IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2024] SGHC 229

Originating Application No 435 of 2024 (Registrar's Appeal No 113 of 2024)

Between

Lim Yew Beng

… *Applicant*

And

(1) Lim Kwong Fei (Lin Guanghui)
(2) Sompo Insurance Singapore Pte Ltd

… *Respondents*

JUDGMENT

[Courts and Jurisdiction — Application to transfer proceedings from District Court to High Court — Claim instituted in District Court potentially exceeding its jurisdictional limit]

TABLE OF CONTENTS

Lim Yew Beng
v
Lim Kwong Fei and another

[2024] SGHC 229

General Division of the High Court — Originating Application No 435 of 2024 (Registrar's Appeal No 113 of 2024)
Audrey Lim J
1 August 2024

6 September 2024 Judgment reserved.

Audrey Lim J:

1 HC/RA 113/2024 ("RA 113") is the appeal of the applicant ("Lim") against the decision of the Assistant Registrar ("AR") below dismissing Lim's application to transfer the proceedings in DC/S 422/2020 ("Suit 422") from the District Court ("DC") to the General Division of the High Court ("HC") pursuant to s 54B of the State Courts Act 1970 (2020 Rev Ed) ("SCA"). Lim's application is based on a likelihood of the damages awarded exceeding the jurisdictional limit of the DC.

2 Having considered the matter, I allow the appeal.

Background

3 On 7 December 2017, a car driven by the first respondent ("R1") knocked Lim down whilst the latter was standing on a raised concrete divider

along a road, waiting to cross. R1 was subsequently convicted on charges of drink driving. As a result of the accident, Lim suffered injuries to his head, back and left leg, including fractures in the skull and left tibia. According to Lim, he was given hospitalisation and then medical leave from around 7 December 2017 to 12 August 2018; he then returned to work at Haworth Singapore Pte Ltd ("Haworth") but was placed on light duty; and he subsequently resigned from Haworth on 12 September 2019 after it became clear to him that he could no longer cope with the exertions of his usual duties.[1]

4 On 13 May 2020, Lim (through his lawyer) commenced Suit 422 in the HC against R1. As the estimated value of Lim's claim then was about $400,000, Suit 422 was automatically transferred to the DC.[2] On 27 November 2020, Lim and R1 entered a consent interlocutory judgment ("IJ") for 100% of the damages to be assessed in Lim's favour. R1 was then legally represented.

5 On 14 October 2021, the second respondent ("R2"), being R1's motor insurer, applied to be added as an intervener in Suit 422. R2 had earlier repudiated liability to a claim Lim made on R1's motor insurance policy pertaining to the accident. However, as R2 might be required to satisfy any final judgment under the Motor Vehicles (Third-Party Risks and Compensation) Act (Cap 189, 2000 Rev Ed), it wished to be heard on the issue of quantum of damages. R2's application was granted on 8 November 2021. By this time, R1 had discharged his lawyer.

---

1 Lim's 1st affidavit of evidence-in-chief dated 25 May 2023 ("Lim's 1st AEIC") at [14], [31]–[38].

2 Appellant's Submissions dated 22 July 2024 ("AS") at [6], [25]; Second respondent's Written Submissions in HC/OA 435/2024 dated 12 June 2024 and relied on in HC/RA 113/2024 ("1st R2S") at [2].

6 Pursuant to directions given on 11 August 2022, Lim filed (on 5 June 2023) his affidavit of evidence-in-chief ("AEIC") and the AEICs of two other witnesses whom he intended to call for the assessment of damages ("AD"). Lim's AEIC exhibited the medical reports that he intended to rely on, which reports spanned from 7 December 2017 to 27 May 2022.

7 At a case conference held on 18 July 2023, Lim's lawyer ("A/C") informed the court on behalf of R2's lawyer ("R2/C") that the latter required a 12-week adjournment to carry out a medical re-examination of Lim. The court directed the re-examination be conducted by 10 August 2023. However, R2/C informed A/C on 14 August 2023 that R2 no longer intended to carry out a re-examination of Lim and requested that directions be taken for the filing of the notice of appointment for assessment of damages ("NOAD"). Lim proceeded to do so and on 15 August 2023, directions were given by the court for Lim to file a supplementary AEIC in support of his claim for damages and the NOAD by 18 September 2023. Lim filed the supplementary AEIC and the NOAD on 31 August 2023 and 15 September 2023 respectively.

