IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2024] SGHC 249

Originating Claim No 136 of 2022

Between

DURAIRAJ SANTIRAN

… Claimant

And

SINGAPORE AIRLINES LTD

… Defendant

JUDGMENT

[Tort — Negligence — Duty of care]
[Tort — Negligence — Breach of duty]

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v
Singapore Airlines Ltd

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18 October 2024 Judgment reserved.

Vinodh Coomaraswamy J:

Introduction

1 The claimant brings this action against the defendant seeking to recover over $1m[1] as damages for personal injuries that he suffered on 6 September 2019. The claimant was, at that time, employed by the defendant as a flight steward. In the course of his employment with the defendant, the claimant fell[2] on what he says was a slippery area on the floor[3] of the defendant's aircraft. It is the claimant's case that his injuries and current disabilities were caused by

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1 Claimant's Reply Submissions dated 3 June 2024 ("Claimant's Reply Submissions") at para 72.

2 Statement of Claim (Amendment No. 1) dated 9 August 2022 ("SOC") at para 6.

3 Transcript, 27 June 2024, at p 4 lines 18–24 and p 5 lines 25–28.

the defendant's breach of its duty of care to him as his employer to provide him a safe place of work and a safe system of work.[4]

2 The defendant denies liability for the claimant's injuries.[5] The defendant accepts that the claimant fell on board the defendant's aircraft on 6 September 2019.[6] The defendant accepts also that he was acting in the course of his employment when he fell.[7] The defendant does not deny that it owed him a duty of care as his employer.[8] But the defendant denies: (a) that there was a slippery area on the aircraft floor;[9] (b) that the claimant suffered his injuries because the defendant breached its duty of care to him;[10] and (c) that the claimant's fall caused the disabilities that he now complains of.[11] The defendant also relies on the defences of contributory negligence and *volenti non fit injuria*.[12]

3 Having considered the parties' evidence and submissions, I dismiss the claimant's claim. I do so for two principal reasons. First, I find that there was no slippery area on the floor of the defendant's aircraft as the claimant alleges. Second, and in any event, I do not accept that the defendant breached the duty of care that it owed to the claimant.

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4 Claimant's Written Submissions dated 6 May 2024 ("Claimant's Written Submissions") at para 36.

5 Defence (Amendment No. 1) dated 19 December 2023 ("Defence") at para (8)A.

6 Defence at para 7(a).

7 Defence at paras 6 and (8)(a).

8 Defence para (8).

9 Defence at paras 6(a) and 7(a).

10 Defence at paras 6(c) and (8)A.

11 Defence at para 9.

12 Defence at para (8)(c).

4 I now set out my reasons.

The parties

5 The defendant is an airline incorporated and headquartered in Singapore.

6 The claimant is a Malaysian citizen. He was born in June 1988. He was therefore 31 at the time of his injuries in 2019 and 35 at the time of trial in 2024.[13]

7 The defendant employed the claimant on 11 April 2016 as a flight steward on a five-year contract at a salary of $6,058 per month.[14]

8 Unfortunately, the claimant's experience working for the defendant was not a happy one. In addition to the workplace injury that is the subject of this action, he suffered six other workplace injuries between April 2017 and April 2019.[15]

9 First, in April 2017, the claimant injured his back while helping a passenger close an overhead luggage compartment. The treatment for this injury included painkillers and physiotherapy.[16] The claimant filed a claim for compensation for this injury under the Work Injury Compensation Act 2019 (2020 Rev Ed) ("WICA") and was awarded $26,200.[17]

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13 First Affidavit of Evidence in chief of Durairaj Santiran dated 26 December 2023 ("1DS") at para 29.

14 First Affidavit of Evidence in chief of Tan Meng Yang dated 29 September 2023 ("1TMY") at paras 4 and 21; 1DS at para 19.

15 Defence at para 10; Second Affidavit of Evidence in chief of Durairaj Santiran dated 5 January 2024 ("2DS") at para 10; 1TMY at paras 36–39.

16 1DS at para 17(a).

17 1TMY at para 37 and p 74.

10 Second, in July 2017, the claimant suffered bruises on his left forearm when changing a meal rack. This was a minor injury that resolved without treatment[18] or claim.[19]

11 Third, in September 2017, the claimant hit his left thumb on a meal cart when stowing the meal cart during descent. This too was a minor injury that resolved without treatment[20] or claim.[21]

12 Fourth, in January 2018, the claimant slipped and fell from a staircase while exiting the crew bunk.[22] The treatment for this injury included surgery in April 2018 to fuse the claimant's C5/C6 vertebrae. The defendant paid for this surgery, which cost just over $41,000.[23] The claimant filed a claim for compensation for this injury under the WICA and was awarded $91,700.[24]

13 The defendant grounded the claimant as a result of his medical condition arising from this injury.[25] The claimant complained against his grounding to the Tripartite Alliance for Fair and Progressive Employment Practices, alleging that the defendant's employment practices were insufficiently progressive.[26] Later

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18 2DS at para 10(a).

19 1TMY at para 38.

20 2DS at para 10(b).

21 1TMY at para 38.

22 1TMY at para 37.

23 1TMY at para 39.

24 1TMY at para 37 and p 84.

25 1TMY at para 41.

26 1TMY at para 42.

that year, the defendant certified that the claimant was fit to fly and he resumed his duties as a flight steward.[27]

14 Fifth, in December 2018, the claimant broke his left fingernail while handling a meal cart. This was a minor injury that resolved without treatment[28] or claim.[29]

15 Sixth, in April 2019, the claimant bruised the tip of a finger while opening a compartment door. This too was a minor injury that resolved without treatment[30] or claim.[31]

16 On 10 April 2021, the defendant allowed the claimant's employment contract to expire without offering him a fresh contract.[32] The defendant had formed the view by then that the defendant could no longer contribute positively to its business. The defendant's assessment was that the claimant's productivity was low and that he had failed to demonstrate a desire to excel. As a result of his seven workplace injuries, including the one that is the subject of this action, the claimant had been on medical leave for 603 days from 1 January 2018 until 10 April 2021.[33] This is over half of the 1,195 calendar days between those two dates. It is therefore well over half of the working days between those two dates. In addition, the claimant's doctor had by then certified that the claimant's

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27 2DS at para 11.

28 2DS at para 10(c).

29 1TMY at para 38.

30 2DS at para 10(d).

31 1TMY at para 38.

32 SOC at para 1; 1DS at para 22; 1TMY at para 21 and p 228.

33 1TMY at para 24.

disabilities arising from his injuries on 6 September 2019 had left him medically unfit ever to resume work as a flight steward.[34]

17 The claimant's case is that he continues to be medically unfit to return to work as a flight steward even to this day.[35] His case on the nature and effect of his injuries is as follows. As a result of his fall on 6 September 2019, he suffered a cervical disc prolapse at the C4/5 and C6/7 levels and weakness in his left arm.[36] He has not, even by the time of trial in 2024, recovered from these injuries.[37] He continues to experience pain and discomfort in his back and neck while sitting, standing, walking or running.[38] The pain comes on anywhere from five to 15 minutes after commencing physical activity and worsens if he continues. To cope with the pain, he must take frequent breaks, supplemented with painkillers.

18 The claimant now works a customer care analyst at Ricoh (Malaysia) Sdn Bhd. He is engaged on a two-year contract from September 2023 to September 2025 at a monthly salary of RM4,200 (about $1,300) per month.[39] Well over half of his total claim for damages is therefore his claim of almost $700,000 for loss of future earnings.[40]

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34 1TMY at p 228; Affidavit of Evidence in chief of Dr Lim Lian Arn dated 22 December 2023 ("LLA") at p 10.

35 SOC at p 38; LLA at p 10.

36 SOC at para 9; LLA at pp 9–10.

37 1DS at para 18; LLA at p 10.

38 1DS at para 18.

39 1DS at para 1 and p 127.

40 Claimant's Reply Submissions at para 72.

Issues to be determined

19 The parties' cases raise five issues:

(a) Was there a slippery area on the floor of the aircraft?

(b) Did the defendant breach its duty of care to the claimant?

(c) Did the claimant's fall on the defendant's aircraft on 6 September 2019 cause the disabilities that the claimant now complains of?

(d) Can the defendant rely on the defence of contributory negligence or the defence of *volenti non fit injuria*?

(e) What is the quantum of the claimant's loss arising from his injuries?

20 As I have mentioned, I find against the claimant on the first and second issues. That suffices to dispose of the claimant's entire case. I therefore need not and do not analyse the remaining three issues that go to causation, defences and quantum.

21 I now analyse the first issue, *ie*, whether there was a slippery area on the floor of the aircraft.

There was no slippery area

22 Analysing the first issue requires a closer examination of the events of 6 September 2019. The background facts are either common ground or not in dispute. I now summarise them.

