the Transport Authority, for his vehicle to be returned to him, which is exactly why, in and of itself, the claimant's claim against the defendants for detinue and conversion and unlawful interference with goods cannot and will not, succeed. The other reason though, why the claimant's claims for detinue and conversion and wrongful interference with goods cannot and will not succeed, is because the claimant's vehicle was detained and eventually sold, with lawful authority, pursuant to the cited provisions of the Transport Authority Act does also, fail.

The elements of a claim for damages for negligence and Res Ipsa Loquitur

[47] There are four (4) elements of the tort of negligence and each of those elements needed to have been proven by the claimant to the requisite standard, that being proof on a balance of probabilities, in order for this court to have been properly able to determine that said tort has been duly proven.

[48] Those four (4) elements are as follows (i) The existence in law of a duty of care situation, in other words, there has to be recognition by law that the careless infliction of the kind of damage in question on the class of person to which the claimant belongs, by the class of person to which the defendant belongs, is actionable.

(ii) Breach of the duty of care, by the defendant, i.e. that he failed to measure up to the standard set by law.

(iii) A causal connection between the defendant's careless conduct and the damage.

(iv) That the particular kind of damage to the particular claimant is not so unforeseeable as to be too remote.

[49] It is appropriate at this stage to refer to what is recognized in law, as being nothing other than an evidentiary principle, albeit undoubtedly, an important evidentiary principle, which has been in existence in common law, for over one hundred and fifty (150) years. The claimant is relying in same, in an effort to prove his claim for damages for negligence. He was, in his amended particulars of claim, set out his reliance on same, as one of the specified particulars of negligence of the 1st defendant. The claimant has not specified any particulars of negligence, in respect of the 2nd defendant.

[50] The case of **Scott & London and St. Katherine Docks [1865] 3 H & C 596**, is the first case in which the evidentiary principle of res ipsa loquitur was laid down by a court. As Morris, L.J stated in **Roe v Minister of Health [1954] 2 QB 66, at 87**, '*This convenient and succinct formula possesses no magic qualities, nor has it any added virtue, other than that of brevity, merely because it is expressed in Latin.*' As set out by the learned authors of the text: **Clerk & Lindsell on Torts, 10th ed. 2010**: '*Res ipsa*

loquitur... applies where (1) the occurrence is such that it would not have happened without negligence, and (2) the thing that inflicted the damage was under the sole management and control of the defendant, or of someone for whom he is responsible or whom he has a right to control. If these two conditions are satisfied it follows, on a balance of probability, that the defendant, or the person for whom he is responsible, must have been negligent. There is, however, a further negative condition: (3) there must be no evidence as to why or how the occurrence took place. If there is, then appeal to res ipsa loquitur is inappropriate for the question of the defendant's negligence must be determined on that evidence.'

[51] Considered carefully, within that context, it is apparent that res ipsa loquitur has no applicability to this claim, for two reasons. The first of these reasons, is that the reasons why the claimant's vehicle was seized, detained and eventually sold, are well known to this court. Those reasons have already been addressed, in great detail and thus, need not and therefore, will not be recounted. The second reason why the evidentiary principle of res ipsa loquitur has no applicability to the matter at hand, is because, the detention, seizure and sale of the claimant's motor vehicle, could have occurred without negligence. That is so, because there were, at the relevant time, two sets of statutory provisions, being provisions of **The Road Traffic Act**, which were, after that time, repealed and also, of **The Transport Authority Act**, which are similarly worded, in so far as the relevant portions thereof, for present purposes, are concerned and both of those sets of statutory provisions specifically provided for the detention, seizure and sale of motor vehicles, in particular circumstances. I have already concluded and specified why I reached the conclusion that, in the particular context of this particular claim, the detention, seizure and sale of the claimant's vehicle, was lawful.

[52] It would be for the same reason, as per **section 13 of The Transport Authority Act**, why I do not believe that the claimant has proven his claim for damages for negligence. I agree with the defence counsel's submission that the 1st defendant did not breach its duty of care to the claimant. The 1st defendant seized, detained and sold the

claimant's vehicle, in accordance with the relevant statutory provisions. There was no negligence on the 1st defendant's part, in that regard.

[53] This court has noted that as regards the claimant's claim, against the 2nd defendant, no particulars of negligence have been alleged. Accordingly, I am also of the considered view, that by not having alleged same against the 2nd defendant, in the final analysis that can only properly be taken by this court as meaning that the claimant has actually made no claim in negligence, as against the 2nd defendant. That must be so because, to make a claim for negligence against anyone, the claimant must particularize the alleged negligence of that particular defendant, in the present claim, no such particulars were alleged and therefore, none such were ever provided to either the court, or the 2nd defendant. See **rule 8.9A of the CPR** in that regard and also, the case: **Jacinth Davis and Delroy Reid & anor. [2025] JMSC Civ 97**. Even if I am wrong in having reached that last specified conclusion though, just as with respect to the 1st defendant, I am, in any event, of the considered conclusion that no crown servant or agent breached any duty of care to the claimant in respect of the detention, seizure and sale of the claimant's vehicle. By extension therefore, the 2nd defendant did not breach any duty of care owed to the claimant in either of those respects (i.e detention, seizure and sale of the claimant's motor vehicle).

