

IN THE SUPREME COURT OF BELIZE A.D. 2018

CLAIM NO. 202 OF 2018

BETWEEN) GEORGE ROWLAND CLAIMANT
)
) ELIZABETH ALLEN FIRST DEFENDANT
) KENNETH ALLEN SECOND DEFENDANT

BEFORE THE HONOURABLE MADAM JUSTICE MICHELLE ARANA Julie-Ann Ellis Bradley of Bradley, Ellis & Co. for the Claimant Magali Perdomo of Reyes, Retreage LLP for the Defendants

FACTS

1. The Claimant, George Rowland, is a Chef of Seine Bight Village, Stann Creek District and the First Defendant, Elizabeth Allen, is an Accountant of Maya Beach Area, Placencia Village, Stann Creek District. Mr. Rowland claims damages for negligence arising out of a motor vehicle accident which occurred on the 9th day of March 2018 along Miles 20 and 21 on the Placencia Road in Placencia Village, Stann Creek District. He says that he was riding a motorcycle along the road when Mrs. Rowland who was driving a motor vehicle owned by her husband Mr. Kenneth

Allen, the Second Defendant, collided into his motorcycle. Mr. Rowland also claims that this accident was caused solely by the negligence of Mrs. Allen who he says changed direction and turned into his path without any warning. Mr. Rowland claims that he has suffered severe personal injuries, loss and damage and incurred expenses. Mrs. Allen denies that she changed direction and turned into Mr. Rowland's path without warning, or that she was negligent. She says that Mr. Rowland was distracted and speeding and that the collision was caused wholly by Mr. Rowland's own negligence in failing to drive his motorcycle with due care and attention. The court now reviews the evidence and the submissions and delivers its decision.

2. The Issues

The parties agreed that the following are the issues to be determined in this matter:

- i) Whether the collision was caused by the negligence of the Claimant or of the First Defendant
- ii) Whether the collision was solely caused or materially contributed to by the negligence of the Claimant or of the First Defendant?

- iii) Whether damages are to be paid and what is the quantum of damages to be paid by either the Claimant or the Defendant depending on the court's finding as to liability?

3. Evidence on Behalf of the Claimant

There were 6 witnesses called for the Claimant. The first was Christopher Rothing, a Resort Manager living in Placencia, Stann Creek District. Mr. Rothing said that on March 9, 2018, he was socializing at the Flying Pig Bar and Grill in Placencia, located at 1/2 mile North of the Placencia Airstrip on the Placencia Road. The bar is adjacent to the Placencia Road. He was sitting on a bar chair facing the street so that he could watch the traffic pass by. The accident happened about 5:30pm. The weather was dry, and the day was clear as the sun had not yet set. The road was marked with a yellow line along the middle. Mr. Rothing noticed a Grey Ford 150 coming slowly from a Northern direction to a Southern direction on the opposite side of the road close to the Flying Pig parking lot. This witness said that he saw this truck suddenly speed up and turn across the street towards the parking area. The driver did not look left nor right nor check to see if anything was coming before turning. He saw a motorcycle coming from the Southern direction to a Northern direction at what appeared to the

witness to be a normal speed, not too slow and not too fast. On impact with the truck, Mr. Rothing said he saw the rider of the motorcycle fly into the air before hitting the ground about 20ft on the other side of the road. The motorcycle hit the electricity post and went further into the bushes. The truck was still on the road when the collision occurred and was partly on the road when it came to a stop. He and another patron of the bar who was a medical student rushed to try to assist. He observed that all the air bags in the truck burst and that the female who had been driving appeared upset. The ambulance arrived and took the injured motorcycle driver away.

4. Mr. Rothing was cross-examined by Ms. Perdomo on behalf of the Defendants. He was asked whether he was still able to see the truck coming and speeding up, even though he had been talking to a medical student at that time. He said yes. Photos of the Flying Pig Bar were shown to the witness by Ms. Perdomo, and he was asked whether the accident happened directly in front of the bar. Mr. Rothing was asked whether he could have seen the truck speed up since he had not been facing the direction of the truck. He said he was facing the street diagonally and that the bar was open on two sides. He saw very clearly. It was suggested to him that he could not have seen whether Mrs. Allen

looked before she turned as that was physically impossible. He said he could see the driver through her windshield. Learned Counsel for the Defendants challenged the witness that his testimony was incredible, and that it was impossible for him to see all four things together at the same time: The medical student he was talking to, the truck speeding up, the driver of that truck Mrs. Allen not checking to see if anything was coming, as well as the motorcycle coming from the opposite direction and that the motorcycle was coming not too fast and not too slow. Mr. Rothing replied that he was just talking to the medical student but not looking at her. He insists that he is telling the truth about what he saw. He was also challenged on the truth of his statement that all the airbags in the truck burst, and that it was only the side air bag that burst. He said it looked to him as if all had burst but he admitted that he did not know that for a fact. Mr. Rothing was questioned about the speed at which he says he saw the motorcycle travelling when it approached the bar. In answer to a question from the Court, Mr. Rothing said that he had been driving for 26 years and that he has experience driving in Belize. He said slow speed to him means 5 to 10 mph. The witness said he observed the impact between the truck and the motorcycle. He saw the truck speed up and turn suddenly, colliding

with the motorcycle. Asked by Learned Counsel about whether he could say whether or not Mr. Rowland was speeding, he said that he was not a radar gun but that the motorcycle had been travelling at what appeared to Mr. Rowland to be a reasonable speed prior to the accident.

5. Under re-examination by Mrs. Bradley on behalf of the Claimant, Mr. Rothing explained that the bar is approximately 30 feet from where the truck was located in the photo. He also explained that he was able to see the accident because he was facing the street diagonally. The witness explained that, as a frame of reference, he was looking across the street roughly at the location where a person in blue is on the other side of the street (in the photo).
6. The next witness called on behalf of the Claimant was Dr. Francis Smith. As the expert medical witness, Dr. Smith testified that he was a Medical Doctor and a practicing Orthopaedic Surgeon in Belize for 24 years. His expert report contains details of the injuries suffered by Mr. Rowland as well as treatment administered to the patient by him. In his witness statement, Dr. Smith summarized 10 injuries which were the major injuries suffered by the Claimant as a result of this road traffic accident. Dr. Smith was given permission by the court to amplify his witness statement (**F.S. "1"**) in terms of explaining each of these

medical terms used in his evidence. Dr. Smith explained the medical terms, “*comminuted both columns fracture of the right hemi-pelvis and acetabulum*”. He said that the pelvis is the boney frame, a ring of bones that connects the human trunk to the lower limbs. That boney frame is referred to as the pelvis and there are two sides to the pelvis: the right hemi-pelvis and the left. “*Comminuted*” means multi-fragmentary, meaning that the bone was shattered on the right hemi-pelvis; included in that hemi-pelvis is the acetabulum which is something like a socket because it is a part of the hip. “*Comminuted*” means it is in pieces; the bone was shattered. Dr. Smith also spoke about the “*Thompson-Epstein type IV posterior dislocation of the right hip (posterior dislocation with acetabular fracture)*”.

He said that meant that apart from the pelvis, the acetabulum forms a part of the hip joint so the femur, the thigh bone, the upper portion of the thigh bone has a head and a neck, with the head fitting into the socket as a ball and socket joint. The ball has been dislocated as it has moved out of joint backwards or posteriorly and in so doing the posterior aspects of the acetabulum were broken. Mr. Rowland had fractures of the cup or the socket and he had a dislocation.

In describing the effect of the injury on the femur, Dr. Smith said that on a range of 1 to 4, with 4 being the worst scenario, blood supply going to the head of the femur was disrupted, giving rise to possible “*avascular necrosis*” meaning that the head of the femur could lose its blood supply and would not be able to survive. The timeframe for getting the head back in place is 6 to 12 hours, otherwise this risk of necrosis increases. “*Avascular*” means a disruption of blood supply and as a result the bone does not get blood supply so it deteriorates. “*Necrosis*” means death. “*Diastasis of the symphysis pubis with a disruption of the left sacroiliac joint*”: The symphysis pubis is the bony protuberance right in front. In the male it is just above his penis and it is a joint. It joins the two hemi-pelvises, the right and the left. In Mr. Rowland’s case, there was a disruption of the symphysis meaning it tore apart and because the pelvis is a ring, it tears apart in front and something happens behind as well because it is all connected. His right hemi-pelvis tore apart from the sacrum, the end of his spine. Dr. Smith went on to explain what was “*Comminuted left radial styloid, and Volar Barton’s fracture of the wrist.*” He said the wrist is the lower end of the forearm below the elbow. So the forearm is that portion between the elbow and the hand. The wrist has two bones the radius and the ulna. In Mr. Rowland’s case, the distal radius, or lower end of the radius

that makes up the wrist was shattered as well. Dividing the end of the radius is an upper lip and a lower lip, there was an intra articular opening, meaning the cartilage or gristle between the joint was affected and split forward in a downward way which is what is referred to as Volar Barton's.

“Grade IIIC open comminuted fracture of the proximal third right tibia and fibius” was explained by Dr. Smith: “When there are open wounds, meaning that there is an open fracture as opposed to a closed fracture when the bone is broken. There is in the case of Mr. Rowland two leg bones, tibia and fibula which were shattered and exposed. The covering for the bones i.e. the periosteum were stripped off so there were muscle flaps that were massively contaminated with debris from the accident; massive risk of infection and loss of limb. Dr. Smith explained the phrase *“right ‘foot drop’ or right peroneal nerve disruption.”*

He said that this was part of the Grade IIIC open fracture and that refers to loss of the muscles that lift his foot and ankle and loss of nerve tissue. The foot drop means that would have been because of the loss of muscle and tendon tissues that have that function which is to lift the foot. There was maceration of his peroneal nerve. The peroneal nerve has the function of lifting his foot as well as everting the foot.