8 Subsequently, around 14 November 2023, A/C submitted a Quantum Indication Form ("QIF") to the respondents for completion for an indication on quantum of damages. After some exchange of correspondence between A/C and R2/C pertaining to the latter's request for Lim's medical records (such as X-rays), R2/C returned a completed QIF to A/C which A/C submitted to the court on 1 March 2024.[3]

9 At a case conference on 1 March 2024, the court informed A/C and R2/C

---

[3] AS at [14]–[18]; Bundle of Salient Cause Papers filed in July 2024 ("BCP") at Tabs Q to T; 1st R2S at s/n 13 of the table at [2].

that the quantum of damages submitted for Lim was above the DC's jurisdictional limit of $500,000. The parties were thus directed to state (among other things) whether they intended to apply to transfer the matter to the HC or execute a signed memorandum pursuant to s 23 of the SCA, or whether Lim would revise his submissions for indication so that his figure would fall within the applicable jurisdictional limit. By R2/C's letter to the court dated 27 March 2024, R2 took the position that the jurisdictional limit was $500,000 and that it was not agreeable to executing a memorandum pursuant to s 23 of the SCA.

10 On 7 May 2024, Lim applied to transfer the proceedings in Suit 422 to the HC (the "transfer application"). The AR dismissed the application and Lim now appeals against that decision. Before me, R1 has indicated that he takes no position on the transfer application.

Applicable principles

11 The legal principles governing an application to transfer under s 54B of the SCA are well-established. The court first considers whether there is "sufficient reason" to transfer the proceedings to the HC. In this regard, the likelihood of the plaintiff's damages exceeding the jurisdictional limit of the DC will ordinarily be regarded as "sufficient reason": *Keppel Singmarine Dockyard Pte Ltd v Ng Chan Teng* [2010] 2 SLR 1015 ("*Keppel Singmarine 2*") at [16].

12 However, the mere existence of a "sufficient reason" does not automatically entitle a party to have the proceedings transferred from the DC to the HC. A holistic evaluation of all the material circumstances must be undertaken. In particular, the court should assess the prejudice that might be visited upon the party resisting the transfer. The power to transfer is a discretionary one, the exercise of which calls for a balancing of the parties'

competing interests: *Keppel Singmarine 2* at [17].

My decision

13 Having reviewed the matter holistically, I am satisfied that there is sufficient reason for a transfer and that the balance of the parties' interests lies in favour of me so ordering.

14 As a starting point, I am satisfied that Lim has shown sufficient reason for a transfer, in that there is a likelihood of the quantum of damages exceeding the jurisdictional limit of the DC. In this regard, I agree with the AR's findings. Lim's AEIC in Suit 422 explained and quantified in some detail his claims for pre-trial loss of income, loss of future income, medical expenses incurred, and future medical expenses, totalling some $533,000. This does not even include Lim's pleaded claim for general damages for pain and suffering, which would increase the overall quantum of damages. Lim also exhibited supporting documents in his AEIC including medical reports pertaining to his injuries.

15 I thus reject R2/C's submission that Lim has failed to show such a sufficient reason because there was no detailed quantification of the claims produced or credible evidence supporting his pleaded claims.[4] R2/C's submission is at odds with his own description of Lim's AEIC as a "detailed affidavit on quantum with all claims listed and quantified".[5]

---

4 1st R2S at [23(e)].

5 1st R2S at s/n 9 of the table at [2].

Material change in circumstances

16 The authorities indicate that where claims for damages are revised so that they exceed the DC's jurisdictional limit, an application to transfer proceedings to the HC will be viewed more charitably where the revision is made on account of materially changed circumstances (see *Keppel Singmarine Dockyard Pte Ltd v Ng Chan Teng* [2008] 2 SLR(R) 839 ("*Keppel Singmarine 1*") at [32] and [37]). In this regard, I find that Lim has shown a material change in circumstances necessary to support his transfer application.

17 Lim attested that when he resigned from Haworth in September 2019 (before Suit 422 was commenced), he did not anticipate that he would remain unemployed for a significant period of time. As things panned out, he only found employment with Grouting Engineers Pte Ltd ("Grouting") in January 2021 (after IJ was entered). Lim also did not anticipate that he would only be able to find a job at a much-reduced monthly salary of $1,500, compared to the $4,200 he was drawing at Haworth. This thus resulted in a significant claim for pre-trial loss of earnings, loss of future earnings, and loss of earning capacity.[6]

18 In dismissing Lim's application, the AR reasoned that because Lim was unemployed when Suit 422 was commenced, the subsequent change in circumstances (*ie*, his re-employment with Grouting) should in fact reduce the loss of future earnings claimed for. I disagree. Lim's position, as I understand it, is that when Suit 422 was commenced, he had estimated his losses (including loss of future earnings) to be about $400,000. That estimation was made in ignorance of the difficulties Lim was likely to face in securing re-employment,

---

[6] Lim's affidavit in support of HC/OA 435/2024 dated 2 May 2024 ("Lim's 2/5/24 Affidavit") at [9]–[10]; Lim's supplementary affidavit of evidence-in-chief dated 31 August 2023 at [4]–[7].

and still less re-employment at a salary commensurate to what he had previously earned at Haworth. It is because those difficulties came to pass that Lim made an upward revision to his claim for loss of future earnings.

