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DEPUTY REGISTRAR
EVANS NG
13 OCTOBER 2026

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGDC 338

District Court Originating Claim No 554 of 2023
Assessment of Damages No 276 of 2025

Between

Martin Teo Poh Seng (Martin Zhang Baocheng)

… *Claimant*

And

Subramanian Arumugam

… *Defendant*

JUDGMENT

[Damages] — [Assessment]

Version No 1: 13 Oct 2026 (09:21 hrs)

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Martin Teo Poh Seng
v
Subramanian Arumugam

[2026] SGDC 338

District Court Originating Claim No 554 of 2023
Assessment of Damages No 276 of 2025
Deputy Registrar Evans Ng
9 February, 16, 23, 27 April, 12, 24 June 2026

13 October 2026 Judgment reserved.

Deputy Registrar Evans Ng:

1 On 12 March 2022, a lorry driven by the Defendant collided with a car driven by the Claimant in an accident ("2022 Accident"). The Claimant was then working as a private-hire vehicle ("PHV") driver. The Claimant suffered cervical spine injuries and underwent cervical spine discoplasty in April 2022. Interlocutory judgment was entered against the Defendant for full liability. These proceedings concern the assessment of damages. The heads of damages claimed and the parties' respective positions on quantum are tabulated below. The parties have agreed on the claims for medical and transport expenses.

Head of loss	Amount submitted by the Claimant	Amount submitted by the Defendant
General damages		
Pain and suffering for cervical spine injury involving the C2/3, C3/4, C4/5 and C5/6 levels	$17,000	$9,000
Loss of earning capacity ("LEC")	$20,000	Up to $10,000
Future medical expenses — Surgery	$81,750	Up to $17,712.50
Future medical expenses — Physiotherapy and medications	$50,000	$572.25
Special damages		
Medical expenses	Agreed between the parties	
Transport expenses		
Pre-trial loss of income	$24,288.84	$11,456.21

Pain and suffering

2 The Claimant had sustained spinal injuries in a previous road traffic accident on 10 February 2014 ("2014 Accident"). The 2014 Accident caused the Claimant to sustain disc protrusions from the C3/4 to C6/7 levels, with the most pronounced protrusion at the C5/6 level. He underwent cervical spine discoplasty on 10 May 2016 for that condition.

3 The Defendant's expert witness, Dr Yegappan Muthukaruppan ("Dr Yegappan"), having reviewed the reports of the MRI scans conducted on 19

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June 2014[1] and 18 November 2015[2] in respect of the 2014 injuries, and the report of the MRI scan conducted on 15 March 2022[3] in respect of the current injuries, opined that "all the findings in the MRI done after the current accident dated 12/03/2022 are all pre-existing. He has exacerbated his pre-existing condition in the accident dated 12/03/2022".[4] In the Defendant's written submissions, his solicitors elaborated that the Claimant already had disc bulges or protrusions at the C3/4, C4/5, C5/6, C6/7 and C7/T1 levels before the 2022 Accident. Therefore, they submit that the 2022 Accident had only aggravated the Claimant's pre-existing condition. In this regard, I accept that the Claimant was indeed suffering from disc bulges or protrusions before the 2022 Accident, except at the C2/3 level.

4 I find, on the balance of probabilities, that the 2022 Accident materially aggravated the Claimant's pre-existing cervical spine condition. After the discoplasty procedure in May 2016, the Claimant had recovered sufficiently to resume his daily activities without seeking regular medical treatment, although he might have continued to experience some tolerable pain. The Claimant's expert witness, Dr Prem Pillay ("Dr Pillay"), also explained that, while the earlier MRI reports described the disc protrusion at the C5/6 level as abutting the spinal cord, the MRI report after the 2022 Accident described indentation of the anterior cord, indicating greater pressure on the spinal cord.[5] I take this evidence into account alongside the Claimant's clinical history and the further discoplasty procedure for the C5/6 level that he underwent shortly after the 2022

[1] DSBD 19.

