IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2026

BEFORE HIS HONOR : YAMIE QUIQUI GBEISAY, SR.....CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HER HONOR: CEAINEH D. CLINTON-JOHNSON.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : BOAKAI N. KANNEH.....ASSOCIATE JUSTICE

The Honorable Frank Musa Dean, Minister of Justice and Attorney General of the Republic of Liberia, et al .....Appellants	
Versus	APPEAL
Mr. Cece Patrice Haba, administrator of the Intestate Estate of Joe Kolleh, of the City of Ganta, Nimba County, Republic of Liberia, by and thru Mr. Torbor Tee Wonokay, Executive Director, Foundation for Human Rights Defense (FOHRD), of the City of Monrovia, Liberia .....Appellee	
GROWING OUT OF THE CASE:	
Mr. Cece Patrice Haba, administrator of the Intestate Estate of Joe Kolleh, of the City of Ganta, Nimba County, Republic of Liberia, by and thru Mr. Torbor Tee Wonokay, Executive Director, Foundation for Human Rights Defense (FOHRD), of the City of Monrovia, Liberia .....Plaintiff	
Versus	ACTION OF: DAMAGES FOR WRONGFUL DEATH AND NEGLIGENCE
The Honorable Frank Musa Dean, Minister of Justice and Attorney General of the Republic of Liberia, et al .....Defendants	

Heard: March 26, 2026 Decided: May 21, 2026

MR. JUSTICE KANNEH DELIVERED THE OPINION OF THE COURT

In this appeal emanating from an action of damages for wrongful death and negligence, we review the final ruling of the trial judge, affirming with modification the verdict as returned by the petit jury, awarding the appellee general damages in the amount of Four Hundred Fifty Thousand United States Dollars (US$450,000.00) and One Hundred Seventy-Five Thousand United States Dollars (US$175,000.00) as special damages. The trial judge only affirmed the general damages awarded the appellee by the jury, but denied the special damages for lack of evidence. Despite the said modification by the trial judge, it is the contention of the appellant that the ruling of the trial judge is contrary to law and against the weight of the evidence. Hence, the present appeal.

The facts as culled from the certified records reveal that on May 6, 2021, the deceased, Joe Kolleh, was arrested by officers of the Liberia National Police in Ganta City, Nimba County, on allegations of theft by deception for the amount of Six Thousand Liberian Dollars (L$6,000.00). Following his arrest, the deceased was detained at the Ganta Police Station, Nimba County. A further inspection of the records reveals that the deceased was conscious and physically stable at the time of his arrest and subsequent detention. However, on May 7, 2021, while in police custody, the deceased was discovered in a distressed condition within his cell, and was hurriedly taken to a nearby medical facility where he was pronounced dead on arrival.

Given the circumstances surrounding the death of the deceased, the Government ordered the conduct of a forensic autopsy to determine the cause of death. The report from the forensic autopsy concluded unequivocally that there was no evidence of foul play, and that the cause of death was attributable to natural causes. Despite this conclusion, the Intestate Estate of Joe Kolleh by and thru Mr. Torbor Tee Wonokay, instituted an action of damages for wrongful death and negligence before the Sixth Judicial Circuit, Civil Law Court, Montserrado County, alleging therein that the death of the deceased resulted from police brutality and/or negligence in failing to provide adequate medical care to the deceased while in police custody.

Trial was had and the matter proceeded to jury for their determination. At the conclusion thereof, the jury returned a verdict of liable against the appellant and in favor of the appellee. Thereafter, the appellant filed a motion for new trial and same was denied by the trial judge. On July 29, 2022, the trial judge entered final ruling confirming the general damages awarded by the jury in the amount of Four Hundred Fifty Thousand United States Dollars (US$450,000.00), but denied the amount of One Hundred Seventy-Five Thousand United States Dollars (US$175,000.00) awarded by the jury as special damages for want of evidence.

