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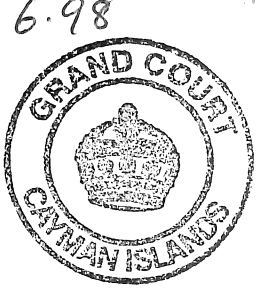


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 178. 0F 1996

BETWEEN: Christopher Allen **PLAINTIFF**

AND: Stephen Ebanks **DEFENDANT**

APPEARANCES:

For the Plaintiff: Mr. N. Garnham, instructed by Mr. R. McDonough.
For the Defendant: Mr. P. Lamontagne, Q.C. instructed by Mr. W. DaCosta

BEFORE HARRE CJ **(See NOTE on page 20)**

JUDGMENT

On 13th April 1995 the Plaintiff, who was nineteen years old at the time, was seriously injured in a road accident caused by the admitted negligence of the Defendant. Judgment was entered against the Defendant on the 28th October 1996 and I am concerned now with assessment of damages. The figures which relate to the various conclusions at which I have arrived are shown as a Table at the end of this judgment.

The Plaintiff now claims-

(i) General damages for pain, suffering and loss of amenity, together with interest;

(ii) special damages for losses to the date of trial, including medical expenses and loss of earnings, together with interest;

(iii) damages for future loss including -

(a) Loss of future earnings;

(b) future costs of medical treatment and evaluation;

(c) future costs of therapy;

(d) future costs of equipment including prostheses; and

(e) costs of employment fund managers.

By the end of a trial of several days there was much common ground between the parties. The matters which remained in dispute were general damages and interest, one item of expense already incurred, various issues of future loss and cost of the provision of a fund manager.

GENERAL DAMAGES.

As a result of the accident the Plaintiff suffered left femur and acetabular fractures and his left leg was so severely crushed that it had to be amputated above the knee. He still has severe scarring to his groin area, hip, buttocks and thigh. He gave his evidence in an outwardly matter of fact way but the evidence of Dr. Wilhelm, an impressively qualified specialist in the rehabilitation of victims of this kind of traumatic injury under whose direct care the plaintiff has been, was that there was an ongoing need for support in dealing with the psychological effects of his injury. She

testified as to the anxiety, social discomfort and loss of self esteem which he, as is typical of a young man in early adulthood, was undergoing as a result of the amputation and extensive scarring on the lower part of his body. I refer to her evidence now in relation to general damages only, though I shall need to do so again when assessing the various technical and other long term aids about which there was a deep conflict of expert evidence.

The Plaintiff was in the Cayman Islands for a diving holiday and he described his other tastes in sport as including, in addition, cycling, fishing, friendly football, climbing, baseball, bowling and water skiing. These pastimes typical of a healthy young adult will no longer be possible without an artificial limb, if at all.

This court has in the past expressed the view, and it is really self evident, that English awards for general damages for pain and suffering can be taken only as guidelines or pointers to the awards made in the Cayman Islands. For such a guideline or pointer I refer to Kemp & Kemp on the Quantum of Damages and in particular to paragraphs 12-101 and 12-102 at pages 59101 and 59102 of that work dated August 1995 in which the cases of Thomas v. Warburtons Ltd and Finch v. Hewitt are referred to. As of today, I think that the uncontested view that the award of general damages in England would be L57,000 is right. At the rate of exchange which prevailed with the US$ at the time of trial and which has not substantially changed since, the US$ figure would be $94,000. I do not think that the purchasing power of the Cayman currency is relevant because the Plaintiff is an American citizen and it is in the United States where he will benefit from any award. However, I take into account the fact that this

accident took place in a country other than his own and that after treatment in George Town Hospital it was necessary for him to undergo a flight back to the United States for further treatment. Taking all this into account I think that a reasonable award of general damages for pain and suffering is US$110,000. All sums are expressed in this judgment in United States dollars.

SPECIAL DAMAGE TO DATE OF TRIAL.

