

**IN THE HIGH COURT OF FIJI AT SUVA**  
**CIVIL JURISDICTION**

Civil Action No. HBC 194 of 2016

**BETWEEN** : **VIJAY PRASAD** of Lot 7 Melbourne Street, Verata, Nausori,  
Foreman.

**PLAINTIFF**

**AND** : **KAIMBU ISLAND LIMITED** a Company incorporated in British,  
Virgin islands, having its place of business registered with  
Howards Lawyers, Level 7, FNPF Place, Victoria Parade, Suva.

**FIRST DEFENDANT**

**AND** : **PACIFIC PLUMBING SERVICES LIMITED** a Company having  
its registered office at Lot 8 Clifton Road, Nasinu.

**SECOND DEFENDANT**

**Before:** Mr. Justice Deepthi Amaratunga

**Counsel:** Mr D. Singh for the Plaintiff  
Mr. W. Clarke and Ms. S. Lodhia for first Defendant  
Mr. E. Narayan and N. Lal for second Defendant

**Date of Judgment:** 09 April 2025

## **JUDGMENT**

### **INTRODUCTION**

[1] Plaintiff was electrocuted while drilling an iron beam on a scaffold at a height. He was fallen from the height due to electrocution. He was drilling using an industrial electric power tool, namely a Magnetic Drill.

- [2] Both scaffold and Magnetic Drill did not belong to Plaintiff or second Defendant who had employed Plaintiff as a labourer.
- [3] Second Defendant provided 'tradesmen' for first Defendant's construction project. First Defendant's Project Manager was in charge of the construction project (Project Manager) and he had requested drilling of an iron beam from Magnetic Drill.
- [4] Plaintiff was employed by second Defendant but at the time of incident where he was injured he was working on first Defendant's construction project as a foreman and worker.
- [5] There were no supervisors provided by second Defendant. Plaintiff was a foreman but he had to work and his supervision mainly for productivity of the workers, safety briefings, preparation of reports he had to earn hourly wages depending on the time he worked calculated by a clerk of first Defendant or its managing entity.
- [6] Plaintiff was paid hourly wages by second Defendant according to records maintained by a clerk of first Defendant or its managing entry. This proves that Plaintiff was not full time supervisor though he worked as foreman of the labourers supplied by second Defendant for the project.
- [7] Plaintiff instituted this action against first and second Defendants for breach of common law negligence contrary to statutory obligations including Health and Safety at Work Act 1996, Health and Safety at Work (General Workplace Conditions) Regulations 2003. Plaintiff had also claimed for negligence for breaches under Occupier's Liability Act 1968 and Electricity Act 1966.
- [8] Paragraph four of the statement of claim contained *inter alia* failure to provide with safe Magnetic Drill or power generator, safety gear, failure to provide competent supervisor, on site, and failure to provide RCD, exposing Plaintiff to risks known to Defendants, and failure to take precautions and provide a safe working environment.
- [9] In terms of Health and Safety at Work Act 1996 read with Regulation 31 (4) of Health and Safety at Work (General Workplace Conditions) Regulations 2003 required supply of 'appropriate RCD' and a 'portable transformer' in conjunction with any 'portable power driven equipment'. This prevents electrocution from such device.

- [10] There is no evidence of suitable RCD being provided for the Magnetic Drill that Plaintiff was using. Plaintiff stated that the Magnetic Drill was directly connected to the portable generator as the main power supply to the resort was not providing electricity for the workers involved in the construction project including Plaintiff.
- [11] Plaintiff suffered severe injuries and assessed at 47% impairment under AMA guide line by Consultant Neurosurgeon of CWM Hospital who treated Plaintiff.
- [12] Both first and second Defendants were liable for severe injuries suffered by Plaintiff while working in first Defendant's resort expansion project.

