Personal Action: Running Down Action

Christopher Ross Gidla

Attorney at Law

Quamina, Gidla &

Associates

123 Duke Street

Port of Spain

Bar No: GIC2006148

Tel/Fax: 624-4410

**REPUBLIC OF TRINIDAD AND TOBAGO**

**In The High Court of Justice**

Claim No: **CV2007-**

Between

**EDWARD SORILLO**

And

**AMALGAMATED SANITATION COMPANY LIMITED**

Defendant

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CLAIM FORM**

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The Claimant, **Edward Sorillo** of #93, Pinto Road, Arima, Trinidad, Republic of Trinidad and Tobago claims against the Defendant **Amalgamated Sanitation Company Limited** a Company duly incorporated under the laws of Trinidad and Tobago whose registered address is #7 Martin Trace, El Socorro Road, San Juan, Trinidad, Republic of Trinidad and Tobago.

The Claimant claims:

1. Special damaged of $111, 602.63
2. Damages

1. Statutory Interest at the rate of 12% per annum
2. Costs

1. Such further and/or other relief.

**NOTICE TO THE DEFENDANT** – See the notes served with this claim Form

This Claim form must contain or have served with it either a Statement of Case or c copy of a Court Order entitling the Claimant to serve the Claim Form without a Statement of Case.

If you do not complete the form of appearance served on you with this Claim Form and deliver or send it to the Court Office (address below) so that they receive it within eight days of service of this Claim Form on you, the Claimant will be entitled to apply to have judgment entered against you. The form of appearance may be completed by you or an Attorney acting for you.

**You should consider obtaining legal advice with regard his claim.**

**This Claim Form has no validity if it is not served within four months of the date below unless it is accompanied by an Order extending that time.**

The **Court Office** is at the Hall of Justice, Knox Street, Trinidad and Tobago, Telephone number 690-2674.

The office is open between 8:00am and 4:00pn Mondays to Fridays except public holidays and court holidays.

Dated the day of 200

The Claimant’s address for service is:

**Christopher Ross Gidla**

**Attorney –at-Law**

**123 Duke Street**

**Port-of-Spain**

**Trinidad**

Christopher Ross Gidla

Attorney at Law

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Defendant

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**STATEMENT OF CASE**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**STATEMENT OF CASE** filed this day of 200 by Christopher Ross Gidla of 123 Duke Street Port of Spain Attorney at Law for Claimant.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CHRISTOPHER ROSS GIDLA**

**ATTORNEY AT LAW FOR**

**CLAIMANT**

1. The Defendant (hereinafter called “the Defendant Company”) is a company duly incorporated under the laws of the Republic of Trinidad and Tobago and at all material times the owner of a garbage truck registration number TAJ 4178.

1. At all material times the Claimant was and had been regularly since the 7th day of August 2004 employed with the Defendant Company as a garbage collector. At the time of the accident hereinafter pleaded, the Claimant’s gross pay for a fortnight was $800.00 from which was paid the sums of $22.14 towards the National Insurance Scheme and $16.50 as Health Surcharge respectively. The Claimant at all material times was also a market vendor and sold market goods at the Marabella market on Saturdays and Sundays earning therefrom approximately $700.00 net per weekend.
2. It was an implied term of the said contract of employment with the Defendant Company and/or it was the duty of the defendant Company to take all reasonable precautions for the safety of the Claimant while he was engaged in the employment of the defendant Company, not to expose the Claimant to a risk of damage or injury of which the Defendant Company knew or ought to have known and to provide a safe place to work and a safe and proper system of working.
3. On the 26th day of December 2003, at about 11:00 am the Claimant during and in the course of his said employment was at the Beetham dump site about to offload garbage from the said garbage truck by pushing the button to lift the container at the back of the said garbage truck when the mechanism malfunctioned and instead of the container raising it came down crushed the Claimant’

