IN THE HIGH COURT OF JUSTICE
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN CITY
BEFORE HIS LORDSHIP, HON. JUSTICE P.A. AKHIHIERO,
ON MONDAY THE
28TH DAY OF SEPTEMBER, 2026.

BETWEEN: ***SUIT NO. B/910/2024***

MR. SAMUEL DICKENS ORIE --CLAIMANT

AND

1. MR. DARREN QUANGBI
2. RONGTAI WOOD COMPANY NIGERIA LTD ---------------DEFENDANTS
3. RONGTAI BUILDING MATERIALS COMPANY NIG. LTD

JUDGMENT

The Claimant instituted this suit against the Defendants vide a Writ of Summons and Statement of Claim filed on the 18th of October 2024. However, his extant Statement of Claim is his Amended Statement of Claim dated the 21st of October, 2025 wherein he claimed jointly and severally against the Defendants as follows:

1. ***A DECLARATION that the imposition of the sum of N10, 000 (Ten Thousand Naira) or any sum at all by the Defendants and/or their officers as levy, dues or under any other name for any truck that broke down in front or inside of their premises when there is no law to that effect is illegal and unconstitutional;***

2. ***A DECLARATION that the detention of the Claimant in the premises of the Defendants for hours (from around 1.00pm on 30/4/2024 to 6.00pm on 30/4/24) contrary to the Claimant's wishes and torture of the Claimant on the 30th of April 2024 by the Defendants either themselves or through their agents, privies, assigns or representative or any other person working for or through them amounts to breach of the fundamental rights of the Claimant rights to life, dignity of his person, personal liberty, freedom of movement amongst others guaranteed by the 1999 Constitution of the Federal Republic of Nigeria and the African Charter on Human and Peoples Rights;***

3. ***A DECLARATION that the damage inflicted on the truck of the Claimant and/or forceful confiscation of the truck of the Claimant from 30/4/24 till date is wrong, unlawful, unconstitutional and the same amounts to breach of the Claimants fundamental right to own property guaranteed by the 1999 Constitution of the Federal Republic of Nigeria and the African Charter on Human and Peoples Rights;***

4. ***AN ORDER of Court restraining the Defendants from further imposing any sum of monies as levy, dues or under any other name for any truck that broke down in front or inside of their premises or parked inside the premises;***

5. ***AN ORDER of perpetual injunction restraining the Defendants themselves and their agents, privies, assigns or representative or any other person working for or through them from further violating the fundamental rights of the Claimant;***

6. ***AN ORDER OF this Honourable court directing the Defendants to pay and/or awarding the sum of N170, 000, 000. 00 (One Hundred and Seventy Million Naira) only as the costs for the replacement of the Claimant's Truck damaged beyond repair by the Defendants;***

7. ***AN ORDER of Court deporting the 1st Defendant to his country of origin for the misconduct committed against the Claimant or banning the 1st Defendant from doing further business in Nigeria to avoiding breaching the fundamental rights of other Nigerians;***

8. ***The sum of N2, 000, 000 00 (Two Million Naira) monthly revenue from the usage of the truck from the month of 30th April 2024 to when the judgment is enforced;***

9. ***The sum of N950, 000, 000. 00 (Nine Hundred and Fifty Million Naira) only as general damages against the Defendants;***

10. ***The sum of N50, 000, 000. 00 (Fifty Million Naira) as costs of the action; and***

11. ***10% interest per annual on the above sum from when this suit is filed till judgment and until any sums awarded is satisfied or paid by the Defendant(s).***

The Writ of Summons, Statement of Claim and other accompanying processes were served on the Defendants by substituted means, but they did not put up any appearance in this suit, neither were they represented by any counsel despite several hearing notices that were served on them. In essence, the suit was undefended.

At the hearing the Claimant testified for himself and stated that he is the owner of a Renault Premium Truck Numbered RSH 88XE, which he uses for his business of haulage and logistics. The receipt of purchase of the Renault Premium Truck from Brich Motors Limited dated 1/2/2022 was admitted in evidence as Exhibit "A".

He testified that the 1st Defendant is a Chinese national currently resident in Benin City, Edo State and is the Assistant Managing Director of the 2nd and 3rd Defendants. He said that the 2nd and 3rd Defendants are companies incorporated with the Corporate Affairs Commission (CAC) with registered address at Utesi Community/Area, bypass, Benin City, Edo State, Nigeria and are engaged in different forms of businesses including manufacturing of furniture and building materials.

The Claimant stated that on or about the 29th day of April 2024, he was contracted to convey condemned scrapped tyres from Port-Harcourt, Rivers State to Graystone Company Ltd located inside the 2nd and 3rd Defendants' premises in Benin City, Edo State. The Haulage Waybill to Graystone Nigeria with delivery address at Rongtai Wood, Utesi, Benin, was admitted in evidence as Exhibit "B".

He testified that he used the said Truck No. RSH 88XE to convey the items from Port Harcourt to Benin and on getting to Benin City, Edo State on 30/04/2024 while at the Bye Pass close to the Defendants' office, the truck broke down and he fixed the minor mechanical issue in less than 15 minutes.

