IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHC 304

Suit No 1260 of 2014

Between

Yeo Chee Siong

… *Plaintiff*

And

(1) Salpac (S) Pte Ltd
(2) Lua Bee Kiang (administrator of the estate of Chew Kong Seng, deceased)

… *Defendants*

GROUNDS OF DECISION

[Damages] — [Assessment] — [Personal injuries]

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Yeo Chee Siong
v
Salpac (S) Pte Ltd and another

[2017] SGHC 304

High Court — Suit No 1260 of 2014
Debbie Ong J
25, 26, 28 April, 2 May 2017; 2 June 2017; 28 August 2017

24 November 2017

Debbie Ong J:

Introduction

1 Mr Yeo Chee Siong ("the Plaintiff") was previously employed by the first defendant to do carpentry work. He was a long time employee and had been working for the first defendant since 2 December 1996. On the morning of 29 December 2012, the Plaintiff boarded the rear of a lorry owned by the first defendant ("the Vehicle") to go to work. This was the usual transportation arrangement provided by the first defendant. That morning, the Vehicle which was driven by Chew Kong Seng ("Mr Chew") collided into the rear of a bus ("the Accident"). The Accident caused serious injuries to the Plaintiff. Mr Chew passed away as a result of the accident. The administrator of Mr Chew's estate is the second defendant.

2 On 11 December 2015, an interlocutory judgment was entered against the second defendant by consent, on the basis that Mr Chew was liable to the Plaintiff for a breach of duty which caused the accident. The parties agreed that

damages should be assessed by the court. The claim against the first defendant was withdrawn.

3 I presided over the trial on the assessment of damages and awarded the Plaintiff damages totalling $576,626. A summary in tabular form setting out the quantum of damages awarded for each item of damages is attached in Annex A. The second defendant ("the Defendant") has appealed against my decision. I now give the grounds of my decision.

Undisputed items of damages

4 I begin with the undisputed items of damages. The plaintiff and the Defendant reached an agreement on the following items of damages at the commencement of the trial:

(a) Pre-trial loss of earnings at $62,000;

(b) Medical expenses at $8,826.25;

(c) Nursing home expenses at $25,000; and

(d) Transport expenses at $1,000.

I awarded the Plaintiff the agreed quantum for the heads of damages listed at Annex A with the exception of medical expenses being rounded down to $8,826.00. This came to a total of $96,826.00.

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Disputed items of damages

Pain and suffering including loss of amenities

5 The Plaintiff claimed a total sum of $326,000 for pain and suffering including loss of amenities. The Plaintiff claimed in respect of the following injuries:

(a) Severe head injuries including injuries to the brain, skull, face and right eye;

(b) Fractured right ribs with bilateral lung contusions;

(c) Fractured C5 vertebrae;

(d) Multiple fractures of the left ulna and radius;

(e) Left femur fracture;

(f) Left tibia fractures;

(g) Right lumbar transverse processes fractures;

(h) Right acetabulum fracture;

(i) Loss of sense of taste and smell; and

(j) Surgical scars.

6 As the injuries sustained were related to different parts of the bodies, I adopted the component approach and awarded separate amounts for each head of damage before totalling them (see *Seah Yit Chen v Singapore Bus Service (1978) Ltd and others* [1990] 1 SLR(R) 490 at [5]).

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Severe head injuries

7 It is undisputed that the Plaintiff suffered severe head injuries as a result of the Accident. These include severe brain injury, extensive skull fractures, facial injuries and trauma injury to his right eye. In the Joint Opening Statement, the Plaintiff asked for a total sum of $212,000 for the severe head injuries suffered, comprising $160,000 for the "moderately severe brain damage", $45,000 for the physical facial fractures and $7,000 for the eye injuries. However, in his Closing Submissions, the Plaintiff appeared to categorise the injuries slightly different and asked for a total sum of $240,000 comprising $140,000 for the brain injuries and $100,000 for the skull fractures, facial and eye injuries. The Defendant submitted that the sum of $52,000 would be adequate, with $50,000 to compensate for the skull fractures and brain injuries and an additional sum of $2,000 for the trauma injury to the eye.

8 After considering the medical opinion and evidence before me, I awarded $130,000 for the brain injuries, $40,000 for the skull fractures and $30,000 for the facial and eye injuries.

