# COMMONWEALTH OF THE BAHAMAS

## IN THE SUPREME COURT

## COMMON LAW AND EQUITY DIVISION

**2016/CLE/gen/01428**

**BETWEEN**

**RHIANNON THOMAS**

**(Widow of Daniel William Bethel (deceased))**

**1st Plaintiff**

**AND**

**KENDALL LEEVIA BETHEL (a minor)**

**(By her mother and Next Friend RHIANNON THOMAS)**

**2nd Plaintiff**

**AND**

**MALI DANIELLE BETHEL (a minor)**

**(By her mother and Next Friend RHIANNON THOMAS)**

**3rd Plaintiff**

**AND**

**THOMAS JOHN BALDWIN**

**Defendant**

**Before:** The Honourable Madam Justice Donna D. Newton

**Appearances:**  Mrs. Gail Lockhart Charles with Mrs. Niketa Isaacs of Gail Lockhart Charles & Co for the Plaintiffs

Ms. Camille Cleare of Harry B. Sands, Lobosky & Company for the Defendant

**Hearing Date:** 6, 7 and 8 November 2018

**Fatal accident – Damages - Assessment – Deceased killed in road traffic accident– Defendant admitting liability – Plaintiffs seeking damages for the value of dependency following deceased’s death – Quantum of damages – Claim for bereavement – Fatal Accidents Act 1976**

**JUDGMENT ON DAMAGES**

**Newton J:**

1. This claim, brought by the Plaintiffs against the Defendant, arises out of a road traffic accident that resulted in the death of Daniel William Bethel (“Mr. Bethel” or “the deceased”).
2. The First Plaintiff (“Rhiannon”) is the widow of Mr. Bethel. The Second and Third Plaintiffs (“Kendall” and “Mali”) are their minor daughters. The Plaintiffs claim as dependents of the deceased pursuant to the Fatal Accidents Act 1976, Chapter 71.

1. The accident occurred shortly after 8:00 pm on the 14 December 2015 as the deceased was riding his motorcycle on Elbow Cay, Abaco, when he was struck from behind by the Defendant (“Mr. Baldwin”) who was driving a Ford 1996 Ranger truck. As a result of the collision, Mr. Bethel was thrown from the motorcycle and suffered severe injuries from which he died at the scene of the accident. Mr Baldwin pled guilty and was convicted of killing in the course of dangerous driving.

**Background**

1. The claim was commenced by a generally indorsed Writ of Summons which was filed on 20 October 2016. The Statement of Claim was subsequently filed on 23 November 2016. An Amended Writ of Summons was filed on 27 April 2018.

1. A Defence was filed on the 6th December 2016 and amended on the 18th April 2017 and re-amended on 19th April 2018.
2. Liability for negligence was eventually conceded and a Judgment on liability was entered on 10th October 2018. As a result of the admission, the trial of this action concerned only the question of quantum of damages.
3. The details of the damages are set out in the Statement of Claim:

**a. The action is brought for the benefit of:**

**i. Rhiannon Thomas, the 1st Plaintiff and widow of the deceased…….**

**ii. ….. Mali Bethel, a minor, the 2nd Plaintiff and daughter of the deceased who was born on 20th November, 2007 (now aged 8).**

**iii. Kendall Bethel, a minor, the 3rd Plaintiff and daughter of the deceased who was born on 14th June, 2010 (now aged 6)**

**b. The dependents were dependent on the deceased for their maintenance income and support.**

**c. At the time of his death the deceased, who was born on 4th April, 1977, was aged thirty-eight (38) years.**

**d. The deceased, an independent contractor, was the main breadwinner for his young family, and he applied the lion share of his income to the upkeep of the family. When the deceased was not at work, his energies were devoted to the maintenance and improvement of the family home and the provision of support and recreational activities for his young family, including outings on a boat which he captained.**

**e. He was a fit and healthy young man full of drive, determination and an unwavering commitment to the support of his family. He would have likely continued to work well past the retirement age, at least to the age of 70.**