He said that as he was about to drive into the premises of the Defendants, the Defendants' security guard informed him that he would pay a fine of ₦10,000.00 (Ten Thousand Naira) only for the delay and parking on the road before reaching the delivery point.

He testified that he informed the security guard that the truck broke down hence the delay in the delivery to Graystone, but the security guards insisted that he must pay the said sum of ₦10,000.00.

The Claimant testified that he told the Defendants' security men that he does not have the money to pay, and that he did not commit any offence known to law. He said that his truck has always been in good condition and has been used to deliver goods to the Defendants' premises on several occasions without complaint.

He said that the gate was eventually opened for him and he drove in to deliver the goods on the said date. He said that when he was attempting to drive out of the premises after the delivery of the goods to his client, the security guards of the 2nd and 3rd Defendants refused to open the gate for him to come out and insisted that he must pay the aforesaid fine of ₦10,000.00 (Ten Thousand Naira).

He said that he then pleaded with them to allow him to drive out but they refused and detained him and his vehicle from around 1.00pm to 6.00pm on 30/4/24 in the premises of the 2nd and 3rd Defendants under the supervision of the 1st Defendant.

He said that immediately he was released, the 1st Defendant slapped him on the face and ordered the security guards to molest him using his hand signals. He said that they tore his dress and damaged his vehicle. The Claimant testified that he ran out of the premises for his life and the truck was detained by the Defendants till date in their premises.

The Claimant further stated that after he came out of the Defendants' premises, he reported the matter to the police at the Area Command at Sapele Road, Benin City, Edo State. He said that the police invited the 1st Defendant and their security guards, but they refused to honor the first two invitations but eventually honored the third invitation.

The Claimant alleged that the damage to his truck is quite severe, beyond repair and can only be replaced. He said that he purchased the Truck as "direct Belgium" at the cost of ₦75,000,000 (Seventy-Five Million Naira) and he tendered the payment invoice which was admitted as Exhibit "A".

He alleged that due to the damage to his truck, which is his only means of livelihood, he has been unable to go to work since 30/4/2024 and has lost a lot of revenue and is still losing revenue.

He alleged that he earns at least the sum of ₦2,000,000 (Two Million Naira) monthly but since the Defendants damaged his truck, he has lost so much money and still losing money. He tendered seven invoices which were admitted in evidence as Exhibits "C1", "C2", "C3", "C4", "C5", "C6" and "C7". The seven invoices which were for the month of April 2024 amounted to the sum of ₦4,350,000 (Four Million, Three Hundred and Fifty Thousand Naira) only.

The Claimant alleged that as a family man with several dependents, losing his means of livelihood to this debacle has affected and is still affecting him mentally, emotionally, psychologically and physically.

He argued that his fundamental rights to life, dignity, personal liberty, movement, etc, has been breached by the Defendants and are still being violated by the Defendants.

During his evidence, the Claimant tendered the pictures of his damaged vehicle, and the two photographs were admitted in evidence as Exhibits "D1" and "D2" respectively. He also tendered a photograph of himself after the alleged assault within the Defendants' premises and same was admitted in evidence as Exhibit "E".

Upon the conclusion of his evidence in chief, the suit was adjourned for cross examination, and Hearing notices were issued and served on the Defendants, but they did not appear in court to cross-examine the Claimant. The Defendants were foreclosed from cross examining the Claimant and the Claimant was discharged from the witness box. The Claimant thereafter closed his case, and the suit was adjourned for defence.

Hearing notices were issued and served on the Defendants, but they did not come to court to defend this suit. Therefore, the Defendants were foreclosed from defending the suit and same was adjourned for final address.

In his final written address, the learned counsel for the Claimant, ***R.A. Otuakhena Esq.*** formulated a sole issue for determination as follows:

> ***Whether from the totality of the evidence before this honourable court, the Claimant has proved his case on the preponderance of evidence to be entitled to the reliefs sought.***

Learned counsel submitted that it is settled law that in civil case the burden of proof is on the party who asserts and he relied on ***Sections 131 and 134 of the Evidence Act 2011.***

Learned counsel further submitted that the standard required of proof is on the balance of probabilities as held in the case of **Mogaji vs Odofin (1978) 4 SC 91.**

Learned counsel argued that the court is enjoined to place the evidence of both parties on an imaginary scale and see which side outweighs the other. He said that in the instant case, the Claimant's evidence is direct, cogent, documentary, and largely unchallenged.

Learned counsel posited that the Defendants through their security personnel, imposed a fine of ₦10,000 (Ten Thousand Naira) on the Claimant for a minor mechanical delay. He stated that the question is "UNDER WHAT LAW?". Learned counsel argued that no statute, regulation or contractual agreement was produced before this Court authorizing the Defendants to impose such a levy.

He argued that it is trite law that no person can impose penalties without statutory authority and he cited the case of **A.G. Lagos State vs Eko Hotels Ltd.** He maintained that the actions of the Defendants were arbitrary, unlawful, and unconstitutional.

