

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity

2022/CLE/gen/00815

BETWEEN

CAROLLA ASHMAN DEMERITTE

Claimant

AND

THE HON. RYAN PINDER

(in his capacity as Attorney General of The Bahamas)

THE HON. KEITH BELL

(in his capacity as Minister of Immigration)

KETURAH FERGUSON

(in his capacity as Director of Immigration)

FAUSTEEN MAJOR SMITH

(in her capacity as Officer in Charge of the Carmichael Road Detention Centre)

COMMODORE DR. RAYMOND KING

(in his capacity as Commander of the Royal Bahamas Defence Force)

Defendants

Before: Assistant Registrar Adrienne Bellot (Acting)

Appearances: Doneth Cartwright and Lavar Ferguson for the Claimant

Keith Cargill and Rayshon Deleveaux for the Defendants

Hearing date: 22nd April, 2026; Closing submissions on the papers

RULING – ASSESSMENT OF DAMAGES

Judgment in Default of Appearance - Assessment of damages – effect of default judgment on contending liability on assessment of damages – compensatory damages for false imprisonment – exemplary damages – difference between

exemplary damages and damages for breach of constitutional rights – aggravated damages – computing damages for false imprisonment

The Claimant commenced this action against the Defendants for false imprisonment, unlawful arrest, assault and battery for her arrest and detention by the Department of Immigration between 19th April, 2021 and 4th November, 2021. Default Judgment was entered. This is the Court’s ruling on the assessment of damages to be awarded to the Claimant.

Introduction

1. The Claimant (“Mrs. Demeritte”) obtained Judgment in Default of Defence against the Defendants by order dated 8th March, 2023. The Claimant then applied to have damages assessed.

Preliminary issue – Effect of Default Judgment

2. Mr. Cargill for the Defendants submitted that notwithstanding the Default Judgment entered against the Defendants, they dispute the unlawfulness of Mrs. Demeritte’s arrest and detention.
3. The submissions of both parties address elements of the question of lawfulness of Mrs. Demeritte’s imprisonment itself. For example, both parties argued the authenticity or lack thereof of Mrs. Demeritte’s signature on the Deportation Order, which, according to the Defendants, justified the detention and deportation. This contention can be considered relevant to the question of the credibility of Mrs. Demeritte’s evidence generally and is somewhat relevant to assessing reasonableness of the Defendants’ actions for the purpose of assessing damages. However, the submissions on this point were made with the intention of proving or disproving the lawfulness or unlawfulness of Mrs. Demeritte’s arrest and detention, which is not in issue at this stage of the proceedings.
4. Similarly, but separately, the Defendants’ submissions seem to conflate the requirement for Mrs. Demeritte to prove that the arrest and detention were unlawful with the requirement for her to prove her loss and damage from said arrest and detention in order to be awarded damages. The latter is in fact an obligation of Mrs. Demeritte for this assessment of quantum of damages and in this regard, the Court cites the authority provided by the Defendants of **Strachan v The Gleaner Co. Ltd. and another [2005] WLR 3204** where the Privy Council emphasised that “*the assessment is not made by default; the claimant must prove his loss or damage by*

evidence.” The contention of Counsel for the Defendant that Mrs. Demeritte must provide proof that she was unlawfully arrested is, however, misconceived since a Default Judgment precludes the Defendants from disputing liability.

5. It is well-established in Civil Procedure that the effect of a Default Judgment is that the Defendant is taken to have admitted the allegations of fact in the Statement of Claim and cannot thereafter dispute liability at the assessment of damages. This was confirmed in **Ruffin Crystal Palace Limited v Laniccini Brathwaite [2013] 1 BHS J. No. 65**, where the Bahamian Court of Appeal adopted the position that inherent to a Default Judgment is the finding that the Defendants are liable.
6. In **Pugh v Cantor Fitzgerald International [2001] EWCA Civ 307** the Court considered what issues Defendants against whom a Default Judgment had been entered, could raise on an assessment of damages. In delivering the judgment, Lord Justice Ward cited with approval the “underlying principle” as expressed by Jonathan Parker J in the unreported case of **Lunnun v Singh and others**, which prevented defendants in these circumstances from raising issues inconsistent with the default judgment:

“That on an assessment of damages all issues are open to a defendant save to the extent that they are inconsistent with the earlier determination of the issue of liability, whether such determination takes the form of a judgment following a full hearing or a default judgment.”