The flight

23 On 6 September 2019 (Singapore time), the claimant was a member of the cabin crew on board the defendant's flight SQ 31 from San Francisco to Singapore.[41] Flight time was about 16¾ hours. The flight was scheduled to take off from San Francisco at 11.25am on 5 September 2019 (San Francisco time)[42] or 2.25am on 6 September 2019 (Singapore time). It was scheduled to land in Singapore at 7.10pm on 6 September 2019 (Singapore time).[43]

24 The aircraft assigned to the flight was an Airbus A350. The typical number of cabin crew assigned to an aircraft of this class is 12 to 15.[44] The cabin crew of this flight comprised 13 members.[45]

25 The following are the five members of the cabin crew of this flight who gave evidence at trial, listed in order of seniority together with a summary of their duties:

(a) Mr Nor Azam bin Mohamed Shariff ("Mr Azam") was the Chief Steward. As Chief Steward, Mr Azam was the second-most senior member of the cabin crew, after the In-flight Manager. One of Mr Azam's duties as Chief Steward was to assist the In-flight Manager in exercising overall supervision of the entire cabin crew. In addition, Mr

41 SOC at para 3.

42 Affidavit of Marshelly Viola Elizabeth dated 13 October 2023 ("MVE") at para 15(a).

43 SOC at para 3; Defence at para 3; Affidavit of Evidence in chief of Nor Azam bin Mohamed Shariff dated 31 August 2023 ("NA") at para 16.

44 Second Affidavit of Evidence in chief of Tan Meng Yang dated 8 January 2024 ("2TMY") at para 12.

45 1DS at para 4.

Azam was the senior team leader assigned to the economy section. Mr Azam has been employed by the defendant since 1995.[46]

(b) Ms Chia Yen Ching Christina ("Ms Chia") was the Leading Stewardess. She was assigned to the economy section. As the Leading Stewardess, Ms Chia was a junior team leader whose role included assisting Mr Azam in supervising the economy section. Ms Chia has been employed by the defendant since 2001, albeit with gaps for maternity leave and due to the Covid 19 pandemic.[47]

(c) The claimant was a flight steward. He was assigned the "C2" position. The C2 is also called the "galley steward". The C2 is required to use both aisles of the aircraft as well as the galley to perform his duties.[48] As the C2, it was the claimant's duty to secure all items in the galley and to ensure that the galley was dry and clean. This included the galley floor.[49] During a meal service, the claimant's duties included being stationed in the galley to heat up meals and to load and replenish the meal trolleys used to serve food and drink to passengers in the economy section.[50]

(d) Ms Marshelly Viola Elizabeth ("Ms Marshelly") was a flight stewardess. She was assigned the "C5" position. As the C5, her area of responsibilities included serving the passengers on the left aisle of the

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46 NA at para 3.

47 Affidavit of Evidence in chief of Chia Yen Ching Christina dated 25 September 2023 ("CYCC") at paras 3–5.

48 SOC at para 4; Defence at para 4.

49 1TMY at para 15.

50 Affidavit of Evidence in chief of Chiang Tsai-Jung dated 30 August 2023 ("CTJ") at para 16; MVE at para 21.

economy section and assisting the C2, *ie*, the claimant, in the galley during a meal service.[51] Ms Marshelly has been employed by the defendant since 2016.[52]

(e) Ms Chiang Tsai-Jung ("Ms Chiang") was a flight stewardess. She was assigned the "C3" position. As the C3, her area of responsibility during the meal service was the left aisle in economy class.[53] Ms Chiang has been employed by the defendant since 2018.[54]

The claimant slips and falls

26 As I shall show, four material aspects of the claimant's account of how and why he fell are at variance with his evidence in cross-examination and his case as he left it with me for determination at the close of trial. These variances are one reason why I reject the claimant's case as to why he fell.

27 For ease of exposition, however, I begin by summarising at [28] to [33] below the claimant's account of how and why he fell as taken from his pleadings and his affidavit of evidence in chief[55] before drawing out the variances between this account and his account in cross-examination.

28 After the doors of the aircraft closed in San Francisco but before the aircraft took off, the claimant noticed a patch of grease on the floor of the economy class galley. He "immediately"[56] informed Ms Chia about the patch of

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51 MVE at paras 17–19.

52 MVE at para 3.

53 CTJ at para 13.

54 CTJ at para 3.

55 SOC at paras 5–7; 1DS at paras 5–7.

56 SOC at para 5.

grease. Ms Chia instructed him to remove the patch of grease with disinfectant cleaning spray and a hand towel. The claimant attempted to clean the patch of grease as Ms Chia had instructed. Despite his best efforts, the grease remained on the floor. Ms Chia then warned cabin crew about the patch of grease and instructed them to exercise the necessary caution while carrying out their duties.[57]

29 All of this occurred before take-off. After take-off, Ms Chia "instruct[ed] cabin crew" to clean the patch of grease again. This attempt also failed.[58]

30 The claimant's pleaded account of how and why he fell is set out in para 5 of his Statement of Claim (Amendment No 1) (the "Statement of Claim"):

> 5. After the Defendant's cleaner left the aircraft, the aircraft doors shut. During take-off preparation, the Claimant patrolled in the [aircraft's two aisles and the galley area]. The Claimant noticed a patch of grease ("the said patch of grease") on the floor of the economy class galley near the ovens beside the galley island. The Claimant immediately informed the Defendant's leading stewardess, [Ms Chia], about the said patch of grease. [Ms Chia] instructed the Claimant to remove the said patch of grease using the available disinfectant cleaning spray and paper hand towel. Despite the Claimant's best effort in removing the said patch of grease, the grease still remained on the floor. The Claimant sought directions from [Ms Chia] as to what to do next. As the Defendant's cleaner had already left the aircraft, [Ms Chia] informed the Claimant and the rest of the cabin crews [*sic*] to be careful of the said patch of grease during pre-departure briefing. [Ms Chia] informed the Claimant and the rest of the cabin crews [*sic*] that she will raise Cabin Defect Log ("CDL").
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> [emphasis in original omitted]

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57 SOC at para 5; 1DS at para 5.

58 1DS at para 5.

In the last line of para 5 of his Statement of Claim, the claimant refers to the aircraft's "Cabin Defect Log" ("CDL").[59] I explain what the CDL is at [77] below.

31 As is to be expected, the claimant's account in his affidavit of evidence in chief of how and why he fell is largely (though not entirely: see [53] below) consistent with the account in his Statement of Claim:[60]

> 5. After the doors closed and armed for take-off, I noticed a patch of grease at the economy class galley of the aircraft near the ovens where the crew members are seated during the Flight. I informed [Ms Chia] about the patch of grease and she instructed me to clean up the grease patch. I tried to clean the grease patch with the disinfectant cleaning spray and a paper hand towel but could not remove it. As the doors had already been closed and armed, calling for a cleaning crew to clean up the grease patch would cause a delay. Therefore, [Ms Chia] took the decision to instruct cabin crew to be careful of the grease patch. We did not barricade the grease patch on the floor because that would pose a tripping hazard. [Ms Chia] did instruct cabin crew to clean the said grease patch again after take-off and before the first meal service commenced but again the effort failed.

32 About 15 hours into the flight, and about 2½ hours before the flight was due to land in Singapore, the claimant was preparing for the final[61] meal service of the flight. As he was walking into the galley, he slipped on the patch of grease

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59 CYCC at p 14.

60 1DS at para 5.

61 MVE at para 31; NA at para 21(a).

and fell hard on his back onto the floor. At the time of his fall, the galley light was switched on and the aircraft was stable.[62]

33 Members of the cabin crew helped the claimant to an empty crew seat in the economy section and applied some light first aid.[63] They then helped him to an empty business class seat.[64] He was relieved of his duties and rested in that seat for the remainder of the flight.

34 When the flight landed Singapore, the claimant left the aircraft in a wheelchair and went straight to see a doctor at the airport clinic.[65]

The defendant's evidence

35 The evidence of the defendant's witnesses of fact, in so far as is material, can be summarised as follows.

36 The claimant did not inform Ms Chia of any "patch of grease" on the aircraft floor *before* take-off.[66] Instead, he informed Ms Chia of a "patch of grease" only *after* take-off. Ms Chia instructed him to clean it using soap from the lavatory and to wipe the area dry using paper hand towels.[67]

37 Of the defendant's witnesses of fact, only Ms Marshelly saw the claimant fall.[68] Her evidence is that she was standing in an area on the left of the

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62 SOC at para 6.

63 CYCC at p 24.

64 CYCC at para 23.

65 CYCC at p 24.

66 Defence at para 5(a) and 5(aa).

67 Defence at para 5(aa); CYCC at para 28.

68 MVE at para 27.

galley (as one faces the cockpit) when the claimant entered the galley from the right and fell:[69]

> 27. As I was standing at that area, I saw the Claimant entering the galley from the right aisle near Door 4 Right. Just as he had entered the galley area, he suddenly slipped and fell.

Although Ms Marshelly saw the claimant slip and fall, she was unable to shed any light on how or why he slipped or fell.

38 None of the other witnesses of fact at trial saw the claimant fall.[70] Ms Chiang did, however, hear a thud to her left when the claimant fell.[71] She therefore turned to her left and saw the claimant lying on the galley floor.[72] But Ms Chiang too was unable to shed any light on how or why he fell.

39 There is some discrepancy between the claimant's evidence of the precise location of where in the galley he fell and Ms Marshelly's and Ms Chiang's evidence of the precise location where he fell. But this discrepancy does not need to be resolved. The defendant's defence is that no part of the galley floor whatsoever was slippery for any reason at any time during the flight, whether by reason of a grease patch or otherwise. The precise location in the galley where the claimant fell is therefore immaterial to the defendant's liability.

The galley floor was not slippery

40 For the claimant to succeed, he must prove on the balance of probabilities that the galley floor was slippery at the time he fell, and that this

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69 MVE at para 27.

