###### LA/MP1/17185/2007 (CB09)

###### DCPI 2273/2008

### IN THE DISTRICT COURT OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

PERSONAL INJURIES ACTION NO. 2273 OF 2008

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##### BETWEEN

## LIMBU PRYA Plaintiff

### and

#### HEI YUET PALACE RESTAURANT Defendant

o/b KENBERG INVESTMENTS LTD

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Coram: H.H. Judge Chow in Court

Hearing dates: 1st and 2nd June 2010

Date of handing down Judgment: 11th June, 2010

Judgment

1. This is the Plaintiff’s claim for reliefs against the Defendant due to injuries sustained by her in an accident which occurred on 14.11.2005 due to the negligence of the Defendant. Interlocutory judgment on liability was entered against the Defendant on 1.8.2009 with costs.
2. At the material time, the Plaintiff was employed, at a monthly salary of $7,800, by the Defendant as a kitchen helper/cleaner at the Defendant’s restaurant premises situated at Ground Floor (West Portion), 2nd-4th Floors, 267-275 Des Voeux Road Central, Sheung Wan, Hong Kong. She was born on 1.3.1956 and was aged 49 at the time of accident. She is now 54.
3. On 14.11.2005 her back was severely scalded by very hot water. On that day she went to the accident and emergency department at Queen Mary Hospital (“QMH”). She was examined by Dr. Wong Man Fung (“Dr. Wong”) Dr. Wong found her to have second degree burns all over her back and buttocks with blistering. Estimated body surface area involvement is about 18%. On 18.11.2005 she was transferred from QMH to the Tung Wah Hospital where she was discharged on 26.11.2005.
4. She was given sick leave from 14.11.2005 to 5.1.2006, and on 10.1.2006. Bust she did not go back to work at the Defendant’s kitchen. Subsequently she was employed as a part-time cleaner at a residential public housing block at a salary of $3,000 per month. She worked for 3 hours per night, cleaning 2 lifts and the lift lobby. The job lasted from 3.8.2006 to the end of 2007. She gave up this job because of the pain at her back. Then she obtained another part-time job, working in a kitchen of a restaurant for about 4 to 5 months. She was paid $4,000 to $4,500 per month. She gave up the job about 18 months ago, due to pain and limitation of movement.
5. Her total traveling expenses for attending hospitals was about $4,000.
6. She was examined by Dr. James Kong, a specialist in plastic surgery in July 2008. He found that the restrictions of the injured skin to normal movements were minimal and, her ability to tolerate full movements in order to work full-time (8 hours per day) might be hampered significantly by lack of rehabilitation support to her after the accident. In view of that he suggests that she undergo counselling and support.
7. On her back there are areas of hypo-pigmented skin and at least one area of hyper-trophic scar. She said that if she touches the area of her back with the hypo-pigmentation and hyper-trophic scar it is painful.

Pain, suffering and loss of amenities (PSLA)

1. In *Leung Yuk Kwan v. Maple Professional Beauty Centre Limited* HCPI 274 of 2002, the Plaintiff’s right leg was “severely scalded” in the course of beauty treatment. She sought medical attention 3 days later, and first attended hospital 9 days later for treatment. One year later there an “ugly” scar on her right lower thigh. The size of the scar was about 4 x 5 cm. She suffered 3% cosmetic disability of the whole person. PSLA was awarded at $300,000. In the present case, the injuries suffered by the Plaintiff are more serious,. An award of $350,000 for PSLA is reasonable.

Pre-trial loss of earnings

1. From 14.11.2005 to 31.7.2006, her loss of wages is $69,342 ($7,800 x 8 14/30 x 105%). From 1.8.2006 to the end of July 2008, her loss of wages is $120,960 (($7,800 - $3,000) x 24 x 105%). From 1.8.2008 to the end of 2008,her loss of income is $17,325 (($7,800 - $4,500) x 5 x 105%). From 1.1.2009 to 31.5.2010, the loss of her income is $58,905 (($7,800 - $4,500) x 17 x 105%).
2. Her total loss of earnings from 14.11.2005 to 31.5.2010 is $266,532 ($69,342 + $120,960 + $17,325 + $58,905).

Loss of future earnings

1. As time goes by, her pain will decrease. She should have a residual earning capacity of $4,500 per month. She can work up to 65 years old. I adopt a multiplier of 8 for the purpose of calculating her future loss of earnings. Her future loss of earning is therefore $332,640 (($7,800 - $4,500) x 12 x 8 x 105%).

Medical expenses

1. The Plaintiff spent $1,825 on hospital charges.

Transportation expenses

1. The Plaintiff spent about $4,000 on transport.

Awards

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| --- | --- |
| PSLA | $350,000 |
| Pre-trial loss of earnings | $266,532 |
| Loss of future earnings | $332,640 |
| Medical expenses | $1,825 |
| Transportation fees | $4,000 |
|  | $954,997  ========= |

1. I order that the Defendant do pay, within 14 days from today, to the Plaintiff the sum of $954,997, with interest thereon; interest on the sum of $350,000 at 2% p.a. from 14.11.2005 to 10.6.2010, and interest on $272,357 ($266,532 + $1,825 + $4,000) at 50% judgment rate from 14.11.2005 to 10.6.2010; interest on the sum of $954,997 at judgment rate from 11.6.2010 to satisfaction.

Costs

1. I make an order nisi, to be made absolute within 14 days from today, that the Defendant do pay costs of this action, commencing from 2.8.2009 until the conclusion of this case, to be taxed, if not agreed. The Plaintiff’s own costs be taxed in accordance with Legal Aid Regulations.

(S. Chow)

District Judge

The Plaintiff : represented by Mr. N. Millar, solicitor of Littlewoods, Solicitors.

The Defendant: Absent, unrepresented.