

Rollin Clifton Bertrand and 2 others (Respondents) v Anthony Elias (Appellant) (Trinidad and Tobago)

Case ID: JCPC 2021/0085

Jurisdiction: Court of Appeal of the Republic of Trinidad and Tobago

Case summary

Issue

Was the Court of Appeal wrong to:

1. Find that the trial judge had plainly gone wrong, in the exercise of her discretion, in departing from the general rule under Civil Proceedings Rules ("CPR") 38.7(1) and 67.5(2)(b)(ii) that costs be awarded on the prescribed scale?
2. Set aside the trial judge's costs order and order the judge to stipulate the value of the claim for the purposes of awarding prescribed costs?

Facts

This appeal is about costs. The respondents issued a defamation claim against the appellant, Anthony Elias, but the claim was discontinued before the trial. The respondents agreed in principle that the appellant was entitled to the costs of the claim. The issues before the court were the quantification of costs and the share for which each party should be liable.

If a claim is discontinued, the general rule under CPR 38.7(1) is that the costs awarded to the defendant are to be quantified in accordance with a prescribed scale. CPR 67.5(2)(b)(ii) provides that, in determining such costs, the value of a claim for damages will be the sum agreed between the parties or, if not agreed, the sum stipulated by the court.

The trial judge held that the respondents were jointly liable to pay the appellant's costs, to be assessed by a Master in Chambers. In doing so, the judge disapplied CPR 67.5(2)(b)(ii) - which required her to stipulate the value of the claim - on the ground that she would have been required to speculate as to the extent of the damage suffered, and that she could not do this without having heard cross-examination. The Court of Appeal held that the judge was wrong to do this. It therefore allowed the respondents' appeal, and remitted the matter to the trial judge for stipulation of the value of the claim. The appellant now appeals to the Judicial Committee of the Privy Council.

Parties

Appellant(s)

Anthony Elias

Respondent(s)

Rollin Clifton Bertrand

(1) Trinidad Cement Ltd, (2) Caribbean Cement Co Ltd

Appeal

Justices

Lord Lloyd-Jones, Lord Leggatt, Lord Burrows, Lord Stephens, Lady Rose

Hearing start date

18 July 2023

Hearing finish date

18 July 2023

Watch hearing

18 July 2023 [Afternoon session](#)