He said that the evidence before this court shows that the Claimant was detained within the Defendants' premises from about 1pm to 6pm against his will and he cited ***Section 35(1) of the Constitution of the Federal Republic of Nigeria 1999 (as altered)*** which provides thus:

> ***"Every person shall be entitled to his personal liberty, and no person shall be deprived of such liberty".***

He contended that any detention without lawful justification amounts to false imprisonment, and that since the Defendants are not law enforcement agents, they had no legal authority to detain the Claimant, therefore his detention was unlawful.

Learned counsel posited that the evidence before this court (Exhibit E) shows that the 1st Defendant slapped the Claimant and directed the security guards to molest him and tear his shirt. He said that this constitutes assault and degrading treatment contrary to ***Section 34 of the 1999 Constitution of the Federal Republic of Nigeria***. He also cited the case of **Odogu vs. A.G. Federation.**

Learned counsel posited that human dignity is sacrosanct, and no individual whether foreign national or otherwise is permitted to physically assault another person. He said that the Claimant's truck which is a Renault Premium Truck was confiscated and severely damaged. He further stated that ownership was established by Exhibit A, and damage was proved by Exhibits D1 and D2.

Learned counsel affirmed that the law is settled that once ownership and damage are proved, liability follows where the Defendants fail to justify the act and he cited the case of ***U.B.N Plc vs Ishola (2000) and (2005) Legalpedia (SC) 39171.***

Learned counsel reiterated that the Claimant testified that the truck cost ₦75,000,000 and is beyond repair. He argued that the Defendant led no credible evidence to rebut this. He further stated that the Claimant tendered invoices (Exhibits C1–C7) showing average earnings of ₦2,000,000.00 (Two Million Naira) monthly.

Learned counsel further affirmed that special damages must be specifically pleaded and strictly proved. He argued that the Claimant has discharged this burden. He said that the Court is empowered to award loss of earnings where the injury directly deprived the Claimant of his source of livelihood. He also stated that general damages flow naturally from wrongful acts and he cited the case of **Elf Petroleum vs Umah.** He insisted that the unlawful detention, assault, humiliation and destruction of a ₦75 Million truck justify substantial damages.

Learned counsel further submitted that the deportation of a foreign national falls within the exclusive powers of the Federal Government through immigration authorities. However, the Court may make strong pronouncement on the misconduct of the Defendants or recommend the deportation of the Defendants where their acts will be inimical to the sovereignty of a state.

In conclusion, he maintained that the Claimant has established his claims and is entitled to judgment.

I have carefully considered all the processes filed in this suit, together with the evidence led in the course of the hearing and the address of the learned Counsel for the Claimant.

As I have already observed, the Defendants did not put up any defence to this suit. Thus, the evidence of the Claimant remains unchallenged.

The position of the law is that evidence that is neither challenged nor debunked remains good and credible evidence which should be relied upon by the trial court, which has a duty to ascribe probative value to it. See the following decisions on the point: ***Monkom vs. Odili (2010) 2 NWLR (Pt.1179) 419 at 442;*** and ***Kopek Construction Ltd. vs. Ekisola (2010) 3 NWLR (Pt.1182) 618 at 663.***

Furthermore, where the Claimant has adduced admissible evidence which is satisfactory in the context of the case, and none is available from the Defendant, the burden on the Claimant is lighter as the case will be decided upon a minimum of proof. See: ***Adeleke vs. Iyanda (2001) 13 NWLR (Pt.729) 1 at 23-24.***

However, notwithstanding the fact that the suit is undefended, the Court would only be bound by the unchallenged and uncontroverted evidence of the Claimant if it is cogent and credible. See: ***Arewa Textiles Plc. vs. Finetex Ltd. (2003) 7 NWLR (Pt.819) 322 at 341.***

Even where the evidence is unchallenged, the trial court still has a duty to evaluate it and be satisfied that it is credible and sufficient to sustain the claim. See: ***Gonzee (Nig.) Ltd. vs. Nigerian Educational Research and Development Council (2005) 13 NWLR (Pt.943) 634 at 650.***

Applying the foregoing principles, I will evaluate the evidence adduced by the Claimant to ascertain whether they are credible and sufficient to sustain the Claim.

I am of the view that the sole Issue for Determination in this suit is: whether the Claimant is entitled to the reliefs claimed in this suit.

In a nutshell, the Claimant's case is that his fundamental rights to life, dignity of his person, personal liberty, to property and freedom of movement have been violated by the Defendants.

