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DEPUTY REGISTRAR LEE JIA EN GLORIA

30 March 2026

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGDC 106

District Court Suit No 1444 of 2021
Assessment of Damages No 428 of 2024

Between

Tan Ai Ngoh

... Plaintiff

And

Shaik Farid Bin Oli Abdul Latiff

... Defendant

JUDGMENT

[Damages] — [Measure of damages] — [Personal injury cases]

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Tan Ai Ngoh
v
Shaik Farid bin Oli Abdul Latiff

[2026] SGDC 106

District Court Suit No 1444 of 2021
Assessment of Damages No 428 of 2024
Deputy Registrar Lee Jia En Gloria
02 April 2025, 25 June 2025, 28 August 2025, 01 September 2025, 12 January 2026, 19 January 2026 and 02 March 2026.

Judgment reserved.

30 March 2026

Deputy Registrar Lee Jia En Gloria:

1 The present case arises out of a road traffic accident on 03 August 2018. The Defendant, who was driving a car, collided into the Plaintiff (a pedestrian). In 2022, parties entered into a consent interlocutory judgment (“IJ”) in favour of the Plaintiff with 80% of the damages to be assessed.

The assessment hearing

2 I heard the present assessment of damages proceedings and the chief disputes concerns whether the residual pain in the Plaintiff’s knee is permanent and the Plaintiff’s employability in view of her advanced age. The Plaintiff is an elderly lady who was 66 years old at the time of the accident and was 73 years old at the time of the AD hearing.

3 After considering the evidence and submissions before me, for damages alone, my orders in this assessment of damages proceedings amount to \$56,350 (on a 100% basis).

4 The Plaintiff gave evidence and called the following expert witnesses to give evidence on her behalf: (a) Dr. Chang Haw Chong from HC Chang Orthopaedic Surgery Pte Ltd and (b) Dr. Hwang Ying Khai from the National Neuroscience Institute. The Defendant only called one expert witness, namely, Dr. Lim Yi-Jia from Ortholimb Bone and Joint Surgery Pte Ltd. Their testimonies will be considered in greater detail below.

5 The Defendant dispensed with the attendances of Dr. Anand Pillai from Tan Tock Seng Hospital (“TTSH”), Dr. Foo Xinhui Nadine or Dr. Cheong Seng Kwing from Ren Ci Community Hospital (“RCCH”), the representative from Singhealth Polyclinics – Tampines and Ms. Vicki Pang Pik Kwan or Ms Sharon Seah or a representative from OzWorks Therapy Pte Ltd.

Pain and Suffering

6 I begin by considering the Plaintiff’s claim for pain and suffering.

Left knee injuries

7 The Plaintiff sustained left knee tibial plateau fracture and underwent surgical fixation of the left tibial plateau fracture at Tan Tock Seng Hospital (“TTSH”) on 13 August 2018. After the Plaintiff’s discharge from TTSH on 23 August 2018, she underwent rehabilitative therapy at Ren Ci Community Hospital (“RCCH”).¹ At RCCH, the Plaintiff made good progress and it was

¹ PA at p26.

documented that the Plaintiff will be able to return to her “premorbid condition in ambulation and activities of daily living”.²

8 Anatomically, the Plaintiff recovered well and it was observed that the “fracture had since fully united in an anatomical position.”³ However, some pain remained. As observed by Dr. Pillai during his examinations on 20 November 2018 and 06 January 2021, the Plaintiff had “mild left knee pain which was worse on exertions”.⁴ A 4% disability was recommended by Dr. Pillai (based on the Guide to the Assessment of Traumatic Injuries and Workmen’s Compensation, 5th edition) for the Plaintiff’s left tibial plateau fracture with depression.⁵

Whether the residual pain would be permanent

9 Both Dr. Chang and Dr. Lim had differing views as to the cause of the Plaintiff’s residual pain and accordingly whether it would be permanent.

(a) Dr. Chang, who gave evidence on behalf of the Plaintiff, was of the opinion that the residual pain was permanent. In Dr. Chang’s clarification report,⁶ he attributed the pain to (i) articular cartilage injury in the lateral compartment of the left knee and (ii) the presence of the implant. He explained that even with the removal of the implant, the pain would still persist.

² PA at p20.

³ Dr. Chang’s medical report dated 25 October 2022 – PA at p36.

⁴ Dr. Pillai’s medical report dated 29 January 2019 – PA at p26. See also Dr. Pillai’s medical report dated 05 March 2021 – PA at p28.

⁵ PA at p26.

⁶ Dr. Chang’s clarification medical report dated 09 September 2024 - PB at p132.

(b) On the other hand, Dr. Lim attributed the pain to the implant and anticipates that the pain will resolve with the removal of the implant if the Plaintiff receives proper rehabilitation for an estimated period of 3-6 months.⁷

10 In reaching their respective conclusions, both Dr. Chang and Dr. Lim relied on different radiological evidence. Dr. Chang referred to the *pre-surgery* CT scan showing the central depressed fragment in the lateral tibial plateau and made a *generic* observation that even if a surgeon can expertly reduce the bony fracture, it would be “difficult to near impossible to expect the damaged articular cartilage to recover”.⁸ It is not apparent if this generic observation applies to the present case, especially given that anatomically, the Plaintiff recovered well. Additionally, I find Dr. Chang’s specialist medical report to be limiting as it was silent as to the extent of damage. On the other hand, Dr. Lim based his opinion on the *post-surgery* radiological finding that there was preservation of joint space.⁹

11 On balance, I prefer Dr. Lim’s analysis that there was no articular cartilage damage as it was well-supported by objective evidence. In particular, Dr. Lim’s opinions were based on the Plaintiff’s updated radiological findings post-surgery rather than a generic projection of what may be expected based on the pre-surgery scans.

12 Additionally, both Dr. Lim and Dr. Chang had differing observations based on their physical examination of the Plaintiff. Based on Dr. Chang’s

⁷ Notes of Evidence (“NE”) for 28 August 2025 at p18.

