Balanalagirisamy Gowri Rajeswari and another (administrators of the estate of Radhakrishnan Hari Babu, deceased) v Wong Si Wah
[2008] SGHC 174

Case Number : Suit 448/2006, RA 113/2008, 116/2008

Decision Date : 15 October 2008

Tribunal/Court : High Court

Coram : Andrew Ang J

Counsel Name(s) : Gurdeep Singh Sekhon (K S Chia Gurdeep & Param) for the plaintiffs; Pateloo E Ashokan (KhattarWong) for the defendant

Parties : Balanalagirisamy Gowri Rajeswari and another (administrators of the estate of Radhakrishnan Hari Babu, deceased) — Wong Si Wah

Damages – Assessment – Computation – Measure of damages – Quantum – Determination of multiplier – Factors involved in determination of multiplier – Vicissitudes of life – Lump sum payment – Multiplicand – Use of different multiplicands – Factors involved in determination of multiplicand – Net income per annum – Basic salary – Bonuses – Overtime pay – Allowances – Income tax contributions – Deduction made for deceased's own use

Damages – Compensation and damages – Death – Dependency claim – Considerations and factors – Net income per annum – Basic salary – Bonuses – Overtime pay – Allowances – Income tax contributions – Central Provident Fund contributions – Deduction made for deceased's own use

15 October 2008

Andrew Ang J:

1 The deceased in the present case ("the Deceased") passed away on 30 November 2005 after having been severely injured in an accident. He had been struck by a car driven by the defendant when crossing a road at a pedestrian crossing. The first plaintiff (the widow) and the second plaintiff (the father of the Deceased) were granted Letters of Administration on 3 July 2006 and they were named the administratrix and co-administrator, respectively, of the Deceased's estate.

2 The plaintiffs subsequently sued the defendant for damages arising out of the death. The trial on the issue of liability was heard from 16 to 18 April 2007. Interlocutory judgment was delivered by Kan Ting Chiu J on 20 July 2007. In his judgment, by reason of the Deceased's contributory negligence, Kan J found the defendant to be liable to the plaintiffs for one-third of the damages.

3 The assessment of damages hearing took place before an assistant registrar ("AR") over a span of three days. The AR delivered her judgment on 18 March 2008. She assessed the damages (at 100%) as follows:

(a)	Pain and suffering	$ 5,000.00
(b)	Special damages (agreed)	$ 30,747.15
(c)	Special damages (disputed)	$ 1,768.46

(d) Loss of dependency $375,000.00

4 The plaintiffs and the defendant appealed against the decision of the AR. The sole issue on appeal was the quantum of the award for loss of dependency. The AR's award for loss of dependency was based on a multiplier of 15 years and a multiplicand of $25,000. This resulted in an award of $125,000 (at 33%). At the end of the hearing, I ordered that the appeal be allowed and the award for dependency be increased to $238,000 (at 33%). While drafting my Grounds of Decision, I came to the conclusion that $231,000 is the appropriate amount (at 33%) to be awarded for dependency for the reasons which follow.

Background facts

5 The Deceased was an Indian national who was 35 years old at the time of his death. He was the sole breadwinner for his family. His dependants consisted of his widow (who was 31 years old at the time of his death) and his son (who was two years old at the time of his death).

6 The Deceased obtained a first-class honours degree in mechanical engineering from Periyar University in India. In addition, he had obtained qualifications in boiler operations and was also qualified in programming and operations. His academic record showed a consistently high level of achievement. Since his arrival in Singapore, he had been in the employ of only one company – Eco Special Waste Management Pte Ltd ("Eco") – as a co-generation plant engineer. He worked with Eco from 1 November 2004 until the time of his death.

The multiplier

7 The AR, as mentioned earlier (see [4] above), was of the view that the multiplier should be 15 years. Before me, the defendant accepted that this was correct *vis-à-vis* the widow but (apparently) not the son (*ie*, the Deceased's second dependant).

