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

[2024] SGHC 42

Suit No 994 of 2019

Between

(1) Rajina Sharma d/o Rajandran
suing by her litigation representative Theyvasigamani s/o Periasamy

… *Plaintiff*

And

(1) Theyvasigamani s/o Periasamy
(2) Jasmani bin Jaffar

… *Defendants*

And

(1) Song Teck Chong

… *Third Party*

JUDGMENT

[Damages — Measure of damages — Personal injuries cases — General damages — Pain and Suffering — Loss of future earnings — Loss of retirement benefits — Future losses and expenses]
[Damages — Measure of damages — Personal injuries cases — Paragraph 159 of the Supreme Court Practice Directions 2013 — Application of "Actuarial Tables with Explanatory Notes for use in Personal Injury and Death Claims" — Adjustment for other vicissitudes]

[Damages — Measure of damages — Personal injuries cases — Appropriate multiplier and multiplicand]
[Damages — Measure of damages — Personal injuries cases — Pre-trial expenses — Pre-trial loss of earnings — Pre-trial loss of earnings of the plaintiff's caregiver]
[Damages — Measure of damages — Personal injuries cases — Whether the plaintiff is entitled to damages for pre-trial loss of earnings of the plaintiff's caregiver, who is also the tortfeasor]

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Rajina Sharma d/o Rajandran (suing by her litigation representative Theyvasigamani s/o Periasamy)
v
Theyvasigamani s/o Periasamy and another (Song Teck Chong, third party)

[2024] SGHC 42

General Division of the High Court — Suit No 994 of 2019
Teh Hwee Hwee J
13 – 16 September 2022, 4 May 2023, 3 January 2024

13 February 2024 Judgment reserved.

Teh Hwee Hwee J:

Introduction

1 These proceedings concern the assessment of damages suffered by the plaintiff in an unfortunate road traffic accident that changed the course of her life. An important question is raised as to whether an additional discount should be applied to awards for loss of future earnings and other future losses that are calculated based on the application of actuarial tables in Hauw Soo Hoon *et al*, *Actuarial Tables with Explanatory Notes for use in Personal Injury and Death Claims* (Academy Publishing, 2021) ("Singapore Actuarial Tables"), which account for the accelerated receipt of lump sum compensation and the risk of mortality but not other contingencies and vicissitudes of life.

Background facts

2 The plaintiff was born on 8 December 1984. She was almost 32 years old and was working as a Senior Staff Sergeant in the Singapore Police Force ("SPF") at the time of the accident.[1] She was 37 years old at the time of the hearing for the assessment of damages.

3 On 2 November 2016 at about 8 am, the first defendant was riding his motorcycle bearing vehicle registration number FBC 175P along the Central Expressway towards Ayer Rajah Expressway. Riding pillion on the first defendant's motorcycle was his wife, the plaintiff. At the material time, the second defendant was travelling in front of the first defendant's motorcycle when the second defendant skidded and fell from his motorcycle bearing vehicle registration number FBH 8672S. The first defendant applied his brakes abruptly to avoid a collision but crashed into the rear of the second defendant's motorcycle. The impact of collision caused the plaintiff to be flung off from the first defendant's motorcycle and she sustained very severe injuries as a result.[2]

4 The plaintiff was rushed to Tan Tock Seng Hospital ("TTSH"), where she was resuscitated. She was hospitalised for more than four months, from 2 November 2016 to 11 March 2017, and had to undergo a number of medical procedures, including the insertion of a left intracranial pressure monitor,

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1 Mr Theyvasigamani s/o Periasamy's ("Mr Mani") affidavit of evidence-in-chief ("AEIC") dated 30 May 2022 at para 19; Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 6 at S/N 7.

