## DCPI 1962/2018

## [2021] HKDC 534

**IN THE DISTRICT COURT OF THE**

**HONG KONG SPECIAL ADMINISTRATIVE REGION**

PERSONAL INJURIES ACTION NO 1962 OF 2018

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##### BETWEEN

IP SIU FUNG Plaintiff

and

HUNG WAI SUM Defendant

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Before: Deputy District Judge Rebecca Lee in Court

Date of Hearing: 30 & 31 March 2021

Date of Judgment: 18 May 2021

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JUDGMENT

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*BACKGROUND*

1. The plaintiff (born on 31 August 1964) claims against the defendant damages for personal injuries arising from a traffic accident occurred on 6 September 2016 (“the Accident”).
2. At the material times, the plaintiff was the driver of a public light bus bearing registration number KZ 9138 (“the PLB”) and the defendant was the driver and registered owner of a private vehicle bearing registration number PY 9659 (“the Defendant’s Vehicle”).
3. The Accident as pleaded in paragraph 3 of the Statement of Claim is as follows:-

“At about 7:09 p.m. on 6th September 2016, the Plaintiff was driving [the PLB] along the 4th lane of Prince Edward Road East, Kowloon, Hong Kong (“the Road”) while the Defendant was driving the Defendant’s Vehicle along the 3rd lane of the Road. Upon reaching Prince Edward Road East near Kai Tak Road, Kowloon, Hong Kong, the Defendant drove the Defendant’s Vehicle from the 3rd lane of the Road to the 4th lane of the Road and hit [the PLB] (“the Accident”). As a result, the Plaintiff sustained personal injuries.”

1. Under paragraph 4 of the Statement of Claim, the plaintiff alleged that the Accident was caused by the negligence of the defendant, for:-
2. Failing to exercise any due care and/or any or any sufficient control of the Defendant’s Vehicle at the material time.
3. Failing to pay any or any sufficient heed to the road traffic condition and the plaintiff’s vehicle.
4. Failing to keep any or any proper lookout.
5. Failing to pay any or any adequate care and attention when driving the Defendant’s Vehicle.
6. Failing to apply the brake of the Defendant’s Vehicle or stop the Defendant’s Vehicle in time or at all to avoid the collision with the plaintiff’s vehicle.
7. Driving the Defendant’s Vehicle at the scene in a careless manner.
8. The plaintiff also relied on the defendant’s conviction of careless driving on 28 February 2017 at Kowloon City Magistracy under case KCS 1628 of 2017 after the Accident.
9. The defendant puts the plaintiff to strict proof of his claim.
10. It is pleaded under the defence that the plaintiff has failed to plead how the defendant caused any personal injuries to him by the Accident.
11. In particular, it is contended by the defendant that he has switched on his right indicator before driving from the 3rd lane into the 4th lane of the Road.
12. It is also contended that the plaintiff did not seek medical treatment until 7 hours after the Accident and that he did not complain to the police officers attended the scene about any injury.
13. The defendant further avers under paragraph 5 of the Amended Defence, that the Accident and/or personal injuries allegedly sustained were contributed by the plaintiff’s own negligence by:-
14. Failing to keep a safe stopping distance in the circumstances.
15. Failing to keep any or proper lookout or to have any or any sufficient regard for the road traffic conditions of the material location.
16. Failing to stop, to slow down, to swerve or any other way so to manage or control the plaintiff’s vehicle so as to avoid colliding with the Defendant’s Vehicle which was reasonably apparent to the plaintiff because the defendant had turned on the right indicator of the defendant’s vehicle signaling the intended change of lane before driving from the 3rd lane to the 4th lane of the Road at the material time.

*ISSUES*

1. Mr Cheung for the defendant submitted that the plaintiff has failed to plead how the plaintiff’s injury was caused by the Accident.
2. The plaintiff did, as submitted by Mr Lau for the plaintiff, plead in paragraph 3 of the Statement of Claim that “as a result, the plaintiff sustained personal injuries” immediately after describing how the Accident occurred in the same paragraph.
3. It is not disputed that the Accident did occur, the dispute is over how the Accident occurred.
4. Whether the plaintiff can prove how his injury/what injury was caused by the Accident is a matter of evidence (in particular medical evidence).
5. The main issue on quantum is whether the plaintiff’s injury was caused by the Accident or the effect of pre-existing degeneration, which requires a close examination of medical evidence.

