Firestone Liberia, Inc. v Kollie [2012] LRSC 14 (17 August 2012)

Firestone Liberia, Inc., by and thru Its President and Managing Director, **Charles Stuart**, of Harbel, Margibi County, Liberia Appellant Versus **G. Galimah Kollie,** of the City of Kakata, Margibi County, Liberia Appellee

APPEAL

Heard: May 15, 2012 Decided: August 17, 2012.

Mr. Justice Ja'neh delivered the opinion of the Court.

G. Gallimah Kollie, Appellee in these proceedings, in March, 2009, instituted an Action of Damages for Wrong against the Appellant, Firestone Liberia, Inc.

In the thirteen - count complaint filed at the Thirteenth (13th) Judicial Circuit Margibi County, Appellee claimed that on January 13, 2007, security officers operating under Appellant's Plant Protection Department, without any color of right or authority, seized Appellee's Kia Motor vehicle, bearing license plate BP-0776. Appellee further complained that the truck remained impounded for eight hundred seven (807) days up to, and including March 31, 2009, the date of filing of this case. Terming the seizure as wrongful, Appellee has further alleged that the seizure of his truck injured him by the loss of US$150.00 (One Hundred Fifty United States dollars) in daily rental income for 807 (eight hundred seven) days, from January 13, 2007 when the truck was impounded to March 31, 2009, when the suit was filed. On account of this allegation, Appellee is claiming special damages for the 807 days the truck was impounded, plus the value of the six (6) ton seized rubber at US$4,800.00, calculated to the tone of US125,850.00 (one hundred twenty-five thousand, eight hundred fifty United States dollars). Further, and for the alleged embarrassment Appellee is said to have suffered, the inconvenience and mental anguish endured as a direct consequence of the unwarranted seizure, Appellee prayed the court to grant an amount in general damages which commensurate therewith but to be not less than US$2,000,000.00 (two million United States dollars).

His Honor, James N. Glayeneh, presiding by assignment, granted Appellee's Motion to strike Appellant's Answer on account of late filing, and for being in violation of Section 9.2 (3), ILCLR, title 1 (Civil Procedure Law) (1973), regulating time of service of responsive pleadings.

At the close of the trial conducted under the gavel of authority of His Honor, J. Boima Kontoe, presiding over the May 2009 Term of the court, the jury returned a unanimous verdict on July 15, 2010, finding the Appellant liable for special damages in the amount of US$193,500.00 (One Hundred Ninety Three Thousand Five Hundred United States dollars), and US$500,000.00 (Five Hundred Thousand United States dollars) for General Damages, thereby imposing on the Appellant a total liability of US$693, 500.00 (six hundred ninety three thousand five hundred United States dollars) to be paid to the Appellee.

Judge Kontoe heard and denied Appellant's motion for a new trial and on August 3, 2010, entered final judgment, concluding as stated below:

'The trial having been regular and the verdict of the Petit Jury consistent with the weight of the evidence adduced during trial, the said verdict is hereby confirmed. Accordingly, the defendant is adjudged LIABLE. The clerk of this court is hereby ordered to prepare a Bill of Cost, which shall be taxed by the counsels for both parties for subsequent approval by the court and thereafter, to be presented to the Defendant for payment.

Appellant has appealed from this final judgment. Appellant's contentions against the judgment are embodied in a twelve (12)-count Bill of Exceptions, seeking our review and correction of what Appellant believes to be serious errors allegedly committed during the conduct of the trial.

We have reproduced the counts contained in the Bill of Exceptions as follows: "1. That the law is that the purpose of pleading is to set out the facts, which give rise to the action and to give notice of what the opposite party, has to defend himself against in the court. The law also provides that the evidence that is adduced at trial should be in support of the pleading that was filed in court. Defendant/Appellant submits that in Count Nine (9) of Plaintiff/Appellee's Complaint, Plaintiff/Appellee averred that he, on January 13, 2007, while transporting six (6) tons of rubber in his KIA Motor truck (BP-776), members of Defendant/Appellant's Plant Protection Department (PPD), without any color of right or authority, seized and impounded Plaintiff/Appellee's truck, contending that the rubber therein belonged to Defendant/Appellant. During trial, Plaintiff/Appellee testified that the vehicle impounded by Defendant/Appellant's PPD officers was not a KIA Motor, as averred in Count Nine (9) of the Complaint, but rather a Hyundai truck.

Notwithstanding this contradiction and inconsistency, Your Honor denied Defendant/Appellant's Motion for New Trial, confirmed the verdict of the empanelled jury, and entered Final Judgment thereon; for which error of Your Honor, Defendant/Appellant excepts.

2. That also as to count one (1) above, Defendant/Appellant says that Plaintiff/Appellee averred that he rented his truck to Defendant/Appellant at US$150.00 (United States Dollars One Hundred and fifty) per day; but during trial, neither Plaintiff/Appellee nor his witnesses testified to Plaintiff/Appellee renting his truck, subject of the Action of Damages for Wrong, for US$150.00 (United States Dollars One Hundred Fifty) per day, nor led any evidence to establish that Plaintiff/Appellee paid US$150.00 (United States Dollars One Hundred Fifty) per day for the use of his vehicle. Movant/Plaintiff submits that the law in this jurisdiction is that the plaintiff in a case has the duty or burden of proving his claim and to do so by the best evidence available to him; every party alleging a fact must prove it and absent the best evidence being produced, even the best laid down action will be defeated. Mere allegations of a claim do not constitute proof, but must be supported by evidence so as to warrant a court or jury accepting it as true and enable the court to pronounce with certainty concerning the matter in dispute. So, Plaintiff/Appellee having alleged in his complaint that he generated US$150.00 (United States Dollars One Hundred Fifty) per day from the rental of his truck, but failed to testify and adduced evidence to support said allegation, the verdict of the empanelled jury should have been set aside and a new trial awarded; but instead, Your Honor denied Defendant/Appellant's Motion for new trial, confirmed the verdict of the empanelled jury, and entered Final Judgment thereon; for which erroneous and prejudicial Final Judgment Defendant/Appellant excepts.

3. That also as to counts one (1) and two (2) above, Defendant/Appellant says that Plaintiff/Appellee averred in count nine of his complaint that members of Defendant/Appellant's PPD officers, without any color of right or authority, seized and impounded Plaintiff/Appellee's truck, contending that the rubber therein belonged to Defendant/Appellee.

Defendant/Appellee's concession agreement, which was ratified by an Act to Rectify the Concession agreement between the Republic of Liberia and

Firestone Plantations Company, Approved April 11, 2005, published by authority of the Ministry of Foreign Affairs on April 12, 2005, Section 8, captioned Public Health and Safety, Paragraph 8.2 thereof, gives Defendant/Appellant the right to establish and maintain a plant protection department for the purpose of maintaining law, order and security in its concession area, and the authority to apprehend and detain subject to the law of Liberia.

Accordingly, Defendant/Appellant having suspected that the consignment of rubber on board Plaintiff/Appellee's truck was a subject of theft, acted properly and legally when it arrested and impounded the vehicle conveying the rubber suspected of theft. Therefore, the final judgment of Your Honor, confirming the verdict of the empanelled jury is erroneous and prejudicial, for which Defendant/Appellant excepts.

