## DCPI 2358/2013

**IN THE DISTRICT COURT OF THE**

# HONG KONG SPECIAL ADMINISTRATIVE REGION

PERSONAL INJURIES ACTION NO 2358 OF 2013

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BETWEEN

CHAN SIU YIM（陳少艷） Plaintiff

and

DR CHEUNG SHEUNG KIN（張尚堅） Defendant

also known as DR SAMUEL KINNETH CHEUNG

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Before: His Honour Judge MK Liu in Court

Date of Hearing: 16 February 2017

Date of Judgment: 21 February 2017

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JUDGMENT

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1. The plaintiff sues the defendant for medical negligence. At all material times, the defendant was a dentist registered under the Dentists Registration Ordinance (Cap 156). The plaintiff was his patient.

*SERVICE OF THE NOTICE OF TRIAL*

1. The defendant was legally represented in these proceedings until 16 January 2016. Thereafter, the defendant has been acting in person. The defendant is absent in the trial.
2. I note that the notice of trial sent by the court to the defendant at the address last known to the plaintiff (“the Last Known Address”) was returned for the reason “*Addressee unknown*”. However, Master Rita So made an order on 12 December 2016 (“the Service Order”), in which the learned master ordered that the service of the notice of trial was to be effected by prepaid ordinary post addressed to the defendant at the Last Known Address *and* by advertising a notice of the trial in English once in the South China Morning Post, and the service of the notice of trial should be deemed to be good and sufficient service on the defendant on the date of such publication as aforesaid.
3. The plaintiff has adduced evidence to show that the notice of trial was advertised in the South China Morning Post on 18 January 2017. In the advertisement, the plaintiff’s solicitors also said that a set of trial bundle could be obtained from them. The plaintiff’s solicitors also warned the defendant that if he did not attend the trial, the court might proceed in his absence.
4. I am satisfied that by the operation of the Service Order, the notice of trial has been duly served on the defendant. The trial therefore proceeds notwithstanding the absence of the defendant.

*THE PLAINTIFF’s CASE*

1. The plaintiff’s case is that on or about 20 April 2007, she consulted the defendant for she wanted a dental implant to the area of left lower first pre-molar. After examining the plaintiff, the defendant proposed to the plaintiff a procedure using braces and wires (and without suggesting the possibility of teeth extraction) as it was simpler than dental implant. The whole procedure would take 18 months to complete. The plaintiff accepted the defendant’s advice. The plaintiff agreed to the performance of the said procedure on her by the defendant.
2. A number of problems emerged after the commencement of the treatment, including occlusion problem which affected her chewing; upper teeth displaced and shifted to the left and overjet of the upper teeth increased.
3. At the appointment that took place on 13 December 2007, without any prior notice to the plaintiff and without the plaintiff’s consent, the defendant extracted the lower left first pre-molar (“tooth 34”) from the plaintiff.
4. The problems with the plaintiff’s teeth deteriorated after the tooth extraction. The plaintiff was unable to chew properly and also had slurring of speech and drooling. The defendant applied brackets and wire to the plaintiff’s upper teeth as well to try to remedy the situation.
5. Since about 12 August 2008, the defendant entrusted the performance of examination of the plaintiff and the continuation of the treatment to two non-Chinese assistants on 6 to 7 occasions, without explaining to the plaintiff whether these assistants were qualified to do what they did to the plaintiff.
6. On or about 17 November 2010, the plaintiff was not able to bear with the problem anymore and consulted Dr Winston Tong (“Dr Tong”), an orthodontics specialist, for a second opinion. Dr Tong took the plaintiff as his patient in January 2011. After 30 sessions of treatment by Dr Tong, the whole remedial process was completed in August 2012.
7. The plaintiff claims that the defendant was negligent, particulars of which are as follows:-
8. failure to advise on alternative options and explain the pros and cons of those options;
9. failure to obtain the plaintiff’s consent to extract tooth 34;
10. ignoring or failing to recognize the risk involved in extracting tooth 34;
11. failure to advise the plaintiff of the said extraction risk;
12. failure to take measure to prevent or minimize the said risk;
13. failure to sufficiently follow, monitor and evaluate the progress of the treatment and to make necessary adjustment to the treatment plan;
14. failure to remedy the problems caused by the extraction of tooth 34; and
15. failure to refer the plaintiff’s case to an orthodontic specialist.
16. The plaintiff claims that the dental problems caused by the defendant’s treatment also caused her to have serious headache, insomnia and depressive mood. As a result of these, she consulted a psychiatrist in the Prince of Wales Hospital, and was diagnosed with adjustment disorder with insomnia. One of the major stressors identified was the treatment done by the defendant. She was prescribed with anti-depressant and benzodiazepine.
17. As to the quantum of damages, in the revised statement of damages, the plaintiff claims the following:-
18. PSLA
19. The plaintiff says that the negligent treatment performed by the defendant on her had lasted for 44 months. The plaintiff had to receive remedial treatment for another 18 months. Over a period of more than 5 years, she had to endure dental problems which affected her chewing, facial appearance, speech, pain and well-being most of the time. She was depressed and under constant stress.
20. The plaintiff also says that she consulted the defendant because a friend of her boyfriend referred the defendant to her. At that time, the plaintiff and her boyfriend were living together and planning to get married. After the treatment by the defendant started to drag on and dental problems started to emerge, she and her boyfriend had arguments from time to time about the referral. Eventually, the plaintiff broke up with her boyfriend. The plaintiff remains single to date.
21. The plaintiff claims HK$700,000 under this head.
22. Special Damages