**f. At the time of his death his projected income was a conservative estimated minimum of $150,000.00 dollars per annum, and it is estimated that this would have increased to at least an estimated $200,000.00 per annum as his business grew.**

**g. The 1st Plaintiff, prior to her husband’s death, earned a modest $1,500 per month as a property manager. However, since the death of her husband, she was forced to give up her property management work and devote herself fulltime to the caring for their two daughters.**

**h. The 1st Plaintiff has sought to earn money as a real estate agent. Her earnings are solely based on commissions received through property sales therefore her income is very unsteady, and she has earned only $4,000.00 over the past 11 months.**

**i. The first Plaintiff claims 80% of the deceased’s average income taking into consideration his likely increase in earnings, her comparatively low income and the fact that most of his income was spent for the benefit of his wife and children.**

**j. The 2nd Plaintiff is a special needs child who was diagnosed at a very young age with chromosome abnormality and developmental delay. She has no speech, mild hearing loss in one ear and communicates by pointing and sign language. Though her gross and fine motor skills are average, she falls frequently, and she is unable to attend to basic care needs such as bathing and dressing without assistance and requires supervision and assistance in other areas as well. She was dependent on the deceased and the 1st Plaintiff as caregivers and with the death of the deceased, extra home help and care is a necessity. The value of the annual loss of the additional care she received from the deceased is estimated at $6,000.00. The 2nd Plaintiff will never be independent and will require care and support for the rest of her life.**

**k. Both the 2nd and 3rd Plaintiffs are attending private schools in The Bahamas and the deceased had during his lifetime committed to their continuing education up to and including college or university.**

**l. The 1st Plaintiff was dependent also on work and services the deceased provided for her and their children around the home. She shared a 2 bedroom house with the deceased.**

**i. He did the gardening of about 3 hours per week during 40 weeks**

**of the year. The annual loss is about $2000.**

**ii. He decorated the interior of the house and painted the exterior every 2 – 3 years; labor costs estimated at $1500 per annum**

**iii. He performed day to day maintenance as well as construction repairs. The annual loss is about $1000.**

**iv. He maintained the family vehicles and boat performing services as well as repairs. The annual loss is about $700. In addition to direct financial support, the deceased attended to all of the maintenance of the family home, the vehicles and boat.**

**v. He also provided essential help and support with the children, the 2nd and 3rd Plaintiffs. The annual loss is about $15,000.**

**8. Further the 1st Plaintiff claims the sum of $7,500.00 for bereavement.**

**The evidence**

At the trial of the action the Plaintiffs called 6 witnesses: Andrea Gottlieb, Rhiannon Thomas, Luke Allen, Edward Cusick, Dr. Frank Boyce, and Jean Spicer. The Defence called no witnesses.

***Andrea Gottlieb***

1. Ms. Gottlieb who is the mother of Rhiannon stated that Rhiannon and the deceased had a beautiful relationship and a beautiful family and that on the night of 14 December 2015, when her son-in-law was killed, she witnessed her daughter’s life shattered and her family torn apart.

1. She further stated that she was happy that she was there to help her daughter pick up the pieces and that it was difficult to watch her deal with the pain of her loss and the financial struggle she endures in trying to provide for her family now as a single parent.
2. Ms. Gottlieb testified that Daniel built a cottage downstairs from their house so that she could relocate from Freeport to Hope Town, Abaco, to be closer to her family. She stated that she paid for all the materials. She further stated that she worked as a babysitter as well as a pet and house sitter for locals and visitors on the island and that it required her to move into the homes while the owners were away.
3. She also said that following Daniel’s death her daughter required a tremendous amount of child care assistance and that there were several times where she had been unable to take on jobs so that she could give her daughter the needed assistance with the children at home. She stated that when Daniel was alive he used to dress Mali every morning and help with the commute to school and that she has now taken over with that since his death.
4. Ms. Gottlieb stated that several times a week she assisted with the school pick up for Mali if Rhiannon is busy and unable to meet the school ferry. She stated that in the afternoon she spends one on one time with Mali so that Kendall can complete homework as Mali can be a huge distraction to Kendall.
5. She stated that in the evenings she joins Rhiannon and the children for dinner and to assist with getting the girls bathed and dressed for bed which she said Daniel was highly involved with. She further stated that when Rhiannon needs to travel she would keep the children. She said that this very challenging for her at her age but she does so because she knows her Rhiannon needs the break in order to have the strength and ability to continue to take care of her family as a single parent with a child with special needs.
6. She explained that she recently sold her home in Florida and used the proceeds of the sale to support Rhiannon and the children.