8 In his Written Submissions, counsel for the defendant had allowed that the son's dependency would be until he attained the age of 23 to 25 years and that, in arriving at the multiplier, this period ought to be subject to reduction. However, for the sake of simplicity he submitted that a multiplier of 14 years for both dependants would be reasonable. At the hearing, counsel for the defendant decided not to challenge the multiplier of 15 years adopted by the AR. Curiously, he nevertheless submitted before me that the multiplier for the son should be arrived at using the same percentage reduction as for the widow. I therefore took the defendant's position to be that the agreement to the 15-year multiplier applied only to the widow.

9 On the basis of a period of dependency until the son attained the age of 24 years (the mean of 23 and 25 years), the period of dependency of the son from the time of death of the Deceased would be about 22 years. The remaining working life of the Deceased, had he not suffered the accident and had worked on until 65 years of age, is 30 years. (I rejected the plaintiffs' view that the retirement age should be taken as 67 years. However, it was not unreasonable to adopt a retirement age of 65 years in view of the Government's bias in favour of later retirement as a consequence of demographic changes pointing towards an aging population.) On the basis of the agreed multiplier for the widow's dependency being 15 years, there is implied a discount of 50%. If the same percentage reduction were applied to the son, the multiplier for the son would be 11 years.

10 However, I did not think that the same percentage reduction should apply. It is axiomatic that the longer the period of dependency, the greater would be the percentage reduction. This follows

from two factors:

(a) The first would be future contingencies ("the vicissitudes of life"). Where one is looking at a period of dependency of 30 years or more, it is quite understandable that a significant discount has to be applied to factor in the vicissitudes of life with respect to both the Deceased and to the dependants over such a long period. Where, however, the dependency period is shorter (as in the case of the son), it would be unduly pessimistic to apply the same percentage reduction. The longer the period, the greater the uncertainty. Moreover, the risks of death and disease would ordinarily be greater amongst those senior in years.

(b) The second would be the investment value of receiving a lump sum payment in an award. The greater the number of years by which payment of damages is advanced, the greater the potential for investment gains thereon, assuming prudent investment of course. In simple terms, money which is paid 30 years in advance would earn more interest or other gains than a similar amount paid 22 years in advance. It is important, however, not to exaggerate the advantage of receiving a payment in advance. Interest rates for fixed deposits, for one, have been low for many years now, as many of us are only too painfully aware. Although fixed deposits would not be the only way to earn a return, alternative modes of investments carry with them a higher risk of loss of one's capital. Anecdotal accounts of ill-fated investments in the current economic turmoil bear testament to the truth of this observation.

For the above reasons, I was of the view that instead of a reduction by 50% to arrive at a multiplier of 11 years, I should fix the multiplier at 13 years applying a discount of about 41%.

The multiplicand

11 The plaintiffs submitted that instead of using only one multiplicand for the entire period of the multiplier, the multiplier should be split into three equal periods with a different multiplicand for each period. This submission was based on the assumption that there would only be one multiplier, *viz*, 15 years. While I was of the opinion that there should be two multipliers, *viz*, 15 years for the widow and 13 years for the son, I agreed with the plaintiffs that three multiplicands should be used.

12 The use of different multiplicands is not unprecedented. In *See Soon Soon v Goh Yong Kwang* [1992] 2 SLR 242 ("*See Soon Soon*"), Chan Sek Keong J split the multiplier of 15 years into one period of five years and one period of 10 years and applied a different multiplicand for each period (at [35]). For the first period of five years, he applied the mean of $3,000 and $6,700, *ie*, $4,850 (*id* at [36]). For the second period of five years, he applied the median of $20,000 and $30,000, *ie,* $15,000 (*id* at [36]). The multiplicand for the second period was based on evidence of what the deceased, who was a medical officer, would have earned if he was promoted and was able to enhance his earnings from consultancy work (*id* at [33]–[34]).

