IN THE DISTRICT COURT OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

PERSONAL INJURIES ACTION NO. 90 OF 2000

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| BETWEEN | Kwok Chi-kin | Plaintiff |
|  | and |  |
|  | Discovery Bay Transportation Services Limited | Defendant |

Coram: H H Judge Carlson in Chambers

Date of Hearing: 24 July 2001

Date of Judgment: 24 July 2001

Present: Ms Szwina Pang, of S K Pang & Co., for the Plaintiff

Ms Eunice Cheng, of Messrs Holman, Fenwick & Willan, for the Defendant

R U L I N G

1. The defendants operate the passenger ferry service between Discovery Bay and the Central pier at Hong Kong. On 22 August 1999, the plaintiff was a passenger on board one of their ferries, Discovery Bay 7. The Hong Kong Observatory had raised the No. 8 Typhoon Signal and so what I get from that is that there would have been strong winds passing through Victoria Harbour at the time. When the vessel docked at Central pier, the plaintiff was disembarking by means of the gangplank. He slipped on the gangplank and broke his wrist and he now claims damages for personal injury and so forth.
2. The defendants, it seems to me, have made very full discovery. Most of that discovery comes from their Operations Manager, Mr Hubert Wong, who has provided two witness statements and I refer in particular to his second witness statement where he has set out the number of passengers carried by the defendant’s ferries on this route from 1995 to 2000 and also he has set out the number of accidents occurring on or near his company’s vessels’ gangplanks over that period of time. He has then, by means of two annexes to his witness statement which is in two parts, A and B, listed by description all the accidents that have occurred and in A he has set out those accidents which did not involve passengers simply slipping or tripping and in list B, he has set out a much shorter list, which includes the plaintiff’s incident, of cases involving passengers involved in what are described as slipping or tripping cases with no other apparent cause.
3. In respect of the list at B, the defendants have provided the Accident Reports in respect of those matters. Those accident reports would have been compiled from a number of witness statements and by this summons the plaintiff invites the court to direct that the defendants should in fact provide the Accident Reports and the witness statements in respect of all the incidents set out in list A and so far as list B is concerned, that they should be provided with the witness statements, they of course already being in possession of the Accident Reports.
4. This is all resisted on the basis that it is really going too far in what is a perfectly straightforward case. Miss Eunice Cheng who appears for the defendants, submits that this being a perfectly straightforward matter, there is already more than enough material on which the court can fairly adjudicate upon this matter.
5. Miss Pang submits that although this is a straightforward case, she cannot do proper justice to her client’s case without examining all these incidents and analysing them properly and seeing whether the defendants have operated a proper system for disembarking their passengers over the years, what lessons have or have not been learnt from the experience of having passengers injured or merely falling down on the gangplank or near the gangplank.
6. Whilst I understand why Miss Pang should say that, I think it is important to keep a proper sense of proportion in these sort of matters. This is a very straightforward slipping case on a gangplank. It is perfectly straightforward in my judgment and in a case where I take the view the defendants have already made very full discovery, I am not minded to order very much more. It seems to me that there is no reason why they should not provide the witness statements in respect of list B. They have already provided the Accident Reports and so I am going to direct the defendants to disclose the witness statements relating to the incidents, items 1 to 4 and 6 in part B of the list annexed to Mr Hubert Wong’s second witness statement within 21 days. Incident No. 5 has already been the subject of the fullest possible disclosure because, of course, that relates to the plaintiff’s incident. Beyond that, I am not prepared to go. I think once that is done, there is more than enough to do justice to the plaintiff’s case and for the court to properly dispose of this matter and the sooner this case is brought on for trial the better. So that is the order that I make. Beyond that, I am not prepared to go.
7. Costs in the cause.
8. Leave to plaintiff to file his supplemental witness statement. Leave to defendant to reply thereto within 28 days.
9. PTR fixed on 14 September at 11.30 am.

Ian Carlson

District Court Judge