### **FACTS AND ANALYSIS**

- [13] Plaintiff was employed by second Defendant. There was no employment contract, but he was employed as a carpenter.
- [14] Second Defendant had contract to provide 'qualified tradesmen' for first Defendant's construction project.
- [15] Plaintiff liaised with Project Manager for allocation of work among workers provided by second Defendant, and Plaintiff also worked with others. He was a foreman for labourers provided by second Defendant. He said that labourers kept on changing and he was not aware of skills of all such workers.
- [16] Project Manager also supervised or coordinated the work and assigned the work to workers including Plaintiff.
- [17] Plaintiff was a foreman but he had to work and his work hours were monitored by a clerk of first Defendant or its managing entity, and payments were made according to said working hours, kept by first Defendant's clerk.
- [18] First Defendant's managing entity and second Defendants had entered in to a contract to provide 'qualified tradesmen' for the construction project of first Defendant.
- [19] In terms Clause 4.3. of the said contract supervision of the work was entrusted to second Defendant, but no such supervision provided by second Defendant. Plaintiff said his task was to supervise the productivity of the

workforce at the end of the day as he had to work with others. He also said there were others who were more experienced than him but he was selected as foreman because of his language skills, and he communicated with Project Manager.

[20] Clause 4.3 of said contract stated

‘Supervision

The Contractor and its Personnel shall be responsible for the supervision of the Works, so as to ensure that the Works, are executed in accordance with this Contract. For the purposes, of such supervision the Contractor and Personnel shall provide on the Site a competent person to supervise the Contractors Personnel up to completion of the Works’

[21] Project Manager provided tools such as Magnetic Drill. Project Manager requested to do the drilling and to use the Magnetic Drill to make a hole on an iron bar according to Plaintiff’s evidence.

[22] Project Manager in cross examination stated that he can’t remember whether he gave Magnetic Drill to Plaintiff, but analysis of evidence proves on balance of probability the Magnetic Drill was given by Project Manager and his evidence is not reliable on the said fact.

[23] In contrast Plaintiff’s evidence is credible and consistent as to the material facts. Plaintiff’s was examined by Defendants.

[24] First Defendant deny Plaintiff was electrocuted. Project Manager even failed to admit providing Magnetic Drill to Plaintiff. This is contrary to Plaintiff’s evidence where he said that Magnetic Drill was given to him by Project Manager and he had shown how to operate it. Plaintiff had seen Project Manager using Magnetic Drill.

[25] There were no supervisors other than Project Manager regarding work Plaintiff did as well as safety. Project Manager was aware that Plaintiff had no prior experience with Magnetic Drill when he handed over it to Plaintiff.

[26] Project Manager said that they had very high safety procedures but failed to provide any evidence to support such statement. The circumstantial evidence does not support high safety standards at all.

- [27] When Plaintiff got injured only Project Manager and General Manager of management entity of first Defendant had arrived from a different location and there was no person to act on such an incident, than worker on the site.
- [28] Project Manager in his evidence stated that there was a person in charge of safety but failed to mention even the name or did not call such person to provide evidence as to safety procedures adopted by them.
- [29] Plaintiff stated that he requested for safety gear form Project Manager, but was told that those were already used by another group of workers. He was also told to request from second Defendant but when requested no safety gear provided by second Defendant. Defendants denied this but again the evidence of Defendants are not reliable on analysis.
- [30] Plaintiff had no formal qualification in the work he was assigned, but said he had experience for about five years as carpenter at the time when he got injured. So he had neither formal qualification nor experience regarding electrical equipment such as Magnetic Drill and its operations and also safety requirements of such equipment and or electricity supply to such equipment.
- [31] Health and Safety at Work Act 1996's objectives as stated in the preamble *inter alia* stated 'reform the law relating to the health and safety of workers and other people at work or affected by the work of other people' and it applies to all workers irrespective of them being independent contractors.
- [32] In terms of the broad objectives of Health and Safety at Work Act 1996 common law duty of care and negligence is proved when there are breaches of statutory safety requirements under the Act and or Regulations made under it.
- [33] In terms of Interpretation of 'Worker' under Health and Safety at Work Act 1996 states;  
    ""worker" means a person who is employed under a contract of service or who works under a contract for service;"
- [34] According to exclusive interpretation 'worker' in terms of Health and Safety at Work Act 1996 makes no distinction regarding independent contractors and employers as regards to safety requirements of the equipment provided to workers.