***Rhiannon Thomas***

1. Rhiannon Thomas (Rhiannon) stated that she and Daniel were married in Marsh Harbour, Abaco on 21 June 2007 and that they built a life, family, home and a business together. She stated that Daniel was a contractor and that their business had taken off during a construction boom in Hope Town.
2. She said that Daniel had two construction projects going on and that all of that was crushed when he died.
3. She further stated that Daniel loved his family and that he especially loved their special needs child, Mali and that they shared a special bond. She stated that Mali is non-verbal but Daniel understood her and she understood him, they had an unspoken connection and a way of communicating. She further stated that Mali loved the sound of Daniel’s voice and the expression on his face when he would read to her and talk to her as he helped her through her morning and evening routine.
4. Rhiannon explained that Daniel’s absence has made her realize just how much they all depended on him. She stated that he was the bread winner of the family, an awesome parent and a contractor who maintained the house, vehicles and boats and kept everything in working order. Daniel participated in the daily evening routine with the girls.
5. She stated that after the accident she had to sell her boat as she could no longer maintain the old engine. She explained that a boat is a necessity as Elbow Cay is 7 miles to the mainland (Marsh Harbour). She further stated that she sold her car due to some of the same problems as the boat. She noted that prior to Daniel’s death she used to manage rental homes and that after his death she had to give that up as she was unable to manage the maintenance, check-ins and overall management of the homes. She further noted that prior to Daniel’s death, they managed several rental homes where she did the meeting and greeting of the guests and house cleaning.
6. Rhiannon explained that it is difficult to find employment in a resort based town and that she is extremely fortunate to have her mother who helps out when needed but that her mother is getting older and has less energy. She stated that after hurricane Matthew, her house was the only house in Abaco that needed an insurance adjuster to come out and evaluate the damage to the house. She stated that the cost of painting the house was in the range of approximately $600 and that she could not afford to hire someone to paint it so she painted it herself.
7. She further testified that Mali travels to Florida regularly for checkups with her pediatric ophthalmologist, nephrologist, pediatric development specialist and geneticist. She said that Mali has been seeing these specialists since she was 6 months old and that Mali has had several eye surgeries and numerous procedures and that it was crucial that Mali keeps up with the regular checkups. She noted that this is a huge expense namely airfare, car hire and hotel. She further noted that although Mali is 10 years old she has the mentality of a 3 year old and requires constant care and assistance. She stated that this has become incredibly challenging since Daniel’s death.
8. Rhiannon added that because Mali was born in the United States and as an American citizen her healthcare is generally covered by the state but she is required to travel to Florida for medical examination every 6 months.
9. She stated that Daniel was responsible for and took care of the household repairs and maintenance for both their residence and her mother’s cottage. She noted that he also serviced the vehicles. She stated that Daniel also did all of the yard work for the property which include pruning, mowing the lawn, weeding and raking. She now has to outsource the yard work and because of financial constraints she cannot afford to pay on a regular basis
10. She further explained that prior to Daniel’s death she was responsible for overseeing the financial and accounting aspect of Daniel’s construction business which included receipt of payment from clients and disbursements. She stated that she has personal knowledge of what Daniel earned and what was paid to the employees. She further stated that many of the accounting aspects of Daniel’s business was handled via cash transactions. She noted that the business received the initial payments from clients via wire transfers but many transactions from that point on were cash based for the payroll and purchase of construction materials. However under cross examination she acknowledged that she was unable to provide the documents to support this.
11. She stated that when Daniel died he was working on two projects: one for Edward Cusick and his wife and second project for Luke and Sarah Allen. She further stated that Daniel carried out several projects for the Cusicks but the project that he was working on at the time of his death was the full replacement of the roof and that the total amount the Cusicks paid for the project was $48,492. She noted that the project was not completed before Daniel died but that his team of employees carried out the remaining work to complete it. She stated that the cost of materials for the Cusick project was $16,674.60 and the labor cost was $31,817.00.
12. Rhiannon explained that the second project that Daniel was working on before he died was an extensive renovation for Luke and Sarah Allen. The estimated cost for the job was $209,573.8, that Daniel was paid $32,646.49 for materials up to the time of his death and that labor costs alone were an estimated $90,200.00.
13. She stated that she personally did the payroll and that her husband was paid $1,500 per week and that at the time of his death Daniel was working on two major projects and paid himself $1,500 per week per project and that his salary at the time of his death was $3,000 per week.
14. She said she contributed to the household income as she also worked at a local restaurant 3 nights per week earing approximately $180 per week. She stated that she now works as a real estate agent in Hope Town, however sales have not been good.
15. Rhiannon advised that construction was thriving in Hope Town and that Daniel’s business was growing at the time he died and that he would have benefited from the construction boom in Hope Town. She stated that evidence of the construction boom can be found in a letter she received from Jeremy T. Sweeting, Chief Councilor for Hope Town District which confirmed that the Hope Town District Council issued a minimum of 115 permits in the period December 2015 to February 2018 with an estimated total of $19,360,588.

