## DCPI 1348/2019

[2022] HKDC 450

**IN THE DISTRICT COURT OF THE**

**HONG KONG SPECIAL ADMINISTRATIVE REGION**

PERSONAL INJURIES ACTION NO 1348 OF 2019

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##### BETWEEN

LEE KIM MAN Plaintiff

### and

GUARD LEADER LIMITED 1st Defendant

TAM MING KAK（譚名格） 2nd Defendant

EMPLOYEES COMPENSATION ASSISTANCE

FUND BOARD 3rd Defendant

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Coram: Deputy District Judge Charles Wong in Court

Dates of Hearing: 24 & 26 January 2022

Date of Judgment: 26 May 2022

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JUDGMENT

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*INTRODUCTION*

1. This is a case of a casual worker claiming damages for personal injuries he suffered as a result of an industrial accident which occurred on 3 August 2013 at Terminal 4 (“the Terminal”), Unit 106, 108 Container Port Road, Kwai Chung, New Territories, Hong Kong (“the Accident”).
2. The plaintiff was employed as a casual warehouse worker to assist in the transportation of goods. The 1st defendant was a company carrying out marine transportation services. The 2nd defendant was the sub-contractor. Judgment in the related employees’ compensation proceedings under DCEC 1455 of 2015 was entered by consent against the 1st and 2nd defendants in favour of the plaintiff in the sum of $511,492.93 on 27 May 2019 (“EC Judgment”). Form 2 Notice filed by the 1st defendant with the Labour Department dated 5 August 2013 admitted that it was the employer of the plaintiff. The 1st defendant also provided the plaintiff with advance payment after the Accident. It is therefore indisputable that the 1st defendant was the employer of the plaintiff.
3. The 1st and 2nd defendants ceased to be legally represented and have not participated in these proceedings since 26 March 2020. The 3rd defendant (“the Board”) was granted leave to join in as a party on 22 October 2020 pursuant to s 25A (b) of the Employees Compensation Assistance Ordinance (Cap 365) to test the validity of the plaintiff’s case on both liability and quantum.

*THE ACCIDENT*

1. On 3 August 2013, the plaintiff assisted in the transportation of pallets of carton boxes at sized 60 cm x 60 cm inside the Terminal. At around 12:50 pm, the fork-lift truck operator, nicknamed “Siu Wan” noticed one column of the pallet of goods tilted to one side (“the Tilted Column”). As the Tilted Column was about 2.5 meters from the ground, Siu Wan instructed the plaintiff to have it adjusted. Siu Wan used the fork of the fork-lift truck to lift the plaintiff up onto the top of the column of goods adjacent (“the Adjacent Column) to the Tilted Column to enable the plaintiff to stand on the top of the Adjacent Column to straighten the Tilted Column. Soon after the plaintiff had finished adjusting the Tilted Column, Siu Wan suddenly used the fork-lift truck to lift the adjusted Titled Column and part of the carton boxes that were on the Tilted Column fell onto the plaintiff. The plaintiff then lost his balance and fell from the Adjacent Column onto the ground. As a result, the plaintiff suffered left ankle/heel injuries.

*THE PROCEEDINGS*

1. On 22 October 2021, the Board obtained Writs of Subpoena against the defense witnesses including (1) Lo Shun Keung, (2) Tam Ming Kak (ie the 2nd defendant), (3) 林景華 and (4) 胡家宏. All attempts made to personally serve the Writs of Subpoena were unsuccessful.
2. Neither the 1st and 2nd defendants nor their witnesses appeared at trial. Leave was granted for the trial to proceed in their absence. In light of the absence of factual witnesses to substantiate any factual allegations of the 1st and 2nd defendants’ pleaded case, Mr Phang, counsel for the Board fairly confirmed that the Board no longer sought to contest the plaintiff’s case on liability against the 1st and 2nd defendants and the Board would not seek to proceed with the 1st and 2nd defendants’ pleaded case on contributory negligence.
3. The 1st defendant had taken out an Employees Compensation Insurance Policy referring to the Terminal as the insured work place[[1]](#footnote-1) and based on the 2nd defendant’s admission in the amended defence, the 2nd defendant was the sub-contractor for the transportation work in issue, I find that it is more likely that the 1st defendant was the main contractor and the 2nd defendant was the sub-contractor of the works undertaken by the plaintiff on the date of the Accident.
4. The plaintiff’s evidence on how the Accident occurred was not challenged. There is no evidence to substantiate the defendants’ pleaded case. I accept the plaintiff’s evidence on how the Accident occurred.
5. I find that the Accident was caused by the negligence of the fork-lift truck driver in failing to give the plaintiff warning when he used the fork-lift truck to move the Tilted Column while the plaintiff was still standing on the Adjacent Column. The immediate cause of the Accident was Siu Wan’s failing to operate the fork-lift truck in a safe manner which caused the Tilted Column to fall and the 1st defendant’s failure to provide safety measures to the plaintiff who was working at height. The 1st and 2nd defendants as contractors were under a duty to ensure that a safe working system was in place and proper supervision was carried out. There is no evidence of any supervision or safe system of work provided or maintained at the material time. I also draw adverse inference against both the 1st and 2nd defendants for failing to give evidence and I find that both the 1st and 2nd defendants had breach their duties as contractors undertaking the work at the time of the Accident and therefore are liable for the Accident.
6. There is no evidence on contributory negligence. I accordingly find that there is insufficient evidence to substantiate any claim for contributory negligence.