The appellants noted exceptions to the ruling of the trial judge and filed a six-count bill of exceptions setting forth the errors allegedly committed by the trial judge as summarized below:

1)That the trial court lacked subject matter jurisdiction due to the appellee's failure to file a notice of claim with the Ministry of Justice within the statutory period

2) That the jury verdict which was subsequently affirmed with modification by the trial judge is contrary to the weight of the evidence and unsupported by law.

We shall address the above-stated contentions of the appellant in the order of presentment.

In determining the first issue of whether or not the failure of the appellant to file a statutory notice of claim deprived the trial court of subject matter jurisdiction, we answer in the affirmative.

This Court has defined subject matter jurisdiction as the competency of the court to render a decision in the case. In explaining what subject matter jurisdiction is, this Court has held that the competency of a court to deal with a subject matter is derived only from the source of its creation, which is the State or the Legislature of the State acting pursuant to authority granted by the Constitution; and that where the State or the Legislature has not granted such subject matter jurisdiction to the court, the court is generally without the authority to exercise such jurisdiction. It is also the law that every court is under a legal obligation to determine, in the first instance and before it proceeds to any determination of a case on the merits, whether it is clothed with the requisite personal and subject matter jurisdiction. *Lamin et al. v Save The Children*, 40 LLR 96 (2000); *Roberts v. Kaba et al*, 42 LLR 228 (2004); *M/M Liberia Corp. v. Toweh*, 30 LLR 611 (1983); *Scanship (Liberia) Ltd. v. Flomo*, 41 LLR 181(2002). The court must satisfy itself that it has the authority to act in the matter of which a party calls upon it to act, and if it finds that it lacks authority, jurisdictional or otherwise, it must dismiss the matter or the action. *Civil Procedure Law,* Rev. Code 1:11.2(a)(b)(c).

We quote also Sections 1.4 (1, 2 and 3) of the Private Wrongs Law as regards the filing of claims against the Republic of Liberia as follows, to wit:

> § 1.4. Notice of claim
>
> 1. Requirement as to notice of claim. Every person who claims damages for an injury from the Republic of Liberia shall present to the Minister of Justice within sixty days after the alleged injury a written notice stating the time, place and circumstances thereof and the amount of compensation

demanded as of the date or presentation of the claim, together with the basis of computation thereof.

2. Extension of time for filing claim. When a claim for damages for an injury is not presented within the time allowed by paragraph 1, a written application may be made to the Minister of Justice for leave to file a late claim. Such application shall be presented within a reasonable time not to exceed one year after the occurrence of the injury and shall state the reason for the delay in presenting the claim. The proposed claim shall be attached to the application. The application for leave to file a late claim shall be granted where: (a) The failure to present the claim was through excusable neglect or mistake and the Government was not unduly prejudiced by the failure to present the claim within the time required by paragraph 1; or (b) The claimant was a minor during all the time specified in paragraph 1 for presentation of the claim, or during so much of the time that he could not practicably have complied with the shorter time requirement therein specified; or (c) The claimant was physically or mentally incapacitated during all the time specified in paragraph 1 for presentation of the claim, or during so much of the time that he could not practicably have complied with the shorter time requirement therein specified; or (d) The claimant died before the expiration of the time specified in paragraph 1.

3. Amendments of the claim. A claim may be amended at any time before settlement or, if action is commenced and the claim is embodied in a complaint, amendment may be made subject to the law applicable to amendment of the pleadings."

From the provisions of the law detailed above, it is clear that any person intending to bring an action against the Republic shall present a written notice to the Minister of Justice within sixty (60) days after the occurrence of the injury. The use of the word "shall" as used in the statute denotes a mandatory obligation requiring strict compliance with the dictates of the statute. This requirement constitutes a condition

precedent to the institution of the suit and directly affects the competence of the court to assume jurisdiction over the matter. The statute also provides latitude for late filing of private wrong suits within one year upon application and proof of excusable neglect or incapacity.