“Everting” the foot means Mr. Rowland would be unable to walk on the outer aspect of his foot because that is a function of the peroneal nerve. Walking has three phases. He can push off meaning that he can push his foot downwards in the sense of tiptoeing and there is a swing phase which is lifting his leg up and in front, then there would be lastly heel strike, and this is what he would be unable to do. He is unable to heel strike effectively. In answer to a question from the court as to whether Mr. Rowland is able to complete the first two phases of walking, Dr. Smith said that Mr. Rowland can’t do the swing phase very well because he has a problem with his hip as well. Dr. Smith also spoke in January 2019 on the necessity for Mr. Rowland to obtain a hip replacement surgery and the associated risks in terms of time and delay. He explained that Mr. Rowland suffered a dislocation of his right hip and attempts at putting it back in joint failed because the cup was too badly broken and would not permit putting that joint back in place. The doctors proceeded to fix the cup, plates and screws as well as the pelvis and they were able to return the ball to the socket. Over the course of the following months the medical team did control x-rays where they noticed a gradual deterioration of the femoral head or avascular necrosis. There is nothing that the medical team can do except to remove the head that is dead and replace it with a false hip and

with a new ball. Dr. Smith further stated that if the procedure is not done quickly, then the cartilage in the cup will start deteriorating as well, and a total hip replacement would be needed; only a partial hip with a bipolar component is being proposed at this time because Mr. Rowland is a young man 30 years old. The life of the bi-polar hip replacement would be estimated at 20 years which means that at 50 years of age he can do a revision.

Dr. Smith was cross-examined by Ms. Perdomo on behalf of the Defendants. He was asked whether the institution at which he worked, Belize Medical Associates, was a private institution and Dr. Smith agreed that it was. He was also asked whether Mr. Rowland could have received treatment for his injuries at the public hospital Karl Heusner Memorial Hospital (KMH). He said yes. He agreed that when he says in his report that Mr. Rowland suffered 40% residual disability, and that “medical treatment is not yet completed, and permanent residual disability has not been determined” that that is an estimate. Dr. Smith did not agree with Ms. Perdomo’s suggestion that after treatment it was possible that 40% disability would be reduced significantly. He agreed that the percentage of permanent disability has not yet been determined. In response to a question from the court, Dr. Smith explained that the surgery needed to be

performed as early as January 2020 because of the high risk of avascular necrosis. Under re-examination Dr. Smith explained that when he said that the disability would be reduced upon treatment, but not significantly, he meant that he was taking into account the bipolar hip replacement and the fact that number can actually increase depending on whether the patient undergoes physical therapy and occupational therapy. He said Mr. Rowland had to stand up for long hours as a cook, and so it is hard to come up with a quantitatively precise figure. He said that all this has yet to be determined, and Mr. Rowland has yet to get his hip replacement and do some therapy. Then they have to do a thorough physical examination all over to come up with as close as possible a number.

7. The third witness for the Claimant was Mark Felker. He is a resident of Placencia Village. At 5:30 p.m. on March 9, 2018, he was socializing at the Flying Pig Bar and Grill in Placencia. He was standing at the railing in the Bar as he usually goes to the Flying Pig on Fridays for Bingo. The day was clear as the sun had not yet set when Mr. Felker saw a grey pickup truck coming from a northern to a southern direction, travelling slowly. The driver appeared to be looking for a parking spot as she was looking to her left and not forward. The witness said he then saw the truck suddenly speed up and turned left across the street towards the parking area on the

opposite side of the road close to the Flying Pig's parking lot. The driver did not look to check and see if anything was coming before turning. Mr. Felker said that at the same time that the pickup truck turned across the street, there was a motorcycle coming from a southern to northern direction that collided into the side of the truck just behind the passenger door. He said he saw the motorcycle and the rider fly into the air, and the rider landed near a telephone post on the opposite side of the road. The motorcycle continued down the road a little ways, still upright with no driver before tipping over on the same side of the road well into the bushes. He saw the female who had been driving and her passengers outside the vehicle. The driver never went to assist the injured rider. Mr. Felker said that he heard the driver say that she never saw the motorcycle and its rider coming on the road. The ambulance came and took the injured driver to the hospital.

8. Under cross-examination by Ms. Perdomo for the Defendant, Mr. Felker reiterated that he had been facing the direction towards where the trucks parked in Exhibit "EA 4". He agreed that the bar was not directly in front of where the truck would have parked. He said that at the time of the accident he was standing at the bar with his wife, and they had walked up

- to the rail and were standing there because of a cool breeze. He said he saw the impact. He could not say how fast the motorcycle had been coming.
9. Under re-examination by Mrs. Ellis Bradley, Mr. Felker clarified that he could not see the motorcycle coming but he saw the motorcycle hit the truck. He had his back to the direction that the motorcycle was coming so that is why he could not have seen him coming.
10. The next witness was Sheldon Duncan. He said that he is a Bartender of Placencia Village, Stann Creek District. On March 9, 2018, Mr. Duncan said that he was working as bartender at the Flying Pig Bar and Grill when he saw a young man on a blue/black motorcycle travelling along the Placencia Road from the direction of Placencia towards Seine Bight. This young man had on a helmet and was traveling in the opposite direction along the said Placencia Road. The day was still clear and from where he was standing, he could clearly see vehicles on the road and the road itself. As it was still clear, none of the vehicles that were traveling at that time had their headlights on. He saw the Silver Pickup that was still on the road, suddenly turn toward the Flying Pig without any indication or warning. The driver of the motorcycle applied brakes but because the vehicle turn so suddenly he saw that the motorcycle could not stop and the wheel was still sliding. The driver of the motorcycle slammed into the passenger side

of the Silver Pickup. He also observed that the driver of the Pickup did not go to render aid. She looked extremely shocked and was breathing heavily.

11. Under cross-examination of Ms. Perdomo for the Defendants, Mr. Duncan said that as the bartender at the Flying Pig Bar and Grill he has served drinks for over four years at that location. Patrons sit around the bar on bar stools and order drinks. He agreed with counsel's suggestion that on the 9th March 2019, people were at the bar because it was Bingo Night. He said that there were about 25 people sitting around tables and about 4 people were at the bar at that time. This witness was challenged repeatedly by Learned Counsel that he did not see or he could not have seen the accident from where he was located inside the bar. Mr. Duncan insisted that he saw the entire accident. He explained that the whole area of the bar was empty except for one person to whom he was serving a rum and coke. He was able to see the man on the motorcycle coming at a normal speed while he was serving this customer. He said he saw the accident.

12. Under re-examination by Mrs. Ellis Bradley, he was shown the photograph where he said that there used to be a small empty table in the bar where there was a new shuffleboard now.

13. The next witness for the Claimant was Keith Emerson Rowland. Mr. Rowland also lives in Placencia Village. He is the brother of the Claimant

and he is also a former employee of Sporting Adventures International where the Claimant reported to him as the Property Manager.

Mr. Emerson Rowland was a chef for that company and presently he is a chef for Primus Villas. Sporting Adventures International is a luxury vacation service in Placencia Village where clients come for weeks at a time and would generally pay for a full service stay at one of the luxurious villas which came with the services of a personal chef, housekeeper, grounds man and other services. The Claimant George Rowland was employed as a chef with this luxury resort and he exhibits a letter confirming this (Exhibit “**KER 1**”). He and his brother were employed full time to provide chef services. As a part of his job, George needed to be mobile and physically capable as he would be required to go to market and supermarket and make fresh selections for preparing meals. He would then be able to do errands as the guests may require and he was responsible to prepare all daily meals based on guest needs. George made a base salary of BZ\$2,200 per month. As the Property Manager, Keith Rowland was responsible for paying all the resort’s employees. He paid his brother George for his services as Chef. Keith explained that his employer would wire the sums needed to run the operations to his personal account and then he would make the necessary payments for operational expenses. This was

a Savings Account and he did not have cheques so payments were made by cash. He occasionally deposited payments directly to George's Atlantic Bank account when he was unable to meet up with him for any reason. He exhibits the bank account statements showing multiple deposits to George Rowland's account in 2017/2018 at **Exhibit "KER 2"**. Guests (at their discretion) would often leave tips with employees and the resort provided a tipping guide for guests with suggested amounts. For a group it was recommended that \$300 to \$500 per group was to be paid per week at the villas, and other tips were recommended for excursions, fishing and maid service. Employees were not required by the resort to turn over their tips, and Keith Rowland believes that George Rowland received tips in the range of between \$1,200 and \$2,000 per month. A copy of the tipping guide prepared by the resort is shown at **Exhibit "KER 3"**. As Property Manager, Mr. Keith Rowland also reported to his employer each month the manner in which the money was used; he attached one of these reports as **Exhibit "KER 4"**. Since the Claimant has been in an accident on March 9, 2018, he has been unable to walk. Keith Rowland has had to hire another person to work as a Chef at the resort. He has also assisted George's family with financial assistance by borrowing money and from his own savings to help George's wife and children with daily living expenses as George

has been unable to work since the accident. The witness attached a receipt for a recliner which he had purchased for his brother George Rowland, and for which he had to borrow money to purchase (**Exhibit “KER 5”**).