*QUANTUM*

*The plaintiff’s injuries and treatment received*

1. Immediately after the Accident, the plaintiff was taken to the Accident & Emergency Department of Princess Margaret Hospital. Physical examination showed tenderness and swelling around his left ankle and foot. Radiological examination showed fractured left calcaneum. The plaintiff was admitted to the Department of Orthopaedics and Traumatology for further management.
2. CT scan showed comminuted fracture of his left cuboid and calcaneum. The plaintiff was treated with open reduction and internal fixation on 13 August 2013 and was discharged on 19 August 2013. He attended a total of 27 physiotherapy treatment sessions between 26 August 2013 and 17 March 2014 at the Physiotherapy Department of Princess Margaret Hospital. The physiotherapy treatment included ice therapy, magneto pulse, walking exercise, mobilization and strengthening exercise.
3. On 28 August 2018, the plaintiff received work capacity evaluation and work rehabilitation by the Department of Orthopaedics and Traumatology which reported that his performance did not match with the previous job demand as a warehouse keeper as he still needed to walk with a frame with limited walking tolerance.
4. By 7 January 2015, the out-patient clinic of the Department of Orthopaedics and Traumatology of Princess Margaret Hospital recorded that the plaintiff still suffered from residual heel pain, swelling and stiffness. He was able to walk unaided for an hour.
5. The Employees’ Compensation (Ordinary Assessment) Board assessed the plaintiff’s loss of earning capacity at 4.5%.

