IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHCR 19

Suit No 777 of 2016 (Assessment of Damages No 13 of 2017)

Between

Ong Kim Teck

… Plaintiff

And

Quek Chin Hwa
t/a Quek Chin Hwa Construction

… Defendant

JUDGMENT

[Damages] – [Assessment] – [Quantum]

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Ong Kim Teck
v
Quek Chin Hwa (trading as Quek Chin Hwa Construction)

[2017] SGHCR 19

High Court — Suit No 777 of 2016 (Assessment of Damages No 13 of 2017)
Li Yuen Ting AR
18, 19 April 2017; 11 July 2017

22 November 2017 Judgment reserved.

Li Yuen Ting AR:

Introduction

1 On 30 May 2015, the Plaintiff was involved in works at the Defendant's workplace at a 3rd storey unit. The Plaintiff was employed by the Defendant as a painter. The Defendant received a complaint that there was some debris on the roof of the 1st storey unit. The Plaintiff went down to the roof of the 1st storey unit to clear the debris, and fell down from the roof at the height of 3.5 meters to the ground.

2 On that day, the Plaintiff sustained fractures on his right ankle as well as a fractured lower back. The injuries to the Plaintiff's right ankle were such that he had to undergo a surgical operation. After the surgery, the ankle fracture was complicated by infection of the bone, i.e. osteomyelitis.

3 The Plaintiff brought an action for damages against the Defendant. Interlocutory judgement by consent was subsequently entered on 7 December 2016 for 90% of the overall damages to be assessed to be paid by the Defendant.

Undisputed items of damage

4 There was agreement between the parties in their written closing submissions for the award of medical expenses at **$9,934.23**.

Disputed items of damage

5 The following are the heads of claim in dispute:

(a) General Damages:

(i) Pain and suffering;

(ii) Future medical treatments and expenses;

(iii) Future transport expenses;

(iv) Loss of future earnings; and

(v) Loss of earning capacity.

(b) Special Damages:

(i) Pre-trial loss of earnings; and

(ii) Transport expenses.

6 I will now go through each of the heads of damages in turn.

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Pain and suffering

7 The Plaintiff claimed: (a) $35,000 for the injuries to his right ankle; (b) $35,000 for the injuries to his lower back; (c) $5,000 for the risk of post-traumatic osteoarthritis of his right ankle; (d) $10,000 for the multiple scars on his right ankle; and (e) $2,000 for muscle wastage in his right thigh and calf muscle.

8 The Defendant submitted an award should be made as follows: (a) $25,000 for the injuries to the right ankle; (b) $20,000 for the injuries to the lower back; (c) $3,000 for the risk of post-traumatic osteoarthritis of the right ankle; and (d) $3,000 for the multiple scars on the right ankle. The Defendant's position is that no separate award should be made for muscle wastage.

Right ankle fracture complicated by infection

9 The Plaintiff sustained comminuted intra-articular fractures (Sanders Type IV) of the right calcaneal complicated by osteomyelitis.

10 On 5 June 2015, the Plaintiff underwent open reduction and internal fixation for his right calcaneal fracture. He was discharged four days later on 9 June 2015 with prescription, appointments for physiotherapy and further reviews.

11 The Plaintiff's case is that following the surgery, the foot's healing process was painful and complicated. The pain on the Plaintiff's right foot was unbearable and he had fever, which made him visit the Singapore General Hospital ("SGH") on 21 October 2015. The Plaintiff was admitted on the same day after being told that he had developed osteomyelitis.

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12 On 22 October 2015, the Plaintiff underwent a second surgery to remove his right calcaneum implant and debridement as well as excision of sinus tracts. Despite taking out the implants, the Plaintiff developed an abscess collection during his stay in the hospital on the lateral malleolus. He underwent further abscess wound debridement and drainage on 14 November 2015. The Plaintiff was discharged on 26 November 2015.

