

1981 May 14

[MALACHTOS, J.]

ALEXANDROS MELEKIS,

*Plaintiff,*

v.

THE SHIP 'PIA DANIELSEN' AND OTHERS,

*Defendants.*

(Admiralty Action No. 110/80).

5 *Admiralty—Practice—Particulars—Principles applicable—Application for particulars of special damages for loss of earnings—Claim therefor clear and unambiguous and puts defendants on their guard—Moreover particulars required, in reality interrogatories—Application dismissed—Rule 237 of the Cyprus Admiralty Jurisdiction Order, 1893 and rule 12 of Order 18 of the English Rules of the Supreme Court.*

10 The plaintiff in this action claimed special and general damages for personal injuries, allegedly received by him in an accident which occurred in the port of Limassol where he was working as a stevedore on defendant 1 ship. In the petition he alleged, *inter alia*, that as a result of the accident he stayed out of work for 73 days and claimed special damages in the amount of £730 alleging that he was receiving as a stevedore £10 per day.

15 On March 17, 1981, defendants, relying on rule 237 of the Cyprus Admiralty Jurisdiction Order, 1893 and on Order 18, rule 12 of the English Rules of the Supreme Court applied for further and better particulars as regards the amount of £730 as follows:

- 20       “(a) give particulars of all income that the plaintiff earned from every source whatsoever, and particularising the source, during the year 1979;
- 25       (b) give particulars and all details of all allowances and deductions claimed during the year 1979 so as to arrive at the income chargeable to income tax for the year 1979;

- (c) give particulars of the resultant income that was chargeable to tax for the year 1979; and
- (d) give particulars of all receipts of monies from the Department of Social Security or elsewhere resulting from being out of work during the period the plaintiff claims for loss of earnings to his alleged injuries". 5

*Held*, that though in every pleading a certain amount of detail is necessary to ensure clearness and to prevent surprise at the trial; and that though each party must state his case with precision otherwise his opponent will not know for certain what is the real point in dispute, and, therefore, will not be able to properly prepare his evidence for the trial, what particulars are to be stated must depend on the facts of each case and it is absolutely essential that for the pleading not to be embarrassing to the defendants, it should state those facts which will put the defendants on their guard, and tell them what they have to meet when the case comes on for trial; that, moreover, though it is quite true that in all admiralty actions the rule that all necessary particulars should be stated in the pleading, is strictly observed and all facts which are necessary to prove the plaintiff's case must be pleaded in due detail, in the case in hand, however, the claim of £730.—special damages for loss of wages for 73 days by £10.—per day, is clear and unambiguous and puts the defendants on their guard and tells them what they have to meet when the case comes on for trial; accordingly the application of the defendants for further and better particulars should be refused. 10 15 20 25

*Held*, further, that another reason for which the application should be dismissed is that the particulars required in the present case are in reality a series of interrogatories administered to the plaintiff by the defendants (see *Lister & Co. Ltd. v. Thompson*, Vol. 7, Times Law Reports 107). 30

*Application dismissed.*

Cases referred to:

- The Isis* [1883] 8 P.D. 227; 35
- Lister & Co. Ltd. v. Thompson*, Vol. 7, Times Law Reports 107.

#### **Application.**

Application by defendants 1 and 2 for further and better

particulars in an Admiralty Action whereby plaintiff claimed special and general damages for personal injuries received while working on defendant 1 ship.

*St. Mc Bride*, for the applicants-defendants 1 and 2.

5 *C. Hji Pieras*, for the respondent-plaintiff.

MALACHTOS J. gave the following judgment. In this case the plaintiff instituted proceedings against the three defendants claiming special and general damages for personal injuries he allegedly received in an accident which occurred in the port  
10 of Limassol where he was working as a stevedore on defendant 1 ship. The petition was filed on the 7th August, 1980 and the answer of defendants 1 and 2 was filed on the 26th November, 1980. In the petition the plaintiff alleges, among other things,  
15 that as a result of the accident he stayed out of work for 73 days and claims special damages in the amount of £730.- alleging that he was receiving as a stevedore £10.- per day.