2 Mr Mani's AEIC dated 30 May 2022 at paras 1, 4–6 and 9–10; Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 42 (Specialist medical report dated 30 July 2018 by Dr Vincent Ng Yew Poh (Consultant, Department of Neurosurgery, Tan Tock Seng Hospital ("TTSH") National Neuroscience Institute) at p 1).

insertion of a right chest tube and a percutaneous tracheostomy.[3] She also had to undergo multiple treatments during her hospitalisation and after her discharge from the hospital.[4] The plaintiff suffered a multitude of injuries as a result of the accident. They are as follows:[5]

(a) severe traumatic brain injury with right hemiparesis and permanent impairments of language and cognition, with resultant loss of functional independence;

(b) right homonymous hemianopia (*ie*, loss of vision of the right visual field in both eyes)[6] and superficial right upper eyelid laceration;

(c) right traumatic third nerve palsy with aberrant regeneration affecting the face (*ie*, haphazard growth of nerves resulting in

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3 Dr Ng Yew Poh's AEIC dated 5 August 2022 at pp 42–43 (Specialist medical report dated 30 July 2018 by Dr Vincent Ng Yew Poh (Consultant, Department of Neurosurgery, TTSH National Neuroscience Institute) at pp 1–2).

4 Dr Ng Yew Poh's AEIC dated 5 August 2022 at pp 56–57 (Specialist medical report dated 4 November 2019 by Dr Vincent Ng Yew Poh (Consultant, Department of Neurosurgery, TTSH National Neuroscience Institute) at pp 1–2).

5 Dr Ng Yew Poh's AEIC dated 5 August 2022 at pp 56–57 (Specialist medical report dated 4 November 2019 by Dr Vincent Ng Yew Poh (Consultant, Department of Neurosurgery, TTSH National Neuroscience Institute) at pp 1–2); Dr Kong Keng He's AEIC dated 5 July 2022 at pp 12–13 (Specialist medical report dated 19 July 2021 by Dr Kong Keng He (Senior Consultant, Department of Rehabilitation Medicine, TTSH Rehabilitation Centre) at pp 1–2); Dr Lee Kuan Ming, Llewellyn's AEIC dated 3 August 2022 at p 8 (Ordinary medical report dated 24 September 2019 by Dr Zhou Wenting (Senior Resident, Department of Ophthalmology, TTSH) at p 1); Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 54 (Clarification of Specialist medical report dated 26 September 2019 by Dr Vincent Ng Yew Poh (Consultant, Department of Neurosurgery, TTSH National Neuroscience Institute) at p 1); Dr Gil Doy Alizer's AEIC dated 2 August 2022 at p 8 (Medical report dated 1 October 2019 by Dr Gil Doy Alizer at p 1).

6 Notes of Evidence ("NE") dated 15 September 2022 at p 44 at lines 25–30.

these nerves controlling incorrect muscles),[7] and laceration of her right upper and lower lips;

(d) injury to the chest, which forms the basis for the plaintiff's claim for damages for 7 rib fractures at the right 1st, 4th, 5th, 9th, 10th, 11th and 12th ribs, and right pneumothorax and pleural effusion;

(e) injury to the pelvis consisting of abrasions over the right pelvic area;

(f) injury to the shoulder consisting of abrasions and a mildly displaced left coracoid process fracture; and

(g) abrasions, lacerations and scarring.

5 As mentioned above, the plaintiff had been working as a Senior Staff Sergeant in the SPF at the time of the accident. Prior to joining the SPF, the plaintiff worked part-time jobs after taking the GCSE "O" Level examinations when she was 16 years old. She worked in various food and beverage establishments as a server.[8] The plaintiff joined the SPF in 2003, when she was 19 years old, and was in full-time service for 13 years until the accident.[9] During her employment in the SPF, the plaintiff rose through the ranks from Corporal (2003 to 2009), to Sergeant (2009 to 2014),[10] to Staff Sergeant (2014 to 2016),[11] and to Senior Staff Sergeant (2016 to 2019, when her service had to be

7 NE dated 15 September 2022 at p 37 at lines 12–19.

8 NE dated 14 September 2022 at p 15 at line 19 to p 16 at line 5.

9 NE dated 14 September 2022 at p 15 at lines 12–15.

10 Mr Mani's AEIC dated 30 May 2022 at pp 82 and 94.

11 Mr Mani's AEIC dated 30 May 2022 at pp 82 and 105.

terminated).[12] Her performance at work was recognised with various accolades, including, amongst others,[13] the Singapore Police Good Service Medal (2009), the Singapore Police Long Service and Good Conduct Medal (2014), the Minister for Home Affairs' Operational Excellence Awards (Team – 2009 (two awards)), and the Commissioner of Police's Commendations (Team – 2010, 2011, 2013 (two awards), 2014, 2015 and 2017).[14] A further example that speaks to the plaintiff's performance is her assignment to the Special Women Task Team for the 20th Asia Pacific Economic Cooperation Meeting held in Singapore in 2009, and a letter of appreciation commending her for her outstanding performance and sacrifices.[15]