19 Whether Lim was unable (at the time Suit 422 was commenced) to anticipate those changed circumstances is a question that must be considered in light of the medical evidence available to him then. A/C submits that the initial assessment of the claim at $400,000 was based on two medical reports issued before Suit 422 was filed:[7]

(a) The first was a report dated 15 January 2019 by Dr Seng Chusheng ("Dr Seng") from Singapore General Hospital. Dr Seng had performed the surgical fixation of Lim's left tibia fracture a week after the accident. In the report, Dr Seng observed that Lim was "walking well without aid" and "should be able to return to his work over the next few months and is unlikely to need any further medical treatment".

(b) The second is a report dated 30 August 2019 by Dr Chang Wei Chun ("Dr Chang") from Orthopaedic & Traumatic Surgery Pte Ltd. Dr Chang stated that "as a result of his continuing back and left leg disabilities [Lim] has difficulty fulfilling his responsibilities". He further commented that Lim "should improve with physiotherapy, but [is] unlikely to attain his pre-accident level of activities".

20 After Suit 499 was commenced, however, two further medical reports were issued which painted a grimmer picture:[8]

---

7 AS at [26]; Lim's 2/5/24 Affidavit at pp 13–23; Lim's 1st AEIC at pp 68–79.

8 AS at [27]; Lim's 2/5/24 Affidavit at pp 25–27; Lim's 1st AEIC at pp 80–82.

(a) In a report dated 17 October 2020, Dr Seng stated that "[d]espite adequate bone healing of his fracture, [Lim] complained of persistent residual pain". Dr Seng also noted that following a medical review in September 2020, Lim's X-rays showed that part of the metal implants were slightly prominent and that they were the likely cause of his chronic pain when standing and walking for prolonged periods. It is recorded that Dr Seng had offered Lim the option of removing the implants in his left leg to relieve the symptoms.

(b) In a subsequent report of 27 May 2022 ("27/5/22 Report"), Dr Seng stated that Lim had recently undergone partial removal of the left tibia implants. Dr Seng added that as a result of Lim's orthopaedic injuries, "full resolution is unlikely"; "he is unable to continue his previous job of an office systems project manager"; and "[h]is condition is unlikely to have significant improvement as it has been 5 years post injury and he is likely to suffer from chronic residual pain and stiffness affecting his activities of daily living".

21 A/C submits, and I accept, that the 27/5/22 Report (read alongside the other medical reports) discloses a change in Lim's circumstances material to his claim for loss of future earnings. The aforementioned reports of Dr Seng and Dr Chang were exhibited in Lim's affidavit in support of the transfer application. I accept the significance of those reports was not explained in the affidavit, but the thrust of Lim's case was clear: at the time Suit 422 was commenced, he did not foresee the permanence of his injuries and the consequences that would have for his employment and earning prospects moving forward (see [17] above). It is on that basis that Lim now asserts a larger claim for damages. This, in my judgment, is a factor that weighs in favour of allowing the transfer application.

Delay

22 R2/C submits that Lim has not adequately explained the delay of about two years between his receipt of the 27/5/22 Report and the filing of the transfer application; and that the transfer had not even been sought at the time Lim filed his AEIC and supplementary AEIC, by which point the full facts material to Lim's claim must have been known to him. R2/C submits that such conduct militates against any exercise by the court of its discretion in Lim's favour.[9]

23 I am cognisant that the delay in this case was not insubstantial. But I also accept A/C's submission that some part of that delay was attributable to R2 or R2/C. In July 2023, R2/C had requested for a long adjournment to carry out a medical re-examination of Lim only to abandon that re-examination about a month later (see [7] above). It is also undisputed that between October 2023 to February 2024, multiple adjournments of case conferences were sought by R2/C for various reasons which included him being out of town; needing more time to peruse and fill up the QIF; needing copies of Lim's medical records for a proper indication of quantum of damages; and needing more time to review the medical records.[10]

24 Taking matters in the round, I am not persuaded that the delay in this case (which was partly attributable to R2 or R2/C) was of such a kind as to justify the dismissal of Lim's transfer application.