As a foundation, every person in Nigeria has a constitutionally guaranteed right to his personal liberty which cannot be interfered with or violated except as may be permitted by the Constitution or a law made pursuant thereto. ***Section 35(1) of the 1999 Constitution (as altered)*** has made the following provisions on the personal liberty of every person:-

> ***"Section 35 (1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law- (a) in execution of the sentence or order of a Court in respect of a criminal offence of which he has been found guilty; (b) by reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law; (c) for the purpose of bringing him before a Court in execution of the order of a Court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence; (d) in the case of a person who has not attained the age of eighteen years for the purpose of his education or welfare; (e) in the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or***

> ***treatment or the protection of the community; or (f) for the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto."***

Section 35(6) of the Constitution provides for the consequences against the authority or person responsible for violation of the personal liberty of a citizen. It stipulates thus:-

> ***"Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person; and in this subsection, 'the appropriate authority or person' means an authority or person specified by law."***

Section 34(1)(a) of the Constitution, for its part, guarantees to every individual the right to respect for the dignity of his person and provides that ***"no person shall be subjected to torture or to inhuman or degrading treatment".***

I must observe that the Defendants in this suit are a private individual and two private companies, not organs or agencies of government. The rights guaranteed under Chapter IV of the Constitution are not enforceable only against the State and its agencies; they may also be enforced against private persons who violate them. See: ***Nkpa v. Nkume (2001) 6 NWLR (Pt.710) 543.*** It follows that a private person or company which unlawfully deprives another of his personal liberty, or subjects him to degrading treatment, is answerable both in tort and for the breach of the constitutional right.

In the instant case, the Claimant's evidence is that while approaching the Defendants' premises on the 30th of April 2024, his truck suffered a minor mechanical fault which he repaired within approximately fifteen minutes. He stated that the security personnel of the 2nd and 3rd Defendants thereafter demanded ₦10,000.00 as a fine for the delay.

The Claimant further stated that when he completed the delivery, the security personnel refused to allow him leave the premises unless the money was paid.

At the trial, the Defendants did not deny the allegation that their security guards demanded the payment of the alleged fine or levy. Furthermore, they have not produced any statute, regulation, contractual instrument or other legal authorization for the imposition or collection of this fine or levy.

A private company or its security personnel cannot, merely by reason of ownership or occupation of premises, impose a penalty or sanction on the members of the public without legal authority.

The evidence of the Claimant on this issue was not challenged under cross-examination and there is no contrary evidence before the Court.

I therefore hold that the demand for the sum of ₦10,000.00 made on the Claimant on 30 April 2024 by the security personnel of the Defendants was unlawful.

However, I will decline to grant the further relief which seeks to restrain the Defendants in perpetuity from imposing "any sum of monies as levy, dues or under any other name" in respect of every truck that may in future break down or park within their premises. The Court cannot properly grant an injunction in the abstract without reference to a proved legal right or anticipated unlawful conduct. For the same reason, the declaration to which the Claimant is entitled under Relief 1 will be confined to the demand actually made on him. I shall return later in this judgment to the question whether a narrower injunction should issue in favour of the Claimant himself.

Regarding the alleged detention of the Claimant, the Claimant's evidence is that the security personnel refused to open the gate for him to leave the premises unless he paid the ₦10,000 and that he was thereby detained from about 1:00 p.m. until about 6:00 p.m. This evidence was not disputed or contradicted by the Defendants at the hearing.

False imprisonment is a tort consisting essentially of the unlawful restraint of a person's liberty. The fact that the restraint occurs on private premises does not make it lawful.

The evidence before this Court is that the Claimant was physically prevented from leaving the premises because the security personnel insisted on the payment of the unlawful levy. I therefore hold that the Claimant has established that he was unlawfully restrained within the Defendants' premises on the day in question.

None of the circumstances in which ***Section 35(1) of the Constitution*** permits a deprivation of personal liberty applies to this case. The Defendants are not law enforcement agents; there was no order of Court; and the non-payment of an unauthorised levy is not an offence known to law. Paragraph (b) of the subsection, which permits detention to secure the fulfilment of an obligation imposed by law, cannot avail the Defendants, since I have found that there was no legal obligation on the Claimant to pay the sum demanded. I therefore hold that the detention of the Claimant for about five hours was, in addition to being a false imprisonment, a violation of his right to personal liberty guaranteed by ***Section 35(1) of the Constitution.***

On the issue of assault, the Claimant testified that immediately after his release, the 1st Defendant slapped him and directed the security guards to molest him, resulting in his shirt being torn.

The Claimant tendered a photograph of himself taken after the incident, which was admitted as Exhibit E. A photograph taken after the event cannot by itself show who assaulted the Claimant, but it lends support to his account that he was assaulted and that his shirt was torn. The identity of the assailant rests on the Claimant's direct oral testimony, which was not challenged under cross-examination or contradicted by any evidence. I therefore find that the Claimant has established that the 1st Defendant assaulted him by slapping him on the face during the incident of 30 April 2024, and that, on the direction of the 1st Defendant, the security personnel molested him and tore his shirt.

To slap a man on the face and set security guards upon him, in the presence of those guards, over a disputed sum of ₦10,000, is to treat him with contempt. In my view, such conduct is humiliating and debasing, and it amounts to degrading treatment within the meaning of ***Section 34(1)(a) of the Constitution***. I so hold.

I must however state that the evidence does not establish torture, which connotes the deliberate infliction of severe pain or suffering. Nor is there any evidence of a threat to the Claimant's life which would bring ***Section 33 of the Constitution*** into play. Furthermore, the right to freedom of movement under ***Section 41 of the Constitution*** relates to movement throughout Nigeria and entry into and exit from Nigeria; the Claimant's complaint of confinement within the Defendants' premises is properly addressed under ***Section 35***. The declaration to which the Claimant is entitled under Relief 2 will therefore be confined to the rights which have actually been shown to have been violated.

