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

[2026] SGHC(A) 4

Appellate Division / Civil Appeal No 54 of 2024

Between

Low Woon Hong

… *Appellant*

And

Lim Chun Yong (Lin Junxiong) (suing through his deputy and litigation representative Janet Fung Wui Mang)

… *Respondent*

Appellate Division / Civil Appeal No 55 of 2024

Between

Liberty General Insurance Berhad (formerly known as AmGeneral Insurance Berhad)

… *Appellant*

And

(1) Lim Chun Yong (Lin Junxiong) (suing through his deputy and litigation representative Janet Fung Wui Mang)
(2) Jeffrey Yap @ Yap Kean Hui

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(3) Liew Loy Sang
(4) Low Woon Hong
(5) Mohd Jafri Bin Abdul Hamid
(6) Syarikat Continent Lorry Transport Sdn Bhd

… *Respondents*

Appellate Division / Civil Appeal No 56 of 2024 and Summons No 11 of 2025

Between

(1) Mohd Jafri Bin Abdul Hamid
(2) Syarikat Continent Lorry Transport Sdn Bhd

… *Appellants*

And

(1) Lim Chun Yong (Lin Junxiong) (suing through his deputy and litigation representative Janet Fung Wui Mang)
(2) Jeffrey Yap @ Yap Kean Hui
(3) Liew Loy Sang

… *Respondents*

Appellate Division / Civil Appeal No 92 of 2024

Between

Liberty General Insurance Berhad (formerly known as AmGeneral Insurance Berhad)

… *Appellant*

And

(1) Lim Chun Yong (Lin Junxiong) (suing through his deputy and litigation representative Janet Fung Wui Mang)
(2) Jeffrey Yap @ Yap Kean Hui
(3) Liew Loy Sang
(4) Low Woon Hong
(5) Mohd Jafri Bin Abdul Hamid
(6) Syarikat Continent Lorry Transport Sdn Bhd

… Respondents

GROUNDS OF DECISION

[Damages — Assessment]

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Low Woon Hong
v
Lim Chun Yong (alias Lin Junxiong) (suing through his deputy and litigation representative Fung Wui Mang Janet) and other appeals

[2026] SGHC(A) 4

Appellate Division of the High Court — Civil Appeals Nos 54, 55, 56 and 92 of 2024 and Summons No 11 of 2025
Woo Bih Li JAD, Debbie Ong Siew Ling JAD and See Kee Oon JAD
21, 26 November 2025

3 February 2026

Debbie Ong Siew Ling JAD (delivering the grounds of decision of the court):

Introduction

1 This appeal concerned the award of damages to a plaintiff so seriously injured in a road accident that he could no longer be in employment after the accident and required nursing care for the rest of his life.

2 On 12 February 2018, Mr Lim Chun Yong (Lin Junxiong) ("Mr Lim") sustained serious injuries as a result of a chain collision involving three motor vehicles in Malaysia. He was the front seat passenger in the vehicle in the middle of the chain. That vehicle, a Toyota car, was driven by Mr Jeffrey Yap @ Yap Kean Hui ("First Defendant") and owned by Mr Liew Loy Sang

("Second Defendant"). The frontmost vehicle, a semi-trailer, was driven by Mr Mohd Jafri bin Abdul Hamid ("Fourth Defendant") and owned by Syarikat Continent Lorry Transport Sdn Bhd ("Fifth Defendant"). The rearmost vehicle, a BMW car, was driven and owned by Mr Low Woon Hong ("Third Defendant"). Mr Lim was 38 years old at the time of the accident. The injuries he suffered included traumatic brain injury. His wife and deputy, Ms Janet Fung Wui Mang ("Ms Fung"), commenced the proceedings below on his behalf against the drivers and owners of the three vehicles involved. In these grounds of decision, we refer to Mr Lim and Ms Fung collectively as "the Respondent".

3 Liberty General Insurance Berhad (formerly known as AmGeneral Insurance Berhad) ("Liberty"), pursuant to an insurance policy purchased by the Second Defendant, had agreed to indemnify the owner and authorised driver of the Toyota car, *ie*, the First and Second Defendants ("the Insured"), against liability to third parties in the event of an accident caused by or through or in connection with the use of the Toyota car. However, it was not disputed that Liberty had repudiated its policy liability given that the Second Defendant was in breach of his obligation under the insurance policy by failing to ensure that the First Defendant held a valid driving licence. Liberty nonetheless applied to intervene in the proceedings below to protect its interests in the event that the Insured were found liable for the accident. It was granted leave to be added as an intervener and subsequently added as the sixth defendant. Notwithstanding the findings of liability against the other defendants, there was no finding of liability against Liberty except for a liability for costs.

4 The trial judge in the General Division of the High Court ("Judge") found all the defendants, except for Liberty, to be jointly and severally liable to the Respondent for the injuries caused by the accident. Between the defendants, liability was apportioned as follows: (a) the First and Second Defendants at

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30%; (b) the Third Defendant at 20%; and (c) the Fourth and Fifth Defendants at 50%. The Judge awarded the Respondent damages totalling $4,700,960.28 for various heads of claim (in *Lim Chun Yong v Yap Jeffrey* [2024] SGHC 150 ("Judgment") at [74], [86]–[87] and [264]).

5 As for costs, the defendants were held jointly and severally liable for costs and disbursements based on the aforementioned apportionment of liability, except that Liberty's apportionment was to be in the same proportion (and without double counting) as the liability apportioned to the Insured.

6 While appeals were initially filed against the Judge's decision in respect of liability, they were discontinued. AD/CA 54/2024 ("AD 54"), AD/CA 55/2024 ("AD 55") and AD/CA 56/2024 ("AD 56") were the appeals against the Judge's award of damages, while AD/CA 92/2024 ("AD 92") was the appeal by Liberty against the costs order imposed on it by the Judge.

7 On 26 November 2025, we allowed AD 54, AD 55 and AD 56 in part and dismissed AD 92. These are the full grounds of our decision.

Facts

8 A few days prior to the accident, on 7 February 2018, Mr Lim began work as a finance executive at the Society for the Aged Sick ("SAS"), drawing a monthly salary of $3,500.

9 Mr Lim sustained severe and extensive injuries from the accident, the details of which were discussed by the Judge at [94] of the Judgment. Amongst other things, Mr Lim suffered traumatic brain injury resulting in cognitive impairment and reduced motor control of his limbs. He received medical

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treatment at various hospitals following the accident. The SAS terminated Mr Lim's employment on 1 June 2020.

10 On 10 February 2021, Mr Lim, suing through Ms Fung, commenced the action below.

11 On 16 August 2023, Mr Lim was admitted to Orange Valley Nursing Home ("Orange Valley") as a full-time resident.

Decision below

12 The Judge found the defendants except Liberty to be jointly and severally liable in the proportions stated at [4] above. The total sum of damages awarded was $4,700,960.28, the breakdown of which was as follows (Judgment at [264]):

Head of claim	**Quantum of award**	**Reference paragraph in Judgment**
<u>General Damages</u>		
Pain and suffering	$253,000.00	[106]
Loss of future earnings	$1,595,146.72	[144]
Cost of future nursing care at Orange Valley	$1,869,944.40	[193]
Cost of future medication	$34,426.96	[201]
Cost of future rehabilitation treatment with Dr Karen Chua	$4,445.89	[201]

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Cost of future dental treatment	$9,821.38	[204]
Cost of future eye treatment	$2,615.07	[206]
Cost of future occupational therapy	$111,240.00	[213]
Cost of future transport	$28,922.40	[218]
Cost of future caregiver services by Ms Fung and/or a domestic helper	$11,124.00	[225]
<u>Special Damages</u>		
Medical Expenses	$336,310.11	[106]
Transport expenses	$3,210.00	[106]
Cost of application to appoint a deputy	$8,761.36	[106]
Incurred Orange Valley nursing care expenses	$15,576.49	[237]
Pre-trial loss of income	$334,250.05	[242]
Cost of caregiver services from Ms Fung and domestic helper prior to admission to Orange Valley	$82,165.45	[254]
Total: $4,700,960.28		

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13 We will elaborate on the Judge's reasoning in respect of the heads of claim that were the subject of the appeals below within the analysis for each head of claim.

Summary of the appeals

14 The appellant in AD 54 was the third defendant below; the appellant in AD 55 and AD 92 was Liberty; and the appellants in AD 56 were the fourth and fifth defendants below. We refer to these parties collectively as "the Appellants". The Insured did not participate in the trial or the appeals.

15 AD 54 and AD 56 concerned the following seven heads of claim: (a) loss of future earnings; (b) pre-trial loss of income; (c) costs of future nursing care at Orange Valley; (d) incurred Orange Valley nursing care expenses; (e) costs of future occupational therapy; (f) costs of caregiver services from Ms Fung and a domestic helper prior to admission into Orange Valley; and (g) costs of future caregiver services by Ms Fung and/or a domestic helper. In AD 55, Liberty also appealed the awards pertaining to these heads of claim, save for the costs of future caregiver services.