Medical expenses, loss of earnings and other expenses to 16th February 1998 with the exception of the item with which I now deal, are either expressly agreed or "not subject to contention." I award them.

The Plaintiff's first effort on the recommendation of his physical therapist in getting himself fitted up with a prosthesis - an artificial leg - to replace his own was not successful. Having seen the device with which he was first provided and compared it with the second device which he obtained from another clinic called the Sabolich centre I am satisfied that he was justified in making his second choice. I am also satisfied that the chain of causation from the Defendant's negligence and the expense incurred in the obtaining of the first prosthesis is unbroken and I award the costs incurred in relation to this to the Plaintiff and find that they are $19,107.64, as claimed by the Plaintiff -

> "When the Plaintiff takes advice in good faith from a reputable medical man, the expense of taking the advice and acting upon it is admissible, notwithstanding that the diagnosis proves to have been mistaken: Rubens v. Walker 1946 SC215." (Munkman -

Damages for Personal Injuries and Death 10th Edition).

The analogy between relying on a medical diagnosis and acting upon the advice of a physical therapist is so close that with confidence I apply that principle here. The Plaintiff's action in going to the respected Sabolich Clinic as a subsequent choice was entirely reasonable and the travel and other expenses incurred in going to Oklahoma are not in serious contention though not formally agreed. I award them as an item of special damage.

FUTURE LOSSES AND EXPENSES.

It is now well established that the court should adopt the multiplier/multiplicand approach - that is to say the court will make a final compensatory award having assessed the amount notionally required to be laid out in the purchase of an annuity which will provide the annual amount needed for the whole period of loss by multiplying a figure assessed as the amount of the annual dependency ("the multiplicand") by a number of "years purchase" ("the multiplier"). Among the many imponderables inherent in this method is the assessment of future inflation and its relationship to interest rates. Courts have adopted an approach, which I follow, of assuming a constant value of currency and adopting an interest rate appropriate to times of stable currency. A rate of 4.5% has been approved by the English Court of Appeal in Wells v. Wells (1997) WLR 652. I adopt the approach of applying a multiplier consistent with that rate of interest discounted on the capital sum arrived at as the multiplicand.

So, before going into the individual items in dispute I will deal with this general question of the appropriate multiplier. The Plaintiff contends for a whole life multiplier of 19.8 and a working life multiplier to age 65 of 18.7, based on Tables of the Government Actuary in England known as the Ogden Tables. These are now admissible in evidence in England under the Civil Evidence Act 1995. There is no equivalent statute here, so I look at how matters were approached in England before 1995. There are two cases which shortly preceded the statute. The first is Mills and anor v. British Rail Engineering Ltd. (1992) 1 PIQR 130. It was a matter in the Court of Appeal. The following is from the judgment of Dillon LJ.

> "There appear to be few cases reported in Kemp & Kemp or Butterworth's Personal Injury Litigation Service or Current Law and so forth which provide much guidance for the circumstances of this particular case. But it is of course recognised that calculations can be made from tables which have been worked out, taking into account actuarial evidence and related matters."

Dillon LJ took the view that the trial judge was entitled to take a 10 per cent multiplier from the tables, subject, however, to one medical matter specific to the case.

The second case is Hunt v. Severs (1994) 2 All ER 385, which is both more recent and of higher authority.

The following passage from the speech of Lord Bridge of Harwich shows in a most enlightening way the reasoning adopted by the trial judge, the Court of Appeal and the House of Lords as to the relationship between general actuarial tables, estimates of

life expectancy which take account of a particular patient's medical condition and "life's manifold contingencies."