As regards the 2nd and 3rd Defendants, the Claimant alleges that the security personnel were acting for or under the supervision of the companies. The Claimant pleaded that the 1st Defendant was the Assistant Managing Director of the 2nd and

3rd Defendants. The evidence further established that the incident complained of occurred at the business premises of the 2nd and 3rd Defendants while the Claimant was present there for the purpose of making a commercial delivery.

The Claimant's unchallenged evidence is that the security personnel of the 2nd and 3rd Defendants detained him in connection with the demand for the sum of ₦10,000 and that the detention was under the supervision of the 1st Defendant. He further testified that immediately upon his release, the 1st Defendant slapped him and directed the security personnel to molest him.

The law is settled that a master is vicariously liable for the tortious acts of his servant committed in the course of employment. In ***Ifeanyi Chukwu (Osondu) Co. Ltd v. Soleh Boneh (Nig.) Ltd (2000) 5 NWLR (Pt. 656) 322,*** the Supreme Court held that the liability of the master depends upon the establishment of the liability of the servant for the tort and proof that the servant was acting in the course of his employment.

The fact that an employee's conduct is wrongful or unauthorised does not, without more, necessarily remove the conduct from the course of employment where the wrongful act is sufficiently connected with the employee's assigned functions or the employer's business.

In the instant case, the 1st Defendant was not shown to have been acting in some purely private capacity unrelated to the business of the 2nd and 3rd Defendants. The incident occurred at the business premises of the 2nd and 3rd Defendants; the Claimant was there in connection with a commercial delivery; the dispute arose from the demand allegedly made by the security personnel controlling access to the premises; and the Claimant's evidence was that the subsequent detention occurred under the supervision of the 1st Defendant.

The same is true, with even greater force, of the security personnel. On the Claimant's unchallenged evidence, they were the security guards of the 2nd and 3rd Defendants, controlling access to their premises. Their refusal to open the gate until the levy was paid, their molestation of the Claimant and the damage they did to his truck were all done in the course of the very function for which they were engaged.

In these circumstances, I am satisfied that the acts complained of were sufficiently connected with the business of the 2nd and 3rd Defendants and the authority and functions of the 1st Defendant as Assistant Managing Director and of the security personnel to bring the matter within the doctrine of vicarious liability.

I therefore find that the 2nd and 3rd Defendants are vicariously liable for the tortious acts of the 1st Defendant and of their security personnel which have been established by the evidence.

The 1st Defendant is also personally liable. He slapped the Claimant himself; the detention was carried out under his supervision; and the molestation of the Claimant and the damage to his truck were done on his directions. A person who directs or procures the commission of a tort is liable as a joint tortfeasor with those who commit it. I therefore hold that the Defendants are jointly and severally liable to the Claimant for the wrongs established in this suit.

The Claimant pleaded ownership of the Renault Premium Truck, registration number RSH 88XE, and tendered the purchase receipt admitted as Exhibit A. The haulage waybill was admitted as Exhibit B. The photographs of the damaged truck were admitted as Exhibits D1 and D2. I accept that the Claimant has established his ownership or possessory interest in the truck.

The photographs and the Claimant's unchallenged testimony establish that the truck was damaged during the incident.

The Claimant further testified that after he escaped from the premises, the truck remained in the possession of the Defendants.

Where a defendant wrongfully retains a claimant's chattel, the law recognises the action in detinue. *In* ***Paul Ordia v. Piedmont (Nigeria) Ltd (1995) 2 NWLR (Pt. 379) 516,*** the Supreme Court explained that a successful claimant in detinue may obtain return of the chattel or its value, together with damages for detention.

The Supreme Court also made it clear in ***Julius Berger (Nig.) Plc v. Omogui (2001) 6 NWLR (Pt. 708) 1*** that detinue is a continuing cause of action which continues until delivery of the chattel or judgment.

On the evidence before this Court, the continued retention of the Claimant's truck after the incident has not been justified by any evidence from the Defendants.

I therefore find that the Claimant has established wrongful retention/detention of the truck.

It may be said that an action in detinue ordinarily requires proof of a demand for the return of the chattel and a refusal to return it, and there is no direct evidence of a formal demand in this case. However, the Defendants' conduct in damaging the truck and keeping it in their premises since 30 April 2024, notwithstanding the Claimant's report to the police, the police invitations to the 1st Defendant and the security guards, and the institution of this suit, is a clear denial of the Claimant's title and an assertion of dominion over the truck inconsistent with his rights. That is conversion, for which no prior demand is required. The deliberate damage to the truck is, in addition, a trespass to goods. On any of these bases, the Defendants are liable to the Claimant for the loss of the truck.

The Claimant also contends that the damage to and retention of the truck breached his constitutional right to own property. ***Section 44 of the Constitution*** is concerned with the compulsory acquisition of property and interests in property. The wrong done by the Defendants is fully remedied in tort, and I do not consider it necessary to make a constitutional declaration under this head.