70 CYCC at para 18; CTJ at paras 35–36; NA at para 20.

71 CTJ at para 36.

72 CTJ at para 36.

slipperiness caused him to fall.[73] Further, it is not the claimant's case that the galley floor was slippery in its natural state and that his place of work was, for that reason alone, inherently unsafe.[74] The claimant must therefore also prove on the balance of probabilities that the galley floor was slippery because the presence of a foreign substance on its surface rendered it slippery. Counsel for the claimant therefore accepts that, if I find that no foreign substance was present on the surface of the galley floor that rendered it slippery, the claimant's entire claim must logically fail.[75]

41 I find that no foreign substance was present on the surface of the galley floor that rendered it slippery. I make that finding for three reasons: (a) the claimant is not a credible witness; (b) the defendant's witnesses are credible witnesses; and (c) the defendant's contemporaneous documents provide no support for the claimant's case, do not contradict the defendant's case and, on one view, undermine the claimant's case.

The claimant is not a credible witness

42 The first reason for this finding is that the claimant is not a credible witness. I do not find him credible because there are several material, self-serving and unexplained variances between: (a) the claimant's case as pleaded in his Statement of Claim (see [30] above) and as set out in his affidavit of evidence in chief (see [31] above) on the one hand; and (b) the evidence that the claimant gave under cross-examination on the other hand. These variances, combined with my other two reasons, lead me to reject as untrue the claimant's

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73 Transcript, 27 June 2024, at p 4 lines 18–24; p 5 lines 25–28.

74 Transcript, 27 June 2024, at p 6 lines 20–25.

75 Transcript, 27 June 2024, at p 5 lines 5–10.

oral evidence that a foreign substance was present on the surface of the galley floor that rendered it slippery.

43 In the interest of brevity, I examine only four of these material variances.

(1) First variance

44 First, the claimant pleaded in his Statement of Claim that he had told Ms Chia about a "grease patch" on the floor of the galley "immediately" upon finding it.[76] Further, he pleaded that he had made an attempt to clean the "grease patch" only *after* Ms Chia instructed him to do so and that that in turn was only *after* he had escalated the issue to her.[77] His affidavit of evidence in chief is consistent with his pleaded case.[78]

45 But in cross-examination, the claimant said for the first time[79] that he had made a first attempt to clean the "grease patch" using paper hand towels and disinfectant on his own initiative, while the plane was still taxiing for take-off,[80] and *before* he escalated the issue to Ms Chia.[81]

(2) Second variance

46 Second, the claimant pleaded that, despite his best efforts at removing the "patch of grease" using disinfectant cleaning spray and a paper hand towel

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76 SOC para 5.

77 SOC at para 5.

78 1DS at para 5.

79 Transcript, 13 February 2024, at p 77 lines 2–3.

80 Transcript, 13 February 2024, at p 80 lines 1–2.

81 Transcript, 13 February 2024, at p 72 line 25 to p 73 line 6.

after Ms Chia instructed him to do so, the "grease still remained on the floor".[82] His affidavit of evidence in chief is consistent with his pleaded case. He says in chief that his cleaning attempt "could not remove" the "grease patch".[83]

47 But in cross-examination, the claimant said for the first time that the result of his first cleaning attempt – the one that he had made on his own initiative before escalating the issue to Ms Chia (see [45] above) – was that "the greasy patch had been removed"[84] although the surface of the floor was still slippery:[85]

> A. … I need to be clear. When I saw the grease patch, I cleaned it with the normal paper hand towels, but it was still slippery. That's where I need to inform [Ms Chia]. I informed her, I attempted to cleaned, but still it's not clear or still slippery. That's where when she instructed to me, "Clean again with the spray and also with the detergents."
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> …
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> Because I want to inform something to my superior, definitely I need to attempt to clean first, so which I attempted with my paper hand towel. The floor was still -- means the greasy patch had been removed, but the surface feels slippery.

48 In cross-examination, the claimant also said for the first time that the result of removing the "grease patch" was that the slippery area of the floor was now invisible, although it appeared "a bit shiny" only to him:[86]

> Q. You say that you managed to clean off the grease, but that area is still slippery; right?
>
> A. Yes.

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82 SOC at para 5.

83 1DS at para 5.

84 Transcript, 13 February 2024, at p 73 line 15.

85 Transcript, 13 February 2024, at p 72 line 24 to p 73 line 16.

86 Transcript, 13 February 2024, at p 88 line 12 to p 89 line 3.

> Q. That patch, after you have cleaned it up, was that patch still visible?
>
> A. Not visible; it's slippery.
>
> Q. So when you look at it, you can't see anything there now?
>
> A. Cannot see anything. Cannot see, like, anything -- it's like a normal floor, but that part will be still slippery and a bit shiny.
>
> Q. So that part, you say that you can't see the grease patch any more, but there's a shiny surface at that part, shiny?
>
> A. Not very shiny, because I used the spray and then it was -- so it was clear, it was dry, but it still was slippery.

49 In a latter passage in his cross-examination, the claimant confirmed this new version of the events, *ie*, that this slippery area of the galley floor appeared "shiny" to him but was invisible to everyone else:[87]

> MR LIEW: Mr Durairaj, you say that after you cleaned it up, you could see the shiny surface, but it is not visible to anyone walking in that area? Is that what you're saying?
>
> A. Yeah.

(3) Third variance

50 Third, the claimant said nothing in his pleadings or in his affidavit of evidence in chief about any other member of the cabin crew testing the slippery area that remained after he removed the patch of grease and finding it to be slippery.

51 But in cross-examination, the claimant said for the first time that he and "some of the stewardesses" tested this area of the galley floor after he had removed the "grease patch and found it to be slippery":[88]

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87 Transcript, 13 February 2024, at p 121 lines 18–22.

88 Transcript, 13 February 2024, at p 121 line 18 to p 123 line 9.

Q. Mr Durairaj, after you have cleaned it, and you say that you have managed to clean off the grease now, right, now you've managed to clean off the grease, how do you know it was slippery?

A. Because we tried to -- I tried to check was this slippery and informed the LSS Christina the floor is still slippery.

Q. You say that you tested it. You say "we tested it". Who did you mean?

A. There was some cabin crew also around me, but I can't recall who was around me at that point of time.

Q. I see. Some cabin crew was there in the galley?

A. The stewardess was there.

Q. That means when you saw the grease, some --

A. Not "saw". I need to correct. I mean after I cleaned it, when it was still slippery, and I remember that some of the stewardesses, they even try to test the place, it was still slippery.

Q. Did you yourself test the place?

A. Yes, I did.

Q. You did, and you say it was still slippery when you tested it?

A. Yes.

Q. Mr Durairaj, again, I want to point out to you that nowhere in your evidence in chief you mentioned that you tested the floor and it was slippery; right? So is it your answer that because no one asked you, that's why you didn't say?

A. Yes.

Q. I'm suggesting to you that it's highly improbable that if you had tested the floor at that area and it was slippery, that you never mentioned it anywhere in your AEIC, because that's your case. The nub of your case is there was a slippery floor, and that's why you fell, and it's inconceivable that you wouldn't have mentioned this in your AEIC. Do you agree with me?

A. Disagree.

(4) Fourth variance

52 Fourth, the claimant asserted in his affidavit of evidence in chief that Ms Chia "instruct[ed] *cabin crew* to clean the…grease patch again after take-off and before the first meal service commenced" [emphasis added] (see [31] above).[89]

53 Although this assertion appears in the claimant's affidavit of evidence in chief, it appears nowhere in his pleaded case. To the extent that this aspect of his evidence in chief suggests that the "grease patch" was sufficiently stubborn to persist despite *two* attempts to remove it, instead of just *one* as pleaded, I consider this variance between his pleaded case and his evidence in chief to be self-serving, even before considering his evidence in cross-examination. I consider this variance to be symptomatic of the claimant's propensity to embellish his case in a self-serving manner.

54 The claimant compounded his embellishment in cross-examination. The meaning conveyed by a plain reading of this assertion in chief is that Ms Chia instructed an unnamed or unidentified member of the cabin crew *other than* the claimant to make this attempt at cleaning the "grease patch".[90] This appears to be the claimant's intended meaning. After all, in the second and third sentences of the same paragraph of his affidavit of evidence in chief, he uses the pronouns "I' and "me" when he wants to refer to himself specifically (*eg*, "I informed [Ms Chia] about the patch of grease and she instructed me to clean up the grease patch.").[91]

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89 1DS at para 5.

90 Transcript, 13 February 2024, at p 90 lines 16–21.

91 1DS at para 5.

55 But in cross-examination, the claimant said for the first time that what he meant by the phrase "instruct[ed] *cabin crew*" [emphasis added] was that Ms Chia instructed *him, the claimant*, to clean the galley floor again.[92]

(5) The effect of these variances on the claimant's credibility

56 The effect of these variances is that the claimant's final version of the events, after cross-examination, is as follows. Before take-off, he found a "grease patch" on the floor of the aircraft galley. On his own initiative, he made a first attempt to clean the "grease patch". This was before he escalated the issue to Ms Chia. His first attempt removed the "patch of grease", leaving only a slippery area where the grease had been. This slippery area appeared "a bit shiny" to him but was invisible to everyone else. He and other members of the cabin crew tested this area and confirmed that it was slippery. He then escalated the issue to Ms Chia and told her that this area of the galley floor was "still slippery". After take-off, Ms Chia instructed him to make a third attempt to clean this slippery area of the galley floor. Despite this attempt, that area of the galley floor remained slippery.