*The orthopaedics experts’ opinion*

1. The plaintiff was jointly examined by Dr Law Yee Cheong Wally (for the plaintiff) and Dr Peter Ko Put Shui (for the 1st and 2nd defendants) on 19 December 2016. Their joint expert report dated 24 January 2017 records the plaintiff’s complaints as follows:-
2. Left heel pain: almost continuous on his left heel, more obvious on the lateral side. There was exacerbation of such heel pain with prolonged walking for more than an hour, after squatting or after down-stair walking. He could lift heavy object up to 8 kg of weight. There was occasional unprovoked pain during middle of night, waking him up from sleep. There was occasional impingement sensation on the lateral side of his heel when he wore shoes. He needed arm support to stand single leg when he wore trousers or took shower.
3. Left ankle stiffness: Physical examination revealed that the plaintiff walked in normal gait with minimal limping. He did not need any walking aid. He failed to demonstrate heel walking or toe walking on his left leg, single leg stance on right side was normal and left side was with mild unsteadiness. He could perform a full squat with arm support during rise. There was mild swelling on the lateral side of his left ankle. The skin temperature and moisture of the left foot/ ankle were normal. There was no sign suggestive of reflex sympathetic dystrophy on the left foot/ ankle. The left foot had normal capillary return and circulatory status. There was no nail deformity on the toes. He complained of tenderness on the left ankle, diffusely on the medial side. There was also tenderness on the lateral side of the left ankle over the scar. Implants were not palpable. The range of motion of the left ankle and foot was slightly reduced as compared with the right. The range of motion of the hip and knees were normal on both sides. The calf had mild muscle wasting on the left side and the circumference was 35 cm on the right side and 32.5 cm on the left. The sensation to touch on the legs was normal on both sides on all level.
4. Radiological examination of the left ankle and foot revealed the following:-
5. The left calcaneus bone had previous fracture with internal fixation with multiple screws and a metal plate. The metal plate was broken;
6. There was subarticular sclerosis in subtalar joint and abnormal Bohler’s and crucial angles.
7. Both Dr Law and Dr Ko agreed that the plaintiff suffered a closed fracture of the left calcaneus and cuboid bones in the Accident. The degree of injury was compatible with the mechanism of injury as described with a fall from height landing on the foot. The plaintiff did not have any previous injury or disease on his left heel or ankle. They considered the stiffness and pain suffered by the plaintiff on his left heel were consistent with partial recovery from the injury. They agreed that his condition of the left heel was solely caused by the Accident.
8. Both medical experts agreed that the treatment which the plaintiff received was appropriate and sufficient. They agreed that his condition had reached maximal improvement and he would not benefit from any further treatment, investigation or rehabilitation.
9. Dr Law opined that the condition of the plaintiff’s left heel was consistent with the progress recorded in the documentation with persistent symptoms in stiffness and pain after treatment. The findings at the joint examination were consistent with other cases with similar degree of injury with fracture calcaneus treated with surgery. There was residual stiffness on the ankle and heel, affecting his tolerance in ambulation. The subtalar joint had marked deformity as shown on x-ray and it also had evidence of post-traumatic arthrosis, which was caused by the Accident on the bone and articular cartilage with fracture and the deformity follows. This subtalar joint post-traumatic arthrosis would gradually deteriorate with time, causing further deterioration in symptoms. Dr Law was of the view that such disability would be permanent and would affect the plaintiff in his activities of daily living as well as vocational activity. The plaintiff was limited in his tolerance in prolonged walking, heavy lifting and single leg stance. Dr Law was of the view that the plaintiff would have remained completely well on his left heel/ankle but for the Accident.
10. Dr Ko was of the view that the plaintiff had no problems with wearing shoes despite the x-rays showed mild degree of deformity in the calcaneum and also mild decrease of arthrosis in the subtalar joint. Physical examination showed moderate decrease in the range of motion of the left ankle in dorsiflexion, planter flexion as well as subtalar joint rivet. He could walk unaided with minimal limping, no walking aids were required and implants were not palpable. His residual pain and stiffness would be permanent and not likely to improve further with any treatment or rehabilitation. His left foot and ankle function remained reasonably satisfactory despite the mild residual pain and stiffness. Dr Ko opined that the plaintiff’s left os calcis fracture should have reached maximal medical improvement and static condition.
11. Dr Law assessed the plaintiff to have suffered 7% permanent impairment of the whole person (“PIWP”) and 7% loss of earning capacity (“LOEC”) while Dr Ko assessed both PIWP and LOEC to be at 4%.

*Sick leave period*

1. The plaintiff was given sick leave for the following period:-
2. from 3 August 2013 to 8 January 2014;
3. from 19 February 2014 to 15 October 2014;
4. from 7 January 2015 to 26 January 2015.
5. Dr Law was of the view that sick leave granted up to January 2015 was reasonable, whereas Dr Ko was of the view that sick leave up to July/August 2014 should be adequate and reasonable for treatment, investigation and rehabilitation for his calcaneal fracture.
6. Dr Ng Chak Chuen, Charles of Department of Orthopaedics & Traumatology of Princess Margaret Hospital referred to the plaintiff’s follow up on 7 January 2015 where he was found to have residual pain and stiffness. He was granted sick leave up till 26 January 2015. The Board does not seek to contest that the plaintiff was entitled to sick leave up till 26 January 2015. I accept that the treating doctors were in a better position to assess the plaintiff’s need for sick leave and I find that sick leave up till 26 January 2015 to be reasonable.

*PSLA*

1. Ms Lau, counsel for the plaintiff, submits that an appropriate award under this head should be $300,000. The following authorities were relied on as comparable:-
2. *Lau Kin Wah v Lam Shu Kan (formerly trading as Kuen Kee Kwok Wing Transportation & Stevedores Company)*, HCPI No 1208 of 1998, Seagroatt J, 28 February 2000;
3. *Wong Woon Hei v Dickson Construction Co Ltd & Others*, HCPI No 521 of 2000, Deputy Judge Muttrie, 3 July 2001;
4. *Chan Sze Yuen v Tin Wo Engineering Co Ltd & Others*, HCPI No 427 of 2008, Master Harold Leong, 5 February 2016;
5. *Ng Tin Chuen v Wong Chung Keung & Others*, HCPI No 209 of 2013, Master Harold Leong, 4 November 2014;
6. *Ng Wah Chun v Cheng Wing Chung & Others*, HCPI No 164 of 2001, Recorder Ronny FH Wong, SC, 27 September 2002;
7. *Chu Kwong Sang v Chuen Wo Transportation Ltd & Others*, HCPI No 296 of 2002, Deputy Judge Fung, 22 December 2004;
8. *Chan Wai Keung v Li Yau Hing*, HCPI No 715 of 2012, Louis Chan J, 20 February 2017.
9. I have considered the above authorities and accept that an award of $300,000 under this head to be reasonable. The Board does not seek to dispute the claim of $300,000 under this head.