(i) Wasted fee charged by

the defendant: HK$15,000

(ii) Fee charged by Dr Nicholas Sinn: HK$4,000

(Dr Sinn is a dentist from whom

the plaintiff also sought an

opinion in relation to the problems

caused by the defendant’s treatment.)

(iii) Fee charge by Dr Tong: HK$85,500

1. Travelling expenses in

attending treatment: HK3,500

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HK$108,000

1. Future Medical Expenses

The plaintiff claims HK$25,000 for future psychiatric treatment expenses.

*THE DEFENDANT’s CASE*

1. The defendant claims that when the plaintiff came to see him for the first time, the plaintiff told him that she wanted to straighten her upper and lower teeth. The defendant claims that he had properly discussed his treatment plan with the plaintiff on her first and second consultations.
2. The defendant says that his treatment plan was to move the teeth at the lower left altogether so that there would not be any space between the teeth. In the second consultation, the defendant was satisfied that the plaintiff understood and consented to his treatment plan.
3. The defendant admits extracting tooth 34 from the plaintiff, but claims that the plaintiff consented to the extraction and had been advised of the proposed extraction before the extraction was performed.
4. The defendant claims that he last saw the plaintiff on 28 December 2010.
5. The defendant denies the allegation of negligence. He claims that at the time of the final consultation in December 2010, the progress of the treatment was satisfactory.
6. The defendant has not filed any answer to the revised statement of damages.

*EVIDENCE*

*The factual evidence*

1. The plaintiff has given evidence in support of her case. Her evidence is clear and in line with her pleaded case. The plaintiff’s evidence is also supported by the judgment (“the DCHK Judgment”) of the Dental Council of Hong Kong (“DCHK”) in the disciplinary inquiry concerning the defendant mentioned below. I accept the plaintiff’s evidence. Her evidence is true and reliable.
2. The defendant has filed a witness statement. However, he has not confirmed that witness statement in court and has not tendered himself for cross-examination. I would not give any weight to that witness statement. In any event, what has been said by the defendant in that witness statement is contradicted by the DCHK Judgment. The defendant’s evidence as per his witness statement is untrue.

*DCHK’s Judgment*

1. The plaintiff has made a complaint against the defendant to the DCHK. As a result of the complaint, a disciplinary inquiry was held on 3 December 2015. Five charges were laid against the defendant in that disciplinary inquiry, namely:-
2. failing to carry out adequate examination and assessment on the plaintiff’s dental condition before commencement of orthodontic treatment;
3. failure to adequately advise the plaintiff of the risks and complications associated with the treatment before he commenced the treatment;
4. failure to offer the plaintiff any alternative options for managing the plaintiff’s dental condition before he commenced the treatment;
5. failure to perform the treatment properly by increasing the plaintiff’s overjet and overbite, failure to upright the tooth 38 and causing the shifting of the lower dental midline; and
6. failure to provide the plaintiff with a copy of full set of clinical records despite her repeated requests for the same.
7. The plaintiff has produced the DCHK Judgment in that disciplinary inquiry as evidence in this case. The defendant pleaded guilty to all the 5 charges in that disciplinary inquiry. The DCHK, with their duty of protecting the public in mind, imposed the following penalties on the defendant:-
8. As to charges (a) to (d), in respect of each charge, the defendant’s name be removed from the General Registry for a period of 2 months, and the removal orders run concurrently.
9. In respect of charge (e), the defendant be reprimanded.
10. The DCHK Judgment is cogent evidence in support of the plaintiff’s case and against the defendant’s case.