Additionally, we note the Private Wrongs Law does not expressly forbid the filing of wrongful death action against the Republic of Liberia before the Sixth Judicial Circuit, Civil Law Court. However, the Private Wrong statute mandatorily requires the filing of notice of claim before the Minister of Justice first.

We must now apply the law quoted herein above to the facts of the present appeal. Our examination of the records reflects that the injury subject of the instant proceedings occurred on May 7, 2021, and there is no evidence in the records indicating that the appellee ever filed a notice of claim with the Minister of Justice prior to and including the time of filing of the action of wrongful death and negligence on February 2, 2022. This means from 2022 till present the appellant is yet to file its notice of claim before the Minister of Justice as dictated by the Private Wrongs Law. What the appellant ought to know is that no matter how proper and just an action may be, it is a fit subject for dismissal if filed before the wrong forum or at the wrong time. This is because jurisdiction is the foundation of all judicial proceedings, and where jurisdiction is lacking, the entire proceedings are void *ab initio*. Accordingly, the failure to comply with Section 1.4 of Title 28 (Private Wrongs Law) of the Liberian Code of Laws Revised deprived the trial court of subject matter jurisdiction. Hence, any judgment rendered by the said court is a legal nullity.

Notwithstanding the lack of jurisdiction by the trial court to make determination in this matter, we must now proceed as if the case is before the proper forum to determine if the verdict of the jury is indeed contrary to the weight of the evidence.

To make this determination, we must examine the evidence in this case to establish whether the deceased died of natural causes or whether the death of the deceased was occasioned by the negligent conduct of the Republic of Liberia. The most credible and probative evidence in this regard is the forensic autopsy report conducted by the government pathologists, which concluded that there was no

evidence of foul play and that the cause of death was natural. We quote herein relevant portion of the autopsy report as follows, to wit:

> "We the undersigned Pathologists Dr. Benedict B. Kolee and Dr. Zoebon B. Kparteh acting upon a request from the Ministry of Justice, Republic of Liberia carried out post-mortem examination within the Autopsy Suite of Gompa Funeral Home, Ganta, Nimba County on the body of said Joe Kolleh on the date as stated above. The body was identified by Mr. Abraham Kollie who is a family member of the said Joe Kolleh and Coroner Abraham B. Ricks. The autopsy was done in the presence of the following persons:
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> 1. Abraham Kollie ---------- Family Member ------- 0880290476
> 2. Mamie Kollie ---------- Family Member ------- 0886469520
> 3. Sumu Reeves ---------- Witness ---------- 0775950425
> 4. Ernest Moses ---------- Witness ---------- 0770408232
> 5. Amos N. G. Suah -------- Witness ---------- 0776490742
> 6. Insp. August Martor ----- Witness ---------- 0770800806
>
> History: According to police report, Joe Kolleh was arrested by Michael P. Keh of the Ganta Police detail on May 6, 2021 based on allegation of theft filed by Moses Yeanay. Joe Kolleh is said to have been found unconscious in the police cell on May 7, 2021 at about 17:50 hours; he was rushed to the Ganta United Methodist Church Hospital where he was pronounced dead on arrival.
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> Clothing: None
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> External Examination: The embalmed body is that of a young adult African male with black hair and beard, who is well nourished; length 162cm with an estimated weight of 73kg. He is moderately pale (Figure 1A), has a tinge of jaundice; he is not cyanosed. He has no oedema and there are no palpable lymph nodes. Rigor mortis and hypostasis cannot be assessed due to embalmed state. He has a linear incision over the femoral triangle bilaterally (embalmment artefact).

Signs of Medical Treatment: None

Post-Mortem Changes: Embalmed with skin slippage around the neck anterior and posterior; thorax anterior and posterior; left arm anterior and posterior (Figure 1A, B, C, D).

External Injuries: No obvious external injuries or mark(s) of violence is seen.