***Luke Allen***

1. Mr. Allen is from Oxford, Pennsylvania, United Stated of America and he and his then wife owned a second home called ‘The Anchor House’ in Elbow Cay, Hope Town, Abaco. He confirmed that in or about early 2015 he engaged Daniel to carry out extensive renovation works to the house and that the contract price was $201,000 which included labor, materials, freight costs, trucking and delivery, debris removal, electrical and a/c work.
2. He further testified that the scope of the work was increased to include additional work at a further cost of $8,573.81. He stated that at the time of Daniel’s death in December 2015 the renovation work on the house was still ongoing and that he had to engage a new contractor to complete the work.

***Edward Cusick***

1. Mr. Cusick is a resident of Maine, United States of America. He and his wife own a winter home called “Aerie Cottage” located on Elbow Cay, Hope Town, Abaco. He stated that they hired Daniel in the past to do construction work on Aerie Cottage and that Daniel was an excellent contractor whom he had confidence in.
2. He said that in December 2015 they hired Daniel to carry out roof repairs and other renovation to the house for a total cost of $48,492.

***Jean Spicer***

1. Mr. Spicer is a resident of Ottowa, Ontario, Canada. He along with one Mike Beun owned a second home called ‘Dunrobin Shores’ located in Hope Town, Abaco. He stated that the deceased and Rhiannon were the caretakers of Dunrobin Shores. He further stated that in or about mid-2015, they contracted Daniel to carry out renovations to the bathroom at a price of $5,000 but that Daniel was killed before he could begin the work.
2. He further stated that they had an addition done to their home at a cost of $157,000, that had Daniel not been killed and had completed the bathroom renovations, they would have engaged him to carry out additional renovation projects to the home.

***Dr. Frank Boyce***

1. Dr. Boyce, from Hope Town, Abaco is a Family Medicine specialist and Mali’s physician for over 10 years. He provided a report which gave an overview of Mali’s medical condition. It concluded that.

**Mali is a 10 year old, with a medical history significant for congenital chromosomal abnormality, with resultant developmental and intellectual delay……physical impairments include sensory processing disorder, with speech/language impairment, such that she is essentially non-verbal for language; autism spectrum; and poor motor skills and coordination. She cannot function in a regular school curriculum and currently enrolled in a special needs school. She requires continuing physical, occupational and speech therapy. She has multiple medical subspecialists involved in her care, including pediatric neurologist, ophthalmologist and urologist, requiring travel to the United States every six months for surveillance medical care.**

**Mali cannot function independently and will require custodial care indefinitely.**

**Legal Principles**

1. The guiding principle to bear in mind when considering the assessment of damages was explain by Lord Neuberger in the case of **Knauer v Ministry of Justice [2016] UKSC 9** at para 1:

**“1. It is the aim of an award of damages in the law of tort, so far as possible, to place the person who has been harmed by the wrongful acts of another in the position in which he or she would have been had the harm not been done: full compensation, no more but certainly no less. Of course, there are some harms which no amount of money can properly redress, and these include the loss of a wife or husband. There are also harms which it is difficult to assess, especially those which will be suffered in the future, but the principle of full compensation is clear.”**

1. The broad principles which form the basis of assessment of damages for fatal accidents are stated in the case of **Davies v Powell Duffryn Associated Collieries Limited [1942] AC 601** where Lord Wright stated at page 617:

**“The starting point is the amount of wages which the deceased was earning, the ascertainment of which to some extent may depend on the regularity of his employment. Then there is an estimate of how much was required or expended for his own personal and living expenses. The balance will give a datum or basic figure which will generally be turned into a lump sum by taking a certain number of years’ purchase. That sum, however, has to be taxed down by having regard to uncertainties, for instance, that the widow might have again married and thus ceased to be a dependent, and other like matters of speculation and doubt.”**

1. Lord Diplock, in the later case of **Cookson v Knowles [1978] 2 ALL ER 604, pg.162** which was relied on by both parties, sets out further principles for consideration when assessing damages:

**1. In the normal fatal accident case, the damages ought as a general rule, to be split into two parts:**

**a. the pecuniary loss which it is estimated the dependents have already sustained from the date of death up to the date of trial (‘the pre-trial loss’), and**

**b. the pecuniary loss which is estimated they will sustain from the trial onwards (‘the future loss’)**

**2. Interest on the pretrial loss should be awarded for a period between the date of death and the date of trial at half the short-term interest rates current during that period.**

**3. for the purpose of calculating the future loss, the ‘dependency’ used as the multiplicand should be the figure to which it is estimated the annual dependency would have amounted by the date of trial.**

**4. No interest should be awarded on the future loss.**

**5. No other allowance should be made for the prospective continuing inflation after the date of trial.**

1. Lord Fraser in **Cookson** at page 614 described the multiplier and multiplicand for ‘pre-trial loss’ and ‘future loss’ as follows:

**“The loss of support between the date of death and the date of trial is a total of the amounts assumed to have been lost for each week between those dates, although as a matter of practical convenience it is usual to take the medium rate of wage as the multiplicand…the multiplier of this part of the calculation is the number of weeks between the date of death and the date of trial… For the period after the date of trial the proper multiplicand is, in my opinion based on the rate of wages for the job at the date of trial.”**

1. The modern method of calculating the value of the dependency is stated by **O’Connor L.J.** in **Harris v Empress Motors Ltd. [1984] 1 WLR 212 at page 216** where he stated:

**“…the modern practice is to deduct a percentage from the net income figure to represent what the deceased would have spent exclusively on himself… Where the family unit was husband and wife, the conventional figure is 33 per cent… Where there are children the deduction falls to 25 per cent…”**