4. Further as to count one (1), two (2) and three (3) above, Defendant/Appellant says the Plaintiff/Appellee averred in count ten (10) of his complaint that the rubber seized from Plaintiff/Appellee was tested and found not to belong to Defendant/Appellant; and in support of his allegation, Plaintiff/Appellee attached a laboratory result, which was introduced into evidence. But during trial, the evidence adduced, including the laboratory result, clearly proved that the consignment of rubber which was on board Plaintiff/Appellee's vehicle bearing license plate BP-0776, belongs to Defendant/Appellant, as same contained Defendant/Appellant's trademark i.e. "Panel Red Dye" which is one of the distinguishing marks of identification on Defendant/Appellant's rubber produced from that of other locally produced rubber. Further, Plaintiff/Appellee testified that the rubber on board truck marked BP 0776 bears Red Dye coloration in substantiation of the said rubber being owned by Defendant/Appellant. For this reason, the verdict of the empanelled jury should have been set aside and a new trial awarded; but instead, Your Honor confirmed the verdict of the empanelled jury and entered final judgment thereon; for which Defendant/Appellant excepts.

5. That Plaintiff/Appellee prayed in his complaint for special damages in the amount of US$125,850.00 (United States dollars One Hundred Twenty-Five thousand Eight Hundred Fifty), representing alleged income generated from the rental of his truck for 807 (eight hundred seven) days at the rate of

US$150.00 (United States Dollars One Hundred Fifty) per day commencing January 13, 2007, up to and including March 31, 2009. Defendant/Appellant submits that the law in this jurisdiction is that special damages must be specifically pleaded and proved, and that uncertain, contingent or speculative damages cannot be recovered. The law also is that special damages must be specifically pleaded and proved, and that uncertain, contingent or speculative damages cannot be recovered. The law also is that special damages must be specifically pleaded and proved; that damages recoverable in any case must be susceptible of ascertainment with a reasonable degree of certainty or must be certain both in their nature or in respect of the cause for which they proceed; therefore, uncertain, contingent or speculative damages cannot be recovered either in action ex contractu or in action ex delicto.

Furthermore, the law is that it is not sufficient to merely allege an injury and claim damages therefor, but the plaintiff must prove the injury complained of and that he has been damaged to a sum commensurate with the amount claimed as damages. Defendant/Appellant submits that Plaintiff/Appellee led no evidence to prove the injury he complained of, and that he has been damaged to the sum commensurate with the amount he sued for.

Defendant/Appellant says that in an attempt to prove his special damages, Plaintiff/Appellee introduced into evidence a purported agreement between Plaintiff/Appellee and Samuel N. Korpu of COSMOC Pharmacy, pursuant to which Plaintiff/Appellee was to transport 250 pieces of plank daily for a period of two months, commencing on the 1st day of July, 2006, to the 1st day of September, period of two months, commencing on the 1st day of July, 2006, to the 1st day of September 2006, for a contract price of LD$10,000.00 (Liberian dollars Ten Thousand) or its equivalent in United States Dollars, and receipts alleging payment to Plaintiff/Appellee for services provided thereunder.

During trial, Plaintiff/Appellee failed to testify as to how many pieces of plank he transported. Nevertheless, Plaintiff/Appellee introduced receipts, all bearing the amount US$1,665.00 (United States Dollars One thousand six hundred sixty-five) without any Indication as to the pieces of plank transported by Plaintiff/Appellee for which each of said receipts were allegedly issued.

Moreover, the agreement is dated July 1, 2006, to commence on the selfsame July 1, 2006, but same was not executed until July 28, 2006. Notwithstanding, receipts were issued for July 12, 2006 and July 23, 2006, in the amounts of US$1,665.00 (United States Dollars One thousand six hundred sixty-five), respectively, as stated hereinabove, without any indication of how many pieces of plank said payments represented. Notwithstanding, the empanelled jury returned a verdict of liable against Defendant/Appellant for the amount of US$193.500.00 (United States Dollars one hundred and ninety-three thousand five hundred) as a special damages without any proof adduced at trial to substantiate such award. Accordingly, Your Honor erred when Your Honor confirmed the verdict of the empanelled jury and entered final judgment thereon; for which error of Your Honor Defendant/Appellant excepts.

7. That the Supreme Court of Liberia has held that the measure of damages for injury to or destruction of personal property is its market value at the time the injury occurred. The Supreme Court of Liberia, in confirming its Opinion mentioned herein, also held that the property, that is the cost of the property less any depreciation. Defendant/Appellant submits that during trial, Plaintiff/Appellee led no evidence, both oral and documentary, to establish the value of the vehicle, subject of the Action of Damages for Wrong. Instead, it was the Defendant/Appellant which introduced evidence, through the Ministry of Finance, specifically the offices of the Assistant Minister for Customs & Excise for Rural Ports, to the effect that the vehicle in question was a 1993 model imported into Liberia from Togo through the border of Toe Town, Grand Gedeh County, that the assessed duty paid therefore was US$104.14 (United States dollars one hundred fourteen cents), and the CIF value put at US1,071.40 (United States Dollars one thousand seventy-one). The Plaintiff/Appellee introduced no evidence to discredit or rebut the evidence produced by the Defendant/Appellant. Under our law, where evidence is brought against a party to a case, that party has the obligation to first deny the species of evidence brought against it, to then discredit that specie of evidence or to rebut that specie of evidence by his own contrary evidence.

Therefore, the verdict of the empanelled jury being contrary to the weight of the evidence adduced at trial, should have been set aside and a new trial ordered; but instead, Your Honor confirmed said erroneous and

prejudicial verdict and entered final judgment thereon; for which error of Your Honor Defendant/Appellant excepts.

B. That Your Honor instructed the trial jury that if they determined that Defendant/Appellant was wrong in arresting Plaintiff/Appellee's vehicle, then the period for which an award would be made should be from January 13, 2007, up to and including January 25, 2009, the day Plaintiff/Appellee refused to sign for and take delivery of his vehicle. Notwithstanding, and contrary to Your Honor's instruction, the empanelled jury awarded/returned a verdict contrary to Your Honor's instruction, same should be set aside and a new trial awarded; but instead, Your Honor confirmed said erroneous and prejudicial verdict and entered final judgment thereon; for which error of Your Honor Defendant/Appellant excepts.

9. That in addition to Plaintiff/Appellee's failure to prove special damages, Plaintiff/Appellee also failed to prove general damages, as Plaintiff/Appellee never led and produced evidence to show any damage he sustained as an ordinary, normal, and necessary result of any wrong committed by Defendant/Appellant. As the claim for general damages was never adduced at trial and a new trial, consistent with law, ought to have been granted; but instead, Your Honor confirmed the erroneous and prejudicial verdict of the empanelled jury, and entered final judgment thereon; for which error of Your Honor Defendant/Appellant excepts.