⁸ Dr. Chang’s clarification medical report dated 09 September 2024 - PB at p132.

⁹ NE for 28 August 2025 at p6-7.

examination, there was lateral joint line pain which pointed to the presence of articular cartilage injury. On the other hand, Dr. Lim explained that when he examined the Plaintiff, there was no joint line tenderness thus displacing Dr. Chang's theory on articular cartilage injury. Dr. Lim is not alone in his observation. In particular, when the Plaintiff was examined at TTSH, Dr. Pillai similarly recorded that there was no more lateral joint line tenderness (post-surgery),¹⁰ and this lends support to Dr. Lim's observation.

13 Further, I find Dr. Lim's observation (on joint line tenderness) to be more nuanced and more persuasive. During cross-examination, Dr. Lim explained that the Plaintiff was clear that that (i) there was no tenderness on the joint line but (ii) there was tenderness over the proximal aspect.¹¹ Further, Dr. Lim observed that the Plaintiff described the symptoms from walking and standing for more than an hour as a "soreness" and that she "did not classify her soreness as pain". In view of the level of detail and degree of sensitivity exercised by Dr. Lim in his physical examination of the Plaintiff, I accept Dr. Lim's evidence that there was no lateral joint line tenderness but the tenderness was confined to the proximal side where the implant was located. I also prefer Dr. Lim's attendant finding that there was no articular cartilage damage given that there was no joint line tenderness.

14 In conclusion, on balance, I find that the residual pain was caused by the implant as Dr. Lim analysis was logical, coherent and well-reasoned. As explained by Dr. Lim, this pain can be expected to be reduced or resolve with the removal of the implant and may not be considered permanent.

¹⁰ PB at p87 and p95.

¹¹ NE for 28 August 2025 at p11.

Whether there is a risk of osteoarthritis

15 The next issue concerns the risk of osteoarthritis. Radiologically, osteoarthritis has not set in.¹² Dr. Lim observed that the Plaintiff “does not have any significant / severe age-related osteoarthritis” and that she “has not developed any post-traumatic osteoarthritis after this accident”.¹³

16 During cross-examination, Dr. Chang testified that in 10-15 years, he would see radiological osteoarthritis in the Plaintiff.¹⁴ However, this was premised on the assumption that the Plaintiff has articular cartilage damage.¹⁵ As I have found that this core assumption has not been made out, it follows that Dr. Chang’s conclusion that the Plaintiff will have radiological osteoarthritis in time to come is not substantiated.

17 In Dr. Chang’s specialist medical report, he placed the Plaintiff’s risk of symptomatic osteoarthritis (left knee) at between 26% to 31%. Dr. Lim agreed that the risk is less than 50% given the good reduction and the x-ray results.¹⁶ As such, I find that while there remains a risk of symptomatic osteoarthritis, the risk remains low.

Quantum to be awarded

18 Having found that the pain can be expected to resolve with surgery and that the risk of symptomatic osteoarthritis is low, I now consider the damages to be awarded. The Plaintiff submitted \$15,000 for the left lateral tibial fracture

¹² NE for 25 June 2025 at p13.

¹³ Dr. Lim’s specialist medical report dated 08 August 2024 – DBOD at p14.

¹⁴ NE for 25 June 2025 at p14.

¹⁵ NE for 25 June 2025 at p13.

¹⁶ Dr. Lim’s specialist medical report dated 08 August 2024 – DBOD at p16.

and \$3,000 for the early onset of osteoarthritis. The Defendant revised his submissions upwards (from the JOS) and submitted a sum of \$10,000.

19 I considered the authorities as submitted by parties. The Plaintiff’s cited case of *Salinah Binte Yusop v The Legal Representative of Muhammad Farhal Dominic Rappa @ Dominic Wilfred Rappa (deceased), Suit No. 551 of 2008* (“Salinah”) is of little assistance as both the injuries and treatment received in *Salinah* were vastly different from the present case.

20 Instead, I find the Defendant’s cited case of *Veerapan Chandran @ Veerapan Chandral v Jamis bin Sipawon* (MC Suit No. 16286 of 2000) (“*Veerapan*”) to be a good starting point. In *Veerapan*, \$10,000 was awarded for the plaintiff’s fracture of the left lateral tibial plateau that was conservatively treated and another \$4,000 in view of the higher risk of osteoarthritis. An uplift from *Veerapan* is reasonable given that *Veerapan* was decided more than two decades ago. Additionally, unlike the plaintiff in *Veerapan*, the injury sustained by the Plaintiff in the present case is more severe as surgical intervention was necessitated.

21 In the other case authority as cited by the Defendant, the court in *Chik Siew Tai v Ee Soon Kiong* (MC 14027 of 2019) (“Chik Siew Tai”) awarded a global sum of \$13,000 for the fracture of the tibial plateau with a recommended disability of 4%, tender swelling over the knee and 8cm surgical scar. In the present case, a 4% disability was similarly awarded for the fracture, albeit for possibly different reasons. Nevertheless, *Chik Siew Tai* remains a useful guide (with the necessary reductions for the swelling and surgical scar) in assessing the damages to be awarded.

22 Further, the Guidelines for the Assessment of General Damages in Personal Injury Cases (Academy Publishing, 2010) (“Guidelines”) at page 51 recommended an award of between \$10,000 to \$15,000 where there are significant disabilities that affect the person’s chances of employment in the pre-trauma job and there is also a risk that degenerative changes may occur in the long run. This range is applicable to the present case as there remains “a risk” of osteoarthritis (albeit a low one) and the award may be calibrated accordingly to reflect the likelihood of the risk.

23 Having considered the cited authorities, \$11,500 is awarded for the Plaintiff’s left knee injuries. This seeks to reflect the severity of the Plaintiff’s injuries that necessitated surgery, the residual pain (which may abate or resolve with the removal of the implant) and the low risk of osteoarthritis.