(1) Brain injuries

9 In their submissions, counsel for both the Plaintiff and the Defendant referred to the *Guidelines for the Assessment of General Damages in Personal Injury Cases* (Academy Publishing, 2010) ("the GAGD") but arrived at different conclusions. For the category of "Brain Injuries", the Glasgow Coma Score ("GCS") scale was used as a point of reference to determine the severity of the injury. A GCS scale of 8 and below was classified as "Very severe brain damage" with a recommended quantum of $160,000–$250,000 in damages while a GCS scale of between 8 to 10 was classified as "Moderately severe brain damage" with a recommended quantum of damages between $120,000 and $160,000. The "Very severe brain damage" category included those who "suffer

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from severe physical limitations with very limited ability to interact with his environment meaningfully". Some examples of this limited interaction ability included having "little or incomprehensible language function" and "urinary and faecal incontinence".

10 The severity of brain injury sustained by the Plaintiff was disputed during the trial. The Plaintiff's experts, Ms Desiree Choo ("Ms Choo") and Dr Simon Lowes Collinson ("Dr Collinson"), stated that the Plaintiff suffered a severe level brain injury from the Accident. They noted that the Plaintiff had a GCS scale of 14 when he was admitted to the Accident and Emergency Department ("A&E") immediately after the accident but subsequently developed seizures with his GCS scale dropping to 4. The Plaintiff has since made good recovery from this severe injury and having considered the evidence before me relating to his ability to live independently, I am of the opinion that the GCS scale of 4 is no longer representative of the Plaintiff current mental condition.

11 The above finding does not mean that the Plaintiff had made full recovery. This finding is supported by the medical opinion of the experts of both the Plaintiff and the Defendant. Ms Choo and Dr Collinson observed that the Plaintiff sustained significant cognitive deficits as a consequence of the Accident, including, *inter alia*, a significant decrease from his premorbid nonverbal/performance IQ to his current nonverbal/performance IQ, an amnestic disorder, higher order or executive function cognitive deficits and personality or behavioural changes. The Defendant's expert, Dr Chang Wei Chun ("Dr Chang"), observed in his report that the Plaintiff has since recovered with "some cognitive deficit". The Defendant had another expert, Dr Ho King Hee ("Dr Ho"), who noted in his report that a neuropsychological testing conducted in July 2013 revealed abnormal results consistent with the nature of the brain injuries the Plaintiff

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sustained. Dr Ho opined that "[g]iven the severity of the frontal lobe involvement, it is also extremely likely that [the Plaintiff's] observed mood changes and disinhibited behaviour are due to frontal lobe syndrome from the accident". He also suggested that since more than three years had elapsed from the accident at the time of his report (dated 16 February 2016), it is likely that "no further improvement will occur" in the Plaintiff's mental state in the future.

12 Given the medical opinion and observations, I am satisfied that the brain injuries suffered by the Plaintiff fall within the "Moderately severe brain damage" category. The Plaintiff suffered a significant change in his intellect and personality after sustaining the injuries, matching the description in the GAGD. I also accepted the evidence of the Plaintiff's nephew, Mr Bernard Shen ("Bernard"), that the Plaintiff became "easily agitated and uncooperative" while going about his daily activities after the Accident. Bernard also described two episodes where the Plaintiff displayed behavioural problems such as unzipping and dropping his trousers in public or at private family gatherings. These had never happened before the Accident. I also considered the evidence in relation to the Plaintiff's lack of personal hygiene and poor impulse control following the Accident. Taking into account these factors, I was satisfied that the sum of $130,000 would be appropriate for the brain injuries sustained. This was within the range recommended in the GAGD.

(2) Skull injuries

13 Turning to the skull injuries sustained, I note that the Plaintiff was observed by Dr John Chua ("Dr Chua") to have obvious head injuries that were described as "[b]oggy open wound over frontal region of the head" when admitted to hospital after the Accident. Dr Chua managed the Plaintiff on admission and diagnosed him with a fractured skull base with intracranial

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haemorrhage. In the report dated 30 July 2013, Ms Choo and Dr Collinson stated that:

> A CT scan performed on admission reflected *extensive* facial and skull vault fractures, basi-frontal contusional haemorrhage with extra-axial blood and pneumocephalus predominantly over the left cerebrum. Inra-op findings include depressed frontal bone at midline, comminuted fracture of left orbital bar and roof, multiple dura tears adjacent to cribriform plate, dura tear over left frontal region, and *brain soft and sunken upon elevation of depressed skull*. [emphasis added]

The severity of the Plaintiff's injuries necessitated an emergency procedure whereby doctors performed a "[c]raniotomy elevation of [his] depressed skull, dura repair, cranialisation of [the] frontal sinus [and an] insertion of right frontal [intracranial pressure].

