DCPI376/2005

# IN THE DISTRICT COURT OF THE

**HONG KONG SPECIAL ADMINISTRATIVE REGION**

PERSONAL INJURIES ACTION NO. 376 OF 2005

BETWEEN

SO SAU MAN Plaintiff

and

LEUNG MING KWONG 1st Defendant

TSUEN TUNG FILM TV 2nd Defendant

SERVICES LIMITED

Coram: H H Judge Lok in Court

Date of Hearing: 18 October 2005

Date of Judgment: 18 October 2005

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AS S E S S M E N T O F D A M A G E S

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1. The Plaintiff suffered right lip laceration and lost three teeth as a result of a traffic accident on 9 November 2003. Interlocutory judgments were obtained by the Plaintiff against the 1st and the 2nd Defendants on 3 May 2005 and 8 August 2005 respectively, and this is the assessment of the damages of the Plaintiff’s claim.

Injuries and Permanent Disabilities

1. The Plaintiff, who was aged 62 at the time of the accident, was admitted to the Accident & Emergency Department of the United Christian Hospital after the accident. Suturing was performed on the laceration wound over the upper lip of the Plaintiff. She was discharged on the same day, but she continued to receive treatment from private doctor and public hospital because of the pain in the wound. There was also wound infection after the accident, and resuturing of the wound was performed once on 13 November 2003.
2. The wound has healed without much complication, and the Plaintiff now suffers no permanent disability apart from: (i) numbness in the wound area; and (ii) a small but quite unnoticeable scar near the upper right lip of the Plaintiff. The teeth were also replaced by artificial ones.
3. The Plaintiff was granted sick leave from 9 November 2003 to 20 January 2004, a period of about 2.4 months.

Pain, Suffering and Loss of Amenities (PSLA)

1. In my judgment, the injury in the present case is quite similar to that suffered by the victim in *Chau Fung Yee v Lee Chi Ming* HCPI No. 76 of 1999 (unreported, decision of Seagroatt J on 13 July 2000). In that case, the victim suffered oral laceration without loss of teeth. The inner laceration was sutured and she was left with some lumpiness and very faint scars. She was awarded $85,000 as damages for PSLA.
2. In the present case, the Plaintiff has suffered loss of teeth in addition to the right lip laceration, and I therefore make a higher award of $100,000 for damages under this head.

Loss of Earnings

1. Prior to the accident, the Plaintiff worked as a dish cleaner in a restaurant earning about $5,200 a month. She only claims for loss of earnings suffered by her during the sick leave period in the sum of $12,480 ($5,200 x 2.4 months). To me, the sum claimed is reasonable and I allow the claim in full.
2. The claim for loss of Mandatory Provident Fund (MPF) contribution in the sum of $624 is also reasonable and I therefore so allow.

Loss of Earning Capacity

1. The Plaintiff claims a sum of $20,000 for loss of earning capacity. However, I cannot see how numbness in the upper lip would cause the Plaintiff to suffer from a handicap in the labour market. No award is therefore made under this head.

Other Special Damages

1. The Plaintiff also claims for medical, transportation and tonic food expenses in the sums of $5,794, $120 and $6,000 respectively. In my judgment, the first two claims are reasonable and I allow the claims in full. For the tonic food expenses, there is nothing to show why the Plaintiff had to consume so much tonic food after the accident, and I therefore only make a conventional award of $4,000 for such expenses.

Conclusion

1. The Plaintiff’s claim can therefore be summarised as follows:

PSLA $100,000

Pre-trial loss of earning $ 12,480

Loss of MPF contribution $ 624

Other Special Damages $ 9,914

TOTAL $123,018

1. The Plaintiff is also entitled to interest on the award of PSLA at the rate of 2% per annum from the date of the writ to the date hereof and thereafter at judgment rate, and interest on the other damages mentioned above at the rate of 4.617%, which is half the existing judgment rate, from the date of the accident to the date hereof and thereafter at judgment rate. The Plaintiff is also entitled to the costs of the assessment.

(David Lok)

District Judge

Representation:

Ms P Y Wong, of K Y Woo & Co., for the Plaintiff

1st Defendant, in Person (absent)

2nd Defendant, in Person (absent)