14. Ms. Magali Perdomo cross-examined Keith Rowland. He was asked about Exhibit KER 1 which was the letter from the hotel stating that George Rowland earned a salary of \$2,200 per month. He explained that he wrote the letter as he was the person in charge of the main office for Sports International based in the US. He admitted that he had no pay slips or Social Security slips to substantiate this letter. The witness was then challenged on his testimony with regard to Exhibit “KER 2” the bank statements. He agreed that the statements did not state that the deposits for July to December 2017 were salary payments and that the quantum of individual payments per month ranged between \$500 to \$1,500, and not the \$2,200 monthly claimed. He also agreed that in the months of January to December 2018, the payments fluctuated erratically from \$100 to \$300 to \$850 per month. As the Property Manager, he said that George Rowland received between \$300 and \$500 US per month in tips from clients, but he has no documentation to prove this. He explained that he used to cross-check the tips and make sure to hand employees their tips in front of clients before they leave. He was also questioned about Exhibit “KER 3” where

the witness was asked about these Manager Forms which had the Sporting Adventures International logo on them. He agreed that the company had a logo. He explained that this handwritten note was an example of the type of group report which he would send to the Manager in the US. He agreed that the receipt for the recliner chair was in the name of the company and not in his personal name. The witness insisted that he paid for the chair with his credit card and was able to get the company discount at Mirab when he purchased this chair for his brother George Rowland.

15. Mrs. Ellis Bradley re-examined Keith Rowland. He explained that while the bank account only showed payments of between \$1,000 and \$1,500, that was because the company used his personal account to pay their staff, utilities etc., and there was a limit on the size of transactions he could do in his account. This meant that he could only withdraw \$1,500 cash for the day; there was also a limit on the size of transfers he could do per day which he believed was around \$3,000 per day. He says he was limited to making cash withdrawals of up to \$1,500 per day. Keith Rowland said that he was not able to do a full payroll so he would give his brother George, and other employees, advances every 2 weeks; he would then give George and others the balance of their salaries in cash. In George's case, that balance in case would amount to \$2,200 monthly. Emerson Rowland says

his salary was \$3,400 monthly, but again, he has no documents to certify this amount. George's salary would be the balance of \$5,600.

16. The next witness for the Claimant was Patrick Gonsalve, a Businessman living in Placencia Village, and the owner of the Flying Pig Restaurant and Bar. Mr. Gonsalve says that he was working at his bar on March 9, 2018 while the day was still clear, getting ready for the usual Bingo night on Friday when he heard a loud bang. Upon hearing the bang, Mr. Gonsalve looked up and saw a blue and white motorcycle fly past the telephone post on the left side of the road. He realized that an accident had occurred. He grabbed his phone and called the police then went to the road and tried to stop traffic and keep people calm. He then took photos of the scene of the accident with his phone which are now attached as "PG 1". He knows the Respondent and her husband as they usually took part in Bingo nights.

17. Mr. Gonsalve was cross-examined briefly by Ms. Perdomo to the effect that he did not see the actual accident. He agreed that he did not see the accident occur.

18. The next witness was the Claimant himself, George Rowland. He says that at the time this accident occurred in 2018, he was 30 years old. He was born on September 26, 1987. He was employed as a Chef.

On the 9th March, 2018 between 5pm and 5:30pm. He was riding his Meilun brand motorcycle along the Placencia Road travelling from Placencia toward Seine Bight. The title for the cycle and the policy of insurance is attached as Exhibit “**GR 1**”. He says that he did not get the opportunity to get the title transferred to his name before the collision took place. Mr. George Rowland says that visibility was good, the road was dry and the street was paved with concrete and smooth. It was not yet dark so there was no need for him to have on his headlight and he was wearing his helmet. He said that he traveled that Placencia road every day, at least 6 times per day. This portion of road was a straight stretch of road with a marked center line. While he was approaching mile 20 or 21 on the Placencia Road, he noticed a silver pickup traveling in the opposite direction on the same road. The witness saw the silver pickup slow down for a speed bump and after crossing the bump, the truck continued in its lane of travel. He said that he started gearing down as he was approaching the same speed bump. Just as he and the other driver were about to pass each other, the silver pickup suddenly and without any warning that she intended to turn, swerved left into the path of his motorcycle as if to turn to the Flying Pig Restaurant parking lot. George Rowland says that he had no idea that the truck intended to turn as the driver did not put on any

indicator. She simply swerved across his path. He stated that he had about a second or two to try to avoid a collision and that it was so close that all he could do was brake and try to swerve as much as he could. Since he was able to swerve a bit, the right side of his body was slammed into the passenger side of the pickup and his right foot took a very big impact. His motorcycle flipped over the pickup and he was tossed into the air before falling to the ground across the road and the motorcycle went in the other direction. He was in a lot of pain and he tried to move but he was unable to. He could not move his left hand and he also had a severe pain in his hip and was not able to move his right leg. He looked at his right leg and he could see that he had a huge open wound and his bone was sticking out. He was taken in an ambulance to the Southern Regional Hospital where doctors there referred him to the Karl Heusner Memorial Hospital in Belize City as they were unable to deal with his extensive injuries. Mr. Rowland was transferred to Belize Medical Associates (BMA) hospital on March 10, 2018 as Karl Heusner Memorial Hospital was full due to shooting victims. At BMA he was seen by Dr. Francis Smith and in extreme pain in his right leg and hip. His sister Desorine Leslie came to the Emergency Room and took photos of his injuries which are now marked “**GR 4**”. Dr. Smith injected him and cleaned and dressed the wound to his foot, after

which he did not feel much pain. His leg was also put in a cast with a window to facilitate dressings. A splint was also placed on his left wrist fracture. The following day he was operated on after which he saw metal equipment around his leg. His sister Desorine Leslie took photos of his leg which are now marked “**GR 5**”. X-rays and Medico-legal report of his injuries completed by Dr. Smith are attached as “**GR 6**”. Mr. Rowland said that when he realized that he could not walk he wept. He stayed in hospital a couple days and every day dressings were done for the wound to his right leg. He was discharged on March 15, 2018 with oral medications and prescriptions and instructed on how to care for the wound. He was also prescribed a specific diet.

After he was discharged, the witness says that he was in a great deal of pain. Dr. Smith visited him on 16th and 17th March 2018 in Belize City. He was staying in Ladyville because that was more convenient as it would be more expensive and painful for him to travel back and forth from his home in Seine Bight. He had to hire a home care nurse Melissa Humes to do daily dressings of the wound and to administer his I.V. medication. She charged \$30 per day. On March 20, 2018 he was re-admitted to BMA where he was prepped for a medical procedure that took place on March 22, 2018. Doctors put metal plates and screws in his right leg and in his

left wrist. He then remained in hospital for daily dressings, I.V. pain killers, anti-inflammatories and anti-biotics until he was discharged on March 23, 2018. Dr. Smith would visit at 2 to 3 weekly intervals to dress the wound on his right leg. He was re-admitted to BMA on August 15, 2018 to remove the iron on his right leg. He was discharged on August 16, 2018. He saw Dr. Smith for a follow-up on September 14, 2018 when he removed the bandages, cleaned the wounds and packed with dressings. He continues to visit Dr. Smith as he is not yet fully recovered.

19. Mr. Rowland states that prior to the collision he had been working at Sporting Adventures International where he was employed as a Chef. He would be assigned to families per week depending on who would be booking the villa to which he was assigned. The Villa was booked every week. The business provided luxury vacation experiences and catered to high net worth individuals. The villas were well appointed and were air conditioned with golf cart, chef, housekeepers, private pools and hot tubs. Where the clients would pay for full service it included the service of a personal chef. Guests would make specific requests for what they would like to eat and he would prepare it. He would prepare all their meals. Mr. Rowland said that he developed a very close relationship with the clients and he had many repeat clients. He was very attentive to the clients and

would go over and above what was required. He assisted with little errands and other things to make their stay as comfortable as possible. Clients were very generous with tips at the end of the week when they leave and they would generally treat him as family. The minimum tip that he generally received from families at the end of the week's stay or over the course of the week would be BZ \$500 and the maximum would be US\$2,000. He was paid \$2,200 as his base salary. His brother Keith Rowland was the property manager and he would pay him by cash or sometimes by direct deposit to his account if he was busy or if he was out of the village for some reason. Mr. Rowland said that sometimes he would ask for an advance on his salary or he would get by on his tips alone for weeks until the end of the month. He was flexible on how he received the salary of \$2,200 monthly especially when tips were good.

20. As a result of this accident he remains with a right foot drop and he is still unable to walk. He has not been able to earn anything since the accident as he cannot work. He is married and he has three sons ages 4, 6 and 12 years old. Prior to the accident he was the sole breadwinner for his home. His wife was a stay at home mom and he took care of all her expenses. They rented a house in Seine Bight Village and paid a rental of \$400 per month. He paid utilities including electricity of \$200 to \$300 per month, water was

\$80 to \$90 per month, cable was \$62 per month, internet was \$79 per month and family phone plan \$189 per month. He paid for registration of his 3 children in school and gave his 2 older children lunch money of at least \$3 daily. He spent \$300 every 2 weeks for groceries for his family. He used to own a van which he used for transportation for family purposes including picking up and dropping off the children; he spent \$250 per month for fuel. For his job he used the motorcycle and spent \$50 per month on fuel. The witness says he was solely responsible for providing his family with clothes and shoes, for the maintenance and upkeep of his home, travel leisure, family vacation and recreation. He was able to meet all his expenses on his salary and tips from his job. He loved what he did.