14 According to the GAGD, a sum of $50,000 to $75,000 would be appropriate to compensate for severe fractures of the skull. This would include compound fractures of the skull with skull fragments lacerating the brain resulting in serious brain injury. It would also include haematomas following the fracture of the skull which results in severe brain injury. Moderate skull fractures were described as injuries less severe than that of severe skull fracture but which still necessitated extensive surgery with a long recovery period. An award of between $30,000 and $50,000 was recommended for moderate fractures of the skull. It was suggested that the higher end of the range of award would be appropriate where complications arose during the recovery period.

15 In the present case, there was no evidence before me that there were complications during the surgery that would justify the award on the higher end of the spectrum. However, the medical evidence clearly showed that there were extensive fractures to the skull. There also appeared to be injuries to the brain, which was soft and sunken as a result. I was also satisfied that the Plaintiff had to undergo a long and trying road to recovery as a result of these skull injuries.

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Taking all these considerations together, and bearing in mind that the claims for brain injuries and skull injuries might have a degree of overlap, I was satisfied that the sum of $40,000 would be a fair award for the skull injuries.

(3) Facial injuries and injury to right eye

16 The Plaintiff suffered a host of facial fractures and injuries, including:

(a) 10cm forehead laceration;

(b) Right frontozygomatic and right zygomatic arch fractures;

(c) Bilateral frontal sinus fractures;

(d) Nasoorbitoethmoidal fracture type 1;

(e) Depressed frontal bone fractures;

(f) Right subcondylar fracture;

(g) Extensive hemosinus and complex facial fractures involving the anterior, lateral and posterior walls of both maxillary sinuses (more marked on the right with associated haemoantrum); and

(h) Several frontal bone vault fractures.

The facial injuries sustained were treated by the plastic surgeons. The Plaintiff also sustained blunt trauma injury to his right eye and received treatment, including procedures such as suture canthoplasty and inverting suture placement.

17 The GAGD recommended a range of $25,000 to $45,000 for multiple facial fractures involving severe injury that requires extensive reconstructive surgery and a long recovery period. There are independent sums recommended

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for various types of facial injuries which I will not list out in full. The GAGD recommended the range of $2,000 to $4,000 for transient eye injuries. Given the long list of facial injuries sustained by the Plaintiff as well as the injury to the right eye, I was satisfied to award a global sum of $30,000 after taking into account the number and severity of the various facial injuries sustained.

Fractured right ribs with bilateral lung contusion

18 The Plaintiff sustained "fractures of the right lower ribs… with lung contusion on both sides". The Plaintiff submitted that a sum of $15,000 would be appropriate for this head of claim whereas the Defendant argued that a sum of $10,000 would be adequate. In my view, given that that were multiple fractures of the ribs with lung contusion on *both* sides, I thought it fair to award $12,000 under this head. This would be in line with the GAGD under the category of minor injuries to the chest that caused serious pain and disability over a period of weeks but with no lasting disabilities.

Fractured C5 vertebrae

19 According to the MRI, the Plaintiff also suffered the following injuries on his spine:

(a) C5 vertebral body corner fracture with mild prevertebral oedema but no central or exit canal stenosis; and

(b) Spondylosis and disc degeneration in the lower lumbar spine.

20 I awarded a sum of $12,000 for the spinal and back injuries. In arriving at this quantum, I noted that no surgery was required to address these injuries and they were treated conservatively. I also considered that the Plaintiff made good recovery and was able to move about without the assistance of any walking aid although he would experience some back pain when negotiating stairs. I

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adopted the GAGD's benchmark that damages for the fracture of one vertebra generally starts at about $15,000 but adjusted it downwards to account for the fact that the Plaintiff does not experience severe back pain and there was no proof of a substantial risk of osteoarthritis in future.