*PRE-TRIAL EARNINGS*

1. The plaintiff has states that his basic salary with the 1st defendant was $600 per day plus $100 per hour for overtime work. His normal working hours with the 1st defendant were 8 am to 5 pm. The plaintiff says he worked on average 3 to 4 hours overtime per day.
2. The plaintiff started to work for the 1st defendant since 22 July 2013. The plaintiff relies on a work attendance and daily wage table[[2]](#footnote-2) which shows that by 2 August 2013, the plaintiff had worked 10 days. The record also shows that there was no salary payment for 31 July 2013. He earned a total of $10,300 for these 10 days.
3. The plaintiff states that but for the Accident he would have worked 25 to 26 days per month at the Terminal. The plaintiff was paid in cash and he did not deposit his earnings into a bank. There were no salary receipts but the plaintiff relies on a salary record which shows his work records as warehouse worker with another employer at 佳宏倉 (“previous employer”) from 15 April 2013 to 20 July 2013 showing that he worked 25 to 26 days at 佳宏倉.

*THE SALARY AND ATTENDANCE RECORD*

1. The plaintiff claims that his monthly salary with the 1st defendant was at $1,030 x 25 days = $25,750 per month. He relied on the salary record with his previous employer but at trial he admitted that these records were compiled by him and were not based on contemporaneous documents. In the absence of evidence in support from the plaintiff’s previous employer, I attach little weight to those records between 15 April 2013 to 20 July 2013 at佳宏倉.
2. On the other hand, although the salary and attendance records with the 1st defendant were also compiled by the plaintiff, they were disclosed by the plaintiff in the employees’ compensation proceedings. Ms Lau submits, which I accept, that these records were also disclosed in the present proceedings at an early stage when both the 1st and 2nd defendants were still legally represented. The 1st defendant as the employer was clearly in the position to challenge the salary table in respect of the plaintiff’s attendance by providing the court with a list of the plaintiff’s earnings with date and hours of work with the 1st defendant or the 1st defendant could have disclosed wage records of comparable workers. Nevertheless, the 1st defendant has provided neither.
3. As the plaintiff’s case was that he was paid $100 per hour’s overtime and was paid the $100 irrespective of whether he had worked for a full hour, this did not tally with the record he provided which showed that his daily wages with the 1st defendant ranged from $650 to $1,250 and all wages received were in terms of $50s as opposed to a roundup of $100s.
4. Mr Phang for the Board submits that the salary table provided by the plaintiff was unreliable and he further submits that as the records show that immediately after the Accident up to April 2014, the 1st and 2nd defendants had paid a total of $120,336.50 to the plaintiff as advance payment of salaries. Further, the plaintiff was initially paid $15,000 per month as advance payment and was subsequently reduced to $12,000 per month by the 1st defendant. On the basis that the $15,000 per month represented four-fifths of the plaintiff’s monthly earnings at the time of the Accident as an employer is required under s 10 of the Employees’ Compensation Ordinance (Cap 282) (“**ECO**”) to pay compensation in the form of periodical payments at that rate, Mr Phang submits the plaintiff’s pre-accident monthly salary would only have been $18,750.
5. However, the $18,750 pre-accident earnings submitted by Mr Phang’s does not tally with the 1st defendant’s notice of information amendment to the Labour Department dated 28 August 2013 which stated that the salary of the plaintiff was $12,000[[3]](#footnote-3) and the defendants’ Answer to the Re-revised Statement of Damages stated that the plaintiff earned $600 per day and worked 20 days per month at $12,000 per month. As the 1st and 2nd defendants have not put forward a case that the plaintiff earned $18,750 per month as submitted by Mr Phang and in the absence of such evidence from the 1st and 2nd defendants, in particular there is no evidence on the basis for the calculation of the advance payment at $15,000 per month and $12,000 per month, I cannot accept the Board’s submission and infer that the plaintiff’s pre-accident earnings were at $18,750 per month.
6. I have carefully considered the plaintiff’s evidence, I accept that at trial he was not able to recall the exact composition of his earnings. Nevertheless, I find the plaintiff’s evidence that the $50s appearing in his daily wages with the 1st defendant could have been due to his basic daily salary with the 1st defendant was at $650 as opposed to $600 to be quite probable. As I draw an adverse inference against the 1st and 2nd defendants’ omission to deal with this essential issue and not giving evidence at trial, and for reasons stated I would accept the plaintiff’s salary table and record of attendance with the 1st defendant.
7. I accordingly find that the plaintiff earned in total $10,300 from 22 July 2013 to 2 August 2013. He earned on average $10,300/10 days = $1,030 per day.
8. As the plaintiff had worked 10 out of the 11 days with the 1st defendant, a pattern of work has been established and I accept the plaintiff’s evidence that he would have continued to work overtime whenever required. I accept the plaintiff’s evidence that but for the Accident he could and would have worked 25 to 26 days per month with the 1st defendant. Since the plaintiff had limited his claim to 25 days, I find that but for the Accident, the plaintiff could have continued to work 25 days per month with the 1st defendant.