[2] DBOD 41.

[3] CBOD 47.

[4] DBOD 37.

[5] Notes of Evidence ("NE"), 23 April 2026, 97/26-32.

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Accident. I am satisfied on the totality of the evidence that the 2022 Accident materially aggravated his condition.

5 I turn to the effect of the Claimant's pre-existing condition on the assessment of damages for pain and suffering. The starting point is that the Defendant must take the Claimant as he finds him. The question is whether a deduction should be applied to the assessed damages because of the Claimant's pre-existing condition. In my view, the answer is no. In *Smith v Leech Brain & Co Ltd* [1962] 2 QB 405, the plaintiff's husband was burned on the lip by a piece of molten metal. The burn was treated and healed, but due to a premalignant condition, the burn promoted a cancerous growth which ultimately led to his death. Lord Parker CJ held the defendants liable for the death. He explained (at 415):

> The test is not whether these [defendants] could reasonably have foreseen that a burn would cause cancer and that [the victim] would die. The question is whether these [defendants] could reasonably foresee the type of injury he suffered, namely, the burn. What, in the particular case, is the amount of damage which he suffers as a result of that burn, depends on the characteristics and constitution of the victim.

This is commonly referred to as the "thin-skull" rule: *Loh Siew Keng v Seng Huat Construction Pte Ltd* [1998] SGHC 197 at [164]. The learned authors of *The Law of Torts in Singapore* (Academy Publishing, 2nd Edition, 2017) summarise the effect of the rule (at para 07.106):

> The defendant has to take the victim as he finds him, with all the victim's pre-existing dispositions or conditions. This is known as the "egg-shell-skull rule" or the "thin-skull rule". As long as the type of damage is foreseeable under the general remoteness principle, the defendant would be liable for all damage arising even if such damage was exacerbated by the pre-existing disposition or condition of the plaintiff. These pre-existing conditions may be of a physical (including those of a bodily, mental or proprietary character) of financial nature. As stated in *Ngiam Kong Seng v Lim Chiew Hock*, [footnote omitted]

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> the egg-shell-skull rule serves as a rule on compensation, but not in respect of liability which would already be presumed to have been established under the first two stages of duty of care and breach.

6 It is important to highlight that the thin-skull rule is concerned with the *extent* of the *damage* for which the defendant is liable. When it comes to the assessment of *damages* as compensation for the damage caused by the defendant, an existing predisposition of the claimant to a particular injury may result in a reduction of the damages awarded, provided that there is evidence to show that the claimant would probably have developed the condition in any event. If the claimant has constitutional, degenerative changes in his spine (due to scoliosis, for example) and suffers a back injury as a result of the defendant's negligence, he is entitled to an assessment of damages for the back injury even if a "normal" back would not have suffered injury or would not have suffered as extensive an injury as his did. But the damages assessed will be reduced to reflect the chances that the scoliotic claimant would have developed disabling effects from his constitutional causes in any event. That is unlike the present case. Here, even though the Claimant did have pre-existing cervical disc protrusions and some residual pain, he had been able to manage his condition without regular medical treatment before the 2022 Accident. The 2022 Accident materially aggravated his condition such that he required another discoplasty in April 2022 and gave up being a PHV driver (see [9] below). There is no evidence that his condition post-2014 Accident would have in the natural course progressed to his current state, but for the 2022 Accident. Hence, I do not consider that a percentage deduction is warranted.

7 Having regard to the nature and severity of the aggravation, the medical procedure the Claimant underwent, the applicable range in the *Guidelines for the Assessment of General Damages in Personal Injury Cases* (Academy Publishing, 2010) at chapter 3(B)(b)(ii) in relation to moderate back injuries,

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and the passage of time since the publication of the guidelines, I consider an award of $17,000 to be fair and reasonable.