13 The approach in *See Soon Soon* was applied by Judith Prakash JC in the case of *Lim Fook Lau v Kepdrill International Incorporated SA* [1993] 1 SLR 917. In that case, Prakash JC similarly applied two multiplicands. In doing so, she stated (*id* at [11]):

See Soon Soon's case makes clear that because of the guess work involved in estimating the probable earnings of a young deceased for the next 30 years, it is appropriate to split up the agreed multiplier for the assessment of lost years into more than one period.

She then observed that this approach would also be consistent with *dicta* by Lord Fraser of Tullybelton in *Cookson v Knowles* [1979] AC 556. His lordship had stated the following (at 575):

> The court has to make the best estimates that it can having regard to the deceased's age and state of health and to his actual earnings immediately before his death, as well as to the prospects of any increases in his earnings due to promotion or other reasons.

14 In the recent case of *Ramesh s/o Ayakanno v Chua Gim Hock* [2008] SGHC 33, Kan J upheld the decision of the assistant registrar to apply three separate multiplicands over three different periods. In doing so, he stated (at [43]):

> There is no reason in principle to restrict the multiplicand to the plaintiff's earnings at the time of the accident. The evidence was that if he had continued working, his earnings would have increased.

15 Taking into account the circumstances of the present case, I agreed with the plaintiffs' proposal for three different multiplicands to be applied. In my view, the use of three multiplicands would allow for the factoring in of the Deceased's prospects of increases in earnings and yield a figure likely to be closer to what he would have earned than if one multiplicand was used. It would not be correct to freeze the multiplicand at the level of the Deceased's earnings at the time of the accident, as the evidence adduced before the AR indicated clearly that the Deceased was a hardworking and capable worker with prospects of promotion. Mr Ng Kin Hong ("Ng") (the Senior Plant Manager in Eco) for one, described the Deceased in his affidavit as a "good worker" (affidavit-of-evidence in chief of Ng at para 4). Mr Mehm Win Aung ("Mehm"), who was the Deceased's direct supervisor, also testified that the Deceased had the potential to be promoted (Notes of Evidence ("NE") dated 8 January 2008 at pp 3, 11 and 12). That said, as Chan J explained in *See Soon Soon* ([12] *supra*), there is much guesswork involved in estimating the probable earnings of a young man; the younger the deceased the greater the risk of error (at [32]). The use of different multiplicands can serve to mitigate the risk of error.

16 Turning to the determination of the multiplicands, one method for determining multiplicands is to ascertain the deceased's net annual income and deduct from that figure the deceased's own expenses (see *Practitioners' Library – Assessment of Damages: Personal Injuries and Fatal Accidents* (LexisNexis, 2nd Ed, 2005) at p 101). The balance, it can be assumed, would be for the benefit of the dependants. To arrive at the deceased's net annual income, one should begin by considering the deceased's basic salary (see, *eg*, *See Ah Haw v Ong Hock Thian* [1984-1985] SLR 442 ("*See Ah Haw*")).

17 The Deceased's starting basic salary was $2,150 per month when he first joined Eco. This was below the market rate. He subsequently received an increment to $2,270 per month after his probation. That increment aside, there was evidence that the Deceased would have been entitled to a yearly increment of between 3% and 5% of his basic salary subject to his good performance (NE dated 23 November 2007 at p 2). In this respect, it would appear that the Deceased, with his good attitude towards work, would arguably have received yearly increments. As such, the plaintiffs submitted (on the authority of, *inter alia*, *Lee Teck Nam v Kang Hock Seng Paul* [2005] 4 SLR 14 at [42]–[43]) that the court should factor in an increment of 4% per annum to the basic salary.

18 It might be argued that to allow that the Deceased would receive yearly increments of 4% could be a little generous. If so, this was compensated for in that the plaintiffs did not ask the court to factor in any potential promotion for the Deceased in the calculation of the multiplicands which they could well have (see, *eg*, *See Soon Soon* ([12] *supra*) at [33]–[36]). The evidence showed that the Deceased had obtained a "satisfactory" rating in his only appraisal, which was done just after he had joined Eco. While his superiors were not able to say that he would have been likely to be promoted in the near future, they were of the opinion that he had improved himself in the period after

the appraisal and had the potential for promotion in time to come (NE dated 8 January 2008 at pp 11, 12, 15 and 16; see also [15] above).