Multiple fractures of the left ulna and radius

21 Dr Chang informed that there were multiple fractures of the left ulna and radius. In particular, the Plaintiff's left forearm was fractured in four places. This was reportedly treated with open reduction and internal fixation. The Plaintiff also reported weakness in his left forearm and hand, restricted motion, weak flexion of his left elbow and decreased sensation in various parts of his left ring and little fingers as well as on his left palm. These were noted in Dr Chang's report when he re-examined the Plaintiff more than three years after the Accident. X-rays done on 23 February 2016 also showed non-union of the avulsion fracture of the ulnar styloid process three years after the Accident. The Plaintiff asked for $35,000 in compensation, citing the GAGD, which recommends a figure between $25,000 and $32,000 for severe or compound fractures of the distal radius and ulna for which extensive surgery is required and a figure between $18,000 and $45,000 for serious fractures of one or both forearms.

22 The Defendant did not dispute that the Plaintiff suffered fractures in his left radius and left ulna but argued that the Plaintiff has since recovered from his injuries. The Defendant cited the portion of Dr Chang's report observing that the Plaintiff had recovered normal power in his upper limbs and had normal pinch and grip strength of his left hand. As such, the Defendant submitted that the less serious fracture range of $8,000 to $18,000 in the GAGD. Specifically, the Defendant argued that $8,000 should be awarded given that the Plaintiff had made substantial recovery.

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23 I note that a fracture of the radius or ulna appears to be categorised in the "less serious fracture" range in the GAGD. Specifically, the GAGD notes that a fracture of the radius or ulna attracts an award of about $11,000. However, the GAGD recommends that an injury to both the radius and ulna would attract about $18,000 to $25,000. In my view, the *multiple* fractures suffered by the Plaintiff to both his left radius and ulna justified an award of $25,000. It is clear that there were permanent consequences that resulted. For example, Dr Chang's report recorded that the Plaintiff's motion in his left arm (specifically, in his left elbow and left wrist) was restricted as a result. I also agreed with the Plaintiff that there was a decrease in sensation over the left ring little fingers and left palm. I treated these as permanent disabilities. As such, I awarded the Plaintiff $25,000 for the multiple fractures of the left ulna and radius.

Left femur fracture and left tibia fractures

24 Both the Plaintiff and the Defendant agree that the Plaintiff suffered a left femur fracture and left tibia fractures. Both parties agreed that the leg injuries would fall under the severe category under the GAGD, for which a sum between $30,000 and $40,000 should be awarded.

25 The Plaintiff asked for $40,000, submitting that the fractures were serious, resulted in serious disabilities and a complicated recovery process. The Defendant submitted that $30,000 would be appropriate, submitting that while "the Plaintiff did suffer from 1 cm shortening of the left leg, he does not require further treatment as the fracture has healed well".

26 It is clear to me that the Plaintiff suffered severe leg injuries in the Accident. The shortening of the Plaintiff's left leg resulted in a limping gait, an inability to squat and a pre-disposition to post-traumatic arthritis or osteoporosis. The leg injuries continued to cause him pains in his thigh even at

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the time of trial, where he sustained fractures of his left tibia and fibula. I also note that there was a femoral fracture that involve its distal articular surface which forms part of the knee joint. Taken together, these injuries have caused a painful and complicated recovery. Some of the consequences are permanent such as the inability to squat and a limping gait and some will continue to cause the Plaintiff pain on a daily basis. I am also satisfied that these injuries would affect his chances of finding employment, given that the scope of jobs that the Plaintiff pursued is physical in nature. As such, I took the view that a quantum on the higher end would be appropriate and awarded the Plaintiff $40,000.

Right lumbar transverse processes fractures and right acetabulum fracture

27 It was reported that the Plaintiff suffered from minor fractures to the Plaintiff's right lumbar transverse processes. In Dr Chang's report, he noted that the Plaintiff had recovered with low backache "especially when getting up from prolonged sitting". The same report also recorded "minimally-displaced fracture of posterior inferior wall of right acetabulum". A physical examination by Dr Chang also revealed a decrease in movement of the Plaintiff's thoracolumbar spine.

28 The Defendant had argued that no award should be granted for these injuries. In particular, its position is that the right acetabulum fracture overlaps with the fractures in the Plaintiff's right ribs. The Plaintiff submitted for a sum of $18,000 for the right lumbar transverse processes fractures and $10,000 for the right acetabulum fracture.