Loss of earning capacity

8 An award for LEC compensates a claimant for the risk of loss of employment and the consequent disadvantage (due to his disability) in competing in the labour market for another job or equally well-paying job: *Chai Kang Wei Samuel v Shaw Linda Gillian* [2010] 3 SLR 587 at [36]. Where the claimant no longer held the same job because of the accident, the question is not whether the claimant is at risk of losing his current, post-accident job, but whether he has been prevented from competing in the market for his pre-accident job: *Lua Bee Kiang v Yeo Chee Siong* [2019] 1 SLR 145 at [50]. Where the claimant has ceased his pre-accident job, it is therefore necessary to examine whether his injuries caused that cessation or otherwise placed him at a material disadvantage in competing for work in that job.

9 At the time of the 2022 Accident, the Claimant was working as a PHV driver. He gave evidence that he ceased PHV driving on 1 February 2025. Due to the pain that he suffered from the 2022 Accident, he had to limit his driving hours and take more time off to rest. His reduced earnings were not nearly enough to pay for the vehicle rental and other overheads. Recognising that it was no longer viable for him to drive, he returned the vehicle after the rental agreement expired on 31 January 2025.[6] He currently operates a sole proprietorship (registered in January 2021) which is in the business of wholesale trade of goods and interior design, and a company (incorporated in June 2025) which is in the shipbroking business. The Claimant has not adduced sufficient

[6] Claimant's AEIC, paras 8-10.

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evidence to establish the income he derives from these businesses. He has also not established that his cervical spine condition materially disadvantages him in operating his present businesses.

10 The Claimant's claim for loss of earning capacity must therefore be considered by reference to PHV driving, his pre-accident job. I accept his evidence that the injuries caused by the 2022 Accident restricted the hours for which he could drive and led to him to give up PHV driving. I am satisfied that the residual effects of his cervical injury would place him at a disadvantage in competing for PHV driving work should he seek to return to that job. That disadvantage is compensable as a loss of earning capacity. Taking into account the nature of his physical limitations, his ability to engage in other jobs, and the uncertainty as to whether and for how long he would otherwise have continued PHV driving, I assess his loss of earning capacity at $10,000 on a broad-brush basis.

Future medical expenses: Surgery

11 Where damages are for personal injuries, the Court may make an award of provisional damages: O 15, r 15(7) of the Rules of Court 2021. This is an exception to the once-and-for-all lump sum awarded in other contexts. It is specifically designed to deal with the uncertainties of a claimant's future in his injured condition. It entitles the claimant, where it is anticipated that his condition may in the future change substantially for the worse, to claim damages on the provisional basis that his condition will remain stable but with the right to return to the court for further damages should this prove not to be the case.

12 A claimant is not required to claim provisional damages rather than a final lump sum award; the choice generally belongs to the claimant. But a claimant's decision to seek a final lump sum may prove to be short-sighted, for

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he could be significantly under-compensated if his condition subsequently worsens, because it would be too late for him to seek the larger compensation after having sued to final judgment. And the making of a final rather than a provisional award may alternatively turn out to be unfair to the defendant, for the expected worsening of the claimant's condition may not materialise so that the damages which the defendant has paid would represent substantial over-compensation. An order of provisional damages addresses this risk of over- or under-compensation: *Tan Hun Boon v Rui Feng Travel Pte Ltd* [2018] 3 SLR 244 at [38]. Whether provisional damages should be awarded nevertheless depends on the applicable procedural requirements and the circumstances of the case.