6 The plaintiff brought an action in negligence against the first and second defendants. The third party, the driver of a vehicle involved in a separate collision in the immediate vicinity of the accident that shortly preceded the accident, was brought in as a party by the first defendant.[16]

7 The plaintiff is suing by her litigation representative, who is her husband and also the first defendant. I will henceforth refer to the plaintiff's litigation representative as "Mr Mani". Mr Mani was appointed by order of the Family Justice Courts under FC/ORC 1628/2019 on 3 April 2019 as the Deputy of the property and affairs of the plaintiff, for the purpose of making enquiries and having the powers and authority to, *inter alia*, represent the plaintiff, commence

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12 Mr Mani's AEIC dated 30 May 2022 at pp 82 and 108.

13 Mr Mani's AEIC dated 30 May 2022 at pp 85–122.

14 Mr Mani's AEIC dated 30 May 2022 at p 82.

15 Mr Mani's AEIC dated 30 May 2022 at p 97.

16 Mr Mani's AEIC dated 30 May 2022 at paras 7–8; First defendant's Statement of Claim Against the Third Party at p 5; Interlocutory judgment dated 4 February 2021 (Mr Mani's AEIC dated 30 May 2022 at TP-7).

legal proceedings, act on behalf of the plaintiff and give all instructions to solicitors pertaining to all claims for damages or otherwise that the plaintiff may have as a result of the injuries sustained by her in the accident.[17]

8 Each party in this action is separately represented by counsel. The insurers of each of the defendants and the third party have conduct of the cases of the defendants and the third party. The second defendant indicates in his brief closing submissions that being "a minor contributor to the Plaintiff's damages", he "will follow" the submissions of the first defendant, and that his closing submissions are intended to supplement the first defendant's closing submissions and "will only highlight or emphasise various points".[18] The third party indicates in his closing submissions that he "fully concur [*sic*] with the [first and second defendants'] submissions".[19]

9 Interlocutory judgment was entered by consent on 4 February 2021 in the following terms:[20]

(a) Interlocutory judgment is entered for the plaintiff against the first and second defendants at 100%, with damages to be assessed and interest and costs reserved.

(b) The first defendant bears 75% liability while the second defendant bears 25% liability.

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17 FC/ORC 1628/2019 Order of Court dated 3 April 2019 (the plaintiff's bundle of documents Vol 1 ("PBD1") at p 283).

18 Second defendant's closing submissions ("2DCS") at para 4.

19 Third party's closing submissions ("3PCS") at para 4.

20 Interlocutory judgment dated 4 February 2021 (Mr Mani's AEIC dated 30 May 2022 at TP-7).

(c) By consent, with respect to the first defendant's liability in the main proceedings, the third party is to indemnify the first defendant to the extent of 10% of all damages and interest payable to the plaintiff.

(d) There is to be no order as to costs in the third party proceedings.

10 The assessment of damages was fixed for hearing from 13 to 16 September 2022. The hearing could not be completed and was delayed for a number of months due to an application taken out by the plaintiff in HC/SUM 3267/2022 on 2 September 2022, 11 days before the hearing, to obtain evidence relating to the plaintiff's income from the SPF. The application was dismissed by the learned Assistant Registrar but allowed by me on appeal. In response to the particulars provided by the SPF, the first defendant adduced expert evidence relating to the future annual rate of return that the plaintiff's funds would have earned from the Homes Affairs Uniformed Services ("HUS") Invest Fund, an investment scheme for SPF officers ("INVEST Scheme").[21] A second tranche of hearings was subsequently fixed to deal with the issue and the cross-examination of the first defendant's expert on his report.

Issues to be determined

11 The issues for determination are as follows:

(a) What the award of damages for pain and suffering for the plaintiff's injuries should be;

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21 Mr Iain Potter's ("Mr Potter") AEIC dated 5 April 2023 at paras 4–5 and pp 5–331.

