

HONG KONG / JUDGMENT

WONG WAI HUNG v. LOO KIN AND ANOTHER

COURT

District Court

DECIDED

30 March 2007

CASE / FILE NUMBER

DCPI643/2006

Source: legalref.judiciary.hk · Research copy typeset by Esheria. Not court-issued or certified.

bjbj DCPI 643 /2006 IN THE DISTRICT COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION PERSONAL INJURIES ACTION NO. 643 OF 2006

BETWEEN WONG WAI HUNG Plaintiff and LOO KIN 1st Defendant CITY PIPE TECHNOLOGIES
2nd Defendant (HONG KONG LIMITED)

Coram: Deputy District Judge W. C. Li in Court Date of Hearing: 27th March 2007 Date of Handing
Down Judgment: 30th March 2007 J U D G M E N T The Plaintiff was an employee of the 2nd
Defendant when he was injured in an industrial accident on 24 November 2003. The Plaintiff was
a passenger in the 2nd Defendant s vehicle driven by the 1st Defendant, who was also an
employee of the 2nd Defendant, and they were on their way to do drainage maintenance work
when the 1st Defendant failed to stop and collided his vehicle into the back of a stationary 10 tons
lorry. The 1st Defendant was convicted of Careless Driving at the Magistrates Court. The Plaintiff
was the front seat passenger at the time of the accident and he suffered right ankle injury. X-ray
showed no fracture of the bones and there were no tendon or ligament damage. His right ankle
was swollen with no external injury. He was discharged from hospital on the same day. After
discharge, he received follow-up treatments at Tseung Kwan O Hospital. The medical report
prepared by Dr. William Ngai Yiu Hing of the Department of Orthopaedic and Traumatology of
Tseung Kwan O Hospital showed that the Plaintiff had minimum tenderness over right medial
ankle. According to the physiotherapist reports, the Plaintiff was unable to perform full
squatting, heel walking and tiptoe walking because of the right ankle pain. The Plaintiff was
granted intermittent sick leave from 25 November 2003 to 25 January 2005, totaling 14 months.
Form 6 was issued by the Labour Department on 2 November 2005. The Loss of Earning Capacity
was assessed at 1.5%. A compensation award of HK\$97,066.66 was paid by the 2nd Defendant to
the Plaintiff. The 1st and 2nd Defendants did not file any Notice of Intention to Defend and the
Plaintiff obtained Judgment on liability on 1 November 2006. The present hearing was on the

assessment of damages. The Plaintiff was born on 8 October 1975. He was 28 at the time of the accident. He commenced working with the 2nd Defendant on 19 September 2003. His basic salary was HK\$7,000.00 a month with a monthly bonus of \$1,000.00, and overtime pay and attendance bonus. From his earnings record for September, October and November 2003, an average earning of HK\$9,500.00 was derived. I would take this amount to be the average earning of the Plaintiff for the purpose of this assessment. On Pain, Suffering and Loss of Amenities (PSLA), Plaintiff's solicitor referred to *Lam Kwai Yip v Yuen Yun Kui* HCA 12617 of 1994, *Lau Kin Wai Danny v Chan Wai Sang and Li Ah Man trading as Kin Sang Engineering Company (a firm)* HCPI 1007 of 2000, and *Lobo v Kripalani* HCPI 1286 of 1986, and asked for an award of HK\$150,000.00 under this head. The injuries in these 3 cases the Plaintiff referred to were far more serious than a sprained right ankle without fracture and wound. The Plaintiff was assessed to have suffered 1.5% permanent impairment. A case which was close to the Plaintiff's case here would perhaps be *Liu Zhihui v Hsin Chong Construction (Asia) Limited* (No. A3340 of 1994) where in 1998, HK\$58,564.00 was awarded for PSLA for a sprained left ankle with soft tissue injury. Taking into account the inflation over the years, I would assess HK\$80,000.00 to be the appropriate award for PSLA here. On loss of pre-trial earnings, the Plaintiff was off work for 14 months from 25 November 2003 to 25 January 2005 due to the injury. I would therefore award HK\$9,500.00 x 14 months x 5% MPF under this head. That works out to be HK\$139,650.00. Starting from 15 March 2007, the Plaintiff had a permanent job as a bus driver for Kowloon Motor Bus. His basic salary was HK\$6,800.00 per month and he was paid HK\$1,430.00 safety driving bonus, and a further HK\$1,430.00 for good service bonus. His actual earnings had therefore not been reduced. For loss of earning capacity, the Plaintiff's right ankle after treatment and physiotherapy, had suffered some pain and weakness, and disability was assessed at 1.5%. As a bus driver, the use of his right foot was fundamental. The loss of earning capacity, although the Plaintiff could resume his work in almost full capacity, refers to the Plaintiff's handicap as an existing disability by reference to what may happen in the future. It is speculative in nature and it is necessarily a consideration of the risk and chances in the circumstances of the case. I would make an award of HK\$50,000.00, roughly about 5 months earnings, under this head, to take into account the future risk of the Plaintiff's handicap to his earning capacity. For Special Damages, the medical fees for consultation and physiotherapy, which were supported with receipts, amounted to HK\$5,320.00. A break down of traveling expenses was also provided. An amount of HK\$2,000.00 for traveling expenses would also be allowed. I would also award HK\$3,000.00 for tonic food. There was a claim for HK\$2,980.00 for a leg massage machine. I should think this claim was a little remote as the injury was related to the right ankle and not to the legs. I therefore declined to make this award. The total amount for Special Damages therefore came up to HK\$10,320.00. The ECC award of HK\$97,066.66 would be accountable on the final assessment. To summarise, the amounts awarded therefore were:

- (1) PSLA HK \$80,000.00
- (2) Loss of pre-trial earnings HK\$139,650.00
- (3) Loss of earning capacity HK\$ 50,000.00

(4) Special Damages HK\$ 10,320.00 HK\$279,970.00 LESS ECC Award HK\$ 97,066.66 Total: HK\$ 182,903.34 Judgment is therefore given in favour of the Plaintiff against the 1st and 2nd Defendants for the amount of HK\$182,903.34. All general damages shall carry interest at 2% p.a. from the date of the writ until judgment (handing down) and thereafter at judgment rate until full satisfaction of the judgment award to the Plaintiff. All special damages shall carry interest at half judgment rate from the date of the accident until judgment and thereafter at judgment rate until full payment. I also order the Defendants to pay the Plaintiff s costs of this action, to be taxed, if not agreed. This shall be a cost order nisi and be made absolute 14 days after judgment. (W.C.Li) Deputy District Judge Representation: Mr. B. Chan of Messrs B. Mak & Co. for the Plaintiff The 1st and 2nd Defendants, in person, absent PAGE - PAGE A B C D E F G H I J K L M N O P Q R S T U V 1udk 1udk H I J K L M N O P Q R S T U V (#p# (#p# (#p# &`#\$ >\*6D P{ \$ :i#z \*\mT zo/< `0,: xC&1 ({m8 =J+> P0} W~7gb ^CuNy\$O W~7g xC&1 ({m8 =J+> 43n2 .&`z n*U & 6" ABC.dot setup Microsoft Word 9.0 Judiciary Title Microsoft Word Document MSWordDoc Word.Document.8

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE	https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=56578
CASE PAGE	https://chat.esheria.ai/case-law/hong-kong/wong-wai-hung-v-loo-kin-and-another-2007

Prepared on 28 October 2026 · Esheria