10. Defendant/Appellant says that general damages in the amount of US$500,000.00 (United States Dollars five hundred thousand) is not only unfounded, but it is also overly excessive, both as a matter of fact and law, since it is in contravention of the perimeter laid down by the Supreme Court of Liberia. That is, the Supreme Court has held that general damages should be not more than 100% (one hundred percent) of the special damages prayed for. So assuming, without certainly admitting, that Defendant/Appellant has committed a wrong against Plaintiff/Appellee for which special damages of US$193,500.00 (United States Dollars one hundred ninety-three thousand five hundred) would lie, then the general damages should never be in excess of US$193,500.00(United States Dollars one hundred ninety-three thousand five hundred). Since the general damages of US$500,000.00 (United States five hundred thousand) is overly and

grossly excessive and in violation of law, the verdict of the empanelled jury should have been set aside and a new trial granted; but instead, Your Honor confirmed the verdict of the empanelled jury and entered final judgment thereon; for which error of Your Honor, Defendant/Appellant excepts.

11. That during trial Defendant/Appellant produced evidence which totally negated Plaintiff/Appellee's complaint, which was never rebutted or contradicted by Plaintiff/Appellee. Defendant/Appellant led evidence, which was confirmed by Plaintiff/Appellee, that the rubber on board the vehicle, subject of theft. Defendant/Appellant submit that the vehicle in question was surrendered and delivered to the Liberia National Police, which operates a depot, known as Depot One, within the premises housing the Plant Protection Department of Defendant/Appellant, but the Plaintiff/Appellee did not show up to undergo investigation and abandoned his vehicle upon arrest by the PPD officers; that the value of the vehicle at the time of importation was US$1,071.40(United States Dollars one thousand seventy-one), as calculated based upon the duty paid on same; that the PPD, under Defendant/Appellant's concession agreement, which was ratified by the Liberian Legislature as law of specific application grants the authority and right to PPD to provide security within the concession area of Defendant/Appellant and to arrest and detain suspects in keeping with law. Notwithstanding, the jury returned a verdict of liable against Defendant/Appellant in the amount of US$193,500 (United States Dollars one hundred ninety-three thousand five hundred) as special damages, and US$500,000.00 (Unite States Dollars five hundred thousand) as general damages, aggregating US$693,500 (United States Dollars six hundred ninety-three thousand five hundred), without any scintilla of evidence to substantiate same. Notwithstanding, Your Honor denied the Defendant/Appellant's motion for new trial, confirmed the erroneous and prejudicial verdict of the empanelled jury, and entered final judgment thereon; for which error of Your Honor Defendant/Appellant excepts.

12. That under our law, a money judgment which does not award a sum certain is void for indefiniteness and enforceability. In the instant case, the final judgment of Your Honor does not award a sum , and is therefore void for indefiniteness and enforceability.

The material contentions Appellant has raised in the Bill of Exceptions suggest and generate the following determinative questions of this case:

1. Was the verdict returned by the petit jury finding Appellant liable for US$ 693,500 in sum total, supported by the evidence? Or, otherwise stated, did the Plaintiff/Appellee prove his case, as the law requires, to justify the special and general damages the jury awarded?

2. Were the seizure and impoundment of Appellee's vehicle by Appellant's security officers on suspicion of theft of Appellant's property a lawful exercise of the police powers granted to Appellant under the Concession Agreement executed between Appellant and the Liberian Government?

3. Does the final judgment entered by Judge Kontoe confirming and affirming the jury verdict, without stating a sum certain, render said judgment indefinite, void, and unenforceable?

We shall address these questions in precisely the same order they have been presented.

The first issue for examination is whether Appellee proved his case, as the law demands, to permit this Court to sustain the jury awards of special and general damages in the total amount of US$ 693,500.

Appellant has strongly argued that Appellee never proved special damages as required by law. Appellant has further contended that the award of general damages in the amount of US$500,000.00 (United States Dollars five hundred thousand) was not only unfounded, but overly excessive, both as a matter of fact and law. According to Appellant, the general damages awarded by the jury and confirmed by the trial court contravene the perimeter laid down by the Supreme Court of Liberia. Appellant has relied on a decisional law by this Court, enunciated in the case: A.D.C. Airlines v. Sannoh, reported in 39 LLR at page 431. In that case, Mr. Justice Morris, speaking for a unanimous Court, held that where general damages are awarded, the awards should not exceed 100% (one hundred percent) of the amount awarded as special damages.

Appellant has therefore submitted that assuming, without conceding, that Appellant in fact committed a wrongful act against Appellee for which wrong special damages of US$193,500.00 (United States dollars one hundred ninety-three thousand five hundred) were assessed against Appellant, general damages, in keeping

with the perimeters set forth by the Honorable Supreme Court, in *A.D.C.* Airlines v. Sannoh, should not have exceeded US$193,500.00(United States Dollars one hundred ninety-three thousand five hundred). But amazingly, and snubbing the law extant, general damages of US$500,000.00 (United States five hundred thousand), were excessive and a clear violation of our law.

This Court concedes the legal correctness of the Appellant's legal arguments advanced that special damages must be specifically pleaded and proven. Dopoe v. City Supermarket, 34 LLR 343, 353 (1987); Lerchel v. Eid, 34 LLR 648, 664 (1988); Townsend v. C.V. Dyer Memorial Hospital, 11 LLR 288 (1952;); ltoka v. Noelke, 6 LLR 329 (1939). In this jurisdiction, special damages are regarded as awards made through judicial determination. The object is to restore a person who has suffered an injury to the state he would have ordinarily been had he not been injured or wronged by the party against whom the awards are assessed. A necessary condition for sustaining awards for special damages is that the injury or loss be measurable and determinable in judicial proceedings.

This is the primary reason why a party pleading special damages must produce a preponderance of evidence as a basis for calculating and determining the awards.

Reaffirming this settled principle of law in Franco-Liberian Transport Company V. Bettie, reported in 13LLR, 318, 327-8 (1958), this Court observed as stated:

It is a settled principle of law that special damages when relied upon must be specially pleaded and proven. The mere fact of alleging a sum in the complaint as requisite to satisfy the injury complained of will not warrant a jury to take cognizance thereof unless it is proven by un-impeached testimony at the trial.

The same principle has been authoritatively discussed as follows:

The damages recoverable in any case must be susceptible of ascertainment with a reasonable degree of certainty, or, as the rule is sometimes stated, must be certain both in their nature and in respect to the cause from which they proceed. Therefore uncertain, contingent or speculative damages cannot be recovered, either in action ex contractu, or in action ex delicto.

the end sought to be attained is to give substantial and fair reparation to the injured party, and at the same time avoid speculation and uncertainty.

The certainty refers not solely to the amount of damages, but also to the question whether they will result at all from the breach. It is evident that the damages recoverable are nearly always involved in some uncertainty and contingency, and, therefore it is a rule that reasonable certainty only is required. Formerly the tendency was to restrict the recovery to such matters as were susceptible of having attached to them an exact pecuniary value, but is now generally held that the uncertainty referred to is uncertainty as to the fact of the damage and not as to its amount, and that, where it is certain that damage has resulted, mere uncertainty as to the amount will not preclude the right of recovery.

