

Toh Wai Sie and another v Ranjendran s/o G Selamuthu
[2012] SGHC 33

Case Number : Suit No 324 of 2010 (Registrar's Appeal No 334 of 2011)
Decision Date : 10 February 2012
Tribunal/Court : High Court
Coram : Tay Yong Kwang J
Counsel Name(s) : Leslie Yeo Choon Hsien (Sterling Law Corporation) for the plaintiffs; Anparasan K and Sharon Lim (KhattarWong LLP) and William Chai (William Chai Sunforester LLC) for the defendant
Parties : Toh Wai Sie and another — Ranjendran s/o G Selamuthu

Damages

10 February 2012

Tay Yong Kwang J:

Introduction

1 This appeal concerns the assessment of damages by an Assistant Registrar (“the AR”) arising from a road accident which caused injuries to a lady named Toh Wai Yee (“Wai Yee”). The defendant appealed against the decision of the AR in respect of various heads of damages awarded to the plaintiffs.

2 I varied the AR’s decision. Both parties have appealed to the Court of Appeal against my decision.

Background

3 The facts of this case are not in dispute. On 14 July 2008, Wai Yee was crossing MacPherson Road when she was knocked down by the defendant who was driving vehicle no. SGW 4425C. She was rendered unconscious and suffered fractures to her skull. She was warded at Tan Tock Seng Hospital. After her discharge from the hospital, she was looked after at home by a maid. As and when Wai Yee required medical attention, she would be brought to Changi General Hospital which was near her home at Block 1 Simei Street 3 #03-56 East Point Green, Singapore.

4 Subsequently, Wai Yee’s family and the maid found it increasingly harder to handle her condition and it became clear that she would require long term nursing care. Wai Yee was then moved to Orange Valley Nursing Home (“Orange Valley”) around 29 May 2009. At present, she is still in Orange Valley and remains in a persistent vegetative state (“PVS”). The plaintiffs representing Wai Yee in this action are her sister and her mother.

5 On 23 June 2010, this writ of summons was filed and interlocutory judgment was entered by consent on 9 September 2010 for the plaintiffs, with 80% liability to be borne by the defendant. The assessment of damages took place on 7, 8 and 30 June 2011, with the plaintiffs claiming under 4 heads: (1) pre-trial loss (medical and transportation), (2) general damages for pain and suffering, (3) recurring monthly expenses and (4) loss of future earnings. Only the latter two categories were in

dispute as the parties had agreed on the sums of \$114,117.58 for pre-trial loss and \$100,000.00 for pain and suffering.

The AR's decision

6 The AR awarded damages amounting to \$2,451,274.84 (on an 80% liability basis), with interest at half of 5.33% on special damages from the date of service of writ to the date of judgment amounting to \$85,528.96 and interest at 5.33% on general damages for pain and suffering from the date of service of writ to the date of judgment amounting to \$5,771.00. Costs to the plaintiff were fixed at \$120,000.00 plus disbursements agreed at \$12,245.76.

7 The sum of \$2,451,274.84 was derived as follows:

S/No	Item	Amount Allowed (S\$)	Remarks
1	Pre-trial loss (medical and transport expenses)	114,117.58	Agreed
2	Pain and Suffering	100,000.00	Agreed
3	Nursing care costs at Orange Valley	345,452.04	Multiplicand: \$3,198.63 Multiplier: 9 years
4	Preventive Physiotherapy	41,040.00	Multiplicand: \$380.00 Multiplier: 9 years
5	Expenses at Changi General Hospital	32,400.00	Multiplicand: \$300.00 Multiplier: 9 years
6	Loss of Future Earnings	2,113,986.04	Base salary: \$6,000.00 Multiplier: 15 years Rate of salary increment: 9% per annum
7	Employers' CPF Contribution	317,097.90	Rate of 15%
	TOTAL	3,064,093.56	
	At 80% liability	2,451,274.84	

The defendant's case

8 The defendant appealed against the AR's decision with respect to the following (items 3-7 of the table above) and the interest awarded:

- (a) Nursing care costs;
- (b) Preventive Physiotherapy;

- (c) Expenses at Changi General Hospital;
- (d) Loss of Future Earnings;
- (e) Employers' CPF Contribution;

Loss of future earnings and CPF contribution

9 While both the defendant and the plaintiffs accepted that Wai Yee's last salary was \$6000.00 per month, the defendant submitted that the AR erred in setting the projected increase in the base salary amount at 9% per annum and the multiplier at 15 years.

