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DCPI 129/2005

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IN THE DISTRICT COURT OF THE  
HONG KONG SPECIAL ADMINISTRATIVE REGION  
PERSONAL INJURIES ACTION NO. 129 OF 2005

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BETWEEN

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LEUNG MOON SING

Plaintiff

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J

and

YU HON KUEN

Defendant

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Coram : Deputy District Judge Wesley Wong in Court

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Date of Hearing : 10<sup>th</sup> May 2006

Date of Handing Down Judgment : 22<sup>nd</sup> 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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B further treatment. Removal of unhealthy epithelium was done and both  
C eyes were padded with antibiotic and lubricant eye medication for one day.  
D The epithelial effect was healed with no scar.

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

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

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

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K **PSLA**

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

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

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B 8. This case is similar except that the Plaintiff suffered injury to  
C 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.

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D 9. I am of the opinion that \$65,000 should be awarded for PSLA.  
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F **Pre-trial Loss of Earnings**

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

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

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J **Loss of MPF**

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

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

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O **Loss of Future Earnings**

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P 14. There is no evidence and there is no claim by the Plaintiff  
Q 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
(ii)	11 occasions to Eye Hospital	\$1,430.00

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11 trips to Eye Hospital at \$50 each	\$550.00
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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) Tonic Food

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(3) Tonic Food	\$500.00
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## Total

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(1) PSLA	\$65,000.00
(2) Pre-trial loss of earnings	\$16,500.00
(3) Loss of MPF	\$825.00
(4) Loss of earning capacity	\$18,720.00
(5) Special damages	<u>\$2,580.00</u>

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B 17. In the premises there be judgment for the Plaintiff in the sum  
C of \$103,625.00 with interests at 2% for \$65,000.00 from date of writ until  
D 10/5/06 and \$19,905.00 at 5.36% from 1/9/03 until 10/5/06. Order nisi:  
E Costs to the Plaintiff. Certificate for Counsel.

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I ( Wesley Wong )  
Deputy District Judge

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L Mr. Steven Lau instructed by Messrs. Huen & Partners for Plaintiff.

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M Defendant in present, absent.

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