

Muhammad Shaun Eric bin Abdullah (alias De Silva Shaun Eric) v Ng Ah Tee (Chua Seng Thye, Third Party)
[2005] SGHC 180

Case Number : Suit 1373/2002, RA 350/2004
Decision Date : 27 September 2005
Tribunal/Court : High Court
Coram : Judith Prakash J
Counsel Name(s) : The plaintiff in person; Adrian Heng (Bogaars and Din) for the defendant;
Anthony Wee (Rajah and Tann) for the third party
Parties : Muhammad Shaun Eric bin Abdullah (alias De Silva Shaun Eric) — Ng Ah Tee —
Chua Seng Thye

Damages – Assessment – Causation – Whether medical evidence establishing that injuries suffered resulted from accident caused by defendant

27 September 2005

Judgment reserved.

Judith Prakash J:

1 On 21 November 1999, the plaintiff, Muhammad Shaun Eric bin Abdullah (alias De Silva Shaun Eric), was a passenger in a taxi driven by the third party, Mr Chua Seng Thye. The taxi collided with a motor vehicle driven by the defendant, Mr Ng Ah Tee. As a result of the impact, the plaintiff was thrown forward and his legs were trapped under the front seat. The plaintiff's knees were injured and he subsequently sued the defendant, who then brought in the third party to indemnify him. Subsequently, the parties arrived at a settlement whereby the defendant consented to judgment on the basis that the plaintiff agreed to bear 10% of the liability (because he had not worn a seat belt) and the third party agreed to indemnify the defendant against 15% of the damages that the defendant had to pay the plaintiff. The matter then went for assessment of damages before the assistant registrar, Mr Vincent Leow. The plaintiff was dissatisfied with the outcome of the assessment hearing and appealed.

2 At the hearing, the plaintiff claimed to be entitled to be awarded damages under five different heads. He stated that he had suffered six types of injury as a result of the accident, to wit:

- (a) severe chondromalacia patella in respect of both knees;
- (b) torn anterior cruciate ligament of the left knee;
- (c) reflex sympathetic dystrophy of both legs;
- (d) spinal cord stenosis;
- (e) possibility of osteo-arthritis in the future; and
- (f) swelling of the lower spine, knees and heels.

The plaintiff claimed to be entitled to awards for:

- (a) pain and suffering;
- (b) future pain and suffering;
- (c) future medical care;
- (d) loss of earnings or loss of earning capacity; and
- (e) special damages.

3 The assistant registrar found that the only injuries the plaintiff had sustained by reason of the accident in question were contusions to both knees. He made an award of \$11,000 for the pain and suffering experienced by reason of these injuries. He dismissed the plaintiff's claim for future medical care in the form of knee replacement and physiotherapy as he found that the conditions that the plaintiff was suffering from that required such medical care had not arisen from the accident. The plaintiff's claim for loss of future earnings was dismissed on the ground that the plaintiff had not shown that such losses arose from the injuries caused by the accident. The assistant registrar declined to make an award for loss of earning capacity because there was no evidence as to how the injuries suffered would have affected the plaintiff's earning capacity. As for special damages, the assistant registrar awarded only \$109 because, on the state of the evidence, he could not distinguish between the medical receipts for treatment of the knee contusions and the medical receipts for treatment of other injuries. The full reasons for the decision by the assistant registrar are set out in his judgment dated 1 December 2004 ([2004] SGHC 268).

4 At the trial, the plaintiff was represented by counsel who adduced evidence on his behalf, cross-examined the witnesses adduced for the defence and made closing submissions for the plaintiff. By the time of the appeal, the plaintiff was no longer represented and he appeared in person. He was aggrieved by the decision of the assistant registrar. He stated that he had had a history of traffic accidents and listed six. After every accident, he had sought treatment at government hospitals and clinics. All his records and reports had come from these sources. He did not create or ask to be in any accident. The majority of the accidents occurred while he was carrying out his duties as a traffic police officer. He asserted that those injuries that had caused him extreme pain and had forced him to take medical leave for long periods to the extent that he received no pay and had his medical benefits revoked, had arisen from the accident in question rather than from any other incident. The fall that he had had about three weeks after the accident on 9 December 1999 had not been a serious fall and had not been the cause of his injuries as suggested by the defendant. He had been forced to go before a medical board and ask for retirement from the police force on medical grounds because otherwise he would have been left in limbo as while he was on no-pay medical leave, he received no income from the police force and was not able to seek alternative employment.

5 The main issue in the appeal, as it was in the assessment hearing, was that of causation. There was no doubt from the medical evidence that the plaintiff had problems with his knees and that he required a great deal of medical attention in the period from 1998 to 2002. The question was whether the plaintiff had been able to establish that the various medical problems that he suffered from, apart from the contusions found by the assistant registrar, had been caused by the accident on 21 November 1999 rather than by his pre-existing medical condition or by matters that occurred after 21 November 1999, primarily the fall on 9 December 1999. The assistant registrar held that the plaintiff had not discharged that burden. Having studied the evidence, both verbatim at the trial and documentary, and having considered the submissions made before me as well as before the assistant registrar, I find that there is no basis on which the plaintiff can successfully challenge the decision of the assistant registrar. I am satisfied that the medical evidence that the plaintiff himself adduced did

not establish, on the balance of probabilities, that the injuries he complained of arose from the accident. Although there was some evidence that was, at first glance, favourable to such a conclusion, counsel for the defendant and the third party managed to establish through cross-examination that that evidence had resulted from an inadequate understanding of the factual situation by the doctors concerned. Once they were apprised of the full facts of the case, their opinions were modified. The plaintiff had consulted many doctors after 21 November 1999 and some of them had not had a full appreciation of the facts when they rendered their opinions on causation.

6 The grounds of decision of the assistant registrar set out the history of the matter and the reasons for his decision very clearly. I am satisfied that he reached the correct conclusions and that they should not be upset. In the result, this appeal fails and must be dismissed. I will hear the parties on costs.

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