Projected increase in the base salary at the rate of 9% per annum

10 The defendant argued that the rate of 9% per annum as decided by the AR was too high for the following reasons:

- (a) Wai Yee was still on 6 months' probation in her job as a Group Financial Controller with Crystal Time (Singapore) Pte Ltd ("Crystal Time") which employed her on 12 May 2008. There was no evidence adduced from her employers regarding her work performance nor was there any indication given as to whether she would be confirmed at the end of the 6-month probation period. The probation period could also have been extended beyond the 6-month duration. During the period of probation, she was paid \$5,800pm and upon confirmation, she would receive \$6,000pm.
- (b) There was no evidence from Wai Yee's employers that a person of her position and job scope would necessarily receive a 9% increase yearly. Since she was working in the private sector, her pay structure was harder to predict as much depended on the economy and her own performance.
- (c) It was not shown how the plaintiffs derived the rate of increase of salary at 9% per annum.
- (d) The figures for the projected salary were derived from the Financial & Accounting Asia Pacific Salary Guide 2010/2011 prepared by Robert Half Finance & Accounting in partnership with the Institute of Certified Public Accountants of Singapore ("ICPAS salary guide") but there was no expert witness from either institute to confirm or comment on:
 - (i) the job title that Wai Yee would fall under, and
 - (ii) the category which Crystal Time would fall under (small, medium or large companies). The range of salary would depend on the size of the company in question.

11 Additionally, the AR also failed to consider that Wai Yee's earnings had taken a 40% dip over the past 4 years (2005-2008) prior to the accident.

Multiplier of 15 years too long

12 The defendant submitted that the AR's decision to adopt 15 years as the multiplier was not supported by case authority. The AR had to consider that Wai Yee was 46 at the time of assessment and the prevailing retirement age was 62.

13 Further, the defendant argued that a reasonable deduction must be made for Wai Yee's income tax liability on her future earnings, in reliance on ***Teo Sing King v Sim Ban Kiat*** [1994] 1 SLR(R) 340. It was submitted that Wai Yee, after claiming all relevant reliefs for income tax, would have to pay about 2.14% of her annual income as tax based on the rates applicable for the year of assessment 2011. The defendant therefore suggested that a 2% deduction from the award for future earnings would be reasonable. Hence the defendant's computation for the loss of future earnings was:

Annual income (\$6,000x12)	\$72,000.00
Less: Income tax (2% on 80% of \$72,000.00)	-(\$1,152.00)
Plus 15% CPF (capped at \$675.00 per month)	\$8,100.00
Multiplicand	\$78,948.00
Multiplier	x 7 years
Loss of future earnings (inclusive of employer's CPF contribution at 15%)	\$552,636.00

I note at this juncture that tax was computed on the basis of 80% liability while the rest of the figures were calculated on the basis of 100% liability. If the tax was based on \$72,000, 2% would have worked out to \$1,440.

Future maid care in place of nursing care

14 The defendant submitted that the AR erred in concluding that a domestic caregiver would not be sufficient to meet Wai Yee's needs and that she needed the full services of a nursing home. The plaintiffs' expert witness, Professor Ong Peck Leong ("Prof Ong"), stated that the care process could be carried out by family members if they followed the proper techniques and that this was a decision to be made by the family members. Also, the defendant's expert witness Dr Ho King Hee ("Dr Ho") specifically stated that there was "no need for her to be in a nursing home from a medical point of view". Both agreed that the most critical point of Wai Yee's recovery was the first year, in which she was adequately cared for by a domestic caregiver for 7 months, and that further affirmed the sufficiency of such help.