Injuries to the feet

24 Based on the investigations at TTSH, the x-rays of the right foot showed fractures of the 4th and 5th metatarsal bones. These fractures were treated non-operatively and the right foot was temporarily immobilized in a short walker boot.

25 The Plaintiff also sustained a left foot 1st metatarsal fracture.¹⁷ Additionally, it was documented that there were “bruises on both feet”,¹⁸ however, the extent of the bruises and the treatment required was not stated. Further, the reports did not document any disability arising from the bruises. As such, it may be inferred that the bruises were minor.

¹⁷ PD at p96.

¹⁸ PD at p85.

26 The Plaintiff appeared to make good recovery. Subsequent x-rays showed that the fractures (in the right foot) healed,¹⁹ and Dr. Pillai recommended a disability of 2% and 3% respectively for the fractures to the 4th and 5th metatarsal.²⁰ Dr. Chang noted that the Plaintiff complained of aching discomfort (to the right foot) that was worse after walking a distance of about 2 bus stops. Dr. Lim similarly noted that there was residual discomfort and opined that the symptoms should gradually improve over time. Both Dr. Chang and Dr. Lim agreed that no further treatment was required.

27 While there is some doubt if the Plaintiff fractured the 1st metatarsal, no clarification was sought and the attendance of the doctors from RCCH was dispensed with. In any event, I note that the Defendant did not challenge the existence of the fracture to the 1st metatarsal. The only issue raised by the Defendant was that the bruises to the feet should be considered together with the metatarsal fractures.

28 It is well settled that where there are overlapping injuries, compensating for each distinct injury would likely result in an excessive award: *Lua Bee Kiang (administrator of the estate of Chew Kong Seng, deceased) v Yeo Chee Siong* [2018] SGCA 74, at paragraph 17. I find that there is a degree of overlap between the bruises and metatarsal fractures in the feet and the pain resulting from the bruises and fractures would not be differentially felt by the Plaintiff. As such, it would be appropriate for both the fractures and bruises to be considered together.

¹⁹ PD at p94 and p95.

²⁰ Dr. Pillai's medical report dated 29 January 2019 – PA at p26.

29 The Guidelines at page 55 recommend an award of between \$2,000 for the fracture of one metatarsal discounting for overlap for two or more such fractures. An uplift to reflect the bruises is applied, however, this uplift will not be substantial given my earlier findings that the bruises were minor.

30 After considering a discount for overlaps between the 4th and 5th metatarsals of the right foot, and taking into account the presence of the bruises and a general uplift to reflect the changes in purchasing power since the publication of the Guidelines, \$6,000 is awarded.

Scars

31 In Dr. Chang's specialist medical report, he documented two scars, namely, a 14cm surgical scar over the Plaintiff's knee and the second, a 3cm x 3cm abrasion scar around the left leg.

32 The Guidelines recommends an award of \$1,500 to \$3,000 for single or minor scars. While the Plaintiff's scars are not small, there are no records of any disability arising out of the scars (such as restrictions in mobility, or that the scars are itchy and painful).

33 In the cited case of *Tan Shi Guo v China Construction (South Pacific) Development Co Pte Ltd & Anor* (DC Suit No 198 of 2003), \$2,000 was awarded for a 15cm incision scar. An uplift to reflect changes in purchasing power is reasonable. Additionally, as the Plaintiff also sustained an abrasion scar that is quite sizable, a total of \$4,000 is awarded for both scars sustained.

Post-traumatic stress disorder

34 In the Plaintiff's AEIC, the Plaintiff stated that she had post-traumatic stress disorder ("PTSD") and relied on the medical report by Dr. Hosanna Liha, a Resident Physician with Singhealth Polyclinics – Tampines.

35 Based on Dr. Hosanna's medical report, the Plaintiff was first seen at Tampines Polyclinic on 20 December 2019 for anxiety symptoms. A diagnosis of post-traumatic stress disorder with features of anxiety was made and the Plaintiff was prescribed with sleep medication and referred for psychotherapy.

36 Some of the symptoms documented in Dr. Hosanna's report included significant fear of crossing the road alone, complaints of insomnia due to recurrent recollection of the accident. The Plaintiff reportedly suffered from fatigue, frustration and irritability as well as poor concentration as a result of her anxiety. The Plaintiff was last seen at the Health Wellness Clinic on 17 February 2020 and she did not return for any follow ups.

37 The Defendant dispensed with Dr. Hosanna's attendance and did not challenge the doctor's qualifications, area(s) of specialization and the function and scope of the Health Wellness Clinic. Without further evidence and without challenging the available evidence, I am not persuaded by the Defendant's submissions that Dr. Hosanna or the polyclinic does not possess the capacity to address psychiatric injuries or if it employs a practicing psychiatrist on its staff.

38 The basis and symptoms underlying the diagnosis of PTSD with features of anxiety were comprehensively detailed in the medical report and these were not challenged by the Defendant. I find the diagnosis to be well supported and that on balance, the Plaintiff has shown that she suffered from PTSD with features of anxiety.

39 I would classify the extent of the Plaintiff's injury to be in the minor category of the Guidelines at page 28. Firstly, the Plaintiff did not return for any follow up since her last check up on 17 February 2020. Additionally, based on the Plaintiff's own evidence, it does not appear that the symptoms persisted.

40 The Guidelines at page 28 recommend an award in the range of \$2,000 to \$4,000. The Plaintiff's cited case of *Ayubi bin Abu Samah v Zulkifli bin Ramli* (DC Suit No. 3438 of 2008) is of little assistance as the injury therein is of a greater severity involving PTSD with depression where the plaintiff was treated with anti-depressants and the depressive episodes were described as being "moderate".