The claimant's claim for damages for assault and battery

[54] With respect to the claimant's claim for damages for assault and battery, I shall quote from paragraphs 5, 6 and 10 of the claimant's amended particulars of claim.

Paragraphs 5 and 6 of the claimant's amended particulars of claim are as follows:

'5 The claimant then stopped his motor vehicle along Spanish Town Road in the vicinity of the Denham Town Police Station in the parish of Kingston and exited his vehicle, whereupon the servants and/or agents of the 1st and 2nd defendants assaulted and battered the claimant by striking him on the head and body with their fists and guns.

6. There was no lawful justification for the use of force as are said or at all and/or the use of such force was excessive.'

Paragraph 10 of the claimant's amended particulars of claim, is as follows:

'10. Particulars of injuries

(a) Scalp laceration which was to be sutured.

(b) Contusion injury of right shoulder.

(c) Blunt trauma to the body.

(d) Severe pain to head, chest and right hand.

(e) Shock.'

[55] For their part, the defendants have wholly denied that the claimant was ever either assaulted or battered as alleged and thus, put forward to this court, that the claimant has lied to this court in that regard and accordingly, they have also put the claimant to proof of that aspect of his overall allegations against them.

[56] According to the renowned text: **Clerk & Lindsell on Torts, 20th ed. (2010)**: *'An assault is an act which causes another person to apprehend the infliction of immediate, unlawful, force on his person. The defendant's act must also be coupled with the capacity of carrying the intention to commit a battery into effect. Although in popular language an assault includes a battery, a person may be liable for an assault without being liable for a battery.'* paragraph 5- 12.

[57] The authors of that same text, at paragraph 5 – 9, state that, *'The direct imposition of any unwanted physical contact on another person may constitute the tort of battery. There is no requirement to prove that the contact caused or threatened any physical injury or harm. "An intention to injure is not essential to an action for trespass to the person. It is the mere trespass by itself which is the offence."* The culpable touching

may take several forms. Thus, so long as it is direct, anything which amounts to a blow, whether inflicted by hand, weapon or missile, is a battery.'

[58] In paragraph 4 of his amended particulars of claim, the claimant alleged that, *'On the 27th day of February 2007 the claimant let off someone from his motor vehicle and was proceeding along Waltham Park Road in the parish of St. Andrew. The servants and/or agents of the 1st defendant proceeded to follow the claimant and they were joined by Police Officers who illegally fired several shots after the claimant's vehicle in which passengers were present.'*

[59] Interestingly though, as regards said allegations of the claimant, both as regards the assault and battery, in so far as the claimant gave evidence that the said gunshots as referred to, in paragraph 4 of his amended particulars of claim, were fired by police officers, firstly it is to be noted that when he was cross-examined as regards that evidence of his, the claimant readily conceded that he actually did not see anyone fire gunshots at the vehicle which he was then driving. He only heard what sounded like gunshots fired. He gave no evidence that any gunshot damage was caused to that vehicle of his, at anytime. Accordingly, for that reason alone, the claimant has been unable to prove his claim for damages for assault, on a balance of probabilities, since he does not know, even as of now, who allegedly fired gunshots towards his vehicle. Mere assumptions without any reasonable basis, cannot and will never constitute sufficient proof of a claim.

[60] As if that were not enough, the claimant had another problem in proof of his claim for damages for assault, bearing in mind that in that regard, he was alleging that it was the actions of police officers who fired gunshots at his vehicle while he was driving, which constituted the alleged assault. At the close of the evidence and oral closing submissions which were made by the respective parties' counsel in respect of this claim, the claimant had not surmounted that problem.

[61] It was as simply to be understood, as it was profound. It is that the claimant needed, given the prevailing context to have specifically alleged in his amended particulars of claim and proven on evidence, during the trial, the following, as per

section 33 of the Constabulary Force Act: *‘ Every action to be brought against any Constable for any act done by him in the execution of his office, shall be an action on the case as for a tort; and in the declaration it shall be expressly alleged that such act was done either maliciously, or without reasonable or probable cause; and if at the trial of any such action the plaintiff shall fail to prove such allegation he shall be non-situated or a verdict shall be given to the defendant.’*

[62] The claimant implicitly alleged in his particulars of claim that the alleged assault was committed by police officers, who were as a matter of law, while carrying out their duties as such, crown servants or agents and accordingly, the Attorney General has properly been joined by the claimant, as the 2nd defendant in respect of this claim, since the Attorney General is the Crown’s representative in a claim such as this. Regardless of what his evidence was at trial therefore, in support of that particular assertion of his, that claim of his (for damages for assault), could not succeed, because there was no evidence led in proof of **section 33 of the Constabulary Force Act** and worse yet, that section was not alleged in any form in the claimant’s amended particulars of claim, as it ought to have been.