*Evidence from dental experts*

1. By the order of Master Rita So made on 12 October 2016, the 2 expert reports of Dr Balvinder Singh Khambay (“Dr Khambay”, the dental expert appointed by the plaintiff) dated 23 May 2014 and 3 October 2016 respectively and the expert report of Dr Peter Chung Chee Keung (“Dr Chung”, the dental expert appointed by the defendant) dated 13 July 2015 are adduced as evidence at the trial without calling the said experts.

1. I have read these reports. I am satisfied that both Dr Khambay and Dr Chung are qualified to give expert evidence in relation to dental treatments.
2. Dr Khambay’s opinion is as follows:-

*Adverse effect caused by the defendant’s treatment*

28.1 In Dr Khambay’s second report, at para 5.10 he expressed the view that “*based on the increasing overjet and worsening centerline discrepancy the management by the Defendant of Madam Chan was of not of a reasonable standard*”.

* 1. After receiving the defendant’s treatment, the plaintiff had an overjet of 3.5mm while the overjet had been 1-2mm before the treatment commenced.

28.3 The centerline was worsened with the lower moving further to the left. Before receiving treatment by the defendant, the centerline had been shifted to the left by 2mm, and when the plaintiff began to receive remedial treatment from Dr Tong, her midline of the lower jaw was off to the left by 4mm.

28.4 Dr Khambay further said, at para 6.3 of his second report, that “*the decision to extract 34 cannot be taken in isolation. Having created space by extraction it is the management of the space by the clinician that is the issue. The space created was handled poorly and instead of the posterior teeth on the lower left quadrant moving forward, the lower anterior teeth have moved posterior and to the left. This as previously mentioned could have been controlled by either extracting a tooth in the lower right quadrant, or “miniscrews” to hold certain teeth still*”.

*Failure to advise on the alternative options*

* 1. Dr Khambay expressed the view in para 8.3 of his first report that “*the use of fixed braces is one of the many options. Others include accepting the gap, a bridge, a denture or an implant*. *A reasonably competent dentist would have advised the patient of the different options and the associated risks and benefits, so that the patient could give informed consent to the treatment. There is, however, no evidence that Dr Cheung had done so.*”
  2. Dr Khambay further also said at para 6.5.4 of the same report that “‘*the problems with this option of treatment and the required preventive measures is that it will make the whole treatment process overly complicated*.”
  3. In fact, DCHK also expressed the view in the DCHK Judgment that “*there are other possible treatment options, such as (but not limited to) the following:- (i) no orthodontic treatment with or without prosthetic assessment for prosthesis at 36; (ii) upper and lower fixed appliance treatment with extraction of 38; (iii) upper and lower fixed appliance treatment non extraction.*”.

28.8 There is no evidence that the defendant had explained to the plaintiff that there would be some other options to suit P’s purpose, and the pros and cons of those options.

*Failure to advise on the risks*

28.9 Dr Khambay said in para 8.6 of his first report that ‘*a competent specialist would be aware of the detrimental effects and difficulties involved in extracting a tooth in the lower left region and trying to close space. They would be able to anticipate the lower center moving to the left and the overjet increasing.’*

* 1. There is no evidence showing that the defendant had warned the plaintiff that the treatment may cause the lower midline moving to the left and increase of overjet.

*Failure to remedy the problem occasioned by the defendant’s treatment*

* 1. Dr Khambay observed at para 6.5.4 of his first report, there is no evidence that D extracted another tooth at the lower right jaw, or used “miniscrews” to hold the teeth still. Dr Khambay commented at para 9 of his first report that “*having extracted the tooth the treatment mechanics were always going to be difficult and in this case were poorly managed…*”

*No proper record keeping and treatment planning*

* 1. Dr Khambay also gave the opinion that proper record keeping and treatment planning were totally lacking in this case, which was not in compliance with the basic principles taught during the undergraduate curriculum.