15 The defendant suggested that it was the family's reluctance to care for Wai Yee at home that led them to prefer the nursing care option as opposed to any genuine concern for her. A competent and trained domestic caregiver would be able to attend fully to Wai Yee's needs. The defendant therefore submitted that a multiplicand of \$350.00 per month and a multiplier of 9 years be used to arrive at the sum of \$37,800.00 which would be for the costs of having a domestic caregiver.

Cost of future nursing care

16 However if the court were to rule in favour of nursing care, the defendant submitted an amount of \$2,850.95 as the average monthly cost of nursing care, based on the past invoices from Orange Valley from 1 July 2009 to 1 May 2011. In ***Toon Chee Meng Eddie v Yeap Chin Hon*** [1993] 2 SLR 536 it was held that food and lodging made up 60% of the costs of private institutional care, the other 40% being nursing care itself. Applying a discount of 60% to reflect the domestic element, the multiplicand ought to be \$1,140.38 (i.e. 40% x \$2,850.95). Using a multiplier of 9 years, the total costs for nursing care would be \$123,161.04.

Cost of preventive physiotherapy

17 The defendant also submitted that preventive physiotherapy was not necessary, contrary to the AR's decision. Dr Ho gave evidence to the effect that a domestic caregiver would be capable of providing such physiotherapy, negating the need to engage a qualified physiotherapist. In view of the cost of a domestic caregiver or of nursing care already being awarded, there was no need for this separate head of claim.

Future medical expenses at Changi General Hospital

18 This head of claim was factored in to account for the possibility that Wai Yee might seek occasional treatment at a hospital if she were to be cared for at home. However, in the event that the court awards the cost of future nursing care at Orange Valley, the defendant submitted that there should not be a separate award for this head of claim as such medical care would already be part of the nursing care provided. Alternatively, if the court awards the cost of a domestic caregiver instead, then the previously decided amount of \$32,400.00 for such expenses would be sufficient.

Employer's CPF contribution

19 The defendant accepted this head of claim and highlighted the statutory cap of \$675.00 per month or \$8,100.00 per year.

Interest on contested items

20 The defendant submitted that the AR's decision to award interest on future pecuniary losses was wrong, according to ***Teo Ai Ling (by her next friend Chua Wee Bee) v Koh Chai Kwang*** [2010] 2 SLR 1037 ("*Teo Ai Ling*") which held that such interest should not be awarded as the plaintiff would not have been kept out of any money and, indeed, would have received it in advance.

The plaintiffs' case

Loss of future earning

21 Wai Yee was a Certified Public Accountant who was working as the Group Financial Controller of Crystal Time at the time of the accident, drawing a provisional salary of \$5,800.00, which would be increased to \$6,000.00 upon confirmation. Crystal Time has a regional presence with offices in Singapore, Malaysia, Hong Kong, Indonesia and Brunei and over 200 retailers across the region. Although she was drawing substantially higher salaries prior to her employment at Crystal Time, the drop in salary was not due to a drop in inherent capabilities or indicative that she was past her prime. Rather, it may be perfectly reasonable for a person to take a pay cut for the sake of potential career advancements. In Wai Yee's case, her sister Toh Wai Sie even stated that Wai Yee had seen joining the regionally-based Crystal Time as a form of career advancement. Hence, Wai Yee still had rather good career prospects at the time of the accident, as evidenced by the fact that she had been given a regional post.

22 The plaintiffs submitted that this head of claim should be calculated based on Wai Yee's projected salary, which could be derived from the ICPAS salary guide. In ***Lee Wei Kong v Ng Siok Tong*** [2010] SGHC 371, it was held that the loss of future earnings is not an uncertain figure like the loss of earning capacity. Hence in her case, Wai Yee's previous salaries could be used in the projection. Further, there is no reason why reliance on the ICPAS salary guide should be discounted, since the salaries are based on today's rates. Moreover, given that Wai Yee's eventual salary would

most probably exceed the predicted figures as she rose in ranks, adopting the said salary guide's current figures would already be a discount. The figures were prepared by ICPAS, the national accountancy professional body that develops, supports and enhances the integrity, status and interests of the accountancy profession. Additionally, with data derived regionally from Australia, Hong Kong, Japan, New Zealand and Singapore, it was submitted that this was a reliable guide from a reputable institution. Even if there was no evidence from Wai Yee's employers on her performance, this guide would provide a strong indication of where her salary should be headed. Following calculations based on the figures in the guide, a 9% per annum increase would best fit Wai Yee's future earnings.