*EVIDENCE*

*Evidence from KCS 1628 of 2017*

1. The documents concerning the defendant’s conviction of careless driving under KCS 1628 of 2017 were produced to the court, which include the Brief Facts, photographs taken by the police officers attending the scene, the statements of the plaintiff and that of the defendant taken by the police officers as well as Transcript of Proceedings.
2. The photograph showing the location where the PLB stopped after the Accident was found on p 105 of the Bundle.
3. The photograph of the Defendant’s Vehicle showing the point of impact with the PLB taken after the collision is produced at p 106 while the photograph of the PLB showing the point of impact with the Defendant’s Vehicle taken after the collision is produced at p 107.
4. While there is no dispute over the point of impact on the Defendant’s Vehicle, the plaintiff and the defendant disagreed over the actual point of impact on the PLB.
5. Irrespective of where the actual point of impact was on the PLB, the damage to both vehicles is nothing more than scratched paintwork and very minor bump. As can be seen from the photograph of the Defendant’s Vehicle after cleaning and car waxing on p 108 to 109, the damage is a very minor dent near the right rear wheel.
6. I find that the Accident is a minor collision between the two vehicles.

*MEDICAL EVIDENCE*

*Injuries and Treatments*

1. As revealed from the medical reports in Part C of the Trial Bundle:-
2. The plaintiff attended the Department of Accident & Emergency (AED) of Yan Chai Hospital (YCH) for medical treatment on foot.
3. X-ray examination of cervical and lumbar spine was performed. He was told that he had no bony fracture. He was given analgesics and was discharged on the same day. Sick leave certificate was given.
4. He felt persistent neck discomfort and tightness. He continued to receive medical treatment and follow up in the AED of YCH for a few times. Courses of analgesics were prescribed and sick leave was extended. He was also referred to outpatient physiotherapy for treatment. The physiotherapy started from end of September 2016 or early October 2016.
5. In view of the persistent symptoms, the plaintiff also sought further medical treatment in the general outpatient clinic for about a year.
6. The plaintiff had attended about 6 months’ physiotherapy treatment in YCH. He noticed 50% - 60% improvement in his neck pain.
7. The plaintiff last attended the General Outpatient Clinic (“GOPC”) in July 2017. He did not attend further medical treatment afterwards.
8. The plaintiff had no recall of history of injury or pain in his neck or back, prior to this injury.

*Joint Orthopaedic Experts’ Report*

1. The plaintiff was examined by Dr Lau Chi Yuen (plaintiff’s orthopaedic expert) and Dr Chun Siu Yeung (orthopaedic expert for the defendant) on 20 September 2019. The experts have prepared a Joint Medical Report dated 18 February 2020.
2. The plaintiff complains of intermittent left sided neck pain, which happens more commonly in the morning, about 4-5 times each week.
3. There is associated left upper limb numbness and decreased light touch sensation at the left neck, same site as pain.
4. The plaintiff’s back pain has subsided.
5. Both doctors agree that the plaintiff has attended the maximal medical improvement (MMI) for his neck and back injury. He needs no further active treatment.
6. I shall outline the experts’ opinion below.

*Diagnosis*

1. Dr Lau’s diagnosis is *sprained soft tissue injury of neck region and minor sprain soft tissue injury of back*. Dr Lau also noted *feature of cervical radiculopathy* (numbness of left upper limb with decreased light touch sensation).
2. The possible diagnoses, according to Dr Chun, should be *minor sprain of the neck soft tissue and minor contusion of the lumbo-sacral soft tissue or triggering of the onset of symptom of the degenerative* *cervical spine* if he indeed got no prior neck injury / pain on consideration of the temporal factor in its onset. It should be very minor injury (as there was no neurological deficit) and under normal circumstances should recover within a very short period of time.

*Pre-existing Degenerative Changes*

1. X-ray cervical spine taken at the joint examination shows loss of cervical lordosis, with mild reversal, prominent osteophytes anteriorly and posteriorly at C5-6 level, calcification of Nucheal ligament at C5 level; mild narrowing of C3-4 disc height, moderate narrowing of C5-6 disc.
2. It is agreed that those are pre-existing degenerative changes of the cervical spine which are not caused by the Accident.
3. Dr Lau considered the extent to be mild to moderate, which Dr Chun disagreed.