16 Separately, in AD 92, Liberty appealed its liability for costs.

Loss of future earnings

The decision below

17 The Judge awarded the Respondent $1,595,146.72 for loss of future earnings (Judgment at [144]). The Appellants had submitted in the court below that because of the lack of evidence, Mr Lim was not entitled to an award for loss of future earnings. They also submitted that there should not be an award for loss of earning capacity but if such an award were to be made, it should be

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fixed at $80,000. The Judge did not make an award for loss of earning capacity. He made an award for loss of future earnings, holding that there was sufficient evidence for the court to make the relevant projections (Judgment at [131]). In arriving at the sum of $1,595,146.72, the Judge applied the multiplier-multiplicand approach:

(a) For the multiplier, the Judge considered that Mr Lim was unlikely to ever be in employment again for the rest of his life (Judgment at [132]), and that Mr Lim would have likely retired at the age of 70 but for the accident (Judgment at [133]). The Judge then based the multiplier on the figures provided in Hauw Soo Hoon *et al*, *Actuarial Tables with Explanatory Notes for use in Personal Injury and Death Claims* (Academy Publishing, 2021) ("Singapore Actuarial Tables") (Judgment at [134]).

(b) For the multiplicand, the Judge accepted the Respondent's projections, which were based on the SAS's evidence of the monthly salary that Mr Lim received and was projected to receive (Judgment at [134]). This included an annual salary increment of 3%, as well as bonuses and wage supplements of 14% of annual income (Judgment at [110]). The Appellants did not provide alternative calculations, and opted instead on a blanket denial of the Respondent's projections.

18 The Judge arrived at the sum of $1,595,146.72 with the following calculations (Judgment at [141]):

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	First Tranche: 44 years (2024) to 60 years (2040)	**Second Tranche: 60 years (2041) to 67 years (2047)**	**Third Tranche: 67 years (2048) to 70 years (2050)**
Average Annual Income (Including Wages) minus income tax	$83,065.60	$75,066.31	$63,815.79
Applicable multiplier	14.50	4.04	1.37
Amount for each tranche	$1,204,451.20	$303,267.89	$87,427.63
Total amount			$1,595,146.72

The Appellants' arguments

19 In their Joint Appellants' Case filed in the present appeals, the Appellants submitted that Mr Lim was not entitled to an award for loss of future earnings and a reasonable award for loss of earning capacity should be fixed at $80,000 or at the highest, no more than $240,000.

20 At the hearing before us, however, the Appellants stated that they had reconsidered their position and accepted that Mr Lim was entitled to an award for loss of future earnings, but disputed the quantum. They calculated the loss of future earnings to be somewhere between $492,408.12 and $682,371.36. The Appellants' revised proposals differed from the Judge's calculations in four respects.

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21 First, the Appellants submitted that Mr Lim's age of retirement but for the accident should be 67 years old rather than 70 years old. This is because the Judge, in making the award for the costs of future nursing care, had taken Mr Lim's life expectancy to be 67 years as there appeared to be no dispute between the parties on this. We refer to this as the "Retirement Age Argument".

22 Second, unlike the Judge's calculations of the multiplicand, the Appellants' calculations did not factor in yearly increments, bonuses and wage supplements. Instead, the Appellants applied one-off increments of 15% and 10% to the salary at the ages of 50 and 60 respectively. We refer to this as the "Staggered Increments Argument".

23 Third, the Appellants submitted that the employer Central Provident Fund ("CPF") contribution rates have been adjusted since the time of the trial and that the updated rates should be used. We refer to this as the "CPF Argument". The differences between the employer CPF contribution rates used by the Respondent and the Judge on the one hand, and the Appellants on the other hand, are as follows:

(a) Between the ages of 56 and 60, the Respondent and the Judge applied a rate of 18.5%. The Appellants submitted that a rate of 16% should be used instead.

(b) Between the ages of 61 and 65, the Respondent and the Judge applied a rate of 13.75%. The Appellants submitted that a rate of 12.5% should be used instead.

(c) Between the ages of 66 and 70, the Respondent and the Judge applied a rate of 9.75%. The Appellants submitted that a rate of 9% should be used instead.

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24 Fourth, the Appellants argued that a discount of 30% to 50% should be applied to the sum derived following the above adjustments. We refer to this as the "Discount Argument". The discount was to account for the uncertainties associated with Mr Lim's future employment, given his chequered employment history, and the Respondent's accelerated receipt of a lump sum. The Appellants contended that the Singapore Actuarial Tables did not take accelerated receipt into account, but accepted that if it did, the discount applied should be closer to 30%.

The Respondent's arguments

25 The Respondent submitted that this court should not disturb the award granted by the Judge, which was grounded in case law and the available evidence relating to Mr Lim's employment history and his projected earnings at the SAS. Moreover, the employer CPF contribution rates used by the Judge were the rates that prevailed at the time of the trial, which was when damages were to be assessed.

Our decision

26 We allowed the appeal with respect to the loss of future earnings to the extent that the award was reduced by 30% to $1,116,602.70.

27 Many of the Appellants' arguments raised at the hearing were new. As we pointed out to the Appellants' counsel at the hearing, it would have been good practice for them to provide the court with earlier notice of the new proposals. Instead, the new proposals were only submitted at the hearing. Nonetheless, as the new proposals did not necessitate further evidence and no prejudice was occasioned to the Respondent, who had the opportunity to and

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did respond to the proposals in the course of the appeal hearing, we took into consideration the new proposals.

Retirement Age Argument

28 In respect of the Retirement Age Argument, the Respondent explained that they had sought compensation for the loss of future earnings up till the age of 70, which the Judge allowed, to include the lost years of income as a result of the accident (see Judgment at [110]). Since Mr Lim's life expectancy was reduced to 67 years due to the accident, and he could have worked till the age of 70 but for the accident, the Respondent submitted that the intervening period of three years should be accounted for in the award for loss of future earnings. The Appellants did not dispute that the Respondent had a valid claim for lost years of income. In the circumstances, we did not accept the Retirement Age Argument and proceeded on the basis that Mr Lim could have worked till the age of 70 but for the accident.

Staggered Increments Argument

29 Next, with respect to the Staggered Increments Argument, we found that the Appellants were unable to provide a satisfactory principled basis for it. Their justification for applying one-off increments of 15% and 10% to the salary at the ages of 50 and 60 respectively was that the approach was "easier to understand" and "simpler". In contrast, the approach taken by the Respondent and the Judge below, which factored in annual increments of 3% and bonuses and wage supplements of 14%, was based on the evidence given by the SAS.

30 At the hearing below, Ms Kate Koh, who was the deputy chief operating officer of the SAS at the material time, gave evidence that Mr Lim's starting salary as a finance executive at the SAS was $3,500 per month and that his

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projected monthly basic salary would be approximately $4,000 as of September 2023, based on the annual increment percentages given by the SAS to employees holding an executive position from 2018 to 2023. This translated to an annual increment of about 3%. Ms Kate Koh also testified that the projected bonuses and annual wage supplements that Mr Lim could have received from 2018 to 2023 was approximately $37,000, based on the payments made to executives in the SAS during this period (Judgment at [130]). This translated to an annual bonus and wage supplement of about 14%.

31 In the absence of any principled basis undergirding the Appellants' Staggered Increments Argument, we did not accept it. We saw no reason to interfere with the approach taken by the Judge below.

CPF Argument

32 With regard to the Appellants' contention that the updated employer CPF contribution rates should be used, we first observe that these rates should have been introduced by way of an application to adduce further evidence. The revised rates relied on by the Appellants (summarised at [23] above) will only come into effect in Singapore from 1 January 2026. The different rates therefore related to matters occurring after the date of the Judge's decision. In determining whether to admit such further evidence, the evidence must be at least potentially material to the issues in the appeal and at the minimum, appear to be credible (*Vietnam Oil and Gas Group v Joint Stock Company (Power Machines – ZTL, LMZ, Electrosila Energomachexport)* [2025] 1 SLR 414 at [16(b)]).

33 We did not think that the updated employer CPF contribution rates satisfied the requirement of being at least potentially material. Damages are generally assessed once and for all at the time of the trial (see *Mulholland v Mitchell* [1971] AC 666 ("*Mulholland*") at 674 and 678). An "impossible

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situation would arise if evidence were to be admitted of every change which may have taken place since the trial": *Mulholland* at 679. Further, the adjustments to the employer CPF contribution rates in question were relatively minor; this was not a case where rejecting the further evidence would "affront common sense, or a sense of justice" (see *Mulholland* at 680). We declined to admit the revised CPF rates as further evidence; and rejected the CPF Argument.

Discount Argument

34 We agreed with the Appellants that discounting the Judge's award for loss of future earnings by 30% was warranted in light of the uncertainties associated with Mr Lim's future employment. Having regard to Mr Lim's chequered employment history, we were of the view that there was significant uncertainty as to whether Mr Lim would have been employed at the SAS or in a role offering similar remuneration in the long term until the age of retirement.

35 In *Lua Bee Kiang v Yeo Chee Siong* [2019] 1 SLR 145 ("*Lua Bee Kiang*") at [73], the Court of Appeal stated that the multiplier may be reduced "on account of risks arising from the nature of [the claimant's] occupation or *his personal characteristics*" [emphasis added]. In particular, the court may consider the employment track record of the claimant and the security of his employment (*Rajina Sharma d/o Rajandran v Theyvasigamani s/o Periasamy* [2025] 3 SLR 172 ("*Rajina*") at [88]).