With this controlling law in mind, and conscious of Appellant's primary contention that no evidence was led by Appellee, let us now enter upon the evidence, if any, introduced by Appellee in answer to the pivotal question of proof as required by law. Here we must direct our attention to whether Appellee attended to the essential elements constituting adequate proof of the special and general damages in the proceedings to warrant the jury awards.

In this legal journey, the first element Appellee was required to prove was the existence of a legal basis for instituting the Action of Damages for Wrong. In other words, did Appellee provide adequate factual and legal grounds to demonstrate that the subject truck of these proceedings, BP-0776, was wrongfully detained and impounded by Appellant.

Recourse to the records and the testimonies adduced during trial indicate that besides an initial wrong description of the truck, whether Hyundai or KIA Motor truck, as Appellee described in the complaint, Appellant did not deny that its security officers, operating under the authority of its Plant Protection Department, seized and impounded Appellee's truck. Additionally, there is no showing in the records that Appellant, Firestone Liberia, Inc., contested January 13, 2007 as the date Appellant's PPD officers seized and impounded the truck. In light of the above, the records support the following conclusion:

(1)that Appellee's truck was seized and impounded by security officers who operated under the direction and authority of Appellant Plant Protection

Department; (2) that assuming the detention and seizure of Appellee's truck to be an act of wrong, the date, January 13, 2007, would be the period to commence calculation of the wrongful detention; (3): that seizing and detaining Appellee's truck for a period, commencing January 13, 2007, unarguably had the propensity to dispossess Appellee of the possibility of deploying his vehicle in the ordinary course of transport business in order to generate income.

This takes us to the other two critical elements constituting the claims Appellee was duty-bound to prove; firstly, the total number of days the truck was kept detained by and under the exclusive control of the PPD officers; and secondly, ascertaining the loss of anticipated income Appellee ordinarily stood to have benefitted had the truck not been impounded.

As to the total number of days the truck was detained, there is divergence of views between the parties. It therefore appears logical, at least for the purpose of providing clarity, to consider and divide the total number of detention days into five distinct time periods.

The first detention period in this respect runs from January 13, 2007 to March 31, 2009. Appellee has highlighted this period in count 12 (twelve) of his complaint. Therein Appellee averred:

Plaintiff say that between January 13, 2007 and today, March 31, 2009, it has suffered a loss of income to the tune of United States Dollars One Hundred Twenty Five Thousand Eight Hundred Fifty (USD125,850), broken down as follows:

1. January 13, 2007 to March 31, 2009- Total of 807 days
2. Truck rental/use @ US$150.00 per day
3. 807 days x US$150 per day= US$121,050
4. Six tons of Rubber@ US$800 per ton in 2007 =US$4,800.00

Total: US$125,850.

It is clear from the above that the total number of days, from January 13, 2007 to March 31, 2009, is 807 (eight hundred seven) days aggregate. This period represents the date the truck was impounded up to and including the date Appellee filed the Action of Damages for Wrong at the Thirteenth Judicial Circuit.

Appellant has vociferously disputed the correctness of 807 days of detention and submitted a version suggesting the second time period. The truck, according to Appellant, was intact released to Appellee on January 14, 2007. By this account, the period of detention proposed by Appellant began on January 13, 2007 and ended January 14, 2007. This would mean that the truck was detained for only a single day.

A PPD officer, Captain John S. Massaquoi, testifying in support of the truck being released the following day, January 14, 2007, recounted as follows:

And on that day, we received a case when a call was made by Mr. Otto Dolopei, the inspector assigned with [quality] Control at the Carter Camp rubber purchase site who called on January 13, 2007, on a Saturday to be specific, stating that a vehicle has arrived at the Carter camp site with a consignment which had Firestone trade [mark] on it, [panel red], on the rubber. Predicated upon said call, we immediately proceeded to the scene at the Carter Camp rubber purchase site where the consignment of rubber on board BP-776, with one Mr. Amos Tokpah serving as a Superintendent for one Francis Lewis Farm located on Borloria Road, Margibi County, [with] said farm [being] coordinated by one Mr. Galimah Kollie. Having received the consignment of rubber, we immediately proceeded to the PPD Headquarters where the Liberia National Police has a depot, at which time, the police was contacted. Having contacted the police, a visual inspection along with the police was done on said rubber. We immediately contacted the quality assurance department that is responsible for testing of rubber within Firestone (Liberia). On the 14th of January 2007, having inspected the rubber along with the police, the consignment of rubber along with the vehicle, was turned over to the police; which was the 14th of January 2007. See: Sheets thirty four (34) and thirty five (35) of the 51th day's jury session, Thursday, July 9, 2010, May Term, 2010.

We have observed however that the testimony offered by PPD officer, Witness Massaquoi, that the truck detained on January 13, 2007 was released on the next day, January 14, 2007, appears to be unsupported by the records as well as by the facts and circumstances of this case.

For instance, Sherman & Sherman, Inc., on January 20, 2009, addressed a letter to Appellee's counsel, Counsellor F. Musah Dean, Jr., of Dean & Associates.

The letter substantially states as follows:

Dear Cllr. Dean:

Re: Gallimah Kollie versus Firestone Liberia Inc.

As agreed, we have contacted our client, and it has authorized us to negotiate with you and your client an amicable resolution of the above captioned matter, short of litigation.

Accordingly, you and your client are invited to a conference with us at our offices on Thursday, January 22, 2009, at the hour of 3:00p.m in order to commence the negotiations leading to an out-of-court settlement of this matter as directed by our client. Meanwhile, your client is advised to proceed to Firestone Liberia Inc. and take possession and custody of his truck and the content thereof while we conclude these negotiations. [Our Emphasis].

The letter quoted herein above advising Appellee to proceed to Firestone Company and take delivery of his truck, appears in sharp contrast to Witness Massaquoi's account that the truck was released and turned over to the police on January 14, 2007.

The communication of January 20, 2009 clearly demonstrates, even to the most skeptic mind, that the subject truck of these proceedings was within the full custody of Firestone far beyond January 14, 2007. It is rather incomprehensible that counsel for Appellant would have advised the Appellee in its letter of January

20, 2009, to visit Firestone Company and to take delivery of his truck, if the truck was not in the custody and possession of Firestone Company or if Firestone had turned over the truck to Appellee two years earlier.

Further hereto, Appellee Galimah Kollie, provided an answer to a question seeking to rebut PPD Officer Massaquoi's earlier testimony. The question was:

Q. Mr. Witness, on Thursday, July 9, 2010, defendant's second witness, Capt. John Massaquoi testifying before this court was asked a question with respect to when the vehicle, subject of this litigation, was turned over to the Liberian National Police; he answered: 'January 14, 2007, at 11: A.M., with the Liberian National Police Detachment R.I.A., Lower Margibi County. 'You have been called as a rebuttal witness. Please tell this court what you have to say about this answer given.