13 Whilst the fractured heel has completely healed, there are some resulting disabilities including restricted range of right ankle/foot motion in all directions of movement. The Plaintiff suffers from pain on walking on uneven ground. This was uncontroversial. The Plaintiff's medical expert report from Dr Lee Soon Tai ("Dr Lee") stating that the Plaintiff could be awarded 12% of permanent incapacity (as based on the *Guide to the Assessment of Traumatic Injuries & Occupation Diseases for Work Injury Compensation* (5th Rev Ed, 2011), Ministry of Manpower, Singapore)("*Assessment of Traumatic Injuries*"), was unchallenged.

14 The dispute was over the chance of recurrent infection. According to Dr Lee, as the Plaintiff had already developed osteomyelitis, it was very likely that the Plaintiff may have recurrence of the infection which may require operation.

15 Similarly, Dr Siow Wei Ming ("Dr Siow") of SGH stated during cross-examination that even though the Plaintiff was discharged from follow ups in the clinic, it would simply mean that there was no active infection in the bone at the time of the discharge. He noted that there was always a risk of reactivation in the future because bone was a large spongy cavernous space and there was a chance for microscopic bacteria to remain in the bone.

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16 The Defendant contended that there is no conclusive evidence to suggest such recurrence and that the chance of recurrent infection is extremely unlikely since the implants had been removed. The Defendant relied primarily on the expert evidence of Dr Chang Wei Chun ("Dr Chang") and Dr Chang's medical report dated 30 September 2016. On that basis, the Defendant submitted that a reasonable award for the injuries to the right ankle would be $25,000.

17 The Plaintiff submitted that an appropriate award for the injuries in the right ankle/foot should be $35,000 to take into account both the comminuted intra-articular fractures and the osteomyelitis.

18 In this regard, the Plaintiff highlighted that the *Guidelines for the Assessment of General Damages in Personal Injury Cases* (Academy Publishing, 2010) (the "*Guidelines*") at p 51, provides a range of $25,000 to $33,500 in light of the complicated fracture of the ankle that requires a long and extensive period of treatment (including physiotherapy) and recovery, significant residual disability involving reduced ankle mobility and instability on a permanent basis, and the complications of infection during the recovery period.

19 I agree with the Plaintiff's submission that the injuries in this case were more serious than those in *Lim Jun Kai (Lin June Kai) v Orientus Country Clubs & Resorts Pte Ltd* (DC Suit No. 1010 of 2011), *Haji Omar bin Mohamed Kassim v Lee Beng Heng* (HC Suit No. 206 of 2008 and *Salinah Binte Yusop v The Legal Representative of Muhammad Farhal Dominic Rappa @ Dominic Wilfred Rappa (deceased)* (HC Suit No. 551 of 2008). Unlike the aforementioned three cases, the Plaintiff also suffered from the additional complication of osteomyelitis during the recovery period. The Plaintiff is also likely to suffer from a recurrence of infection.

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20 Based on the authorities and range of awards canvassed before me and in line with the appropriate range identified under the *Guidelines*, I award **$32,000** to the Plaintiff for pain and suffering in relation to the right ankle injury.

Back injuries

21 It is not disputed that the Plaintiff sustained a compression fracture of the L1 and L2 vertebral bodies. Dr Lee's report stating that based on the *Assessment of Traumatic Injuries* the Plaintiff could be awarded 5% of permanent disability for "the compression fracture of the L1 vertebral body of <25% with residual pain, no neurological deficits" was unchallenged. The L1 and L2 vertebral fracture was treated without an operation with a thoracolumbar spinal orthosis brace in SGH.

22 To date, the Plaintiff suffers from back pain. The Plaintiff has residual stiffness and lower back pain with inability to carry heavy loads. The pain has improved over time but is aggravated by the weather. As of 25 May 2017, the Plaintiff still complained of persistent pain to his treating doctors at SGH. The Plaintiff is on painkillers for his back pain.

23 In relation to the back injuries, the dispute was over (a) the extent of the injury and (b) whether the resurgence of back pain complained of by the Plaintiff was due to the injury or a pre-existing degenerative condition.

24 The Defendant contended that there is no conclusive evidence that the pain suffered by the Plaintiff was attributable to the accident. The Defendant submitted that an appropriate award should be $20,000.