19 Basic salary aside, the evidence adduced at the hearing before the AR also showed that the Deceased would have received bonuses in the form of an Annual Wage Supplement ("AWS") and variable bonuses. Bonuses should be taken into account where it can be reasonably established on the evidence that the deceased would have received them. In contrast, where the bonuses in question are shown to be no more than "prospective and speculative", the court should not take them into consideration (*Jub'il bin Mohamed Taib Taral v Sunway Lagoon Sdn Bhd* [2001] 6 MLJ 669 at 682). In the present case, the bonuses which would have been received by the Deceased were far from speculative; there was evidence that the Deceased would have received both the AWS and the variable bonus on an annual basis.

20 The AWS, which is otherwise known as the 13th month salary, would have amounted to one month's basic salary. The annual payment of the AWS to all workers regardless of performance was confirmed by Ms Leong Yan Wee ("Leong"), who testified on behalf of the Board of Directors of Eco (see NE dated 23 November 2007 at p 5). There was no reason for me to doubt that the Deceased would have received the AWS on an annual basis. Indeed, the court's consideration of the AWS was not disputed by the defendant.

21 Over and above the AWS, there was evidence from, *inter alia*, Leong that employees of Eco would also be entitled to variable bonuses subject to their performance and the company's performance (see NE dated 23 November 2007 at pp 5 and 7). In respect of the latter, Leong testified that the company's performance in terms of profit and loss indicated that it was "financially satisfactory" (NE dated 23 November 2007 at p 3). Ng's evidence was that most workers would be paid the variable bonus and, in his department, about 70% of the workers received the variable bonus (NE dated 22 November 2007 at pp 28 and 29). On the quantum of the bonus, Leong testified (NE dated 23 November 2007 at pp 2 and 3) as follows:

PC: Their bonuses will average 1–2 months [salary] subject to the performance of the company and the employee?

W: Yes.

…

PC: Do you confirm that the company has been paying an average of one to two months in bonuses for the past 3 years?

W: Yes.

PC: Do you confirm that the company will probably pay also one to two months bonus in the coming year unless something adverse happens?

W: Yes.

22 The plaintiffs submitted that the Deceased, as a diligent and capable worker, would, more often than not, have received the variable bonus. As for the quantum of the variable bonus the Deceased would have received, it would appear that it would be at the upper end of the range, *ie*, closer to two months. This can be inferred from the evidence – in particular, the testimony of Leong, who confirmed that the Deceased would have received between *one and two months of variable bonus* for his

satisfactory performance (see [18] above). She testified (NE dated 23 November 2007 at pp 6 and 7) as follows:

PC: Are you able to tell us, if you turn to p 235 (AB), this is [the Deceased's] appraisal form done at the time he was confirmed. Correct?

W: Correct.

PC: Para 6 states that his overall rating is satisfactory.

W: Yes.

PC: For someone who is satisfactory, is there a policy as to how much variable bonus the company will give?

W: *Average of 1 – 2 months*.

[emphasis added]

I had no reason to reject Leong's evidence, as she would have been *au fait* with bonus payments as a director. It would be recalled (see [18] above), that the evidence was that the Deceased had been improving subsequent to his first performance assessment. There was therefore reason to believe that the Deceased would receive the variable bonus annually and that this would generally be one to two months. The plaintiffs, however, asked that a modest variable bonus amounting to the average of half to three-quarters of a month's salary be taken into consideration when calculating the multiplicand. In my view, based on the foregoing, and even after factoring in the possibility of the company being unable to pay a bonus in some years, this was a reasonable sum to ask for.