Ans. Captain John Massaquoi's answer is false and misleading. When [truck] BP-776 was arrested by [the] PPD on January 13, 2007, Mr. Massaquoi, who was at that time CID Commander for PPD, ignored all investigation and parked the car in his custody up to 2009. With that view, I even proceeded to Firestone on the 7th of June 2008, and took a photo of my vehicle BP-776 still parked at the PPD Headquarters. And also on January 20, 2009, Counsellor J. Johnny Momoh of the Sherman and Sherman Law Firm wrote a letter to Counsellor F. Musah Dean at the Dean & Associates Law Firm, requesting his client, G. Galimah Kollie, to proceed to Firestone and take delivery of his truck in custody, while negotiation is ongoing. Further, on 20 April 2009, I was called to Firestone by my workmate, that all of the vehicles including mine in PPD fence are enroute with jack truck to RIA. So I immediately proceeded there and met my car enroute at RIA on April 20, 2009, and the document that was given to the police department, a copy was also given to me to proceed to RIA to identify my Hyundai Truck that had been carried there by PPD.

Both this un-rebutted testimony and the communication of January 20, 2009 by Appellant's counsel to Dean & Associates, compel an objective mind to reach only one conclusion: that the truck remained under the exclusive control of Firestone Company well beyond January 14, 2007. It is an illogical proposition to maintain that Appellee's truck was released from the premises of Firestone on January 14, 2007, while at the same time an un-impeached testimony indicates that a release was issued to Appellee on April 20, 2009, to have the same vehicle returned to its owner. In the light of the evidence adduced, we have to conclude that the January 14, 2007, purported release of Appellee's truck defies simple logic.

This takes us to the next time period, January 13, 2007, and April 20, 2009. Appellee, in his testimony, told the court that:

On 20th April 2009, I was called to Firestone by my workmate, [informing me] that all of the vehicles including mine in PPD fence are enroute with jack truck to RIA. So I immediately proceeded there and met my car enroute at RIA on April 20, 2009, and the document that was given to the police department, a copy was also given to me to proceed to RIA to identify my Hyundai Truck that had been carried there by PPD.

Clearly, Appellee, by his own testimony, was issued a release to proceed to the Police Depot at Harbel for the purpose of taking delivery of his truck. We must say

here that there is nothing in the records however to suggest that Appellee made any efforts to secure his truck as of April 20, 2009. To the contrary, and by his own account, Appellee admits that on April 20, 2009, he obtained copy of the instrument transferring his Hyundai Truck to the Police Depot. We have found no evidence in the records to show that Appellee was prevented, as of said date, from taking delivery of the truck. Under these circumstances, and unless there is a showing that Appellee contacted the police and was prevented from taking delivery of his vehicle at the instance of Appellant, we cannot see how the truck could be deemed detained as of April 20, 2009.

This account is unlike the other time period, January 13, 2007, and January 20, 2009, and immediately thereafter. Recourse to the records appears to show that Appellee made frantic efforts to secure the truck following an exchange of communications on January 20, 2009, between counsels for the parties. Appellee, responding to a question, narrated his experience when he visited Appellant's premises for the purpose of taking delivery of his Truck in January 2009:

Q. Mr. Witness, you testified to a communication, written by Sherman and Sherman, under the signature of Cllr. J. Johnny Momoh and addressed to Cllr. F. Musah Dean, requesting that he should go to Firestone to take your vehicle. Did you go there?

A. Yes, after I received the letter from Counsellor on the 24th of January, 2009, I immediately proceeded to Firestone; when I got to Firestone, PPD office, I met officer Joseph Tarnue. According to him, he was in charge of CID Section of PPD at that time. Firstly, he allowed me to go search and identify my car. After inspection and identification, I came back to the office and he brought a document prepared for me to take delivery of my car. While in the process of signing, he told me to hold on, let him consult his counsellor. At that time, Counsellor Morris Kaba of Sherman and Sherman Law Firm was the assigned counsel at Firestone. When contacted by Joseph Tarnue, PPD CID Officer, he told him that he should not let me sign until he (Tarnue) call at RIA and request the CID commander to come and attest of the document in his hand. I immediately contacted my counsellor and he asked me whether it was [the] police [who] arrested my car and I said no. He advised me then to get out of their office and go.

Appellee's account as narrated stood unimpeached. This narration does not suggest a complete relinquishment of the truck to Appellee. The testimony rather suggests a move by Appellant to draw the Liberia National Police into this debacle probably in

order to create a basis to shift blame for what was clearly an unwarranted seizure. A reasonable conclusion can therefore be reached that Appellee's truck remained continuously seized under the exclusive custody of Firestone Liberia, Inc., during the period January 13, 2007, and April 20, 2009, which is an aggregate of 827 (eight hundred twenty seven) days.

We proceed to the other critical element of the evidence chain Appellee had a duty to establish: the daily income Appellee ordinarily stood to have generated from the commercialization of the vehicle had Appellant not seized and detained the truck. Having claimed loss of income resulting from the seizure of his truck, the law imposes a duty on Appellee to establish and quantify the lost income with every degree of certainty and particularity the case admits of.

In carrying that burden of proof, two witnesses, including Appellee himself, testified in support of the complaint. The testimonies and documentary evidence introduced by Appellee may be summarized as indicated below:

(1). Unimpeached testimonies deposed during trial demonstrated that Appellee's truck, BP-0776- at the time of seizure and detention, was engaged actively in ordinary transport business. The instruments testified to and admitted into evidence clearly demonstrated that the subject truck of these proceedings was hired at various times and by numerous entities to provide transport services. Appellant, Firestone Liberia, was one of the users of the transportation services of Appellee's trucks, including the subject vehicle of these proceedings.

(2). There was a number of documentary evidence clearly showing that at various times, Appellee procured transport contracts with diverse institutions to transport goods and services for durations ranging from a few days to few months for which Appellee received rental and hiring fees, the amounts thereof depending on the quantity and distance covered. Appellee testified to a Firestone Company's check no. LR 52351, dated February 25, 2006. This documentary evidence shows a payment in the amount of US$149.10, Appellant, Firestone Liberia, as rental fees, for the use of the subject truck of these proceedings, truck BP-0766. A number of instruments were testified to and admitted into evidence showing payments. These included payment receipts of rental fees paid by Appellant Firestone Liberia.

(3). Of the various fees Appellee received for the use of the truck, US$120.00 was the minimum daily intake over a period of time. Appellee introduced into evidence a transport agreement executed between Appellee and Samuel N. Korpu of Cosmoc Pharmacy. The contract provided that Appellee transport 250 pieces of plank daily, for a period of two months, commencing from July 1, 2006, to September 1, 2006, for a contract price of LD$10,000.00 (ten thousand Liberian dollars), or its equivalent. In addition, Appellee produced and testified to receipts tending to establish that payment was made to Appellee for performing services pursuant to this contract.

(4). Appellee further introduced into evidence receipts totalling US$1,665.00 (one thousand six hundred sixty-five United States dollars}, for providing transport services to another customer for transporting consignment of planks.

(5). There was a preponderance of evidence that Appellant wrongly and unjustifiably seized and impounded Appellee's truck, thereby depriving him of daily rental income, from January 13, 2007, to April 20, 2009, totalling 827 (eight hundred twenty seven) detention days.