25 It is not disputed that the Plaintiff has a pre-existing degenerative disc disease involving the L5/S1.

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26 When Dr Chang examined the Plaintiff on 14 September 2016, in respect of the lumbar spine, Dr Chang noted that there was no deformity, no localised pain, no tenderness of the spine, no paravertebral muscle spasm, no nerve root tension signs in the lower limbs and no neurological deficit in his limbs referable to the spine. The only positive symptom was some restriction of lumbar spine movement.

27 These observations were similar to those found by Dr Lee when he saw the Plaintiff on 10 June 2016. Dr Lee noted paravertebral muscles tenderness and restricted range of lumbar spine motion.

28 As of the hearing on 11 July 2017, the Plaintiff's doctors at SGH were still conducting further investigations as to whether the alleged pain symptoms were attributable to the L1/L2 fractures or a pre-existing degenerative condition which existed prior to the accident. Therefore, there is no conclusive evidence that the pain suffered by the Plaintiff was attributable to injuries resulting from the accident.

29 The Plaintiff submitted that an appropriate award for the injuries in the back should be $35,000. In this regard, the Plaintiff highlighted that the *Guidelines* at p 23 provide a range of $25,000 to $30,000 for "permanent and continuing severe back pain and discomfort such that the person is unable to sit or stand for prolonged periods…restricted movement of the lumbar spine, decreased sexual function, reduced flexibility and significant neurological deficits".

30 Both Dr Lee and Dr Chang opined that there was no neurological injury. I therefore find it inappropriate to classify the back injury as "severe". The correct approach is to refer to the *Guidelines* for "moderate" injuries. The

appropriate award for the compression fracture of the lumbar spine should range from $15,000 - $25,000 for fracture of one vertebra. A discount is to be applied for overlap of two or more such fractures.

31 In considering the appropriate quantum of award, I agreed with the Defendant's submission that the injuries in this case are similar to the case of *Pandian Marimuthu v Guan Leong Construction Pte Ltd* [2002] SGDC 189 ("*Pandian Marimuthu*"), where the claimant was awarded $20,000 in relation to his back injury. In *Pandian Marimuthu*, the court found that the plaintiff suffered wedge compression fracture of the L2 and L3 vertebra: see [101]. The resulting disabilities (relating to the back injury) included pain in the back throughout the day, inability to run, jump or carry heavy objections. The court made a finding that the plaintiff could not continue doing manual or farming work but could only do desk bound work of a light nature. As *Pandian Marimuthu* is of considerable vintage, allowance has to be made to take into account inflation and the present day cost of living.

32 Based on the authorities and range of awards canvassed before me and in line with the appropriate range identified under the *Guidelines*, I award **$25,000** to the Plaintiff for pain and suffering in relation to the fractures of the L1/L2 vertebral body.

Risk of post-traumatic osteoarthritis of the right foot

33 It was clear from the evidence of the three medical experts that osteoarthritis had not set in. The Plaintiff submitted that an award of $5,000 should be made for this item. The Defendant submitted that given that it is not definite that osteoarthritis will set in, a $3,000 award should be made. I agree

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with the Defendant and therefore award **$3,000** for the risk of post-traumatic osteoarthritis to the right ankle.

Multiple scars

34 The Plaintiff underwent surgery for the fractures in his right ankle. The following incision scars were noted on the Plaintiff:

(a) a 10cm L-shaped scar over the lateral aspect of the right calcaneus; and

(b) a 2.5cm incision scar below the lateral malleolus.

35 The Plaintiff submitted that an award of $10,000 should be made for this item. In this regard, the Plaintiff highlighted that the *Guidelines* at p 57 provided a range of $5,000 to $15,000 for multiple scars. The Defendant submitted that an award of $3,000 should be made.

36 Both the Plaintiff and Defendant relied on the case of *Tian Shaokai v Tiong Hwa Steel Structures Pte Ltd* (HC Suit No. 689 of 2011)("*Tian Shaokai*"). In the case of *Tian Shaokai,* the plaintiff sustained left ankle injuries and had (a) an 18.5 cm scar over the medial aspect of the right ankle; (b) an 8 cm scar over the medial aspect of the left ankle, and (c) two separate 1 cm scars over the dorsum of the left ankle. An award of $3,000 was given for the four scars.

37 The nature of the injury in the case of *Tian Shaokai* is similar to the nature of the injury in the present case. I therefore award **$3,000** for the multiple scars.