The Claimant claims the sum of ₦170,000,000 as the cost of replacing the truck. The Claimant however pleaded that he purchased the truck for ₦75,000,000. No valuation report has been identified before this Court showing that the replacement cost of the particular truck was ₦170,000,000. There is also no expert evidence establishing the current market value of the truck or the cost of acquiring an equivalent vehicle.

A claimant cannot simply invite the Court to speculate as to the value of property. In ***Paul Ordia v. Piedmont (Nigeria) Ltd (supra),*** the Supreme Court explained the distinction between detinue and conversion and recognised that, where a chattel is readily available in the market, the claimant is not entitled to recover more than what is necessary to obtain a similar chattel, subject to the applicable principles governing the particular cause of action.

Similarly, in ***Civil Design Construction Nigeria Ltd v. SCOA Nigeria Ltd (2007) 6 NWLR (Pt. 1030) 300,*** the Supreme Court reiterated that the measure of damages in conversion is ordinarily the value of the chattel at the date of conversion together with consequential damages flowing from the conversion.

In the circumstances, the Court cannot award ₦170,000,000 merely because that figure appears in the relief. The claim for ₦170,000,000 is therefore not sufficiently proved.

That, however, is not the end of the matter. The Claimant's evidence, supported by Exhibit A, is that he bought the truck for ₦75,000,000 in February 2022. That is the only evidence of the value of the truck before the Court, and it was not challenged. There is no evidence of depreciation or of any lower value. I therefore take ₦75,000,000 as the value of the truck at the date of conversion.

The law is settled that a court may award a lesser sum than that claimed where the evidence proves only the lesser sum, since the lesser claim is included in the greater. See: ***Makanjuola v. Balogun (1989) 3 NWLR (Pt.108) 192.*** I shall therefore award the Claimant the sum of ₦75,000,000 under Relief 6 as the value of the truck.

Upon payment of the said sum, the Claimant cannot also claim the truck itself, since a claimant cannot recover both the value of a chattel and the chattel. The Claimant has not claimed the return of the truck, and no order is made in that regard.

The Claimant also claims ₦2,000,000 monthly from 30 April 2024 until judgment is enforced. He pleaded that he earned at least ₦2,000,000 monthly and relied on previous invoices. Seven invoices were admitted as Exhibits C1–C7.

A claim for loss of earnings is ordinarily a claim in the nature of special damages and must be specifically pleaded and strictly proved.

In ***Benin Rubber Producers Ltd v. Ojo (1997) 9 NWLR (Pt. 521) 388 at 440,*** the Supreme Court recognised that a claim for loss of earnings requires particulars of the rate of earnings and facts enabling the Court to calculate the actual loss.

The Supreme Court has repeatedly stated the same principle. In ***Union Bank of Nigeria Plc v. Clement Nwankwo & Anor (2019) 09 E-WRN /89 SC*** the Supreme Court reaffirmed that special damages must be specifically claimed and strictly proved and that loss of earnings falls within that category.

In support of this claim, the Claimant tendered seven invoices which were admitted in evidence as Exhibits C1–C7. The invoices relate to haulage transactions undertaken in April 2024 and taken together, disclose revenue of ₦4,350,000 within that month.

The significance of Exhibits C1–C7 is that the Claimant's assertion as to his earning capacity is not founded solely on oral testimony. The documentary evidence demonstrates that the truck was actively deployed for haulage and generated substantial revenue immediately before the incident of 30 April 2024.

It is true that the amount appearing on an invoice represents gross revenue and not necessarily net profit. The Court must therefore avoid equating the total value of the haulage transactions with the Claimant's actual income or profit. Nevertheless, the Claimant has not claimed the entire gross revenue shown by the invoices. He claims ₦2,000,000 monthly, which is substantially below the ₦4,350,000 disclosed by Exhibits C1–C7 for April 2024.

In the circumstances of this case and having regard to the documentary evidence of the Claimant's actual haulage transactions immediately preceding the loss of the truck, I am satisfied that the Claimant has established that the truck was a productive commercial asset and that its loss resulted in a substantial loss of earning capacity.

The Claimant's evidence that he earned at least ₦2,000,000 monthly from the truck was not challenged. The sum claimed is less than half of the gross revenue of ₦4,350,000 shown by Exhibits C1–C7, which leaves an ample margin for fuel, the driver's wages, maintenance and other operating costs. The Defendants, who did not appear, have placed nothing before the Court to suggest that the Claimant's net earnings were lower. Where, as here, the evidence is credible and uncontradicted, the Court is entitled to act on it on a minimum of proof. See: **Adeleke vs. Iyanda**

(supra). I therefore find that the Claimant has proved loss of earnings at the rate of ₦2,000,000 per month.

The next question is the period for which the loss is recoverable. The Claimant claims it "to when the judgment is enforced". I am unable to grant the claim in that form. Special damages must be proved as an accrued and calculable loss, and the Court cannot award an uncertain sum which would continue to grow after judgment and depend on how soon the judgment is enforced. Moreover, by this judgment the Claimant is awarded the value of the truck and is thereby placed in a position to replace it. To award loss of earnings beyond the date of judgment in addition would amount to double compensation.