29 I awarded the Plaintiff a sum of $15,000 for both the injuries. I accepted that the Plaintiff continued to suffer from low backache even after "recovery". I also accepted that the acetabulum to be in the region of the hip and ought to be considered a separate injury from the fractures of the right ribs. The global

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sum of $15,000 would be appropriate given that the range of compensation for a less serious injury to the back was $10,000 to $17,000 under the GAGD (for the fracture to the right lumbar transverse processes) and the range of compensation for injuries to the hip where full recovery is achieved was $5,500 to $8,000 (for the right acetabulum fracture).

Loss of sense of taste and smell

30 It was undisputed that the Plaintiff sustained total anosmia, the total loss of smell. Dr Chang noted that this is plausible with frontal lobe injuries like the Plaintiff's. I noted that the GAGD recommended that a sum of between $25,000 and $30,000 be awarded for a total loss of smell. However, I considered that the description for this category focused on cases "where the loss of taste is significant as most of the taste buds are damaged" although "[i]n nearly all cases of loss of smell there is some impairment of taste". In my view, an award of $20,000 in the Plaintiff's case would be appropriate.

Surgical scars

31 The GAGD range for multiple scars was between $5,000 and $15,000. In this case, the Plaintiff had several surgical scars at various parts of his body. However, I considered his age and gender and awarded a sum of $2,000.

Loss of future earnings

32 The Plaintiff claimed for $74,317.20 for his loss of future earnings. This was based on a multiplicand of $1,238.62 and a multiplier of five years. The Plaintiff highlighted that he had been working as a carpenter with the same employer (the first defendant) since December 1996. Based on his pre-accident attitude towards work, the Plaintiff argued that he would have worked past the statutory re-employment age and as long as possible so as to provide for himself. The Plaintiff also relied on the

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testimonies of various witnesses in court who agreed that the Plaintiff would have worked for some time, perhaps even past 70 years of age.

33 The Defendant argued that no award for loss of future earnings ought to be made to the Plaintiff. First, the Defendant cited the Court of Appeal decision in *Quek Yen Fei Kenneth (by his litigation representative Pang Choy Chun) v Yeo Chye Huat and another appeal* [2017] 2 SLR 229 and pointed out the similarities between the two claimants—in that they both received a relatively low level of education and would likely be engaged in manual work. Second, the Defendant argued that "a manual worker would typically enjoy a shorter working life compared to a white collar worker in view of the physical demands made on a manual worker by the nature of his job", citing *Neo Kim Seng v Clough Petrose Pte Ltd* [1996] 2 SLR(R) 413. The Defendant also relied on the case of *Wee Sia Tian v Long Thik Boon* [1996] 2 SLR(R) 420 ("*Wee Sia Tian*") in his submission that the Plaintiff's entitlement to loss of future earnings ought to be based on a working age of up to only 60 years old for a carpenter. Third, the Defendant argued that the Plaintiff had been compensated for his loss of earnings up to his present age of 62 years old by way of pre-trial loss of earnings.

34 In my view, the Plaintiff appeared to be a very resilient and independent man. He had suffered severe injuries but did his best to obtain the best recovery physically and psychologically. Although he could no longer work as a carpenter after the accident, a job that he held for the past 20 years, he tried re-entering the workforce as a coffee shop assistant and failing which, accepted his current job as a cleaner. In the words of Dr Donald Yeo:

> Dr Donald Yeo: … and in [the Plaintiff's] case, we've seen that he did try to get a job in a coffee shop which didn't last more than 3 days because his boss was just intolerant of him making mistakes with the customers' orders. But yet in this job, did---as a cleaner, he has maintained

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> this job for quite a number of months which is--- which is surprising and very---
>
> …
>
> Court: … You described it as "surprising", what do you mean by that? You mean surprising that the employers have been supportive or that he could even have this job?
>
> Dr Donald Yeo: Surprising that he's willing to accept such a job given his current situation and his pervious ability and his training, he used to work as a carpenter and he's got a fair amount of education. So for him to say, you know, to give up all that and, you know, work as a cleaner and, you know, stick to it…

35 I am of the view that there is no blanket rule as to the age by which a person would stop working. The statutory age would be a good guide but each case must turn on its own facts. In this case, I do not think that the Plaintiff would have retired at the statutory retirement age of 62 or even at the revised re-employment age of up to 67 years old (see ss 4 and 7A of the Retirement and Re-employment Act (Cap 274A, 2012 Rev Ed)). From the evidence, I was persuaded that had Yeo not been injured, a man as resilient and as committed to be independent as him would very likely work beyond 67 years old and if his health permits, beyond 70 years old. This is even taking into account the physical nature of his job. His independence was especially borne out by his will to live alone, despite the permanent repercussions of such a traumatic accident. He had also persevered with his cleaner job even though he is presently suffering from leg pains and backaches. I thus used a multiplier of five years or 60 months.

