

Wu Liang Zhu v Chan Yue Ming and Another
[2002] SGHC 91

Case Number : Suit 291/2001, RA 57/02
Decision Date : 30 April 2002
Tribunal/Court : High Court
Coram : Lee Seiu Kin JC
Counsel Name(s) : Ramasamy Chettiar (Harry Elias Partnership) for the appellants-defendants; Lin Shiu Yi and Presanna Devi (Hoh & Partners) for the respondent-plaintiff
Parties : Wu Liang Zhu — Chan Yue Ming; Chew Peng Heng being the sole proprietor of Handy Transport Services

Judgment

GROUNDS OF DECISION

1 This is an appeal by the Defendants against the assessment by the Assistant Registrar of the damages suffered by the Plaintiff in respect of a work-site accident. On 8 April 2002, after hearing counsel for the parties, I allowed the appeal by reducing the assessment in respect of the loss of future earnings from \$136,800 to \$41,040. The other assessments were not altered. The Plaintiff has since appealed and I now give my grounds of decision.

2 The Plaintiff is a 31-year old Chinese national. He came to Singapore in May 1998 to take up employment with China Construction (South Pacific) Development Pte Ltd as a reinforcement ironworker. On 6 December 1999, while working in an uncompleted carpark at Bukit Panjang, a motor lorry collided into him at the back. This caused him to fall onto some iron rods. According to the medical report of Dr Kenneth Mak of the National University Hospital, the Plaintiff sustained the following injuries as a result of the accident:

- (i) Laceration of the right liver, involving the posterior sector;
- (ii) Laceration of the spleen, involving splenic hilum;
- (iii) Right perinephric haematoma;
- (iv) 2 cm laceration of the right thumb;
- (v) 2 cm laceration of the right little finger;
- (vi) 1 cm laceration of the right ring finger; and
- (vii) Bilateral haemothoraces with underlying right lung contusion.

3 The Plaintiff was hospitalised until 23 December 1999, of which eight days were spent in the intensive care unit. He was treated as an outpatient thereafter but about a year later, in November 2000, he was warded for two days. The Grounds of Decision ("the GD") of the Assistant Registrar sets out the various medical reports that had been prepared by the doctors who examined him and who had given evidence at the assessment. The GD deals with the evidence in respect of the extent of the Plaintiff's injuries and whether there was any permanent residual incapacity. As far as the expert evidence was concerned (at 11 of the GD):

" ... [i]t was generally agreed by the medical experts called that although the plaintiff suffered potentially life-threatening injuries, the plaintiff had recovered with little likelihood of permanent residual incapacity."

4 However the Plaintiff had complained that he still had a chronic low back pain. The Assistant Registrar's conclusion from an evaluation of the evidence before the court was that the low back pain, although caused by the accident, was not sufficiently debilitating because it was not supported by any clinical signs. The expert had estimated that the Plaintiff would take about one year to completely recover from his low back pain and the Assistant Registrar accepted this evidence. After considering the remaining evidence and the authorities the Assistant Registrar made the following assessments:

General Damages:		\$ 46,000.00
Special Damages:		
Medical expenses	\$ 366.96	
Pre-trial loss of earnings:		
109 days with medical leave:	\$ 2,943.00	
606 days without medical leave:	\$ 10,624.00	
Loss of future earnings	\$136,800.00	
Total Special Damages:		<u>\$150,733.96</u>
		\$196,733.96
Total Damages:		

5 I could not find any reason to interfere with the assessments of the Assistant Registrar except in respect of the loss of future earnings. In arriving at this assessment, she had used a multiplier of 17 on the basis of his age. She considered that within that period, he would have been able to work for another 7 years in Singapore and 10 years in China. As for the multiplicand, the Plaintiff's submission of a monthly salary of \$1,350 per month in Singapore was not disputed. From that, the Assistant Registrar deducted \$150 for personal expenses and adopted \$1,200 as the multiplicand in respect of Singapore. As for the multiplicand in China, she also accepted the Plaintiff's evidence that it was \$350 per month and, deducting \$50 for expenses, she took the figure of \$300. Using these figures, the total figure was arrived at through the following computation:

Working Years in Singapore	\$1,200 x 12 x 7 =	\$100,800
Working Years in China	\$300 x 12 x 10 =	<u>\$ 36,000</u>
Total:		\$136,800

6 I do not find anything wrong in her findings in respect of the figures. However she had in effect awarded the Plaintiff loss of future earnings on the basis that he would not be able to work at all. If the Plaintiff had been totally incapacitated as a result of the injury and rendered unable to work at all, this would have been the quantum he would have been entitled to. However this is contrary to her finding that he would fully recover in about a year's time. Indeed, even in respect of the pre-trial loss of earnings, the Assistant Registrar had made an assessment based on a partial loss rather than a full loss. The Plaintiff's claim in this respect is divided into two periods: (i) the first period of 109 days covered by medical leave; and (ii) the second period of 606 days without medical leave. In respect of the first period, the Plaintiff's claim of \$27 per day for 109 days, amounting to \$2,943, was

conceded by the Defendants. For the second period, the Assistant Registrar made a finding on the evidence that the Plaintiff was able to undertake light work and reduced the number of days by about 58%, from 606 to 256 days. Using the figure of \$41.50 per day (this is higher than the \$27 per day in the first period presumably because the Plaintiff was receiving some other payment during his medical leave thereby reducing his damages), the assessment for this second period comes to \$10,624.

7 Because of the finding that the Plaintiff was only partially disabled and would fully recover in a year's time with little likelihood of permanent residual incapacity, he was awarded about 42% of pre-trial loss of earning as he was able to do some work during that period. Yet he was awarded 100% of the quantum assessed as post-trial loss of earning. If he is expected to improve even further, the award for post-trial loss becomes inexplicable. In my view, this was an oversight on the part of the Assistant Registrar and she had intended to reduce the latter sum after computing the full quantum. In view of the fact that this was the only error in her otherwise unimpeachable assessment, instead of remitting it to her for re-consideration, I was of the view that I was able to make the determination based on the findings that she had already made and the documents before me. I found that a reasonable assessment would be to reduce the quantum by 70% on the basis that the Plaintiff would suffer some reduced earning capacity on average over the 17-year period and I ordered accordingly.

Sgd:

LEE SEIU KIN
JUDICIAL COMMISSIONER

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