57 The material nature of these variances and their omission from his affidavit of evidence in chief is one reason I find the claimant not to be a credible witness. If the claimant had exercised his own initiative to make an attempt to clean the galley floor before he escalated the issue to Ms Chia, he would have said so in chief. If this first attempt by the claimant had actually removed the "patch of grease", he would have said so in chief. If removing the "patch of grease" had nevertheless left a slippery area on the galley floor invisible to everyone but the claimant, he would have said so in chief. If he and "some of

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92 Transcript, 13 February 2024 at p 90 lines 19–21.

the stewardesses" had tested the area and found it to be slippery, he would have said so in chief. If the claimant had escalated to Ms Chia an issue about an invisible slippery area on the galley floor instead of a "patch of grease" on the galley floor, he would have said so in chief. And if the claimant had cleaned the galley floor a total of *three* times instead of just *once*, *ie* twice *before* take-off and once *after* take-off, he would have said so in chief.

58 The self-serving nature of these variances is another reason I find the claimant not to be a credible witness.

59 The first variance is self-serving because, as the claimant acknowledges,[93] it shows that he complied with the defendant's safety training (see [106] below) by attempting to resolve the issue himself before escalating it to Ms Chia.

60 The second variance is self-serving because it aligns the claimant's evidence with the defendant's witnesses' evidence. Their evidence is that none of them had noticed any "grease patch" or other foreign substance on the galley floor at any time during the flight (see [68] below). The claimant's final version of events asserts, for the first time, that there was an invisible "slippery area" on the galley floor that other members of the cabin crew could not see. This final version is now consistent with the evidence of the defendant's witnesses that none of them noticed a "patch of grease" on the galley floor at any time during the flight.

61 The third variance is self-serving because it suggests that there are unnamed stewardesses who can corroborate the claimant's account that a

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93 Transcript, 13 February 2024 at p 76 lines 24–25.

slippery area existed. It is equally self-serving that the claimant, in the same passage of his cross-examination, said for the first time that the issue he had escalated to Ms Chia before the flight took off was not the presence of a "patch of grease" on the galley floor – as he had pleaded and stated in his affidavit of evidence in chief – but the presence of an area on the galley floor that was "still slippery", as he had testified in cross-examination.

62 The fourth variance is self-serving because it suggests that the claimant cleaned the galley floor *three* times and not just *two*: (a) first, before take-off, on his own initiative;[94] (b) second after Ms Chia told him to clean the galley floor, after he had escalated the issue to Ms Chia and before take-off;[95] and (c) third and finally, after take-off, again on Ms Chia's instructions.[96] This in turn supports the claimant's case that the substance on the floor was stubborn, persisting despite three attempts at removal. It also enlarges the role that the claimant allegedly played in attempting to resolve the issue than the role he set out in his pleadings or affidavit of evidence in chief.

63 The claimant's reaction when confronted with these variances is yet another reason I find him not to be a credible witness. Despite these material variances, the claimant refused to accept that he had changed his evidence.[97]

64 In any event, claimant's counsel has adopted the claimant's final version of his account of events (see [56] above) as the case that he leaves to the court for determination at the conclusion of trial. Therefore, the gist of the claimant's

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94 Transcript, 13 February 2024, at p 81 line 8.

95 Transcript, 13 February 2024, at p 81 lines 17–20.

96 Transcript, 13 February 2024, at p 80 line 12 to p 82 line 5.

97 Transcript, 13 February 2024, at p 77 lines 18–19.

case as it stands before me now is no longer that he slipped on a "patch of grease" on the galley floor but that he slipped on an invisible, slippery area on the galley floor that was left behind after he had "removed" a "patch of grease" there.[98] I consider and reject (at [87]–[95] below) the defendant's objection that this change in the claimant's case is an impermissible departure from his pleadings.

65 For all of the foregoing reasons, I attach no weight to the oral evidence of the claimant. In particular, I reject his oral evidence that there was any area of the galley floor that was slippery. His oral evidence therefore falls short – indeed, far short – of discharging his burden of proof on this essential element of his case. The claimant's case therefore fails on the inadequacies of his own oral evidence, even before I consider the evidence of the defendant's witnesses.

66 It is of course entirely possible for a claimant to discharge his burden of proof by relying on the evidence of opposing witnesses. But, for the reasons that follow, the evidence of the defendant's witnesses does not assist the claimant in discharging his burden of proof. Indeed, I find the defendant's witnesses to be sufficiently credible that their evidence warrants positive findings in favour of the defendant on the disputed issues of fact.

The defendant's witnesses are credible witnesses

67 The second reason for the finding at [41] above is that I find the defendant's witnesses to be credible witnesses. In particular, I find their evidence to be credible on two critical issues of fact: (a) that no part of the galley floor was slippery whether due to grease or any other substance at any time

98 Transcript, 27 June 2024, at p 4 lines 18–24; p 5 lines 25–32.

during the flight; and (b) that the claimant's only complaint on 6 September 2019 before and immediately after his fall was about the presence of grease on the galley floor, and not – as he now claims – about the presence of an invisible slippery area on the galley floor. Although no part of the burden of proof on these two issues rests on the defendant, the consistent, coherent and credible evidence of the defendant's witnesses is in fact sufficient to warrant me making positive findings in the defendant's favour on these two critical issues of fact.

(1) The galley floor was not slippery

68 On the first point, Ms Chia,[99] Ms Chiang,[100] Ms Marshelly[101] and Mr Azam[102] all gave evidence that they did not see any grease or other foreign substance on the galley floor at any time during the flight. Ms Chia says that she did not see any "greasy patch" on the floor of the galley during the flight. Ms Chiang says that she walked around the economy section including the galley many times during the flight but did not notice any grease patch or any other kind of spillage on the galley floor. Ms Marshelly says that she walked in and out of the economy class galley throughout the flight and noticed no spillage or any grease on the floor of the galley, both before the claimant fell and at the time he fell. Mr Azam says that there was also nothing spilled on the galley floor that could have caused the claimant to fall.

69 Further, in so far as the claimant's case now is that he slipped, not on a "patch of grease", but on an invisible, slippery area on the galley floor that remained after he removed a patch of grease, Ms Chiang, Ms Marshelly and Mr

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99 CYCC at paras 21 and 30.

100 CTJ at paras 20, 40–41 and 43.

101 MVE at paras 32 and 35–38.

102 NA at paras 22–23, 25 and 33–34.

Azam also gave consistent, coherent and unequivocal evidence that nobody other than the claimant – whether a member of the cabin crew or a passenger – had, during the flight: (a) complained about any spillage on the floor; (b) complained about any slippery area on the floor; (c) slipped on any part of the floor for any reason; or (d) fallen for any reason.[103]

70 Curiously, Ms Chiang did give evidence that she saw the claimant fall twice during the flight, in addition to the fall which is the subject of this action.[104] The claimant denies that he fell more than once during the flight.[105] However curious it may be, it is not necessary to resolve this dispute. Whether the claimant fell once or thrice, Ms Chiang's evidence remains consistent with the evidence of Ms Chia, Ms Marshelly and Mr Azam in the sense that nobody other than the claimant fell during the flight. This suggests that he fell as a result of an idiosyncratic risk factor (such as his footwear)[106] rather than as a result of a universal risk factor, *ie* one that created a risk of falling for everyone (such as an invisible, slippery area on the galley floor).

71 Further, after the claimant had fallen, both Mr Azam and Ms Chia separately and independently checked the area of the galley floor where the claimant had fallen. Neither of them found anything unusual, whether it be the presence of grease, any spillage[107] or any slipperiness for any other reason.

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103 CTJ at paras 33 and 43; MVE at paras 33, 35 and 39; NA at para 25.

104 CTJ at paras 21–23.

105 2DS at para 6.

106 CTJ at para 32.

107 CYCC at paras 21– 22; NA at paras 21(f) and (h).

72 I do not accept the claimant's submission that the defendant's witnesses are biased in favour of the defendant, being employees of the defendant. Having assessed their demeanour in the witness box, and even after reminding myself of the limitations of such an assessment (see *Sandz Solutions (Singapore) Pte Ltd and others v Strategic Worldwide Assets Ltd and others* [2014] 3 SLR 562 at [43]–[46]), I have formed the view that they gave their evidence in a forthright manner and in a manner that was coherent and consistent without being contrived or collusive. I detected no basis for a finding that the defendant's witnesses came to court to toe a party line on these two critical issues of fact or that they gave their evidence as they did out of fear for their employment or career.

(2) The claimant said he slipped on a "grease patch"

73 On the second point, Ms Chiang's evidence is that she heard the claimant say immediately after his fall, albeit not to her, that he had fallen because of the presence of a grease patch on the galley floor.[108]

74 Ms Chia's evidence is consistent with Ms Chiang's evidence. Ms Chia was told that the claimant fell because he slipped on a "greasy patch" on the floor of the galley.[109] Ms Chia's oral evidence on this point is not rendered inadmissible by s 62(1) of the Evidence Act 1893 (2020 Rev Ed) ("EA"). The purpose of her oral evidence on this point is not to prove the truth of its contents, *ie*, that the claimant did, in fact, fall on a grease patch. The purpose of her oral evidence is simply to prove that a "greasy patch" is what the claimant attributed his fall to at that time. That evidence – coupled with the fact that the claimant

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108 CTJ at para 39.