**Dependency**

1. Rhiannon’s evidence is, that at the time of the deceased’s death he was engaged in two construction projects and that she did the payroll and that he was paid a weekly salary $1,500 per project per week ($3,000). She also suggested that the deceased’s projected income was a minimum of $150,000 per annum and would have increased to $200,000 per annum as the business grew. She seems to base this on the letter from the Chief Councilor of Hope Town which referred to the issuance of a minimum of 115 building permits in Hope Town from December 2015 to February 2018.
2. Counsel for the Defendant, Ms. Cleare, vigorously contended that the likelihood that the deceased business could pay him $3,000 net per week consistently for 52 weeks is unsupported by the evidence. She stated that the deceased was likely earning a gross of $1,000 per project per week. I am not satisfied that sufficient evidence has been produced to conclude that the deceased would have netted $150,000 - $200,000 per annum as claimed. Of note is that no period prior to September to December 2015 was evidenced to demonstrate to the court the deceased’s income. The Plaintiff relied solely on the contracts that the Plaintiff was engaged in but which unfortunately were not completed prior to his death.
3. The Plaintiff relied on the decision in **Greene vs Colebooke** to justify the absence of documented evidence in proving the income of the deceased. I agree with Counsel for the Defendant that the instant case must be distinguished from **Greene** as in the latter case the sister’s evidence was used to substantiate that of the Plaintiff’s where no bank records were kept. In the instant case, it is the Plaintiff who is asserting and speaks to the existence of the bank records but has failed to produce them to the court. Further the evidence of the Plaintiff in this matter is self-serving, in that, it is she who has kept the record and stands to benefit. It would have been of great assistance to the Court had the payroll excel spreadsheet referred to, in her evidence, been produced.
4. I do not accept the Plaintiff’s evidence that the deceased would have benefitted from the upswing in the construction industry solely on the letter from the Chief Councilor regarding the increase of permits issued. This evidence is insufficient to make the comparison.
5. Rhiannon’s evidence speaks to the deceased’s income during a four month period, from September to December in 2015, and the Plaintiff is asking the court to use this very short period to conclude that the deceased would have earned $3,000 per week or $150,000 per annum which would have increased to $200,000 per annum. As mentioned earlier, I do not find that sufficient evidence has been produced to enable me to reach this conclusion.
6. After considering the evidence, that is the cost of both of the unfinished projects I find that it is more likely that the deceased’s income for that period was $1,500 per week for both jobs. That said, it is likely that his net weekly income averaged $750 ($39,000) rounded to $40,000 per annum and as Counsel for the Defence submitted “a generous increase net earnings” of $10,000 at the date of Trial.
7. I also find that there is insufficient evidence to support the claim that Rhiannon and the deceased earned $1,500 per month ($18,000 per annum) in a property management business in Hope Town. It is trite law that *“he who asserts must prove”.*

**Pre-trial loss**

1. Applying the guidelines in **Cookson**, the pre-trial loss is calculated from 14 December 2015 (date of death) to November 2018 (date of trial) a period of approximately 3 years.
2. The value of the dependency must be determined. As explained **O’Connor J**, this is the percentage of the deceased’s yearly income that he did not spend on himself, times the number of years which make up the pre-trial loss period.
3. The Plaintiff’s Counsel in distinguishing **Cookson**, said that there is striking evidence for this court to depart from the conventional figure of 25% where there are children. She identified the striking evidence as Mali’s disability, explaining that unlike other children who will cease to be dependents soon after adulthood, Mali will be a dependent for the remainder of her life. As a result, she submitted that the deceased would have spent a mere 20% of his income on himself.
4. With **Harris** as a guide, I do not agree with the Plaintiff and find that there is no reason to depart from the usual 25% that the deceased would ordinarily have spent of his income on himself and the remaining 75% on his family. Therefore the deceased yearly dependence is calculated at $30,000 (25% of $40,000 = $10,000). This is what is available as his annual dependency. This yearly dependency of $30,000 is the multiplicand which will be used in calculating his pre-trial loss.
5. Therefore the loss of dependency for the pre-trial period is $30,000 x 3 = **$90,000**.

**Future loss**

1. According to the decision of **Lord Neuberger** in the case of **Knauer**, future loss encompasses the loss of dependency from the date of the trial (November 2018) to the date of retirement. The case of **Cookson** suggests that the proper multiplier to be used will be the probable length of the deceased’s working life at the date of his death.
2. From the evidence, I accept that at the time of his death the deceased was a fit and healthy 38 year old independent contractor and family man. He was likely to continue working for another 27 years to at least the age retirement (65).
3. The Plaintiff submitted that the multiplier should be 27 years, and as pointed out by the Defendant’s Counsel, no consideration was made of the fact that a lump sum was being awarded.
4. The Defendant referred the court to a number of authorities stating a varied number of multipliers in support of their submission that a multiplier of
5. should be applied.
6. Having considered the authorities provided, particularly **Knauer** and **Alphonso and Others v Deodat Ramnath (1997) 56 WIR 189 at page 192,** and taking into account the vicissitudes of life and that a lump sum is being awarded, I find that the circumstances of this case requires that the appropriate multiplier ought to be 15.
7. I accept Defence Counsel’s submission that a “generous” increase should be considered from the pre-trial loss income which I have fixed at $15,000 as opposed to $10,000 submitted by Counsel for the Defendant ($30,000 + $15,000 = $45,000).The dependency for the future loss is calculated by using the annual dependency which is the multiplicand times the balance of the multiplier of 12: ($45,000 x 12 = $540,000.00). **The future loss then is $540,000.00.**