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Muscle Wastage

38 The Plaintiff claimed $2,000 for muscle wastage. It is not in dispute that there was some muscle wastage. The following instances of muscle wastage were noted in Dr Lee's medical report:

(a) 2cm wasting of the right thigh and 2cm wasting of the calf muscles; and

(b) "the girth of the right and left ankles as measured using a figure of '8' was 46cm and 45 cm respectively".

39 The Defendant submitted that the muscle wastage was a resulting symptom from the right heel injury which did not warrant a separate award.

40 Having read the submissions from both parties, I find that the muscle wastage necessitates a separate award of damages and I award **$2,000** for the muscle wastage.

41 In summary, I award the sum of **$65,000** for pain and suffering.

Future medical treatments and expenses

Subtalar Joint Fusion Surgery

42 The subtalar joint is a joint just below the ankle. Subtalar joint fusion surgery is a form of treatment for post-traumatic arthritis at the subtalar joint. The parties did not dispute that the cost of a subtalar joint fusion surgery was approximately $6,110.

43 The three medical doctors who gave evidence at the hearing differed on whether the Plaintiff was a good candidate for subtalar joint fusion surgery. Dr

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Siow said that based on the case notes, the Plaintiff was not a good candidate for fusion surgery. Dr Lee stated that the Plaintiff will require the fusion surgery to ease the pain in his ankle. During cross-examination, Dr Chang indicated that if the pain worsened, the Plaintiff should be offered subtalar joint fusion surgery.

44 Overall, I find on a balance of probabilities that the Plaintiff will eventually require a subtalar joint fusion surgery. First, it is not in dispute that the Plaintiff is predisposed to arthritis. Second, as this is an ankle joint, arthritis is likely to arise over time from the Plaintiff using the joint while walking. Third, even though the treating doctors had stated that the Plaintiff was not a good candidate for fusion surgery, both the Plaintiff's and the Defendant's medical experts indicated that they would still recommend the surgery if the pain in the ankle worsened. I therefore award **$6,110** for the cost of a subtalar joint fusion surgery.

Physiotherapy

45 The Plaintiff only attended four physiotherapy sessions at SGH during the period immediately after the initial surgery. He attended physiotherapy sessions on 22 June 2015, 22 July 2015, 26 August 2015 and 21 September 2015. Thereafter, he attended one physiotherapy session on 17 January 2017.

46 The Defendant pointed out that the Plaintiff has taken no steps to continue with his physiotherapy. The Defendant submitted that this shows that the Plaintiff's claim for separate courses of physiotherapy for the back and right ankle injuries is unreasonable.

47 When the Plaintiff was cross-examined on his attendance of physiotherapy sessions, the Plaintiff conceded that he did not attend any after 17 January 2017. The following extract is instructive:

> DC: I need to find out some information about the treatment you received in SGH. After your accident in May 2015, I have on record your attendance for physiotherapy, four times. Once a month in June, July, August and September 2015.
>
> P: Yes.
>
> DC: Can you remember what your physiotherapist did during each of these sessions?
>
> P: Exercise my legs.
>
> DC: It appears from the documents that your last visit was 21st September 2015. On paper. I mean, that's what the medical bills say.
>
> P: Yes.
>
> DC: I want to check whether after that date, do you remember going back for any more physiotherapy sessions?
>
> P: No. **I told the physiotherapist that I would do the exercise myself** because it would be inconvenient for me to travel to the hospital for physiotherapy.

48 From the above, it is evident that the Plaintiff stopped attending the physiotherapy sessions because it was inconvenient for him to travel to the hospital. He is also able to do the physiotherapy exercises himself.

49 I find that the Plaintiff's evidence betrays a lack of intention on the part of the Plaintiff to attend physiotherapy sessions. I therefore make no award for this item of claim.

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Medical Consultation

50 The Plaintiff claimed $6,300 for future medical consultations. The Defendant submitted that the award for this items should be $2,000.

51 Using a multiplier of 5 years, the Plaintiff submitted that he is expected to incur costs of medical consultation over the period of 5 years as follows:

(a) $70 per visit, at one visit a month for medical consultation with an ankle specialist.

