

Employees Compensation Assistance (Amendment) Bill 2002

Disaster Injury - Summary of Recent Judgment Awards

| | | | | | |
|--|---|-----------|-----------|------------|-------------|
| <p>1. <i>Ng Kwok Wing v. Lau Ping Kwan (t/a Kei Yip Engineering Co.)</i> [1996] 4 HKC 667 Date of Accident: October 1987, Date of Judgment: May 1996</p> | | | | | |
| <p>The Plaintiff was a metal worker and welder who became a paraplegic as a result of an industrial accident. The case was not defended. He was aged 47 at the date of judgment. \$1,095,120.30 was paid from the ECA Fund to the Plaintiff as Employees' Compensation in April 1996.</p> <p>The Plaintiff was earning \$9,000 per month at the time of accident and he would have been earning \$18,343 per month at the date of trial. Multiplier for loss of future earnings was 13.5. Multiplier for future expenses was 22.</p> | <p>Total Damages Awarded: \$14,791,193.70 including -</p> <p>A. Loss of earnings</p> <table style="margin-left: 40px;"> <tr> <td>Pre-trial</td> <td style="text-align: right;">\$868,188</td> </tr> <tr> <td>Post-trial</td> <td style="text-align: right;">\$2,911,658</td> </tr> </table> <p>B. Alternative accommodation</p> <p style="text-align: right;">\$1,500,000</p> <p>C. Future care and management</p> <p style="text-align: right;">\$7,902,320 (\$359,196 per annum approximately)</p> <p>* Employees' Compensation of \$1,095,120.30 was deducted</p> | Pre-trial | \$868,188 | Post-trial | \$2,911,658 |
| Pre-trial | \$868,188 | | | | |
| Post-trial | \$2,911,658 | | | | |
| <p>2. <i>Choi Mei Ho v. Chung Chiu Ying t/a Kin Kee</i> HCPI 784/1995, [1997] HKCFI 130 Date of Accident: December 1988, Date of Judgment: March 1997</p> | | | | | |
| <p>The 37 year old Plaintiff was a labourer working in a construction site where she suffered severe injuries, leaving her a complete paraplegic. Trial proceeded in the absence of the relevant defendant.</p> <p>The Plaintiff was 46 at date of trial. Her average monthly earnings before the accident was \$5,250 per month and she would be earning \$12,100 at the date of trial but for the accident.</p> | <p>Total Damages Awarded: \$7,104,374.00 including -</p> <p>A. Loss of earnings</p> <table style="margin-left: 40px;"> <tr> <td>Pre-trial</td> <td style="text-align: right;">\$850,150</td> </tr> <tr> <td>Post-trial</td> <td style="text-align: right;">\$1,452,000</td> </tr> </table> <p>B. Alternative Accommodation</p> <p style="text-align: right;">\$883,780</p> | Pre-trial | \$850,150 | Post-trial | \$1,452,000 |
| Pre-trial | \$850,150 | | | | |
| Post-trial | \$1,452,000 | | | | |

| | | | | | |
|--|--|-----------|-------------|------------|-------------|
| <p>Multiplier for loss of future earnings was 10. Multiplier for future expenses was 12.</p> <p>(** The Plaintiff of her own choice had selected to live in Shenzhen, PRC, where she was able to engage a nurse and maid to take care of her at a cheaper price. The court awarded damages on this basis accordingly.)</p> | <p>C. Future care and management</p> <p style="text-align: right;">\$2,047,394 (\$204,739 per annum approximately)</p> <p>* Employees' Compensation of \$569,387 was deducted</p> | | | | |
| <p>3. <i>Ta Xuong v. Incorporated Owners of Sun Hing Building</i> [1997] 4 HKC 171 Date of Accident: February 1991, Date of Judgment: October 1997</p> | | | | | |
| <p>The 37 year old Plaintiff climbed out of a window to investigate a leak, using a scaffolding outside the Defendants' building. The scaffolding collapsed, the Plaintiff fell and suffered injuries leaving him a quadriplegic.</p> <p>He earned \$134,160 per annum (i.e. \$11,180 per month) at the date of accident and would have earned \$264,816 (i.e. \$22,068 per month) per annum at trial.</p> <p>Multiplier of 16 was adopted for future loss of earnings. Multiplier for cost of future care was 18.</p> | <p>Total Damages Awarded: \$25,725,287.00 including -</p> <p>A. Loss of earnings</p> <table style="margin-left: 40px;"> <tr> <td>Pre-trial</td> <td style="text-align: right;">\$1,316,608</td> </tr> <tr> <td>Post-trial</td> <td style="text-align: right;">\$4,231,248</td> </tr> </table> <p>B. Alternative accommodation</p> <p style="text-align: right;">\$1,176,566</p> <p>C. Cost of nursing, medical care and equipment</p> <p style="text-align: right;">\$11,065,672 (\$614,760 per annum approximately)</p> <p>D. Future aids & equipment (for a multiplier of 15)</p> <p style="text-align: right;">\$3,300,093 (\$220,006 per annum approximately)</p> <p>* Employees' Compensation of \$1,011,506.00 was deducted</p> | Pre-trial | \$1,316,608 | Post-trial | \$4,231,248 |
| Pre-trial | \$1,316,608 | | | | |
| Post-trial | \$4,231,248 | | | | |

4. *Lee Suk Yin v. National Insurance Co. Ltd.* HCPI 439/2000, [2001] HKCFI 983
Date of Accident: April 1997, Date of Judgment: September 2001

The Plaintiff was injured in a traffic accident which left him an incomplete quadriplegic (or incomplete tetraplegic). He was 24 years old at the date of judgment.

The Plaintiff started to work as a glazier apprentice 3 months before the accident, earning a monthly of \$9,500. The court accepted that had he completed the apprentice, he would be able to earn a daily wage of \$849 for 26 days per month (i.e. \$22,074 per month).

Multiplier for loss of future earnings was 16.
Multiplier for future expenses was 19.

Total Damages Awarded: \$21,730,982 including -

A. Loss of earnings

| | |
|------------|-------------|
| Pre-trial | \$967,579 |
| Post-trial | \$4,450,118 |

B. Alternative accommodation

\$3,330,000

C. Future care and management

| | |
|--|-------------------------------------|
| | \$8,904,590 |
| | (\$468,663 per annum approximately) |

** This is not a case of employment-related injury, however, it is given as an recent example of court assessment in disaster injury cases. The basis of assessment is same as in employment-related injury, although the cause of the injury is different.