Fong Khim Ling (administrator of the estate of Fong Ching Pau Lloyd, deceased) *v* Tan Teck Ann
[2014] SGCA 11

Case Number	: Civil Appeal No 38 of 2013 (Summons No 3140 of 2013)
Decision Date	: 10 February 2014
Tribunal/Court	: Court of Appeal
Coram	: Sundaresh Menon CJ; Chao Hick Tin JA; V K Rajah JA
Counsel Name(s)	: Edwin Chua (instructed) (Lawrence Chua & Partners), Raphael Louis (Teo Keng Siang & Partners) for the appellant; Patrick Yeo Kim Hai, Lim Hui Ying and Timothy Ng Eu Jin (KhattarWong LLP) for the respondent.
Parties	: Fong Khim Ling (administrator of the estate of Fong Ching Pau Lloyd, deceased) — Tan Teck Ann

Civil Procedure – Jurisdiction – Leave to appeal

10 February 2014

Chao Hick Tin JA (delivering the grounds of decision of the court):

1 This was an application in Summons No 3140 of 2013 ("SUM 3140/2013") to strike out the notice of appeal in Civil Appeal No 38 of 2013 ("CA 38/2013") on the ground that the appellant ("the Appellant") had failed to obtain leave to appeal pursuant to s 34(2)(*a*) of the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed) ("SCJA"). At the conclusion of the hearing, we dismissed the application. As this is the first time that the particular issue raised in this case has come before this court following the amendments to s 34(2)(*a*) in 2010, we now give our grounds of decision.

Background facts

2 The Appellant is the administrator of the estate of Fong Ching Pau Lloyd ("the deceased"). The deceased was killed in a traffic accident on 10 December 2008. His motorcycle had collided with a bus driven by the respondent Tan Teck Ann ("the Respondent").

3 On 1 November 2010, the Appellant obtained interlocutory judgment for damages to be assessed, with liability agreed in the ratio of 95:5 in favour of the Appellant.

4 The parties subsequently signed a memorandum ("the Memorandum") pursuant to s 23 of the Subordinate Courts Act (Cap 321, 2007 Rev Ed), giving the District Court jurisdiction to hear the action notwithstanding that the total sum claimed by the Appellant for loss of dependency and special damages was $379,923.33 (on a 100% basis). Clause 5 of the Memorandum stated:

> 5. Both the Plaintiff and the Defendant agree and abide to be bound by the District Court's judgment if the damages awarded to the Plaintiff exceed the District Court's limited [*sic*] of award of S$250,000.00. It is also agreed that the right of appeal (if any) of the District Court's judgment by both parties under any written law is not prejudiced.

5 The assessment of damages took place before District Judge Constance Tay sitting as a deputy registrar ("the Deputy Registrar"). The Appellant claimed $354,756.48 for the parents' loss of

dependency plus $25,166.85 in special damages. Only the former head of damage was disputed. On 11 May 2012, the Deputy Registrar awarded the Appellant total damages of $261,326.85 plus interest and costs of $25,000. Damages for loss of dependency were quantified at $236,160 (on a 100% basis).

6 Both the Appellant and Respondent appealed against the Deputy Registrar's decision to a district judge in chambers (*vide* Registrar's Appeal No 85 of 2012 and Registrar's Appeal No 86 of 2012 ("RA 86/2012") respectively). On 17 October 2012, District Judge Leslie Chew ("the District Judge") dismissed the Appellant's appeal and allowed the Respondent's appeal, reducing the award for loss of dependency to $158,355 (on a 100% basis). The District Judge also affirmed the costs order of $25,000.

7 The Appellant appealed to the High Court against the District Judge's decision in Registrar's Appeal Subordinate Courts No 185 of 2012 ("RAS 185/2012"). RAS 185/2012 stated:

> Take notice that the abovenamed Plaintiff intends to appeal against the decision of the District Judge in Chambers given on the 17th day of October 2012 in RA86/2012/D ordering that:
>
> 1. The [Respondent's] appeal against the award for general damages for loss of dependency is allowed
>
> …
>
> And further take notice that you are required to attend before the Judge of the High Court in Chambers … on the hearing of an application by the [Appellant], that
>
> 1. The award for the dependency claims for both the Deceased's father and mother to be set aside and / or substituted with a higher sum
>
> …

The High Court judge ("the Judge") dismissed the appeal and affirmed the District Judge's award and the costs order made by the Deputy Registrar (see *Fong Khim Ling (administrator of the estate of Fong Ching Pau Lloyd, deceased) v Tan Teck Ann* [2013] SGHC 104 ("the GD")).