21.As a result of this accident, Mr. Rowland has been unable to work and provide for his family. He was confined to a bed for several months and unable to complete daily tasks. His wife has to go to work to help sustain the family. He has had to borrow money from friends and family to help meet household and medical expenses. Up to November 5, 2018, he had incurred over \$124,107.26 in expenses as a result of the accident. Since then he has incurred over \$101,165.79 in expenses. He provides a table setting out these expenses at “**GR 8**”. Dr. Smith has informed him that he needs to get a bipolar hip replacement surgery and he attaches a report

from Dr. Smith marked “**GR 10**”, and estimate of the cost of that surgery is approximately \$14,833.33 as “**GR 11**”. A table of additional expenses incurred since his statement of claim is attached as “**GR 14**”.

22. Ms. Perdomo challenged Mr. Rowland on various aspects of his evidence.

He admitted that the motorcycle was not registered in his name and that he had produced nothing to prove that he was licensed to drive a motorcycle. He also agreed that he did not provide any evidence to show that he had agreed to buy the bike. He was asked about the speed at which he saw the pickup truck coming on the day of the accident. He said it was coming slowly at a normal speed. He was asked if he was going slowly and went even slower when he geared down, how was it that the impact was still very heavy. He agreed that the impact occurred when he collided into the pickup truck, but he said that she sped up to cross his path and swerved right in front of him. He disagreed with counsel’s suggestion that the impact would not have been as big if he had been going as slow as he said. He also disagreed that the reason the impact was so big was because he had been speeding on the road. He was shown photos of the scene of the accident by Ms. Perdomo. He was then asked if he saw any brake marks on the photo and he said no. He rejected the suggestion that there were no brake marks in the photo because he did not brake. He also rejected the

suggestion that the reason he did not see the pickup truck was because he was distracted by looking at people at the Flying Pig. Mr. Rowland said he was concentrating on the road and he was not looking over at The Flying Pig when he passed.

23. On the issue of damages, learned counsel questioned Mr. Rowland extensively on the receipt and other evidence of expenses incurred as a result of this accident. He was shown Exhibit "GR 7" his Atlantic Bank account and asked about the amount he claimed as his salary. He was asked by Counsel why it is that he claims a salary of \$2,200 when none of the monthly deposits reflect that amount. He said that this particular bank statement did not reflect his salary. It was put directly to Mr. Rowland that his salary was never \$2,200 monthly. The witness disagreed and said that was indeed his base salary. He admitted that he did not have any pay slips and said he was never given any. He was also challenged on the amount he claimed was given to him by guests as tips. He insisted that he received \$1,200 US per month in tips but agreed he had no evidence to prove this. He was then questioned about the numerous bills he had submitted to prove expenses for gas. He agreed that there was nothing on the bills to prove that the bills were for his car. He also agreed that nothing on the receipt made out in the name of Sporting Adventures International indicated that

the items were purchased for him. He was challenged that certain expenses that showed up on his receipts e.g. a brassiere for \$16.84 was not for him and had nothing to do with the accident. He agreed. He was challenged that the extensive special damages claimed by him were not related to his injuries and that he could not establish that they resulted from the accident. He said yes. Under re-examination by Mrs. Bradley, Mr. Rowland said that the item on the receipt for the bra which related to his injury was the antiseptic liquid. He explained that the pillows purchased from Mirab were to help him to elevate his feet to help reduce the swelling. He also explained that he needed to stay in Ladyville to be able to have access to doctors in Belize City who were treating him. His home in Seine Bight was 3 to 4 hours' drive from Belize City and he was in excruciating pain which made it difficult for him to travel. The recliner purchased from Mirab was to assist him because to date he cannot sit in an upright position for too long. The recliner assisted him in levelling out his feet, while not staying in bed because of bed sores that would grow on his skin; the recliner helped him to get out of the bed a little. He had to get the undershirts because he could not use his regular home clothes due to the injuries and surgeries he had. He further explained that Marcella Oliva Wolhers named on a receipt is his mom. His family all scrambled around, took out money that they

didn't really have to assist in paying for his admission to the hospital to see if his foot and his life could be saved. The name Desorine Williams is that of his sister who also took out a loan to help him with his expenses. The gas bills are high because the gas was used to travel to and from the doctor for treatment. Even today, he is unable to walk.

24.The final witness for the Claimant is Desorine Leslie. She is the sister of the Claimant and she was employed at Boris Mansfield and Associates Real Estate Ltd as its Business Manager for 6 years. On March 9, 2018 she learned of a traffic accident involving her brother George Rowland. The hospital in Dangriga had him transferred to Karl Heusner Memorial Hospital in Belize City because they were unable to cope with his extensive injuries. Upon his arrival in Belize City, the hospital was preoccupied with victims of a shootout and were not able to deal with George's injuries right away. Due to the severity of his injuries, it was critical that George receive immediate medical attention in order to save his leg. George went to Belize Medical Associates where he was attended to by Dr. Francis Smith and his team, and he remains under their care to date. After surgery it was necessary for the Claimant to continue receiving medical attention but he could not afford to continue staying at Belize Medical Associates which cost approximately \$3,000 BZ (\$1,500 US) per

night. So the family arranged accommodation post-surgery close enough to the hospital where George could still be assisted by the nurses and travel to and from the hospital as necessary. Ms. Leslie says that she took time off from her job to assist her brother and she ended up being away from work for 2 to 3 weeks. She had had some money saved up as she had been planning to go back to school to continue her education; she used most of that money to assist her brother with his expenses. She also used her credit cards to assist him in paying for his medical expenses. She says she also used up money she had been saving toward her son's graduation. Ms. Leslie says that she used monies from 2 businesses ran by her and her husband, along with funds from her personal savings account in the name of her and her mother which they had been saving to build a house for their mother. By the time of George's second surgery the family's financial resources were depleted so she borrowed a loan from Quick Stop Finance. Ms. Leslie said that she also had to borrow money from friends and get informal loans from loan sharks or persons willing to help. The family did fundraisers, she put her car up for sale, and the entire family as well as the community tried to help George as best as they could, given their limited financial resources. She lived and worked in Placencia, then traveled to Belize City to assist her brother so she could not return home on these

occasions because Placencia is 3 to 4 hours away from Belize City by road. She would therefore stay in Belize for several days at a time. She had to pay for an air-conditioned room in which George would stay and recuperate. She also had to pay for an extra room when she stayed in Belize City, since George's room did not have the capacity to also accommodate her. George's wife had to return to Seine Bight to care for their children and deal with their home, Mrs. Leslie and her husband took turns assisting him along with other family members. She would purchase his medications, do supermarket shopping and purchase whatever he needed including the recommended special diet. She and her husband incurred expenses of \$150 to \$200 for fuel to travel from Placencia to Belize City, and that did not include the cost of fuel to move around Belize City and to travel to and from the hospital. Each trip to and from Placencia to George to see the doctor would cost no less than \$1,000 for fuel, vehicle rental, medication, consultation, lab tests and x-rays. Her brother Emerson helped George's family with expenses in ensuring that George's children got to school, groceries, etc., while Mrs. Leslie took care of George in Belize City. She noted that since the accident her brother George has been unable to walk and has gone from being an independent individual to someone wheelchair bound. She has watched him wear diapers and be given sponge

baths, and her husband assisted in moving him from his bed to a chair or wheelchair. Mrs. Leslie has been unable to continue her studies as she has used up her monies to assist her brother. She detail the effects the accident has had on George's mental health and on the entire family who have been suffering from stress. She exhibits photos of injuries taken with her cellphone at different stages of his recovery as "**Exhibit DL 1**" and receipts for various expenses she incurred on George's behalf at "**Exhibit DL 2**".

24. Mrs. Leslie was cross-examined by Ms. Perdomo for the Defendant. She was asked whether she had checked to see if the same treatment that George received at Belize Medical Associates was available at Karl Heusner Memorial Hospital at a cheaper cost and whether she had provided evidence to establish this. Ms. Leslie said that she had not. She was then shown Exhibit DL 2 which showed copies of receipts and invoices and bank statements with her name and account number. She was asked whether the documents submitted by her showed that these payments had anything to do with George. Ms. Leslie said that the expenses she had exhibited show charges from her bank account that she had made to assist George. Eventually, she reluctantly agreed with Learned Counsel's suggestion that the documents she had exhibited did not show

what was used towards George's expenses. When questioned about the second page of the document submitted, Ms. Leslie agreed that this page with her name on it "Desorine Vanessa Leslie" did not show that it was from Atlantic Bank. She said that it was a copy of a bank statement for a credit card used specifically to assist her brother. But she could not identify anything on the document to show that it had been drawn up by a bank. The witness was then cross-examined about an Invoice 88406 that she had submitted dated May 16, 2018 for US\$3,000. The description of the document was that it was "Fund from Paul Petite for George expense loan to be paid back at settlement." Ms. Leslie said that this was not a gift to George. It was a loan that she was authorized by Paul to give to George. The word "settlement" meant if George ever recovered some money by any way he was to repay her as she was going to be held accountable for the loan. She agreed that the statement does not explain how the US\$3,000 was spent. She admitted that the names on Maya Island Air receipts submitted did not show George flying on those dates. Ms. Leslie said that she is also an agent for Maya Island Air, she was the sole person to take care of George in the first stage of his accident and she had to travel by air. She disagreed with counsel's suggestion that the Maya Island Air documents had nothing to do with George. She was asked about the loan

from Quick Stop Loans and she agreed that the interest on loans from that business are higher than from other places. Ms. Leslie said that the loan was not in George's name because he was in the hospital at that time. She agreed that the statement for the \$5,000 loan she received from Quick Stop Loans does not show that it was used for George. She also agreed that the promissory note that she exhibited showed a transaction between George and Paul Petit, and she was not involved except as a witness. She again agreed that she has no document to prove how that \$6,000 was spent. She disagreed with Learned Counsel's suggestion that she has not provided anything to show that these monies were spent towards George.