(6). The evidence introduced by Appellee demonstrated that the consignment of 6 (six) tons of rubber, prompting the seizure of the subject truck, did not belong to Appellant. Both the testimony by one of Appellant's Quality Control personnel and the communication from Appellant's counsel of January 20, 2009, advising that Appellee visit Appellant's premises and take delivery both of the truck and the rubber consignment, also support this conclusion.

Detailed herein above was the quantum of evidence Appellee adduced during the trial. Also, this extensive evidence remained unimpeached. It must be stated here that during the trial, Appellant was restricted by law due to late filing and subsequent striking of responsive pleadings, to exercise the right only to rebut and to cross examine the witnesses of the adversary and not to introduce affirmative matters. Bryant v. Bryant, 4LLR, 328, 344 (1935); Sano v. Mobil Oil Incorporated, 19 LLR 12, 16-17 (1968).

Under these restrictions, Appellant introduced five rebuttal witnesses. Responding to specific questions, Appellant's witnesses attempted to deny that the truck was seized beyond January 14, 2007. But their limited testimonies combined, failed to undermine the credibility of the quantum of the evidence Appellee had adduced.

The jury certainly did not buy Appellant's story if the unanimous verdict finding the Appellant liable is anything to consider.

With this analysis, this Court is not persuaded by Appellant's arguments that Appellee failed to prove his case and that the jury verdict was, therefore, unwarranted. Appellant's proposition, without producing any convincing evidence to the contrary, is basically flawed. Appellant's vigorous attack on the awards of special damages is unsupported by the evidence. Clearly, the evidence of payments made by multi users at diverse times range between US$120.00, (one hundred twenty United States dollars) and US$209.00 (two hundred nine United States dollars) as average daily rental fees. We have also noted from careful examination of the records that the difference in rental fees was a function attributable largely to distance the truck had to travel and quantity of cargo transported by the vehicle. Notwithstanding, there was a preponderance of evidence to support the conclusion that the subject truck of these proceedings on the whole, stood to generate a daily minimum income of US$120.00 (one hundred twenty United States dollars) from the normal course of business. So even if we limited the daily loss of income Appellee actually suffered to this bare minimum of US$120.00 (one hundred twenty United States dollars), Appellee would still have led overwhelming evidence to compel a finding of daily loss of income at the minimum figure of US$120.00 (one hundred twenty United States dollars).

It is therefore our considered opinion that Appellee did prove special damages by a preponderance of evidence. The evidence establishes reasonable bases for determining both the loss of daily income suffered by Appellee and the number of days the truck was seized by Appellant leading to said loss. Such a preponderance of evidence provides sufficient bases for judicial determination of not only the wrong but, also, to arrive at a monetary figure of lost income. As this Court said in the case, Vianini Limited vs. McBourough, reported in volume 19, LLR 39, 48-49 (1968), and sundry of cases, "preponderance of the evidence suffices as proof" especially where the defendant failed to contradict or impeach same.

So even if we were to accept, just for a moment, Appellant's contention that the figure, US$150.00 Appellee represented as daily loss of income, is not sustainable due to insufficient evidence, it is our opinion that Appellee would still be entitled to special damages in the amount proven by the evidence adduced. This Court, in Joseph Hanson & Sochne (Liberia) Ltd. V. Tuning, 17 LLR, 617, 619 (1966); Liberia Mining Co. V. Zwannah, 19 LLR, 73 (1968); Kassabli v. Cole, 19 LLR, 294, 297

(1969) sustained special damages to the extent supported by the evidence. The Court laid down the principle in the cited cases that the insufficiency of evidence cannot be a sufficient basis to quash an award made in favour of an injured party; rather, this Court will affirm the award in a manner commensurate and warranted by a preponderance of evidence. Under this principle, the award is reduced to the amount supported by the evidence; not invalidated.

The evidence before us having sufficiently supported (1): that the truck was seized for 827 (eight hundred twenty seven) days; (2): that US$120.00 (one hundred twenty United States dollars) was the minimum loss of daily income, the special damages Appellee has proven is the arithmetic total of 827 detention days covering the period January 13, 2007 and April 20, 2009, multiplied by US$120.00. This aggregates to the amount of US$99,240.00 (ninety nine thousand two hundred forty United States dollars). We have to also add the market value at the time the 6 (six) tons of rubber was confiscated by Appellant in 2007. There being no contest to Appellee's declared value of US$4,800.00 (four thousand eight hundred United States dollars) at US$800.00 (eight hundred United States dollars). By proof therefore, Appellee is entitled to the sum total of US$104,040.00 (one hundred four thousand forty United States dollars) in special damages.

We will consider dealing with the question of general damages later in this Opinion in view of the contentions raised thereto by Appellant as well as in the light of the evidence adduced at the trial.

We will now direct our attention to another important question put before this Court: the legal propriety of the seizure and impoundment of Appellee's vehicle by security officers of Firestone Liberia on suspicion of theft of Appellant's property. Appellant seeks to justify the seizure of the truck as a proper exercise of the police powers granted to Appellant under the Concession Agreement executed between Firestone Liberia and the Republic of Liberia.

To recap, security officers of the Plant Protection Department (PPD), on January 13, 2007, seized Appellee's truck suspecting it of carrying a six (6) ton consignment of rubber believed to be stolen from Firestone, Liberia. Appellee has complained that Appellant's PPD officers, by seizing and impounding Appellee's truck and the rubber thereon, acted without any color of right or authority.

But Appellant challenges the legal sufficiency of the averment set forth in the Complaint. Appellant submits that the 'Act to Ratify the Concession Agreement

entered between the Republic of Liberia and Firestone Plantations Company.' Approved April 11, 2005, published by authority of the Ministry of Foreign Affairs on April 12, 2005, grants unto Firestone Company the authority and right to establish and maintain a plant protection department. The law makers' intent for granting Firestone such authority, according to Appellant, was for Firestone Company to be able to maintain law and order as well as secure its assets in the Concession areas. Exercise of this authority, in Appellant's estimations, encompasses arresting, detaining and seizing consignment of rubber and the carrier subject of theft. Appellant has argued that under this authority, its PPD officers acted properly and legally when they seized and impounded Appellee's vehicle conveying rubber suspected of being stolen from Firestone. Hence, a judgment entered by a court of law to hold Appellant Firestone liable for the exercise of that authority must be reversed and set aside, Firestone has vigorously contended.

The position taken by Appellant provokes the question whether the seizure of Appellee's vehicle and its rubber consignment by Firestone security officers believing it to be stolen from Firestone Liberia, constituted a lawful exercise of the police authority granted pursuant to the Concession Agreement of 2008.