8 On 21 March 2013, the Appellant filed a notice of appeal ("the Notice of Appeal") in CA 38/2013 against the whole of the Judge's decision. The Respondent subsequently filed SUM 3140/2013 to strike out the Notice of Appeal on the ground that the Appellant had not sought leave to appeal. The Respondent contended that the Appellant had not satisfied the monetary threshold of $250,000 prescribed in s 34(2)(*a*) of the SCJA and thus required leave to appeal.

The issue in SUM 3140/2013

9 The only issue before us was whether the Appellant had satisfied the monetary threshold prescribed in s 34(2)(*a*) such that leave to appeal was not required.

The parties' arguments

10 The Appellant submitted that leave to file the Notice of Appeal was not required under s 34(2)(*a*) as the phrase "amount in dispute" referred to the amount claimed for damages at first instance before the Deputy Registrar, *ie*, $379,923.33, and not the difference in the amount claimed on appeal

and the judgment sum. Accordingly, the monetary threshold of $250,000 was crossed and the Appellant was entitled to appeal as of right.

11 The Respondent submitted that the purpose of the monetary threshold was to allow only one tier of appeal for civil claims. When a party was seeking to appeal a decision of the High Court made in its appellate capacity, the material sum for ascertaining whether leave was required pursuant to s 34(2)(*a*) was the "amount in dispute". The "amount in dispute" referred to the difference between the sum claimed by the Appellant before the Judge and the sum awarded by the District Judge below (on the assumption that the Appellant had repeated his claim for $354,756.48) or the difference between the sum awarded by the Deputy Registrar and the sum awarded by the District Judge (on the assumption that the Appellant had only appealed against the District Judge's reduction of the award). Applying either test, the present "amount in dispute" was clearly less than $250,000 and the Appellant ought to have obtained leave to appeal before filing the Notice of Appeal.

Our decision

The statutory purpose of monetary thresholds for an appeal as of right

12 The monetary thresholds laid down in the SCJA differentiate between an appeal to the High Court, which is governed by s 21(1)(*a*), and that to the Court of Appeal under s 34(2)(*a*).

13 The purpose of the monetary threshold for appeals to the High Court is "to discourage non-serious appeals to the High Court", and the requirement for leave is "a screening mechanism to sieve out non-serious and unmeritorious appeals" (see the explanatory statement of the then Minister of Law, Prof S Jayakumar ("Prof Jayakumar") at the second reading of the Supreme Court of Judicature (Amendment) Bill 1998 in *Singapore Parliamentary Debates, Official Report* (26 November 1998) vol 69 at cols 1629-1630). The threshold for appeals to the High Court was increased from $5,000 to $50,000 by the 1998 amendments.

14 For appeals to the Court of Appeal, the monetary threshold was increased in 1998 from $30,000 to $250,000 to peg the threshold to the enhanced jurisdictional limit of the District Court, which had been increased to $250,000. Prof Jayakumar stated (see *Singapore Parliamentary Debates, Official Report* (26 November 1998) vol 69 at col 1629):

> However, under section 34(2)(a) of the SCJA, appeals to the Court of Appeal from decisions of the High Court in civil matters can still be made as a matter of right, ie, without first obtaining leave of the Court, if the value of the subject matter exceeds $30,000.
>
> In view of the enhanced District Courts' jurisdiction to $250,000 in civil matters, the Chief Justice has proposed that the existing $30,000 limit in section 34(2)(a) be raised to $250,000. In other words, bring its limit in line with the enhancement. *If the limit is not raised to $250,000, District Court cases of less than $250,000 can first go on appeal to the High Court and then Court of Appeal.* This would strain the limited resources of the Court of Appeal.
>
> [emphasis added]

The aim was to restrict a second right of appeal for cases involving claims originating before the Subordinate Courts that exceeded $50,000 but were not more than $250,000 and which had already been heard on appeal by the High Court.