> "The assessment of damages is not and never can be an exact science. There are too many imponderables. For this reason, the courts have been traditionally mistrustful of reliance on actuarial tables as the primary basis of calculation, approving their use only as a check on assessments arrived at by the familiar conventional methods; see, for example, Taylor v. O'Connor [1970] 1 All ER 365 at 377, [1971] AC 115 at 140 per Lord Pearson. We are told by counsel that the practice has changed in recent years and that actuarial tables tend to figure more prominently in the evidence on which courts rely. This may well be so. But before a judge's assessment of the appropriate multiplier for future loss, which he has arrived at by the conventional method of assessment and which is not attacked as being wrong in principle, can properly be adjusted by an appellate court by reference to actuarial calculations, it is essential, in my judgment, that the particular calculation relied on should be precisely in point and should be seen as demonstrably giving a more accurate assessment than the figure used by the judge.
>
> The passage I have cited from the judgment of the Court of Appeal appears to show the court as treating the circumstance that both doctors in evidence estimated the plaintiff's expectation of life at 25 years as establishing the 'fact' or 'assumption' that she would live for 25 years and thus converting the process of assessing future loss into 'a simple arithmetical calculation'. I cannot think that this was a correct approach to the evidence. A man or woman in normal health, at a given age, no doubt has an ascertainable statistical life expectancy. But in using such a figure as the basis for assessment of damages with respect to future losses, some discount in respect of life's manifold contingencies is invariably made. Moreover, when the Court of Appeal referred to the Kemp and Kemp table as showing 'that the allowance for mortality must be very small', they were not making an appropriate comparison of like with like. The figure of 14.8 taken from the Kemp and Kemp table refers, as already indicated, to a woman of 35 with an average expectation of life. From the life table, also set out in Kemp and Kemp, we see that this expectation is 44.6 years. Thus the fact that only a small allowance for mortality is appropriate in relation to the average woman's expectation of survival from the age of 35 to the age of 60 cannot be a reliable guide to the allowance for mortality appropriate to a severely injured woman aged 29 with a total expectation of life estimated by doctors as no more than 25 years.
>
> I can find no fault in the trial judge's decision to take a multiplier of 14 and apply it, subject to the various adjustments he made, in arriving

> at his award for both the future cost of care and the future loss of earnings. The use of a discount rate of 4.5% was not and is not disputed. The judge has due regard to the full present value of L1 pa for 25 years discounted at that rate, but decided, as I think rightly, to take a slightly lower figure which he found to be in line with a spread of multipliers in comparable cases. I do not, with respect, think that the reasoning of the Court of Appeal entitled them to substitute a multiplier of 15 by rounding u p the figure taken from the discount table."

The Court of Appeal's Order was accordingly set aside.

It is clear that these English Courts accepted use of the statistical average taken from the Ogden tables, not as the ultimate and only test but taking into account also factors found to exist in particular cases and the manifold contingencies of any individual's life. That is the approach which I shall adopt. In the present case the plaintiff submits that the Ogden test and what may be called the conventional method of calculation produce a very similar result. It is time to test that proposition.

The Defendant contends for a full life multiplier of sixteen. That is a figure in the Ogden tables for a forty three year old man and is an indicator that in the present case it must be too low. In supporting it Mr. Lamontagne relied on Mallet v. McMonagle [1969] 2 All ER 178 which was an appeal which reached the House of Lords from Northern Ireland and in particular the observation of Lord Diplock that sixteen years would appear to represent a reasonable maximum number of years purchase where the deceased died in his twenties. This was one of the earlier cases where the multiplicand/multiplier concept was being developed and there are a number of subsequent examples of cases where living plaintiffs have been compensated on the

basis of a higher multiplier. The following are briefly noted in Kemp and Kemp. O'Keefe and Williams, both males aged twenty one - multiplier eighteen; Jenkinson female, aged twenty two -multiplier eighteen Coles, male aged twenty seven, multiplier twenty; Page, male aged twenty eight, multiplier seventeen.

It should be remembered in relation to Mallet v. McMonagle that the court was considering general life expectancy in England or Northern Ireland in the 1960's in relation to a fatal accident case where the normal span of life was assumed to end at age sixty five.