**Further claims**

1. The Plaintiff claims $6000 as additional care for Mali. The evidence which is accepted is that Mali, as a result of her disabilities, will never live an independent life. Also that her grandmother assists greatly in her day to day care. I think it is absurd for Counsel for the Defendant to assume that Kendall, the younger sister, will one day take over where the grandmother has left off with the care of Mali.
2. The court was asked to consider the ages of the children when the loss occurred. I note that Mali was eight years old and Kendall was six years old. The evidence, however, shows that at the date of trial Mali was functioning as a three year old, thus the fact that she was eight has the same bearing as if she was three years old.
3. I do accept from the authorities submitted, particularly **Spittle v Bunney** the loss of the father in this case is not as substantial had it been the mother on the basis that from the evidence the father was involved in various activities outside the home. Therefore any award would be discounted by 30 percent. The sum of $6,000 for additional care for Mali is allowed. However with a discount of 30% this calculates to $4,200 ($6,000 – 30%). Pre-trial $4,200 x 3 = $12,600 and post-trial $4,200 x 12 = $50,400. **Gives a total of $63,000.00 ($12,600 + $50,400 = $63,000)**
4. As for child care services, I accept the formula submitted by the Defence that minimum weekly wage of $250 ought to apply. Thus for a 40 hour week less the 30 percent discount ($250 x 52 =$13,000) less 30% is ($13,000 – 30% = $9,100). Thus (pre-trial amount $27,300 ($9,100 x 3 = $27,300) and post-trial $109,200 ($9,100 x 12 = $109,200)**. For a total of $136,500 ($27,300 + 109,200 = $136,500)**

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1. As for the gardening I think the same weekly minimum wage rate of $250 ought to apply, divided by 40 for the hourly rate is $6.25 an hour for an 8hr day is $50 per day every two weeks (or 52 weeks / 2 = 26 weeks x $50 per day = $1,300). Pre-trial $3,900 (1,300 x 3 = $3,900) and post-trial $15,600 ($**1,300.00 x 12 = $15,600). For a total of $ 19,500 ($3,900 + $15,600 = $19,500)**

1. The cost of painting, construction and care of vehicles is allowed at $5,000 which amounts to pre-trial $15,000 ($5,000 x 3 = $15,000) and post-trial $60,000 ($5,000 x 12 = $60,000) **for a total of $75,000 ($15,000 + $60,000 = $75,000).**
2. Total further claims is **$294,000**.

**Funeral expenses**

1. The Plaintiffs claim funeral expenses in the sum of **$5,106.25** and have provided evidence from Butlers Funeral Homes. The amount seems reasonable and I therefore allow the same in accordance with section 5(2) of the Fatal Accidents Act 1976.

**Bereavement**

1. The First Plaintiff claims the sum of $7,500.00 for bereavement. The claim is not allowed as there are no provision for such claims under the Fatal Accident Act 1976 (see **Wilschombe v Attorney General of the Commonwealth of the Bahamas [2002] BHS J. No. 33**).

**Conclusion**

1. In the result, there will be judgment for the Plaintiffs in the sum of $927,606.25 made up as follows:

Pre-trial loss $ **90,000**

Future loss **540,000**

Care for Mali **63,000**

Child care **136,500**

Gardening **19,500**

Housing/vehicle maintenance **75,000**

Funeral expenses **5,106.25**

**Total Award $929,106.25**

1. Interest will accrue at the rate of 3 percent on the pre-trial amount and at the judgment rate pursuant to the Civil Procedure (Rate of Interest) Act, 1992, as amended.
2. I will hear the parties on costs.

**Dated 30th June, A.D. 2022**

**Donna D. Newton**

**Justice**