36 I took into consideration his current and former income and arrived at a multiplicand of $1,200, awarding a sum total of $72,000.

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Loss of earning capacity

37 The Plaintiff claimed $15,000 for loss of earning capacity. The Plaintiff's position was that he was entitled to compensation for both the loss of earning capacity and loss of future earnings as they compensate different losses, relying on the case of *Chai Kang Wei Samuel v Shaw Linda Gillian* [2010] 3 SLR 587 ("*Shaw Linda Gillian")*.

38 The Plaintiff submitted that the two elements set out in *Shaw Linda Gillian*, namely the risk of losing his present job before the end of his estimated working life and a disadvantage in the open employment market due to injuries, were proved. First, the Plaintiff relied on the medical reports that opined that the Plaintiff will be unable to return to his pre-accident vocation as a carpenter. Second, the Plaintiff argued that he had suffered severe residual disabilities physically and cognitively and will therefore be highly disadvantaged in the open employment market in the future.

39 In response, the Defendant appeared to challenge only the quantum sought and argued that the Plaintiff had not shown any evidence that he will be handicapped in the labour market in getting employment at the same rate of pay.

40 The medical evidence were in favour of the Plaintiff. It was clear to me that the doctors were in agreement that the Plaintiff would be unable to return to his job. Due to the various injuries, he was also limited in the jobs that he would be able to pursue. According to Dr Chang, the Plaintiff will only be able to do work that is "sedentary, repetitive, and not requiring much mental input".

41 As to the quantum to be awarded, the Plaintiff made reference to the sum of $25,000 awarded in *Wee Sia Tian*. The Plaintiff's position appeared to be that the injuries were of a similar severity but as the victim in *Wee Sia Tian* was younger (48 years old), a discount of

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$10,000 should be applied. In response, the Defendant argued that this was a sum "plucked out from the air" and unsupported by evidence.

42 The award for loss of earning capacity would often involve a degree of speculation. Oftentimes, the court would not know the extent to which the plaintiff will be disadvantaged by the disabilities (see *Clark Jonathan Michael v Lee Khee Chung* [2010] 1 SLR 209 (*"Clark Jonathan Michael*")). The approach to be adopted is a "rather rough and ready one which really reflects the amount that the particular court thinks is reasonable in the particular circumstances to compensate the particular plaintiff for the disadvantage he has been put into in the job market by his disabilities." (*Clark Jonathan Michael* at [91]). In the present case, I found the Plaintiff to be a robust worker with determination to find work even after suffering the injuries. He is currently working as a cleaner earning $1,000 a month. The injuries he had suffered continue to affect him at work. For example, I accepted the Plaintiff's evidence that he continues to suffer from pains in his legs and his back. As his job is physical in nature, I accepted that there is a risk that he may lose his current job due to these injuries and the symptoms that arise from them. However, I was also cognisant of the fact that the current prognosis is positive and the Plaintiff is likely to continue working for the next few years, beyond the statutory retirement age. In my view, a sum of $5,000 would be appropriate.

Future nursing care

43 The Plaintiff sought an award for future nursing care on the basis that he will require it as his condition deteriorates. He highlighted his present situation—that he is divorced with no children and lives alone in a rented room of a flat. The Plaintiff pointed to the undisputed evidence of the two neuropsychologists who gave evidence at the trial. They agreed that the Plaintiff requires regular supervision and were of the view that the evidences of failures

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in self-care and hospital admission of fungal infection suggest that the Plaintiff requires assistance even with daily living. The two neuropsychologists also opined that the Plaintiff needed regular supervision, preferably by a trained caregiver. Although the experts testified that a foreign domestic helper may be ideal, the Plaintiff pointed out that this was not a viable option as he would not be able to fulfil the requirements of hiring one, namely that his ability to exercise supervision and control over the well-being of the helper is impaired, due to his injuries. The Plaintiff asked for a sum of $384,000. This is based on the average costs of residency at an old age home (inclusive of diapers and milk supplements), which comes up to $3,200 a month, multiplied over ten years.