23 Other than bonuses, the Deceased would have been entitled to pay for overtime work which, on the evidence, was readily available. (Overtime pay can be taken into account in dependency claims as demonstrated in *See Ah Haw* ([16] *supra*) at [5])). Mehm testified that engineers at Eco were estimated to do an average of between three and five days of overtime work each month (NE dated 8 January 2008 at pp 10 and 11). Each day of overtime work would consist of 11 hours and would be remunerated at $10 per hour (NE dated 8 January 2008 at p 10). He also testified that once every year the plant would be shut down for two to three weeks and engineers would be recalled to do overtime work for that entire period (NE dated 8 January 2008 at pp 8 and 9). Mr U Win Thong, who was head of the Deceased's department, supported Mehm's testimony that there was available overtime work. The availability of overtime work, he testified, would continue in the foreseeable future (NE dated 8 January 2008 at pp 18 and 19). The evidence adduced showed that the Deceased had worked overtime every month except for the period of November 2004 to January 2005 (as the Deceased was new and under probation) (NE dated 23 November 2008 at p 4) and the period of June 2005 to September 2005 (due to the inconvenience of having to travel to and from Johor Baru, Malaysia, where the widow and the son then resided whilst waiting for their permanent resident status to be approved (NE dated 8 January 2008 at pp 3, 4, 5 and 7)).

24 The plaintiffs submitted that the total overtime pay the Deceased could earn in a year would be between $3,960 (consisting of three days of overtime work per month and two weeks of overtime work during the period of the shutting down of the plant) and $8,910 (consisting of five days of overtime work per month and three weeks of overtime work during the period of the shutting down of the plant). The plaintiffs, however, only sought $4,496.96 per year on a fixed basis. This was based on the average overtime pay per month ($374.58) the Deceased had earned for the months in which

he had worked overtime. I had no reason to reject this estimate.

25 There was also evidence that the Deceased would have received meal allowances and shift allowances every month. In the months before his death, the Deceased had been paid a total of between $300 and $400 per month in meal allowances and shift allowances. The plaintiffs submitted that they were entitled to meal allowance at $31.66 per month and shift allowance at $258.88 per month on a fixed basis. This was based on the average monthly meal allowance and the average monthly shift allowance the Deceased had received in the six months he had received meal allowance and the nine months he had received shift allowance. (He received no meal allowance and/or shift allowance in some months as his residence in Malaysia then had prevented him from doing work which entitled him to these allowances.)

26 The figures given to me by the plaintiffs were conservative figures. However, in my view, taking into account the meal allowances would be wrong as meal allowances would have been provided to reimburse the Deceased for expenses which he would have had to incur in any event. In *Parvathy v Liew Yoke Khoon* [1984] 1 MLJ 183, it was held that the court should not take into account the housing and entertainment allowances in computing the actual income of the deceased, as these were actually allowances to reimburse the deceased for expenses which he was expected to incur (at 183). In contrast, it cannot be assumed that the shift allowances would have been given to reimburse the Deceased for expenses which he was bound to incur; more likely than not, they would have been given to, *inter alia*, reward the Deceased for doing shift work. I therefore rejected the plaintiffs' request for meal allowance but accepted the request for shift allowance at $258.88 per month on a fixed basis.