25. Mrs. Leslie was re-examined by Mrs. Ellis Bradley. She explained that when they arrived at Karl Heusner Memorial Hospital with George, they had expected that a team of doctors would be available to work on him. Instead, George was there for a very long time waiting for treatment, so the family made a decision to try to save his life to move him to another hospital. In answer to the query as to whether they had shopped around at other hospitals for the same treatment at a cheaper price, Mrs. Leslie said that there was no time to shop around; they needed to make a decision and one was made. She explained that on the day of George's accident she came to Belize City with him in the ambulance. The day after his first

surgery, she had to get back to Placencia because that is where she lives and works. Edlin Leslie whose name appears on one of the receipts is her husband, who has been the main person helping her with traveling and sharing care-giving responsibilities of George. Marcela Wolhers whose name appears on another receipt is her mother; she is also the mother of George. Mrs. Leslie said that she used the credit card for every transaction in that period that she needed to do for George as that was the easiest way she could think of to keep track of the amounts spent.

Evidence on Behalf of the Defendants

26. The Defendants called four witnesses. The First Witness was Mrs. Shirley Persaud who told the court that she is a Retired Services Supervisor from Canada who was staying with her husband at Coco Plum resort in Placencia on March 9, 2018. They usually stay in Placencia from April to December each year, then spend the rest of the year in Canada. She and her husband own property at Coco Plum Resort. On Friday, March 9, 2018 at around 5:35pm, Mrs. Persaud and her husband along with their neighbours Elizabeth and Kenneth Allen, the Defendants, left their house to go and play bingo at the Flying Pig Restaurant and Bar. Mrs. Allen was driving their Ford Truck, her husband Kenneth was in the passenger seat, Mrs. Persaud was in the rear of the car in the left seat and Mr. Persaud was

sitting in the rear on the right. This witness said that Mrs. Allen drove slowly at around 5 miles per hour and as she saw a place to park at the Flying Pig. There was only one parking spot available under a tree and Mrs. Allen turned on her left indicator before she turned in to park the vehicle. She says that they were already turned and slowly proceeding to the parking spot when she felt a hit. She then heard a bang and the vehicle shut off on impact. By the time she heard the bang, the vehicle was already turned and would just have needed a little more in order to park. At the time of the accident, it was not yet dark, the sun was just setting in and the road was still visible. When she came out of the vehicle, Mrs. Persaud noticed that it was a motorcycle that had hit them.

27. Under cross-examination by Mrs. Ellis Bradley for the Claimant, Mrs. Persaud said that while travelling in the vehicle that was being driven by Mrs. Allen, she could not say whether there was a motorcycle or anything else coming in the opposite direction before Mrs. Allen made her turn. She had been looking at the dashboard and lifting her head up long enough to see that Mrs. Allen was approaching the tree. The impact was to the side of the vehicle next to the window near which she was sitting and the air bag deployed on that side. This witness said that she heard Mrs. Allen say at the scene after the accident that she did not see the cyclist.

28. The next witness for the Defence was Mr. Cecil Raymond Persaud. He repeats most of what his wife said in her statement. He is a Canadian Retiree who spends April to December in Placencia each year and the rest of the year he lives in Canada. He and his wife travelled in the vehicle belonging to the Allens and being driven by Mrs. Elizabeth Allen on March 9, 2018. They were going to the Flying Pig Restaurant and Bar for bingo night. He was sitting in the back seat, Mrs. Allen was driving at a slow speed and he was sitting behind her. He had a clear view of the road which was clearly visible, and the traffic was light in both directions. Mr. Persaud said that upon arrival at the Flying Pig parking lot he saw Mrs. Allen put on her signal and turned left. While more than half way on the other side of the road Mr. Persaud said he saw someone on a motorcycle coming towards them. He observed that person coming at a fast speed and he heard a loud bang. The impact deployed the air bags and the car shut off.

29. Mr. Persaud was cross-examined by Mrs. Ellis Bradley. He was not paying much attention to see if there were other vehicles on the opposite side of the parking lot, or what type of vehicles they were. He said that there was only one vacant spot in the parking lot at that time and that spot was across from the lane where the vehicle was travelling. He agreed that Mrs. Allen would have had to make a left turn to get to that parking spot so she had to

change her direction of travel. Mr. Persaud said he heard the indicator clicking on and off and he saw Mrs. Allen make the motion to put it on. He cannot say that he saw her do it, he simply saw the motion she made. They were travelling very slowly and about two seconds after she initiated the turn into the parking lot. He said that he was sitting directly behind Mrs. Allen as she was driving but he cannot say that she looked in the direction of the motorcyclist. He does not know at what speed the motorcyclist was travelling, but he says it was fast. Upon impact, the vehicle appeared to shut off, the hazard lights came on, the air bags deployed and the vehicle rolled forward. Mr. Persaud cannot say whether the rolling forward of the vehicle after the impact was caused by Mrs. Allen controlling it or not.

30. Mrs. Elizabeth Allen, the First Defendant, testified next. She said in her witness statement that she is a Retired Book Keeper/Accountant residing at Coco Plum Resort in Placencia Village with her husband Kenneth Allen. They usually stay in Placencia for 3 months every year and spend the rest of the year in the United States of America. On March 9, 2018 the witness and her husband Kenneth, along with their two friends, Cecil Persaud and Shirley Persaud, left in a grey and black Ford pickup en route to the Flying Pig Restaurant and Bar in Placencia Village to go to bingo night. She was

the driver of the pickup, her husband rode in the front passenger seat, Shirley was sitting behind Mr. Allen and Mr. Persaud was sitting behind the driver Mrs. Allen. The restaurant was located about 100 yards immediately after a pedestrian ramp. She drove round 15 miles per hour while looking for a parking spot. When she arrived at The Flying Pig, she says that she looked up the road and seeing no traffic coming, she put on her left blinker and proceeded to slowly turn into the parking space just north of the Flying Pig. As she was passing on the left lane used by incoming vehicles, she felt a sudden jerk and a loud bang on the passenger side of her vehicle. All four airbags deployed, the engine cut off and the emergency lights went on. They were nearly all the way into the parking space and she had no idea what had happened. She was in shock, the police arrived with the ambulance. She gave the police a statement. Shortly after the accident, the Claimant was paid \$50,000 BZ dollars as payment towards his expenses by RF&G Insurance. The funds were released on condition that the Defendants did not accept liability.

31. Mrs. Allen was duly cross-examined by Mrs. Ellis Bradley for the Claimant. She agreed that on March 9, 2018, visibility was good as it was broad daylight, the road was straight, and she could have seen very far up the road. When she reached near to the Flying Pig, she saw a parking spot

and decided to turn left into that vacant spot. She agreed that she had to change her direction and cross the lane over into the lane of oncoming traffic. As she did not see any vehicle coming, she decided to turn. She disagreed with counsel's suggestion that she did not put on her indicator when she was about to turn. The witness said that she did put on her indicator because she is a very careful driver. She agreed that at the time of the collision, the vehicle was still partially on the road. After the impact, the vehicle kept rolling slowly forward. She was shown photos of the vehicle and she agreed that in that photo, the rear wheel of the vehicle was still on the road. Mrs. Allen said she believed that the accident took place not in the center of the road, but at the center of the lane for oncoming traffic, the lane that Mr. George Rowland would have been travelling in. She said that the accident happened as she was crossing the north bound lane and the front of her vehicle was already starting to dip down into the parking space. She agreed that she could not say whether the motorcycle was near or far before the collision. When it was put to her that her attention was focused on parking as opposed to looking at the oncoming traffic, Mrs. Allen said that she did look then she turned and started parking and she did not see any traffic coming at that time. She agreed that she did not see the cyclist at any time prior to the collision, nor did anyone in the

vehicle alert her as to the presence of the cyclist. Mrs. Allen said she is familiar with the Rules of the Road in Belize. She agreed that she was aware that the burden of ascertaining whether the road is clear in every direction rests with the driver of a motor vehicle which alters its speed or direction. She is also aware that the driver of such a vehicle which is changing direction shall give way to other vehicles. Mrs. Allen agreed that there is a lane of traffic that she had to cross when changing direction. She also agreed that the responsibility to give way to other vehicles travelling in that lane lay with her. She also agreed that had she seen the motorcycle and remained in her lane, the accident would not have happened. The witness also agreed that it would not have mattered the speed at which the motorcycle had been travelling if she had remained in her lane. She said that she had made a complete turn to the left and the vehicle was completely perpendicular to the road, as in the vehicle was across the road, when the accident occurred. The pickup was at a 90 degree angle to where she had been coming straight, then it turned left. She agreed that given the length of her pickup truck, it would have blocked the length of the lane of oncoming traffic. She agreed that it would have been difficult for an oncoming cyclist who was close to avoid the collision. Mrs. Allen agreed that she probably commented to more than one person immediately after

the accident that she did not see the cyclist. She disagree with counsel's suggestion that the collision occurred because of her failure to ensure that the roadway which she was about to cross was clear. The witness was re-examined briefly by Ms. Perdomo. She said that she looked down the road, did not see anyone coming and made the turn before slowly moving into the parking lot.