(b) $70 per visit, at 6 visits per year with a back specialist.

52 However, I note that there is no evidential support showing that the Plaintiff had gone for medical consultations or had been scheduled for medical consultations with such frequency since the accident. It may therefore be inferred that the Plaintiff does not require monthly medical consultations with specialists.

53 In his closing submission, the Defendant submitted that there was no need for any specific treatment for the back and right injuries save for the occasional simple analgesia and exercises for up to 5 years at $800.00 per year. This provision would allow the Plaintiff to see a general practitioner about 2 to 3 times a year to get the medication and there was no need for a specialist follow-up for pain.

54 However, I note that the Defendant's expert witness, Dr Chang, had stated that the Plaintiff will require follow ups with specialist 2 to 3 times a year for 5 years. Dr Chang also confirmed that the Plaintiff will need to visit a specialist for the back and a specialist for the ankle separately.

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55 An award for future expenses must be based on a forward-looking estimate of the Plaintiff's reasonable future needs. Based on the evidence from the expert witnesses, I accept the Plaintiff's contention that he is likely to require specialist medical consultations. Overall, I find on a balance of probabilities that the Plaintiff will require medical consultation with an orthopaedic specialist (3 visits per year for the back and 3 visits per year for the ankle) for 5 years at $70 per visit. I therefore award the sum of **$2,100** for cost of future medical consultations.

Analgesia

56 Both Dr Lee and Dr Chang agreed that provision for analgesia should be made for 5 years. Dr Lee submitted in his report that the cost of analgesia varied from $30 - $60 per month, depending on dosage. Dr Chang stated during cross-examination that the Plaintiff requires provision for analgesia at $800 per year for 5 years. Dr Chang's figures are inclusive of the cost of medical consultation to visit a General Practitioner 2 to 3 times a year to get the medication.

57 The Plaintiff changed his position on this item between his opening statement and his closing submissions. In his opening statement, the Plaintiff was prepared to accept $3,600 for this item. In his closing submissions, the Plaintiff increased this amount to $3,750. No reason was given by the Plaintiff for the change in position. The increased amount is also not supported by the evidence of Dr Lee and Dr Chang.

58 As I have addressed the cost of specialist medical consultations above, I award the sum of **$3,600** for cost of analgesia for 5 years. This amount falls within the range of estimates provided by Dr Lee and Dr Chang.

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Joint supplementation

59 The Plaintiff claimed $4,200 for joint supplementation. This is based on the suggestion of Dr Lee that joint supplementation will delay the onset of full-blown osteoarthritis in the right ankle and subtalar joints. The joint supplements by Dr Lee will cost $70 per month.

60 The Defendant's position is that no award should be made for joint supplementation because this was never provided for by the Plaintiff's treating doctors and there is no evidence to suggest that the Plaintiff was taking any joint supplements.

61 The evidence to support this item of claim is inadequate. I make no award for this claim.

Table 4B procedure – debridement with curettage and irrigation

62 The Plaintiff claimed $5,720 for the provision for debridement with curettage and irrigation (also known as a "Table 4B procedure") to be performed in a government restructured hospital. This is based on the suggestion of Dr Lee who said that further debridement with curettage is needed in the event of recurrent chronic osteomyelitis.

63 The Defendant's position is that there is no evidence to support this claim as the bone infection has been eradicated.

64 As discussed at paragraph 19 above, I find that the Plaintiff is also likely to suffer from a recurrence of infection. I will therefore allow this claim of **$5,720** for the cost of a Table 4B procedure.

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65 In summary, I award the sum of **<u>$17,530</u>** for future costs of medical treatments and expenses.

Future transport expenses

66 The Plaintiff claimed $4,860 for future transport expenses. The Defendants submitted that the award for this items should be $300.

67 Using a multiplier of 5 years for future medical expenses, the Plaintiff submitted that he is expected to make 162 trips to the hospital over the period of 5 years as follows:

(a) 48 visits for physiotherapy for the ankle;

(b) 24 visits for physiotherapy for the back;

(c) 60 visits for medication consultation for the ankle;

(d) 30 visits for medical consultation for the back.