36 In this case, Mr Lim commenced employment with the SAS on Wednesday, 7 February 2018. The accident took place the following Monday, on 12 February 2018. At this point, Mr Lim had only worked for three days at the SAS and was still an employee on probation. Because of this, Mr Lim's employment history took on greater significance to determine if he could have remained in the employ of the SAS in the long term.

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37 In this regard, the evidence on Mr Lim's employment track record that the Respondent had put before the court was limited to the following:

(a) a reference from CBS Ventures Pte Ltd ("CBS"), where Mr Lim worked from July 2009 to August 2013;

(b) a reference from GS Engineering & Construction Corp ("GS Engineering"), where Mr Lim worked from May 2016 to November 2016; and

(c) Mr Lim's CPF statements in 2017 and 2018.

(1) The admissibility of the references from CBS and GS Engineering

38 At this juncture, we address a submission by the Appellants that the references from CBS and GS Engineering (collectively, the "References") constituted inadmissible hearsay evidence. The References had been obtained by the SAS as part of its hiring process to assess Mr Lim's suitability for employment. At trial, the Judge admitted the References under s 32(1)(*b*)(iv) of the Evidence Act 1893 (2020 Rev Ed) ("Evidence Act"). Section 32(1)(*b*)(iv) states:

> **Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant**
>
> **32.**—(1) Subject to subsections (2) and (3), statements of relevant facts made by a person (whether orally, in a document or otherwise), are themselves relevant facts in the following cases:
>
> **when it relates to cause of death;**
>
> **…**
>
> **or is made in course of trade, business, profession or other occupation;**
>
> (*b*) when the statement was made by a person in the ordinary course of a trade, business, profession or other occupation and in particular when it consists of —

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> …
>
> (iv) a document constituting, or forming part of, the records (whether past or present) of a trade, business, profession or other occupation that are recorded, owned or kept by any person, body or organisation carrying out the trade, business, profession or other occupation,
>
> and includes a statement made in a document that is, or forms part of, a record compiled by a person acting in the ordinary course of a trade, business, profession or other occupation based on information supplied by other persons;

39 The Judge held that the References were provided by CBS and GS Engineering in the ordinary course of business because "the provision of references for former employees … is, undoubtedly, a common part of commercial life". The References were documents forming part of the records of both the reference provider (*ie*, CBS and GS Engineering) and the reference receiver (*ie*, SAS). Further, the Judge held that the References should not be excluded in the interests of justice, pursuant to s 32(3) of the Evidence Act. He considered that the References were provided to the SAS in the course of its standard hiring process, long before any litigation was contemplated (Judgment at [127]–[128]).

40 The Appellants contended that the provision and receipt of reference checks were not activities that fell within the ordinary course of business. Instead, the References were "optional" because CBS and GS Engineering "could have declined to provide such references". Also, they submitted that the References ought to have been excluded as they were thrust upon the Appellants when Ms Kate Koh was about to testify, unreliable and of limited probative value.

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41 The Appellants relied on *Management Corporation Strata Title Plan No 3556 v Orion-One Development Pte Ltd* [2020] 3 SLR 373 ("*Orion-One*") for the principle that the entry must be made in the way of *business*. The High Court in *Orion-One* referred to *Bumi Geo Engineering Pte Ltd v Civil Tech Pte Ltd* [2015] 5 SLR 1322 ("*Bumi Geo*") at [105], reasoning that "the statement must have been made in the course of transactions performed in one's habitual relation with others and as a material part of one's mode of obtaining a livelihood" (*Orion-One* at [22]).

42 In our view, these References were inadmissible as they were hearsay evidence which did not fall within the scope of s 32(1)(*b*)(iv) of the Evidence Act.

43 While the provision of references for former employees may not be uncommon in a commercial or business setting, such references are voluntarily provided largely to assist former employees in their application for jobs with other prospective employers. In the present case, it was not shown that the References were made in the ordinary course of the business of the former employer.

44 We observe that the References were not, and did not exhibit, primary employment records kept by the former employer which might themselves have been adduced as "constituting, or forming part of, the records (whether past or present) of a trade, business, profession or other occupation that are recorded, owned or kept by any person, body or organisation carrying out the trade, business, profession or other occupation" (s 32(1)(*b*)(iv) of the Evidence Act). No such records (*eg*, employment contracts between the former employer and employee or employee records routinely kept by the human resource department) were produced.

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45 We also note that given the main purpose of references in this context, a former employer who chooses to provide a reference would be mindful of the purpose, which is to assist the former employee, rather than to merely give a frank appraisal of the employee's work performance. In this regard, it could not be definitively stated that the documents were created from disinterested motives and thus deemed to be generally true, which is the underlying rationale of the business records exception (see *Bumi Geo* at [104]). If such references are argued to fall within s 32(1)(*b*)(iv) of the Evidence Act, more information ought to have been produced on the source of the content in the references, such as the purposes of the records and the identity of the maker of those documents, especially if the references contain qualitative comments on the employee's work performance and career potential, in order to show how these records have been made in the course of the employer carrying out its trade or business.

46 In this regard, we also note that the business records exception has been applied to the following categories of documents, including: inspection reports (*Gimpex Ltd v Unity Holdings Business Ltd* [2015] 2 SLR 686 at [90]–[95] and *Press Automation Technology Pte Ltd v Trans-Link Exhibition Forwarding Pte Ltd* [2003] 1 SLR(R) 712 at [21]–[22]); transaction and business administration documents (*Esben Finance Ltd v Wong Hou-Lianq Neil* [2022] 1 SLR 136 at [137]–[139]); letters, emails and reports regarding the repair and/or recovery of a business asset such as a vessel (*Oversea-Chinese Banking Corp Ltd v Argoglobal Underwriting Asia Pacific Pte Ltd* [2025] SGHC 82 at [55]–[59]); email correspondence by solicitors to their client (*Re X Diamond Capital Pte Ltd* [2024] 3 SLR 1228 at [29]–[31]); and invoices (*Columbia Asia Healthcare Sdn Bhd v Hong Hin Kit Edward* [2016] 5 SLR 735 at [26]). Unlike the References in the present case, these documents were created routinely and habitually in the usual course of business. In other words, there was a nexus

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between the document and the business operations, with the document being necessary or incidental to such operations.

47 In any case, even if the References were taken into account, little weight would be placed on them, and our conclusion on the quantum of damages to be awarded for Mr Lim's loss of future earnings would have remained the same. We explain further in the next section.

(2) The application of a discount on the basis of Mr Lim's employment track record

48 That said, as the Appellants did not challenge the periods when Mr Lim worked at CBS and GS Engineering, those periods may be taken into account by the court. However, we point out that even if the References were taken into account, there remained significant gaps in Mr Lim's overall employment history.

49 First, the four-year period that Mr Lim worked at CBS was the *only* evidence suggesting Mr Lim's ability to sustain employment over a period that is not considered short. This was despite Ms Fung's evidence that Mr Lim started working since "very young" when he was about 18 years old, which would have been in 1997. Mr Lim only worked at GS Engineering for about six months. His CPF statements for 2017 show that he engaged in ad-hoc project work for a total of five months that year. The ad-hoc project work earned Mr Lim a modest sum of a total of $10,918 in 2017, far below the SAS starting salary of $3,500 per month.

50 Second, even if the References were taken into account, despite the stint at CBS being Mr Lim's only record of sustained employment, the reference provided by CBS left out significant information. CBS did not indicate the

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quantum of Mr Lim's last drawn basic salary. It also did not indicate why Mr Lim left the company. None of the options provided in the standard reference form in this regard – "voluntary resignation", "completion of contract" or "termination / dismissal" – was selected. Further, in response to the question of whether CBS would re-employ Mr Lim if a suitable vacancy arose, CBS indicated that it was "unsure of current status / suitability" and it "need[ed] to re-assess". Due to these circumstances, the reference provided by CBS was of limited assistance in assessing if Mr Lim would continue employment with the SAS (or with any other employer) on a long-term basis had the accident not occurred.

51 Third, the Judge accepted Ms Fung's testimony that Mr Lim had been consistently working and providing for the family and inferred that Mr Lim was not only engaged in fleeting work. In doing so, the Judge considered that the Appellants "have not explained *where* this income would have come from had it not been for Mr Lim's work" (Judgment at [131]). With respect, we were of the view that the Judge erred in taking into account Ms Fung's bare allegation that Mr Lim paid for almost all of the family's expenses. There was no evidence to support this. Moreover, Ms Fung worked as a webmaster and designer since graduating from university in 2004 and as of October 2023, she earned a monthly salary of $5,700. She clearly had the means to contribute substantially to the family financially. Without objective evidence from the Respondent that Mr Lim was the sole provider for his family, we do not agree that it could be inferred from the available evidence that Mr Lim was consistently employed.

52 At the hearing, counsel for the Respondent accepted that a discount of 10% to 20% could be applied if the court was of the view that there was uncertainty as to Mr Lim's future employment prospects if not for the accident. In our view, the deficiencies in the state of the evidence warranted a discount of

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30%. Mr Lim's employment history did not support the position that he would have stable employment with an income similar to that offered by the SAS in the long term. Applying a discount of 30% would account for the relevant uncertainties including the risk that Mr Lim might have stopped working at the SAS for various reasons.