27. Clarke L.J. held that the on the assessment of damages the defendant may not take any point which was inconsistent with the liability alleged in the statement of claim but subject thereto, the claimant could take any point relevant to the assessment of damages including failure to take reasonable steps to mitigate...”

7. Accordingly, the Defendants’ attempts to contest liability at this stage are denied.

Facts

8. Mrs. Demeritte, a Jamaican national, entered The Bahamas as a visitor sometime around 13th July, 2018. She married a Bahamian national on 30th July, 2018. On this basis, Mrs. Demeritte was granted an extension by The Department of Immigration (“Immigration”) to remain in The Bahamas.

9. In August 2019, the couple applied for a Residential Spousal Permit (“RSP application”). However, by letter dated 2nd February, 2020, Immigration informed Mrs. Demeritte that the RSP application had been refused. Her time to remain in The Bahamas was then to expire on 21st May, 2020.
10. In October of 2020, Mrs. Demeritte was unfortunately seriously injured in a motor vehicle accident in Abaco, which caused her to be air-lifted to and hospitalised in Nassau. During this time, Mrs. Demeritte’s passport and other documents were misplaced.
11. In Abaco, on 19th April, 2021, Mrs. Demeritte was arrested and charged with the offence of overstaying. On 22nd April, 2021, she pleaded guilty, was fined \$1,500.00 and made partial payment of \$1,300.00 toward the fine. Despite the partial payment and the Magistrate not having imposed a custodial sentence, Mrs. Demeritte’s detention continued – this time at The Carmichael Road Detention Centre (“the Detention Centre”).
12. On 4th November, 2021, one hundred and ninety-nine (199) days after her arrest, the Honourable Justice Bernard Turner (as he then was) ordered the immediate release of Mrs. Demeritte pursuant to a Habeas Corpus application.
13. Despite Justice Turner’s Order, Mrs. Demeritte was further detained at the Detention Centre for an additional seven (7) hours before her final release.

The evidence

14. Most of the disputed evidence relates to Mrs. Demeritte’s treatment by officers and the conditions of her detention at the Detention Centre.
15. Mrs. Demeritte, the Claimant, was the sole witness for her case. Her evidence is that she was arrested on the island of Abaco and initially was not informed of the reason for her arrest. She was detained in a jail cell for four (4) days during which she was housed with both men and women. There were no hygiene amenities and she had no access to restroom facilities, causing her to have to urinate on herself.
16. On the fourth day of detention in Abaco, Mrs. Demeritte alleges that she was humiliated by having been transferred to Nassau by plane with other passengers in the same clothes (now soiled) that she had been arrested in four days earlier.

17. Mrs. Demeritte says that she was then transferred to the Detention Centre where she endured inhumane treatment and conditions during the 199 days she was detained there. Mrs. Demeritte details many instances of threats and bullying. According to Mrs. Demeritte, the Immigration Officers would speak to her and the other detainees “as if [they] were not human beings”. She claimed that she was scared for her life and was living on the edge, as she did not know what would happen next.
18. In particular, Mrs. Demeritte alleges that one of the officers in charge, Mrs. Flowers, called her a whore and told her that her husband did not want her. The officers often made jokes about her detention. There was an occasion where an officer known as Officer Boardy aggressively told her “*Call your lawyer, because you’re going to Fox Hill*” and “*Don’t even talk to her. She’s going to Fox Hill.*” This caused her extreme anxiety and distress.
19. She frequently witnessed other detainees being beaten by officers, which exacerbated her anxiety; she was subjected to strip searches and was denied access to the lawyers that her husband had retained.
20. Mrs. Demeritte also detailed instances of inadequate security and safety. Once a week, she said, another female detainee would attempt to come into her bunk to touch her sexually, which caused her to constantly fear being sexually assaulted, which therefore prevented her from sleeping. Added to her anxiety were threats of male detainees entering the female dorms to rape and sexually assault female detainees.
21. Mrs. Demeritte alleged that she was often fed cold food that was contrary to her dietary restrictions (turkey, grits, pork chops). The officers often delayed feeding the detainees despite the food truck having already arrived. This delay caused Mrs. Demeritte extreme gas. Her requests and even cries for tea were ignored.
22. Mrs. Demeritte’s evidence was that she was denied adequate sanitary products for her menstrual cycle which caused her to bleed through her products. She was forced to use clothing to absorb the discharge.
23. Mrs. Demeritte claimed that the facility was unfit for human habitation, as it was infested with insects and even snakes. The restrooms were significantly unclean. At one point there was no water for four (4) weeks, during which the toilets could not be flushed and hands could not be washed.