**Particulars of injuries**

The Claimant suffered crushed injury to his left thigh and a 1 cm puncture wound to the lateral aspect of the mid one-third of his said thigh with associated profuse venous bleeding. Plaintiff underwent exploratory surgery for debridement of the wound. Surgery revealed 20\*7 cm area of crushed tissue and herniation of the muscle through the deep fascia. Claimant also underwent physiotherapy. The skin edge around the wound became non-viable and had to be excised on two occasions leaving a large 20\*10 cm wound on the thigh. The Claimant also underwent split skin grafting on wound. A copy of the medical report dated the 7th May 2004 of Dr. Kirby Panchoo detailing the Claimant’s injuries and initial treatment is exhibited hereto as Exhibit A.

The Claimant was born on the 19th day of August, 1952

**Particulars of Pain and Suffering**

The Claimant suffered excruciating pain when the injury was sustained as he remained pinned by the basket for several minutes until help came. The Claimant was eventually freed when the container was prized up from squeezing his leg. The Claimant continued to feel excruciating pain while he was on his way to hospital and up to the point of surgery and the Claimant was given some pain killers. The pain lasted for some 6 months with decreasing intensity.

**Particulars of Nursing Care**

The Claimant was discharged from the Port-of-Spain General Hospital on the 8th January 2004 with advice for regular change of dressings and elevation of thigh at home. He was unable to attend to his needs and required nursing care. His daughter, Noelin Sorillo, provided the necessary nursing care by attending to his wounds, attending to his matters of personal hygiene and grooming and providing him with food and drink and other nourishment. The care continued for 95 days until Easter Sunday, 11th April 2004.

**Particulars of Loss of Amenities**

As a result of his injuries the Claimant suffered a 30% permanent partial disability. The Claimant is unable to run at all or stoop for any length of time and he can no longer work as a garbage collector. A copy of the medical report dated the 17th January 2005 of Dr. David Toby prepared for the National Insurance Board is exhibited hereto as Exhibit B.

**Particulars of Special Damage**

1. 1 Pair Pants $100.00
2. 1 Jersey $ 50.00
3. Hired transportation to Outpatients Clinic

for 55 days at $100.00 per day. $5,500.00

1. Loss of income form employment for 104.4 fortnights

from 26/12/03 to 25/12/07 at $761.36 per fortnight $79,485.98

1. Medical care, expenses and supplies $1,246.65
2. Loss of market income from 26th December 2003

to end of August 2004 (36 weekends at $700. ea) $25,200.00

1. Certified Copy of vehicle ownership – TAJ 4168 $ 20.00

TOTAL SPECIAL DAMAGES **$111.602.63**

1. The said injuries loss and damage were occasioned to the Claimant by reason of the negligence
2. and /or breach of duty and /or breach of the said contract of employment and the terms thereof

on the part of the defendant, its servants or agents.

Particulars of Negligence

1. Failing to take any or any adequate precautions for the safety of the Plaintiff while he as engaged in the said work.
2. Exposing the Claimant to risk of damage or injury of which they knew or ought to have known.
3. Providing the said garbage truck to be used for the said purpose when it knew or ought to have known that it was defective and was unsafe and unfit to be used for the said purpose.
4. Causing or permitting the Claimant ort use the said garbage truck when as they knew or ought to have known the control mechanism for operating the basket was defective.
5. Failing to pay any or any sufficient heed to the complaints by the Claimant to the Company that the said truck may have been defective.
6. Failing to provided a safe or proper system of working while operating the said control mechanism of the said garbage truck.
7. Failing to provide adequate manpower to assist the Claimant.
8. Causing or permitting to perform a task he is not trained to perform.

And the Claimant claims:

1. Special damages of $111,602.63
2. Damages
3. Statutory Interest at the rate of 12%per annum

(4) Costs

(5) Such further and/or other relief.

Certificate of Truth

I hereby certify that the facts stated in this Statement of Case are true.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

EDWARD SORILLO