23 Based on the prevailing retirement age of 62 and Wai Yee's age of 43 at the time of accident, the multiplier would be 19 years. With a discount of 25% for vicissitudes in life given on those 19 years, 15 years would be a reasonable multiplier to use. Since Wai Yee was a professional accountant, there was strictly no fixed retirement age. Moreover, with accountants in short supply, the salary should even be assessed at a higher bench mark since she was likely to be retained for a longer period of time.

24 Adopting Wai Yee's current employers' CPF contribution of 15%, the CPF component of the loss of future earnings would be \$317,097.90. It was a sum that was required to be paid in law and thus it was immaterial that Wai Yee may never actually get to use the money.

The necessity of nursing care

25 The plaintiffs maintained that nursing care would be required for Wai Yee as it was genuinely in her best interests to receive such care due to the following factors:

- (a) The possibility of medical conditions arising, like pneumonia or other infections, which the family members were not equipped to deal with;
- (b) Wai Yee, as a PVS patient, needs to be turned every few hours to prevent bed sores from occurring. This requires more than one caregiver and would be more effectively done in a nursing home by the staff members there; and
- (c) A trained caregiver was required to perform tracheal toilet by suction via the tracheostomy.

Cost of nursing care

26 The plaintiffs also submitted that inflation and the rising cost of nursing care had to be factored in when considering the amount to be awarded under this head. Accordingly, the defendant's view that the cost should be lower than what was awarded was baseless, as the figures relied upon by the plaintiffs were based on invoices. The claim that Orange Valley is "high end" was also unsubstantiated as no figures from other alternatives were submitted. The amount of \$3,468.63 per month was thus fair as it was based on invoices over the 8 months preceding the hearing which showed expenses that have been affirmed by Prof Ong to be reasonable. The AR's decision to deduct \$270 per month for food was also fair and not challenged by the plaintiffs. Thus a final amount of \$3,198.63 per month (\$3,468.63 - \$270.00) should be awarded.

Physiotherapy

27 As to the issue of whether physiotherapy had to be done by a trained physiotherapist or not,

the plaintiffs submitted that the defendant's view was wrong as there was no evidence to show that preventive and passive therapy of the kind required could actually be performed by a normal caregiver as opposed to a trained physiotherapist. Moreover, it was not clear that nursing staff at Orange Valley would be prepared to undertake the task. What was certain was that Wai Yee needed to undergo physiotherapy to prevent the joints from becoming fixed, which could prove fatal for her. It was thus less crucial to determine who will be giving the treatment and more important to determine the cost of the treatment.

28 As such, the plaintiffs agreed on the amount of \$380.00 as awarded by the AR since there was no evidence to show its unreasonableness in principle or excessiveness.

Expenses at Changi General Hospital

29 The plaintiffs submitted that expenses incurred at Changi General Hospital should be distinct from the nursing home head. They were billed separately by Changi General Hospital.

Life expectancy

30 The life expectancy of Wai Yee would determine the multiplier to be used to calculate the above medical costs (namely nursing care and physiotherapy). It refers to the average number of years a person belonging to a particular group is expected to live. Due to her condition, it was likely that Wai Yee's life expectancy will be shorter. Prof Ong opined that Wai Yee could possibly live a long time in a vegetative state.

31 The plaintiffs submitted that the figure of 9 years that the court accepted was on the lower side given that it was based on a paper relied on by Dr Ho which for the following reasons should not be relied upon:

- (a) There has been much advancement in medical science since the time that the Shavelle and Strauss report was written;
- (b) The difference in the level of care afforded to Wai Yee in a privately-funded Singapore nursing home as opposed to patients in the state of California who are state-funded, who formed the basis of the Shavelle and Strauss report; and
- (c) There also exist differences in the type of care given to PVS patients in California and in Singapore.