41 Instead, the case of *Ong Ying Ying v Kuldip Singh Sadhu* (DC Suit No 1973 of 2016) (*Ong Ying Ying*) is more appropriate. In *Ong Ying Ying*, \$3,500 was awarded for post traumatic anxiety with symptoms and the disabilities include "PTSD, depression". In the present case, given that recovery was not prolonged as seen from a lack of follow up and in view of the symptoms documented, \$3,000 is awarded for the Plaintiff's PTSD.

Head Injury

Whether the Plaintiff complained of headaches and dizziness at TTSH and RCCH?

42 Causation is disputed. There is a factual dispute as to whether the Plaintiff suffered headaches or dizziness when she was first treated and TTSH and received rehabilitative care at RCCH.

43 Both TTSH and RCCH's medical reports documented that the Plaintiff did not complain of headaches or dizziness.

(a) In particular, Dr. Pillai (TTSH) found that there were no signs of neurological deficits. According to Dr. Pillai, clinically and radiologically, there was no obvious signs of a traumatic brain injury during her inpatient admission.²¹ Dr. Pillai noted that there was an incidental finding of a left frontal lobe meningioma (brain tumor).

(b) During the Plaintiff’s examination at RCCH, they “did not find any evidence of head injury”.²²

44 While the Plaintiff asserted otherwise in her AEIC,²³ no clarifications were obtained from TTSH and RCCH. In the Plaintiff’s AEIC, she stated that she would “frequently get headaches every 2 to 3 days” during her stay at RCCH. However, she did not report her condition to the nurses and doctors as the pain was not significant. During cross-examination, the Plaintiff explained that “initially they wanted to prescribe [her] some medications, but [she] declined”. As such, she was only given a bottle of medicated oil by the nurse.²⁴

45 The Plaintiff also testified during cross-examination that she had headaches while at TTSH but made no mention of it in her AEIC as she felt that both TTSH and RCCH were the same “*because they were both hospitals*”.²⁵ Further, the Plaintiff explained that she did not pay much attention to her headache at TTSH as she had to undergo operations, was pushed “*here and there*” and that she was in a confused state.²⁶

²¹ Dr. Pillai’s clarification specialist medical report dated 8 July 2021 – PD at p98.

²² RCCH medical report dated 31 May 2021- PD at p96.

²³ PA at p4 at [13].

²⁴ NE for 02 April 2025 at p14.

²⁵ NE for 02 April 2025 at p13.

²⁶ NE for 02 April 2025 at p13.

46 I accept that the Plaintiff may not have been sensitized to her headaches and dizziness at TTSH due to her physical ailments and the surgery that she had to undergo. As observed by Dr. Hwang, when patients sustain physical injuries that require surgery, the “pain and surgery become predominant” and “that will be the main focus of their complaints”.²⁷ It is conceivable that during the Plaintiff’s admission at TTSH, the predominant concern was her physical injuries which limited what was expressed to the medical professionals and consequently what was documented in TTSH medical reports.

47 Turning now to Plaintiff’s account of what transpired at RCCH, I find that it is inconceivable that the Plaintiff’s complaints of headaches and dizziness would go unrecorded especially if the headache was to the extent that the medical professionals wanted to prescribe medication. RCCH’s medical report unequivocally stated that the Plaintiff “did not complain of any symptoms of headache, dizziness or memory lapses”.²⁸ No clarification was obtained from RCCH. Additionally, it is incomprehensible that the medical professional(s) would simply offer the Plaintiff, an elderly patient, a bottle of medical oil instead of prescribed medication(s) for an injury to a sensitive part of the body (the head). As the Plaintiff’s account is not consistent with practical realities and what was stated in RCCH’s medical reports, I am not persuaded that the Plaintiff had complained of headaches or dizziness at RCCH.

Can a claim for head injury still be made out?

48 While there are no contemporaneous records of the Plaintiff’s complaints of headaches and dizziness at TTSH and RCCH, I accept Dr.

²⁷ NE for 01 September 2025 at p16.

²⁸ RCCH medical report dated 31 May 2021 – PD at p96.

Hwang’s explanation that it is not rare for the symptoms to develop “months on”.²⁹ This evidence was not challenged by the Defendant.

49 I note that Dr. Pillai was of the view that “[c]linically & radiologically, there were no obvious signs of a traumatic brain injury during [the Plaintiff’s] inpatient admission”. I do not find that anything significant turns on Dr. Pillai’s findings. Firstly, Dr. Pillai’s report was limited to the Plaintiff’s “inpatient admission” and would not account for the symptoms that subsequently developed months on. Additionally, as I have found, the Plaintiff may not have presented Dr. Pillai or the TTSH medical professionals with the full extent of her symptoms (from her head injury) as they may have been overshadowed by her physical pain and the surgery. Finally, Dr. Pillai did not elaborate on the methodology adopted and the basis for his conclusion. As such, his report is of limited assistance.

50 I also considered that notwithstanding Dr. Pillai’s finding that there were no obvious signs of a brain injury, a referral was made by TTSH for the Plaintiff to be seen at the National Neuroscience Institute. This lends itself to the inference that the Plaintiff’s head injury was of some gravity to warrant a referral. As such, I find that the Plaintiff did sustain a head injury with symptoms of headaches and dizziness.

Were the disabilities from the head injury permanent?

51 The Plaintiff was seen by Dr. Hwang at the National Neuroscience Institute on two occasions.

²⁹ NE for 01 September 2025 at p20.

(a) The first was on 24 October 2018 (about 2 months after the accident), however, Dr. Hwang’s clinical findings / observations for this consultation were not made available. The Plaintiff was given an open date as Dr. Hwang felt that she was well enough.³⁰

(b) The second consultation was on 26 January 2021 for the purposes of preparing his specialist medical report. Dr. Hwang found the Plaintiff’s symptoms to be consistent with PCS and that the Plaintiff’s PCS is permanent as her symptoms persisted for more than 2 years after the accident.