$1,030 x 25 days = $25,750 per month

*EMPLOYABILITY*

1. Dr Law was of the view that the plaintiff would have to adjust his work conditions according to his current physical status. He would need to avoid occupations that require prolonged walking or heavy lifting. He was of the view that the plaintiff would not be able to return to his pre-injury work as a warehouse worker. He would need to change to work that does not require prolonged walking or heavy lifting.
2. Dr Ko was of the view that considering the plaintiff’s pre-accident job nature and also his present physical condition, the plaintiff should be able to resume his pre-accident job with probably mild to moderate degree of impairment of his work efficiency and effectiveness. With proper shoe wear +/- orthotics, working as a transportation worker should not have significant problem from his present left foot and ankle function.
3. Taking into account the fact that the warehouse delivery work required the plaintiff to move and stack cartons of goods for long hours and climb up and down stacked goods and work on top of stacked goods at a height of over 2 meters as demonstrated on the date of the Accident, with his left heel pain, stiffness and reduced tolerance in ambulation, I find that it is not realistic to expect the plaintiff to be able to discharge duties of a warehouse worker with his present disabilities. I prefer the view of Dr Law and find that the plaintiff is not able to resume his previous work as a warehouse worker.

*NOTIONAL EARINGS*

1. It is the plaintiff’s case that but for the Accident, he probably would have continued to work as a casual warehouse worker until the age of 65. His monthly earnings would probably have been increased with time. As the 1st and 2nd defendants have not disclosed any wage records of comparable workers, based on a yearly inflation rate of 2%, I accept that the plaintiff is likely to have earned not less than $30,000 in January 2022.
2. The average notional median monthly earnings of the plaintiff during the pre-trial period is therefore assessed at ($25,750 + $30,000)/2 = $27,875.

*PRE-TRIAL LOSS OF EARNINGS*

*From 3 August 2013 to 30 June 2015 (22 months and 27 days)*

1. The plaintiff was on intermittent sick leave up till 26 January 2015. He continued to suffer from residual leg pain and stiffness. It is not realistic to expect the plaintiff to take up employment during the gap period between the sick leave periods. It is also reasonable to allow him a few days to seek alternative employment after the expiry of sick leave period. I would allow full loss of earnings for this period.