109 CYCC at para 20.

now attributes his fall to something else, *ie* an invisible, slippery area on the galley floor – suffices to diminish further the claimant's already diminished credibility.

The defendant's contemporaneous documentary evidence

75 The third reason for the finding at [41] above is that the defendant's contemporaneous documentary evidence adduced at trial does not assist the claimant or contradict the defendant's witnesses. Indeed, on one view (see [86] below), this documentary evidence undermines the case that the claimant now presents.

76 The contemporaneous documentary evidence produced by the defendant that the claimant relies on are: (a) the CDL; and (b) a document known as the eCCAR.

77 The CDL is a record in which the defendant's crew log any defects found in the cabin of a particular aircraft. The purpose of the CDL is both to forewarn future cabin crews on the same aircraft about known defects in the cabin and also to flag known defects for the defendant's maintenance crew to address and resolve. The entry in the CDL logging slippery flooring in the galley was made by a flight stewardess who was not called to give evidence at trial: one Ms Vanessa Wong Wan Kuen ("Ms Wong").[110] The CDL, in so far as it is material, records the following:[111]

> EYCL [economy class] AFT GALLEY – SLIPPERY FLOORING. WIPED FEW TIMES BUT UNABLE TO CLEAR THE FREASE [*sic*] (INFRONT OF CART SLOT #1112 F/R) (FSS WONG 249070)

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110 CYCC at p 18.

111 CYCC at p 14.

78 The eCCAR is an electronic accident report[112] that is lodged as part of the defendant's standard practice whenever there is an inflight injury.[113] The eCCAR recording the claimant's fall was made by Ms Chia.[114] The eCCAR, in so far as it is material, says the following:[115]

> Crew Inflight accident
>
> Detailed Report
>
> 1) [The claimant] slipped at the galley area immediately when entering the galley (approximately 2.30hours before landing @1615). There was [*sic*] spots of grease on the floor despite it being cleaned earlier.
>
> 2) He fell on his back and hit his lower back and back of his head. (It hit on the floor)
>
> 3) The floor (in front of cart slot #112F/R) was slippery and it caused him to slip and fell [*sic*].

79 There was some dispute at trial as to whether Ms Wong made her entry in the CDL before the claimant fell or after he fell, together with and for the purposes of Ms Chia's eCCAR. It is not necessary to resolve this dispute. The claimant's purpose in asserting that Ms Wong made her entry in the CDL before the claimant fell is to attribute knowledge of the slippery flooring to the defendant before the claimant's fall. But the defendant accepts that the claimant made Ms Chia aware of his allegation that there was slippery flooring in the galley well before he fell.

80 The claimant submits that I ought to attach significant weight to the CDL and the eCCAR because both documents emanate from the defendant, both

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112 CYCC at para 24 and p 10.

113 CYCC at para 29.

114 CYCC at para 24 and p 10.

115 CYCC at p 10.

documents were recorded contemporaneously by the defendant's employees, and both documents establish: (a) that the galley floor was slippery at the material time; and (b) why the galley floor was slippery.

81 The eCCAR is, of course, admissible as evidence of the truth of its contents because its maker, Ms Chia, gave evidence at trial. The CDL too is admissible as evidence of the truth of its contents, even though Ms Wong – as its maker – did not give evidence at trial. The CDL is admissible under s 32(1)(*b*)(i) of the EA. Ms Wong's entry in the CDL is, within the meaning of that provision, a statement made by Ms Wong in the ordinary course of her occupation in one of the books kept by the defendant in the ordinary course of its business. If Ms Wong made her statement in the CDL from her own personal knowledge of the cause of the claimant's fall, it is admissible under the primary provision in s 32(1)(*b*)(i) of the EA. If Ms Wong made her statement in the CDL, not from her personal knowledge, but based on information supplied by the claimant, or indeed any other member of the cabin crew, Ms Wong's statement in the CDL is nevertheless admissible under the concluding words of s 32(1)(*b*) of the EA.

82 Even though the EA renders the CDL and the eCCAR admissible, s 32(5) of the EA expressly provides that it is entirely a matter for me what weight to assign to the statements in these two documents as evidence of these two issues of fact (see [80] above). For the reasons that follow, I attach no weight to these statements as evidence on these two issues of fact.

83 It is important for present purposes that *only* the claimant can give evidence from personal knowledge on these two issues of fact. The first issue is that the galley floor was slippery at the material time. But the defendant's witnesses' evidence, as I have accepted, positively contradicts the claimant's

evidence on this issue (see [68]–[71] above). On the second issue, why the galley floor was slippery, the defendant's witnesses expressly disclaim personal knowledge of the cause. The claimant does not suggest that this disclaimer is in any way disingenuous.

84 Therefore, the contents of the statements in both the CDL and the eCCAR on these two issues of fact (see [80] above) could not have come from the personal knowledge of Ms Wong or Ms Chia respectively or indeed from the personal knowledge of any other member of the cabin crew.[116] Given that what is recorded in the CDL and the eCCAR is consistent with the claimant's own contemporaneous attribution of the cause of his fall, *ie*, to slipping on a "grease patch", the CDL and the eCCAR simply record what the claimant himself contemporaneously attributed his fall to,[117] either directly to Ms Wong and Ms Chia[118] or through other members of the cabin crew who reported his attribution to them.[119]

85 Neither document is therefore even capable of being independent and contemporaneous corroboration of the claimant's evidence. That is so whether one considers his contemporaneous attribution of his fall to a "grease patch" or his current attribution of his fall to an invisible slippery area which remained after he removed a grease patch. Both documents are therefore entitled to no more weight than the defendant's own oral evidence in proving that the galley floor was slippery and why it was slippery. The CDL and the eCCAR therefore

116 CYCC at para 25.

117 CYCC at para 26.

118 CYCC at para 25.

119 CYCC at para 20.

neither advance the claimant's case nor contradict the defendants' witnesses' evidence.

86 Indeed, in so far as both the CDL and the eCCAR record that "grease" was still present on the galley floor when the claimant fell and record that that "grease" was why the galley floor was slippery, both documents are positively *inconsistent* with the claimant's case as it now stands. On that case, as I have already pointed out, the claimant "removed" the "grease patch" in the galley before the aircraft took off, leaving only an invisible, slippery area on the galley floor. To that extent, the contents of the CDL and the eCCAR further undermine the claimant's credibility and the credibility of the case that he now advances.

The claimant has not departed from his pleadings

87 I now consider the defendant's objection that the claimant's allegation that he slipped on an invisible, slippery area on the floor that remained after he removed a "grease patch" is inconsistent with his pleaded case.[120] Even though the claimant's account of the events leading to his fall changed materially at trial (see [42]–[65] above), I do not accept that the claimant has impermissibly departed from his pleadings so as to preclude him from leaving his case as it now stands (see [64] above) with me for determination at the conclusion of the trial.

88 Pleadings serve at least two general purposes. First, they define the parameters of a claimant's claim and a defendant's defence. Second, they clearly and precisely identify the factual and legal issues that the court must determine (see *How Weng Fan and others v Sengkang Town Council and other*

120 Defendant's Reply Submissions dated 3 June 2024 at paras 3 and 16.

appeals [2023] 2 SLR 234 ("*How Weng Fan*") at [17]). The first purpose is necessary to ensure that each party has reasonable notice of the case that his opponent is advancing and therefore of the case that that party must meet at trial. Pleadings thereby prevent trial by ambush (see *V Nithia (co-administratrix of the estate of Ponnusamy Sivapakiam, deceased) v Buthmanaban s/o Vaithalingam and another* [2015] 5 SLR 1422 ("*V Nithia*") at [37]). The second purpose is necessary to define and constrain the adjudicative task of a court. It ensures that a party cannot turn a trial into a roving and open-ended commission of inquiry.

89 These two general purposes of pleadings lead to two general rules. First, a party is bound by its pleadings. Second, a court should not dispose of litigation before it by determining an issue that the parties have not put in play by their pleadings (see *How Weng Fan* at [18], *V Nithia* at [38]). But these are only general rules. Thus, as a narrow exception to these rules, a court may permit a party to advance as part of its case – and therefore a court may also dispose of the litigation before it by determining – an issue that has not been pleaded if doing so would not cause any prejudice to the opponent that cannot be compensated by costs or if it would be clearly unjust for the court not to allow the party to raise the unpleaded issue (see *How Weng Fan* at [20], *V Nithia* at [40]).

90 In my view, the defendant's objection draws a semantic distinction without a substantive difference. The claimant's pleaded case is that: (a) that upon Ms Chia's instructions, he attempted to clean the grease patch; and (b) that despite his best efforts, he was unable to remove the grease patch which therefore remained on the galley floor.[121] The claimant's case as it stands now

[121] SOC at para 5.

is that: (a) he attempted to clean the grease patch on his own initiative before he escalated the issue to Ms Chia; and (b) his attempt removed the grease patch but left an invisible slippery area on the galley floor.[122]

91 These are, of course, material variances. But the core of the claimant's case as it stands now remains consistent with his pleadings: (a) a foreign substance on the galley floor rendered it slippery; and (b) that slipperiness caused him to fall. I do not consider that the claimant's case as it stands now amounts to a departure from his pleadings in any substantive way.