(b) Whether there should be an additional discount applied to awards for loss of future earnings and other future losses that are calculated based on the Singapore Actuarial Tables;

(c) What the award for the plaintiff's loss of future earnings should be;

(d) What the award for the plaintiff's loss of retirement benefits under the INVEST Scheme should be;

(e) What the award for the plaintiff's future miscellaneous supplies and transport expenses should be;

(f) What the award for the plaintiff's future caregiver expenses should be;

(g) What the award for the plaintiff's pre-trial transport expenses should be;

(h) What the award for the plaintiff's pre-trial medical equipment expenses should be;

(i) What the award for the plaintiff's pre-trial loss of earnings should be; and

(j) Whether the plaintiff is entitled to claim for the pre-trial loss of earnings of Mr Mani, who was her caregiver, and if so, what the quantum should be.

The decision

12 Having considered the evidence and the submissions of the parties, I award the plaintiff damages in the sum of $3,378,231.99 as summarised at the conclusion of this judgment at [206].

General damages

Pain and suffering

13 The plaintiff claims damages for pain and suffering in five main categories of injuries: (a) traumatic brain injury; (b) partial loss of vision; (c) injury to the chest; (d) injury to the shoulder; and (e) abrasions, lacerations and scarring.[22] Overall, she claims a total of $299,500 for pain and suffering.[23] The first defendant submits that she is only entitled to $220,000.

14 The approach for quantifying pain and suffering in a case where a claimant has suffered multiple injuries was set out by the Court of Appeal in *Lua Bee Kiang (administrator of the estate of Chew Kong Seng, deceased) v Yeo Chee Siong* [2019] 1 SLR 145 ("*Lua Bee Kiang*") at [13]–[18]. Briefly, where a claimant has suffered multiple injuries, the court is to apply a two-stage analysis. At the first stage, the component method is to be applied to ensure that the loss arising from each distinct injury is accounted for and quantified (at [13]). Reference may be made to the assessment guidelines at this stage, but these are no more than guidelines (at [15]). At the second stage, the global method is to be applied to ensure that the overall award is reasonable and neither excessive nor inadequate (at [13]). This exercise seeks to address at least two

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22 Plaintiff's closing submissions ("PCS") at para 80.

23 PCS at para 84.

considerations: (a) to avoid overcompensation by accounting for "overlapping" injuries (*ie*, injuries which either together resulted in pain that would not have been differentially felt by the claimant or together gave rise to only a single disability) (at [17]); and (b) to consider relevant precedents to reach a fair estimate of loss and to ensure that like cases are treated alike (at [18]).

15 I will begin by applying the component method to ensure that the loss arising from each distinct injury is accounted for and quantified, before applying the global method to ensure that the overall award is reasonable and just (*Lua Bee Kiang* at [11]–[13]).

(1) Traumatic brain injury

(A) SUBMISSIONS OF THE PARTIES

16 Counsel for the plaintiff submits that the plaintiff has suffered very severe brain damage. In this regard, he relies on the medical reports of the doctors who treated the plaintiff or assessed her condition.[24] He also refers to Charlene Chee *et al, Guidelines for the Assessment of General Damages in Personal Injury Cases* (Academy Publishing, 2010) ("the 2010 Guidelines"), which places the range for an award of damages for very severe brain damage from $160,000 to $250,000. He submits that the plaintiff should be entitled to an award on the "higher end of the scale" and argues that $250,000 is not unreasonable.[25]

17 Counsel for the plaintiff further relies on the case of *Muhammad Adam bin Muhammad Lee (suing by his litigation representatives Noraini bte Tabiin*

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[24] PCS at paras 25–31.

[25] PCS at paras 32 and 35.

and Nurul Ashikin bte Muhammad Lee) v Tay Jia Rong Sean [2022] 4 SLR 1045 ("*Muhammad Adam*"), where the court awarded the sum of $185,000 for traumatic brain injury. In that case, the plaintiff suffered multiple skull fractures and a large extradural haemorrhage. He had to undergo a number of surgeries and was left with a bone depression as a result of his decompressive craniectomy surgery, as well as large scars on his head. His recovery period was about four and a half months before he could be discharged from the hospital, and complications arose during his recovery period (at [38]–[40]). While he was capable of managing activities of daily living on his own, cooking simple meals and navigating and travelling unsupervised on familiar routes, he still required at least some degree of supervision in his daily life (at [56]). The court found that he was not capable of living independently and would face difficulties in mitigating risks to his own safety if he were to live alone (at [75]).