24. Also as a result of her unlawful arrest and detention, said Mrs. Demeritte, after having been released pursuant to the habeas corpus application and the tragic death of her husband in a car accident on 1st November, 2022, she was denied entry into The Bahamas. She was unable to attend her husband's funeral.
25. Mrs. Vonetta Flowers-Darling ("Mrs. Darling"), referred to as "Ms. Flowers" in the evidence of Mrs. Demeritte, was the sole witness for the Defendants. She testified that she was, at the material time, Chief Immigration Officer of the Department of Immigration. She confirmed that she had contact with Mrs. Demeritte during her detention, but under cross-examination by Ms. Cartwright, denied calling Mrs. Demeritte a prostitute, whore or any other slur.
26. Cross-examination also revealed that despite Mrs. Darling's Witness Statement having been made after that of Mrs. Demeritte, the document did not controvert Mrs. Demeritte's assertions as to Mrs. Darling's slurs. In response thereto, Mrs. Darling drew the Court's attention to the paragraph of her Witness Statement that highlighted Mrs. Demeritte's inability to prove the assertion that she called her a whore.
27. Mrs. Darling's evidence related, for the most part, to general procedure in the Detention Centre. She said that she was "unable to speak to" Mrs. Demeritte's alleged instances of bullying by other Immigration Officers, but that she maintained professionalism and that the officers were trained to act in a professional manner.

Factual findings

28. As stated, the majority of Mrs. Demeritte's evidence as to her experience during detention was uncontroverted. Mrs. Darling did, however, deny the allegations directly against her. With respect to the factual disputes between the witnesses, I prefer the evidence of Mrs. Demeritte, as I found her to be a credible witness and I accept her evidence as to the conditions at both the Abaco jail and the Detention Centre as well as her treatment during those periods. Further and in any event, as stated, Mrs. Darling admitted that she was not consistently present at the Detention Centre during Mrs. Demeritte's detention.

Quantum of damages sought

29. Counsel for the Claimant submitted that as this was a serious case of prolonged unlawful detention with degrading and humiliating conditions, an award of

B\$379,200.00 total is reasonable. The relief sought by the Claimant in the Statement of Claim is as follows:

*“36.1 Damages for false imprisonment; and
36.2 Damages for unlawful arrest; and
36.3 Damages for assaults; and
36.4 Damages for batteries; and
36.5 General damages; and
36.6 Aggravated damages; and
36.7 Exemplary damages; and
36.8 Damages for breaches of her constitutional rights under Article 17 of the Constitution; and
36.9 Vindictory damages under the Constitution or under the inherent jurisdiction of the Court; and
36.10 Interest accruing from approximately 19 April, 2021, being the date from which the Plaintiff’s cause of action arose pursuant to the Civil Procedure (Award of Interest) Act, 1992; and
36.11 Such further or other remedies or relief as the Plaintiff may be entitled to; and
36.12 Such further or other relief as the Court may deem just; and
36.13 Costs.”*

Compensatory damages for false imprisonment

30. It is well established that the amount of an award of compensatory damages for false imprisonment cannot be precisely measured. The Court must make its best estimate by asking itself what is reasonable and considering similar awards in cases that are comparable. These sentiments were expressed by Sir Michael Barnett, in **Nathanson v Mtetiso and others [2020] 2 LRC 135** at paragraph 111:

“[111] The quantification of damages is one of the greatest challenges face by courts in many of these cases. This is primarily so because there is no mathematical formula in place which one can rely on. Invariably one has to rely on the decisions arrived at in other similar matters but bearing in mind that every case is unique in its own way.”