On the 17th March, 1981, defendants 1 and 2 in this action filed this application with which we are concerned today for particular, as far as the earnings of the plaintiff are concerned.  
20 They apply for further and better particulars as regards the amount of £730.- as follows:

- (a) give particulars of all income that the plaintiff earned from every source whatsoever, and particularising the source, during the year 1979;
- 25 (b) give particulars and all details of all allowances and deductions claimed during the year 1979 so as to arrive at the income chargeable to income tax for the year 1979;
- 30 (c) give particulars of the resultant income that was chargeable to tax for the year 1979; and
- (d) give particulars of all receipts of monies from the Department of Social Security or elsewhere resulting from being out of work during the period the plaintiff claims for loss of earnings to his alleged injuries.

35 The application has been opposed by the plaintiff and so it came on today for hearing.

The application, as stated therein, is based on rule 237 of the Rules of the Supreme Court of Cyprus in its Admiralty Jurisdiction and on Order 18 rule 12 of the Supreme Court Rules in England.

In view of the fact that there is no provision in the Rules of the Supreme Court of Cyprus in its Admiralty Jurisdiction, which Rules came into force by the Cyprus Admiralty Jurisdiction Order 1893, as regards applications for particulars, the practice of the Admiralty Division of the High Court of Justice in England, so far as the same shall appear to be applicable, according to rule 237, shall be followed. 5  
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The relevant Order of the English Rules is Order 18, rule 12 and is as follows:

"12(1) Subject to paragraph (2), every pleading must contain the necessary particulars of any claim, defence or other matter pleaded including, without prejudice to the generality of the foregoing words— 15

(a) Particulars of any misrepresentation, fraud, breach of trust, wilful default or undue influence on which the party pleading relies; and 20

(b) where a party pleading alleges any condition of the mind of any person, whether any disorder or disability of mind or any malice, fraudulent intention or other condition of mind except knowledge, particulars of the facts on which the party relies. 25

(2) Where it is necessary to give particulars of debt, expenses or damages and those particulars exceed 3 folios, they must be set out in a separate document referred to in the pleading and the pleading must state whether the document has already been served and, if so, when, or is to be served with the pleading. 30

(3) The Court may order a party to serve on any other party particulars of any claim, defence or other matter stated in his pleading, or in any affidavit of his ordered to stand as a pleading, or a statement of the nature of the case on which he relies, and the order may be made on such terms as the Court thinks just. 35

(4) Where a party alleges as a fact that a person had knowledge or notice of some fact, matter or thing, then, without prejudice to the generality of paragraph (3), the Court may, on such terms as it thinks just, order that party to serve on any other party—

(a) where he alleges knowledge, particulars of the facts on which he relies, and

(b) where he alleges notice, particulars of the notice.

(5) An order under this rule shall not be made before service of the defence unless, in the opinion of the Court, the order is necessary or desirable to enable the defendant to plead or for some other special reason.

(6) Where the applicant for an order under this rule did not apply by letter for the particulars he requires, the Court may refuse to make the order unless of opinion that there were sufficient reasons for an application by letter not having been made".

This rule was taken from R.S.C. (Rev.) 1962, 0.18, r. 12, which had been taken from the former 0.19, rr.6, 7 and 7B and makes important changes in the former practice.

The object of these changes is to extend the beneficial function of particulars by extending the range of facts of which particulars may be given or ordered. There are now no facts or classes of facts contained in a pleading of which the Court may not in a suitable case order further and better particulars to be given.

No doubt in every pleading a certain amount of detail is necessary to ensure clearness, and to prevent surprise at the trial. Each party must state his case with precision otherwise his opponent will not know for certain what is the real point in dispute, and, therefore, will not be able to properly prepare his evidence for the trial. However, what particulars are to be stated must depend on the facts of each case. But it is absolutely essential that the pleading not to be embarrassing to the defendants, should state those facts which will put the defendants on their guard, and tell them what they have to meet when the case comes on for trial.