15 When ss 21(1)(*a*) and 34(2)(*a*) are read together, the structure of the leave regime under the

SCJA operates to permit, in the normal course, only one tier of appeal as of right for civil claims that exceed $50,000 but are not more than $250,000, *ie*, a right to appeal from the Subordinate Courts to the High Court, and one tier of appeal from the High Court to the Court of Appeal for claims exceeding $250,000 (see *Tan Chiang Brother's Marble (S) Pte Ltd v Permasteelisa Pacific Holdings Ltd* [2002] 1 SLR(R) 633 ("*Tan Chiang Brother's Marble*") at [13] and [19]). This is of course only a general rule, and there may be specific fact situations where more than one tier of appeal is allowed as of right or where there is no right of appeal.

The case law prior to the 2010 amendments to the SCJA

16 Prior to the 2010 amendments to the SCJA, s 34(2)(*a*) read:

> **34**.— …
>
> (2) Except with the leave of the Court of Appeal or a Judge, no appeal shall be brought to the Court of Appeal in any of the following cases:
>
> (*a*) where *the amount or value of the subject-matter at the tria*l is $250,000 or such other amount as may be specified by an order made under subsection (3) or less …
>
> [emphasis added]

The operative phrase "amount or value of the subject-matter at the trial" was interpreted as referring to the quantum of the *entire claim* at trial (see *Tan Chiang Brother's Marble* at [25]; *Teo Eng Chuan v Nirumalan V Kanapathi Pillay* [2003] 4 SLR(R) 442 ("*Teo Eng Chuan*") at [21]; *Virtual Map (Singapore) Pte Ltd v Singapore Land Authority and another application* [2009] 2 SLR(R) 558 at [16]–[17] ("*Virtual Map*"); *Singapore Court Practice 2009* (Jeffrey Pinsler gen ed) (LexisNexis, 2009) ("*Singapore Court Practice 2009*") at para 56/3/9; *Singapore Civil Procedure 2007* (G P Selvam chief ed) (Sweet & Maxwell Asia, 2007) ("*Singapore Civil Procedure 2007*") at para 56/3/3). The word "trial" was also interpreted to include any hearing, whether in open court or in chambers, where the judge determines the matter in issue before him (see *Spandeck Engineering (S) Pte Ltd v Yong Qiang Construction* [1999] 3 SLR(R) 338 at [17]).

17 Section 21(1), the corresponding provision for appeals from the Subordinate Courts to the High Court, provided:

> **21**.—(1) Subject to the provisions of this Act or any other written law, an appeal shall lie to the High Court from a decision of a District Court or Magistrate's Court in any suit or action for the recovery of immovable property or in any civil cause or matter *where the amount in dispute or the value of the subject-matter exceeds $50,000* or such other amount as may be specified by an order made under subsection (3) or with the leave of a District Court, a Magistrate's Court or the High Court if under that amount.
>
> [emphasis added]

The words "amount in dispute" were considered by this court in *Augustine Zacharia Norman and another v Goh Siam Yong* [1992] 1 SLR(R) 746 ("*Augustine Zacharia*"), where the "amount in dispute" was reckoned to refer to the difference between the sum awarded by the court below and the sum that the appellant was contending for on appeal (also see *Singapore Court Practice 2009* at para 55C/2/2; *Singapore Civil Procedure 2007* at para 55D/4/3; *cf. Hua Sheng Tao v Welltech Construction Pte Ltd and another* [2003] 2 SLR(R) 137, where the High Court was of the view (at [3] and [8]) that

the "amount in dispute" did not necessarily mean the said difference or the judgment sum and could instead refer to the amount claimed by the plaintiff at first instance). Although there is no reported case that expressly considered the words "value of the subject-matter", it appears that the High Court in *Abdul Rahman bin Shariff v Abdul Salim bin Syed* [1999] 3 SLR(R) 138 and *Ang Swee Koon v Pang Tim Fook Paul* [2006] 2 SLR(R) 733 assumed that this referred to the judgment sum awarded by the lower court which was being appealed against.