$27,875 x 22 months and 27 days x 1.05 MPF = $670,254.38

*From 1 July 2015 till 30 January 2022 (6 years and 7 months)*

1. It is the plaintiff’s case that he started to work on 1 July 2015 as a delivery man for his friend “Ah Sha”.
2. His daily wage received from “Ah Sha” was $800 and he worked for about 18 days during the month. The plaintiff gave evidence that as he was well acquainted with “Ah Sha” who knew that he had not been able to get work after the expiry of his sick leave, hence, Ah Sha was willing to pay $800 per day to the plaintiff while he would normally give $600 per day to other workers. He earned a sum of $14,400 between 1 July and 27 July 2015.
3. The plaintiff’s case is that thereafter, he worked as a casual delivery man with unstable days of work between November 2015 and July 2016 and he earned about $3,000 per month during this period. Since then he has not been able to secure any work. The plaintiff also states that he has stopped working since August 2016 due to the pain in his left calcaneum. However, the joint expert report shows that during the interview on 19 December 2016, the plaintiff had up till then been working for 2-3 days each month for 9 hours a day. It also emerged in cross-examination that one of the reasons the plaintiff did not continue taking alternative lighter employment was that he was asked by his son to take care of his grandson and his newly born granddaughter. Last year, the plaintiff had also returned to PRC to take care of his sick mother.
4. As the plaintiff was able to work 9 hours per day and for 18 days with Ah Sha, it shows that he was able to withstand lighter delivery work. I have taken into account the fact that Ah Sha may have been doing the plaintiff a favour by giving him a higher than average daily wages, given the fact that the plaintiff was well connected in the field of delivery workers as he had before the Accident brought work to other warehouse workers, I find that it is more likely that the plaintiff could have continued to work as a delivery worker taking up lighter duties earning a daily wage of $600 and working 25 days per month at $15,000 per month in 2016.
5. The notional monthly wages for lighter delivery work on the basis of a yearly inflation rate at 2% pa would therefore be at $16,892 by the date of trial.
6. The median monthly earnings for the alternative lighter delivery work would therefore be ($15,000 + $16,892)/2 = $15,946.
7. The plaintiff’s pre-trial loss of earnings for this period is therefore assessed at:-

($27,875 - $15,946) x 79 months x 1.05MPF = $989,510.55

1. Total pre-trial loss of earnings is assessed at $670,254.38 + $989,510.55 = $1,659,764.93.

*POST-TRIAL LOSS OF EARNINGS*

*The retirement age*

1. It is the plaintiff’s case that but for the Accident, he would have continued to work as a casual warehouse worker until the age of 65.
2. I accept that the plaintiff had only accepted his son’s request to take up the task of looking after his grandson and granddaughter due to his disabilities. It is more likely that but for the Accident, he would have continued with his work as a warehouse worker until his retirement.
3. The work of a warehouse worker is not of heavy manual work, the normal retirement age of a manual labourer at age of 65 is applicable.

*The multiplier*

1. The plaintiff was born on 28 September 1960. He is now 61 years old. Based on a discount rate of -0.5%, the applicable multiplier is 3.98 as per Table 9 of the Hong Kong Personal Injury Table.
2. Adopting the figure of $30,000 as his current notional monthly earnings, his post-trial future loss of earnings is assessed as follows:

($30,000 - $16,892) x 12 x 3.98 x 1.05MPF = $657,339.98

*LOSS OF EARNING CAPACITY*

1. The plaintiff has claimed this head of damage on an alternative basis to post-trial loss of earnings. On the plaintiff’s own concession, I make no award under this head.

*SPECIAL DAMAGES*

1. The plaintiff has incurred a sum of $13,190 as a result of the injuries he sustained in the Accident:-
2. Medical Expenses $4,190
3. Tonic Food and Ointment $2,000
4. Travelling Expenses $7,000
5. Special damages, inclusive of in the total amount of $13,190 are reasonable and allowed. The Board does not seek to challenge these figures.

*SUMMARY OF DAMAGES*

(1) PSLA $300,000.00

(2) Pre-trial Loss of Earnings

(plus MPF) $1,659,764.93

(3) Post-trial Loss of Earnings

(plus MPF) $657,339.98

(4) Special Damages $13,190.00

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Sub-total $2,630,294.91

Less: EC award $511,492.93

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Total $2,118,801.98

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*INTEREST*

1. Interest is awarded on general damages of $300,000 at a rate of 2% pa from the date of writ to date of judgment and interest on special damages of $1,672,954.93 at half judgment rate (currently at 4%) from date of Accident to the date of judgment.
2. I accordingly make the following Orders:-
3. Judgment be entered for the plaintiff against the 1st and 2nd defendants at **$2,118,801.98** plus interest.
4. Costs of this action, including all reserved costs, if any, be to the plaintiff against the 1st and 2nd defendants with certificate for counsel to be taxed if not agreed.
5. There shall be no costs order against the 3rd defendant.
6. The plaintiff’s own costs to be taxed in accordance with the Legal Aid Regulations.
7. This costs order shall be on a nisi basis to be made absolute after 14 days from the date of this judgment.
8. I thank both counsel for their assistance.

( Charles Wong )

Deputy District Judge

Ms Julia Lau, instructed by Szwina Pang, Edward Li & Co, for the plaintiff

The 1st and 2nd defendants, acting in person and absent

Mr Roger Phang, instructed by PC Woo & Co, for the 3rd defendant

1. 244-249 [↑](#footnote-ref-1)
2. 262 [↑](#footnote-ref-2)
3. 195-196 [↑](#footnote-ref-3)