[35] So the obligations under Health and Safety at Work Act 1996 applies to independent contractors irrespective of what parties may agree by contractual terms under said Act

[36] Section 7 of Health and Safety at Work Act 1996, even makes contracting out of it an offence. This shows the paramount importance of compliance and the accordingly on compliance may lead to serious injury to all persons including 'workers' and may even lead to loss of life.

“Contracting out

7.-(1) This Act applies notwithstanding anything to the contrary contained in any contract or agreement, whether entered into before or after the commencement of this Act.

(2) A contractor agreement which purports to exclude or limit the application of this Act or to exclude or limit the rights or entitlements of a person under this Act is, to that extent, null and void.

(3) A person who urges, prevails on, persuades or offers an inducement to another person to enter into a contract or agreement whereby that other person would, but for this Section, consent or agree to the application of this Act being excluded or limited in respect of that other person, or to waive or limit that other person's rights, benefits or entitlements under this Act, shall be guilty of an offence.”

[37] Duties of Employers to workers under Health and Safety at Work Act 1996 includes all independent contractors in terms of the interpretation of 'worker' and the Act applies notwithstanding anything contrary to contractual terms.

[38] In terms of Section 7 quoted previously in this judgment, the obligations under the Health and Safety at Work Act 1996 applies notwithstanding anything contrary to that in any contractual obligations. Accordingly obligations under the said Act towards Plaintiff are paramount.

[39] Duties of employers to workers are stated in Section 9 of Health and Safety at Work Act 1996,

“Duties of employers to workers

9. (1) Every employer shall ensure the health and safety at work of **all his or her workers**.

(2) Without prejudice to the generality of subsection (1) of this Section, an employer contravenes that subsection if he or she fails-

(a) **to provide and maintain plant and systems of work that are safe and without risks to health;**

(b) **to make arrangements for ensuring safety and absence of risks to health** in connection with the **use, handling,** storage or transport of plant and substances;

(c) to provide, in appropriate languages, such information, **Instruction, training and supervision as may be necessary** to ensure the health and safety at work of his or her workers and to take such steps as are necessary to make available in connection with the use at work of any plant or substance adequate information in appropriate languages -

(i) about the use for which the plant is designed and about any conditions necessary to ensure that, when put to that use, the plant will be safe and without risks to health; or

(ii) about any research, or the results of any relevant tests which have been carried out, on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health when properly used.

(d) as regards any **workplace under the employer's control** -

(i) **to maintain it in a condition that is safe and without risks to health;** or

(ii) to provide and maintain means of access to and egress from it that are safe and without any such risks;  
(e) to provide and maintain a working environment for his or her workers that is safe and without risks to health and adequate as regards facilities for their welfare at work; or

(f) to develop, in consultation with workers of the employer, and with such other persons as the employer considers appropriate, a policy, relating to health and safety at work, that will -

**(i) enable effective cooperation between the employer and the workers in promoting and developing measures to ensure the workers' health and safety at work; and**

**(ii) provide adequate mechanisms for reviewing the effectiveness of the measures or the redesigning of the said policy whenever appropriate.**

(3) For the purposes of this Section, any plant or substance is not to be regarded as properly used by a person where it is used without regard to any relevant information or advice relating to its use which has been made available by the person's employer?

(4) Any employer who contravenes or fails to comply with any provision of this Section shall be guilty of an offence and shall be liable to a fine of not more than \$100,000 in the case of a corporation or \$10,000 in any other.” (emphasis added)

[40] Section 9(1) of Health and Safety at Work Act 1996 makes the duties applicable to ‘workers’ and this includes independent contractors. Breach of statutory obligations under the said Act is a negligence and also breach of duty of care towards workers as the objective of the said legislation is to ‘reform the law relating to’ ‘safety of worker’.