18 Under the pre-2010 case-law, there were therefore two divergent threads of authority that applied, depending on whether the appeal was from the Subordinate Courts to the High Court or from the High Court to the Court of Appeal. The separate approaches adopted with respect to the old ss 21(1) and 34(2)(*a*) were attributable to the different operative phrases in each section, *ie*, the "amount in dispute or the value of the subject-matter" in s 21(1) and the "amount or value of the subject-matter at the trial" in s 34(2)(*a*). In *Tan Chiang Brother's Marble*, counsel for the respondent submitted that the words "at the trial" should be read as referring to "at the *appeal*", and contended that the appellant had not satisfied s 34(2)(*a*) as he had sought to appeal only against part of the High Court's decision, the value of which did not exceed $250,000. This court rejected this argument, holding that this interpretation "would do violence to the ordinary meaning of [the word "trial"] and would be wholly unwarranted" (at [20]). When considering cases under s 34(2)(*a*), the court was therefore concerned with what had been the subject-matter *at the trial or hearing below*, and this was the quantum of the original claim (also see *Teo Eng Chuan* at [20]). In contrast, s 21(1) did not contain the qualifying phrase "at the trial", and when the court considered the "amount in dispute or the value of the subject-matter", this was calculated by reference to the sum that *would be in issue or disputed on appeal* (see *Ong Wah Chuan v Seow Hwa Chuan* [2011] 3 SLR 1150 at [10]).

19 The *Report of the Law Reform Committee on the Rationalisation of Legislation Relating to Leave to Appeal* (October 2008) ("the *Law Reform Committee Report*"), prepared by the Law Reform Committee of the Singapore Academy of Law chaired by Judith Prakash J, stated that there was an inherent ambiguity in the language of ss 21(1) and 34(2)(*a*) that had caused difficulties of interpretation (at para 36 of the *Law Reform Committee Report*), and recommended that either s 21(1) or s 34(2)(*a*) should be amended to ensure consistency between both provisions (at para 58 of the *Law Reform Committee Report*).

20 The Supreme Court of Judicature (Amendment) Act (Act No 30 of 2010) implemented these recommendations. Section 34(2)(*a*) presently reads:

> **34**.— …
>
> (2) Except with the leave of a Judge, no appeal shall be brought to the Court of Appeal in any of the following cases:
>
> (*a*) *where the amount in dispute, or the value of the subject-matter, at the hearing before the High Court* (excluding interest and costs) does not exceed $250,000 or such other amount as may be specified by an order made under subsection (3) …
>
> [emphasis added]

Section 21(1)(*a*) now provides:

> **21**.—(1) Subject to the provisions of this Act and any other written law, an appeal shall lie to the High Court from a decision of a District Court or Magistrate's Court —

(*a*) in any case *where the amount in dispute, or the value of the subject-matter, at the hearing before that District Court or Magistrate's Court* (excluding interest and costs) exceeds $50,000 or such other amount as may be specified by an order made under subsection (3) …

[emphasis added]

21 At the second reading of the Supreme Court of Judicature (Amendment) Bill 2010, the then Senior Minister of State for Law, Assoc Prof Ho Peng Kee, explained the rationale behind the amendments (see *Singapore Parliamentary Debates*, *Official Report* (18 October 2010) vol 87 at col 1371):

> Currently, a party does not require leave of court to file an appeal to the High Court or the Court of Appeal, as the case may be, if the "amount in dispute or value of the subject-matter" exceeds $50,000 for appeals to the High Court; or $250,000 for appeals to the Court of Appeal. Clauses 4(a) and 9(c) amend section 21 and section 34(2)(a) to clarify that the computation of this monetary threshold does not include interest or costs ordered by the court. *The amendment also puts it beyond doubt that the respective monetary thresholds of the High Court and Court of Appeal is computed by reference to the original amount claimed in the lower court and not the judgment sum awarded by the court, or the amount in dispute on appeal. This is consistent with recent Court of Appeal decisions.*
>
> [emphasis added]

The purpose of the 2010 amendments was thus to create a unified regime, in so far as the determination of the threshold amounts was concerned, for appeals to both the High Court and the Court of Appeal. The operative phrase in both ss 21(1)(*a*) and 34(2)(*a*) is now "the amount in dispute, or the value of the subject-matter, at the hearing before [the lower court]", and Parliament intended that this amount should be the original amount claimed in the lower court, in accordance with the *Tan Chiang Brother's Marble* line of Court of Appeal authorities.

The interpretation of s 34(2)(a)

22 We now consider the interpretation of the words "the amount in dispute, or the value of the subject-matter, at the hearing before the High Court" in s 34(2)(*a*). The Respondent effectively relied on the line of authorities construing the phrase "the amount in dispute" in the old s 21(1), while the Appellant contended that the approach under the old s 34(2)(*a*) ought to be adopted.