92 Even if the claimant's case as it stands now is a substantive departure from his case as pleaded, I find that any such departure has caused the defendant no prejudice for which it cannot be compensated by costs. Defendant's counsel had a reasonable and fair opportunity to deal with the core of the claimant's case – both as pleaded and as it now stands – in the cross-examination of the claimant. Indeed, it is the cross-examination of the claimant on the variances between his pleaded case and his case as it now stands that has led me to find that the claimant is not a credible witness and to reject his evidence. Further, counsel for the claimant quite fairly put the claimant's case as it now stands to the defendant's witnesses during his cross-examination, giving the defendant's witnesses a fair opportunity to respond to it.

93 The defendant nevertheless submits that it has indeed suffered prejudice for which it cannot be compensated by costs. It submits that, if the claimant's case as it stands now had been properly pleaded, the defendant would have

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122 Transcript, 13 February 2024, at p 72 line 25 to p 73 line 16.

adduced expert evidence on the nature of the galley floor and the likelihood of the floor remaining slippery after a patch of grease had been removed.[123]

94 I do not accept this submission. As I have pointed out, the core of the claimant's case is that a foreign substance was present on the galley floor that rendered it slippery and caused him to fall. Even if the claimant had pleaded that there was a slippery area on the galley floor that remained after the claimant had removed a grease patch, it is my view that the defendant would not have had to lead any additional evidence over and above the evidence that it actually did lead. This is because no issue in this action turns on: (a) the nature or identity of the foreign substance allegedly present on the galley floor; (b) whether the claimant slipped on the substance itself or on the residue left after the substance had been removed; or (c) whether the residue was or was not visible, either to the claimant or to others. Allowing the claimant to recharacterise the cause of his fall from a "grease patch" on the galley floor to an invisible slippery area that remained on the galley floor after he removed a grease patch did not and has not caused the defendant any prejudice for which it cannot be compensated by costs. The defendant has not been a victim of trial by ambush.

95 I therefore hold that the claimant is not precluded from leaving for my determination at the conclusion of trial his case as it now stands.

Conclusion on the slippery area

96 In conclusion, and for all of the foregoing reasons, I find on the balance of probabilities that there was no slippery area on the galley floor. This suffices

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123 Defendant's Written Submissions dated 6 May 2024 ("Defendant's Written Submissions") at para 28.

to dispose of the claimant's claim. If there was no slippery area, there is no basis for the claimant's assertion that the defendant breached its duty of care to him.

97 Nonetheless, in case I am wrong in this finding of fact in the defendant's favour, I now analyse the claimant's allegation that the defendant breached its duty of care to him. In this analysis, I shall assume in the claimant's favour, contrary to my finding, that there was indeed a "slippery area" on the galley floor.

The defendant did not breach its duty of care

98 To succeed in a claim in negligence, a claimant must show that: (a) the defendant owed the claimant a duty of care; (b) the defendant breached the duty of care; (c) the defendant's breach caused the claimant to suffer losses that are not in law too remote to be recovered; and (d) the losses can be adequately proved and quantified (see *Spandeck Engineering (S) Pte Ltd v Defence Science & Technology Agency* [2007] 4 SLR(R) 100 ("*Spandeck*") at [21]).

99 The defendant does not deny that it owed the claimant a duty of care.[124] In my view, the defendant is correct not to deny a duty of care.[125] As between the defendant and the claimant, in their capacity as employer and employee, I have no doubt that the two-stage test at common law for a duty of care to arise with respect to personal injuries premised on proximity and policy considerations preceded by a threshold requirement of factual foreseeability is satisfied (see *Spandeck* at [73]).

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124 Defence para (8).

125 Defendant's Written Submissions at para 53.

100 The issue I now consider, therefore, is whether, subject to my assumption at [97] above, the defendant breached its duty of care to the claimant.

The standard of care

101 The first step in determining whether the defendant breached its duty of care to the claimant is to determine the standard of care that the defendant had to meet. The standard of care in any given duty of care situation is premised on the concept of reasonableness, *ie*, the standard of a reasonable person using ordinary care and skill (see Gary Chan Kok Yew & Lee Pey Woan, *The Law of Torts in Singapore* (Academy Publishing, 2nd Ed, 2016) at para 06.002, and *BNJ (suing by her lawful father and litigation representative, B) v SMRT Trains Ltd and another* [2014] 2 SLR 7 ("*BNJ*") at [91]–[92]).

102 In *Chandran a/l Subbiah v Dockers Marine Pte Ltd* ("*Chandran*") [2010] 1 SLR 786 at [14], the Court of Appeal held that an employer must take the same care for its employees' personal safety as would be taken by a reasonable and prudent employer applying its mind positively to the safety of its employees in the light of its superior knowledge of the risks of the employment. In so doing, the Court of Appeal approved the following passage in Swanwick J's decision at first instance in *Stokes v Guest, Keen and Nettlefold (Bolts and Nuts) Ltd* [1968] 1 WLR 1776 (at 1783):

> [T]he overall test is still the conduct of the reasonable and prudent employer, taking positive thought for the safety of his workers in the light of what he knows or ought to know… [W]here he has in fact greater than average knowledge of the risks, he may be thereby obliged to take more than the average or standard precautions. He must weigh up the risks in terms of the likelihood of injury occurring and the potential consequences if it does; and he must balance against this the probably [*sic*] effectiveness of the precautions that can be taken to meet it and the expense and inconvenience they involve. If he

> is found to have fallen below the standard to be properly expected of a reasonable and prudent employer in these respects, he is negligent.

The claimant's case

103 The claimant invokes in this action two specific dimensions of the duty of care that an employer owes to its employee: a duty to provide its employees a proper system of work (see *Parno v SC Marine Pte Ltd* [1999] 3 SLR(R) 377 at [46]) and the duty to provide employees a safe place of work (see *Chandran* at [15]).

104 The claimant pleads the following eleven particulars of the defendant's failure to provide the claimant a safe place of work and a safe system of work:[126]

> **PARTICULARS OF NEGLIGENCE OF THE DEFENDANT**
>
> a. Failing to ensure that the Claimant 's aircraft floor was free from any substance which might cause the Claimant to slip;
>
> b. Failing to ensure that suitable personal protective equipment namely safety footwear, was provided for the Claimant while at work;
>
> c. By employee(s) or agent(s) of the Defendant whom the Claimant cannot identify acting in the course of their employment: -
>
> i. Spilling grease on the floor;
>
> ii. Failing to clear up grease;
>
> iii. Failing to cover or otherwise render safe or conspicuously to mark grease;
>
> iv. Left the patch of grease lying on the floor;
>
> v. Exposing the Claimant to a danger or a trap and a slipping hazard and a foreseeable risk of injury;
>
> vi. Failing to take any or any adequate care for the safety of the Claimant.

126 SOC at para 8.

d. Failing to devise, institute or operate or ensure the institution or operation of an adequate system of cleaning to see that the floors were and would remain safe to walk upon.

e. Permitting the floor of the aircraft to come to be or to remain wet, slippery and dangerous as above.

f. Failing until after the Claimant's accident to clean, clear, cover or otherwise render safe the floor.

g. Failing to warn the Claimant of the dangerous conditions prevailing on the floor or otherwise to prevent him walking therein.

h. Exposing the Claimant to a danger or a foreseeable risk or injury and a slipping hazard.

i. Failing to provide or maintain a safe system of work.

j. Failing to provide safe and competent fellow employees.

k. Failing to take any or any adequate care for the safety of the Claimant.

The defendant took reasonable measures

105 The defendant adduced evidence of the measures it takes to minimise the risk of anyone slipping and falling on board its aircraft, whether a member of its cabin crew or a passenger. I find that these measures suffice to discharge the defendant's duty of care to provide the claimant a safe place of work and a safe system of work with respect to slips and falls on board its aircraft.

106 The defendant's measures begin with its Cabin Crew Readiness Programme ("the CCRP"), an intensive training programme for all new cabin crew.[127] The CCRP includes training on how to identify the potential risks of inflight work accidents and how to minimise the incidence of these accidents.[128] More specifically, the CCRP trains cabin crew – if they find any spillage in any

127 1TMY at para 5; Transcript, 14 January 2024, at p 29 lines 10–15.

128 1TMY at para 8.

part of the aircraft – to remove the spillage on their own initiative immediately and to clean the affected area.[129] If they are unable to remove the spillage, they are trained to escalate the issue to a supervisor.[130]

107 The claimant himself underwent the CCRP[131] and concedes that he was trained to deal with spillage in this way.[132] Indeed, as I have found, he has tailored his evidence to demonstrate that the complied with his training (see [47] above).

108 The CCRP instils into cabin crew a strong, career-long understanding of the importance of safety in general and the importance of not leaving spillage on the aircraft floor in particular. The evidence of Mr Azam, Ms Chiang and Ms Chia confirms this. Thus, Mr Azam says:[133]

> 7. … In [serving the defendant's passengers], it has always been my training and practice to prioritise comfort and safety of the passengers and crew. Every crew member is likewise trained.
>
> 8. The policy to prioritise comfort and safety of the passengers which underpins the Defendant's principle as a pre-eminent commercial carrier is imbued as part of the Defendant's training programme for every cabin crew member. Prioritising safety is one of the most important elements of the training programme for as long as I have been employed in the Defendant. Every cabin crew member is taught all aspects of prioritising safety from the outset. At the end of the training and during service, prioritising safety becomes second nature.