Internal Examination

Serous Cavities: The membranes of pleural, pericardial are smooth shinny and transparent; the membranes of the peritoneal cavity are stained with faecal materials; worse in the right lumbar area. Copious amount of faecal materials can be seen in the peritoneal cavity (Figure 2A,B).

Cardiovascular System: The heart weighs 320g and it is within its normal limit. The valves leaflets and cusps show no abnormalities. There is no hypertrophy. The aorta has few atheromatous plaques. The coronary arteries are patent. No evidence of infraction is seen.

Respiratory System: The larynx shows no fracture and is normal; the trachea and bronchi are normal. The lungs weigh (Right 750g and left 700g); both lungs are heavy. Cuts surface of the lungs show severe oedema and moderate congestion.

Gastrointestinal System: The tongue is normal and shows. The oesophagus shows no gross abnormality. The stomach has very scanty partially digested food, the mucosa and walls are normal. The duodenum, jejunum, ileum, appendix, caecum, colon, anus and the rest of the gastrointestinal tract also have scanty material. There are two perforations within the small intestine one measuring 0.9cm and the other measuring 0.7cm (Figure 2C, D).

Hepatobilliary System: The liver weighs 1,600g and is heavy; external surface is normal; cut surfaces show mild congestion.

Genitourinary System: The right kidney weighs 160g and the left 130g and they have normal weighs. Both kidneys are pink and cut surfaces show good corticomedullary differentiation; the cortices and medulla show mild congestion. The bladder, prostrate and testis are normal.

Musculoskeletal System: The muscles of the neck show no haematoma or signs or injury, the cervical, thoracic, lumbar and sacral vertebrae are intact; they show no fracture or dislocation. No obvious fracture(s) were seen in the rest of the skeletal system.

Endocrine System: The pancreas weighs 21g, has a lobulated surface and it is normal; the adrenals glands together weigh 8g and normal.

Lymphoreticular System: The spleen weighs 130g; it has grey external surface, and its cut surfaces are firm and congested. No obvious enlarged lymph nodes are seen.

Central Nervous System: The brain weighs 1,299g and it is normal. The leptomeninges are thin, transparent and glistening, the gyri and sulci are grossly normal. Cut surfaces show no obvious infarct or haemorrhage.

Ancillary Studies

Toxicology: Toxicological studies conducted on blood, urine, liver, kidney and gastric contents are all negative for alcohol, narcotics/psychotropics, common poisons and drugs.

Intestine: Sections show multiple ulcers and dense infiltration by polymorph comprising mainly neutrophils and few eosinophils (Figure 3A); transverse and oblique sections of taenia (tape worm) is seen with a scolex buried deep into the muscularis in one section (Figure 3B). Multiple eggs can be seen in the mucosa (Figure 3C). Diagnosis: Peritonitis with tape worm intestation.

Lungs: Sections from right and left lungs show marked dilation of the alveolar with inspissation of blood tinged fluid; elsewhere vascular congestion can be seen (Figure 3D). Diagnosis: Severe Pulmonary oedema and moderate congestion.

Pathological cause(s) of death:

i. Peritonitis
ii. Small Bowel Perforation
iii. Taenia (Tape Worm) Infestation

In our professional and expert opinion based on the available evidence the manner of death is Natural.

Signed:

Benedict B. Kolee
BSc, M.B., ChB, MGCP
PATHOLOGIST

Zoebon B. Kparteh
BSc, M.D., MGCP, MWACP
PATHOLOGIST

An expert witness is a witness qualified by knowledge, skills, experience, training, or education to provide to a scientific, technical, or other specialized opinion about the evidence or a fact in issue. Black's Law Dictionary, 11th edition, 1920. In other words, to qualify as an expert witness, a person must have knowledge, skill, education, experience, or training in a specialized field, practice in a profession relevant to the issue of the case, be skilled in their particular profession, have specialized knowledge through training, education, or practical experience, have extensive experience or knowledge in a specific field or discipline beyond that which is expected from a layperson. *Tubman v RL*, 23 LLR 301, 305 (1974); *GT Bank v. Charles Sirleaf*, Supreme Court Opinion, March Term 2023.