Section 8.2 of the Amended and Restated Concession Agreement executed in 2008 between the Republic of Liberia and Firestone Liberia, Inc., substantially provides:

The government acting through the Ministry of Justice and by the lawful authority granted the said Ministry to act for and on behalf of government, hereby authorizes Firestone Liberia directly or under contract with other persons of its choosing, to establish, manage and maintain a Plant Protection Department for the purpose of maintaining law, order and security through its own fully effective security force in the concession area and in other areas where Firestone Liberia has or maintains property and assets and do so always being subject to Law (including all Laws relating to apprehension and detention and human rights). The Parties also agree to subscribe to and adhere to the principles contained in the Voluntary Principles on Security and Human Rights. Those members of the Plant Protection Department certified by Firestone Liberia to the Government's police and law enforcement authorities to have been specially trained and qualified shall, as in the past, have enforcement powers within the Concession Area, always being subject to Law. The Plant Protection Department shall generally have (i) the power of apprehension and detention in accordance with Law, the

detention of any person to be immediately notified to the appropriate Government authority and any detained person to be turned over to such authority as soon as practical and in no case later than 24 hours from the time of detention, provided that upon request of the Liberian National Police any person arrested or detained by the Plant Protection Department shall be immediately turned over to the Liberian National Police before the expiration of the twenty-four hour period and provided further that no such detained person having been presented to the police authorities need be released from detention except as required by law, and (ii) the power, subject to Law, to search and exclude or evict unauthorized Persons from the Production Area, and from such other areas as may be properly restricted for economic, operational or security reasons, subject to Law. Firestone Liberia shall coordinate the activities of the Plant Protection Department with Government's police, law enforcement and security authorities and periodically report to the Ministry of Justice on the activities of the Plant Protection Department.

The clear language of the provision quoted herein above leaves no uncertainty in the mind of this Court as to the intent of the two parties, the Government of Liberia and Firestone Liberia. They undoubtedly intended, and indeed did grant unto Appellant, Firestone Liberia, the authority to establish and maintain a security force in its Concession and other areas hosting Appellant's assets. It is also correct to say that the authority granted Appellant under Section 8.2, quoted above, encompasses a wide range of police powers, including law enforcement powers to apprehend and detain any person suspected of committing crime within the Concession and other areas where Firestone maintains its properties.

From an objective reading and analysis of the provision, it would appear also that the lawmakers, in granting extensive police powers and authority to Firestone Liberia, may have deemed the exercise of such powers by Firestone Liberia as indispensable to the Company's effective maintenance of law and order at all times in order to guarantee the safety and protection of its assets given the size of Firestone's investment and the vast land resources under its Concession Agreement.

Consonant herewith, Firestone contends that when its PPD security officers detained Appellee's truck, along with the consignment of rubber on board, the security officers acted properly pursuant to the provision referenced herein.

While there is legal basis to reach the conclusion that Appellant, Firestone, Liberia, has been granted police powers, to include those of arrest, search and seizure under Section 8.2, herein above referenced and quoted, it would amount to abuse of that authority if Firestone Liberia disregarded matters of fundamental rights of a person, especially protection of life and property, as it appears in the case at bar.

Firstly, Firestone seized Appellee's truck on January 13, 2007. The truck was impounded by Appellant for 827 (eight hundred twenty seven) days. But in the words of Section 8.2 the provision, the exercise of every delegated right and/or authority is regulated within the confines of our statutes and the Liberian Constitution.

Secondly, Appellee's truck was deployed in the ordinary business of transportation to raise daily income for its owner. The seizure of said truck for 827 days, by net effect, deprived Appellee of his property without due process of the law. Such an action amounts to an obtrusive violation of Article 20 (a). This provision places deprivation of any person of his life, liberty and property, without hearing consistent with the provisions laid down in the Constitution and in accordance with due process of law, within strict constitutional prohibitions. When Appellant seized Appellee's truck for 827 days, the seizure constituted deprivation of property and income. No authority was ever granted to Appellant to exercise police powers in such flagrant disregard of the laws of the land. The Legislature in ratifying the Concession Agreement could not have intended that.

Fourthly, Appellant's seizure and impoundment of the truck for a protracted period of time clearly offended Section 8.2 of the Act, for said Section requires that any detention under this Section must be surrendered to the Liberian Government not later than 24 hours from the time of detention. The relevant part thereof regulates and prescribes proper use of the delegated police powers by Appellant Firestone, Liberia in the following clear language: the power of apprehension and detention in accordance with Law, the detention of any person to be immediately notified to the appropriate Government authority and any detained person to be turned over to such authority as soon as practical and in no case later than 24 hours from the time of detention.

In the case at bar, Appellant, Firestone Liberia, seized Appellee's vehicle, impounded it and kept it on its premises for 827 days in total affront to the provision relied upon by Appellant and the Organic law. One may ask for what purpose? Appellant's reliance on Section 8.2 for the action under review is clearly untenable.

Returning at this juncture to the issue of general damages, we must direct our attention to the arguments put forth by Appellant, to the effect that Appellee did not prove special damages as required by law. The amount of US$500,000.00 (five hundred thousand United States dollars), awarded as general damages, was not only unfounded, but overly excessive, both as a matter of fact and law, Appellant has further contended. Appellant has submitted that a perimeter has been laid down by the Supreme Court of Liberia. The perimeter stipulates that in the instance where general damages are awarded, such awards should not exceed 100% (one hundred percent) of the amount awarded as special damages. While this is the controlling decisional law on this subject, the jury, in contravention of the law, awarded general damages in the amount of Five-Hundred Thousand United States dollars.

In the face of the law prohibiting such findings, Appellant has urged this Court to declare the trial court's affirmation of the jury as reversible error. Appellant, in requesting this Court to set aside the trial court's final judgment has relied on the principle propounded by this Court in the case: A.D.C. Airlines v. Sannoh, reported in 39 LLR at page 431. Mr. Justice Morris, speaking for this Court without dissent in that case, held that general damages awards be not 10% (ten percent) but not more than 100% of the special damages awarded, plus actual litigation costs 'in the interest of substantive justice'. This principle was reaffirmed in Knuckles v. The Liberian Trading and Development Bank, Ltd (TRADEVCO). Mr. Justice Wright speaking for the Court held- the general damages awarded must be between ten percent (10%) and one hundred percent (100%) of the special damages.' Against the backdrop, Appellant submitted that assuming, without conceding, that Appellant in fact committed an act of wrong against Appellee which the jury determined to be US$193,500.00 (United States dollars one hundred ninety-three thousand five hundred) in special damages, the general damages should not have exceeded US$193,500.00(United States Dollars one hundred ninety-three thousand five hundred). Within this context, the awards of US$500,000.00 (United States five hundred thousand) as general damages are not only excessive but for all intents and purposes, these awards snub the law extant. Hence, the judgment must be overturned.

Forceful as Appellant's substantial arguments are in opposition to the general damages awards in these proceedings, we find ourselves unable to accept this position.