The decision of the court

32 I was unable to agree with the plaintiffs that Wai Yee's projected increase in salary should be 9% per year. While the ICPAS salary guide may be helpful to the extent of allocating a certain pay structure to a certain job position held, it is no more than a guide. It is more important to consider the factual matrix which Wai Yee's job situation was in at the time of the accident. Wai Yee was a professional working in the private sector, making it hard to predict yearly increments. It is difficult to tell if there would even be such increments, and if so, how much these increments would be without any input from her employers. As such, it is hard to say with certainty that the plaintiffs' suggested trajectory of salary increases would have been Wai Yee's future earnings, even with the help of the salary guide.

33 As explained by counsel for the plaintiffs, the 9% was derived in the following manner. The

position of financial controller in the ICPAS salary guide was used as the starting point. Wai Yee's employers were placed in the large corporations category of more than 250 employees because they had more than 200 retailers. Starting with a projected \$90,000 annual income for year 1 and a projected \$250,000 annual income for year 15, the plaintiffs worked out what Wai Yee would have earned at the end of 15 years of employment. The total came up to slightly more than \$2m. They then worked with a base salary of \$72,000 to arrive at the projected total in year 15 and the rate of increase was 9% per year. As pre-trial loss was not claimed by the plaintiffs, it was argued that Wai Yee's age at the time of the accident (i.e. 43) should be used for computation instead of her age (46) at the time of the assessment by the AR. With the retirement age being 62, Wai Yee would have worked for another 19 years if she had not met with the accident.

34 It can be seen immediately that the projected 9% increase per year over 15 years had too many variables as presumed facts to be of any use to the court. Moreover, in the absence of any evidence from Wai Yee's employers with regard to her performance at work, it was unclear if Wai Yee would even be confirmed in her position as a Group Financial Controller. To grant an assumed annual pay increase of 9% for a position that she was holding on probation would be unduly optimistic in the circumstances. This was all the more so considering the apparent downward trend in Wai Yee's salary between 2005-2008. She left a job paying more than \$8,000 per month for one paying \$5,800 while on probation and \$6,000 upon confirmation. While the plaintiffs claimed that her move to Crystal Time could have been a strategic one to allow her regional exposure and to advance her career, there was no indication as to what the career advancement would be in the absence of any evidence from her employers.

35 The case of **Lee Teck Nam v Kay Hock Seng Paul** [2005] SGHC 54 ("**Lee Teck Nam**") cited by the plaintiffs for the proposition that the claim for future increments and promotion opportunity properly falls within a claim for loss of future earnings is of little assistance to the plaintiffs here. In that case, evidence was given by the plaintiff's employer that had the plaintiff stayed on, he would probably have obtained an increment every alternate year (at [43]). In contrast, the case for Wai Yee's pay increment at 9% per year was much more speculative in nature, with only the support of a generic regional salary guide.

36 However, it would be equally unreasonable to assume that Wai Yee would have no pay increase over more than a decade although the lack of evidence on her work performance and possible pay increases made the task of arriving at a figure extremely difficult. Even though the issue of income tax deduction was not canvassed before the AR, on the basis of **Teo Sing King v Sim Ban Kiat** [1994] 1 SLR 634 (at [43]) and **Peh Diana & Anor v Tan Miang Lee** [1991] 3 MLJ 375, it would be fair to deduct a reasonable amount to take into account the income tax that Wai Yee would have to pay had she continued working. I therefore decided that the best course to take in this case would be to use the agreed amount of \$6,000 per month as the multiplicand, treating income tax deductions (which the defendant submitted should be 2% of her income) as offset by potential pay increases (of average 2%, a figure which was not unlikely) over the years. Wai Yee would have to incur transport expenses had she continued working. For this reason, I deducted \$500.00 as transport expenditure from the salary of \$6,000.00. The multiplicand would therefore be \$5,500.00 per month.