*Causation*

1. Based on the available information and according to the mechanism of injury, Dr Lau concluded that the plaintiff had sustained *sprain injury, resulting in the neck and back pain*. *The injury of neck and back was causally related to the alleged injury on 6 September 2016*.
2. Regarding the upper limb and decreased light touch sensation of ulnar 2 fingers of left hand, Dr Lau opined that clinically, it is related to *irritation or compression of C8 nerve root* at this level, which *could be caused by disc protrusion during the injury*.
3. Dr Lau said that the plaintiff’s condition should fall into category (2) of the 3 possible scenarios of a pre-existing condition:-
4. The plaintiff is almost certain to have gone through life unaffected by the condition.
5. There is a strong possibility that some other event or natural progression of the condition will have brought about the plaintiff’s present state.
6. Symptoms suffered by the plaintiff will certainly have occurred at some stage in any event.
7. Dr Lau apportioned 20% of the plaintiff’s present symptoms and disability to the pre-existing condition.
8. Dr Chun noted that the *reduction of sensation on radial side of the forearm noted at this joint examination is not consistent with the C8 dermatome*. The examination did not show any evidence of objective C8 nerve root compromise on the left side.
9. According to Dr Chun, in the absence of the traffic accident, with the pre-existing degeneration, the plaintiff falls into category / scenario (2) to (3).
10. Dr Chun opined that *the neck movement stiffness is due to the pre-existing degeneration*. The *symptoms* he presented at the joint examination is *consistent with the neck pain of degeneration*. There is *no objective neurological deficit*. He had full recovery from the very minor lumbo-sacral back contusion.

*Prognosis*

1. Dr Lau’s view is that the plaintiff is suffering from *residual neck pain and left arm numbness*. This symptom is likely to persist, the plaintiff will experience on and off neck pain and left arm numbness in morning and after prolonged driving.
2. Dr Chun opined that the plaintiff will have *intermittent neck pain with or without upper limb referred pain* from time to time in relation to the degenerated cervical spine.

*Permanent Disability and Loss of Earning Capacity*

1. Both experts agreed that the plaintiff is able to resume his previous job as mini-bus driver.
2. Dr Lau is of the view that his working efficiency is mildly affected and it would be appropriate for him to shorten his working hours. Dr Chun concludes that the plaintiff is able to resume his minibus driving as before the traffic accident without limitation or restriction.
3. Dr Lau, assessed, after apportionment, 4% whole person impairment for the neck pain and left arm numbness and 4% loss of earning capacity as a result of the injury.
4. Dr Chun assessed 1% whole person impairment for the traffic accident triggering the onset of symptom at the cervical spinal degeneration and 1% loss of earning capacity.

*Length of Sick Leave*

1. Dr Lau endorsed the sick leave given to the plaintiff from 7 September 2016 till 11 July 2017 (intermittent) while Dr Chun is of the view that reasonable sick leave for such minor trauma should be less than 2 weeks.

*Analysis*

1. Both experts agreed that the Accident resulted in minor contusion or soft tissue injury to the neck and back. The disagreement is over left upper limb numbness.
2. Dr Lau opined that it could be caused by disc protrusion during the injury while Dr Chun attributed it entirely to the pre-existing condition.
3. Dr Lau’s view is that the plaintiff’s condition should fall into category (2) of the 3 possible scenarios of a pre-existing condition.
4. Dr Chun did not rule out the possibility of category (2).
5. Dr Chun’s diagnosis also included “triggering of the onset of symptom of the degenerative cervical spine if he indeed got no prior neck injury / pain on consideration of the temporal factor in its onset”.
6. The experts did not find any evidence that the plaintiff has exaggerated his symptoms, nor did the plaintiff’s treating doctors. The plaintiff did receive physiotherapy treatments for about 6 months.
7. I find Dr Lau’s opinion to be more reasonable in the circumstances.
8. Considering all the evidence before me, I prefer the opinion of Dr Lau to Dr Chun where they differs.