18 In the plaintiff's claim for $250,000 for her traumatic brain injury, she includes in this figure her claim for injuries affecting her face and right eye.[26] She also claims, separately, $15,000 under another head of injury for visual impairment.[27] Counsel for the plaintiff submits that it is "reasonable and just to conclude that the injuries to the eye particularly [*sic*] right traumatic third nerve palsy and right homonymous hemianopia were secondary to the brain injury and therefore it should be part of the traumatic brain injury header".[28] Despite that submission, counsel for the plaintiff proceeds to argue that the plaintiff's partial loss of vision "was a consequence of the accident and should not be considered

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26 PCS at para 80(b).

27 PCS at paras 49 and 80(c).

28 PCS at para 82.

as part of the Traumatic Brain Injury".[29] In other words, according to counsel for the plaintiff, although the plaintiff's visual impairment was a consequence of the brain injury, it should nevertheless be considered as distinct from the traumatic brain injury.

19 Counsel for the first defendant did not make any submission specifically on the award for traumatic brain injury in his closing submissions. He only contends that a global award of $220,000 should be granted for pain and suffering.[30] In his reply submissions, counsel for the first defendant submits that the plaintiff is only entitled to an award of $200,000 for traumatic brain injury. He concedes that the overall disabilities of the plaintiff here are more serious than those of the plaintiff in *Muhammad Adam*. He argues, nevertheless, that the plaintiff's claim of $250,000 is excessive. As the parties agree that the plaintiff is expected to live up to the age of 72 as opposed to the age of 86 for other females born in the same year,[31] the plaintiff will continue to feel pain, or suffer from her injuries, for a shorter period of time. In this regard, the first defendant's counsel argues that there was no evidence of life-shortening in *Muhammad Adam*.[32] Further, the plaintiff in *Muhammad Adam* was 23 years old at the time of the accident, younger than the plaintiff here, who was almost 32 years old when she met with the accident. This means that the plaintiff here would suffer for a shorter period of time as compared to the plaintiff in *Muhammad Adam*.

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29 PCS at para 83.

30 First defendant's closing submissions ("1DCS") at para 18.

31 1DCS at para 20; PCS at para 115.

32 First defendant's reply submissions ("1DRS") at para 27.

20 As regards the consequences of the traumatic brain injury, counsel for the first defendant contends that there was no direct injury to the eye from the accident, and that the partial loss of vision was secondary to the traumatic brain injury. It should thus be subsumed under the claim for traumatic brain injury, and no separate award of damages should be made.[33] The second defendant similarly submits that the right traumatic third nerve palsy and right homonymous hemianopia were consequences of the traumatic brain injury, and that the plaintiff's partial loss of vision should therefore not be considered as distinct or separate from the traumatic brain injury.[34]

(B) MEDICAL EVIDENCE

21 According to a medical report dated 30 July 2018 by Dr Vincent Ng Yew Poh (Consultant, TTSH Department of Neurosurgery) ("Dr Ng"),[35] who was called as the plaintiff's witness, the plaintiff was comatose with a Glasgow Coma Scale ("GCS") of three at the scene of the accident. She had a large left intracerebral haemorrhage with some subarachnoid haemorrhage and was managed in the Neurosurgical Intensive Care Unit until her brain swelling subsided.

22 Her mental impairment was evaluated to be permanent and to meet the criteria at row three of the table for "Criteria for evaluating impairment related to mental status" at page 73 of the *Guide to Assessment of Traumatic Injuries*, which indicates that she suffered from a combination of several of the following conditions:

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33 1DRS at para 24.

34 2DCS at para 8.3.

35 Dr Ng Yew Poh's AEIC dated 5 August 2022 at pp 42–43.

> Severe memory loss, only highly learned material retained; severe difficulty with time relationships; severely impaired in solving problems, similarities and differences; social judgement usually impairment; only simple chores preserved; very restricted interests, poorly maintained; needs assistance in dressing, hygiene, keeping of personal effects.

