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DCPI 129/2005

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IN THE DISTRICT COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION

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PERSONAL INJURIES ACTION NO. 129 OF 2005

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BETWEEN

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LEUNG MOON SING Plaintiff

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and

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YU HON KUEN Defendant

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Coram : Deputy District Judge Wesley Wong in Court

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Date of Hearing : 10th May 2006

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Date of Handing Down Judgment : 22nd May 2006

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JUDGMENT

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1. This is an application for assessment of damages by the Plaintiff who was employed by the Defendant. He was injured on 1/9/03 while doing decoration work when the spray gun containing paint exploded. As a result his eyes were injured.

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2. He was sent to Queen Elizabeth Hospital where saline irrigation was done to both eyes. He was referred to the Eye Hospital for

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further treatment. Removal of unhealthy epithelium was done and both eyes were padded with antibiotic and lubricant eye medication for one day. The epithelial effect was healed with no scar.

3. He was given sick leave from 1/9/03 to 16/9/03 and thereafter intermittent sick leaves 22 days in total.

4. He now has impaired tear secretion which means having dry eyes and has to apply solutions to his eyes 6 times a day.

5. At the time of the accident he was 47 years of age. He earned \$750 a day i.e. an average of \$19,500 per month.

PSLA

6. As the Plaintiff's only residual disability was dry eyes, his injury is in the minor injury category.

7. In *Chow Wai Hung v. King Rise Engineering Ltd. & another* DCPI 964/2004 the Plaintiff's right eye was injured by a fragment of nail. He suffered right corneal abrasion which was healed after 2 days. There was no permanent visual disability though he still complained of pain and could not take accurate measurements. There was no epithelial defects. I award \$50,000 under PSLA.

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8. This case is similar except that the Plaintiff suffered injury to both his eyes and that he is still suffering from “Dry Eye Syndrome”. So his pain and suffering is more than Chow Wai Hung’s case.

9. I am of the opinion that \$65,000 should be awarded for PSLA.

Pre-trial Loss of Earnings

10. The Plaintiff was given 22 days sick leave in total.

11. His pre-trial loss of earnings is therefore $\$750 \times 22 \text{ days} = \$16,500.00$.

Loss of MPF

12. The Plaintiff is entitled to 5% of his loss of earnings.

13. The award under this head is therefore $\$16,500 \times 5\% = 825.00$.

Loss of Future Earnings

14. There is no evidence and there is no claim by the Plaintiff under this head.

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Loss of Earning Capacity

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15. Medical evidence showed that there is a 1% loss of earning capacity. The Plaintiff is now 50 years and I adopt a multiplier of 8.

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16. The loss under this head is $\$19,500 \times 12 \times 8 \times 1/100 = \$18,720.00$.

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Special Damages

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(1) Medical Expenses

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(i)	QEH on 1/9	\$100.00
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(ii)	11 occasions to Eye Hospital	\$1,430.00
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(2) Travelling expenses

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	11 trips to Eye Hospital at \$50 each	\$550.00
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(3)	<u>Tonic Food</u>	\$500.00
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Total

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(1)	PSLA	\$65,000.00
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(2)	Pre-trial loss of earnings	\$16,500.00
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(3)	Loss of MPF	\$825.00
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(4)	Loss of earning capacity	\$18,720.00
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(5)	Special damages	<u>\$2,580.00</u>
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		\$103,625.00
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17. In the premises there be judgment for the Plaintiff in the sum of \$103,625.00 with interests at 2% for \$65,000.00 from date of writ until 10/5/06 and \$19,905.00 at 5.36% from 1/9/03 until 10/5/06. Order nisi: Costs to the Plaintiff. Certificate for Counsel.

(Wesley Wong)
Deputy District Judge

Mr. Steven Lau instructed by Messrs. Huen & Partners for Plaintiff.
Defendant in present, absent.