DCPI 429/2004

IN THE DISTRICT COURT OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

PERSONAL INJURIES ACTION NO. 429 OF 2004

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BETWEEN

WONG HEI CHUN（王希真） Plaintiff

and

CHONG MING SHIH（莊銘） Defendant

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Coram: H.H. Judge Wong in Court

Date of Hearing: 10th September 2004

Date of Delivery of Judgment: 30th September 2004

# JUDGMENT

## Plaintiff’s Claim

1. The Plaintiff was injured by the Defendant on 30th January 2001 when he used a hammer to knock on the door of the Plaintiff’s room. The hammer hit the Plaintiff’s right eye. As a result she suffered injuries. The Plaintiff now claims for damages arising out of this incident.

2. Defendant appeared for assessment of damages.

## Injury & Disabilities

3. As a result the Plaintiff suffered the following injuries:-

1. right peri-orbital bruise;
2. the visual acuity of the right eye was light perception;
3. hyphaema (blood in the anterior chamber of the eye);
4. raised intra-ocular pressure.

4. She now suffers the following disabilities:-

1. blurring of vision in the right eye;
2. photophobia (undue sensitivity to light), occasional discomfort and discharge from the right eye;
3. the visual acuity was 6/18 (70% of normal);
4. overall visual impairment of the right eye: 50%;
5. 13% impairment of the whole visual system;
6. 12% impairment of the whole person.

## Plaintiff’s pre-injury earning

5. The Plaintiff was 58 years of age at the time of the injury earning $6,550 as a cashier at Vinci Park Services HK Ltd. with $327.50 MPF. She was granted sick leave for 2 months and 7 days and was dismissed on 30th March 2003.

6. She received $3,165.00 from Social Welfare Department since 26th August 2003.

## PSLA

7. The nearest case similar to the Plaintiff’s present disability is Kwan Shek Sang v. Chan Kam Wah [2003] 2 HKLRD 967 in which the Plaintiff was found to have a metallic foreign body embedded in the left half of the right cornea. Examination revealed a right corneal paraxial scar, and the vision of the right eye was 6/12. The permanent visual impairment of the eye was 15%. Further, it was noted that Plaintiff suffered a corneal opacity in the right eye. The best corrected central vision of that eye was 20/80, the impaired peripheral vision suggested that half of the left visual field was missing, and there was also impaired colour vision. PSLA was fixed at $280,000.

## Loss of Earning

8. (i) Sick Leave

She was paid 4/5 of her salary during her sick leave of 2 months and 7 days. Her loss during the sick leave period is therefore $(6,550 x 1/5 x 2 7/30 months) = $2,925.00.

(ii) Loss of earning from 30th March 2003 to date of hearing is $(6,550 x 5 months) + [(6,550 – 3,165) x 12 months] = $32,750 + 40,620 = $73,370.

The total loss of earning is therefore $(2,925 + 73,370) = $76,295.00.

## Medical & Travelling Expenses

9. (i) medical $4,000

(ii) traveling $1,980

Total $5,980

## Loss of Future Earnings

10. Since she is now 61, although she said she could work until 65 I adopt a multiplier of 2.

11. The loss of future earning is therefore $[(6,550 x 1.05) – 3,165] x 24 = $89,100.

## Future Medical Expenses $13,000

12. Damages for the Plaintiff is therefore assessed at:-

(i) PSLA $280,000

Interests at 2% p.a. $280,000 x 2% x 10/12

= $5,600 x 10/12 = $4,667.00

(ii) Loss of earnings $76,295

(iii) Medical & traveling $5,980

Interest on special damages

$(76,295 + 5,980) x 4% x 3 7/12 + $3,291 x 3.583

= $11,791.00

(iv) Future medical $13,000

Total $(280,000 + 4,667 + 76,295 + 5,980 + 11,791 + 89,100 + 13,000) = $480,833.00

13. Costs to the Plaintiff. Certificate for Counsel.

14. Plaintiff’s own costs to be taxed in accordance with Legal Aid Regulations.

Wesley Wong

District Judge

Mr. Simon H.W. Lam instructed by Messrs. David Hui & Co. assigned by D.L.A. for the Plaintiff

Defendant: Chong Ming Shih（莊銘）, in person, present.