

Ng Kum Thong v Moktar Bin Yusof
[2012] SGHC 254

Case Number : Suit No 903 of 2010 (Registrar's Appeal No 202 of 2012)
Decision Date : 28 December 2012
Tribunal/Court : High Court
Coram : Lee Seiu Kin J
Counsel Name(s) : Subir Singh Panoo (Sim Mong Teck & Partners) for the plaintiff; Edwin Chua (Lawrence Chua & Partners) for the defendant.
Parties : Ng Kum Thong — Moktar Bin Yusof

Damages – Assessment

28 December 2012

Lee Seiu Kin J :

Introduction

1 On 9 September 2008, the plaintiff was riding a bicycle along West Coast Road and was knocked down by a motor lorry driven by the defendant. On 20 July 2011, the parties entered into a consent judgment whereby the defendant was adjudged liable for 75% of the damages suffered by the plaintiff, with the quantum of damages to be assessed by the Registrar. At the date of judgment, the plaintiff was 58.5 years of age.

2 On 11 May 2012 the assistant registrar ("AR") assessed the damages suffered by the plaintiff to be as follows:

A: General Damages:

(a) Loss of both legs	\$140,000.00
(b) Degloving injury to right upper limb	\$ 30,000.00
(c) Loss of future earnings	\$158,400.00
(d) Loss of future employer's contributions	CPF \$8,268.06
(e) Cost of future nursing care	\$177,408.00
(f) Future costs of wheelchair	\$ 2,400.00
(g) Future costs of scooter	\$ 13,866.24
B: Special Damages:	\$ 82,732.97
Total:	\$613,075.27
At 75%:	\$459,806.46

3 The defendant appealed in registrar's appeal no 202 of 2012 against the following parts of the AR's assessment:

- (a) \$30,000 as general damages for degloving injury to right upper limb;
- (b) \$158,400 for loss of future earnings;
- (c) \$8,268.06 for loss of future employer's CPF contributions;
- (d) \$177,408 for cost of future nursing care; and
- (e) Multiplier of 16 years for future costs of equipment (scooter and wheelchair).

4 After hearing submissions from both sides, I allowed the defendant's appeal and varied the AR's order in the following manner:

- (a) Future cost for nursing care reduced from \$177,408 to \$154,064;
- (b) Future cost of scooter reduced from \$13,866.24 to \$12,132.96; and
- (c) Future cost of wheelchair reduced from \$2,400 to \$2,100.

Apart from those variations, I ordered the remaining orders of the AR to stand.

5 The defendant has filed a notice of appeal against my decision and I now give the grounds for my decision.

6 The plaintiff was born on 15 January 1954. At the time of the accident he was 54 years and 9 months old, and at the time of the assessment of damages, he was 58 years and 4 months old.

(a) Degloving injury

7 Mr Chua, counsel for the defendant, cited awards for the loss of four fingers which all appeared to be in the region of \$31,000. He pointed out that in the present case, there was no loss of fingers. Although the degloving injury had caused the plaintiff loss of fine control of his fingers, the plaintiff could still use his right hand for functions that did not require fine finger control such as pushing off, and using his hand to hold an object with the assistance of his left hand. However there was no evidence that the plaintiff's situation was better than that of a person who had lost four fingers but had fine control of his thumb. From the evidence, the plaintiff's hand was effectively a stump as he no longer had the ability to control his fingers. This was not any different from the position of a person who had lost four fingers. Hence, in my view, the award of \$30,000 was appropriate.

(b) Loss of future earnings

8 The issue of loss of future earnings turned on the multiplier, which the AR had assessed to be 11 years. The plaintiff was employed as a supervisor in a company providing cleaning services. He supervised a team of five cleaners and in addition, he also carried out cleaning operations. He earned a monthly salary of \$1,220. Mr Chua contended that a multiplier of 11 years was too high. I disagreed with him as I saw no reason that the plaintiff could not continue to work as a cleaning supervisor until the age of 75 years. In carrying out his supervisory role, the plaintiff was not required to exert himself very much physically. As for his role as a cleaner, the physical aspect of this job has been much

reduced, with the shrinking labour pool available for such work resulting in the cleaning industry becoming more mechanised. It would not have been hard for the plaintiff to find work in this field. Indeed the plaintiff's previous employer had stated in a letter that there was no retirement age due to labour shortage. The plaintiff therefore would have had a good 17 years of working life ahead if not for the accident. Although the AR had used the life expectancy age of 81 years, I found that the multiplier of 11 years was appropriate for a 17-year period.

(c) Loss of future employer's CPF contributions

9 For the reasons given in the previous paragraph, the multiplier of 11 years applied for this head of damages was also appropriate.

(d) Cost of future nursing care

10 The AR accepted the medical evidence that the plaintiff would require a full-time caregiver upon reaching the age of 60. On the basis of the plaintiff's life expectancy of 81 years, this would be for a period of 21 years. The AR awarded a multiplier of 14 years on a multiplicand of \$1,056 per month. I considered the multiplicand to be appropriate, but the multiplier to be excessive as it did not consider the fact that the plaintiff would be receiving the money in a lump sum 2 years prior to turning 60 when he would be required to incur the expenses. I therefore reduced it to 12 years.

(e) Cost of future equipment

11 As the wheelchair and scooter costs were incurred immediately and not in 2 years' time (as in the case of the caregiver), I added 2 years to the 12 year multiplier given for the caregiver and determined the multiplier for the wheelchair and scooter to be 14 years.

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