*Extraction of tooth 34 unnecessary*

* 1. Dr Khambay opined that the extraction of tooth 34 was not necessary, as this could be confirmed by the fact that it needed to be replaced with a dental implant during the remedial treatment phrase.

*Failure to refer P to a specialist*

* 1. Dr Khambay in para 8.6 of his first report said that “*a competent specialist would be aware of the detrimental effects and difficulties involved in extracting a tooth in the lower left region and trying to close space. They would be able to anticipate the lower center moving to the left and the overjet increasing.”* He also said at para 6.5.4 of his first report that the defendant should have known about the risk of shifting of the midline of the lower jaw to the left, lower teeth to move backwards and the increased overjet as a result of the extraction of lower left premolar, and to prevent this risk a tooth on the lower right should be extracted or “miniscrews” should be used to hold the teeth still. Dr Khambay noted that there is no evidence that the defendant had done so.
  2. Dr Khambay stated at para 9 of his first report that “*early referral to a competent specialist would have been indicated”.*

28.16 Dr Khambay’s opinion is that the defendant demonstrated that he was not a competent person to perform works of an orthodontics specialist. That is why Dr Khambay said that early referral to a *competent* specialist would have been indicated.

1. Dr Chung in his report did not response to all the concerns raised by Dr Khambay in Dr Khambay’s first report. Dr Chung was merely focusing on whether or not extraction of tooth 34 was necessary, and Dr Chung opined that the extraction was necessary. Dr Chung gave the opinion that there were two options to *align the* *lower arch*, ie, by creating space in the lower right quadrant of at least 3.5mm-4mm by either extraction of teeth or by enamel reduction (this was not done by the defendant), or to extract one tooth on the lower left segment and use the space to align tooth 33 and to make tooth 38 more upright so that the centre line could be shifted (this is what the defendant did to the plaintiff). Dr Chung said that before the case takeover by Dr Tong, “*the lower arch was quite well aligned and the lower left wisdom 38 was also more upright*”. Dr Chung also took the view that the further shift of the lower centre line to the left was acceptable.
2. Dr Khambay disagreed with Dr Chung’s use of the word “aligned” in commenting on the defendant’s work. Dr Khamaby quoted literature of “*Andrews six keys to a normal occlusion*”, and said that “*as orthodontists the aim is to complete treatment with the teeth well aligned within each individual dental arch whilst at the same time achieve the correct inter-arch relationship ie, the way of upper and lower teeth meet when they are together (in occlusion). The end point of “ideal” treatment is based on “Andrews six keys to a normal occlusion*”’.
3. In Dr Khambay’s opinion, attending to all six keys would be treated as normal occlusion and lack of even one of the six was a defect predictive of an incomplete end result in treated models. The six ideal keys indirectly related to overjet and centerlines. Dr Khambay said that the “*Peer Assessment Rating*” was used in the UK to provide uniformity and standardization of orthodontic treatment outcome, and the overjet and centerlines were independent components to the score with greater weight-in.
4. Dr Khambay stressed that Dr Chung’s comment that teeth looked straight should be understood as appearing well aligned *within each arch*, and Dr Khambay commented that the plaintiff’s occlusion (ie, the inter-arch relationship between the upper and lower teeth) was worsened.
5. Dr Khambay suggested in his first report that it would be necessary to extract another tooth on the right lower jaw or to use “miniscrews” to hold certain teeth still after extraction of tooth 34. Dr Chung did not respond to this specific point and simply said that these two methods suggested by Dr Khambay should not be adopted after extracting teeth 34.
6. Dr Chung merely focused on the alignment within the lower arch. He was unable to cite medical literature in support of alignment within arch itself was an acceptable practice. On the other hand, Dr Khambay has cited medical literature to illustrate the importance of alignment of the upper jaw and lower jaw in the orthodontics works. In my judgment, the basis of Dr Khambay’s opinion is more solid than Dr Chung’s.
7. In my judgment, Dr Khambay’s opinion is comprehensive, carefully reasoned and supported by the relevant medical literature. On the other hand, Dr Chung’s opinion is merely on the extraction of tooth 34, which is not supported by cogent reasons and not supported by relevant medical literature. I prefer Dr Khambay’s opinion to Dr Chung’s opinion. On the matters in respect of which the 2 experts have different opinions, I would adopt the opinion of Dr Khambay.