53 We were thus of the view that it would be appropriate to grant an award based on the multiplier-multiplicand approach, with the application of a discount of 30% to account for the uncertainties associated with Mr Lim's future employment. While it was accepted that Mr Lim could not be in employment for the rest of his life after the accident (Judgment at [132]), the evidence of Mr Lim's employment history was not the most satisfactory. From the time of the accident, Mr Lim could no longer work at all and should be compensated for loss of future earnings. As we agreed with the Judge's calculations that worked out to the quantum of $1,595,146.72 before applying the discount, a 30% discount reduced the award to $1,116,602.70. We allowed the appeal with respect to the loss of future earnings to the extent that it was reduced to $1,116,602.70.

Pre-trial loss of income

The decision below

54 On the basis of the same evidence that entitled the Respondent to an award for loss of future earnings, the Judge granted the Respondent an award for pre-trial loss of income (Judgment at [240]). The Judge assessed the appropriate quantum to be $334,250.05 for the period between February 2018 (when the accident occurred) and October 2023 (when trial commenced), *ie*, a total of about five years and eight months (Judgment at [241]–[242]).

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The Appellants' arguments

55 The Appellants' position below, as well as in their written submissions filed in the present appeals, was that the court should reject the claim for pre-trial loss of income because it suffered from the same evidential deficiencies as the claim for loss of future earnings. At the hearing before us, however, the Appellants were prepared to accept an award of $278,460 for pre-trial loss of income. According to the Appellants, the difference between this sum of $278,460 and the Judge's award of $334,250.05 resulted from the exclusion of annual increments of 3% and bonuses and wage supplements of 14% from their calculations. In all other respects, including the period and starting salary of $3,500 used, the Appellants agreed with the calculations of the Judge.

The Respondent's arguments

56 The Respondent contended that the Judge rightly factored in annual increments, bonuses and wage supplements. The award should thus be upheld.

Our decision

57 We dismissed the appeal against the award for pre-trial loss of income. This sum was derived by multiplying 68 months (*ie*, five years and eight months) by $3,500 (Mr Lim's starting salary at the SAS) and 1.17 (to account for CPF contributions). This sum also took into account an annual increment of 3% from 2018 to 2023, plus bonuses and annual wage supplements of 14% per year.

58 We saw no reason to exclude the yearly increments, bonuses and wage supplements from the award for pre-trial loss of income. As we explained at [29]–[31] above, these components were premised on the evidence provided by the SAS. Counsel for the Appellants was prepared to proceed on the basis that

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Mr Lim would remain continuously employed by the SAS for the entire period of five years and eight months leading up to the commencement of trial. It would be inappropriate to omit the yearly increments, bonuses and wage supplements for this period. In the circumstances, we upheld the award of $334,250.05 for Mr Lim's pre-trial loss of income.

Costs of future nursing care

The decision below

59 The Judge found that an award for long-term future nursing care at Orange Valley was reasonable in the present case (Judgment at [162]). The Judge accepted Ms Fung's evidence regarding Mr Lim's behavioural problems over time: that from end-2021, Mr Lim started becoming violent, angry and using vulgarities. Mr Lim could not be controlled by Ms Fung and her domestic helper, and he would get agitated and violent when Ms Fung reminded him to mind his behaviour. Mr Lim would also exhibit behaviours such as switching on appliances at night, rummaging for food at night, burning food, running out of the house, and snatching food from the children (Judgment at [164]).

60 The Judge found that Ms Fung's evidence was corroborated by multiple sources. First, the assistant nurse manager at Orange Valley, Ms Fitri Dahliana ("Ms Fitri"), testified that Mr Lim would sometimes throw tantrums and throw items such as the tissue box and television remote. There were triggers that made Mr Lim angry, such as when someone switched the television channel or when he was denied a request for food. Because of his fairly large build, multiple nurses were required to handle Mr Lim when he became agitated (Judgment at [166]). The Judge was also of the view that the medical experts – Dr Kantha Rasalingam, Dr Aaron Ang ("Dr Ang"), Dr Karen Chua ("Dr Chua") and Dr Kesavaraj Jayarajasingam ("Dr Kesavaraj") had also given evidence that

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supported the finding that long-term nursing care was the most reasonable option in the circumstances (Judgment at [167]–[172]).

61 Of the three nursing home options before the Judge – Allium Care Suites, ECON Nursing Home and Orange Valley – the Judge held that Orange Valley was a reasonable choice. The Judge considered Ms Fung's evidence that Allium Care Suites entailed luxury services at high costs and ECON Nursing Home had, amongst other issues, run-down facilities and outdated therapy equipment. The respective rates for a two-bedder room at the nursing homes stated were as follows:

(a) Allium Care Suites: $7,560 – $10,040 per pax per month;

(b) Orange Valley: $8,000 – $9,000 per pax per month; and

(c) ECON Nursing Home: $4,800 – $5,200 per pax per month.

62 The Judge further held that it was a reasonable choice to place Mr Lim in a two-bedder room instead of a four-bedder room in Orange Valley. The Judge had regard to the evidence by Ms Fitri that the former arrangement would be safer for Mr Lim, the nursing staff and other residents; allow for closer supervision of Mr Lim and reduce the potential triggers around him (Judgment at [184]–[190]).

63 In the round, the Judge calculated the quantum of the award for future nursing care as follows (Judgment at [192]):

(a) Annual cost of nursing care: $8,500 (being the median of the price range quoted by Orange Valley for a two-bedder room) x 109% (to account presumably for Goods and Services Tax) x 12 = $111,180

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(b) Annual domestic expenses to be deducted: $860 x 12 = $10,320

(c) Multiplicand = $111,180 - $10,320 = $100,860

(d) Agreed multiplier = 18.54

(e) Total award = $100,860 x 18.54 = $1,869,944.40

The Appellants' arguments

64 The Appellants' initial case was that it was not reasonable for Mr Lim to be placed in a nursing home. Instead, a combination of day care and homestay with the support of an additional domestic helper and/or trained nurse would be more appropriate for Mr Lim. In the alternative, the Appellants submitted that it would be reasonable to place Mr Lim in a four-bedder ward at ECON Nursing Home until his second child turned 18 years old. At the hearing before us, however, the Appellants were prepared to proceed on the basis that institutionalised nursing care was reasonable. They argued that the quantum of the award for nursing care should be calculated based on the ECON Nursing Home rates, instead of the Orange Valley rates. In particular, they submitted that Mr Lim's station in life ought to be considered in assessing the appropriate nursing home placement. It was argued that placing Mr Lim in Orange Valley was not commensurate with his station in life at the time of the accident, and that placing Mr Lim in ECON Nursing Home was more appropriate.

65 The Appellants further argued that a four-bedder room would be more appropriate than a two-bedder room. This was because of the medical opinion evidence given by Dr Kesavaraj (Orange Valley's attending doctor) that there was no difference between a two-bedder and four-bedder room. It was also argued that since Mr Lim's outbursts only occurred occasionally, the

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consideration that his triggers were better managed in a two-bedder room should not feature prominently.

66 In line with these arguments, the Appellants proposed that one of the following three alternatives be adopted as the basis of the award for future nursing care:

(a) Option 1: ECON Nursing Home *four-bedder* from age 44 to 55 and trained domestic helper from age 56 to 67.

(b) Option 2: ECON Nursing Home *two-bedder* from age 44 to 55 and trained domestic helper from age 56 to 67.

(c) Option 3: ECON Nursing Home *two-bedder* from age 44 to 67.

67 According to the Appellants, the reason for proposing that Mr Lim be moved from institutionalised care to home-based care after the age of 55 is that his second child would have turned 18 years old by then. It was argued that it would no longer be a difficult situation for Ms Fung and a trained domestic helper to provide care for Mr Lim by that time. Although there was no further explanation provided as to why that would be the case, the Appellants' argument was presumably that Ms Fung and a trained domestic helper would be able to devote more time and resources to caring for Mr Lim as the children grew to be more independent. Thus, it would be reasonable to have Mr Lim move back to his home to be cared for by Ms Fung and a domestic helper. The ECON Nursing Home two-bedder rates are $4,800 to $5,200 per pax per month (Judgment at [185]). The Appellants submitted that the four-bedder rates, while not adduced as evidence in the trial below, may be estimated by applying a one-third discount to the two-bedder rates, which would amount to $3,200 to $3,466.67 per month.

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The Respondent's arguments

68 The Respondent maintained that the Judge was correct in finding that the permanent placement of Mr Lim in Orange Valley was reasonable, given that it was supported by both medical opinion evidence and factual evidence.

69 As to whether ECON Nursing Home rates should be relied on as the basis for the award, the Respondent submitted that there was no evidence to suggest that Mr Lim could have been given residency at ECON Nursing Home given his condition and injury.

70 At the hearing, counsel for the Respondent confirmed that Orange Valley had, to the date of the hearing, charged Mr Lim for a four-bedder room. This was despite Mr Lim being upgraded, on Orange Valley's own accord, to a two-bedder room during the trial. Counsel for the Respondent consequently conceded that the award for future nursing care, as it stood (being based on two-bedder rates), had given, and would continue to give, the Respondent a windfall up until Mr Lim is actually charged for a two-bedder ward.