32. The final witness for the Defence was the Second Defendant, Mr. Kenneth Allen. He said that he is a Retiree of California USA residing at Coco Plum Resort with his wife Elizabeth Allen in Placencia. They usually spend 3 months of every year in Placencia and the rest of the year in the USA. On March 9, 2018, they were travelling south in a Silver pick up being driven by his wife on Placencia Road. Their neighbours Cecil and Shirley Persaud were with them sitting in the back seats. As they approached the Flying Pig Bar and Restaurant on the left side of the road, they first slowed down to pass over a speed bump then began looking for a place to park. Upon seeing a space to the side of the road, his wife turned on her left indicator, looked ahead and saw no oncoming traffic then proceeded slowly to a dip in the dirt just before the parking space. As she focused on parking the truck, he looked back at the road to see a dark motorcycle and rider coming at a fast speed directly at him in the front seat. He noticed the driver first

look at the truck when he was about 30 yards away as he looked back from his right side. Mr. Allen said he saw the driver looking at the assembled crowd in the outdoor Bar. When the driver finally directed his attention to the truck and impending collision he did not brake or make any attempts at avoidance other than to steer slightly to his left. This resulted in the driver hitting the truck directly in the middle door post between the front and back doors. According to this witness, there was no “sudden turn” by his wife and the truck indicators were working. He saw no indication by the Claimant of down shifting or braking and there were no skid marks on the street. The witness said that as a result of the Claimant colliding into them, his pickup truck was substantially damaged to the front and back passenger doors as shown in photos marked **Exhibit KA 2**. He said that he had to spend over \$6,000 BZ to repair the truck. He produced Invoice and Payments to BSB Consulting of \$2,999.95 BZ as **Exhibit KA 3** as well as Invoice and payments to 74 Auto LLC for \$1,400US as **Exhibit KA 4**.

33. Mr. Allen’s evidence was challenged by Mrs. Ellis Bradley for the Claimant. He admitted that the accident happened a little earlier than 5:45 pm in the evening as he had said in his statement; it actually took place between 5:30pm and 5:45 pm. He later changed this after his statement was

shown to him and he said it was actually 5:15pm. The witness agreed that at that time it was very clear in terms of visibility. He agreed that the motorcycle was close when he saw it and that it was about 100 feet away. It took about 4 to 5 seconds between when he saw the motorcycle and when the collision happened. He yelled “watch out” to his wife but it was already too late as the driver of the cycle had already drove up into the truck. He agreed that the driver of the motorcycle was in his correct lane at all times. He agreed that he did see the Claimant try to turn away from the vehicle prior to the collision, and he agreed that that would have been an effort to avoid colliding with the truck. Under a brief re-examination by Ms. Perdomo for the Defendants, Mr. Allen stated that when he first saw the Claimant he was looking to his right at the crowd at the Flying Pig. He then saw the Claimant’s eyes widen when he turned to look at them, like a deer in the headlights look, and it was too late for the driver of the motorcycle to do anything other than slightly veer to the left without braking.

Legal Submissions on Behalf of the Claimant

34. On behalf of Mr. Rowland, Mrs. Ellis Bradley argues that the evidence of all the witnesses, including the evidence of the Defendants, is that the following facts are true:

- a. The stretch of road along which the collision occurred was straight.
- b. The weather was dry and visibility was good.
- c. The Claimant and Defendant were travelling in opposite directions prior to the accident.
- d. The First Defendant in an attempt to park in a parking space in a parking lot of the Flying Pig restaurant made a left turn and had to cross the path of the Claimant who was traveling in the opposite direction in the oncoming lane.
- e. The First Defendant did not see or heed the presence of the Claimant who was traveling on the road at any time prior to or up to the collision.
- f. The collision occurred on the roadway in the Claimant's lane of travel
- g. After the collision the Defendants' vehicle continued to roll forward until it came to rest at the position as shown in photographs taken by Patrick Gonsalve.

On the disputed portions of the evidence, Mrs. Ellis Bradley made several submissions. She argues that while Mr. Allen was not entirely truthful when he said he saw the Claimant looking in the direction of the Flying Pig then look back at their pickup immediately prior to the collision, his account does support the Claimant's version of events in that the Claimant did not anticipate

that the First Defendant would have turned across his path. Mr. Allen's evidence that he saw the Claimant travelling at a high speed, even if true, would have made it even more manifestly unsafe for the First Defendant to make a turn in the face of an oncoming motorcycle traveling at a high speed. Mr. Allen said that he saw the Claimant from 100 yards away and this proves that even though the First Defendant did not see him, the Claimant did not suddenly appear as the First Defendant claimed. The First Defendant acknowledged that the road was straight and she was able to see very far up the road. The evidence of the witnesses Felker, Rothing and Duncan was that the First Defendant suddenly turned across the path of the Claimant who was travelling on his motorcycle. Rothing confirmed that the First Defendant sped up when making the turn and it is submitted that such an acceleration in speed was inappropriate and excessive in the face of the oncoming cycle. The evidence of these witnesses is to be accepted because they are independent third parties who were witnesses of the truth as to how the collision occurred. Mrs. Ellis Bradley urges the court to reject the evidence of the Persauds that the First Defendant put on her indicator before turning. This evidence is merely an attempt to assist their friend by giving favorable evidence. The First Defendant admitted that she was not even aware of the presence of the motorcycle until after the accident occurred so she could not have put on her

indicator for the benefit of the cyclist. The particulars of Negligence pleaded have therefore been proven and the evidence shows that the collision was due entirely to the negligence of the First Defendant.

35. The Rules of the Road under the Motor Vehicle and Road Traffic Act Chapter 192 of the Laws of Belize S 114(3) and 115 are instructive.

S114 provides “*Each driver of a motor vehicle shall comply with the following rules:*

...114(3) He shall not cross a road or turn in or commence to cross or turn in a road or proceed from one road into another road or drive from a place which is not a road or from a road into a place which is not a road unless he can do so without obstructing any traffic on the road and for this purpose he shall be held to be obstructing other traffic if he causes risk of accident thereto.”

In **David Conolly et. al. v. Julio Iglesias et. al. Supreme Court of Belize Claim 711 of 2008**, this court accepted that the Defendant’s vehicle was coming in the opposite direction and that the accident occurred along a straight stretch of road which was free from obstruction and that the driver’s view was unobstructed. The Learned Judge underscored that both drivers owe a duty of care to other road users. It was found on the evidence in that

case that the collision was as a result of the Claimant suddenly swerving into the path of the Defendant who was not speeding and had been traveling at a safe distance.

Regulation 115 of the Motor Vehicles and Road Traffic Regulations provides as follows:

“The burden of ascertaining whether the road be clear in every direction shall rest with the driver of a motor vehicle which alters its speed or direction and the driver of such vehicle shall give way to other vehicles.”

The First Defendant in the case at bar in answer to a question in cross-examination as to whether she was aware of this regulation said” I now know.”

The submission is that at the time of the collision she was not aware of this requirement. The collision was caused by the First Defendant’s failure to give way to the Claimant’s cycle on account of her not keeping a proper lookout to see the Claimant in the first place. The Claimant failed to observe the rules of the road by which all drivers are bound.

The Measure of Damages

36. The measure of damages on a finding of liability in negligence is to put the Claimant back as far as money can do so, to the position he would have been

in had the accident not occurred. The approach was discussed in the Belize Supreme Court case of **Alvarenga et.al. v. Cruz Claim No. 987 of 2009**:

“I must now consider the question of damages. I must consider general damages which need not be specially pleaded...Under the hearing of general damages, much guidance has been given by Wooding CJ in the hallmark decision of **Cornilliac v St. Louis 1965 7 WIR p 491**. The learned judge enumerated several considerations which a judge should bear in mind when making an assessment of general damages involving personal injuries as follows:-

- (1) The nature and extent of the injuries sustained
- (2) The nature and gravity of the resulting disability
- (3) The pain and suffering which had to be endured
- (4) The loss of amenities suffered, and
- (5) The extent to which consequentially the appellants pecuniary prospects have been affected.”

The court then reminded itself that it is one conventional sum that is affected.

In 2006, in **Aurora Awe et al v Arthur Hoy et.al. Supreme Court of Belize Claim 441 of 2002**, Conteh CJ awarded the Claimant in that matter the sum of \$200,000 where Dr. Smith testified that he estimated her residual disability at 60% of total person. In the case at bar Dr. Smith evidence is that residual

disability of George Rowland is at least 40%. Aurora Awe suffered severe injuries including Systemic Inflammatory Response Syndrome, Head Injury Grade I/II, closed Chest Trauma, Acute Lung Injury, Open Fracture Left Femur, Right Tibia, Right Humerus, closed Fracture Left Tibia, Left Femur and others. The Claimant in the Awe matter was awarded the sum of \$200,000 as general damages for her pain and suffering and loss of amenities. This amount was awarded 13 years ago and unlike Awe, Mr. Rowland will need to undergo a hip replacement surgery.

In the consolidated cases of **Lillian Roches v Areli Manzanilla Claim 660 of 2013** and **Doriat Noh v. Areli Manzanilla Claim 216 of 2014**, the Claimant Lillian Roches sustained injuries similar to that of the Claimant in the case at bar:

- a. Closed head injury with transient concussion
- b. Lacerations to the face
- c. Injury to the tooth and lower right jaw
- d. Fractures of the right tibia and abrasions to the anterior and posterior aspects of the leg

The Claimant in the Lillian Roches matter was required to undergo a further surgical procedure and her permanent residual disability was assessed at 40% with the opinion that if the surgical procedure to unite the fracture was successful,

the disability would be reduced to 15% to 20% of the whole person. The sum of \$300,000 was awarded for pain and suffering and loss of amenities.