The Plaintiff then estimated that each round trip to the hospital would cost $30, resulting in $4,860 for 162 trips.

68 The Defendant submitted that a round trip to a general practitioner or the hospital costs $20 and concluded that the Plaintiff should be allowed 3 trips a year for 5 years, making a total of $300.

69 I find the Plaintiff's estimate of $30 per round trip to the hospital to be reasonable. The Defendant has not provided any evidence to persuade me that the amount claimed by the Plaintiff is unreasonable.

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70 Based on my findings that (a) the Plaintiff will require medical consultation with an orthopaedic specialist (3 visits per year for the back and 3 visits per year for the ankle) for 5 years at paragraph 55 above; and (b) the Plaintiff will not require physiotherapy, the estimated total number of trips to the hospital over 5 years is 30 trips in total. I therefore made a global award of **$900** for future transport expenses.

Loss of earnings

71 It is not disputed that at the time of the accident, the Plaintiff was working as a painter earning a salary of $2,500 a month. Following the accident, the Plaintiff has not been able to return to his previous employment as a painter. He has also not been able to secure any gainful employment since the accident.

Pre-trial loss of earnings

72 The Plaintiff claimed pre-trial loss from May 2015 to August 2017 at $2,500 per month for a total of $67,500. Following the accident, the Plaintiff had received medical leave wages amounting to $20,920 up till the period ending May 2016. The Plaintiff therefore claimed pre-trial loss of earnings for the remaining sum of $46,580.

73 The Defendant did not dispute that the Plaintiff's average monthly earnings before the accident was $2,500 and that the Plaintiff should be compensated. However, the Defendant submitted that the Plaintiff was obligated to mitigate his losses after the expiry of his medical leave in May 2016.

74 I agree with the Defendant's counsel that the Plaintiff had not done enough to mitigate his loss. All the medical experts agree that the Plaintiff can

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do sedentary to light work. The Plaintiff stated during cross examination that he did not make any attempts to look for employment. The Plaintiff also stated in his affidavit that he may be able to work as a newspaper vendor. In my view, the evidence shows that the Plaintiff is able to find alternative employment.

75 As to the multiplicand, the Plaintiff estimated the earnings of a sedentary or light job to be $500 per month. However this was not supported by any documentary evidence.

76 In considering the Plaintiff's reasonable earning level, I take reference from the Ministry of Manpower's 2016 Table of Occupational Wages referred to by the Defendant. Of the types of occupation referred to in the table, I am of the view that possible alternative employment would be in the nature of an office/library attendant, odd job person and/or residential area cleaner. The monthly median basic wage for the above three types of work is $1,176.33, whilst the monthly median gross wage for the above three types of work is $1,222.33. I shall adopt the median gross wage in the calculation of the appropriate multiplicand instead of the median basic wage as it is a clearer refection of the actual earnings that an employee would receive.

77 Based on these figures, an appropriate multiplicand would be $1,277.67 (i.e. $2,500 - $1,222.33) per month.

78 I will award $30,000 (i.e. $2,500 X 12 months) for pre-trial loss of earnings from May 2015 to May 2016. For the period from June 2016 to August 2017, I will award a sum of $19,165.05 (i.e $1,277.67 X 15 months) for pre-trial loss of earnings. After taking into consideration the $20,920 that the Plaintiff has received from the Defendant, the amount awarded to the Plaintiff

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for pre-trial loss of earnings for the period May 2015 to August 2017 is **$28,245.05.**

Loss of future earnings / loss of earning capacity

79 Damages for loss of future earnings ("LFE") are intended to compensate a plaintiff for the difference between his post-accident and pre-accident income or rate of income. For the Plaintiff to succeed in his claim for LFE here, he must prove a real and assessable loss on the evidence. On the other hand, an award of damages for loss of earning capacity ("LEC") seeks to compensate the plaintiff's risk of loss of present employment and the consequent disadvantage in competing in the employment market for another job.

80 The Plaintiff claimed $240,000 for LFE and $100,000 for LEC.

81 The Defendant submitted that the amount to be awarded for LFE should be $43,142.40.

(1) Multiplier for LFE

82 The Plaintiff submitted that the multiplier for LFE should be 10 years while the Defendant submitted that it should be 6 years.