23 Counsel for the Respondent, Mr Patrick Yeo ("Mr Yeo"), submitted that *Augustine Zacharia* was authority for the proposition that the "amount in dispute" should be ascertained by reference to the difference between the sum contended for by the appellant before the High Court and the sum awarded by the Subordinate Court. In that case, the plaintiff brought an action before the Magistrate's Court to recover damages in respect of a traffic accident. A deputy registrar assessed damages at $4,780.89, and this sum was reduced to $1,177.50 on appeal to a district judge in chambers. The plaintiff sought to appeal to the High Court against this reduced assessment, and the defendant applied to strike out the notice of appeal, contending that the plaintiff required leave to appeal under s 21(1) of the Supreme Court of Judicature Act (Cap 322, 1985 Rev Ed) (which was *in para materia* with the old 21(1) but had a monetary threshold of $2,000). This court held at [12]:

> [T]he appellants contended that even if s 21 permitted the respondent's appeal to be brought, the respondent would still require the leave of court to do so as the "amount in dispute" was less

than the $2,000 minimum prescribed in s 21 of the SCJA. Counsel for the appellants contended that the district judge's assessment of damages at $1,177.50 was the "amount in dispute". He relied on *Anthony s/o Savarimiuthu v Soh Chuan Tin* [1989] 1 SLR(R) 588 where it was accepted that the defendant would have to obtain leave of the court in order to appeal against the magistrate's award of damages of $1,660, as the amount in dispute did not exceed $2,000. In our opinion, that case is clearly distinguishable: *there the defendant disputed the award of $1,660, and the "amount in dispute" was accordingly $1,660. In the present case, however, it was the plaintiff who sought to appeal against a reduction in the award from the sum of $4,780.89 assessed by the deputy registrar to the sum of $1,177.50 allowed by the district judge, a difference of some $3,603.39. This was the "amount in dispute", and it obviously exceeded $2,000.*

[emphasis added]

It was implicit in the court's analysis that the "amount in dispute" was only the amount that would be in contention *at the appeal*.

24 The reasoning in *Augustine Zacharia* is clearly distinguishable. The interpretation of "amount in dispute" under the old s 21(1) was premised on the specific wording of the provision, which did not contain the qualifying phrase "at the trial"; accordingly, this court construed the words as referring to the amount that would be disputed at the hypothetical appeal. The appellant was contending that he ought to have been awarded an additional $3,603.39, and this was thus the "amount in dispute". Although the operative words "amount in dispute, or value of the subject-matter" in s 34(2)(*a*) are almost identical to those in the old s 21(1), these words are qualified in s 34(2)(*a*) by the following phrase "at the hearing before the High Court". Applying the plain words of s 34(2)(*a*), the relevant sum must be calculated by reference to the proceedings at the court below (*ie*, the High Court) and not by reference to the appeal. *Augustine Zacharia* is not a convincing authority in support of Mr Yeo's argument in the light of the differences between the two provisions, and we are of the view that the case law relating to the old s 21(1) is no longer relevant following the 2010 amendments and should not form the starting point in interpreting s 34(2)(*a*).

25 If Mr Yeo's argument is applied to its logical conclusion, it would also mean that certain cases heard by the High Court in its original jurisdiction would not have a right of appeal. For example, if a claim for $500,000 in damages was brought before the High Court and the High Court judge awarded a sum of $260,000, a plaintiff who wished to argue that he ought to have been awarded the full sum claimed would have no right of appeal because the "amount in dispute", *ie*, the difference between the sum contended for and the adjudicated sum, would only be $240,000. This could not be the purpose of s 34(2)(*a*), which was to prevent claims that fell within the District Court limit from going on appeal to the High Court and subsequently again to the Court of Appeal (see above at [14]). This court alluded to this possible anomaly in *Teo Eng Chuan* (at [21]–[22]), and the same reasoning applies to the amended s 34(2)(*a*). In general, a case that is commenced in the High Court because the value of the claim exceeds $250,000 or which must be heard or determined by the High Court in the exercise of its original jurisdiction under any written law will have one tier of appeal as of right (see s 34(2A), which prescribes that s 34(2)(*a*) will not apply to cases falling within the latter category).