The records show no challenge to the qualifications or experience of the State expert witness by the appellee. Notwithstanding, the appellee contested the substance of the autopsy. Specifically, the appellee argued that the autopsy was not done in consonance with the procedures for the conduct of an autopsy. To support its claim the appellee brought in Dr. Rockefeller Cooper, as an expert witness to rebut the autopsy report prepared by the government's pathologist; however, the record shows that the witness admitted that he was not a trained pathologist and therefore lacked

the specialized knowledge required to contradict a forensic autopsy. We quote excerpts from the testimony of Dr. Rockefeller Cooper, the rebuttal witness on cross-examination as follows to wit:

"Cross Examination

Q: Mr. rebuttal expert witness, you are Rockefeller F. Cooper, II; am I correct?

A: Yes

Q: For the benefit of this hearing from which State in America are you speaking from right now?

A: Right now, I am in New York.

Q: Mr. Witness, you have series of certificate and degree that relates to medical practices. My question to you is you are not a pathologist; is that true?

A: Yes, I am not a pathologist.

Q: Mr. Witness, for the benefit of this hearing please state your license number to the empanel Juror and this court?

A: I do not have a license number. I said I am a medical legal investigator."

It is clear from the testimony of Dr. Rockefeller F. Cooper himself that he is not a pathologist to determine cause of death, but a medical investigator who does not have a license number. Noting the damning nature of this testimony to the appellee's case, the appellee should have endeavoured to put on the stand another expert witness to contradict the autopsy report of the appellee to the effect that the deceased died of natural causes.

It is the law that "a person who alleges a fact, as in the instant case, must prove his allegations by a preponderance of the evidence; that mere allegations do not constitute proof and that allegations made must be supported by concrete evidence as it is only evidence which enables the court to decide with certainty the matter in dispute." *Knuckles v. TRADEVCO*, 40 LLR 511, 514 (2001); *V.H. Timber Naca Logging Company et. al v. Kpoto*, 42 LLR 527, 529 (2005); *Williams v. Williams, Supreme Court Opinion*, March Term, 2008; Kuteh v. NEC, Supreme Court Opinion, October Term, 2023; *Dennis v. NEC et. al*, Supreme Court Opinion, October Term, 2023.

This Court has said over and again that when an allegation is made by a party which requires rebuttal, the failure to rebut will be deemed as an admission of the

allegation. *Inter-Con Security v. Miah and Yarkpawolo,* 38 LLR 633, 636 (1998); *Ministry of Lands, Mines and Energy v. Liberty Gold and Diamond Company et al*, Supreme Court Opinion, October Term, 2013; *Liberia Material Ltd v His Honor Gbeneweleh et al.*, Supreme Court Opinion, October Term 2014.

In comparative jurisprudence, the admissibility of expert testimony has been guided by the standard laid down in Daubert v. Merrell Dow Pharmaceuticals, Inc., which requires that expert evidence be scientifically valid, tested, peer-reviewed, and generally accepted within the relevant scientific community. While not binding on this Court, the Daubert standard is persuasive in emphasizing that unreliable or unqualified expert opinion must be excluded to preserve the integrity of judicial proceedings. Applying these principles to the present case, the autopsy report was prepared by qualified forensic pathologists and constitutes the best available scientific evidence on the cause of death. Conversely, the appellee sought to rebut this evidence through the testimony of a witness who admitted that he was not a trained pathologist. Such testimony fails to meet the threshold of expert competence and reliability required to displace a forensic medical finding.