71 That said, putting aside the period that Mr Lim is charged the four-bedder rates, the Respondent maintained that the award for future nursing care should be premised on the two-bedder rates. Counsel for the Respondent submitted that although Orange Valley had decided to place Mr Lim in a four-bedder room since January 2024, this had not been satisfactory, and Orange Valley had placed Mr Lim on the waitlist for a two-bedder room (as there were none available). The reason that a two-bedder room was more suitable for Mr Lim was that he could be more closely monitored, exposed to fewer triggers and it would be more manageable for the nursing staff.

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72 In response to the argument that Mr Lim should be shifted to home-based care with an additional trained domestic helper from age 55 onwards, the Respondent argued that it may not be reasonable to rely on home-based care given Dr Chua's (the specialist doctor in charge of Mr Lim's rehabilitation at the Department of Rehabilitation Medicine at Tan Tock Seng Rehabilitation Centre in Tan Tock Seng Hospital) evidence that Mr Lim's condition may deteriorate as he ages and that the family (in particular Ms Fung) had expressed the concern that they cannot adequately care for Mr Lim.

Our decision

73 We allowed the appeal with respect to the award for future nursing care to the extent that it should be based on the costs of nursing care at a four-bedder ward at Orange Valley, instead of a two-bedder ward. We therefore adjusted the award to $1,172,747.70.

74 We rejected the Appellants' proposal to adopt the rates of ECON Nursing Home and upheld the Judge's decision to base the award on the rates at Orange Valley. Counsel for the Appellants referred us to *Choo Mee Hua v Karuppiah Veerapan* [2023] SGDC 306 at [44] in support of their proposition that Mr Lim's station in life was a valid consideration in assessing whether Orange Valley was the appropriate nursing home. That did not assist the Appellants as the court made clear in the same paragraph that it was "not appropriate to pursue lines of questioning about what someone can 'reasonably expect' given their 'station in life'". The court went on to find at [45] that the plaintiff's decision to continue treatment at a private hospital was reasonable given multiple factors including the plaintiff's pre-existing treatment plan and care under the private hospital and the fact that he did seek medical services from public hospitals at first instance but was not satisfied with the treatment.

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75 Indeed, as we pointed out to counsel at the hearing, the relevant inquiry remained whether the proposed care option was reasonable. We were of the view that nursing home care at ECON Nursing Home was not reasonable as there was no evidence before us that ECON Nursing Home would provide effective care for Mr Lim and his condition. In this regard, Ms Fung gave evidence that when she had visited ECON Nursing Home's branch in Buangkok, she was not satisfied with their facilities and customer service. The Appellants did not provide countervailing evidence to suggest that ECON Nursing Home would be a suitable nursing home for Mr Lim. This was despite the fact that they had the opportunity to explore the effectiveness of ECON Nursing Home at the trial since the Respondent had presented that option. As that was not done, there was accordingly no evidence before the court that placing Mr Lim in ECON Nursing Home would have been reasonable.

76 We agreed with the Judge that long-term nursing care at Orange Valley was reasonable in the circumstances. The nursing team at Orange Valley had been shown to be able to manage Mr Lim's triggers and food-driven impulses. Given the medical evidence from Dr Chua that Mr Lim's prognosis remained poor for further functional independence and cognitive recovery, it was reasonable to place Mr Lim in long-term nursing care to meet his long-term medical and nursing needs.

77 We found it fair to use the costs for a four-bedder ward, instead of a two-bedder ward. Although counsel for the Respondent suggested that Mr Lim's trial of a four-bedder ward had been unsuccessful, it was not clear to us that the two-bedder ward would be a reasonable option given that the four-bedder ward could achieve the same level of effective care for Mr Lim. Based on the evidence before us, it appeared that the main benefit of the two-bedder ward was the nursing staff's convenience as it provided them closer access to Mr Lim,

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compared to the four-bedder ward. However, in terms of the care that Mr Lim required in managing his triggers and quelling his bouts of tantrums, there was no evidence that the two-bedder offered more than the four-bedder ward. This was especially since Mr Lim tended to leave his room during the day, and the main challenge in caring for him – his food-driven impulses which predominantly drives his agitation and aggressive behaviour – would not be ameliorated by placing him in a two-bedder ward. In this regard, we observed from the nursing notes that Mr Lim's tantrums and agitations usually occurred in the common areas such as the pantry or the living room where the television was. In the result, taking into account all the circumstances of the case with a sense of proportion and fairness for the interests of all parties concerned (*Lua Bee Kiang* at [67], citing Lord Morris of Borth-y-Gest in *Mallet v McMonagle, a minor by Hugh Joseph McMonagle, his father and guardian ad litem* [1970] AC 166 at 173F-G), we were of the view that the award based on a four-bedder room was reasonable.

78 As for the Appellants' submission to move Mr Lim back to home-based care when their younger child turned 18 years old (when Mr Lim would be 56 years old), we did not accept this as there was no evidence before us that Mr Lim would receive reasonably effective care at home even though presumably, the children would have become more independent and less reliant on the care of Ms Fung and the domestic helper in their daily activities. Although the Appellants had raised this care option as an alternative at the trial below, their primary case was that long-term nursing home care was not reasonable and that a combination of day care with two domestic helpers was the most reasonable care option for Mr Lim. Indeed, counsel for the Appellants accepted as much at the hearing that the option for Mr Lim to return home when their younger child turned 18 years old was not developed in cross-examination with any of the witnesses. In our view, the considerations to be taken into account to care for

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Mr Lim at present may very well be different from those that would arise when their younger child turns 18 years old. Such considerations may include whether Mr Lim's physical and mental condition would deteriorate as he ages, whether there would be sufficient resources to provide effective care for him at home and whether Mr Lim would respond well to the change in environment. As these lines of inquiry were not pursued below, there was no evidence before the court to support the finding that it would be reasonable to move Mr Lim to home-based care at the age of 56 years.

79 Using the sum of $5,625 as the monthly costs of a four-bedder ward at Orange Valley (including the costs of resident clothing), we adjusted the award for future nursing care to $1,172,747.70. The calculations are as follows:

(a) Annual cost of nursing care based on four-bedder rate: ($5,610 + $15) x 109% x 12 = $73,575

(b) Annual domestic expenses to be deducted: $860 x 12 = $10,320

(c) Multiplicand = $73,575 - $10,320 = $63,255

(d) Agreed multiplier = 18.54

(e) Total award = $63,255 x 18.54 = $1,172,747.70

AD/SUM 11/2025

80 It would be appropriate at this point to address AD/SUM 11/2025 ("SUM 11"), which was the Appellants' application to adduce further evidence in the form of two surveillance reports and their accompanying video footage. The Appellants submitted that the further evidence was relevant to determining the appropriate award for future nursing care because it suggested that a hybrid

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arrangement, rather than full-time institutionalisation in a nursing home, was reasonable. The findings of the surveillance reports may be summarised as follows:

(a) Mr Lim and his domestic helper were seen walking around his estate. Mr Lim was also seen sending his daughter to school and fetching his daughter from school with his domestic helper.

(b) Mr Lim took the MRT train with Ms Fung and his domestic helper to Tan Tock Seng Hospital.

(c) Mr Lim was seen interacting with his daughter without any incident.

(d) Mr Lim was seen taking walks and going to the playground with Ms Fung and their two children.

(e) There was no video evidence of Mr Lim's behavioural problems or violence.

81 We dismissed SUM 11 on 21 August 2025 for the main reason that the evidence presented by the surveillance reports was not material to the determination of the award for future nursing care as it could not give a complete and accurate representation of the challenges in caring for Mr Lim.

82 The surveillance footage had primarily recorded Mr Lim's behaviour in public. This was not particularly helpful as Mr Lim was only outdoors for short periods of time in a day while under supervision by either the domestic helper or Ms Fung – his condition and behaviour outdoors was not wholly representative of the challenges in caring for Mr Lim including when he was at home, which formed the bulk of the difficulty in a home-based care

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arrangement. While there was some footage of Mr Lim at home interacting with his children, they provided limited insight into Mr Lim's behaviour at home as they were only for short periods of time and limited to small sections of the house.

83 In this regard, the nursing notes provided by Orange Valley suggest that caring for Mr Lim may be challenging due primarily to his food-driven impulses. The nursing notes frequently detail incidents where Mr Lim stole food or attempted to find more food from the pantry or other residents or demanded for more food than he was provided with during mealtimes. The challenge in particular arises when Mr Lim does not get his way and is not given more food – he may exhibit aggression, shout, hurl vulgarities at the nurses, or simply lie on the floor. Given that he is of a fairly large build, it required more than one nurse to restrain him from hurting himself and others when agitated. The staff at Orange Valley usually did not provide Mr Lim more food based on the dietician's and doctor's advice that he should not consume more than his stipulated calorie intake, which was already fulfilled by the meals provided to him at the nursing home.

84 As such, we were of the view that the surveillance footages were selective in its portrayal of Mr Lim's condition and did not address the primary challenge of caring for Mr Lim. They could not give an accurate representation of the challenges in caring for Mr Lim and therefore were not material to the determination of the issue of whether full-time institutionalised nursing care was appropriate. As it turned out and as mentioned, the Appellants later accepted at the hearing before us that institutionalised nursing care was reasonable in the circumstances, at least for the period when Mr Lim was below the age of 56 years.