26 In our judgment, having regard to Parliament's intent in enacting the 2010 amendments to the SCJA and adopting a purposive interpretation, the operative words in s 34(2)(*a*) must be read as referring to the amount that was claimed before the High Court. We acknowledge that the linguistic ambiguities in ss 21(1)(*a*) and 34(2)(*a*) were perhaps not completely removed by the amendments. In particular, it does appear rather peculiar that Parliament chose to import the phrase "amount in

dispute or value of the subject-matter" from the old s 21(1), when the intention was to put it beyond doubt that the judicial approach to the old s 34(2)(*a*) henceforth ought to be applied whether or not the appeal was from a decision of the Subordinate Courts or the High Court. This seems to have been the source of the confusion in this appeal. Be that as it may, the plain words "amount in dispute, or value of the subject-matter" are nevertheless perfectly capable of meaning the sum in issue between the parties, *ie*, the sum of the claim which is before the lower court. This is exactly what Parliament intended the operative words to mean, and there is no basis for us to read the words in a way which would resurrect the previous approach of calculating the "amount in dispute" under the old s 21(1) despite Parliament's clear purpose of amending ss 21(1) and 34(2)(*a*).

27 We add that s 34(2)(*a*) apparently contains two disjunctive limbs: the monetary threshold is satisfied when the "amount in dispute" *or* the "value of the subject-matter" exceeds the prescribed sum. Mr Yeo did not address the latter limb in his submissions, but we do not think that anything turns on a substantive distinction between the two limbs. The phrases "amount in dispute" or "value of the subject-matter" should be purposively construed as synonymous or merely alternative formulations to describe the same thing – the quantification of the claim before the High Court.

28 To provide clarity in this area for future cases, we now set out how the "amount in dispute, or value of the subject-matter" ought to be ascertained.

29 When a claim originates in the High Court, the relevant amount is quantified by reference to the initial claim before the High Court, whether or not that claim is made at a trial or hearing. This follows from the plain words of s 34(2)(*a*) and is consistent with the general approach in the statutory scheme that permits one tier of appeal as of right for cases exceeding a certain monetary threshold. The same approach would also apply if the appeal to the Court of Appeal is against a High Court judge's decision in an appeal against a registrar's decision at first instance. The two-step hearing (before the registrar as well as the High Court judge) is effectively one hearing, with the High Court judge exercising confirmatory jurisdiction, and the relevant amount would be the sum claimed before the registrar (see *Teo Eng Chuan* at [14]; *Herbs and Spices Trading Post Pte Ltd v Deo Silver (Pte) Ltd* [1990] 2 SLR(R) 685 at [11]). As a broad rule, a claim originating in the High Court may, in the ordinary course, be appealed to the Court of Appeal without the requirement to seek leave under s 34(2)(*a*), because the value of the claim would exceed $250,000 by default or because s 34(2)(*a*) would not apply (see s 34(2A)(*c*) of the SCJA).

30 When a claim originates in the Subordinate Courts and is subsequently heard by the High Court in its appellate capacity, the relevant amount is quantified by reference to the amount or value of the subject-matter of the appeal when it is heard by the High Court. This differs slightly from the previous s 34(2)(*a*), which referred to the value "at the *trial*" and not "at the *hearing before the High Court*". In *Virtual Map*, the plaintiff had commenced proceedings against the defendant in the District Court, seeking an injunction and damages to be assessed. The district judge dismissed the claim and on appeal to the High Court, the decision of the district judge was affirmed. The plaintiff then attempted to appeal the High Court's decision. This court held (at [24]) that it was not open to the plaintiff to contend that the monetary value of the subject matter of the trial exceeded $250,000 as it had chosen to institute proceedings in the District Court, which had a jurisdictional limit of $250,000. The plaintiff was thus estopped from contending that its claim had a higher value. This court proceeded on the basis that the relevant amount was the claim at first instance, and not the amount that was before the High Court judge on appeal (although this would have been the same on the facts of the case). Section 34(2)(*a*) now unequivocally states that the relevant amount is quantified by reference to only what is before the High Court, and this requires a subtle shift in emphasis from the approach previously adopted in *Virtual Map*. We will, however, add that even under the current s 34(2)(*a*), the ruling in *Virtual Map* would have remained the same. The fact of the matter is that when a plaintiff

institutes an action in the Subordinate Courts, he is really saying that the claim would not exceed $250,000 unless the parties have, as in the present case, agreed to expand the jurisdictional limit of the District Court.