On the basis of these comparisons and the conventional factors to be taken into account, such as life expectancy, continued need for a prosthesis and care and loss of future earnings it is submitted for the Plaintiff that the appropriate whole life multiplier should be twenty and the working years multiplier to age sixty five should be eighteen. The relevant figures from the Ogden tables show multipliers of 19.8 and 18.7 respectively.

There is no evidence that the Plaintiff's life is foreshortened by his injuries and Dr. Wilhelm puts his expectation of life to age seventy six. There is some artificiality in that in that it is the statistical expectation of life though expressed in evidence in relation to an individual. I adopt the life expectancy which the Plaintiff has used as the basis for his calculations. It is 75 years, with 53 years remaining.

I shall accept the desirability of making a small reduction in the lifetime multiplier to take account of the changes and chances in any individual's life and arrive at multiplier figures of 19 and 18 respectively.

It is convenient to deal now with the question of interest. Section 34 of the Judicature Law (1995 Revision) closely mirrors Section 35 a of the Supreme Court Act 1981 of England where the established practice is that interest should be awarded on general damages at 2% per annum from the date of service of the writ. The Plaintiff does not pursue his claim for interest on special damages and I think that he is right in that in view of the substantial interim payments which have been agreed. I award pre-judgment interest at the rate of 2% on general damages only from 2nd April 1996 to the date of judgment.

There was a conflict of expert evidence relating to the standard of technical assistance and medical care which the Plaintiff would need over the years. Evidence for the Plaintiff was given by Mr. Robert Brooks a certified Prosthetist and Orthotist who is the Clinical Operations Director of Novacare Sabolich Prosthetic and Research Centre of Oklahoma City, the present supplier of the Plaintiff's prosthesis and ancillary products; Mr. Michael Schuch, Assistant Clinical Professor and Director of the Department of Prosthetics and Orthotics at Duke University Medical Centre, Durham, North Carolina; and Dr. Cynthia Wilhelm who holds associate professorships of Rehabilitation Psychology and Pediatrics at the School of Medicine of the University of North Carolina. All these witnesses were highly qualified in their fields and I found their evidence impressive. It was criticized on the Defendant's behalf as

advocating a "cadillac regime" for the Plaintiff and before I indicate the tenor of what their evidence was I remind myself of what a object of a compensatory award should be. It was described as follows by Lord Oliver in Hodgson v. Trapp [1988] 3 All ER 870 at 878 -

> "The underlying principle is, of course, that damages are compensatory. They are not designed to put the plaintiff or his estate in the event of his death in a better financial position than that in which he would have otherwise have been if an accident had not occurred. ..... Essentially what the court has to do is to calculate as best it can the sum of money which will on the one hand be adequate, by its capital and income to provide annually for the injured person a sum equal to his estimated loss over the whole of the period during which that loss is likely to continue but which, on the other hand, will not at the end of that period leave him in a better financial position than he would have been apart from the accident."

I will attempt now, as briefly as I can, to indicate the evidentiary basis of the Plaintiff's claim by way of my view of the totality of the evidence given by him and his supportive witnesses. He was a nineteen year old man, vigorous in body and mind with the normal range of interests associated with that condition. He was interested in many leisure activities and also a hard worker, working up to seventy hours a week in two jobs. He had been an average student in school and was attending a course in Electronic Analysis which would have qualified him to repair equipment such as slot machines in Las Vegas. As a result of the accident he will face a difficult set of problems throughout his life both physical and mental. The Plaintiff desires and deserves the best technology available for his level of amputation which presents special problems because of tissue damage surrounding his stump and the areas where skin grafting was necessary. Technology has driven costs of prostheses dramatically upward. A figure of $20,000 was used in Dr. Wilhelm's report as representative of

the appropriate level of the prosthesis. She estimated the total cost over the years of supply and replacement of parts, repairs and maintenance at $482,000 without taking account of inflation. The Plaintiff has an increased risk of lower back syndrome. He will find it difficult to participate in exercise on a regular basis which could lead to health problems. He will be disadvantaged in the labour market.