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The Respondent's application to adduce further evidence

85 We also rejected the Respondent's oral application to adduce further evidence in relation to the issue of the award for future nursing care. Close to the date of the hearing, the Respondent had written to the court seeking to adduce a piece of further evidence in the form of a memorandum from Dr Kesavaraj of Orange Valley dated 10 November 2025. The memorandum was prepared for the purposes of referring Mr Lim to Tan Tock Seng Hospital ("TTSH") for a review of his medication so that he could be better managed. It described an incident on 6 November 2025 where Mr Lim exhibited combative behaviour towards the nursing staff at Orange Valley. Mr Lim had tried to obtain the pantry key, pushed the staff and broke the hand bar near the pantry. The memorandum also stated that Mr Lim had exhibited frequent behaviour of stealing food, shouting and cursing at staff. The Respondent submitted that the memorandum supported its case that Mr Lim could not be adequately managed and cared for at home on a long-term basis.

86 We did not allow this piece of further evidence as it was materially similar to what had already been adduced in terms of showing that Mr Lim had food-driven impulses and that institutionalised nursing care was appropriate and reasonable for Mr Lim. As this piece of evidence did not add anything material to the analysis, we declined to admit it.

Incurred nursing care expenses

87 We dismissed the appeal in respect of the nursing care expenses incurred before trial. While the Appellants had argued in their written submissions that the award for incurred nursing care expenses should be rejected given that it was unreasonable to place Mr Lim in Orange Valley, this position would presumably have to be adjusted to be in line with their subsequent position at

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the hearing that institutionalised nursing care was reasonable (see [62] and [64] above). We had determined (at [77] above) that a four-bedder ward in Orange Valley was reasonable for Mr Lim in the circumstances. As the costs of the incurred nursing care expenses were based on the costs of a four-bedder ward at Orange Valley, there was no reason to disturb this award of $15,576.49.

Costs of future occupational therapy

88 We allowed the appeal with respect to the costs of future occupational therapy to the extent that the award was reduced by 30%, from $111,240 to $77,868.

The decision below

89 The Judge found that it was reasonable to award the Respondent the costs of future occupational therapy as it was beneficial for Mr Lim (Judgment at [208]–[210]). The Judge gave weight to the evidence of Ms Andrea Lin ("Ms Lin"), an occupational therapist at Orange Valley, who testified that part of the goal of occupational therapy is to help the Respondent attain enjoyment of his life, promote self-care, engagement, leisure and self-esteem. Despite being told on the stand that Dr Chua had opined that Mr Lim does not need further rehabilitation therapies, Ms Lin maintained that it was her professional opinion that occupational therapy would still help Mr Lim in areas such as concentration and communication. Ms Lin further explained that the goals of therapies in an acute care hospital, like TTSH, and a nursing home, are different.

90 In relation to Dr Chua's opinion dated 21 September 2023 that Mr Lim "does not need further rehabilitation therapies or scans unless there are new complications", the Judge held that Dr Chua's opinion related only to his

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treatment at TTSH and did not refer to the need (or lack thereof) for occupational therapy in general (Judgment at [209]–[210]).

91 As for the quantum of the award, it was calculated as follows (Judgment at [212]):

(a) Multiplicand: $500 x 12 = $6,000

(b) Multiplier: 18.54

(c) Award: $6,000 x 18.54 = $111,240

The Appellants' arguments

92 The Appellants submitted that the costs of future occupational therapy should not be awarded to the Respondent because Dr Chua had opined that Mr Lim does not need therapy unless new complications arose. Even if occupational therapy is beneficial for Mr Lim, the Appellants submitted that the award should be subsumed under the award for future nursing care given that occupational therapy forms part of the service provided by Orange Valley as an institutionalised nursing home.

The Respondent's arguments

93 The Respondent submitted that the costs of future occupational therapy were reasonable due to the various benefits it would confer on Mr Lim. In addition, the Respondent submitted that Dr Chua's statement that Mr Lim "does not need further rehabilitation therapies or scans unless there are new complications" was taken out of context, because her medical report was issued in response to the Respondent's request for an updated medical report in relation to current and future treatment at TTSH. The report contemplates a difference

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between rehabilitative therapies in TTSH and other forms of therapy elsewhere that serve to engage the Respondent.

Our decision

94 We agreed with the Judge that an award for costs of future occupational therapy was reasonable because it is beneficial to Mr Lim. However, we reduced the award to $77,868. While Dr Chua's medical report dated 21 September 2023 stated that Mr Lim "does not need further rehabilitation therapies or scans unless there are new complications", the report did not refer to rehabilitation therapies outside of the TTSH Rehabilitation Centre. In this regard, we agreed with the Respondent that Dr Chua's statement was taken out of context – Dr Chua's medical report was issued in response to the Respondent's request dated 7 September 2023 for an updated medical report in relation to the costs of current treatment and the updated future treatment plan under her care at TTSH.

95 This was apparent from Dr Chua's subsequent statement in the same report which drew a distinction between rehabilitation follow up at TTSH and rehabilitation follow up at the nursing home:

> Regarding rehabilitation future costs, rehabilitation follow up is estimated at $110 per visit twice a year. He does not need further rehabilitation therapies or scans unless there are new complications. *If he has already entered the nursing home and remains stable and well-adapted, their doctors are able to follow up and he could be discharged from specialist follow up with an open date within 1-2 years.*
>
> [emphasis added]

96 The above statement indicated that Dr Chua would leave it to the nursing home doctors to follow up with Mr Lim if Mr Lim has already entered the nursing home and is well-adapted. Understood in this context, Dr Chua's

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opinion pertained only to Mr Lim's rehabilitation care under her and did not extend to occupational therapy conducted in Orange Valley.

97 This distinction between rehabilitation therapies at TTSH and occupational therapy at the nursing home was also supported by Ms Lin's evidence. Ms Lin explained that rehabilitation in different settings would have different objectives, and her objective with Mr Lim in the nursing home would be different from that in the hospital. Ms Lin observed that Mr Lim does enjoy the activities in occupational therapy. She gave evidence as to Mr Lim's current occupational therapy plan which focuses on improving his attention, memory and orientation to his environment. Mr Lim would also work on his perception and fine motor skills so that he can do some basic writing, as well as his hand coordination. This would also help to keep Mr Lim occupied. In Ms Lin's view, keeping Mr Lim engaged with the activities during occupational therapy was helpful given her observation that Mr Lim may find it difficult to participate in the common activities at Orange Valley, which require him to mingle with the other residents who were more elderly.

98 We accepted that there are benefits to occupational therapy in improving the physical and mental wellbeing of Mr Lim and agreed with the Respondent that it would be in Mr Lim's best interests to continue with the occupational therapy plan at Orange Valley.

99 However, we noted that the current occupational therapy package entails 12 sessions per month, with each session lasting 30 minutes. In our view, there were uncertainties as to whether Mr Lim would continue to require these sessions or require them at that frequency in the future. For instance, the difficulty that Mr Lim is perceived to have in participating in activities with the other Orange Valley residents may, with time, become less of a concern as he

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becomes more familiar with them. In the circumstances, we deemed it appropriate to impose a discount of 30% to account for these uncertainties. We therefore reduced the award to $77,868.

100 In relation to the Appellants' argument that the costs of future occupational therapy have been subsumed under the award for future nursing care, there was no evidence to support this submission. Instead, the invoices for nursing care and occupational therapy were issued by two different entities – Orange Valley Nursing Home Pte Ltd and Orange Valley 3-T Rehab Pte Ltd. Based on the invoices adduced by the Respondent, the payments are also made to different bank accounts – the nursing care fees are paid to "Orange Valley Nursing Homes Pte Ltd" with the bank account number ending 6244, while the occupational therapy fees are paid to "Orange Valley 3-T Rehab Pte Ltd" with the bank account number ending 8704. Hence, we rejected the Appellant's argument.

Costs of future caregiver services when Mr Lim is on home leave

101 The costs of future caregiver services was an issue taken up by the Third, Fourth and Fifth Defendants, but not Liberty or the Insured. We allowed this point of appeal in AD 54 and AD 56 and set aside the award of $11,124 for the costs of future caregiver services when Mr Lim is on home leave. As Liberty did not appeal against this award, the Insured will remain liable to the Respondent for the costs of future caregiver services.

The decision below

102 The Judge found that it was reasonable to award the Respondent the costs of future caregiving by Ms Fung and the domestic helper that will be rendered when Mr Lim goes on home leave once every week, and when he goes

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for his medical and dental follow-ups (Judgment at [221]). On the basis that Mr Lim goes on home leave once a week which includes leaving Orange Valley for social reasons and medical and dental follow-ups, the Judge found the Respondent's submission for a multiplicand of $600 highly reasonable for the 52 trips per year which Mr Lim would take when on home leave. That would amount to a very small award of $11.54 for caregiver services provided per trip, which is below the fair value of the nursing and caring services Mr Lim actually requires and receives from Ms Fung and/or a domestic helper (Judgment at [224]).