31 Accordingly, when the High Court is exercising its appellate jurisdiction, it would be necessary to identify precisely what the subject of the appeal before the High Court is in order to ascertain whether the threshold in s 34(2)(*a*) has been crossed. Taking, for example, a situation such as the present, where the parties have agreed to confer expanded jurisdiction on the District Court and the plaintiff had claimed $300,000 and had been awarded $200,000 by the district judge:

(a) If the plaintiff appeals against the award and reiterates his claim for $300,000, the amount in dispute before the High Court would be $300,000 as the plaintiff's complaint is that he ought to have been awarded the full sum of $300,000.

(b) If the defendant appeals against the award (but not the plaintiff) and claims that only $100,000 should have been awarded, the amount in dispute before the High Court would be $200,000, because this is the maximum sum that is in issue before the High Court.

(c) If there are cross-appeals by the plaintiff and defendant, the amount in dispute before the High Court would be $300,000, because the plaintiff would be claiming that he is entitled to $300,000, and conversely, the defendant would be arguing that the plaintiff is not entitled to $300,000 but an amount even lower than the $200,000 awarded by the district judge. The $300,000 is therefore the relevant sum in dispute before the High Court.

In essence, the question in each case is: what is the maximum amount that is being sought before the High Court without any allowance being made for any sums that may already have been awarded by the court below for that item or items of claim which are still in dispute?

32 Similarly, if a claim for damages exceeding $250,000 is, by consent of the parties, made before the District Court and the plaintiff only appeals the award for a particular component, then the relevant amount for the purposes of s 34(2)(*a*) would be the sum claimed before the High Court for that particular component, and not the full quantum claimed for damages before the District Court. This is "the amount in dispute, or the value of the subject-matter, at the hearing before the High Court", as the nub of the plaintiff's complaint would be that he ought to have been awarded the full sum claimed for *only* that component.

Application to this appeal

33 Applying the approach set out above to the present appeal, we were satisfied that the monetary threshold of $250,000 was crossed as the "amount in dispute, or value of the subject-matter" was quantified by reference to the Appellant's claim before the High Court for loss of dependency, *ie*, $337,018.66 (on a 95% basis).

34 We noted above (at [7]) that the Appellant's appeal filed in RAS 185/2012 was ostensibly only against the District Judge's decision in RA 86/2012 allowing the Respondent's appeal to reduce the award for dependency losses made by the Deputy Registrar. The Respondent contended that the present appeal was therefore only against the decision of the District Judge allowing RA 86/2012 and reducing the award of dependency from the sum of $236,160 awarded by the Deputy Registrar to $158,355. If this was correct, then the amount in dispute or the value of the subject-matter at the appeal hearing before the High Court would have been only $224,352 (*ie*, the plaintiff's claim for $236,160 on a 95% basis).

35 It nevertheless appeared to us that the Judge had approached the appeal on the basis that the Appellant had not only appealed against the District Judge's reduction of the award, but had also sought an enhancement of the award made by the Deputy Registrar and had reiterated his original claim of $354,756.48 for loss of dependency (at [8] of the GD). Mr Yeo also acknowledged that the Respondent had not taken objection to the Appellant's claim for $354,756.48 before the Judge, and a perusal of the record indicated that both parties appeared to have proceeded on the general basis that the Appellant was seeking for the award made by the District Judge to be substituted with a higher sum. The Appellant was not just arguing for the award made by the Deputy Registrar to be reinstated. We were therefore not inclined to take an unduly technical approach in determining what was in fact before the Judge on appeal. Both RA 85/2012 and RA 86/2012 were merged in the District Judge's decision, and when the appeal in RAS 185/2012 was heard by the Judge, the amount of the award for dependency losses remained open for determination. The Appellant's complaint was simply that he ought to have been awarded $337,018.66 (on a 95% basis), and the quantum of this claim was therefore the amount in dispute or the value of the subject-matter before the High Court. Accordingly, leave to appeal was not required under s 34(2)(*a*).

Conclusion

36 For the above reasons, we dismissed the application. Costs were fixed at $3,000 inclusive of disbursements.