---

9 Second respondent's Written Submissions in HC/RA 113/2024 dated 15 July 2024 ("2nd R2S") at [5(c)], [5(d)], [6].

10 BCP Tabs P, Q, R and S; AS at [13]–[17].

Prejudice

25 Importantly, R2 has not shown any real prejudice to its interests if the transfer application were allowed.

26 R2/C submits before me that if the matter were to be determined in the HC, then R2 would be prejudiced by its exposure to a potentially larger award of damages in Lim's favour. There is no merit to this argument, as the possibility of damages being awarded in excess of the DC's jurisdictional limit is not a real form of "prejudice" germane to the inquiry: *Keppel Singmarine 1* at [39]; *Tan Kee Huat v Lim Kui Lin* [2013] 1 SLR 765 ("*Tan Kee Huat*") at [43].

27 Next, R2/C contends in its written submissions that the claim was time-barred when the transfer application was made and that, on the authority of *Skading Anne v Yeo Kian Seng* [2005] 2 SLR(R) 546 ("*Skading Anne*"), this is a "strong prejudice factor".[11] However, R2/C's argument that the claim is time-barred is misplaced. Suit 422 was commenced about two-and-a-half years after the accident, which was well within the applicable three-year limitation period. The transfer application may have been filed after the expiry of that applicable limitation period, but it plainly does not follow that the transfer application itself was time-barred, or that Lim's substantive claims had somehow been rendered time-barred by the making of the transfer application. Indeed, R2/C conceded as much before me.

28 The decision of *Skading Anne* does not even stand for the proposition of law advanced by R2/C. In that case, the accident occurred on 8 August 1999 and the plaintiff's suit was filed in the Magistrate's Court ("MC") on 7 August

[11] 1st R2S at [12], [23(f)].

2002, which was one day shy of the three-year limitation period expiring. An application for a transfer of the suit from the MC to the DC was made on 14 July 2004. A close reading of the court's decision (at [14]) will show that the court never expressly held that the claim was time-barred; all the court had done was to refer to the defendant's submission that he would be prejudiced should the action be transferred to the DC because the claim was already time-barred. In disallowing the application to transfer, the Judge relied on the fact that there was nothing in the supporting affidavit to inform the court the cause of the trouble; or why there was a need, and what had created the situation, for a transfer. There was also no explanation as to why the claim was not initially brought in the DC, and the Judge noted the plaintiff's counsel did not refute the defendant's contention that nothing new appeared to have developed from looking at the same material that was available to the plaintiff when the suit was commenced in the MC. This is unlike the present case.

29 R2/C also submits that Lim had taken steps in the DC that were inconsistent with an intent for the matter to be heard in the HC, *ie*, Lim's filing of the NOAD in September 2023 and then the submission of the QIF on 1 March 2024 to the court. R2/C relies on the AR's finding that "it is not unreasonable for the Respondents to have conducted themselves on the basis that the matter will be heard in the [DC] and their liability would be limited to the [DC's] enhance jurisdiction of $500,000".

30 The entering of an interlocutory judgment is not a legal affirmation of a lower court's jurisdiction over a plaintiff's claim for the entire duration of the proceedings, and a defendant cannot complain of being prejudiced if the law permits the plaintiff to have his claim assessed to its full extent in the proper court: *Keppel Singmarine 1* at [32]. I accept that Lim had taken steps to continue the proceedings in the DC beyond entering into the IJ, namely by filing the

NOAD and submitting the QIF. However, as in the case of *Tan Kee Huat*, I do not find this a sufficient reason to disallow the transfer application, having considered the circumstances holistically.

31 In *Tan Kee Huat*, which concerned proceedings commenced in the DC, the plaintiff filed his NOAD and thereafter obtained an order of court giving further directions for the AD. The hearing for the AD was twice convened and attended by parties but ultimately adjourned on both occasions; with the plaintiff and defendant being chiefly responsible for the first and second adjournments respectively (at [40]–[41]). It was only thereafter that the plaintiff filed his application for proceedings to be transferred to the HC.

32 Prakash J (as she then was) allowed the plaintiff's application to transfer despite the steps he had taken in the DC. Prakash J found that the only prejudice the defendant could point to was the unlikelihood of recovering costs from the plaintiff, who was legally aided, but this did not tilt the balance in the defendant's favour (at [45] and [48]).