37 As for the multiplier, I reduced the AR's decision of 15 years to 11 years. Even though the prevailing retirement age was 62 years old and Wai Yee was 46 years old at the time of assessment, it is clear from observations made in **Teo Ai Ling** (at [75]) and **Lee Teck Nam** (at [38]) that one should not simply calculate the multiplier by using the difference between the retirement age and the age at the time of the accident. Instead it must be further discounted to take into account the payment of an immediate lump sum and the vicissitudes of life. As to how much this discount should be, Andrew Ang J in **Lee Teck Nam** highlighted that the number of years left of one's working life is a

consideration. For instance, the discount applied to factor in the vicissitudes of life in a case where 30 years of a working life remains would be significantly larger than that applied to a case where only a year of working life remains. In that case, the plaintiff had 8 years left to retirement and a 25% discount was applied to reduce the multiplier to 6 years. In **Ang Leng Hock v Leo Ee Ah** [2004] SGHC 55, a 45 year old self-employed caterer was given a multiplier of 10 years due to the physical nature of his job and the effect that his injury would have on it. In our present case, Wai Yee would have approximately 16 years left before retirement. Bearing in mind that no pre-trial loss (about 3 years) was claimed by the plaintiffs, I decided that a multiplier of 11 years would be fair.

38 The sum awarded for loss of future earnings would therefore be **\$726,000** (\$5,500 x 12 months x 11 years). It followed that the loss of employers' CPF contributions would be **\$89,100** (\$675 x 12 months x 11 years).

39 The life expectancy of Wai Yee will determine the multiplier used to calculate the following heads of claims: nursing home, preventive physiotherapy and expenses at Changi General Hospital. In the light of Prof Ong and Dr Ho's opinions that the average life expectancy of a PVS patient is between 8 to 10 years, the AR's decision of 9 years could not be faulted. No evidence was produced to substantiate the plaintiffs' case for a 15-year multiplier. I therefore accepted the AR's multiplier of 9 years.

40 On the issue of whether it was necessary for Wai Yee to be sent to a nursing home, as opposed to being taken care of at home by a domestic helper, I agreed with the AR that the former option would be in Wai Yee's best interests for the following reasons:

(a) Both expert witnesses confirmed that the choice was firmly that of the family members and that either option would not be an unreasonable one to take.

(b) Given that Wai Yee's father had just passed away and her mother is already 76 years old, it seemed entirely reasonable that the family would opt to send Wai Yee to Orange Valley. Toh Wai Sie (sister of Wai Yee) testified that both she and her mother felt inadequate with regard to looking after Wai Yee and dealing with her potential medical complications, something which was perfectly reasonable and understandable in the circumstances .

(c) Wai Yee needs to be turned every few hours to prevent limb contractures and bed sores from forming. This is a relatively onerous task and it will be hard if performed by only one caregiver. Such limb contractures will require surgery and such surgery could prove fatal in Wai Yee's condition. Placing Wai Yee in a nursing home where there are caregivers at all times would be an infinitely better option.

(d) Wai Yee also requires tracheal toilet to be performed by a trained caregiver. Given that Wai Yee's previous infections could possibly be due to this procedure having been performed incorrectly, it would be much better to leave this to the trained staff at Orange Valley to carry out.

41 I decided that the cost of nursing care would be the average cost for the 8 months preceding the assessment, which was \$3,468 per month. Such costs are likely to continue rising in the foreseeable future but this should be offset by the immediate payment of a lump sum. I deducted \$468 as estimated food and living expenses for Wai Yee which she would have to incur anyway if the accident had not happened. The total award under this head of claim amounted to \$324,000.00 (\$3,000 x 12 months x 9 years).

42 With regard to the preventive physiotherapy, two separate issues were raised. Firstly, its necessity; and secondly, the need for a trained physiotherapist to carry it out. From the evidence given by Toh Wai Sie, the necessity for such physiotherapy could not be in doubt. The purpose of such treatment is to prevent the fixing of joints, which would then require surgery that could potentially be fatal for Wai Yee. That alone is enough to justify the need for preventive physiotherapy. The fact that the physiotherapy will not eventually help Wai Yee to walk but will only prevent locked joints does not mean that it is not essential or lacks utility. Wai Yee should be allowed at least to live the remaining years of her life as free from physical problems as possible.