The following is from the evaluation report of Dr. Wilhelm -

> "Christopher Allen's disability is complicated and complex. It requires a great deal of medical, psychological and vocational expertise to access appropriate treatment and equipment to maximise his potential and to provide direction for lifetime care which Mr. Allen will require. A case manager who specialises in disability management would be essential to direct, advocate, intercede and teach Mr. Allen will be required for his lifelong care needs. This person would advise and direct Mr. Allen in a program based on preventive rehabilitation and maximising his fullest potential."

The report and evidence of Mr. Schuck addressed two primary issues; a lifetime estimate for the costs and fees of Mr. Allen's prosthetic needs and a discussion of any medical problems or conditions which are more likely to be experienced by Mr. Allen due to his amputation and its limitations. His written conclusion was as follows -

> "Due to his young age, anticipated high activity level, and need for high technology prostheses, coupled with an understanding of the need for frequent replacement of his prostheses, his lifetime prosthetic costs will be extremely high. The potential for additional reconstructive surgery secondary to stress and trauma of his residuum, (skin graft and scar sites) or as a preventative measure is quite high. Recovery time (whether from wounds that occur as discussed or from either preventative or treatment relating surgery) will undoubtedly occur in his lifestyle, necessitating periods of time off from school/work. The potential costs of this unfortunate anticipation will undoubtedly be staggering."

The evidence of Mr. Brooks was of his active involvement in evaluating the Plaintiff whom he had last seen some two weeks before giving his evidence. He described and demonstrated the nature of various prosthetic devices and said that he thought that the Plaintiff was absolutely suitable for a sports prosthesis and indeed a swim prosthesis also. He disagreed with the view of Dr. Olysav, the Defendant's expert witness to whom I shall refer later that the Plaintiff's history of fractures would make him unsuitable for active participation in sport. He could use his swim prosthesis for showering and his sports prosthesis as a backup for his primary prosthesis. That would eliminate the necessity for using crutches while the primary prosthesis was under repair. He gave his views as to the replacement intervals required for the various prostheses in the Plaintiff's case and the associated costs of this and the necessary maintenance. He also described technological advances over the last decade and estimated that a 5% increase per year in the costs of prostheses was attributable to technology. He was taken through Dr. Olysav's report in which, like the Plaintiffs' other witnesses, he found much with which to disagree.

Dr. David J. Olysav the Defendant's expert has been a licensed medical practitioner in the Cayman Islands since 11th December 1997 but graduated as a doctor of medicine in Wisconsin in 1973. He practiced thereafter in that State and in Illinois as well as a medical officer in the United States Navy from 1974 to 1976. He is a certified Orthopedic Surgeon and has held administrative and academic appointments within that specialization. He ran an amputee Clinic in Illinois and saw some twenty

amputee patients per month, of whom thirty to forty percent were amputations above the knee, for fifteen years. He performed five to ten amputations per year himself.

Dr. Olysav differed in many respects from the Plaintiff's expert witnesses. He did not believe that two consultations with an Orthopedist per year would be necessary. They would be by referral from a Prosthetist on an as needed basis and would be rare. Consultation with a Plastic Surgeon was not needed at all; regular consultation with a Physical Therapist simply does not happen and would arise only on a change in prosthesis or a new injury; yearly consultations with a Prosthetist are not necessary or usual; recreational evaluations are not necessary at all as the patient will do the things he is comfortable with; there is no need for any American patient to travel out of state to consult specialists. He also testified that a calculation of changes of primary prosthesis at the same rate over decades does not make sense. Younger and more active people require more frequent changes whereas it is not uncommon for many older amputees to have the same prosthesis for perhaps fifteen or twenty years; a sports prosthesis was clearly not indicated for the plaintiff who is an above knee amputee who has had a fracture of the femur and the socket into which the head of the femur is set and moves; while a swim prosthesis is commonly given to an amputee they commonly do not like or use them and find it easier to swim without any prosthesis; a shower prosthesis is just a weight support but most amputees use a shower chair; a patient who has and uses a prosthesis does not need a wheelchair and a triscooter is only needed for a wheelchair bound patient who cannot walk with a prosthesis and only for those occasions where walking distances or persistent walking would be necessary.