This Court has long adhered to the best evidence principle, holding that "the best evidence which the case admits of must always be produced; that is, no evidence is sufficient which supposes the existence of a better evidence" as enshrined in Section 25.6 of the Civil Procedure Law. The autopsy report, being the highest and most direct evidence of cause of death, cannot be displaced by inferior or unqualified opinion. It is the law that all evidence must be relevant to the issue; that is, it must have a tendency to establish the truth or falsehood of the allegations or denials of the parties or it must relate to the extent of the damages. Section 25.4 of the Civil Procedure Law.

Furthermore, this Court has cautioned that it cannot rely on conjectures or speculation; that every claim must be substantiated by evidence. By disregarding the uncontroverted expert evidence and relying on unsupported assertions, the jury acted contrary to established evidentiary principles. While it is true that a jury is the trier of fact, its verdict must be supported by credible and probative evidence. Where, as in the present case, the verdict is manifestly against the weight of the evidence, it cannot be allowed to stand. Accordingly, the jury's verdict, having ignored

competent expert medical evidence and relied on unqualified testimony, is contrary to the weight of the evidence and must be set aside.

We must now determine whether or not the award of damages is legally sustainable, and we answer in the negative.

We cannot dispute that it is settled under our law that damages constitute pecuniary compensation or indemnity awarded to a person who has suffered loss, injury, or detriment to his person, property, or rights as a result of the unlawful act, omission, or negligence of another. We have consistently reaffirmed this principle in several cases including *Firestone Liberia, Inc. v. G. Garlimah Kollie*, Supreme Court Opinion, March Term 2012; *Lonestar Cell Corp v. Wright*, Supreme Court Opinion, March Term 2014; *Air Maroc, Inc. v. Cllr. Finley Y. Karnga*, Supreme Court Opinion, March Term 2022, wherein it was held that damages are recoverable only where there is proof that the injury complained of was occasioned by the wrongful conduct of the defendant. The implication of these authorities is clear: damages do not arise in isolation; rather, they are the legal consequence of a proven wrong. In other words, before a court proceeds to assess or award damages, there must first be a finding of liability grounded in law and supported by evidence. General damages, as distinguished from special damages, are those which flow as the natural and necessary consequence of the wrongful act or omission asserted as the basis of liability. Therefore, where no wrongful act is established, there can be no legal basis upon which general damages may attach. This Court has emphasized that the award of general damages must be tied to actual injury and must be supported by evidence demonstrating the extent of such injury. Furthermore, in assessing damages in personal injury cases, this Court has laid down guiding factors, including loss of earnings or earning capacity, medical expenses, pain and suffering, permanent disability, loss of enjoyment of life, and reduction in life expectancy. *Management of Firestone Liberia Inc., v. Emmanuel Kollie and George Gribsy*, Supreme Court Opinion, March Term, 2016. These factors are not to be applied in the abstract; they presuppose that the injury complained of is legally attributable to the defendant.

Applying these principles to this case at bar, it becomes evident that the award of damages by the jury and affirmed by the trial court cannot stand. As determined under the first issue, the trial court lacked subject matter jurisdiction due to the appellee's failure to comply with the mandatory statutory requirement of filing a

Notice of Claim as enshrined in Section 1.4 of Title 28 (Private Wrongs Law) of the Liberian Code of Laws Revised. A court without jurisdiction cannot render a valid judgment, and any award of damages flowing therefrom is necessarily void.

WHEREFORE AND IN VIEW OF THE FOREGOING, the trial court's final ruling is hereby reversed without prejudice. The Clerk of this Court is hereby ordered to send a Mandate to the court below, commanding the judge presiding therein to resume jurisdiction over this case and give effect to the Judgment. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellors Augustine C. Fayiah, Solicitor General, and J. Adolphus Karnuah, Director of Civil Litigation, of the Ministry of Justice, appeared for the appellants. Counsellors Frances Johnson Allison and Kim Harris of Foundation for Human Right Defense appeared for the Appellee.