43 As for the second issue, in ***Chong Hwa Yin (committee of person and estate of Chong Hwa Wee, mentally disordered) v Estate of Loh Hon Fock, decd*** [2006] 3 SLR(R) 208 at [10], Choo Han Teck J rejected a claim for future physiotherapy costs as a separate item from nursing care. He considered that "having a fully trained, professional physiotherapist would be a luxury", since a properly trained domestic helper could perform the same function. In the present case, with Wai Yee residing in Orange Valley, having a domestic helper do the job would not be a viable option. Assuming that she has the aptitude to do the job, she would have to travel to Orange Valley regularly or be brought there by a family member. Further, such domestic helpers may decide to return to their homeland and the plaintiffs will have to train a new helper all over again.

44 It is immaterial whether the physiotherapy is conducted by a qualified physiotherapist or a trained staff member of Orange Valley. Even if a professional physiotherapist is not engaged, Orange Valley would still have to engage another of their entities to carry out the treatment and this would be billed separately from the nursing care charges. The amount of \$380.00 per month is a reasonable figure for this purpose and this fact was not challenged. With a multiplier of 9 years, this would work out to a total of \$41,040.00 (\$380 x 12 months x 9 years).

45 For the expenses to be incurred at Changi General Hospital, I agreed with the AR's decision to award \$32,400.00 (\$300 x 12 months x 9 years) as a necessary expense for Wai Yee. Orange Valley would not be able to attend to all of Wai Yee's medical problems and the hospital's bills are distinct from those of the nursing home.

46 On the issue of interest, I agreed with the AR's decision to award interest at half of 5.33% per annum on special damages incurred pre-assessment from the date of service of writ to the date of judgment as they were progressive expenditures incurred by the plaintiffs, and at 5.33% per annum on general damages for pain and suffering from the date of service of writ to the date of the assessment. Post-judgment interest at 5.33% per annum will apply to all amounts due from the assessment till payment.

47 In summary, the damages awarded to the plaintiffs after this appeal are as follows:

S/No	Item	Amount Allowed (Sing \$)	Remarks
1	Pre-trial losses (medical and transport expenses)	114,117.58	Agreed
2	Pain and Suffering	100,000.00	Agreed
3	Nursing care costs at Orange Valley Home Pte Ltd	324,000.00	Multiplicand: (\$3000 x 12 months) Multiplier: 9 years

4	Preventive Physiotherapy	41,040.00	Multiplicand: (\$380 x 12 months) Multiplier: 9 years
5	Expenses at Changi General Hospital	32,400.00	Multiplicand: (\$300 x 12 months) Multiplier: 9 years
6	Loss of Future Earnings	726,000.00	Multiplicand: (\$5,500 x 12 months) Multiplier: 11 years
7	Employers' CPF Contribution	89,100.00	Multiplicand: (\$675 x 12 months) Multiplier: 11 years
	TOTAL	1,426,657.58	
	At 80% liability	1,141,326.06	

48 I fixed the costs of this appeal at the agreed amount of \$15,000.00 to be paid by the plaintiffs to the defendant, such amount to be deducted from the damages payable by the defendant to the plaintiffs.

49 The defendant has appealed to the Court of Appeal against the awards for the future nursing care and the loss of future earnings and employers' CPF contribution on the ground that the amounts awarded are excessive. The plaintiffs have also appealed to the Court of Appeal on the same items of damages.

50 On 16 January 2012, the parties attended before me with the Public Trustee's representative. Although the defendant had paid the judgment sum to the Public Trustee for the account of the plaintiffs, the defendant asked the Public Trustee not to release the money to the plaintiffs pending the appeals. Before me, the parties accepted that a partial payment of \$700,000 should be made by the Public Trustee to the plaintiffs pending the appeals.

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