13 In the present case, the Claimant did not plead a claim for provisional damages pursuant to O 15, r 15(8) of the Rules of Court 2021. However, where the pleading is absent or insufficient, the court may still invite the parties to make written submissions on whether it is appropriate for provisional damages to be awarded: *Lai Wai Keong Eugene v Loo Wei Yen* [2014] 3 SLR 702 at [39]; see also *Koh Chai Kwang v Teo Ai Ling* [2011] 3 SLR 610 at [69] (where the Court of Appeal substituted the lump sum awarded by the High Court for loss of future earnings by making a provisional damages order on the basis of loss of earning capacity) and *AOD (a minor suing by his litigation representative) v AOE* [2016] 1 SLR 217 at [298] and [302] (where the High Court allowed an insufficiently particularised claim for provisional damages to proceed because it was raised at the hearing and the defendant was not prejudiced).

14 The medical evidence establishes uncertainty as to whether and when the Claimant may require further cervical spine surgery, including cervical spine

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disc replacement[7] or anterior cervical fusion surgery.[8] In assessing a future contingency, the question is not simply whether the event has been proved on the balance of probabilities to be likely to occur, but whether there is an *appreciable risk* of its occurrence that warrants compensation: *Lua Bee Kiang v Yeo Chee Siong* [2019] 1 SLR 145 at [65]–[75]. Dr Pillay predicted in his report dated 25 April 2022[9] that the Claimant would have a high chance of requiring further treatment, including cervical disc replacement, within one to two years. He repeated a similar prediction in his report dated 5 May 2025,[10] estimating that further surgery might be needed within a year. Neither prediction had materialised by the date of this judgment.

15 The fact that the Claimant has not undergone surgery within either of the periods predicted by Dr Pillay diminishes the weight that I place on his estimates of the timing of further surgery. However, it does not establish that surgery will never be necessary. I do not draw any inference as to whether the Claimant's decision not to undergo surgery was attributable to financial constraints, as there is insufficient evidence on that issue. Dr Yegappan, in his report dated 21 August 2024,[11] considered that the possibility of anterior cervical fusion surgery was small. During re-examination, however, he estimated the likelihood of surgery becoming necessary at 25% to 30% within the following three to five years.[12] Although the experts differ as to the likelihood and timing of surgery, both acknowledge that there is an appreciable

[7] CBOD 48.

[8] DBOD 37.

[9] CBOD 48.

[10] CBOD 50.

[11] DBOD 37.

[12] NE, 27 April 2026, 50/6-12.

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chance that the Claimant may require it. The Defendant does not appear to dispute that, if surgery is required, it would arise from the aggravation caused by the 2022 Accident rather than the Claimant's pre-existing cervical spine condition which had stabilised by 2022.

16 The Claimant estimates the cost of future spinal surgery at $81,750. I find that the quantum estimated by the Claimant is reasonable since the Defendant does not dispute it in his solicitors' closing submissions.[13] Given that this is a substantial amount, there is an obvious risk of over- or under-compensation causing injustice if I were to make a final lump sum award as both parties have submitted. I shall therefore make an award of provisional damages.

17 I am satisfied that there is an appreciable risk that the Claimant may, within two years of this judgment, require cervical spine surgery as a consequence of the aggravation caused by the 2022 Accident. The need for such surgery is a contingency that can be determined objectively. I therefore award provisional damages under O 15 r 15(7) of the Rules of Court 2021, assessed on the assumption that the Claimant will not, within two years of this judgment, require cervical spine disc replacement or anterior cervical fusion surgery attributable to the 2022 Accident. If that contingency occurs within the specified two-year period, the Claimant may apply for further damages within two years and three months of the date of this judgment. The application shall be supported by a medical report describing the surgery undertaken and the relevant medical invoices. Any further damages awarded shall not exceed $81,750, inclusive of prevailing taxes.

[13] Defendant's Written Submissions, para 116.

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Future medical expenses: Physiotherapy and medications

18 I now turn to the claim for future physiotherapy fees. The Claimant attended only one physiotherapy session over a period of approximately three years, notwithstanding the recommendation of his treating doctor. This is relevant to the likelihood and frequency of his future attendance. Nevertheless, both medical experts agree that physiotherapy would be beneficial to his cervical spine condition. I consider it reasonable to make a modest allowance for future physiotherapy, taking into account both the medical recommendations and the Claimant's limited history of attendance. I adopt Dr Yegappan's recommended period and rates, and award $2,400 for 24 months of physiotherapy.