I have also considered whether the Claimant ought to have mitigated his loss. The burden of proving a failure to mitigate lies on the Defendant, and no such evidence is before the Court. The truck, which was the Claimant's only means of livelihood, has at all times remained in the Defendants' possession.

The loss is therefore recoverable from 30 April 2024 to the date of this judgment, a period of 29 months (May 2024 to September 2026). At ₦2,000,000 per month, the Claimant's loss of earnings amounts to ₦58,000,000.00.

The Claimant additionally claims ₦950,000,000.00 as general damages. General damages are distinct from special damages. They are damages which the law presumes to flow naturally from the wrongful act complained of and are assessed by the Court in the circumstances of the case.

In ***Elf Petroleum Nigeria Ltd v. Umah & Ors (2018) 10 NWLR (Pt. 1628) 428*,** the Supreme Court reaffirmed that general damages are intended to assuage loss which flows naturally from the defendant's act and that their assessment lies within the discretion of the Court.

See also ***Akaolisa v. Akaolisa (2022) 13 NWLR (Pt. 1848) 487 (SC)*** on the principles governing general damages.

In the present case, I have found that the Claimant established the unlawful demand for ₦10,000, unlawful restraint within the Defendants' premises, assault by the 1st Defendant, damage to the Claimant's truck, and wrongful detention of the truck. These are substantial wrongs which naturally caused inconvenience, distress and loss to the Claimant.

However, the loss of the truck and the loss of earnings have been separately compensated by the awards made above, and the Court must avoid compensating the Claimant twice for the same loss. The general damages to be awarded are therefore for the unlawful detention of the Claimant, the assault upon him, and the humiliation and distress which he suffered, including the violation of his constitutional rights to personal liberty and to the dignity of his person.

In assessing the sum, I have considered that the Claimant was detained for about five hours over a demand for ₦10,000; that he was slapped and molested in the presence of the Defendants' security personnel; that his shirt was torn; and that he had to run out of the premises for his safety, leaving his truck behind. I have also considered that the Defendants, who had every opportunity to explain their conduct, chose not to appear. The sum of ₦950,000,000 claimed is grossly excessive for these wrongs. Doing the best I can in the circumstances, I assess the general damages at ₦5,000,000.00

The Claimant also seeks an order deporting the 1st Defendant to his country of origin or banning him from doing further business in Nigeria. This relief cannot be granted. Deportation of a foreign national is not a remedy available to the Claimant as a private litigant in the circumstances of this case. It involves the exercise of statutory and executive powers under the applicable immigration regime.

The Court's jurisdiction in this civil action is to determine the rights and liabilities of the parties arising from the causes of action properly before it. It is not the function of this Court, in the circumstances disclosed by this case, to make an order deporting a foreign national.

The Claimant further seeks an order restraining the Defendants from imposing any sum of money as levy or dues on trucks which break down in front of or inside their premises, and a perpetual injunction restraining the Defendants from further violating his fundamental rights.

I have earlier found that the demand for the sum of ₦10,000 made against the Claimant on 30 April 2024 was unlawful and without any established legal authority. The Claimant's evidence was that the demand was made by the security personnel of the Defendants on account of the temporary breakdown of his truck and the consequent delay before he entered the Defendants' premises. The Defendants did not place any evidence before the Court showing that they were authorised by statute, regulation or contract to impose such a fine.

The purpose of an injunction is, amongst other things, to prevent the repetition or continuance of an established wrongful act. Having found that the Defendants imposed the said levy without lawful authority, it would, in my view, be incongruous for the Court to make a finding of unlawfulness and at the same time leave the Defendants at liberty to repeat the same act against the Claimant.

I am satisfied that the Claimant has established a sufficient basis for an injunction to restrain the repetition of the proved wrongs against him. The relief is not speculative; it is founded upon an actual act of the Defendants which has been proved before this

Court. The fact that the particular unlawful demand was made on one occasion does not deprive the Court of the power to restrain its repetition where the circumstances disclose a sufficient basis for such protection.

However, as I held earlier, the Court will not grant Relief 4 in the wide form in which it is framed, restraining the Defendants from imposing levies in respect of any truck at all. Other truck owners are not before the Court, and no right of theirs has been established. Similarly, Relief 5, which seeks to restrain the Defendants from "further violating the fundamental rights of the Claimant", is too wide and indefinite. An injunction must be framed with sufficient precision to enable the party restrained to know exactly what he is forbidden to do; an order not to violate a person's rights generally merely restates the law.

The Court may, however, grant a narrower relief than that claimed, provided it falls within the relief sought. I shall therefore grant an injunction, within the scope of Reliefs 4 and 5, restraining the Defendants from demanding any such levy from the Claimant and from detaining the Claimant or any vehicle belonging to him for its non-payment.

Costs follow the event, but the award remains within the discretion of the Court and must be reasonable in the circumstances. The Claimant seeks ₦50,000,000 as costs of the action. The Claimant is entitled to costs having substantially established liability in respect of important aspects of his claim.