*FACTUAL WITNESSES*

1. There are two witnesses at trial: the plaintiff and the defendant.

*The plaintiff*

1. The plaintiff confirms his witness statement as his evidence in chief. He also said that he did not notice the defendant had the right indicator on at the material time.
2. As pointed out by Mr Cheung for the defendant, the plaintiff did not mention that the defendant did not have the right indication on in his witness statement.
3. The plaintiff’s stance is that his lawyer did not specifically ask him about the indicator and thus he did not mention it.
4. When being cross-examined further on the subject, the plaintiff said that if the Defendant’s Vehicle was following his PLB, he would not be able see the defendant’s right indicator. He then said that when he first saw the Defendant’s Vehicle, it was in the left front of his PLB, and was cutting in to his lane. He reiterated that the indicator was not on.
5. Mr Cheung cross-examined the plaintiff extensively about his speed. It was put to him that he told AED attending doctor at YCH it was 40+ kmph (as recorded in the AED Record of YCH on p 180). It was further put to him that he told Dr Lau and Dr Chun during the joint medical examination that his speed was 40 kmph. Finally, his version as recorded in his statement to the Police was 35 kmph.
6. In his witness statement at paragraph 13, he said that he was travelling at 30 kmph at the material time.
7. The plaintiff’s explanation is that he did not think it would make much difference and that he did not check the meter. He thought he was travelling 30 to 40 kmph at the time.
8. Regarding the point of impact on the PLB during the Accident, Mr Cheung put to him that the bumper was first point of contact, which he disagreed.
9. It was also put to him that the Defendant’s Vehicle was already 2/3 into the 4th lane at the time and the plaintiff was trying to overtake the Defendant’s Vehicle that caused the Accident. It was suggested that if the plaintiff cared to slow down, the Accident would not have occurred. The plaintiff adamantly disagreed.
10. I asked the plaintiff whether he could tell the speed of the Defendant’s Vehicle at the time.
11. The plaintiff’s answer is that he could not tell but that the Defendant’s Vehicle must be travelling a higher speed than his PLB (and his speed was about 30 kmph). It would also be impossible for him to overtake the Defendant’s Vehicle as suggested by Mr Cheung as it was already in front of the PLB.
12. Regarding his earnings, the plaintiff has adduced “公共小型巴士租車合約書” dated 25 June 2016.
13. He also relied on a letter issued by “香港九龍新界公共專線小型巴士聯合總商會梁雄主席” of 12 September 2020 which states:-
    1. 一般（夜更）小巴司機於2016年9月時在正常營運情況下及扣除所有開支後的每日淨收入大約為港幣$700至$750元。
    2. 一般（夜更）小巴司機通常每月工作約24至26天不等。
14. Mr Cheung pointed out that plaintiff told the doctors that before the Accident, he was working day shift and was working 4 to 5 days a week and thus it would not be possible for him to have worked 26 days a month.
15. The plaintiff has not produced any bank statement or records to support his alleged income.

*The defendant*

1. The defendant confirmed his witness statement as his evidence in chief.
2. The defendant specifically pointed out that the point of impact on the PLB was the left front bumper.
3. According to the defendant, both his vehicle and the PLB were travelling at 30 kmph at the material time.
4. When cross-examined by Mr Lau, the defendant said his speed was 35 kmph, but he was not sure about the speed of the PLB. He turned on the right indicator, saw the PLB on the right wing mirror, he turned his head to check blind spot and drove into the 4th lane.
5. The defendant said when he first saw the PLB, it was one vehicle space behind his vehicle as he could see from his right wing mirror.
6. When his vehicle has already entered the 4th lane, he heard a bang and then felt some vibration, followed by the sound of horn.
7. The defendant added that the plaintiff should know the speed of his vehicle but he could not tell the speed of the PLB.
8. Mr Lau queried why the defendant did not mention to the Police that he had turned his head to check the blind-spot while cutting into the 4th lane. The defendant said that this is normally done by him but agreed he did not mention that in his witness statement nor the statement given to the Police.
9. Mr Lau suggested that if the defendant did turn on indicator and did turn his head to check the blind-spot, he should not be at fault. The defendant answered that as he did not know the speed of the PLB, he should have turned his head again. He also added that he could not tell whether the plaintiff has increased his speed at the time.
10. As to the reason why he pleaded guilty to the charge of careless driving, he said that he did not want the matter to drag on. However, the defendant also agreed he had to bear some responsibility (but not entirely) for the Accident.

*Analysis*

1. I have observed the demeanour of both the plaintiff and the defendant when they gave evidence.
2. I find the plaintiff to be evasive under cross-examination.
3. I note that he has given several answers in relation to the speed he was travelling at the time.
4. He has also given several versions regarding his working hours and working days at the time of the Accident and after the Accident.
5. I do not find him to be honest and truthful.
6. I find the plaintiff not a reliable witness and do not accept his evidence.
7. On the other hand, the defendant is more straight forward in giving evidence. He also frankly admitted that he should be responsible (though not entirely) for the Accident.
8. I find the defendant to be honest and truthful. I accept his evidence.