31. Counsel for the Defendants urged the Court to limit the damages to only the amount of time that Mrs. Demeritte was *unreasonably* detained. In support of this contention they relied on **R v Governor of Durham Prison ex parte Hardial Singh [1984] 1 WLR 704** where the Court held that the damages for false imprisonment ought not include the period that was reasonably necessary for the applicant’s replacement travel documents to enable his deportation. Applied to the facts, says Mr. Cargill,

as of 14th July, 2019 when the Deportation Order was executed, the detention was reasonable and therefore lawful since Immigration made every effort to execute the order but was prevented from doing so because Mrs. Demeritte's passport had been misplaced. The Defendants attempted to have her travel documents replaced, a reasonable time for which Mr. Cargill suggested was three (3) months to a year. It ought to be noted that as at the date of her final release, Mrs. Demeritte's travel documents had still not been replaced by her nor the Defendants.

32. This submission on the Defendants' behalf, with a view to limiting damages for unlawful imprisonment, is untenable. The position presupposes judgment that the detention was: (i) not unlawful due to the Deportation Order and the absence of Mrs. Demeritte's passport; or (ii) lawful for as long as was reasonable to retrieve temporary travel documents for Mrs. Demeritte.
33. As stated above, the Defendants never filed a Defence, hence the default judgment having been entered. For the Defendants to now attempt to limit damages for unlawful imprisonment after default judgment flies in the face of the previously mentioned well established principle of Civil Procedure preventing the defendant from taking any point inconsistent with the liability alleged in the statement of claim. The Defendants are precluded from taking any point as to the lawfulness or reasonableness of the detention, as it is inconsistent with the default judgment i.e. the Claimant's Statement of Claim. I am not convinced that there is merit in the Defendants' attempt to circumvent the effect of the Default Judgment by attempting to differentiate unlawful detention from unreasonable detention. It follows that this argument fails.
34. Counsel for the Claimant and Counsel for the Defendants asserted different methods for ascertaining the award of damages in the circumstances – Mr. Cargill urging for a fixed figure and Ms. Cartwright for the day x rate formula. Mr. Cargill correctly urged the Court to consider the length of time of the detention and cited **Daleon Brown v The Attorney General 2019/CLE/gen/FP/00110** where the Acting Assistant Registrar stated that the day x rate formula is usually more appropriate for long periods of detention whereas global award fixed figures are more suitable for short periods (i.e. hours to days). In my judgment, however, although the instant detention period of 199 days was less than one year, this period is certainly not considered a short period of time relative to Bahamian case law.
35. Counsel for the Claimant commended the method of calculating compensatory damages for unlawful imprisonment used in **Bojang v Attorney General of The Bahamas 2017/CLE/gen/01166**, where the Court awarded damages at a rate of

\$750 per day. In an effort to convince the Court that a daily rate between \$1,000 to \$3,000 a day is appropriate, Ms. Cartwright highlights the inhumane conditions of Mrs. Demeritte's detention.

36. An important consideration for assessing unlawful imprisonment damages is the rationale for the award and the observation that awards do not increase proportionately based on the length of detention. This was noted by Charles J (as she then was) in **Bojang**:

“a large part of the rationale for the award of damages for unlawful imprisonment is the fact of the unlawful detention [which explains] why the awards for cases of extended periods do not increase proportionately.”

37. The reason damages for false imprisonment do not increase proportionately to the detention period is that a substantial proportion of the award is given for “*the initial shock of being arrested*”. The President of the Court of Appeal in **Nathanson** cited with approval the proper test to be applied for calculating damages for false imprisonment as set out in **Ruddock & Ors v Taylor [2003] NSWCA**:

“Damages for false imprisonment cannot be computed on the basis that there is some kind of applicable daily rate. A substantial proportion of the ultimate award must be given for what is described as “the initial shock of being arrested” (Thompson v Commissioner of Police of the Metropolis [1998] QB at 515. As the term of imprisonment extends the effect upon the person falsely imprisoned does progressively diminish”