It is in relation to these matters, and the assessment of the Plaintiff's future medical problems, that the fact that Dr. Olysav has never actually had the Plaintiff as a patient or indeed seen him at all before the hearing assumes some significance. It may well be, as he says, that surgery or stump revisions are not usually necessary but that is something which on the face of it needs to be determined on a case by case basis. The same observation applies in particular to weight gain and to a lesser extent to other possible complications. While I accept the evidence that the fact that a patient is an amputee does not necessarily indicate that he will gain weight a comparison of photographs of the Plaintiff soon after his accident and his appearance now show quite clearly that he has gained weight. Nevertheless, Dr. Olysav agreed that the Plaintiff's life expectancy was not affected by his amputation.

Dr. Olysav gave his evidence in a rather dogmatic and sometimes defensive way. Where their opinions differ from his, I prefer the evidence of the Plaintiff's witnesses, except in one important respect. I am persuaded by his evidence that amputees commonly do not like or use a swim prosthesis and commonly swim or bath without any prosthesis at all. I shall not order the payment of any sum towards a swim prosthesis; and in my judgment the bath bench or shower chair, which I allow, will take care of the Plaintiff's ablution needs.

I now need to perform various mathematical exercises. The parties put forward two very different methods for calculating the multiplicands relating to purchase and maintenance of prostheses. The Plaintiff produced schedules in relation to each prosthesis which took account to the evidence that technological progress over the last

decade had increased the price of these devices by 5% per year. He produced a weighted average by reference to the intervals at which the prosthesis concerned would need to be replaced. The Defendant objected to this on the ground that this was a kind of complicated exercise which our Court of Appeal in Woods v. Francis [1986] CILR 207 should not be embarked upon and was in any event pure speculation. Future increases in the price of the prostheses as a result of technological development should not be taken into account.

I do not think that the Court of Appeal was saying that judges should not make use of their knowledge that numbers may be subject to addition, subtraction, multiplication and division and even expressed as percentages of others. The real objection to the Plaintiff's method is that it produces an unreal result. I am asked to find that - to take the primary prosthesis as an example - that a device which cost $28,351 on first purchase will when the fourteenth of these devices is purchased, after intervals in each case of four years it will, because of technological development alone and in taking no account of inflation cost $303,336. These are devices which are made and sold commercially and a superior product which nobody can afford will not reach the market. An additional reason for not using the Plaintiff's method throughout the replacement cycle of the prosthesis for the rest of the Plaintiff's life expectancy is that it produces a vastly increased figure at each step for technological expenses because the principal sum on which the 5% is calculated has itself increased. Moreover I take judicial notice of the fact that technological progress does not necessarily increase cost.

However, there was specific evidence about technological developments which were on the way, such as computerized prostheses which replicated the movements of the good leg and enabled the wearer to sense whether his toe or his heel was in contact with the ground. I have therefore followed the Plaintiff only to the extent of allowing his 5% increase for technology up to the time of the third purchase of the primary prosthesis when its notional price will be $40,825 at a time where there is some indication in the evidence, nebulous though it is, that we shall still be in an era of recognisable technological advance. That, according to my calculations, gives a multiplicand of ~~$10,012~~ 9,963 and an award using a multiplier of 19 of ~~$190,228~~ 189,297. Mr. Lamontagne rightly pointed out that the cost of the first purchase of the primary prosthesis had been taken into account in the special damages and I have taken that into account in my calculations. I have adopted a similar approach in relation to the sports prosthesis. It may well be that the Plaintiff makes less use of these devices as he grows older but I cannot speculate as to the extent to which this may happen. There are factors such as the increased need to keep taking exercise as one grows older in order to maintain good health and to keep weight down which point in the other direction and it is very much a field in which one does the best one can. As the first of these sports prostheses has not yet been bought I take the third replacement as the point at which the 5% increase per year for technology development ceases. For maintenance of the prostheses I take the formula of 20% of the price for each year of use. There is no evidence to the contrary.