*FINDINGS*

*Point of Impact on the PLB*

1. The plaintiff said that the point of impact on the PLB was the area behind the bumper (where the paint had been scratched off). The defendant, on the other hand, said that it was the left front corner of the bumper on the PLB, see: p 121, as marked by the plaintiff and the defendant as exhibits P1 and D1 respectively.
2. I have examined exhibits P1 and D1. I agree with Mr Cheung’s observation that the point of impact on the PLB has to be the bumper since it is protruding out. The point of impact suggested by the plaintiff is physically impossible.
3. Further, the AED record on p 180 of the Bundle states “bumper 花”, which is apparently information supplied by the plaintiff himself to the AED treating doctor.
4. Considering all the evidence before me, I find that it is more probable than not that the point of impact on the PLB is the left front corner of the bumper as described by the defendant.

*Speed*

1. Having established the point of impact, I find that it is more probable than not that the collision occurred when the Defendant’s Vehicle has already entered (but not completely entered) the 4th lane of the Road.
2. There is no evidence to show the exact speed of the two vehicles at the material time. Both the plaintiff and the defendant said they were travelling at 30 to 40 kmph.
3. If the defendant was travelling at a much higher speed than the plaintiff, it is more likely that his vehicle could have completely entered the 4th lane when the collision occurred and the point of impact would have been the rear of his vehicle instead of the spot near the right rear wheel.
4. In the circumstances, I find it more probable than not that both vehicles were travelling at similar speed with the defendant at a slightly higher speed at the material time.

*What caused the Accident*

1. I accept the evidence of the defendant that he did switch on his right indicator and turn his head when driving from the 3rd lane to the 4th lane.
2. However, as the defendant himself admitted, he should have turned his head again before driving into the 4th lane as he could not tell the speed of the PLB.
3. Had he done so, he could have controlled his vehicle in a way so as to avoid the collision. I find that the defendant had failed to keep a proper lookout, failed to pay sufficient heed to the traffic condition, failed to exercise due care and sufficient control of his vehicle so as to avoid colliding with the plaintiff’s PLB.
4. As I found that both vehicles were travelling at similar speed, the plaintiff should have noticed the approach of the Defendant’s Vehicle on his left.
5. As shown in the photograph showing the position of the PLB right after the collision on p 105, the PLB was keeping straight right after the collision.
6. Since the Defendant’s Vehicle had already entered the 4th lane, if the plaintiff applied the brake and slowed down in time, the Accident may well have been avoided.
7. I find that the plaintiff had failed to slow down or to control his PLB upon noticing the approach of the Defendant’s Vehicle so as to avoid colliding with the Defendant’s Vehicle. He had failed to keep proper lookout and paid sufficient regard for the road traffic condition.
8. I find that both the plaintiff and the defendant have contributed in causing the Accident.

*LIABILITY*

1. Neither Mr Lau nor Mr Cheung has referred to any authority on liability.
2. Considering all the evidence before me, I find the plaintiff and the defendant equally to blame for the Accident.

*QUANTUM*

1. On the issue of pre-existing condition, both Mr Lau and Mr Cheung referred to the leading case of *Chan Kam Hoi v Dragages et Travaux Publics* [1988] 2 HKLR 958.
2. Mr Lau conceded that there should be 20% reduction in his assessment of PSLA and Pre-Trial Loss of Earnings by reference to Dr Lau’s opinion.
3. Mr Cheung submitted that any pain the plaintiff experienced would have been attributed to his pre-existing condition by relying on Dr Chun’s opinion.
4. As mentioned, I prefer Dr Lau’s opinion to that of Dr Chun.

*PAIN SUFFERING AND LOSS OF AMENITIES (PSLA)*

1. Mr Lau submitted that PSLA should be in the sum of HK$160,000.00 after 20% apportionment (as supposed to HK$300,000.00 claimed under the Revised Statement of Damages).
2. Mr Lau referred to *Li Tat Chuen v Yip Wing Chuen Jacky & Others* HCPI 581/2011 (Decided by Zervos J on 23 October 2014); *Ko Hoi Seung Korin v Liu Kwok Keung*HCPI 1206/2014 (Decided by Master S Lo on 12 August 2016); *Yuen Macie v Yeung Ying Kit* CACV 7/2017 (Decided on 14 March 2018); *Tang Wai Tak v Chiu Hing Construction & Transportation Co. Ltd. & Anor.* HCPI 188/2006 (Decided by Deputy High Court Judge L Chan on 23 August 2007) and *Anil Jhuremalani v Rodelio O Fajada and Michelle’s Bags International Ltd.* DCPI 134/2001 (Decided by HH Judge Carlson on 9 May 2002).
3. Mr Cheung argued that the sum should be no more than HK$75,000.00.
4. I find the injuries sustained by the plaintiffs in the authorities relied on by Mr Lau were either more severe or more extensive than the plaintiff’s injuries in the present case.
5. The authorities relied on by Mr Cheung are more suitable, in particular:-
6. *Chan Kai Sing v Yip Cheung Shing & Anor*, unrep, HCPI 505/2011 (Zervos J, 21 October 2014)
7. *Chau Wing Chuen v Jenkins Roy Ian and Another*,unrep, DCPI 2652/2015 (DDJ C Chow, 19 December 2017)
8. Considering all the evidence and the authorities cited, I find that a reasonable award for PSLA in this case to be HK$80,000.00.