38. **Takitota v The Attorney General, Director of Immigration and Minister of National Security [2009] UKPC 11** is considered the locus classicus for extended periods of unlawful detention. The Privy Council in **Takitota** strongly warned against awarding damages for compensatory damages by slavishly applying a mathematical formula. The final figure should reflect the period of detention, inhumane conditions and any misery and distress suffered by the Claimant:

“The court should determine what they consider to be an appropriate figure to reflect compensation for the long period of wrongful detention of the appellant, taking into account any element of aggravation they think proper, reflecting the conditions of his detention and, in their own words, the misery which he endured. In assessing the proper figure for compensation for such long-term detention, they should take into account that any figure they might regard as appropriate for an initial short period, if extrapolated, should ordinarily be tapered, as their Lordships have pointed out in para 9 above.

The final figure for compensatory damages should therefore amount to an overall sum representing appropriate compensation for the period of over eight years' detention, taking account of the inhumane conditions and the misery and distress suffered by the appellant."

39. Bahamian jurisprudence has regarded, as an aggravating factor, detention at the Bahamas Department of Corrections ("BDOC") as opposed to the Detention Centre. As stated, Mrs. Demeritte was detained at the Detention Centre, but was threatened with detention at BDOC by officers at the Detention Centre.
40. The Claimant pleaded damages for unlawful arrest and unlawful imprisonment separately. However, the case law shows that the court awards a global figure for the head of damages, which encompasses the arrest and imprisonment of the Applicant.
41. Having regard to the fact of Mrs. Demeritte's loss of liberty for 199 days, the conditions of her detention and the treatment she suffered during that time and other aggravating factors accepted by this Court together with the Privy Council's guidance at paragraph 16 in **Takitota**, a daily rate of \$600 per day seems reasonable. (199 days x \$600 daily = \$119,400). In keeping with the authorities and to account for the Claimant receiving a lump sum payment, however, this daily rate ought not to be slavishly applied. Accordingly, the award should be reduced, although at a lesser rate than had been applied in cases where detention periods were even longer (531 days in **Bojang**, 2,316 days in **Ngumi v The Attorney General and Ors BS 2021 CA 143**, over eight years in **Takitota**). In my judgment, an appropriate reduction to the compensatory award is \$30,000. The final compensatory award for the unlawful imprisonment is therefore \$89,400.

Exemplary damages and damages for breach of constitutional rights

42. The Claimant pleaded exemplary damages and damages for breach of Mrs. Demeritte's constitutional rights suffered during her detention. However, Mrs. Demeritte is not entitled to both heads of damages because to do so would be duplicatous, as the very purpose of exemplary damages is to compensate for breaches of constitutional rights in addition to other outrageous behavior. The Privy Council in **Takitota** explained how recovering both heads of damages is duplicative:

“[12] The award of exemplary damages is a common law head of damages, the object of which is to punish the Defendant for outrageous behaviour and deter him and others from repeating it. One of the residual categories of behaviour in respect of which exemplary damages may properly be awarded is oppressive, arbitrary or unconstitutional action by the servants of the government, the ground relied upon by the Court of Appeal in the present case. It serves, as Lord Devlin said in *Rookes v Barnard* [1964] AC 1129 at 1223, [1964] 1 All ER 367, [1964] 2 WLR 269, to restrain such improper use of executive power. Both Lord Devlin in *Rookes v Barnard* and Lord Hailsham of St Marylebone LC in *Broome v Cassell & Co Ltd* [1972] AC 1027 at 1081, [1972] 1 All ER 801, [1972] 2 WLR 645 emphasised the need for moderation in assessing exemplary damages. That principle has been followed in *The Bahamas* (see *Tynes v Barr* (1994) 45 WIR at 26), but in *Merson v Cartwright and the Attorney General* [2005] UKPC 38, [2006] 3 LRC 264 the Privy Council upheld an award of \$100,000 exemplary damages, which they regarded as high but within the permissible bracket.

[13] The award of damages for breach of constitutional rights has much the same object as the common law award of exemplary damages. The relevant provisions of the Bahamian Constitution are art 17 (inhuman or degrading treatment) and art 19 (deprivation of 29 personal liberty). The basis of the jurisdiction to award such damages was set out in *Attorney General of Trinidad and Tobago v Ramanooop* [2005] UKPC 15, [2006] 1 AC 328, [2005] 2 WLR 1324. Lord Nicholls of Birkenhead, giving the judgment of the Board, said at paras 17 – 20:...”