23 There were various other medical assessments made by Dr Ng. He examined the plaintiff on 23 May 2017, and noted the following: (a) she did not respond to her name; (b) her attention span was short; (c) her response was delayed and inconsistent; and (d) she appeared to have significant cognitive deficit.[36] According to a medical report dated 14 November 2017, Dr Ng recorded that the plaintiff had dense right-sided weakness of her limbs and significant speech difficulty.[37] No notable changes were recorded in Dr Ng's further medical reports dated 4 November 2019[38] and 9 December 2021.[39] The plaintiff was also examined by a neuropsychologist on 31 July 2017, and the following was noted: (a) she was not oriented to time and place; (b) she had impaired memory with difficulty in new learning; and (c) she was assisted in her activities of daily living, namely dressing, bathing and toileting.[40]

24 Dr Kong Keng He (Senior Consultant, Department of Rehabilitation Medicine, TTSH Rehabilitation Centre) ("Dr Kong") also evaluated the plaintiff. Dr Kong recorded in his medical report dated 19 July 2021 that

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36 Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 35 (Medical report dated 14 November 2017 by Dr Vincent Ng Yew Poh (Senior Consultant, Neurosurgery, TTSH) at p 3).

37 Dr Ng Yew Poh's AEIC dated 5 August 2022 at pp 33–38.

38 Dr Ng Yew Poh's AEIC dated 5 August 2022 at pp 56–57.

39 Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 59.

40 Dr Ng Yew Poh's AEIC dated 5 August 2022 at pp 34–35 (Medical report dated 14 November 2017 by Dr Vincent Ng Yew Poh (Senior Consultant, Neurosurgery, TTSH) at pp 2–3).

Mr Mani had reported, *inter alia*, that the plaintiff had impaired memory and short-term memory of day-to-day events. In relation to her mobility, Dr Kong noted from his review of the plaintiff on 14 January 2021 that she was able to walk short distances at home with the aid of a quad stick, a right ankle-foot orthosis and one person's moderate assistance. Dr Kong also noted that it had been several years post-injury and that further significant functional improvements were therefore highly unlikely. Dr Kong concluded that the plaintiff had suffered "a severe traumatic brain injury … with permanent impairments of right hemiparesis, language and cognition, leading to loss of functional independence and the need for a fulltime carer".[41]

25 Dr Ho Kee Hang (Consultant Neurosurgeon, K H Ho Neurosurgery) ("Dr Ho") was called as the first defendant's witness. He examined the plaintiff on 18 January 2022[42] and noted in his medical report dated 18 February 2022 that the plaintiff "[had] recovered enough to be able to feed independently and to understand speech". Dr Ho subsequently clarified under cross-examination that although he had stated that the plaintiff had recovered enough "to understand speech", he had meant that her speech function was still "severely impair[ed]", and that her ability to express herself was more severely affected than her ability to understand.[43] Dr Ho also reported that the plaintiff still suffered severe disabilities which were expected to be permanent, including the spasticity of her right limbs. These disabilities rendered it "impossible for her to stand or walk independently". She had to wear diapers because of "urgency

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41 Dr Kong Keng He's AEIC dated 5 July 2022 at pp 13–14 (Specialist medical report dated 19 July 2021 by Dr Kong Keng He (Senior Consultant, Department of Rehabilitation Medicine, TTSH Rehabilitation Centre) at pp 2–3).

42 Dr Ho Kee Hang's AEIC dated 21 July 2022 at pp 1–11.

43 NE dated 16 September 2022 at p 60 at lines 8–24.

incontinence of micturition". Further, she was dependent on a fulltime caregiver for her activities of daily living. Dr Ho noted that the cognitive disabilities of the plaintiff, as described by Dr Kong, were consistent with her head injuries.[44]