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129 CTJ at para 7; MVE at paras 6–7.

130 Transcript, 13 February 2024, at p 17 lines 14–17; Transcript, 28 February 2024, at p 62 lines 19–24.

131 1TMY at paras 5–8.

132 Transcript, 13 February 2024, at p 17 lines 6–13.

133 NA at para 8.

109 Ms Chiang says:[134]

> 7. One aspect of the safety issue which the training focused on was for the cabin crew to ensure that there was no spillage of any kind onto the floor within the aircraft which may cause anyone to slip and fall. The cabin crew was therefore trained to specifically ensure that if there was any spillage in any part within the aircraft, he or she must immediately remove the spillage and clean up the area. During the training and service, this has been etched in my mind to the extent that it becomes second nature.

110 Ms Chia says:[135]

> 7. In this regard, cabin crew members are trained to clean up any spillage of food and drink on the floor of the aircraft, immediately. We are also trained to keep the galley floor dry at all times. In fact, we generally do not leave anything on the floor.

111 I accept the evidence Mr Azam, Ms Chiang and Ms Chia as true, not only as to the content of their training but also on the impact it has in instilling a strong, career-long culture of safety into the defendant's cabin crew.[136]

112 The defendant's measures to prevent slips and falls do not end when the CCRP ends. The defendant's Safety, Security, Quality and Health Department ("SSQH") reinforces cabin crew's training on the CCRP[137] by issuing periodic reminders to cabin crew.[138] The purpose of these reminders is to raise awareness about the importance of preventing accidents and about the safe working practices that cabin crew should follow to prevent workplace injury.

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134 CTJ at para 7.

135 CYCC at para 7.

136 CTJ at para 42.

137 1TMY at para 9.

138 1TMY at paras 9–10.

113 A specific example is a reminder that SSQH issued to the defendant's cabin crew in June 2018 to alert them about, amongst other things, the risk of sustaining injuries by slipping and falling on board the defendant's aircraft. In this reminder, the defendant advised supervisors to guide cabin crew to maintain a high degree of situational awareness in order to avoid slippery areas and, if that was not possible, to work with care on slippery surfaces.[139]

114 Another example is a reminder issued in July 2018 that reminded cabin crew of safe work practices to prevent slips and falls:[140]

> Safe Work Practices:
>
> 1. Walk slowly and carefully especially when the ground is wet.
>
> 2. Ensure that you are aware of the ground in front of and around you, to better avoid slippery areas.
>
> 3. Do not attempt to carry too many items during ground preparation if the ground is slippery, as they may obscure your view and distract you from paying attention to your footing.

115 The evidence satisfies me that the defendant's training and follow up measures have been effective virtually to eliminate the risk of slips and falls on board the defendant's aircraft. The defendant adduced evidence of flights where a foreign substance had spilled onto the floor of an aircraft and cabin crew were able to avoid any injury, whether to cabin crew or to passengers, by dealing with the spillage in accordance with their training. On one flight, cabin crew found the forward galley to be "very oily and slippery". In accordance with their training, cabin crew washed the galley floor thoroughly to ensure that it was no longer oily and slippery.[141] On another flight, cabin crew saw pink liquid leaking

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139 1TMY at p 20.

140 1TMY at p 22.

141 2TMY at pp 43–44.

from a trash compactor. In accordance with their training, cabin crew used rags to prevent the liquid from spreading across the floor to other areas of the aircraft.[142] In both cases, injury was prevented.

116 It is because of this strong culture of safety that slips and falls on board the defendant's aircraft are exceedingly rare. Mr Azam gave evidence that, in his 29 years of service with the defendant, he had never come across a single case of anyone slipping and falling on the galley floor in one of the defendant's aircraft.[143] Ms Marshelly too gave evidence that she had never seen anyone fall on board an aircraft in her eight years of service with the defendant.[144] Ms Chiang testified that she had not seen a single incident of anyone slipping and falling on board an aircraft in which she was working in her six years of service with the defendant.[145]

No further measures were reasonable

117 The claimant submits that the defendant could and should have taken three further measures: (a) the defendant should have implemented a system requiring supervisors to follow up on any spillage escalated to them by more junior cabin crew; (b) the defendant should have stationed better cleaning equipment on board the defendant's aircraft; or (c) the defendant should have placed a cart, barricade, lights or stickers over the slippery area.[146]

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142 2TMY at p 49.

143 NA at para 25.

144 MVE at para 34.

145 CTJ at para 33.

146 Claimant's Written Submissions at paras 43 and 49–50; Claimant's Reply Submissions at paras 17–18; Transcript, 14 February 2024, at p 50 line 24 to p 51 line 23.

118 I do not accept the claimant's submission.

119 It is not reasonable to require the defendant's supervisors to follow up personally on reports of spillage escalated to them by more junior members of cabin crew. This amounts to imposing a duty on an employer to ensure that a junior employee acts in accordance with his training. But the law does not require an employer to supervise employees to this degree. Accepting the claimant's submission would impose on overly onerous duty on an employer (see *Lu Bang Song v Teambuild Construction Pte Ltd and another and another appeal* [2009] SGHC 49 at [36]).

120 In my view, the system of work put in place by the defendant was reasonable in the context of this particular risk in so far as the system left it to the personal responsibility of the junior member to comply with his training by carrying out the supervisor's instructions dutifully and re-escalating the issue to the supervisor if it remained unresolved. Indeed, that is precisely what the claimant did in this case.

121 On a related point, I do not accept the claimant's suggestion[147] that the defendant was in breach of its duty of care because it did not establish a standard operating procedure or issue a manual for dealing with spillage on board its aircraft. In my view, it suffices that the defendant had in place a training programme, the CCRP, that instilled in cabin crew the importance of dealing immediately with common safety hazards like slippery floors onboard aircraft and that the defendant, through SSQH, followed up on the training programme by issuing periodic general and specific safety reminders. It is not reasonable to expect the defendant to devise and supply to cabin crew a step-by-step standard

147 Claimant's Written Submissions at para 42.

operating procedure or to issue to cabin crew a step-by-step manual for dealing with spillage on board its aircraft. This particular risk, after all, is not unique to the defendant or even to the aviation industry. It is a common household risk that any person of average intelligence and resourcefulness knows how to eliminate, mitigate or work around.

122 I do not accept the claimant's suggestion that the defendant was in breach of its duty of care because it did not provide more effective cleaning equipment and materials to cabin crew. In so far as it is the claimant's case that the slippery area on the galley floor was caused by a foreign substance, the claimant has failed to identify precisely what cleaning equipment or material the defendant should have provided to its cabin crew on board its aircraft to remove that substance without leaving a slippery area. Even the claimant concedes that it would be impractical to have a specialised cleaning crew onboard each of the defendant's aircraft for every flight.[148]

123 I do not accept the claimant's suggestion that the defendant should have taken measures such as placing a cart, a barricade or lights over the slippery area. Any such physical obstruction would not be tethered to the aircraft and would have, in itself, posed a real risk of serious injury to passengers and cabin crew alike in the event of turbulence. Further, even without turbulence, these measures would have posed a tripping hazard. Instead of mitigating or eliminating the risk of injury from an existing safety hazard, any of these measures would have introduced an additional safety hazard and increased the overall risk of injury. All of these measures are therefore, in my view, measures that a reasonable and prudent employer would positively *not* have taken.

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148 Transcript, 27 June 2024, at p 28 lines 1–4.

124 I do not accept the claimant's submission that the defendant should have placed stickers on the galley floor to warn cabin crew and passengers of the slippery area. The claimant suggests that another airline uses stickers to identify hazards on board its aircraft[149] and that the defendant should have done the same. But, other than a bare assertion about this practice in cross-examination, the claimant adduced no evidence of this practice let alone of its efficacy.

125 Moreover, I do not accept the submission that defendant needed to adopt the additional measure of using stickers in this way in order to discharge its duty of care. The first step in the defendant's system of work is for the member of the defendant's cabin crew who comes across spillage to attempt to clean the spillage on his own initiative. The second step in the defendant's system of work, if the attempt is unsuccessful, is to escalate the issue to his supervisor. His supervisor is then to provide further instructions on cleaning the spillage and to warn cabin crew. This system of work, in my view, is sufficient for the defendant to meet its duty of care to its employees, including the claimant. And, as I have already pointed out, this is exactly what happened in this case.

The cases cited by the claimant do not assist him

126 Finally, the claimant cites five cases to argue by analogy that the defendant breached its duty of care to the claimant:

(a) The decision of the Court of Appeal in *Awang bin Dollah v Shun Shing Construction & Engineering Co Ltd and other appeals* [1997] 2 SLR(R) 746 ("*Awang bin Dollah*");

149 Transcript, 14 February 2024, at p 50 line 24 to p 51 line 23.

(b) The decision of the English Court of Appeal in *Chandler v Cape plc* [2012] 1 WLR 3111 ("*Chandler*");

(c) The decision of Tan Lee Meng J in *Hao Wei (S) Pte Ltd v Rasan Selvan* [2009] 1 SLR(R) 142 ("*Hao Wei*");

(d) The decision of the House of Lords in *General Cleaning Contractors Ld v Christmas* [1953] AC 180 ("*General Cleaning Contractors*"); and

(e) The decision of Lai Siu Chiu J in *Management Corporation Strata Title Plan No 2668 v Rott George Hugo* [2013] 3 SLR 787 ("*Rott George Hugo*").