19 As for the claim for future medication expenses, the Claimant seeks an allowance over ten years. Dr Pillay did not provide a breakdown of the anticipated expenses in his report, although he identified during cross-examination the types of medication that might be prescribed.[14] The Claimant's documented expenditure on medication between 2022 and 2025 was intermittent rather than regular — 13 March 2022 ($67.12), 16 March 2022 ($212.93), 21 April 2022 ($347.11), and 21 January 2025 ($190.75); he was also prescribed medication after his discoplasty procedure on 20 April 2022 ($1,576.22).

20 The Claimant's documented treatment history does not support the substantial allowance for medication expenses that he seeks. Nevertheless, I accept that he may reasonably require medication intermittently to manage his residual cervical symptoms. The Defendant submits that an award of $572.25

[14] NE, 23 April 2026, 90/5-12.

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would be appropriate. Taking into account the Claimant's previous expenditure, the possibility of intermittent future treatment, and the uncertainty over the frequency and cost of medication, I consider a broad-brush allowance of $1,200 for future medication expenses over a ten-year period to be fair and reasonable.

Pre-trial loss of income

21 It is undisputed that the Claimant was on medical leave for a total of 212 days as a result of the 2022 Accident:

(a) 13 March to 15 March 2022 (3 days),

(b) 16 March to 13 April 2022 (29 days),

(c) 14 April to 12 July 2022 (90 days), and

(d) 2 February to 1 May 2024 (90 days).

22 I accept the Claimant's evidence that his gross income as a PHV driver from 13 December 2021 to 13 March 2022 was $26,064.29.[15] I also accept as valid the method that he used to derive his net income over the same period, which is to deduct 60% of the gross income to arrive at $10,425.72. The Claimant is content to divide this net amount over 91 days (*ie* inclusive of 12 and 13 March 2022) even though the 2022 Accident occurred in the afternoon of 12 March 2022 and would have prevented him from driving in the aftermath. Using 91 days as the denominator results in a lower daily rate which works to the Defendant's advantage. Accordingly, I find that the Claimant's average net daily income in the three months preceding the 2022 Accident was $114.57. Multiplying that figure by the 212 days of medical leave produces a *prima facie*

[15] Claimant's Written Submissions, para 58.

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loss of income of $24,288.84, before deducting any earnings received during those periods.

23 A deduction must be made for income earned by the Claimant during his medical leave from 2 February to 1 May 2024. I accept his evidence that, although he continued driving during that period, his cervical spine condition restricted the hours for which he could work. His gross income during the period was $15,460.15.[16] Applying the same deduction of 60% for operating expenses as I have adopted in the preceding paragraph, his net income was $6,184.06. Deducting this amount from $24,288.84 produces a net pre-trial loss of income of $18,104.78, which I award.

Conclusion

24 In summary, I award the following sums to the Claimant.

Head of loss	**Award**
General damages	
Pain and suffering	$17,000
LEC	$10,000
Future medical expenses — Cervical spinal surgery	Provisional damages capped at $81,750 (inclusive of prevailing taxes): see [17] above for other requirements
Future medical expenses — Physiotherapy and medications	$3,600

[16] CBOD 150, 161, 177, 206-207, 318.

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Special damages	
Medical expenses	$49,814.26, as agreed between the parties
Transport expenses	$436.80, as agreed between the parties
Pre-trial loss of income	$18,104.78

25 I will hear the parties on interest and costs.

Evans Ng
Deputy Registrar

Lalwani Anil Mangan and Ng Yuan Sheng (DL Law Corporation) for the claimant;
Fernandez Christopher and Low Huai Pin (TKQP Law LLP) for the defendant.

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