83 In the absence of any factors which existed prior to the accident indicating that the plaintiff would have a shorter than normal working life, the "remaining working life" is obtained by deducting the plaintiff's age at trial from the statutory minimum retirement age of 67. As the Plaintiff was 52 years old at the date of the hearing, I find that his remaining working life is 15 years.

84 In *Wee Sia Tian v Long Thik Boon* [1996] 2 SLR (R) 420, the High Court assessed the 48-year-old plaintiff's loss of future earnings using a multiplier of

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8 years. In *Ong Tean Hoe v Hong Kong Industrial Co Pte Ltd* [2001] SGHC 303, the plaintiff was 51 years old at the time of the accident and 52 years old at the time of the assessment hearing. The court applied a 4 year multiplier for the calculation of loss of future earnings. I note that both these authorities were decided before the change in Singapore's retirement laws. Considering the above cases, I am of the view that it would be appropriate to adopt a multiplier of **8 years** in the present case.

85 Using the figure of $1,277.67 at [77] above as the multiplicand, we obtain an award for LFE at $1,277.67 x 8 x 12 = **$122,656.32.**

86 I make no award for LEC. The Plaintiff contended that his disabilities would affect his ability to perform light work in the future. However, there was no evidence tendered in support of that submission. The onus is on the Plaintiff to show that there is a real and substantive risk that he would lose his job performing light work before the estimated end of his employable life as a result of his disabilities. I find that there is an inadequate basis to award LEC.

Pre-trial transport expenses

87 The Plaintiff claimed $950 for pre-trial transport expenses. No receipts were provided The Plaintiff submitted that he had not retained all his taxi receipts, save for some which he had exhibited in his AEIC. The Plaintiff submitted that the medical bills evidenced his visits to the clinic and hospital and that based on the tabulation of medical bills in his AEIC, he had made 10 visits to the Hougang polyclinic and 22 visits to SGH. In addition to that, on the 2nd tranche of the hearing, the Plaintiff had submitted 3 receipts from SGH evidencing 3 more visits to the SGH.

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88 I am prepared to accept that the Plaintiff made approximately 25 trips for various treatments. While I accept that these trips took place, there is no evidence concerning the modes of transport used and the expenses incurred for each trip. Taking a conservative approach, I would allow $20 per trip for pre-trial transport expenses to arrive at an award of **$500**.

Conclusion

89 To summarise, the damages to be awarded is as follows:

(a) General damages

(i)	Pain and suffering	$65,000.00
(ii)	Future medical expenses	$17,530.00
(iii)	Future transport expenses	$900.00
(iv)	Loss of future earnings	$122,656.32

(b) Special damages

(i)	Pre-trial loss of earnings	$28,245.05
(ii)	Medical expenses	$9,434.23
(iii)	Transport expenses	$500.00
	Total:	**$244,265.60**

90 The final award sum of $244,265.60 is still subject to the 90%/10% apportionment of damages countenanced by the interlocutory judgment by consent entered on 7 December 2016. Accordingly, the total payable by the Defendant to the Plaintiff is the sum of $219,839.04.

91 The Plaintiff claimed interest but did not elaborate on this claim in the submissions.

92 As laid down in *Teo Sing Keng v Sim Ban Kiat* [1994] 1SLR(R) 340 at [50]-[55], the Plaintiff is entitled to:

(a) interest at 5.33% per annum for general damages for pain and suffering from the date of the writ of summons to the date of judgment;

(b) interest at 2.67% per annum for special damages from the date of the accident to the date of judgment; and

(c) no interest for future expenses and LFE/LEC.

93 As such, I award 5.33% on general damages for pain and suffering from the date of service of the writ to the date of judgment, and 2.67% on special damages from the date of the accident to the date of judgment.

94 Parties are to file and exchange written submissions on costs within two weeks from the date of this judgment, unless costs are agreed prior to that.

Li Yuen Ting
Assistant Registrar

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Mr Namasivayam Srinivasan (M/s Hoh Law Corporation) for the Plaintiff;
Ms Chey Cheng Chwen Anthony (RHTLaw Taylor Wessing LLP) for the Defendant.

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