127 None of these five cases assist the claimant. I take these cases in turn.

Awang bin Dollah

128 In *Awang bin Dollah*, an employee was injured when a site office at a construction site collapsed while he was inside it. The court held the employer liable in negligence for the employee's injuries. The court accepted that a site office does not collapse in the ordinary course of events. That raised the strong inference that there was negligence in either or both the design or the construction of the site office. The doctrine of *res ipsa loquitur* therefore operated to establish a *prima facie* case of negligence against the employer (at [33]). That shifted the burden to the employer to show that the collapse was not due to any negligence on its part. The court held that the employer had failed to discharge this burden and was therefore liable to the employee both at common law in negligence (at [34]) and under the Factories Act (Cap 104, 1985 Rev Ed) (at [48], [50]).

129 By analogy with *Awang bin Dollah*, the claimant submits that, in the ordinary course of events, a "grease patch" does not appear on a workplace floor if an employer provides a safe place of work to its employee.[150]

130 There is no analogy to be drawn with *Awang bin Dollah* for two reasons. First, the claimant confuses a but-for cause of injury with the proximate cause of injury. In *Awang bin Dollah*, the collapse of the site office was the proximate cause of the plaintiff's injury. In the present case, the presence of a "grease patch" was only one of many but-for causes of the claimant's injury. Its presence merely created a *risk* of injury and was not, in itself, the proximate cause of any injury to the claimant.

131 Second, in *Awang bin Dollah*, the court held that, in the ordinary course of events, a site office does not collapse without negligence. In that sense, the collapse of the site office was a thing that spoke for itself (see also *BNJ* at [138]) and pointed to negligence as the *prima facie* cause. On the other hand, a "grease patch" can be found on a galley floor for any number of reasons, only some of which point to negligence as any cause, let alone a *prima facie* cause. I therefore do not accept that the presence of a "grease patch" on a galley floor is a thing that is even capable of speaking for itself.

132 There is therefore no reason to hold the defendant in breach of its duty of care by analogy with the employer in *Awang bin Dollah*.

Chandler, Hao Wei and General Cleaning Contractors

133 The claimant cites *Chandler*, *Hao Wei* and *General Cleaning Contractors* to argue that the defendant knew that the galley floor could remain

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150 Claimant's Written Submissions at para 38.

slippery after removing spillage, and yet had no system in place to prevent injury resulting from slipping and falling on a slippery area remaining after such removal.

134 I analyse this trio of cases together.

135 In *Chandler*, the plaintiff contracted asbestosis in the course of his employment by a subsidiary of the defendant. The plaintiff brought a claim in negligence against the defendant. The plaintiff alleged that the defendant owed a duty of care directly to him, as an employee of the subsidiary, either to advise the subsidiary on the steps it had to take in order to provide a safe system of work for its employees or to ensure that the subsidiary took those steps and actually provided a safe system of work to its employees. The defendant accepted that the subsidiary had breached the duty of care that it owed to the plaintiff as its employee but denied that it owed the plaintiff any duty of care.

136 The court held that there was sufficient proximity between the plaintiff and the defendant to give rise to the duty of care on the defendant that the plaintiff claimed. The court held, further, that the defendant had breached that duty of care (at [78]).

137 Turning to *Hao Wei*, the plaintiff there was severely injured while operating the defendant's bar-bending machine because the machine had not been secured by a stopper. Tan Lee Meng J held the defendant liable in negligence for the plaintiff's injuries because it did not have a safe system of work and did not properly supervise its employees (at [17]–[18]). This was because an employer who deploys his employee to perform various tasks at different places should be especially cautious where the employee has not

previously undertaken the task at hand. The defendant knew about the specific risk that eventuated but failed to warn plaintiff about this risk.

138 Finally, in *General Cleaning Contractors*, a window cleaner stepped out onto a windowsill that was a mere 6¼ inches wide. He lost his balance and fell. He brought a claim in negligence against his employer. The House of Lords held the employer liable for the window cleaner's injuries. This was because the employer breached its obligation to make its system of work reasonably safe by failing to give general safety instructions to its employees (at 189–190, 193–194 and 198–199).

139 These three cases are readily distinguishable from the present case for two reasons. First, all three cases involved unusual risks,[151] in circumstances where the employer had far greater knowledge of the nature of the risks than the employee. In *Chandler*, the plaintiff was exposed to asbestosis, a hidden risk. In *Hao Wei*, the plaintiff was injured by a bar-bending machine, an unusual risk. And in *General Cleaning Contractors*, the plaintiff fell while working at height on a narrow windowsill, an inherently risky endeavour.

140 In contrast, the present case involves, on the current assumption, a grease patch or a slippery area on a floor. This undoubtedly poses a risk of injury to cabin crew and passengers alike. But it not remotely in the same class of risk as the risks in *Chandler*, *Hao Wei* and *General Cleaning Contractors*. It was not a hidden risk, at least to the claimant. After all, it was the claimant who discovered and addressed the grease patch in accordance with his training. And the claimant could continue to see the slippery area even after he removed the

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151 Transcript, 27 June 2024, at p 34 lines 17–25.

grease patch (see [48] above).[152] Nor is walking on the galley floor an inherently risky endeavour, whether by the nature of the activity or by the nature of the location. By the same token, the risk of slipping and falling on a grease patch or a slippery area is not a risk about which, and about the consequences of which, the defendant has far greater knowledge than the claimant. Indeed, slipping on a greasy or slippery surface is an ordinary risk that is ever present: in the home, on the street, when taking public transport and in any workplace. There is no analogy that can properly be drawn to this trio of cases.

141 Second, a common theme running through this trio of cases is that the employers failed to provide general safety instructions to the plaintiffs. But, as I have found, the defendant established the CCRP as part of the mandatory training of cabin crew and reinforced the safety training in the CCRP with periodic reminders from SSQH about workplace risks. These risks included the specific risk of slipping and falling on board an aircraft.

142 There is therefore no reason to hold the defendant in breach of its duty of care by analogy with the employers in this trio of cases.

Rott George Hugo

143 The final case that the claimant cites is *Rott George Hugo*.[153]

144 In *Rott George Hugo*, the plaintiff was walking in the car park of his condominium. He stepped onto what appeared to be a puddle of water. Underneath the water, however, was a patch of oil. The plaintiff slipped on the oil and fell. He sued the defendant seeking damages for his injuries. At first

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152 Transcript, 13 February 2024, at p 88 line 12 to p 89 line 3.

153 Claimant's Reply Submissions at para 18.

instance, the district judge found in favour of the plaintiff and held that the defendant had breached its duty of care to the plaintiff.

145 Lai Siu Chiu J upheld the district judge's finding on appeal to the High Court. She held that the maintenance system that the defendant had put in place was inadequate to deal with oil patches and water puddles in the car park (at [36]). This was because the defendant was aware that the presence of oil patches and water puddles in the car park was a regular occurrence but did not specifically engage the services necessary to remove oil patches and water puddles (at [29]).

146 *Rott George Hugo* is distinguishable from the present case. I have found that the defendant has *virtually* eliminated the risk of slips and falls by its training and follow up measures (see [115] above). It would be unreasonable to expect the defendant to go beyond that and *actually* eliminate this risk. The nature of operating an airline business makes it impractical for the defendant to eliminate this risk, for example by stationing a permanent specialised cleaning crew or specialised cleaning equipment on board every one of its aircraft. Even the claimant concedes that this is impractical.[154]

147 I have found that the defendant took highly effective measures – through the CCRP and SSQH's periodic reminders – to *mitigate* the risk of slips and falls caused by foreign substance present on the floor of its aircraft. Given the inevitable constraints of its business, I accept that it would be unreasonable to expect the defendant to go beyond this and take steps to *eliminate* that risk.

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154 Transcript, 27 June 2024, at p 28 lines 1–4.

148 There is therefore no reason to hold the defendant in breach of its duty of care by analogy with the defendant in *Rott George Hugo*.

Conclusion on breach of duty

149 I am therefore satisfied that the defendant exercised the same care for the personal safety of the claimant on 6 September 2019 as would be exercised by a reasonable and prudent employer applying its mind positively to the safety of its employees in the light of its superior knowledge of the risks of the employment.

150 The defendant wholly discharged its duty of care to the claimant. It provided for the claimant both a safe system of work and a safe place of work. Although the claimant's injuries are unfortunate, they have not arisen from any breach of the duty of care that the defendant owes to him.

151 Given my finding that the defendant did not breach its duty of care, it is not necessary for me to deal with the issues of causation, defences and quantum.

Conclusion

152 In summary, I dismiss the claimant's claim because:

(a) I find that the defendant has, despite not bearing the burden of proof in this action, proven on the balance of probabilities that there was no slippery area on the galley floor.

(b) Even if, contrary to my finding, there was a slippery area on the galley floor, the defendant did not breach its duty of care to the claimant.

153 I will now hear the parties on costs.

Vinodh Coomaraswamy
Judge of the High Court

Ramasamy K Chettiar and Mark Ho (Central Chambers Law Corporation) (instructed), Manickam Kasturibai (East Asia Law Corporation) for the claimant;
Kanapathi Pillai Nirumalan, Liew Teck Huat, Phang Cunkuang and Brenda Tay (Niru & Co LLC) for the defendant.