...

[15] Their Lordships consider that it would not be appropriate to make an award both by way of exemplary damages and for breach of constitutional rights. When the vindicatory function of the latter head of damages has been discharged, with the element of deterrence that a substantial award carries with it, the purpose of exemplary damages has largely been achieved. To make a further award of exemplary damages, as the Appellant's counsel sought, would be to introduce duplication and contravene the prohibition contained in the proviso to art 28(1) of the Constitution. They are of the opinion that the sum of \$100,000 is justifiable on the facts of the case as an award of constitutional or vindicatory damages.”

43. Mrs. Demeritte seeks exemplary damages in the amount of \$50,000.00.

44. The object of an award of exemplary damages is to punish and deter improper use of executive power: per Lord Devlin in *Rookes v Barnard* [1964] AC 1129, which

was cited with approval by the Privy Council in **Takitota** in the context of assessing quantum of exemplary damages for false imprisonment cases:

“The award of exemplary damages is a common law head of damages, the object of which is to punish the Defendant for outrageous behaviour and deter him and others from repeating it. One of the residual categories of behaviour in respect of which exemplary damages may properly be awarded is oppressive, arbitrary or unconstitutional action by the servants of the government, the ground relied upon by the Court of Appeal in the present case. It serves, as Lord Devlin said in *Rookes v Barnard* [1964] AC 1129 at 1223, [1964] 1 All ER 801, [1972] 2 WLR 269, to restrain such improper use of executive power. Both Lord Devlin in *Rookes v Barnard* and Lord Hailsham of St. Marylebone LC in *Broome v Cassell & Co, Ltd* [1972] AC 1027 at 1081, [1972] 1 All ER 801, [1972] 2 WLR 645 emphasized the need for moderation in assessing exemplary damages. That principle has been followed in *The Bahamas* (see *Tynes v Barr* (1994) 45 WIR at 26), but in *Merson v Cartwright and the Attorney General* [2005] UKPC 38, [2006] 3 LRC 264 the Privy Council upheld an award of \$100,000 exemplary damages, which they regarded as high but within the permissible bracket.”

45. In **Bojang**, Charles J (as she then was) awarded the Applicant \$40,000 in exemplary damages, reasoning that it was appropriate for the detention period and other circumstances since the Privy Council upheld an award of \$100,000 in **Takitota** where the detention period was significantly longer. As such, in my judgement, an award of \$50,000 is appropriate to demonstrate the disapproval of the oppressive, arbitrary and unconstitutional actions of the government’s servants.

Vindictory damages

46. Mrs. Demeritte claims \$40,000 for vindictory damages. However, vindictory damages is simply another term for exemplary damages or damages for breaches of constitutional rights, which has already been awarded.

47. In **Merson v Cartwright BS 1994 SC 57**, the head of damages awarded to punish and deter the authorities’ infringements of the Claimant’s constitutional rights was interchangeably referred to as “vindictory” and “exemplary”, as the terms merely describe the nature of the award. Vindictory damages, exemplary damages and damages for breach of constitutional rights address the same mischief. To award more than any one of these heads of damages would amount to a duplication.

48. Accordingly, Mrs. Demeritte cannot recover a separate award for vindictory damages.

Aggravated damages

49. Mrs. Demeritte seeks aggravated damages in the sum of \$50,000. This head of damages is awarded when the Defendant's conduct has caused or is capable of causing injury to feelings, indignity, disgrace, humiliation or mental suffering. The award is to be distinguished from exemplary damages. Where there are aggravating factors beyond the deprivation of liberty such as indignity and humiliation, the purpose of aggravated damages is to account for said aggravating factors. If the calculation of the compensatory award for the false imprisonment itself includes the aggravating factors, however, a separate award of aggravated damages would be duplicative. Lord Carswell of the Privy Council in **Takitota** explained aggravated damages in this way:

"In their reference to aggravated damages in para 94 of their judgment the Court of Appeal appear to have equated them with exemplary damages, whereas they form a quite distinct head of damage based on altogether different principles. In awarding compensatory damages the court may take account of an element of aggravation. For example, in a case of unlawful detention it may increase the award to a higher figure than it would have given simply for the deprivation of liberty, to reflect such matters as indignity and humiliation arising from the circumstances of arrest or the conditions in which the claimant was held. The rationale for the inclusion of such an element is that the claimant would not receive sufficient compensation for the wrong sustained if the damages were restricted to a basic award. The latter factor, the conditions of imprisonment, is directly material in the present case, and it would be not merely appropriate but desirable that the award of compensatory damages should reflect it. It may be that the Court of Appeal had it in mind when they expressed their intention in paragraph 90 to compensate the appellant "for the loss of 39 more than 8 years of his life and for the misery which he endured by being treated in a less than humane way." They did not spell it out in their judgment, though they were not obliged to do so: see *Subiah v Attorney General of Trinidad and Tobago* [2008] UKPC 47, para 11. Their Lordships do not find it possible to ascertain with sufficient clarity whether the Court of Appeal included any element of aggravation in their calculation of the compensatory award, and if so, how much represents that element. Although they stated in para 93 of their judgment that the sum of compensatory damages "does not take into account any assessment for

aggravated or exemplary damages", it is not possible to determine whether in reaching that figure they had in fact taken account of aggravating factors."

50. See also paras. 213-239 of the decision of the Court of Appeal in **Ramon Lop v Attorney General SCCivApp No. 118 of 2022.**

51. In calculating the quantum of compensatory damages for Mrs. Demeritte's false imprisonment, the Court accounted for the aggravating factors of her unlawful detention – the degrading treatment and conditions she endured during the loss of 199 days of freedom that caused her a great deal of humiliation, indignity and overall misery. It follows that no separate award for aggravated damages is granted.

Damages for assault and battery

52. Mr. Cargill for the Defendants opposes any award for assault and/or battery, as he contends that the Defendants failed to prove such damages. On the other hand, Counsel for Mrs. Demeritte argues that the verbal abuse, threats and other degrading treatment she endured constitutes assault and the manhandling by police officers and strip searches amount to battery, for which she should be compensated.

53. The Court accepts that Mrs. Demeritte suffered verbal abuse that injured her feelings, but there was no evidence that any of the words spoken to her or threats made to her caused her to fear physical force. With respect to battery, in my judgment, strip searching and manhandling during arrests and/or transfers are not actions that fall within the tort of battery. Ordinarily, awards for assault and battery are made in cases where there has been clear and direct physical harm such as police brutality. Thus, Mrs. Demeritte's request for damages for assault and battery is denied.

Costs

54. By Order dated 8th March, 2023, former Assistant Registrar Deal granted the Claimant leave to enter Judgment against the Defendants with damages, interest and costs to be assessed. As such, no costs were awarded in respect of the proceedings up to the Default Judgment.

55. Also relevant is the order made thereafter on 4th December, 2025, in which Assistant Registrar Deal awarded the Claimant costs on an indemnity basis for the costs

thrown away by the adjournment requested by the Defendants – such damages to be assessed if not agreed upon the conclusion of the assessment of damages.

56. With respect to the Claimant's costs for obtaining the Default Judgment and the opposed assessment of damages trial thereafter, costs to be paid by the Defendants are fixed at \$15,000.00. Additionally, the Claimant's costs to be paid by the Defendants for the costs thrown away are fixed at \$3,000.00.

Conclusion

57. The order of the Court is as follows:

- a. The Claimant is awarded compensatory damages for false imprisonment in the amount of \$89,940.00;
- b. The Claimant is awarded exemplary damages in the amount of \$50,000.00;
- c. The Claimant is awarded costs for obtaining the default judgment against the Defendants and the trial on assessment of damages fixed at \$15,000.00;
- d. The Claimant is awarded her costs on an indemnity basis for the costs having been thrown away by the Defendants' adjournment of the trial on assessment of damages pursuant to the Order of Assistant Registrar Johnathan Deal; such costs fixed at \$3,000.00.

Dated this 6th day of July , 2026

**Adrienne Bellot
Assistant Registrar (Acting)**