[41] Plaintiff got injured while he was working with first Defendant’s construction project, in its expansion project. Plaintiff was given an industrial power tool

by Project Manager. Plaintiff was allowed to use Magnetic Drill by Project Manager.

[42] Plaintiff was using a Magnetic Drill which is a dangerous equipment, without any prior experience in using it, except some basic functions taught by Project Manager. So he knew limited knowledge of Plaintiff as to use of Magnetic Drill.

[43] Plaintiff stated that the Magnetic Drill was an old one. Project Manager said it was purchased about two to three weeks prior to the incident where Plaintiff was injured. No evidence of purchase was presented as evidence. According to Project Manager it was broken in to pieces after the incident so it was not possible to test whether there was a defect.

[44] This evidence was contradicted from the person who had recorded a statement of a worker (Avinesh Chand) in the investigation report marked 2D3 in page 14;

(Q22) How do you know that the Drill was struck into the I-Beam?

A22; After the incident one of the boys climbed up to the beam and removed the Drill from the Beam. It was struck in the beam.

Further

Q 32. Did you people try using the drill again at work site?

A32; Yes we tried but the drill was not working

[45] Avinesh Chand was not called by Defendants to give evidence. On the balance of probability it is proved that the Magnetic Drill was an old one and it was defective and it was stuck on the beam when Plaintiff was electrocuted. It was not used due to its defect.

[46] This also proves first Defendant had no records of Magnetic Drill being maintained or tested prior or after the incident despite stating high safety standards maintained on the site and stating that that all equipment's including Magnetic Drill were examined periodically.

[47] Magnetic Drill was given by project manager of first Defendant he had also tasked the drilling to Plaintiff without his supervision. He knew that Plaintiff had no prior experience on it as he had shown the basic functions of

Magnetic Drill to Plaintiff before use, but had not supervised his work. Project Manager knew that Magnetic Drill was a dangerous tool.

[48] According electrical engineer electric shocks from Magnetic Drill were not uncommon but neither first Defendant nor second Defendant had taken measures in terms Section 19(1) of Health and Safety at Work Act 1996.

[49] Plaintiff was not wearing any safety gear as there were no adequate safety gear according to Plaintiff.

[50] Plaintiff was fallen to ground and sustained severe injuries. According to Plaintiff cause of fall was electrocution this is corroborated by the fact Magnetic Drill not working after the incident as stated in the statement.

[51] Power to Magnetic Drill was obtained directly from a power source, a small, generator without RCD or portable transformer in conjunction with Magnetic Drill.

[52] First Defendant stated that there were circuit breakers on switchboards and was not aware of separate power supply to the site by a smaller generator. Plaintiff in his evidence stated that the main power supply was not used for more than two weeks and electricity to the site was provided by small generator.

[53] Robert Miller who gave evidence for of first Defendant stated that they had an internal investigation in to the incident but not aware of the outcome or the cause of accident. He admitted that details of the domestic inquiry were stored in their information system. It is improbable for Miller to forget such an incident and the cause of accident and if forgotten, also not to look at the cause of the incident when Plaintiff had alleged electrocution, in this action.

[54] He admitted that the Magnetic Drill Plaintiff was using as well as the scaffold on which he stood before he fell were provided to Plaintiff by first Defendant's management entity, and its contract with second Defendant was to provide 'qualified tradesmen for the completion of the Works' and the obligation

[55] Robert Miller had arrived to the site after Plaintiff fell on the ground and he had taken measures to take the injured for treatment and had also informed Plaintiff's employer who was in Suva at that time. This shows that there was no person to supervise Plaintiff, other than Project Manager. He said the

contract between his company was managing first Defendant and second Defendant was to provide 'labour.' He also said Vatu Vara Ltd was responsible for development or construction of first Defendant.