103 The Judge therefore granted the award, calculated as follows (Judgment at [224]):

(a) Multiplicand: $600

(b) Multiplier: 18.54

(c) Award: $600 x 18.54 = $11,124

The Appellants' arguments

104 The appellants in AD 54 and AD 56 submitted that the award for the costs of future caregiving services over and above the costs of future nursing care was, in effect, double counting. The award for the costs of future nursing care would have contemplated a full stay at Orange Valley, without deduction for any periods that Mr Lim was on home leave. It would amount to double counting for the Respondent to then be additionally compensated for costs of caregiver services. Liberty did not appeal against this award.

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The Respondent's arguments

105 The Respondent submitted that there was no double counting as the award was for caregiving services by Ms Fung and the domestic helper when Mr Lim is on home leave and when he goes for his medical follow-ups. There was therefore no overlap between the award for future nursing care and future caregiving services.

Our decision

106 We were of the view that it was not reasonable to compensate the Respondent for both the costs of future nursing care and the costs of future caregiving services. The award for future nursing care already contemplates a full stay at Orange Valley until the projected end of Mr Lim's lifespan at 67 years old. We did not apply a deduction to that award to account for his home leave, despite evidence that Mr Lim goes on home leave at least once a week. To additionally compensate the Respondent for future caregiver services by Ms Fung and the domestic helper would mean that the Respondent is compensated for both the expenses incurred during the home leave and the expenses incurred at the nursing home. It would not be fair and proportionate for the Appellants to compensate both expenses. We thus allowed the appeal in relation to the award for future caregiving services.

107 Since Liberty did not appeal against this award, the Insured remained solely liable to the Respondent for the sum of $11,124 for the costs of future caregiving services when Mr Lim is on home leave.

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Costs of caregiver services before admission to Orange Valley

108 We dismissed the appeal with respect to the costs of caregiver services provided by Ms Fung and the domestic helper before Mr Lim's admission to Orange Valley.

The decision below

109 The Judge held that the Respondent was entitled to claim the value of caregiver services provided by Ms Fung and the domestic helper. The Judge found it believable that Ms Fung had provided care to Mr Lim, in addition to the care provided by the domestic helper or the caregiver employed by Ms Fung for about five months in 2019, given the examples raised in her affidavit of evidence-in-chief and Ms Fitri's evidence that more than one nurse would be required to handle Mr Lim when he gets agitated (Judgment at [248]).

110 The Judge rejected the submission that the Respondent had to prove that Ms Fung suffered a loss of income before a claim could be made for the caregiver services rendered by her to Mr Lim. The Judge relied on the Court of Appeal's decision in *Noor Azlin bte Abdul Rahman v Changi General Hospital Pte Ltd* [2022] 1 SLR 689 ("*Noor Azlin*") where it held (at [193]) that "it was open to the appellants to claim for [the mother's] expended time and effort in looking after [the victim] by exploring the fair value of the nursing and caring services which [the victim] had received from [the mother], *and/or* whether [the mother] had suffered any loss of income … because she was looking after [the victim]" [emphasis in original].

111 The Judge also cited *AOD v AOE* [2016] 1 SLR 217 ("*AOD*") where the High Court held (at [142]) that in assessing the cost of gratuitous care received by a plaintiff, the caregiver's foregone income is to be the starting point, but this

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starting point may be departed from where appropriate if the foregone income is less than the fair value of the nursing and caring services provided to the plaintiff. In such a case, the cost of the gratuitous care received by a plaintiff shall be taken to be the fair value of the nursing and caring services the plaintiff actually requires and receives (Judgment at [223]).

112 In assessing the quantum of the claim, the Judge found that the cost of care provided at home would be the cost of one domestic helper multiplied by 1.5 to reflect the additional care given by Ms Fung alongside the domestic helper and to account for the various additional costs at various points in time when there were two domestic helpers and when there was an additional caregiver engaged (Judgment at [251]).

113 The Judge declined to impose a discount on the award for the value of the domestic helper's services to account for the benefits conferred by the helper on the household (aside from taking care of Mr Lim) as it was reasonable to conclude that the domestic helper would have spent a large percentage of her time caring for Mr Lim and would have provided relatively few benefits to the household in general (Judgment at [252]).

114 The Judge arrived at the award amounting to $82,165.45, for the period of 51 months between 8 May 2019 (when Mr Lim was discharged home) and 16 August 2023 (when Mr Lim was admitted into Orange Valley), as follows (Judgment at [253]):

(a) Domestic helper agency fee: $5,571

(b) Domestic helper medical bills: $94.45

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(c) Domestic helper monthly outlay, with a 1.5x multiplier: $1,000 x 1.5 x 51 = $76,500

(d) Total: $5,571 + $94.45 + $76,500 = $82,165.45

The Appellants' arguments

115 The Appellants submitted that the first limb of the principle set out at [193] of *Noor Azlin* (*ie*, that it was open to claim for the caregiver's expended time and effort by exploring the fair value of the nursing and caring services which the victim had received from the caregiver) only applied to non-working spouses. As the non-working spouse does not have a job to forgo, the loss cannot be computed based on the caregiver's loss of income. Thus, they submitted that in such a situation the court would assess the fair value of the nursing and caregiving services as it would be unjust to deny the non-working spouse the fair value of time and effort he or she expended to care for the injured victim. In the present case however, since Ms Fung did not give up her employment or lose any income in looking after Mr Lim, she would not be entitled to claim for the caregiving services rendered by exploring the fair value of such services.

116 In any event, the Appellants submitted that there must be evidence as to the care provided by Ms Fung to Mr Lim, given that the family had a domestic helper who would have assisted Mr Lim in his daily living activities. The Appellants further submitted that there was no explanation provided by the Judge in applying a 1.5 multiplier to the salary of the domestic helper.

117 The Appellants also submitted that the claim was untenable because, amongst other reasons, the claim was pitched as an amalgamated claim for caregiving services rendered by both Ms Fung and the domestic helper, and the family already had a domestic helper for several years prior to the accident.

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However, the Appellants submitted that if the court was minded to award the cost of caregiving services for the domestic helper for 51 months, the quantum of $47,625 was more appropriate.

The Respondent's arguments

118 The Respondent submitted that there was no need for proof of loss of income before an award can be made for gratuitous caregiver services, relying on *Noor Azlin* at [193] and *AOD* at [142]. The Respondent argued that it would be unjust to deny the fair value of the time and effort expended by Ms Fung to care for Mr Lim after the former was thrust into juggling multiple roles as a mother, caregiver and sole breadwinner. The Respondent also submitted that the award was justified as there was cogent evidence of the caregiving services provided by Ms Fung to the Respondent.

Our decision

The Judge did not err in assessing the award based on the fair value of care provided by Ms Fung and the domestic helper

119 We did not accept the Appellants' submission that Ms Fung had to show a loss of income for the Respondent to be entitled to the claim for costs of caregiving services rendered by her.

120 We refer to the Court of Appeal's *dicta* at [193] of *Noor Azlin*:

> That said, it has not escaped our attention that Mr Rai claims that Mdm Azizah had looked after Ms Azlin for at least some periods of time because the family could not afford a domestic helper or a nurse. While we appreciate the difficult financial circumstances faced by Ms Azlin and her family, *it was open to the appellants to claim for Mdm Azizah's expended time and effort in looking after Ms Azlin by exploring the fair value of the nursing and caring services which Ms Azlin had received from Mdm Azizah, and/or whether Mdm Azizah had suffered any loss of income from 2014 to 1 April 2019 (for example, if she had to*

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> *forgo certain employment opportunities) because she was looking after Ms Azlin.* As this was not done, no further losses can be claimed.
>
> [emphasis added]

121 In our view, the Court of Appeal in *Noor Azlin* did not confine its *dicta* at [193] to claims for the fair value of caregiving services provided by non-working family members only. The loss caused to the plaintiff as a result of the accident includes the value of the care that he or she requires. On this basis, the damages awarded may reflect this loss irrespective of whether the caregiver had given up employment. On the facts before us, we were of the view that the Judge did not err in allowing this claim. We hasten to add that whether damages may be awarded for caregiving by a family member remains a fact-specific enquiry.

122 Thus, we did not disturb the Judge's award on this basis.

The quantum awarded by the Judge was reasonable

123 In our view, the Judge was entitled to find that Ms Fung had provided additional care to Mr Lim alongside the domestic helper, especially given that the Appellants themselves accepted that it was reasonable for Mr Lim to be cared for by more than one caregiver or domestic helper. Further, there was corroborative evidence from Ms Fitri that it would require more than one nurse to handle Mr Lim when he is in an agitated state, and it would be too exhausting for one or two persons to look after him.

124 In the circumstances, we were of the view that the Judge did not err in imposing a multiplier of 1.5 on the cost of one domestic helper to reflect the additional care provided by Ms Fung, and to account for the various additional costs incurred in caring for Mr Lim at home. For instance, for a period of about four to five months, Ms Fung employed an additional caregiver alongside the

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domestic helper to care for Mr Lim. Mr Lim was also placed in a daycare centre in December 2022 for a period of about six months, and as Dr Ang (Mr Lim's psychiatrist doctor at TTSH) opined, this should be considered alongside the family's caregiving burden when the daycare centre is not operating at night, on weekends and during public holidays. In our view, the Judge was also right to accept Dr Ang's evidence that it might have been even more challenging to care for Mr Lim when he had recovered physically as his cognitive abilities did not match the improvements in his physical abilities.