In the case at bar, Mrs. Ellis Bradley submits that an award in the region of \$250,000 to \$300,000 for pain and suffering and loss of amenities would be appropriate.

37. Mrs. Ellis Bradley also submits that the instant case would be appropriate for an award of Handicap on the Labour Market under general damages and an award of loss of future earnings as special damages. This is compensation for the weakening of the Claimant's position on the labour market and a recognition that his injury may cause him to earn less or even lose his capacity to earn. Legall J's judgment in **Jose Alvarenga v. Madrid Cruz Claim No. 987 of 2009** is instructive where His Lordship sets out the distinction between these two types of awards and their applicability as articulated by Lord Denning in **Fairley v. Thompson Ltd. 2 1973 Lloyd's Report 40** "Compensation for loss of future earnings is awarded for real assessable loss proved by evidence. Compensation for diminution of earning capacity is awarded as part of general damages." Mrs. Ellis Bradley is requesting that the court awards Mr. Rowland a global sum of \$35,000 to \$50,000 for diminution of earning capacity given his high earning capacity prior to the accident and the extent of his permanent disability.

On the issue of special damages, Mrs. Ellis Bradley contends that the table of special damages in this case has been revised as per her undertaking to remove items which do not directly relate to losses arising from the collision or matters included inadvertently. Learned Counsel relies on **O’Garro et al v Neil Ross et al Claim No. SVGHCV2004/329** where the court found that the bare statement of the Claimant, unsupported by any evidence, that she lost \$4,000 per month for 36 months from her clothing business was not adequate. However the court went on to say at paragraph 13 that:

“Our courts have held that the fact that a Claimant cannot establish his earnings by way of pay slips and the like is no bar to his recovering special damages...

On the authority of Greer, I am prepared to award a nominal sum which is not out of scale for loss of earnings at 3,000 per month for 12 months. This computes to \$36,000. I award this sum as loss of earnings.”

Mrs. Ellis Bradley argues that the Claimant in the present case has adduced sufficient evidence to the Court that he was employed prior to the collision:

- a. Evidence of Emmerson Rowland detailing George Rowland’s employment

- b. Forms confirming assignment as chef to vacationing groups
- c. Informal email and hand written reports confirming salaries paid to Emmerson Rowland and George Rowland
- d. Tipping guide given to guests
- e. Bank account statements showing deposits made to his account
- f. Evidence as to how he was paid and of the fact that the operations of his employer based in the US were not very strict and formal.

On the issue of loss of future earnings, Mrs. Ellis Bradley submits that the Claimant is currently unemployed and will likely continue to be unable to return to gainful employment until he has reached maximum medical improvement. Dr. Smith's evidence is that it would take approximately three months for the Claimant to be able to work after his hip replacement surgery. Learned Counsel for the Defendant therefore submits that the Claimant would be entitled to loss of earnings up until the date of judgment and continuing until 3 months after surgery, and that an award for 4 months post judgment be made.

38. LEGAL SUBMISSIONS ON BEHALF OF THE DEFENDANT

Ms. Perdomo argues on behalf of the Defendants that the collision was caused or contributed to by the negligence of the Claimant. The Defendants have counterclaimed against the Claimant for the cost of repairs and parts to their Ford pickup. Learned Counsel submits that the evidence of the witnesses for

the Claimant on how the accident occurred should not be believed. Pointing out the evidence first of Mr. Rothing, Ms. Perdomo argues that based on the photographs and his evidence it would be impossible for him to be speaking to a medical student, looking at the road, and still be able to see in such detail eg. the speed of the cycle, that Mrs. Allen looked left or right, that Mrs. Allen sped up etc.) The mere assertion that Mr. Rothing could see the cycle coming from the south and the truck coming from the north at the same time is incredible. Given the distance of the Bar from the truck, his evidence should be rejected.

The Defendants also submit that the question of 'impact' is also important in considering whether the Claimant's 'excessive or improper speed' was a contributing factor to this collision. While Mr. Rothing says that the truck was going slowly, he also says that the cycle was traveling at a normal speed. He later changed his testimony and said he is not a radar gun and he can't say how fast the cycle was going.

Ms. Perdomo also challenges the credibility of the evidence of Mark Fletcher who had been standing at the railing of the bar facing North. Based on the photographs exhibited, and the distance between the bar and where the truck was parked, Learned Counsel submits that it would be unbelievable that Mr. Fletcher could have seen how the Second Defendant was looking and that she

checked to see before making her turn. He also accepted that he could not say at what speed the motorcycle was travelling.

39. Ms. Perdomo also submits that the evidence of Sheldon Duncan is unreliable.

He also could not tell at what speed the Claimant was traveling. It was untenable that Mr. Duncan while serving a drink, people standing in the bar around him, observing the street from behind the bar, and seeing north and south of the road at the same time. He would not be able to see where the Second Defendant was looking and whether she put on her indicator, in addition to the speed of the motorcycle and the fact that the person driving said cycle while wearing a helmet was a young man. His evidence should be rejected as an attempt to support Mr. Rowland's case whom he had known for a year or two.

40. Ms. Perdomo contends that the evidence of the Claimant George Rowland is

also not to be believed. George Rowland accepts that the impact was heavy, while all the other witnesses say that the First Defendant was 'going slowly'.

It is submitted that these two undisputed facts can only lead to the conclusion that Mr. Rowland was speeding. If he had geared down and slowed down further, it is not probable that such an impact would have occurred. Ms.

Perdomo argues that the evidence of Mr. and Mrs. Persaud and that of Mr. Allen is credible and should be accepted by the court as the truth. Mr. Allen

says that the Claimant was speeding and not paying attention and this is corroborated by the huge impact which occurred. Ms. Perdomo contends that this court's decision in **Connelly v. Brown Supreme Court of Belize Claim No. 711 of 2008** is instructive where the learned trial judge factored the element of impact when making its determination on the question of speed. She asks that this court adopts a similar exercise on the facts of this case. On behalf of the Defendants it is submitted that based on the evidence, and given the tremendous impact, the only reasonable conclusion is that the Claimant was coming at such a high speed that his own negligence caused, and in the alternative, contributed to, the accident. The particulars of negligence alleged by the Defendant against the Claimant have therefore been proven.

41. The Injuries

Ms. Perdomo submits that while Dr. Smith provided evidence of the Claimant's injuries, he conceded that the assessment was an estimation and that there are still some outstanding procedures to be performed. Dr. Smith also stated that the Claimant could have received the same treatment at the public hospital being Karl Heusner Memorial Hospital.

42. **The Law**

Section 114 of the Motor Vehicle and Road Traffic Act Chapter 192 and Regulation 115 places a burden on the driver which alters speed or changes direction to ensure the road is clear. However, all drivers, including the Claimant herein are under a duty to drive carefully.

Ms. Perdomo submits that the case at bar is distinguishable from the cases discussed in the Claimant's submissions. In *Belisle v. Mai* the Claimant was driving down a road when the police was travelling behind her on motorcycle. The Claimant was aware of the motorcycle behind her yet indicated and attempted to turn when the police decided to overtake and collided into the left side of her car.

In the case at bar, Mrs. Allen had already made a turn and was proceeding to park when it was Mr. Rowland who was coming at such high speed that he collided into the truck. Ms. Perdomo submits that while Mrs. Allen discharged her duty as required by the relevant legislation, it was Mr. Rowland who acted negligently in failing to drive at a reasonable speed in discharging his duty on the road. As a result of the Claimant's negligence, the Allen's motor vehicle was damaged and they are seeking compensation for the cost of repairs, as

shown by the invoices and credit card payments attached for the sum of \$6,000 BZ plus interest and costs.

43. On the issue of damages sought by the Claimant, Ms. Perdomo argues that in **Aurora Awe, Lilian Roches v. Areli Manzanilla** and **Oscar Chell v. Edgar Mejia**, in all these cases the Claimants suffered injuries which were far more serious than those suffered by Mr. Rowland in the present case.

In regard to Loss of Earnings, Ms. Perdomo argues that the Claimant nor Mr. Emerson Rowland provided any proof that George Rowland earned \$2,200 per month and the tips claimed. No pay slips were provided and there were no social security statements or any other document to substantiate the salary. The accounts provided do not show that \$2,200 was paid in any of the months in the statement. Similarly there was no documentary evidence to prove the claim of \$1,200 to \$2,000 in tips as pleaded.

On the issue of special damages, Ms. Perdomo submits that the Claimant is not entitled to damages which are too remote, and further it is the Claimant's duty to mitigate which requires him to avoid unreasonably incurring expenses subsequent to the wrong. Emerson Rowland testified that the parties spent an inordinate amount on a reclining chair which Mr. Rowland accepts was bought at Mirab one of the most expensive stores in Belize. By incurring

unreasonable expenses, the Claimant failed to mitigate his loss and should not be entitled to compensation for such expensive costs.

It is also submitted that the Claimant is not entitled to claim living expenses, including utilities, for his home in Seine Bight, expenses for his children and Ladyville household expenses. It is submitted that awarding special damages as claimed would not be appropriate compensation as it would amount to duplication. Ms. Perdomo cites **Lim Poo Choo and Amden v Islington Area Health Authority [1980] A.C. 174** where the court held:

“That, since a genuine deprivation, whether pecuniary or non-pecuniary in character, was a proper subject of compensation, a plaintiff in a “catastrophic” case was entitled to recover damages for loss of earnings; that to avoid duplication, or exceeding a true compensation for the plaintiff’s deprivation or loss, sums for expenses incurred in earning an income as well as living expenses fell to be deducted from the damages awarded; but that, in a case of incapacity where there was a cost of care claim as well as a loss of earnings claim. The right approach in calculating living expenses was not to attempt an assessment of how much the plaintiff would have spent and on what, but to deduct the ‘domestic element’ from the cost of care in calculating the multiplicand (post.pp. 190 E- 191 A, D -192A, 196B)...”