Costs are not awarded to punish the unsuccessful party but to compensate the successful party for the expense of the litigation. In assessing costs, I have taken into account that the suit was undefended, that the Claimant was the only witness, and that several hearing notices had to be issued and served on the Defendants because of their failure to appear. No evidence of expenses of the magnitude claimed has been led, and the sum of ₦50,000,000 is excessive. I assess the costs at ₦1,000,000.00.

He further seeks a 10% interest per annum on the sums claimed from the commencement of the action until judgment and thereafter until satisfaction.

Post-judgment interest is ordinarily governed by the applicable rules of Court. The award of pre-judgment interest, however, requires a proper legal and evidential basis.

No sufficient evidence has been placed before the Court establishing an entitlement to pre-judgment interest on the various sums claimed. I therefore decline to award pre-judgment interest. However, this Court retains the discretionary power to award post-judgment interest. See ***Diamond Bank Ltd. v. Partnership Investment Co. Ltd. (2009) 18 NWLR (Pt.1172) 67 (CA).*** Furthermore, ***Order 34 Rule 4 of the High Court of Edo State (Civil Procedure) Rules [2018]*** clearly stipulates that the Court may order interest ***"at a rate not more than 20% per annum to be paid upon any judgment."***

In view of this provision, the Claimant is entitled to the award of 10% per annum on the judgment sums from the date of judgment until the judgment debt is fully liquidated.

Sequel to the foregoing, the sole issue for determination is resolved partly in favour of the Claimant. Judgment is hereby entered for the Claimant against the Defendants jointly and severally as follows:

1) ***A DECLARATION that the demand made by the Defendants, through their security personnel, on the 30th day of April 2024 for the payment by the Claimant of the sum of ₦10,000.00 (Ten Thousand Naira) as a***

fine or levy on account of the breakdown of his truck, without any statutory, regulatory or contractual authority, was unlawful.

2) ***A DECLARATION that the detention of the Claimant within the premises of the 2nd and 3rd Defendants at Utesi, Benin City, from about 1.00 p.m. to about 6.00 p.m. on the 30th day of April 2024, was unlawful and constituted a violation of his right to personal liberty guaranteed by Section 35(1) of the Constitution of the Federal Republic of Nigeria 1999 (as altered).***

3) ***A DECLARATION that the assault on the Claimant by the 1st Defendant on the 30th day of April 2024, by slapping him and directing the security personnel to molest him, in the course of which his shirt was torn, constituted degrading treatment in violation of his right to the dignity of his person guaranteed by Section 34(1)(a) of the Constitution of the Federal Republic of Nigeria 1999 (as altered).***

4) ***A DECLARATION that the damage to, and the continued detention by the Defendants since the 30th day of April 2024 of, the Claimant's Renault Premium Truck with Registration No. RSH 88XE is wrongful and unlawful.***

5) ***AN ORDER OF PERPETUAL INJUNCTION restraining the Defendants, whether by themselves, their agents, servants, privies or any person acting through them, from: (a) demanding or collecting from the Claimant any fine, levy, due or other sum by whatever name called, on account of the breakdown or parking of his truck in front of or within their premises; and (b) detaining the Claimant or any vehicle belonging to him within their premises for non-payment of any such sum.***

6) ***The sum of ₦75,000,000.00 (Seventy-Five Million Naira) only, being the proved value of the Claimant's Renault Premium Truck with Registration No. RSH 88XE.***

7) ***The sum of ₦58,000,000.00 (Fifty-Eight Million Naira) only as special damages for loss of earnings, calculated at the rate of ₦2,000,000.00 per month for the period from the 30th day of April 2024 to the date of this judgment.***

8) ***The sum of ₦5,000,000.00 (Five Million Naira)] only as general damages for the unlawful detention of, assault upon, and humiliation and distress suffered by the Claimant.***

9) ***The sum of ₦1,000,000.00 (One Million Naira)] only as costs of this action.***

10) ***Interest on the judgment sums in paragraphs 6 to 9 above at the rate of 10% per annum from the date of this judgment until the judgment debt is fully liquidated.***

11) ***The following reliefs are refused and are hereby dismissed: (a) Relief 2, in so far as it seeks declarations of torture and of the violation of the Claimant's rights to life and to freedom of movement; (b) Relief 3, in so far as it seeks a declaration that the damage to and detention of the truck were unconstitutional; (c) Reliefs 4 and 5, in so far as they seek injunctions wider than that granted in paragraph 5 above; (d) Relief 6, in so far as it claims any sum in excess of ₦75,000,000.00; (e) Relief 7, for the deportation of the 1st Defendant or banning him from doing business in Nigeria; (f) Relief 8, in so far as it claims loss of earnings***

beyond the date of this judgment; and (g) the claim for pre-judgment interest.

Hon. Justice P.A. Akhihiero
JUDGE
28/09/2026

<u>COUNSEL</u>:

1. R.A. Otuakhena Esq.. Claimant
2. Unrepresented ....Defendants