27 The foregoing sources of income, *viz*, the Deceased's basic salary, the bonuses, overtime pay and allowances, would have constituted the Deceased's *gross* income per annum. The Deceased's *net* income per annum would have been the sum of the Deceased's basic salary, the bonuses, overtime pay and allowances, less Central Provident Fund ("CPF") contributions. The substance of the plaintiffs' submissions, on the calculation of the three multiplicands, was that the three multiplicands should be the average net income per annum for each of the (three) 11-year periods which would make up the remaining years the Deceased would have worked had he not suffered the accident. (In other words, in the plaintiffs' view, the first multiplier should be the average net income per annum for years 1 to 11; the second multiplier should be the average net income per annum for years 12 to 22; and the third multiplier should be the average net income per annum for years 23 to 33.) I saw no reason to reject this methodology. Parenthetically, I do acknowledge that it might be argued that the multiplicands should be the average net income per annum for the periods which make up the multiplier to take into consideration the possible shorter working lifespan of the Deceased due to the vicissitudes of life. However, the multiplier is the reduced number of years of dependency after discounting for, *inter alia*, the vicissitudes of life (see [10] above). It would therefore be inappropriate to base the calculation of the multiplicands on the periods which would make up the multiplier as this would result in double discounting. That said, the three equal periods which would make up the remaining years of work of the Deceased, had he not suffered the accident and had worked on, would, in the light of my determination of the remaining working life of the Deceased (see [9] above), be 10 years (*ie*, 30 years ÷ 3). (In other words, in my view, the first multiplier should be the average net income for years 1 to 10; the second multiplier should be the average net income per annum for years 11 to 20; and the third multiplier should be the average net income per annum for years 21 to 30.)

28 Based on data provided by the plaintiffs (which were not in dispute) and the foregoing ([17]–[26] above), the Deceased's net income for each of the 10-year periods would be $360,557.98, $505,340.23 and $802,291.07 respectively. As mentioned earlier (see [16] above), a deduction would

have to be made for the Deceased's personal expenses. In this respect, the plaintiffs submitted (somewhat generously in my view) that a deduction of 34% should be made. I accepted this figure, noting that case law suggests that a deduction of 25% would be sufficient. In *Harris v Empress Motors Ltd* (1984) 1 WLR 212 (which was referred to by the Court of Appeal in *Ho Yeow Kim v Lai Hai Kuen* [1999] 2 SLR 246), the court held that the conventional figure for deduction for personal expenses where the family unit consists of a husband and wife would be 33% – the rationale of this being the assumption that the husband and wife would spend one-third of the income each and one-third for their joint benefit; but where there are children, the conventional deduction would be 25% (at 217). I nevertheless left the amount to be deducted at 34% to account for the income tax which would have been payable by the Deceased. Income tax is a factor to be taken into account (see, *eg*, *See Ah Haw* ([16] *supra* [5]) but there were no submissions by either of the parties on it.

29 Taking the amount to be deducted at 34%, the Deceased's net income for each of the 10-year periods would be reduced to $237,968.27, $333,524.55, and $529,512.11 respectively. The multiplicand would therefore be $23,796.27, $33,352.46 and $52,951.21. As a check against over-generosity, I compared these figures with statistics from the Ministry of Manpower, *viz*, Median Monthly Basic and Gross Wages of Selected Occupations by Age in All Industries, June 2007 (available at <http://www.mom.gov.sg/publish/etc/medialib/mom_library/mrsd/row_2007.Par.36393.File.tmp/2007Wages_table5.xls> (accessed 14 August 2008)). The statistics indicated that the median gross monthly income of mechanical engineers between the age of 5 and 39, 40 and 44, 45 and 49, 50 and 54, and 55 and 59, are $3,950, $4,332, $4,655, $5,725 and $5,607 respectively. Assuming a deduction of 20% for employee's CPF contributions on these figures, the median net monthly income for mechanical engineers of the previously mentioned age groups would be $3,160, $3,465.60, $3,724, $4,580 and $4,485.60 respectively. In comparison, the multiplicands translate into a much lower monthly income of $1,983.07, $2,779.37 and $3,412.60 respectively.

Decision of the court

30 The product of the multipliers of five and the multiplicands would yield a total of $550,502.40 (*ie*, (5 x $23,796.27) + (5 x $33,352.46) + (5 x $52,951.21)). This sum represents the aggregate amount of dependency for the widow and the son adopting a multiplier of 15. However, given that the multiplier applicable to the son was 13 only (a difference of two years), the dependency claim attributable to the son should be reduced by 2/15 of what would otherwise have been allowed for the son, *viz*, 1/3 of $550,502.40 (the widow being entitled to 1/3 and another 1/3 being attributable to common expenses.) The deduction therefore was 2/15 x 1/3 x $550,502.40, *ie*, $24,466.77. Deducting $24,466.77 from $550,502.40 yielded a final figure of $526,035.63.