In conclusion, it is submitted that the Claimant is not allowed to claim loss of earnings as well as the living expenses and cost of care as shown in the table attached to his submissions; significant deductions must be made for duplication. The loans claimed by the Claimant were not reasonably foreseeable and the Defendants are not liable to pay them; those loans also appear in the names of third parties. In *Thomas v The Ag SCJ No CLT 095* (unreported) the court held that “*justice demanded that the claimant should strictly prove his special damage if the circumstances suggested that he was able to do so for to decided otherwise would be to introduce unwarranted laxity in this area of law.*” In looking at all the receipts exhibited in support of the table attached to the Claimant’s submissions, the documentary evidence for items such as Fuel, Transportation Cost, Supermarket Receipts, Accommodation, Loans, Salary, Car rentals, etc. do not appear in the Claimant’s name. There is no proof that such expenses were incurred as a result of the injury. The special damages have not been strictly proven by the Claimant as required by law; as such the Claimant is not entitled to, nor are the Defendants liable to pay the unreasonable amount of \$209,961.97 as claimed.

44. Mrs. Ellis Bradley made submissions on behalf of the Claimant in reply to those field by Ms. Perdomo on behalf of the Defendants. It is argued on behalf

of the Claimant that the Defendants allege that the Claimant caused the accident because he was distracted and speeding. If such an assertion were to be countenanced that would do no more than to underscore the negligence of the First Defendant; to turn across the path of a motorist who is distracted would be manifestly unwise, unsafe and negligent. It is a legal fallacy to submit that the road was clear when the First Defendant changed direction because it is manifest by the very collision that the road could not have been clear, and a motorcycle does not appear out of thin air. The Claimant was on the roadway, a straight road at a time when visibility was good and all the Defendant's witnesses confirmed that one could see very far down the road. In support of this fact was that the Second Defendant testified that he saw the Claimant travelling on the roadway prior to the collision. Unlike the Defendants in the Belisle case and the Connelly case cited above who actually made checks of heeded the presence of the other motorist, the First Defendant Mrs. Allen did not heed the presence of the Claimant's cycle at anytime or at all. She was not keeping a proper look out. The evidence of all witnesses including Mrs. Allen was that she had not completed the turn, and was across the roadway in the vicinity of the middle of the roadway so much so that after the collision the vehicle rolled forward from the point of impact and still came to rest on the roadway.

In relation to Loss of Earnings and capacity, it is submitted that in the case at bar, there is evidence to support the Claimant's loss of earnings. The Claimant's evidence along with that of Emerson Rowland and the documentary evidence show that the Claimant has put before this Court the best evidence available to him. His monthly expenses for his family and his personal expenses prior to the accident also bear out that the Claimant had some means available to him in the region of what he had been earning. The submission is that George Rowland and his brother Emerson Rowland were very forthright and candid in their evidence to the court.

Special Damages

45. Mrs. Ellis Bradley takes no issue with the Defendants' proposition that the normal household expenses incurred by the Claimant during his period of recovery such as utilities and rent for his Seine Bight home are not to form part of an award for special damages. However, it is contended that the expenses for lodging and related expenses in Ladyville where the Claimant had to stay to receive treatment as an outpatient including injections and daily dressings are recoverable. The evidence is that the Claimant's home is in Seine Bight which is very far from the hospital and takes approximately three hours to travel from his home to Belize City where the hospital is located. Given the distance it is clear that fuel and travel expenses would be incurred

in travelling to and from the hospital. These expenses are contemporaneous with the period during which the Claimant visited the hospital for further surgery, treatment or evaluation. The revised special damages attached to the Claimant's submissions do not include duplicitous expenses and other expenses included by oversight. The cost of Seine Bight rent and other such expenses not as a result of the collision have been subtracted as per the undertaking provided by Counsel for the Claimant. The table of special damages submitted for the Court's approval now reflects only those expenses incurred as a result of the collision. It is also submitted that it lies ill in the mouth of the Defendants to argue that the Claimant could have gotten service cheaper or ought to have shopped around for a better deal. The Defendants have not put any evidence before this court of the cost of any other resources that the Claimant ought to have utilized in their estimation. The evidence of Mrs. Leslie, the Claimant's sister, is that her brother was initially taken to the public hospital KHMH, but based on advice received from doctors there and due to the urgency of the situation and the extenuating circumstances at KHMH, the family took a decision to avoid loss of life and of the Claimant's limb. Therefore the Claimant ought properly to recover the cost and expenses incurred. The absence of the Claimant's name on the Supermarket and Fuel receipts in no way limits his ability to recover for expenses incurred as a result

of the injuries sustained. It is the content of the receipts that is relevant and the evidence of the parties when taken together that determines the relevance of the expense. Each circumstance must be taken on its own facts. In *Bacon v. Cooper Metals Ltd.*, the high hire purchase interest charges paid to replace a part which was damaged beyond repair was held to be reasonably incurred and recoverable on account of the Defendant's breach of contract. It says "no doubt the most common example of recoverable reasonable expenses are the medical, hospital, and nursing expenses undertaken following personal injury."

The Defendants have put forward no evidence which can assist the court to decide on any interest or charge which the Claimant in his estimation should have incurred. There is a cost to obtaining money which one does not have, and in the ordinary course of things, it is expected that lending institutions and persons lending money charge for such assistance. In conclusion, the Claimant is entitled to the damages claimed and to an award of interest and prescribed costs.

DECISION

I thank both counsel for their written submissions which have greatly assisted this court in determining this claim. Having reviewed the evidence in its

entirety both written and oral and having analyzed the written submissions made for and against this claim, I now determine the issues and in so doing, determine the claim.

On the first issue as to whether the collision was caused by the negligence of the Claimant or of the First Defendant, I find that the collision was caused by the negligence of the First Defendant. All the witnesses for the Claimant say that the First Defendant crossed the oncoming lane to enter the parking lot of the Flying Pig Restaurant and Bar. Mrs. Allen herself admitted that she was focused on getting to that one parking space that remained vacant and I find that in so doing she did not see that Mr. George Rowland was coming towards her on his motorcycle in the opposite lane. The most compelling portion of the evidence to me, separate and apart of the evidence of the 3 witnesses at the bar, was the evidence of Mr. Allen who was in the vehicle being driven by his wife. The fact that Mr. Allen was able to see Mr. George Rowland coming on his motorcycle prior to the accident proves to me that if Mrs. Allen had been paying the requisite care and attention as mandated by the Rules of the Road, she would have seen this motorcyclist in time and would not have driven her vehicle into his lane, thereby causing this terrible accident. Mrs. Allen swerved abruptly into Mr. Rowland's lane causing his motorcycle to spin out of control and causing him severe injuries. I find the evidence of the

witnesses Felker, Gonsalves and Duncan to be credible and I rely on the truth of their testimonies as unbiased witnesses in resolving this issue clearly in favor of the Claimant. I therefore find the particulars of negligence alleged by the Claimant against the Defendants to be proven on a balance of probabilities.

In relation to the second issue whether the collision was solely caused or materially contributed to by the negligence of the Claimant or of the First Defendant, since I have determined that this accident was caused *solely* by the negligence of the First Defendant, this second issue has been resolved.

Finally on the third issue as to whether damages are to be paid and what is the quantum of damages to be paid by either the Claimant or the Defendant depending on the court's finding as to liability? As I find that the Claimant has proven that the Defendants were negligent, he is entitled to damages to compensate him for loss and injuries suffered. Mr. Rowland has suffered extensive physical injuries, as established by the evidence of Dr. Francis Smith who testified that the Claimant's disability at time of trial is 40% but is likely to increase. He also said that Mr. Rowland would need a hip replacement surgery. In view of the authorities cited by Mrs. Ellis Bradley and the evidence of Dr. Smith as to the extent of the disability and need for further medical treatment, I award the global sum of \$275,000 as general damages for pain and suffering and loss of amenities. Given the fact that the Claimant

was a Chef earning a base salary approximately \$2,200 per month at a high end resort in Placencia prior to this accident, and as established by the evidence of the Claimant and his brother Emerson which I accept as true, I award the Claimant the sum of \$35,000 under the head loss of earning capacity to reflect the weakening of the Claimant's competitive position on the labour market and a recognition that his injury may cause him to earn less or may even cause him to lose his capacity to earn as part of an award of general damages.

In relation to the table setting out Special Damages claimed, I award the sum of \$209,961.97 to reflect medical, transportation, and other expenses incurred as well as loss of earnings from April 2018 until trial, of 3 hip surgeries and 4 months loss of earnings at \$2,200 per month for recovery after hip surgery as a result of this accident. I must state that while I find that the Claimant has proven that he earned a base salary of \$2,200 per month, I have not included the award of tips as tips is not guaranteed as that is discretionary on the part of guests. The Claimant is also awarded loss of future earnings for the period from trial until date of judgment at the rate of \$2,200 per month multiplied by the number of months. The sum of \$50,000 already collected by the Claimant from the Defendants' insurance company must be deducted from the total

amount awarded. Prescribed costs are awarded to the Claimant to be paid by the Defendants.

Dated this day of December, 2020

Michelle Arana

Chief Justice (Acting)

Supreme Court of Belize