[63] According to the claimant, he had stopped his vehicle, at Horizon on Spanish Town Road and when he stopped, he realized that Transport Authority and police personnel had been trailing his vehicle in two vehicles that they were then usually in. When the claimant stopped his vehicle there, according to him, the persons who were in those two vehicles which had allegedly been trailing his vehicle, came out of the vehicles that they were allegedly then in and attacked him physically, while he was still in his vehicle.

[64] According to the claimant, they, *‘burst off his forehead’* and beat him in his vehicle, which forced him to come out of that vehicle. The Transport Authority and police personnel who he claimed, were then beating him, also tore off his shirt and one of them thumped him in his body. He also testified that when he looked, the white t-shirt that he was wearing at the time when he was allegedly beaten, was full of blood. As the presiding judge though, during the course of his examination-in-chief evidence,

immediately after he had given evidence then, that his white t-shirt was full of blood, I asked him: '*where is that white t-shirt now?*' To that query of mine, his response was: '*It disappear ya now.*' The claimant also testified that after they had beaten him, the persons who had beaten him, then placed him in one of the vehicles that they had allegedly used to trail him, which he described as a, '*Kingfish vehicle.*' He was then allegedly driven from there, to the Transport Authority office on Maxfield Avenue. Interestingly enough through, the claimant even added a new assertion, which had not been specifically made by him, in his amended particulars of claim. He made the assertion, during cross-examination evidence of his, for the first time, that as a result of the beating that he allegedly then got, he became unconscious. Nonetheless, even though he allegedly became unconscious, he would have this court believe that nonetheless, he then knew and therefore, still knew at the time when he testified, that it was the same persons who had allegedly beaten him up, that had also then placed him, in a, '*Kingfish vehicle*' and taken him to the Transport Authority head office, on Lyndhurst Road. This court has not accepted the claimant's evidence that he was beaten by anyone, on the relevant occasion. This court's reasons for not accepting same are addressed in further detail, below.

[65] Before doing so though, it is also worthy of mention at this juncture, that the same legal point, as regards **section 33 of the Constabulary Force Act**, at least in so far as the claimant's claim against the 2nd defendant for damages for battery is concerned, must apply. On that ground alone therefore, the claimant's claim for damages for battery, against the 2nd defendant, must and does fail. There was though, at least on paper, a case for the 1st defendant to answer to, as regards the claimant's claim, for damages for battery, since, according to the claimant's account, he was beaten up by police officers, along with Transport Authority officers. The 1st defendant can, within the context of this claim, be held liable for the actions of its officers, done within the course of their duties as Transport Authority officers.

[66] The evidence of the defendants' only witness, Ms. Claudia Campbell, disputes the claimant's version of events. She accepts that the claimant came out of his vehicle and went into one of the vehicles belonging to the Transport Authority, which had been

trailing the claimant's vehicle, immediately prior thereto. She expressly denied though, that the claimant was ever beaten by anyone. She was undisputedly, present on the relevant occasion and at all material times, also undisputedly, in a position to have seen and heard, if any such beating had taken place. This court has accepted Ms. Campbell's evidence, in that regard.

[67] What was one of the most significant reasons why this court found itself unable to accept the claimant's evidence that he was beaten in the manner as alleged in his amended particulars of claim and expounded as well as expanded upon, during his oral testimony at trial, is because that evidence of his, was, as the defence counsel had submitted to this court during their oral closing submission, essentially, expressly contradicted by the medical report of Dr. L.K. Turay, which was admitted at trial, by agreement of the respective parties, as expert evidence.

[68] That medical report is dated October 30, 2025, but relates to the claimant's examination by the said Dr. Turay, of the claimant, on February 28, 2007, which it should be noted, was the next day after the claimant had been beaten to the extent whereby he had allegedly been left bloodied and unconscious, by the joint and coordinated actions of police and also, Transport Authority officers. In said medical report, the only injuries specified were a two (2) centimetres laceration on the scalp and a contusion injury of the right shoulder. It should be noted that two centimetres is less than an inch. There was no medical evidence provided by anyone, as regards the likely lengths of time that said laceration and contusion injuries respectively had been in existence for. Furthermore, there is no evidence that the claimant required and/or had any stitches done to his head, face or body, arising from any injuries which he allegedly received.

[69] Overall therefore, I do not accept the claimant's counsel's submission that the claimant has proven his claim for damages for battery, to the requisite standard. The claimant has failed to do so.

Conclusion

[70] In the circumstances and for the reasons as detailed above, the claimant's claim has entirely failed and judgment will be entered in favour of the defendants. This court's judgment orders will therefore be as follows:

Judgment Orders

1. Judgment on this claim is entered in favour of the defendants as against the claimant.
2. The costs of this claim are awarded to the defendants as against the claimant and such costs shall be taxed, if not sooner agreed.
3. The defendants shall file and serve this order.

Hon. K. Anderson, J