It is quite true that in all admiralty actions the rule that all necessary particulars should be stated in the pleading, is strictly observed and all facts which are necessary to prove the plaintiff's case must be pleaded in due detail (per Hannen P. in the *Isis* [1883] 8 P.D. 227). Should this Rule be disregarded, particulars of any general allegation in any pleading could be obtained as readily as in any other Division. 5

In the case in hand, however, the claim of £730.- special damages for loss of wages for 73 days by £10.- per day, is clear and unambiguous and puts the defendants on their guard and tells them what they have to meet when the case comes on for trial. Therefore, the application of the defendants for further and better particulars should be refused. 10

Another reason for which the application should be dismissed is that in my opinion the particulars required in the present case are in reality a series of interrogatories administered to the plaintiff by the defendants. 15

In the case of *Lister & Co. v. Thompson*, Vol. 7, Times Law Reports 107, the Court refused to order further particulars, describing the particulars required as a series of interrogatories and oppressive, and an attempt to evade the practice and rules of the Court. 20

"This was an action to recover certain bribes and commissions alleged to have been paid by the defendant to the plaintiffs' foreman and manager for orders for goods supplied by the defendant to the plaintiffs between January 1, 1880, and April 30, 1890. The defence was a denial of the facts alleged in the statement of claim. The defendant took out a summons for particulars, and Mr. Baron Huddleston ordered the plaintiffs to give such reasonable particulars as they could. The plaintiffs having given certain particulars, the defendant applied for further particulars in respect of one paragraph of the summons with the view of obtaining the dates on which it was alleged that the bribes were given. Mr. Baron Huddleston and the Divisional Court (Mr. Justice Mathew and Mr. Justice Grantha) ordered the plaintiffs to give further particulars. The plaintiffs appealed. The case is reported only on account of the remarks made by the Court with respect to orders for particulars. 25  
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5 The MASTER of the ROLLS said that he took that opportunity of stating the course which that Court meant to take in cases like this. The expenses of litigation had become a scandal. There was one instance in which the expense had been most oppressive and vexatious, and that was in the introduction of the power of administering interrogatories. At common law this power was guarded by the Judge at Chambers going through the interrogatories and only allowing those which he thought proper. Under 10 the Judicature Acts the power was given to the parties to administer what interrogatories they pleased, leaving it to the other party to take his objection in his answer. That power was frequently abused. Against that abuse the Judges introduced a mild precaution, by making a payment of £5 into court a condition precedent to allowing 15 interrogatories to be administered. To evade this payment some ingenious person had found out that he could introduce the same long string of unintelligible questions into particulars, and an order for particulars could be obtained without the payment of £5. The present summons for 20 particulars was really a series of interrogatories, and many of the questions asked ought to have been put. Some things were asked which were within the defendant's own knowledge. The particulars contained a series of 18 interrogatories. In their present form they were oppressive. The Judge at Chambers ought to have refused to entertain the summons, as it was an attempt to evade the rules and orders of the Court. However, he did not do so. There was then an application made for further particulars 30 in regard to one paragraph in the summons. If the summons itself had come before this Court, they would have dismissed it as a manifest attempt to evade the rules of the Court. They could not do that now. The parties, however, had appealed here, and one of them was seeking to enforce the summons. The Court would give him no 35 assistance in doing so, and would have no mercy on him. The Court would allow the appeal with costs, and the defendant must also pay the costs in the Divisional Court.

40 With regard to interrogatories, the party interrogated could avail himself of privilege in refusing to answer. He

could not do so in the same way with particulars. This was an attempt to evade the practice and rules of the Court".

For the above reasons, the application of the defendants for further and better particulars, is dismissed with costs to be assessed by the Registrar.

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*Application dismissed with costs.*