(c) During cross-examination, Dr. Hwang agreed that he considered the Plaintiff’s account of being out of work for 2 years to be an important symptom in his finding that the Plaintiff’s PCS was permanent.³¹

(d) Further, in the medical report, Dr. Hwang was of the view that in light of the Plaintiff’s memory deficits, there is a risk that she may develop dementia.³² It was clarified during cross-examination that the “memory deficits” were based on the Plaintiff’s own account.³³

(e) Lastly, Dr. Hwang explained that during consultation, his focus was on understanding the symptoms complained of and it is not his practice to determine the veracity of every symptom that is reported.³⁴

³⁰ NE for 01 September 2025 at p 6.

³¹ NE for 01 September 2025 at p14.

³² PD at p92.

³³ NE for 01 September 2025 at p14.

³⁴ NE for 01 September 2025 at p11.

52 In concluding that the PCS was permanent, an important factor considered by Dr. Hwang was the Plaintiff's unemployability for 2 years. However, I find that the Claimant has not shown that her lack of employment was caused by her symptoms of dizziness and headaches. Instead, the Plaintiff's evidence was that it was her physical disabilities that affected her ability to work.³⁵ Further, Dr. Hwang's findings were based on the Plaintiff's complaints, which have not been verified and may not be relied on. Owing to these gaps in evidence, I find that the Plaintiff has not established that the disabilities arising out of her head injury was permanent.

53 In the Plaintiff's AEIC, she gave evidence that her headache and dizziness "*subsided gradually and completely went away about 6-9 months after the accident*" (i.e. by May 2019).³⁶ While the Plaintiff corrected her AEIC on the day of the hearing, and testified that the "*symptoms would return*" and that she is "*still taking medication*",³⁷ this was after direct prompting. Further, no explanation was offered for the correction (that constituted a sharp about-turn from her original position). As such, I decline to place any weight on the Plaintiff's amended evidence.

54 Instead, I note that when the Plaintiff was first seen by Dr. Hwang, she was considered to be well and an open date was given. The Plaintiff did not subsequently consult Dr. Hwang and the next review was solely for the purpose of the specialist medical report. This fortifies my finding that the Plaintiff's disabilities were not permanent and appeared to have resolved soon after her first visit.

³⁵ PA at p6.

³⁶ PA at p4, [13].

³⁷ NE for 02 April 2025 at p7.

55 In summary, I accept that the Plaintiff suffered a head injury and belatedly developed symptoms of dizziness and headaches. However, these symptoms eventually resolved and there is no evidence to support the finding that the disabilities or symptoms were permanent.

Quantum to be awarded

56 The Plaintiff relied on *Govindarajan Nallakutti v Apline Engineering Pte Ltd* (DC Suit 1178 of 2003) (“*Govindarajan*”) and submitted a sum of \$20,000. The injuries in *Govindarajan* are not comparable to the present case and concerns concussion and post-concussion syndrome of a moderate to severe range. Additionally, the disabilities in *Govindarajan* include persistent headaches and persistent pain in neck, occasional giddiness, forgetfulness and diminished memory and concentration. In contrast, I have found that the symptoms of headaches and dizziness resolved and were not permanent.

57 Instead, the case of *Maisarah Binte Sa'ad v Khamisan Bin Ismail* DC/DC Suit No 1154 of 2020 would be more appropriate. In *Maisarah*, the plaintiff had moderately severe and intermittent headaches, blurring of vision and post-concussion syndrome. \$3,000 was awarded. While the present case is less severe than that in *Maisarah*, taking into account the changes in purchasing power, an award of \$3,000 for the Plaintiff’s head injury is reasonable. This is also in line with the recommendations at page 6 of the Guidelines for a minor head injury.

Loss of Earning Capacity

58 It was initially unclear, based on the Plaintiff’s AEIC and the JOS, if the Plaintiff intended to proceed with a claim for Loss of Earning Capacity (LEC)

and/or Loss of Future Earnings (LFE). It was only in the Plaintiff's written submissions that the Plaintiff proceeded based on a claim for LEC only.

59 Conceptually, the award is meant to compensate an injured Plaintiff for the prospective *financial harm* occasioned by the weakening of her competitive position in the labour market. Where the Plaintiff is currently employed, LEC can only be awarded if there is a substantial or real risk that she could lose her present job at some time before the estimated end of her working life and that she will, because of the injuries, be at a disadvantage in the open employment market. However, as the Plaintiff is currently unemployed,³⁸ the question is whether she has been prevented from competing in the market for her *pre-accident job*.³⁹ I begin by considering the Plaintiff's employment history.

Employment History

60 At the time of the accident, the Plaintiff was 66 years old. By the time the matter was before me for the assessment of damages, the Plaintiff was 73 years old. According to the Plaintiff she had limited educational qualifications and that the jobs that she has undertaken are of a physical nature.⁴⁰

61 The Plaintiff provided her CPF statements for the years 2017, 2018, 2019 and 2020. In the Plaintiff's CPF Statement of Account for 2017, she worked for 4 different employers,⁴¹ and the Plaintiff explained that some were cleaning jobs that she took on.⁴²

³⁸ PA at p9, [31].

³⁹ *Lua Bee Kiang (administrator of the estate of Chew Kong Seng, deceased) v Yeo Chee Siong* [2019] 1 SLR 145 at paragraph 50.

⁴⁰ PA at p8, [28].

⁴¹ PA at p66 – 67.

⁴² NE for 02 April 2025 at p20.