44 The Defendant argued that the Plaintiff's claim for future nursing care was not borne out by the evidence. The Defendant relied on the Plaintiff's ability to live independently at present. He also disputed the Defendant's figures on the basis that the average rate used by the Plaintiff was based on a "category 3 patient" who is defined as one that is "[w]heel-chair bound and/or suffering from dementia, needs…supervision most of the time". However, the Defendant's position is that the Plaintiff did not fall within this category. It was also pointed out that the Plaintiff is renting a place because he had rented out his own flat elsewhere. Relying on this, the Defendant argued that the Plaintiff possessed the ability to manage his finances. Lastly, the Defendant submitted that the Plaintiff's entitlement to future nursing care is largely speculative as no one could determine when the manifestation of dementia would occur. In light of this, the Defendant submitted that no award be made for future nursing care.

45 In coming to my decision, I first considered the evidence of the various doctors. According to Dr Yeo, the Plaintiff "is in a situation where home care services may be insufficient and institutional nursing home may be… inappropriate…" Dr Yeo went on to

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explain that "there are other options available in Singapore such as sheltered homes and… semi-independent units that might be suitable for [the Plaintiff]". The experts were also in agreement that the Plaintiff is likely to require nursing care in the future. According to Dr Collinson, "people with severe head injuries, as they get older, don't generally do very well". Dr Yeo agreed, noting that "based on [their] clinical experience and … understanding that [the Plaintiff's] brain is more vulnerable to changes in the future on top of the aging process. [The Plaintiff is] more likely to get into difficulties in the future". When asked, Dr Ho testified that "it seems likely to [him] that for the last 2 to 3 years of [the Plaintiff's] life, he will require institutionalisation". I accepted the evidence of the various experts. I was satisfied that it was more likely than not that the Plaintiff would require nursing care in the future. I also considered his heightened risk of developing dementia as well as the signs that he had shown, which were suggestive of the need for some supervision and oversight in his daily life. These included his behavioural problems as set out in [11] above and issues with hygiene as highlighted by his counsel (namely, failures in self-care and hospital admission of fungal infection). I accepted the figures cited by the Plaintiff in relation the costs of living at an old age home and used the multiplicand $3,200. I also applied a multiplier of 2 years. This resulted in an award of $76,800 for the cost of future nursing care.

Conclusion

46 The damages awarded came to a total of $576,626.00. I found this to be a fair sum. The Plaintiff continues to suffer significantly the debilitating effects of his injuries. These include walking with a limp, not being able to squat, suffering from persistent aches in his thigh and back, not being able to enjoy simple pleasures such as enjoying food due to loss in smell and taste and perhaps more significantly, losing his independence due to his reduced ability to care for himself and becoming susceptible to various dangers due to his impaired

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judgment. Most significantly, he has lost his ability to carry out his skilled trade as a carpenter, something that he had done for the last 20 years and his reason for self-sufficiency. Yet, the Plaintiff is clearly a resilient individual, refusing to let this get him down. He had preserved in his new role as a cleaner and had shown impressive determination to resume independent living despite the various pain and suffering. In court, he showed himself to be a compelling witness. In my view, the sum awarded was a fair compensation to the Plaintiff.

Debbie Ong
Judge

Fendrick Koh (Tan Chin Hoe & Co) for the plaintiff;
Ramasamy s/o Karuppan Chettiar and Wee Qianliang (Central Chambers Law Corporation) for the second defendant.

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Annex A

Damages	Sum awarded
(A) General Damages	
i. Pain and suffering and loss of amenities	
a. Severe head injuries	200,000
b. Fractured right ribs with bilateral lung contusion	12,000
c. Fractured C5 vertebrae	12,000
d. Multiple fractures of the left ulna and radius	25,000
e. Left femur fracture and left tibia fractures	40,000
f. Right lumbar transverse processes fractures and right acetabulum fracture	15,000
g. Loss of sense of taste and smell	20,000
h. Surgical scars	2,000
ii. Loss of future earnings	72,000
iii. Loss of earning capacity	5,000
(B) Special Damages	
i. Future nursing care	76,800
ii. Pre-trial loss of earnings	62,000
iii. Medical expenses	8,826
iv. Nursing home expenses	25,000
v. Transport expenses	1,000
Grand Total	**576,626.00**

Version No 1: 27 Oct 2020 (22:40 hrs)