## DCPI 2080/2006

**IN THE DISTRICT COURT OF THE**

**HONG KONG SPECIAL ADMINISTRATIVE REGION**

PERSONAL INJURIES ACTION NO. 2080 OF 2006

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##### BETWEEN

WONG YIU SUM Plaintiff

### and

MA KWOK FEI trading as CHEUNG FUNG Defendant

DECORATION ENGINEERING

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Coram : Her Honour Judge Mimmie Chan

Dates of hearing : 20 March, 2008

Date of handing down Judgment : 7 April, 2008

# JUDGMENT

**Background**

1. This is an application for assessment of damages sustained by the Plaintiff, Mr. Wong, as a result of an accident which occurred on 16 November 2003. On 7 July 2007, judgment in default had been entered against the Defendant, Mr. Ma, for payment of damages.
2. Mr. Wong was employed by Mr. Ma to work as a mason. On 16 November 2003, Mr. Wong was carrying out renovation works in the bathroom of a seafood restaurant and cutting tiles with an electric saw, when an object flew into his right eye. He suffered intense pain, with tearing in his right eye. He immediately went to see a general practitioner, and later attended the Accidents and Emergency Department of the Unite Christian Hospital on the same day. The diagnosis was subconjunctival haemorrhage, and Mr. Wong was discharged on the same day with eyedrops prescribed.
3. On 18 November 2003, Mr. Wong attended the Accident and Emergency Department of United Christian Hospital again, complaining of discomfort and deterioration in the vision of his right eye. He was referred to the Department of Opthalmology of the Hospital for further management. No foreign body was found in his eye, and he was managed conservatively with eyedrops
4. According to Dr. Chua, the ophthalmic expert who examined Mr. Wong on 15 September 2005, Mr. Wong had sustained right eye subconjunctival haemorrhage as a result of the accident. The condition had subsided on conservative treatment without complications, and Mr. Wong's vision remained within normal limits. In Dr. Chua's opinion, there should not be any degeneration arising from Mr. Wong's accident and there is no permanent disability arising. Dr. Chua considered that the injury should not have any effect on Mr. Wong's daily living activities. He also considered that Mr. Wong should be able to resume his pre-accident occupation, as Mr. Wong's vision for both eyes should be within the normal limits for a construction or renovation worker.
5. However, according to Mr. Wong, he has become apprehensive when working with an electric saw, even when protective eyewear is used. He also claims that because he feels that his vision has been affected as a result of the accident, he has lost confidence whenever dangerous equipment or apparatus has to be used in the course of his work.
6. Mr. Wong was granted a total of 13 days of sick leave as a result of the accident. At the time of the accident, he was 46 years old, and his average wage per day was $400. According to the assessment of the Employees' Compensation (Ordinary Assessment) Board, Mr. Wong suffered no loss of earning capacity permanently as a result of the injury.

**Pain and suffering and loss of amenities**

1. Bearing in mind the fact that Dr. Chua considered that Mr. Wong's vision was not affected by the accident and the injury is not serious, I consider that an appropriate award in this case would be $60,000. Mr. Wong's injuries appear to be less serious than the case in *Leung Moon Sing v. Yu Hon Kuen* (DCPI 129/2005, 22 May 2006).

**Pre-trial loss of earnings**

1. Mr. Wong was given 13 days of sick leave. I have no reason to find that this is unreasonable or inappropriate. Mr. Wong's pre-trial loss of earnings is therefore $400 x 13 x 105% = $5,460.

**Future Medical Expenses**

1. Because Mr. Wong has become apprehensive when he works with an electric saw, Dr. Chow recommends that Mr. Wong should be assessed by a clinical psychologist or a specialist in psychiatry to assess the psychological impact and suffering involved. It is estimated that the costs for such consultation in the private sector would range from $600 to $2,000. I will make an award of $2,000 under this head.

**Special damages**

1. Having considered the documentary evidence adduced in support of Mr. Wong's claims for medical expenses incurred, traveling expenses and expenses incurred for the purchase of tonic food, I allow the total award of $1,187 claimed.

**Summary of award**

1. The award for damages comprises :
   1. PSLA $ 60,000.00
   2. Pre-trial loss of earnings & MPF $ 5,460.00
   3. Future medical expenses $ 2,000.00
   4. Special damages $ 1,187.00

Total : $ 68,647.00

1. I will award interest on the award of PSLA at the rate of 2% per annual from the date of the writ to the date of judgment, and on the award of total special damages at half the judgment rate from the date of the accident to the date of judgment.

1. I will further make an order nisi that the costs of the action be paid by Mr. Ma to Mr. Wong, with certificate for counsel, to be taxed if not agreed.

(Mimmie Chan) District Judge

*Mr. Albert Cheung, instructed by Huen & Partners, for the Plaintiff*

*The Defendant, absent*