62 In 2018, just three days prior to the accident, the Plaintiff stopped work as a cook. Based on the Plaintiff's AEIC, her basic pay then was \$1,900 monthly for a 5.5 days work week.⁴³ According to the Plaintiff, she was due to start a new job as a cook in a wanton shop. However, the Plaintiff did not have any employment contract but only exhibited the application form for this new role. In the form, the "commencement date" was stated as "Can start August" with a salary range of \$1,900 to \$2,000. The Plaintiff maintained that she was employed at the wanton shop but did not receive an employment contract as she will have to work for at least 1 week before the contract will be signed. According to the Plaintiff, this was industry practice.⁴⁴

63 After the accident, the Plaintiff worked at a fast-food restaurant from 24 October 2019 to 30 June 2020.

Reports on the implications of the Plaintiff's injuries

64 Based on the Guide to the Assessment of Traumatic Injuries and Workmen's Compensation, 5th edition, Dr. Pillai recommended the following percentage disability:⁴⁵

- (a) Left tibial plateau fracture with depression: 4%
- (b) Right foot 4th and 5th metatarsal fractures: 5% (2% + 3%)

65 Dr. Chang documented that the Plaintiff was unable to work full-time and long hours due to the residual pain in her left knee with prolonged

⁴³ PA at p60.

⁴⁴ NE for 02 April 2025 at p17.

⁴⁵ PA at p26.

standing.⁴⁶ As explained earlier, I preferred the evidence of Dr. Lim and found that the residual pain was not permanent as it is anticipated that the pain will resolve with the removal of the implants. Dr. Lim recommended proper rehabilitation of between 3-6 months after the removal of implants. According to Dr. Lim, this will enable the Plaintiff to stand for longer periods of time and that “she has a good potential of returning to her previous job”.⁴⁷

66 The Plaintiff was seen by an Occupational Therapist (OzWorks Therapy Pte Ltd) on 13 October 2022. It was observed that the Plaintiff scored “below norm” on standardized upper limb dexterity and speed assessments.⁴⁸ The occupational therapist concluded that the Plaintiff is currently a match physically for part-time light work no longer than 4 hours per day with occasional lifts up to 7.5kg. Examples of suitable light jobs include kitchen prep worker and cleaner. It was also documented that the Plaintiff experienced increased pain upon performing tasks such as lifting loads and with prolonged limb activities. These challenges impact the Plaintiff’s ability to safely return to working full-time in her previous job as a sushi chef.⁴⁹

67 The attendance of the occupation therapist was dispensed with. It is unclear if the Plaintiff’s “below norm” scoring would impair the Plaintiff’s employability and if so, the extent to which her chances of being employed will be reduced. As such, the report provides little assistance in understanding the Plaintiff’s pre-accident employability.

⁴⁶ PA at p39.

⁴⁷ NE for 28 August 2025 at p18.

⁴⁸ PA at p58.

⁴⁹ PA at p58.

68 Instead, the Plaintiff’s pre-accident employability may be inferred based on the Plaintiff’s CPF statement for 2017. I observe that the Plaintiff managed to secure a steady stream of employment for most months of the year. This lends itself to the inference that the Plaintiff remains employable (pre-accident) notwithstanding her “below norm” scoring and age.

69 Accordingly, I disagree with the Defendant’s submission that the Plaintiff has “no more runway” given her age and the physical nature of her job. As borne out by the evidence, the Plaintiff is not one who lies idle and continued to have the capacity to find work and be employed.

70 As I had found that there was a good prospect of the Plaintiff securing a job (pre-accident), the next issue would be whether the injuries sustained prevented the Plaintiff from competing in the market for her pre-accident job. To recapitulate, I preferred Dr. Lim’s views that the residual pain is expected to decrease and resolve with the removal of the implant. However, this is conditional upon the Plaintiff receiving “proper rehabilitation” and that the Plaintiff does not develop scar pain. Additionally, Dr. Pillai recommended a disability of 2% and 3% respectively for the fractures to the 4th and 5th metatarsal.⁵⁰ I thus find that the Plaintiff will still labour under some pain and disability, however, this would to a lesser extent as compared to before the removal of the implant.

71 I now turn to consider the appropriate quantum for pain and suffering. The Plaintiff’s submission of \$30,000 for LEC was premised on the case of *Ong Bin Wah v Quek Teng Pong & Anor* [2003] SGHC 279 (“*Ong Bin Wah*”) where the 48-year old plaintiff sustained, *inter alia*, an open fracture to her right ankle.

⁵⁰ Dr. Pillai’s medical report dated 29 January 2019 – PA at p26.

As the plaintiff in *Ong Bin Wah* had not passed the statutory retirement age, I find it to be of limited use.

72 To be clear, while the statutory retirement age is not a blanket guide as to when an individual should stop working, it remains a good guide.⁵¹ On this note, I considered the following three cases where the plaintiffs were past the legal retirement age:

(a) *Cheng Kiat Yan v Tibrewal Sunil Kumar* (DC Suit No. 247 of 2019) concerns a 68 year old (at the time of the accident) plaintiff who was a rag and bone man. He suffered a closed fracture of the kneecap and was found to be ambulating with no pain over the knee. The plaintiff was not awarded any LEC.

(b) In *Tan Kim Lee v Mohd Yusof bin Hussain & Anor* DC Suit No 3084 of 2000, the 67 year old (at the time of the accident) plaintiff, who was employed as an excavation driver and earning a monthly salary of \$1,200 per month, was awarded \$1,800 for his LEC.

(c) In *Ting Heng Mee v Sin Sheng Fresh Fruits* [2004] SGHC 43, the 68 year old (at the time of the accident) barber, with a salary of \$700 per month, was awarded \$2, 500 for his LEC. The court found that the plaintiff was a springy and energetic 70 year old man who would work until he was 80 years old if he was able to.

73 An observable trend is that where the plaintiffs (who were engaged in physically demanding vocations) had passed the retirement age, the LEC is awarded tends not to be substantial.

⁵¹ *Yeo Chee Siong v Salpac (S) Pte Ltd and another* [2017] SGHC 304 – While the appeal was allowed, it does not appear that this point was overruled.

74 In addition to the Plaintiff's age, there are other factors at play, such as the plaintiff's skills, nature of disabilities, trade, earnings that the plaintiff is likely to command. Having considered the case authorities as cited above, the Plaintiff's limited educational qualifications and vocation in the physically demanding food and beverage industry, as well as the expectation that her pain will decrease or resolve with the removal of the implant, the appropriate award to make for LEC in all the circumstances would be \$5,000.