125 Accordingly, we saw no reason to interfere with the of the quantum of damages awarded by the Judge. It reflected the total value of the caregiver services provided by a full-time domestic helper, and Ms Fung in the evenings when she returned from work and on the weekends, as well as for the additional costs incurred at various points in time.

126 The Judge did not err in the exercise of his discretion in declining to impose a discount on the award for the value of the domestic helper's services to account for the benefits conferred onto the household. The evidence showed that caring for Mr Lim at home, especially given his disruptive behaviour at night and unpredictable aggression, had been challenging for both Ms Fung and the domestic helper. It was reasonable for the Judge to conclude that the domestic helper would have spent a large percentage of her time caring for Mr Lim and would have provided relatively few benefits to the household in general.

127 We therefore did not disturb the Judge's award of $82,165.45 for the costs of caregiver services provided by Ms Fung and the domestic helper before Mr Lim's admission to Orange Valley.

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AD 92

128 We dismissed AD 92, which was Liberty's appeal against the Judge's costs orders against it.

The decision below

129 The Judge held that Liberty "shall be liable to the [Respondent] for costs in the same proportion as the 1st and 2nd defendants (*ie*, 30%)" (the Judge's decision on costs/interests/disbursements ("Costs Judgment") at [10]). This was premised on the factors of (a) a close connection between the non-party and the proceedings; and (b) a causal link between the non-party and the incurring of costs, as set out in *DB Trustees (Hong Kong) Ltd v Consult Asia Pte Ltd* [2010] 3 SLR 542 ("*DB Trustees*") at [36]. The Judge held that there was a close connection between Liberty and the proceedings as Liberty stood to benefit if the Insured (*ie*, the first and second defendants) were found not to be liable, and Liberty had controlled the proceedings. The Judge also held that Liberty had caused the incurring of costs at the trial by leading the Insured's arguments on their behalf and participating fully in the trial (Costs Judgment at [2]–[9]).

Liberty's arguments

130 Liberty submitted that the Judge erred in making it the direct subject of the costs order, as opposed to only imposing costs on the Insured. On the other hand, before us, counsel for Liberty accepted that Liberty would be liable to *the Respondent* for the costs ordered against the Insured without the need for a specific costs order against Liberty. This was so even if Liberty successfully repudiated liability *vis-à-vis* the Insured. However, it was contended that the issue of policy liability between Liberty and *the Insured* was a separate matter – in holding Liberty directly liable for costs to the Respondent, the Judge had

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purportedly pre-judged the issue of policy liability between Liberty and the Insured.

131 Liberty also contended that the Judge erred in applying the conditions in *DB Trustees* to determine if Liberty should be liable for costs. Instead, relying on the case of *XYZ v Travelers Insurance Co Ltd* [2019] 1 WLR 6075 ("*Travelers Insurance*"), Liberty submitted that it should not be made liable for costs unless it was the real defendant or had intermeddled in the proceedings, which was not the case here.

132 For completeness, Liberty had also contended in its written submissions that it was unclear whether the Judge intended Liberty and the Insured to be jointly or severally liable for 30 percent of the costs. However, this was abandoned by Liberty at the hearing. Liberty accepted that liability was intended to be joint and several.

The Respondent's arguments

133 The Respondent argued that the Judge's determination on costs was premised on the legal principles in *DB Trustees* and not contingent on any finding of whether Liberty was liable to the Insured under the insurance policy.

134 The Respondent also argued that the principles in *Travelers Insurance* should not displace those in *DB Trustees* and, in any event, *Travelers Insurance* was of no assistance to Liberty. Liberty was either the real defendant if it were liable to satisfy the judgment under the scope of its cover or Malaysian legislation, or it had intermeddled in a wholly uninsured claim.

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Our decision

135 Over the course of Liberty's submissions at the hearing, it became evident that AD 92 was academic because Liberty was not contesting its liability to *the Respondent* for the costs ordered against the Insured. It accepted that it would have to satisfy the same if the Insured failed to do so. This was precisely what the Judge had ordered, *ie*, the joint and several liability of Liberty and the Insured. Counsel for Liberty conceded at the hearing that there was no *practical* difference between its position and what the Judge had ordered.

136 We were of the view that Liberty's objection in *principle*, that the Judge had pre-determined its liability to the Insured under the latter's insurance policy in holding it liable for costs, had no merit. This is because the Judge's decision was premised on an assessment of Liberty's participation and conduct at the trial. Pursuant to O 21 r 2(1) of the Rules of Court 2021, the court has a broad power to order costs against a non-party where it is just to do so: *Founder Group (Hong Kong) Ltd v Singapore JHC Co Pte Ltd* [2023] 2 SLR 554 at [74]–[75]. The relevant considerations in this regard would include the factors set out in *DB Trustees*, namely a close connection between the non-party and the proceedings and a causal link between the non-party's conduct and the incurring of costs. Further, given that Liberty was in fact a named party in the trial below, the Judge was entitled to hold it liable for costs, having regard to the relevant circumstances. Crucially, the Judge did not make any determination as to Liberty's liability to the Insured under the latter's insurance policy.

137 In our view, the costs order against Liberty was warranted. Liberty had intervened in the trial, was named as the sixth defendant and essentially conducted the defence of the Insured to protect its own interests. The Insured had decided not to participate in the trial at all. Notwithstanding this, Liberty

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persisted in defending the Respondent's claim because it was concerned about the risk that it would be obliged to indemnify the Insured in respect of the judgment obtained against the latter. Liberty was therefore not acting out of altruistic motives, contrary to what its written submissions for AD 92 appeared to suggest. For the reasons given by the Judge, there was also a clear causal link between Liberty's participation in the trial and the incurring of costs therein. This was reinforced by Liberty's own claim that it intervened "because the [Respondent's] solicitors wrote threatening to withdraw the [Respondent's] claim against [the defendants apart from the Insured] and enter default judgment against [the Insured] for non-appearance".

138 While Liberty sought to rely on the principles in *Travelers Insurance*, the facts there can be readily distinguished. That case concerned a group litigation where only the claims of some claimants fell within the confines of the insurer cover. Under the insurance, the insurer had the right to control the conduct of the defence of claims which fell within its cover. Solicitors were retained by the insurer and the company, and the insurer funded all of the company's defence costs. The claimants with uninsured claims subsequently obtained judgment against the insured company and applied for a *non-party* costs order against the insurer. The issue to be determined in *Travelers Insurance* was therefore whether the insurer, having funded and conducted the defence of wholly uninsured claims, should be liable for the costs in respect of such claims. The UK Supreme Court held in the negative because the conduct of the insurer in advising the insured company not to disclose the limits of its insurance cover earlier was legitimate and did not constitute unjustified intermeddling. *Travelers Insurance* was of no assistance to Liberty, who was a *party* to the proceedings below and had participated actively in the proceedings.

139 Accordingly, we dismissed AD 92.

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Costs

140 In respect of costs for AD 54, 55 and 56, we ordered the Respondent to pay the Appellants in AD 54, 55 and 56 the sum of $40,000 (all-in). Although the Appellants had succeeded in their appeal against the heads of claim with the most substantial quantum, namely the award for loss of future earnings and future nursing care, we did not think that this warranted costs on the higher end given that their substantive arguments in relation to those issues which aligned with our decision were raised belatedly only on the day of the hearing. As for the apportionment of costs between the Appellants in AD 54, 55 and 56, we left that for the Appellants to agree on among themselves.

141 We ordered the Respondent to pay costs of $500 (all-in) to the appellants in AD 54 and 56 for the latter's successful appeal in respect of the costs of future caregiver services when Mr Lim is on home leave (Liberty did not appeal against the costs of future caregiver services when Mr Lim is on home leave).

142 The Respondent was also ordered to pay the Appellants costs of $500 (all-in) for their oral application seeking admission of new evidence in the affidavit filed on 18 November 2025, which was not admitted by the court.

143 In respect of costs for SUM 11, considering the rather extensive affidavit evidence adduced by the Respondent in response to the application, we ordered the Appellants to pay the Respondent the sum of $16,000 (all-in).

144 In respect of costs for AD 92, we ordered Liberty to pay the Respondent costs fixed at $8,000 (all-in).

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145 Costs ordered by the court below were to remain.

Woo Bih Li
Judge of the Appellate Division

Debbie Ong Siew Ling
Judge of the Appellate Division

See Kee Oon
Judge of the Appellate Division

Lin Hui Yin Sharon and Phng Boon Yew Gideon (Withers KhattarWong LLP) for the appellant in AD/CA 54/2024, fourth respondent in AD/CA 55/2024 and AD/CA 92/2024;
Kanapathi Pillai Nirumalan, Liew Teck Huat and Phang Cunkuang (Niru & Co LLC) for the appellant in AD/CA 55/2024 and AD/CA 92/2024;
Fernandez Christopher and Low Huai Pin (Tan Kok Quan Partnership) for the appellants in AD/CA 56/2024, fifth and sixth respondents in AD/CA 55/2024 and AD/CA 92/2024;
Raj Singh Shergill and Koh Jia Min Desiree (Lee Shergill LLP) for the respondent in AD/CA 54/2024, first respondent in AD/CA 55/2024, AD/CA 56/2024 and AD/CA 92/2024;
The second and third respondents in AD/CA 55/2024, AD/CA 56/2024 and AD/CA 92/2024 absent and unrepresented.

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