31 To the $526,035.63, I had to add a sum of money to account for CPF contributions and the 1% interest on the CPF balance up to $60,000. It is, of course, well established that CPF contributions may form part of a dependency claim (see, *inter alia*, *Lee Wee Hiong v Koh Ah Sai Victor* [1989] SLR 1029 at [13]). As a permanent resident, the Deceased would have had to make CPF contributions and would also have been entitled to CPF contributions, along with an extra 1% interest on his CPF balance up to $60,000. CPF contributions would have had to be given not only on basic salary but also on overtime pay, allowances, bonuses and increments. The contributions would have been at the following rates:

Years of work	Employee contribution	Employer contribution

1	5%	4%
2	15%	9%
3	20%	13% before 1 July 2007 14.5% after 1 July 2007
4 to 16	20%	14.5%
17 to 20	18%	10.5%
21 to 25	12.5%	7.5%
26 to 30	7.5%	5%

32 Based on the data provided by the plaintiffs, the sum of the CPF contributions and the 1% interest on CPF balance up to $60,000 for each of the 10-year periods would be $142,691.17, $206,494.26, and $148,202.99 respectively. This would give an annual average of $14,269.12, $20,649.43 and $14,820.30 for each of the 10-year periods respectively. Adopting a multiplier of 15 produced a figure of $248,694 (*ie*, (5 x $14,269.12) + (5 x $20,649.43) + (5 x $14,820.30)). That figure, in my opinion, had to be reduced, however, to take into account the money that the Deceased would have used for himself.

33 Adopting the approach in *Harris v Empress Motors Ltd* (see [28] *supra*), which was touched upon earlier (see [28] above), one would reduce the amount to be awarded in respect of CPF contributions by 25% (on the basis that each of the Deceased, the wife and the son would use 25% of the amount of CPF contributions, leaving 25% for expenditure for their joint benefit). As a refinement, however, I decided that the son should not be taken into consideration. In coming to this view, I assumed that (but for the accident) the bulk of the CPF moneys would have become available to the Deceased after he had reached 55 years or later, as dictated by CPF rules. The son would then be 22 years of age with only two more years of dependency (on the basis of his dependency being up to the age of 24 (see [9] above)). It did not seem unreasonable to assume that the Deceased would not be likely to have expanded much of his CPF moneys on the son at that stage.

34 Accordingly, on the assumption that only the Deceased and his wife would have used the CPF moneys, the appropriate reduction for the portion of the CPF contributions that the Deceased would have used for himself was, in my view, 1/3 (the remainder being 1/3 for the wife and 1/3 for expenses for their joint benefit (see [28] above)). In so doing, I am aware that in *Ng Lim Lian v Port of Singapore Authority* [1997] SGHC 62 at [38] CR Rajah JC reduced the amount to be awarded for CPF by 40% (at [38]) while in *Guo Xiuhua v Lee Chin Ngee v First Capital Insurance Ltd* [2001] SGHC 190 Woo Bih Li JC reduced the CPF award by 50% (at [66]). The appropriate reduction could, of course, vary from case to case depending on the facts. In the absence of any special circumstances, a principled approach as in *Harris v Empress Motors Ltd* ([28] *supra*) is appropriate.

35 Taking into account the 1/3 reduction, the amount to be added for CPF would be $165,796 (*ie*, $248,694 – ($248,694 X 1/3)). The final figure to be awarded for dependency (at 100%) was therefore $526,035.63 + $165,796. This amounted to $691,831.63.

Conclusion

36 For the foregoing reasons, I allowed the plaintiffs' appeal and dismissed the defendant's appeal. The plaintiffs' award for loss of dependency (at 100%) was increased to $691,831.63. At one-third liability, this would give the plaintiffs $230,610.54, which I rounded off to $231,000. I also awarded costs to the plaintiffs and this was to be taxed unless agreed.

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