*Joint psychiatric report*

1. By the order of Master J Chow made on 24 March 2016, the joint psychiatric expert report (“the Joint Report”) prepared by Dr Lo Chun Wai (“Dr Lo”, the psychiatric expert appointed by the plaintiff) and Dr Chen Chia Lu Sylvia (“Dr Chen”, the psychiatric expert appointed by the defendant) dated 23 October 2015 is adduced as evidence in the trial without calling the said experts.
2. Having read the Joint Report, I am satisfied that both Dr Lo and Dr Chen are qualified to give the expert evidence as set out in the Joint Report.
3. The 2 psychiatric experts are of the same opinion:-
4. The plaintiff is suffering from adjustment disorder with anxiety and depressed mood, which is caused by the unsatisfactory dental treatment from 2007 to 2010.
5. The plaintiff is now only suffering from mild symptoms. The prognosis is favourable.
6. The plaintiff should continue receive psychological as well as psychiatric treatment for another 6 months after this case is settled. The plaintiff may either receive treatment at the public hospital or receive treatment from the private sector. In the private sector, the costs would be about HK$25,000.

1. I accept the opinion in the Joint Report.

*LIABILITY*

1. It is trite that in a claim of medical negligence, the test to be adopted is the *Bolam* test as formulated by McNair J in *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582, in which the learned judge said at 586:-

“Before I turn to that, I must tell you what in law we mean by “negligence.” In the ordinary case which does not involve any special skill, negligence in law means a failure to do some act which a reasonable man in the circumstances would do, or the doing of some act which a reasonable man in the circumstances would not do; and if that failure or the doing of that act results in injury, then there is a cause of action. How do you test whether this act or failure is negligent? In an ordinary case it is generally said you judge it by the action of the man in the street. He is the ordinary man. In one case it has been said you judge it by the conduct of the man on the top of a Clapham omnibus. He is the ordinary man. But where you get a situation which involves the use of some special skill or competence, then the test as to whether there has been negligence or not is not the test of the man on the top of a Clapham omnibus, because he has not got this special skill. *The test is the standard of the ordinary skilled man exercising and professing to have that special skill. A man need not possess the highest expert skill; it is well established law that it is sufficient if he exercises the ordinary skill of an ordinary competent man exercising that particular art.*” (Emphasis added)

His Lordship further said on 587:-

“But the emphasis which is laid by the defence is on this aspect of negligence, that the real question you have to make up your minds about on each of the three major topics is whether the defendants, in acting in the way they did, were acting in accordance with a practice of competent respected professional opinion…….I myself would prefer to put it this way, that he is not guilty of negligence if he has acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art. I do not think there is much difference in sense. It is just a different way of expressing the same thought. Putting it the other way round, a man is not negligent, if he is acting in accordance with such a practice, merely because there is a body of opinion who would take a contrary view. At the same time, that does not mean that a medical man can obstinately and pig-headedly carry on with some old technique if it has been proved to be contrary to what is really substantially the whole of informed medical opinion.”

1. It is clear that the standard of care is to be judged in accordance with the ordinary skill of an ordinary competent man exercising that particular art. A non-specialist who undertakes works of a specialist will be judged on the standard of an ordinary specialist.
2. As to the duty to advise, recently the UK Supreme Court in *Montgomery v Lanarkshire Health Board (General Medical Council intervening)* [2015] AC 1430 held (as per the headnotes):-

“that an adult person of sound mind was entitled to decide which, if any, of the available forms of medical treatment to undergo, and her consent had to be obtained before treatment interfering with her bodily integrity was undertaken; that, therefore, a doctor was under a duty to take reasonable care to ensure that the patient was aware of any material risks involved in any recommended treatment, and of any reasonable alternative or variant treatments; that the test of materiality was whether, in the circumstances of the particular case, a reasonable person in the patient's position would be likely to attach significance to the risk, or the doctor was or should reasonably be aware that the particular patient would be likely to attach significance to it; that, however, the doctor was entitled to withhold information as to a risk if he reasonably considered that its disclosure would be seriously detrimental to the patient's health or in circumstances of necessity.”