[56] Project Manager Creig Howe admitted that Plaintiff was injured while working on his project. He admitted that Plaintiff was 'leader or foreman' of the workers provided by second Defendant and stated that foreman was responsible for productivity of the workers provided by second Defendant.

[57] According to Project Manager, the workers had a 'Safety officer' who was responsible for safety of the workers. On the analysis of evidence there was no such officer on the site and if so why his name not stated and not called to give evidence? There is no evidence such person being available even after injury to Plaintiff on site.

[58] Plaintiff stated that he had requested for safety gear from the first Defendant but was told that those were being used by another group of workers on the other side of the island. So it is proved that there was no 'safety officer' and first Defendant had even cross examined Plaintiff that Plaintiff was responsible for supervision of safety of the workers.

[59] Craig stated that all equipment's were provided by first Defendant to workers including Plaintiff. According to him Plaintiff was responsible to assign the equipment's to qualified personnel.

[60] According to him Magnetic Drill was a recent purchase and stated that maintenance of the equipment was responsibility of second Defendant. In terms of Clause 5.3(b) of contract marked D1 obligation to provide 'the necessary machinery 'was not with second Defendant. Miller in his evidence admitted ownership of Magnetic Drill.

[61] So how can second Defendant maintain such equipment when it was not aware of the type of equipment provided to its workmen? So in that context the obligation to maintain safe equipment in terms of Health and Safety at Work Act 1996 was with first Defendant.

[62] Second Defendant also had a duty to take proper safety precautions of the tools provided by first Defendant or its agents. It is also an obligation on the part of both Defendants that such tools were safe.

- [63] So in this context they are both obliged to provide safe equipment and safe environment free from electrocution. Both Defendants had failed jointly and severally to comply with the statutory obligations in terms of Health and Safety at Work Act 1996.
- [64] In the contract marked D1 is the contract to provide 'tradesmen' for the construction project of first Defendant. Clause 7.1 of D1, state that the relationship between the first and second Defendant Principal and independent contractor. This is not determinative for the statutory obligations imposed on Health and Health and Safety at Work Act 1996.
- [65] It is proved that Plaintiff had no prior experience with using an industrial power tool such as Magnetic Drill and it was provided to him by Project Manager and he was assigned to use it for drilling without any supervision by an experienced person.
- [66] First Defendant's witnesses admitted that Magnetic Drill used by Plaintiff was a 'dangerous 'tool and that it may even result in electrical shock. There was no evidence when this Magnetic Drill was purchased with a record or receipt and also there were no records of this being serviced and or examined periodically. There was no evidence .of such periodic maintenance of any of the power tools used or provided to workers. This is a breach of statutory duty under Section 19 of Health and Safety at Work Act 1996 and negligence on the part of both Defendants. It was not tested with compatibility with circuit breaker.
- [67] There was no clause in D1, that addressed maintenance of the equipment and there is no record of such maintenance.
- [68] According to evidence of second Defendant's Director Vishva Nand he was unaware of the Magnetic Drill and not maintained any equipment or tool. He stated that the contract was only for labour and all equipment's including safety gear were responsibility of first Defendant. Neither first Defendant nor second Defendant had provided safety gear to Plaintiff according to Plaintiff when he had requested for such gear.
- [69] The written agreement marked D1 is not disputed though Vishva Nandan in in his statement to Investigation Report obtained after institution of this action, replied to the Question

'Q22 Did you have any contract with the (sic) Kaimbu Island or for the project?

A22 No, there was nothing in writing. It was all verbal contract I had with the Kaimbu Island Resort.

(See answer to question 23 on page 7 of 20 of investigation report of the insurer marked 2D3).

[70] This shows credibility of the evidence of the witnesses for second Defendant. It is a contradiction *per se*. This is a document marked by second Defendant and in his evidence. This is a contradiction of a material fact.