Pre-trial loss of earnings

75 Pre-trial loss of earnings is to be proven as a matter of special damages. The courts' approach in determining if the Plaintiff suffered any *actual loss* was succinctly set out by the Court of Appeal in *Yap Boon Fong Yvonne v Wong Kok Mun Alvin and another and another appeal* [2019] 1 SLR 230 ("*Yap Boon Fong Yvonne*") at paragraph 44:

"... The courts do not and will not rigidly or invariably demand the same type or amount of evidence in every claim for lost earnings, but will consider all the circumstances of each case in determining whether the evidence that is available satisfies the court that the loss can be proved on a balance of probabilities." (emphasis mine)

76 In the Statement of Claim and the Plaintiff's written submissions, the Plaintiff capped the calculation of pre-trial loss of earnings to June 2020. The Plaintiff submitted that pre-trial loss of earnings should be \$38,993.25 on the basis that:-

- (a) The loss of earnings for August 2018 to September 2019 amounts to \$26,600 (being \$1,900 x 14 months).

(b) The loss of earnings for October 2019 to June 2020 amounts to \$12,393.25 (being the loss of income while the Plaintiff was working part-time at McDonalds).

77 The Defendant submitted that only a nominal sum of \$100 should be awarded as the Plaintiff failed to discharge her proof of a base / pre-accident salary.⁵² As outlined above, the Court may consider the circumstances of each case in determining whether the evidence that is available satisfies the court that the loss can be proved on a balance of probabilities.

Whether the Plaintiff was employed or could have been employed at the time of the accident

78 It is disputed if, at the time of the accident, the Plaintiff succeeded in her application for her new job at the wanton shop. The Plaintiff did not produce any signed employment contract and sought to explain that no contract would be issued until she completes 1 week of work. However, without any evidence of the “industry practice”, I find that the delay in signing an employment contract until a week after work has commenced is inconsistent with commercial reality and is not credible. The Plaintiff’s submission is not grounded in any objective evidence and I find that the Plaintiff has not established that she was employed at the wanton shop at the time of the accident.

79 Even though the Plaintiff was not employed at the wanton shop at the time of the accident, I find that the Plaintiff could have and would have found another source of employment in view of her employment history. Based on the evidence before me, it is apparent that the Plaintiff is industrious in finding employment and would take on cleaning jobs after work or on her off days. As

⁵² Defendant’s written submissions (“DWS”) at p34, [53].

reflected in her CPF statement for 2017, she was consistently employed by different employers for a large part of the year.

Quantum to be awarded

80 Considering the Plaintiff's employment history, one can reasonably expect the Plaintiff to be able to secure ad hoc jobs. It may be anticipated that the salary derived from ad hoc work would be less regular and of a lower quantum than that in a full-time permanent role. The Plaintiff's salary may be approximated by considering her CPF statements and the Plaintiff's last drawn pay of \$1,900 as a cook. To this end, I find the monthly sum of \$950 to be reasonable.

81 Based on the Plaintiff's submissions, the time period for the calculation of pre-trial loss of earnings was broadly divided into (a) the time from the accident until the Plaintiff was employed at the fast-food restaurant (i.e. from August 2018 to September 2019), and (b) the time while she was employed at the fast-food restaurant (i.e. from October 2019 to June 2020). The basis for the Plaintiff's proposed quantification of the time period is unclear and I decline to adopt it. Instead, the pre-trial loss of earnings may be divided into the following periods:-

- (a) Period between the accident and the end of the Plaintiff's medical leave (from August 2018 to February 2019).
- (b) Period between after the Plaintiff's medical leave and before her employment in the fast-food restaurant (from March 2019 to September 2019).
- (c) Period during the Plaintiff's employment in a fast-food restaurant (October 2019 to June 2020).

(d) Period after the Plaintiff's employment in the fast-food restaurant up to the assessment (from June 2020 to the date of assessment)

Period between the accident and the end of the Plaintiff's medical leave (from August 2018 to February 2019)

82 In the Plaintiff's AEIC, she stated that she was given a total of 211 days of medical leave,⁵³ However, based on the MCs exhibited, the Plaintiff was on medical leave for 171 days as tabulated at annex A below. While there was a gap in the Plaintiff's medical leave from 20 September 2018 to 30 October 2018, it is reasonable to assume that the Plaintiff would realistically be unable to work during this period. Using the multiplicand of \$950 and the multiplier of 6 months, \$5,700 is awarded for the Plaintiff's pre-trial loss of earnings for this period.

Period between after the Plaintiff's medical leave and before her employment in the fast-food restaurant (from March 2019 to September 2019)

83 After the Plaintiff's medical leave, it is incumbent on the Plaintiff to take reasonable steps to mitigate the loss and the burden is on the Defendant to show the failure to mitigate.⁵⁴ No submissions were made on the Plaintiff's failure to mitigate.

84 After the Plaintiff's medical leave came to an end, it is reasonable that the Plaintiff will require some time to find alternative employment.⁵⁵ The period of 6 months (from March 2019 to September 2019) is not inordinately long

⁵³ PA at p9, [33].

⁵⁴ *Fauzi bin Noh v Zulkepli bin Husain and anor* [2025] SGHC 172 at paragraph 18.

⁵⁵ *Shawn Tan Shin Han v Yap Choon Lye* [2023] SGDC 167 at paragraph 95.

given the Plaintiff's vocation, her age and the residual pain and disability that the Plaintiff continued to labour under. Using the multiplicand of \$950 and the multiplier of 6 months, \$5,700 is awarded for the Plaintiff's pre-trial loss of earnings for this period.

Period during the Plaintiff's employment in a fast-food restaurant (October 2019 to June 2020)

85 The Plaintiff's income, while working at the fast-food restaurant was **!The Formula Not In Table**, as tabulated at annex B. During this period, the Plaintiff's pre-accident earnings would be \$7,600. After deducting the amount earned while working at the fast-food restaurant, \$2,621.51 is awarded for this head of claim.