33 In my view, the plaintiff in *Tan Kee Huat* had clearly taken greater steps to continue the proceedings in the DC after the NOAD was filed (see [31] above). The court was also persuaded by the fact that "the work done by both sides would be as useful to an assessment in the High Court as it would have been to an assessment in the District Court", so that the work would not have been wasted following a transfer of proceedings (at [39]). Further, there was no evidence that the long delay (from the time of the accident) had led to any difficulty in conducting the litigation, or that there would be any practical difficulties in so doing should the matter be transferred to the HC (at [47]). These considerations apply with equal force to the proceedings before me. R2/C has confirmed that R2 does not intend to file any AEICs and will instead put

Lim to strict proof of his case; that it does not intend to conduct a further medical examination of Lim; and that it will only seek to cross-examine Lim's doctors on the medical reports and documents that Lim has disclosed in Suit 422.[12]

34 I also reject R2/C's submission that Lim has abused the court process by submitting the QIF (to obtain an indication of the quantum of damages from the court) when Lim in fact intended for Suit 422 to be heard in the HC; and that the actual reason A/C then made the transfer application was because the Registrar of the State Courts had refused to provide a quantum indication.[13] The quantum indication process was carried out on a without-prejudice basis (as both counsel confirmed before me) and with a view to facilitating parties' attempts at a settlement. A/C made it clear in its letter of 1 February 2024 to the Registrar of the State Courts that Lim desired a quantum indication from the court as it would be useful to the parties in resolving their dispute on quantum amicably.[14]

35 R2 knew from the time Lim's AEIC was filed that Lim was claiming more than $500,000 in damages. Thus, A/C's attempts at settling the claim (by seeking a quantum indication) and subsequently applying to transfer the claim to the HC after those attempts proved abortive (given R2's insistence that the quantum had to be capped at the DC's jurisdictional limit) cannot be said, without more, to amount to an abuse of the court process. It was reasonable for Lim to obtain a quantum indication with a view to attempting settlement in the DC to save time and costs. There is thus no evidence to support R2/C's assertion

---

12 1 August 2024 hearing of HC/RA 113/2024.

13 2nd R2S at [5]–[6].

14 BCP at Tab S.

that Lim's or A/C's conduct had led the respondents to reasonably believe that Lim would not be pursuing the matter other than in the DC.[15]

36 More importantly, I reiterate, the respondents have not stated what prejudice they would suffer if the claim was transferred to the HC, even if the transfer application was made more than six years after the accident. For instance, there is no evidence that the delay would result in a loss of material evidence to the respondents' detriment. I reiterate that some of the delay in moving the proceedings along is attributable to R2 or R2/C (see [23] above).

37 This is unlike the case of *Ng Djoni v Miranda Joseph Jude* [2018] 5 SLR 670 relied on by R2/C. The plaintiff in that case, who was involved in a car accident, commenced an action in the MC ("MC Suit") only a few days before the expiry of the applicable limitation period. The defendant came to learn of the MC Suit only when he was served with the writ and statement of claim in March 2017, more than four years after the accident. The plaintiff thereafter applied for the proceedings to be transferred to the HC on grounds that his damages were likely to exceed the State Courts' jurisdictional limit.

38 The plaintiff's application was refused both at first instance and on appeal before the High Court. Until March 2017, the defendant appeared unaware of the MC Suit and would not have sought re-examination of the plaintiff's condition. When the defendant became aware of the MC Suit, he did not seek to re-examine the plaintiff's condition because he reasonably believed his liability would be limited to $60,000. If the application to transfer were to be granted, the defendant would have had to carry out a re-examination of the plaintiff more than five years after the accident. The court found this

---

15 2nd R2S at [11].

considerable lapse of time to be significant, as any medical opinion (to be of evidential value) would have to disentangle the injuries caused by the accident from the plaintiff's pre-existing medical condition. Further, after the accident, the plaintiff had been involved in two more accidents unrelated to the defendant. The transfer application was also not prompted by any change in circumstances or further deterioration in the plaintiff's condition. The High Court thus found that there would be "irreparable prejudice" to the defendant should there be a transfer of the MC Suit to the HC.

Conclusion

39 Having considered the material circumstances, I am satisfied that Lim has shown sufficient reason for a transfer of Suit 422 to the HC and that there are no good reasons for refusing the exercise of my discretion in his favour. I thus allow the transfer application.

Audrey Lim J
Judge of the High Court

John Jeevan Noel (M/s Pereira & Tan LLC) for the applicant;
First respondent in person;
Mahendra Prasad Rai (M/s Cooma & Rai) for the second respondent.