[71] There are material contradictions *inter se* among evidence of first Defendant's witnesses. (Creig, Stein, and Miller). According Miller the responsibility of providing safe equipment was with Project Manager, Creig. But Creig in his evidence stated that equipment maintenance was with second Defendant. This shows that first Defendant's evidence as to material facts are unreliable or not credible.

[72] He also admitted that some industrial equipment's such as Magnetic Drill are not compatible with circuit breakers. In his evidence did not state that RCD were used when electrical equipment's were used on the site.

[73] In cross examination he admitted entering in to labour contract with second Defendant. He stated that safety gear and equipment were supplied by first Defendant.

[74] Stein Andrews who was an electrical engineer with twenty years of experience admitted that there can be electrical shocks from Power Drills such as Magnetic Drill. He had not investigated the Magnetic Drill used by Plaintiff. He did not state that RCD were provided to Magnetic Drill or any other equipment used at that time in construction project.

[75] In terms of Regulation 31 of Health and Safety at Work (General Workplace Conditions) Regulations 2003 it is mandatory to provide 'transformer and appropriate RCD 'in conjunction with 'any portable electric power driven equipment'.

[76] First Defendant's witness electrical engineer admitted Magnetic Drill is an industrial power tool and it is a portable electric equipment. There is no

evidence that it was used in 'conjunction with' a 'transformer and RCD'. His evidence was that there are circuit breakers on switchboards, and these are adequate safety mechanisms. This is contrary to statutory requirement and also evidence that circuit breakers are not reliable as they may not be compatible with some tools.

[77] There is no evidence electrical engineer verified the compatibility of circuit breakers with Magnetic Drill or any other electrical tool used. This shows the level of safety at site where Plaintiff worked. So the statement of Project Manager that there was high safety standard cannot be accepted.

[78] Plaintiff in his evidence stated that Magnetic Drill was directly connected small generator, as there was no electricity supplied from main power source of first Defendant. This shows that first Defendant and its Project Manager had acted negligently by failure to provide statutory required appropriate RCD and portable transformer which prevents electrocution. This was an obligation on both Defendants to ensure prevention of electrocution of 'workers' including Plaintiff irrespective of whether Plaintiff was independent contractor or not. So both Defendants breached duty of care as they failed to provide safe equipment.

[79] So first Defendant's contention that Plaintiff was an independent contractor hence not liable for negligence, cannot hold water.

[80] Plaintiff had not spoken and he was unconscious after the accident. He had sever fracture on right side of his skull which had resulted in permanent impairment of 47%.

[81] Both Defendants are negligent and they are concurrent tortfeasors for statutory beaches in terms of Health and Safety at Work Act 1996 discussed above.

[82] Prasad v Vellu [2006] FJSC 12; CBV0004.2005S (19 October 2006) Fiji Supreme Court held, that

'6] Before parting with the case we should comment on the form of the judgment of the High Court. Pathik J found that both drivers were negligent, and, having apportioned responsibility equally, entered judgment for the plaintiff against the third and fourth defendants for 50% of her damages. This was wrong. Those defendants, having

being found liable as concurrent tortfeasors, were liable for the whole of the plaintiff's damages, even though they shared responsibility with others who were equally to blame. At common law a plaintiff was entitled to judgment for the full amount of his damages against each and every concurrent tortfeasor which he could enforce against any one or more of them, provided there was no double satisfaction.

[7] The Law Reform (Contributory Negligence and Tortfeasors) Act section 6(1)(c) by giving joint and concurrent tortfeasors the right to contribution from each other, did not alter the rights of the plaintiff who remains entitled to judgment for the full amount of his or her damages against every concurrent tortfeasor although that tortfeasor may only be partly to blame (*George Wimpey & Co Ltd. v British Overseas Airways Corporation* [1955] AC 169,177, 189,195; *Speirs v Caledonian Collierses Ltd.* (1956) 57 SR (NSW) 483, 503, 511 - 2; Salmond & Heuston "The law of Torts" 20th edition 1992 page 435; Clerk and Lindsell on Torts 19th edition 2006 page 235"

[83] Accordingly both Defendants are jointly and severally liable for damages for negligence due to failure to provide safe equipment namely Magnetic Drill in order to prevent electrocution to Plaintiff, which was the main cause of the injury. Both Defendants had failed to provide safety gear and or properly supervise use of dangerous industrial power tool. Without RCD and portable transfer. So both Defendants had breached duty of care to Plaintiff and liable for damages jointly and or severally.