Period after the Plaintiff's employment in the fast-food restaurant up to the assessment (from June 2020 to the date of assessment)

86 As this was not included in the Plaintiff's Statement of Claim, AEIC and submissions, I decline to award any damages for this head of claim. Therefore, the total pre-trial loss of earnings amount to \$14,021.51 (being \$5,700 + \$5,700 + \$2,621.51).

Future medical expenses

87 Both Dr. Chang and Dr. Lim recommended the removal of the implant. Dr. Chang estimated the cost of this surgery to be \$4,000 (at B1 rate). Dr. Lim, in his medical report, estimated the costs of removal at a B1 rate (restructured hospital) to be between \$2,500 to \$3,500 based on MOH's data for 2022.

88 Additionally, Dr. Lim was of the view that the Plaintiff would benefit from 4-6 sessions of physiotherapy (at up to \$100 per session) followed by a home rehabilitation program (costs not provided). During Dr. Lim's re-

examination, he estimated the costs of hospitalisation in a C ward to be less than a thousand dollars. However, Dr. Lim did not explain if a C class ward would be suitable for the Plaintiff and the surgery that she had to undergo, especially given his earlier estimate in his specialist medical report was for a B class ward. As it is unclear if a class B ward is suitable or appropriate for the Plaintiff and without further evidence, the assessment adopts the B class ward rates provided by Dr. Lim in his medical report.

89 Based on the rates provided by Dr. Lim in his specialist medical report and 6 sessions of physiotherapy (at \$100 per session), \$4,000 is awarded for this head of claim.

Transport expenses

90 The Plaintiff did not provide any receipts for her claim for transport expenses save for the taxi receipts for her visit to TTSH on 20 November 2018.⁵⁶ Following the approach in *Tan Hun Boon v Rui Feng Travel Pte Ltd and another* [2018] 3 SLR 244 (“*Tan Hun Boon*”) at paragraph 146, I am prepared to make a conservative estimate despite the lack of receipts and lack of evidence concerning the Plaintiff’s mode of transport. In *Tan Hun Boon*, the court considered an award of \$20 per trip to be conservative and I accordingly adopt the same multiplicand of \$20 per trip. As for the multiplier, based on the medical invoices, the Plaintiff made a total of 19 trips (that were related to the accident). Accordingly, \$380 (being \$20 x 19) is awarded for the Plaintiff’s transport expenses.

⁵⁶ PA at p135.

Medical expenses

91 In parties' JOS, medical expenses were agreed at \$5,573.01. However, in the course of the Plaintiff's cross-examination,⁵⁷ the Plaintiff confirmed that the expenses concerning the "x-ray investigations" / "US Abdomen" amounting to \$47.30,⁵⁸ as well as her visit to the National skin centre amounting to \$76.77,⁵⁹ did not arise out of the accident.⁶⁰

92 The medical expenses recoverable from the Defendant needs to be incurred as a result of the accident. As the two expenses, as set out above, were unrelated to the accident, I disallowed them and made the necessary deductions. Accordingly, **\$5,448.94** is awarded (being \$5,573.01 less \$124.07).

Conclusion

93 To conclude, my orders in this assessment of damages proceedings amount to \$56,350 (on a 100% basis) and are summarized below:

	Claims	Damages assessed
a.	Left knee injuries	\$11,500
b.	Injuries to the feet	\$6,000
c.	Scars	\$4,000
d.	Post traumatic stress disorder	\$3,000
e.	Head injuries	\$3,000
f.	Loss of earning capacity	\$5,000

⁵⁷ NE for 02 April 2025 at p26.

⁵⁸ PA at p119.

⁵⁹ PD at p69.

⁶⁰ NE for 02 April 2025 at p26.

g.	Pre-trial loss of earnings	\$14,021.51
h.	Future medical expenses	\$4,000
i.	Future transport expenses	\$380
j.	Medical expenses	\$5,448.94

94 Finally, in relation to interests and costs, the parties are to file written submissions not exceeding ten pages by 08 April 2026.

95 In closing, it remains for me to thank counsel for their submissions, and for their fair and measured conduct of the assessment hearing.



Lee Jia En, Gloria
Deputy Registrar

Allister Lim Wee Sing (ALP Law Corporation) for the Plaintiff
Tay Boon Chong Willy (Willy Tay's Chambers) for the Defendant

Annex A: The Plaintiff's medical leave

s/n	Issuing Hospital	Dates of medical leave	No. of Days	Reference (PD)
1	TTSH	03 August 2018 to 23 August 2018	21	78
2	RCCH	23 August 2018 to 20 September 2018	38	79
3	TTSH	30 October 2018 to 20 November 2018	22	80
4	TTSH	21 November 2018 to 19 February 2019	91	81

Annex B: The Plaintiff's earnings while working at the fast-food restaurant

s/n	Period	Nett Pay (\$)	Reference (PD)
1	24.10.2019 to 31.10.2019	16.44	135
2	01.11.2019 to 15.11.2019	210.56	136
3	16.11.2019 to 30.11.2019	238.26	137
4	01.12.2019 to 15.12.2019	298.12	138
5	16.12.2019 to 31.12.2019	275.52	139
6	01.01.2020 to 15.01.2020	164.98	140
7	16.01.2020 to 31.01.2020	358.83	141
8	01.02.2020 to 15.02.2020	209.46	142
9	16.02.2020 to 29.02.2020	361.14	143
10	01.03.2020 to 15.03.2020	461.74	144
11	16.03.2020 to 31.03.2020	473.02	145
12	01.04.2020 to 15.04.2020	422.76	146
13	16.04.2020 to 30.04.2020	296.57	147
14	16.05.2020 to 31.05.2020	559.07	148
15	01.06.2020 to 15.06.2020	316.66	149
16	16.06.2020 to 30.06.2020	315.36	150
	Total:	\$4978.49	