General damages are liability awards. They come about as the natural and necessary outcome of wrongful act or omission. No yardstick of universal acceptability exists for accurate measurement of general damages awards. Therefore, the law has ordinarily assigned to the jury the task of determining such awards guided by reasonable standards. This apparent arbitrariness in determining the amount of awards for general damages is exclusively the jury's province. They are exemplary or punitive, intended by the law to provide compensation for injuries such as mental anguish and distress, insult, indignity and hurt to a party, which cannot be easily quantified or accurately estimated. It is recognized that a judicial yardstick is yet to be couched to measure mental anguish and distress, insult and indignity for which such damages are awarded as compensation. It is generally required that the awards bear some relation to the injury inflicted and the cause thereof. They should not be awarded where the amount of compensatory damages is adequate to punish the defendant. Where such compensatory damages are not adequate for the purpose of punishment, only such additional amount should be awarded as taken together with the compensatory damages will be adequate for the purpose of the punishment. lntrusco Corporation v. Osseilv. 32 LLR 558 (1985).

The act of wrong committed by Appellant has already been sufficiently articulated in this Opinion. For well over two years, Appellant seized, impounded and dispossessed Appellee of his truck of livelihood. During this protracted period of seizure of Appellee's truck, Appellant cared less about the legal consequences of such an action. This act of wrong would ordinarily subject any normal human person to stress, mental anguish and profound indignation and shame. Certified records in this case point to a rather feeble regard for the law of the land on the part of Appellant. There is nothing in these proceedings to excuse Appellant's act of snubbing the laws of the land. While Appellant is authorized to take immediate and adequate actions, including arrest and detention of persons, or, as in the instant case, vehicle suspected of conveying items stolen from Appellant, the authority granted to Appellant and properly exercisable by said Appellant is to restrain the suspect, or impound the vehicle, and have same turned over to the appropriate Liberian Government authority immediately within 24 hours of the occurrence. The Concession Act clearly and expressly requires that Appellant does so within twenty four hours.

It was seemingly in view of these circumstances and in consideration of the inhuman treatment Appellant so unconscionably subjected the Appellee to, and to serve as a disincentive to a future repetition of such reprehensible conduct that the

jury awarded Appellee the amount of five hundred thousand United States dollars as general damages. This amount has been affirmed by the trial court.

Appellant has attacked this judgment especially the affirmation of the general damages awards. But the two cases Appellant relied on as foundation for the arguments were recalled by this Court in the case: Mrs. Williette A. Kesselly v. The Management of SN Brussels Airlines handed down January 28, 2009.

In that case, this Court concluded that 'notwithstanding our tireless endeavours to find the legal authority to support the principle that general damages award should not be less than 10% and not more than 100% of the special damages in what the Court referred then to be "in the interest of substantive justice....and [to] discourage unjust enrichment and excessive awards", yet we have ended without finding any such authority.

We again reaffirm the recalling of the ten percent (10%) to one hundred (100%) perimeter principle which sought to limit jury awards of general damages.

Be as it may, the judgment by the trial court affirming the jury verdict appeared, in our opinion, not to have fully considered the award of special damages as sufficient and adequate not only in terms of compensation but also for the primary purpose of punishing Appellant's dreadful act of wrong.

This Court, in exercise of its authority to render judgments which the trial court should have rendered, Townsend v. Cooper, 11 LLR 52 (1951); Lamco J.V. Operating Company v. Rogers and Wesseh, 29 LLR 259, 267 (1981), hereby modifies the awards for general damages to US$25.000.00 (twenty five thousand United States dollars). This means that the total liability assessed against Appellant is the sum total of US$129.040.00 (one hundred twenty nine thousand forty United States dollars) for both special and general damages. Ordinarily, general damages need not be particularly proven as the law requires in the instance of special damages. However, a party seeking award of general damages on account of being subjected to suffering, humiliation, embarrassment, stress and mental anguish, as the Appellee claimed, ought to show a connection between what is being prayed for and the anguish and humiliation purportedly suffered. In the case at bar, Appellee attempted to draw that relationship rather fleetingly and as such, the half million United States dollars general damages award has to be significantly modified under the facts and circumstances of this case.

We will now proceed to entertain the final question. According to Appellant, Judge Kontoe, while confirming the jury verdict, failed to state a sum certain. This failure, according to Appellant, renders the judgment indefinite and unenforceable. Appellant submitted that a money judgment not stating a sum certain is void, indefinite and therefore enforceable.

We have not been able to reconcile ourselves with the uncertainty such as to render the final judgment in these proceedings void and unenforceable.

In The United Rubber Corporation and the Board of General Appeals v. McCauley, 29 LLR 342, 353 (1981), this Court said:

It is a fundamental rule that a judgment should be complete and certain in itself, and that the form of the judgment should be such as to indicate with reasonable clearness, the decision which the court has rendered, so that the parties may be able to ascertain the extent to which their rights and obligations are fixed, and so that the judgment is susceptible of enforcement in the manner provided by law. A failure to comply with this requirement may render a judgment void for uncertainty.

In that Labour case, now under review, the facts clearly indicate that the Appellee failed to testify to his salary. This Court held that the judgment awarding Appellee salary for twelve months was therefore indefinite, indistinct and uncertain, rendering said judgment void and unenforceable. The case was remanded. The Supreme Court instructed the lower tribunal to make its ruling 'certain, definite and clear as to what it meant when it decided that the appellant company was liable to pay appellee for "time served, in terms of dollars and cents.

But the records in the case before us indicate that following the recording of the verdict, Judge Kontoe, on August 3, 2010, entered final judgment, in which he affirmed the verdict as stated:

The trial having been regular and the verdict of the Petit Jury consistent with the weight of the evidence adduced during trial, the said verdict is hereby confirmed.

The verdict Judge Kontoe confirmed expressly stated specified money figures for the special damages and also indicated the amount in clear dollars and cents returned as general damages.

There would have been uncertainty if no money amount was stated in the verdict. But that was not the case; the verdict ordered enforced, containing definite figures,

certainly satisfies the requirement of certainty and definiteness contemplated under our law.

We see nothing as indefinite, uncertain and undeterminable regarding the money judgment for which Appellant was being held. The uncertainty the law contemplates for rendering a judgment void and unenforceable is one where there is no clearly expressed figure to allow for judicial determination and enforcement of what ought to be a money judgment, as it was in the case reviewed herein. But the facts in the case at bar do not lend themselves to such a situation. The figures of the money judgment in the case at bar are clearly captured in the verdict. With such a copious and clear showing and elaboration of the figures in the verdict, the judge's ruling ordering that the verdict containing same be enforced leaves no room, in our opinion, for any degree of reasonable uncertainty. We therefore decline to accept Appellant's proposition urging us otherwise.

IN VIEW OF ALL THAT HAS BEEN SAID, the facts catalogued and narrated and the circumstances surveyed herein, as well as the laws reviewed and determined applicable to those circumstances, it is the considered opinion of this Court that the final judgment entered by His Honor, J. Boima Kontoe, from which these appeal proceedings emanate, be, and same is hereby confirmed and ordered enforced with the modification as herein stipulated.

The Clerk of this Court is hereby ordered to send a mandate to the Judge presiding in the court below to resume jurisdiction over the case and enforce the judgment as herein modified. Costs of these proceedings are assessed against the Appellant. AND IT IS HEREBY SO ORDERED.

Counsellor J. Johnny Momoh of Sherman & Sherman, Inc. appeared for appellant, while Counselor F. Musah Dean of the Dean & Associates Law Office appeared for appellee.