The next matter which remained in dispute was the question whether a sum should be provided for the provision of financial advice and fund management for the Plaintiff.

I conclude that there should. He is in no way mentally impaired but he is still a very young man and has already shown more generosity than sense in lending funds which he is having difficulty in recovering. It would be tragic if any part of the sum which I award were dissipated at an early stage of the Plaintiff's long life expectancy leaving him to live in hardship thereafter. The award is 1% of the fund multiplied by the lifetime multiplier of 19

The following are my conclusions on other miscellaneous matters -

LOSS OF FUTURE EARNINGS AND LOSS OF EARNING CAPACITY.

The Plaintiff currently works forty hours a week and his current loss of earnings is $6,500 per annum. The job which he has is quite unsuitable and involves a considerable amount of walking. Nothwithstanding the evidence of Dr. Wilhelm that in future he will be unlikely to be able to work more than thirty hours a week I will stay with the number of hours which the Plaintiff has already achieved. He gave me the impression of being a young man who would wish to continue as nearly as possible at full capacity. I therefore award $117,000 under this head on the basis of a multiplicand of 6,500 and a multiplier of 18. However, there is a separate and justifiable claim in relation to loss of earning capacity. The legal basis for such a claim is to be found in Smith v. Manchester Corporation [1974] 17 KIR 1. The calculation for loss of earnings assumes that the Plaintiff will remain in employment working forty hours a week for the rest of his working life. However, the Plaintiff's disability is severe and he is going to be disadvantaged inevitably over the long period of his remaining working life in the open labour market. He may well be unemployed for substantial periods. This is a particularly difficult figure to arrive at but the

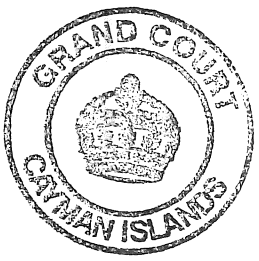
Plaintiff's submission that a fair figure is $120,000 seems to me to be reasonable and that is the sum which I award.

FUTURE TREATMENTS, EVALUATIONS, THERAPIES AND EQUIPMENT AND FUTURE MEDICAL PROBLEMS, HOME MODIFICATION AND MAINTENANCE COSTS.

Unlike Dr. Olysav, Dr. Wilhelm has had the Plaintiff actually under her care and I accept her evidence, with the exception of that relating to the swim prosthesis as set out in her report and given orally. I award the sums set out in the Table which follows. These reflect a recalculation of the sums claimed by the Plaintiff on the basis of what I have found to be the appropriate multiplier and in the case of replacement and maintenance of the prostheses what I have already said. The Plaintiff has abandoned, rightly in my opinion a claim for a triscooter. I was also conceded that the claim for a cosmetic cover for a sports prosthesis was erroneous

So the award is as follows -

	US$	
General damages	110,000.00	
Prejudgment interest on general damages from 2.4.96 to date of judgment	4,762.00	
Wage loss (loss of future earnings)	117,000.00	
Medical treatment/evaluations	169,866.00	
Therapies	57,088.00	
Equipment	660,586.00	899.783.00
Expected medical problems/costs	58,240.00	
Additional costs (maintenance)	14,250.00	
Future potential complications	34,542.00	
Handicap or disadvantage on the labour market	120,000.00	
THE FUND	1,346,334.00	1.585.531.00
Fund Manager's charges	255,803.00	301.256.00
Add losses to 16.2.98	254,632.00	
TOTAL	1,856,769.00	2.141.419.00



1st June, 1998

G.E. Harre
Chief Justice

NOTE: The deletions and revisions shown on pages 17 and 19 of this judgment were ordered upon the hearing of a summons by the Plaintiff dated 29th June 1998 under Order 20 rule 11 of the Grand Court Rules 1995.