1. With these principles in mind, based upon the evidence and my findings above, I accept the plaintiff’s case and reject the defendant’s case.
2. I find that the defendant is liable to the plaintiff for negligence as claimed in the statement of claim.

*QUANTUM*

*PSLA*

1. Notwithstanding the claim for HK$700,000 under this head in the revised statement of damages, Mr Leung in his submissions makes it clear that he is suggesting a sum in the region of HK$350,000 – HK$400,000 for PSLA.
2. Mr Leung has helpfully referred me to various cases concerning the award under this head. Among those cases, I that the following 2 cases are particularly useful:-
3. In *Wong Yuen Mei v Young Yau Yau Cecilia* (DCPI 1504/2007, 9 February 2010), the court awarded a sum of HK$300,000 for medical negligence against the defendant dentist who extracted 4 first pre-molars of the plaintiff. The extraction caused the plaintiff the problems of unfit upper teeth with lower teeth; ulcer of gum, headache, depression, anxiety and insomnia, incapable of making oral announcement as a flight attendant; could not chew properly; loss of weight and appetite; and after a series of remedial treatments, the plaintiff had decreased longevity of the teeth and increased risk of tooth decay.
4. In *Mak Po Ling v Young Yau Yau Cecilia* (DCPI 1273/2008, 13 September 2010), the plaintiff was also a flight attendant. The defendant dentist extracted three teeth and she experienced the similar problems with the plaintiff did in the case of *Wong Yuen Mei*. The court noted that the plaintiff’s condition had significantly improved. At the end the court awarded HK$300,000 as PSLA.
5. In my judgment, the plaintiff’s situation here is similar to the situations in these 2 cases, save and except one difference. In this case, the plaintiff said that the negligent treatment performed by the defendant on her had caused the breaking up of the relationship between her and her boyfriend. While the defendant’s negligence may not be the only cause of the breaking up, I would regard the defendant’s negligence, in the circumstances described by the plaintiff in her evidence, as a factor contributing to the breaking up. I take this factor into account in assessing the PSLA award.
6. I would need to take inflation into account. I note that according to *Personal Injury Tables Hong Kong 2016*, the starting point for “*serious injury*” was HK$422,000 in 2010. That starting point has been revised and was HK$514,000 in 2016. No doubt the plaintiff’s condition falls short of the definition of “*serious injury*”, however I would consider the inflation over the years as reflected by the difference between these figures.
7. With all these in mind, in my judgment, the proper figure for PSLA should be HK$380,000.
8. There would be interest on this award at 2% per annum from the date of the writ to the date of this judgment.

*Special Damages*

1. Based upon the plaintiff’s evidence and the documents produced by her, I am satisfied that the plaintiff is entitled to have the special damages as claimed in the revised statement of damages. I allow these claims.
2. Mr Leung submits that in a case where the plaintiff suffered personal injuries in an accident, interest on the special damages would start to run from the date of the accident to the date of judgment. Mr Leung submits that in this case, the court should adopt a broad brush approach and specify that the interest on the special damages should start to run on the date of the plaintiff’s first consultation with Dr Tong, which would be 17 November 2010. I accept Mr Leung’s submission.
3. There should be interest on the special damages at half of the judgment rate from 17 November 2010 to the date of this judgment.

*Future medical expenses*

1. According to the Joint Report, when this case is over, the plaintiff should continue receive psychological and psychiatric treatment for another 6 months. The costs of the treatment would be about HK$25,000 in the private sector.
2. Mr Leung very fairly submits that the plaintiff would only claim the costs of receiving the said treatment at the public hospital, which would be HK$1,000. I allow this claim.

*CONCLUSION*

1. The plaintiff has proved her claim against the defendant and is entitled to damages. I award the aforesaid sums and interests to the plaintiff.
2. There be a costs order nisi that costs of this action, including all costs reserved (if any), are to be paid by the defendant to the plaintiff. In respect of the trial, there be a certificate for counsel. The plaintiff’s own costs are to be taxed in accordance with the Legal Aid Regulations.
3. Lastly, I must thank Mr Leung for his fair and helpful submissions.

( MK Liu )

District Judge

Mr Herbert Leung, instructed by K B Chau & Co, assigned by the Director of Legal Aid, for the plaintiff

The defendant was not represented and did not appear