## **ASSESSMENT OF DAMAGES**

[84] Plaintiff had claimed damages from first and second Defendants for injuries sustained from the said accident which allegedly happened due to electrocution. Plaintiff suffered severe injuries and according to medical report following diagnosis found in impairment assessment in 2015.

'Small right subdural hematoma  
Right temporoparietal contusion  
Right base of skull fracture  
C3 facet fracture'

[85] According to Medical Report of 9.12.2013 he was admitted to CWM Hospital on 10.10.2013 with Moderate to severe head injury and they are

'Small subdural hematoma.

Right sided temporoparietal contusion  
Right bone of skull fracture with secondary right facial nerve palsy  
C3 facet fracture'

- [86] In the said Medical Report also reported that as a result of the injury he had received ENT consult for right sided deafness.
- [87] Plaintiff stated that after injury he was bedridden and could not walk for nearly one and half years and his wife had looked after him during this time as he could not attend to basic needs.
- [88] Considering the severe injuries to Plaintiff's head where he had suffered deafness on his right side and time of the recovery General Damages for pain and suffering and loss of amenities in life is assessed \$100,000. Interest on this is 6%.
- [89] Plaintiff could not walk for one and half years and during this time transport cost and medial cost is assessed at \$3,000. Interest on this is 3%.
- [90] Gratuities Care and Future care was provided by Plaintiff's wife for one and half years. Plaintiff's wife gave evidence and stated the plight of Plaintiff when he was discharged from the hospital and chores she had to go through due to state of Plaintiff at the time of discharge from hospital. Considering the time period and circumstance for this \$15,000 assessed.
- [91] Plaintiff is claiming for future economic loss, he is presently employed abroad but his impairment is 47%. He is earning more than he earned at the time of incident but, there is a future economic loss due to high permanent impairment assessment of 47%. So in my mind Plaintiff should be awarded a lump sum for future economic loss. This is assessed at \$60,000 considering the payments already received and circumstances.

**Calculation of Damages**

|  |                          |
|--|--------------------------|
| General Damages  | \$100,000                |
| Interest 6% from the date of writ 1.8.2016 to 23.8.3022 (6years approx.) | \$36,000                 |
| Special Damages  | \$3,000                  |
| Interest 3% (from 10.10.2023 to 23.8.2022 -3240 days)                    | \$798.90 (\$800 approx.) |
| Gratuitous care  | \$15,000                 |

|                      |                       |
|----------------------|-----------------------|
| Future Economic loss | \$60,000              |
| <b><u>Total</u></b>  | <b><u>214,800</u></b> |

## **CONCLUSION**

[95] Plaintiff suffered injuries while working in first Defendant's construction project. The cause of his fall is electrocution from Magnetic Drill without adequate RCD and transformer. Both Defendants were negligent as the tool was unsafe without adequate RCD. Both Defendants are jointly and severally liable for damages assessed for \$214, 800. Cost of this action summarily assessed \$5000 to be paid jointly by both Defendants.

## **FINAL ORDERS:**

- a. First and second Defendants are jointly and severally liable for payment of damage \$214,800.
- b. Cost of this action is summarily assessed at \$5,000.



.....  
Deepthi Amaratunga  
Judge

At Suva this 09<sup>th</sup> day of April, 2025.

## **Solicitors:**

Daniel Singh  
Howards Law  
Patel & Sharma Lawyers