Tan Poh Weng Andy *v* Lee Jee
[2013] SGHC 234

Case Number : Suit No 837 of 2012

Decision Date : 07 November 2013

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : Michael Loh, Viviene Kaur Sandhu and Vanessa Sandhu (Clifford Law LLP) for the plaintiff; Alvin Cheng Sun Cheok and Marian Lee (Chris Chong & C T Ho Partnership) for the defendant.

Parties : Tan Poh Weng Andy — Lee Jee

Civil procedure – Offer to settle – Court declining to record consent interlocutory judgment in order to refer matter to Attorney-General for investigation

7 November 2013

Choo Han Teck J:

1 The parties applied to record a consent interlocutory judgment with damages to be assessed. I declined to record the settlement and told counsel that I will be referring this case to the Attorney-General for his action. The grounds are as follows.

2 The plaintiff was driving a motor van about 7.30am on 26 May 2010 when a vehicle driven by the defendant collided against the plaintiff's van. He claimed that his vehicle was stationary when the defendant's bus collided against the rear of his vehicle, which then collided against the car in front. The claim by the driver of that vehicle has since been settled. The plaintiff and his passenger both claimed to be injured. The plaintiff's passenger sued the defendant in the magistrate's court, joining the plaintiff as a third party. That claim was settled with a consent judgment in which the liability was apportioned 95% against the defendant and 5% against the plaintiff.

3 The plaintiff then commenced this action against the defendant, claiming 100% liability. The plaintiff obtained an interim payment of $100,000. Subsequently, the plaintiff applied in Summons No 6172 of 2012 for a second interim payment. The application was dismissed by Assistant Registrar Miss Sngeeta Devi ("AR Devi") on 14 December 2012. A medical report on the plaintiff's injury dated 1 October 2010 by an orthopaedic surgeon Dr Peng described the plaintiff's injury as "the impression is neck sprain, chest contusion and lumbar disc protrusion and spondylolisthesis". It is noted that the plaintiff had two surgeries in 2011; one in July and the other in October.

4 The appeal in respect of AR Devi's decision was scheduled for hearing about a week before the start of the trial before me. The trial as to liability was fixed for hearing on 4 March 2013. It was then that I asked why the plaintiff's name was different in some previous documents filed. Counsel for the plaintiff, Miss Viviene Sandhu, then informed me that the plaintiff changed his name by deed poll on 25 February 2011 from Tan Poh Kim to Andy Tan Poh Weng.

5 Mr Alvin Cheng, counsel for the defendant, said that the question of liability cannot be settled because the plaintiff had admitted to being 5% liable in his passenger's suit in the Magistrate Court so he cannot now claim 100% against the defendant. Miss Sandhu objected to this defence because she

claimed that it was not pleaded. I thus adjourned the trial for all necessary amendments to be made.

6 On 14 March 2013 I gave leave to the plaintiff to amend the writ to reflect his new name. I then adjourned the matter to 21 April 2013 to give directions regarding disclosure of documents. On 21 April 2013 I gave leave to the defendant to amend his defence to plead estoppel. It was then that Mr Cheng informed me that the defendant had recently discovered that the plaintiff was involved in six accidents from 2006 to 2012, one in each year, except 2009, which seemed to be the only accident-free year for him. In the application before AR Devi it was disclosed that the plaintiff had two other accidents after the one in question in this suit. Those accidents were made known because the defendant was challenging causation in the plaintiff's claim for damages. It is unusual for a plaintiff to be involved in six accidents in seven years. Mr Cheng had, until 4 March 2013, only known of three accidents involving the plaintiff, but in the course of the further discovery application he learnt of three others prior to 2010.

7 On 23 May 2013 the adjourned Registrar's Appeal concerning the plaintiff's application for a second interim payment was heard and dismissed. It was also made known to me at that time through submission of the defendant's counsel (and not disputed) that the plaintiff was an undischarged bankrupt.

8 It may indeed be truly coincidental for the plaintiff to have such bad luck, but the circumstances indicate that a fuller inquiry might be necessary. Thus I do not think that the court should endorse the settlement until then. The defendant may not be blamed for wishing to settle because it might not be financially sensible to litigate. However, there are serious questions to be answered which, perhaps the defendant has no means of investigating. I thus declined to approve the settlement and am directing the Registrar, Supreme Court to refer this matter to the Attorney-General's Chambers for investigation. It is not known for certain, how many other accidents the plaintiff had been involved in since some might be settled out of court. It is not known why the plaintiff changed his name and how many times he had done so. The plaintiff's status as an undischarged bankrupt might also be inquired into as it also appears that the plaintiff was driving a commercial vehicle in at least one of the accidents that he was involved in. Further, without making any assumptions but, for completeness, it may be relevant to inquire into the details and circumstances of all the defendants involved in the various accidents with this plaintiff – whether they have any connections or previous dealings with the plaintiff; and whether they had been involved in other accidents. It is not uncommon for plaintiffs to exaggerate their claims for damages, but in the light of the plaintiff's history, and the medical report of his injury, his claim might be exaggerated or his injuries unrelated to the accident in question. The full medical reports in all of the plaintiff's accidents were not available in this suit and it would be relevant to examine them all side-by-side, and to inquire whether the examining doctors were informed by the plaintiff that he had been in previous road accidents.

9 It seems sensible that insurers should have a common database so that repeat claims can be tracked and traced. Insurance companies may have to do more to guard themselves against unmeritorious or exaggerated claims. First, front-to-rear accidents are not difficult to fake, and with minimal impact, claims for massive damages may arise. Not just for whiplash injury (not difficult to substantiate as many people have bulging discs and cervical spondylosis even without any trauma) but also for medical expenses and physiotherapy. There is also the risk of exaggerating the damage claim to the vehicle. Secondly, the law generally holds the party whose vehicle was rear-ended blameless or almost blameless. Unmeritorious claims are therefore difficult for lawyers to detect, and that makes it difficult for the courts to spot such claims.

10 Pending action from the Attorney General, this matter is adjourned *sine die*.