*Pre-Trial Loss of Earnings*

1. The plaintiff claims HK$167,440.00 by relying on his average daily income of HK$700 and that he worked 26 days a month during sick leaves granted by YCH and GOPC.
2. Taking in account the 20% apportionment, Mr Lau submitted that Pre-Trial Loss of Earnings is revised as HK$133,952.00 [HK$18,200 x 276/30 x 80%].
3. The plaintiff has adduced a document named “公共小型巴士租車合約書” dated 25 June 2016 and the letter issued by “香港九龍新界公共專線小型巴士聯合總商會梁雄主席” dated 12 September 2020 which stated that the average daily income of mini bus driver as at September 2016 was $700.00 to $750.00 and the average monthly working days were 24 to 26 days.
4. However, the plaintiff has not produced any document to prove his income as a public light bus driver. There was no supporting bank statements or records to substantiate his alleged monthly earnings of $18,200.00.
5. Mr Cheung pointed out that the plaintiff told the doctors that before the Accident, he was working 4 to 5 days a week.
6. I agree with the observation of Mr Cheung.
7. I accept that the plaintiff could work at most 20 days a month at the material times.
8. His average monthly earnings would be $700 x 20 days = $14,000.00.
9. Adopting 20% apportionment as suggested by Mr Lau, I find Pre-Trial Loss of Earnings to be:-

$14,000 x 276/30 x 80% = $103,040.00

*Loss of Earning Capacity*

1. The plaintiff claims a sum of HK$120,000.00.
2. Considering the evidence as a whole, I do not see there is any disadvantage suffered or likely to be suffered by the plaintiff in the labour market. It is his own evidence (as noted by Mr Cheung ) that he is able to drive both day and night shifts at the moment.
3. The claim for Loss of Earning Capacity is disallowed.

*Other Special Damages*

1. The plaintiff claims a total sum of $22,355.00, of which $4,335.00 is for medical expenses, $3,000.00 is for travelling expenses and $15,000.00 is for tonic food.
2. The defendant agrees medical expenses and travelling expenses up to 2 weeks (which is the sick leave period recommended by Dr Chun).
3. Mr Cheung submitted that there is no medical evidence to support the claim for tonic food, which I agree.
4. I therefore disallow the claim for tonic food.
5. As for medical expenses and travelling expenses, I would apportion 20% based on the opinion of Dr Lau.
6. Total award for Special Damages is therefore:-

($4,335 + $3,000) x 80% = $5,868.00

*Summary*

1. Damages assessed to be payable by the defendant to the plaintiff is summarised as follows:-

PSLA $80,000.00

Pre Trial Loss of Earnings $103,040.00

Loss of Earning Capacity NIL

Special Damages $5,868

$188,908.00

LESS 50% (Contributory Negligence) ($94,454.00)

$94,454.00

1. I award damages to the plaintiff in the sum of HK$94,454.00, together with interest on damages for PSLA from date of writ to date of judgment at 2% per annum and interest on the Pre-Trial Loss of Earnings and Special Damages at half of the judgment rate from date of Accident to date of judgment. Interest at judgment rate is to be paid on the net amount of HK$94,454.00 from judgment until payment.
2. Costs of the plaintiff, including all costs reserved (if any), shall be paid by the defendant, with Certificate for Counsel, to be taxed if not agreed. The plaintiff’s own costs is to be taxed in accordance with the Legal Aid Regulations.
3. I am grateful for Counsel’s assistance.

( Rebecca Lee )

Deputy District Judge

Mr Steven Lau, instructed by Candy Ho & Co, assigned by the Director of Legal Aid, for the plaintiff

Mr Ivan Cheung, instructed by Cedric & Co, for the defendant