26 As for the plaintiff's partial loss of vision,[45] this was addressed in a medical report provided by Dr Zhou Wenting (Senior Resident, TTSH Department of Ophthalmology) ("Dr Zhou") on 24 September 2019. According to the report, at the time of the accident in November 2016, the plaintiff was diagnosed with right traumatic third cranial nerve palsy secondary to brain injury. Dr Zhou also documented that during a follow-up examination on 12 April 2017, the plaintiff's visual acuity was observed to be 6/30 in both eyes. This measurement indicates that what a person with normal vision can see at 30 feet, the plaintiff can only perceive at six feet. Further, right traumatic third cranial nerve palsy with aberrant regeneration was noted to be present. The report specified that on further consultation with a neuro-ophthalmology on 30 May 2017, the plaintiff was assessed for right traumatic third cranial nerve palsy with aberrant regeneration. Right homonymous hemianopia was also found during the consultation. Both the right traumatic third nerve palsy and right homonymous hemianopia were assessed by Dr Zhou as likely to be permanent. Dr Zhou made it clear in the report that there was no direct injury to the plaintiff's eye from the accident, and that the right traumatic third nerve palsy and right homonymous hemianopia were secondary to the traumatic brain injury.[46]

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44 Dr Ho Kee Hang's AEIC dated 21 July 2022 at p 11 (Specialist medical re-examination and report dated 18 February 2022 by Dr Ho Kee Hang (Consultant, Neurosurgery, Mount Elizabeth Medical Centre) at p 3).

45 PCS at para 49.

46 Dr Lee Kuan Ming, Llewellyn's AEIC dated 3 August 2022 at p 8.

(C) ANALYSIS AND FINDINGS

27 It cannot be disputed that the traumatic brain injury suffered by the plaintiff is very severe. According to the 2010 Guidelines (at page 3), the GCS scale is eight and below for cases of very severe brain damage. In this case, the plaintiff was comatose with a GCS score of three at the scene of the accident. Based on the same guidelines (at pages 3–4), the top range of the award is applicable to cases where the injured person suffers from severe physical limitations, has very limited ability to interact with his or her environment meaningfully, has little or incomprehensible language function, has urinary and faecal incontinence, and requires full-time nursing care.

28 By all accounts, the plaintiff was active and physically fit, and was a fully-functioning and contributing member of society before the accident. But now, she suffers from very grave functional deficits. Based on Dr Kong's medical report dated 19 July 2021, she could only walk short distances at home with the aid of a quad stick, a right ankle-foot orthosis and one person's moderate assistance. She is not only home-bound but also effectively wheelchair-bound. Other than her physical handicaps, she has significant cognitive disabilities and speech difficulties. It is in evidence that the plaintiff is only able to say one or two words.[47] Further, she has to wear diapers due to urinary and faecal incontinence, and has to rely on a full-time caregiver for her activities of daily living. In addition, she has to live with her partial loss of vision.

29 Counsel for the first defendant has rightly conceded that the traumatic brain injury suffered by the plaintiff is more serious than the plaintiff in

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47 1DCS at para 17; NE dated 13 September 2022 at p 72 at line 29 to p 73 at line 31.

Muhammad Adam. Indeed, I note that she had a GCS score of three at the scene of the accident whereas the plaintiff in *Muhammad Adam* had a score of five (at [12]). Critically, the functional deficits suffered by the plaintiff in *Muhammad Adam* were of a different order. On appeal, the Appellate Division of the High Court revised the award for future costs of a caregiver as the plaintiff in that case was not only capable of managing his activities of daily living, but was also able to "function in society without supervision, including travelling on public transport, managing small expenditure and being able to pen written communication" (Editorial Note to *Muhammad Adam* on Civil Appeal No 137 of 2021). The award of damages for traumatic brain injury for the plaintiff here should therefore be higher than the $185,000 granted to the plaintiff in *Muhammad Adam*.

30 I note that in this case, unlike the plaintiff in *Muhammad Adam*, the plaintiff did not suffer any injury to her skull, bone depression or scarring of her head. But this must be weighed against the fact that the plaintiff here had lost part of her vision, and that her face was affected by the right traumatic third nerve palsy with aberrant regeneration. I agree with the first and second defendants that these injuries should be considered as part of the plaintiff's traumatic brain injury because these injuries were associated with, and consequential to, the traumatic brain injury. I therefore take into account the plaintiff's partial loss of vision and the effects of the traumatic brain injury on her face in assessing the severity of her injury and the compensation to award under the head of claim for traumatic brain injury.

31 Taking all the factors into account, including the fact that the plaintiff has a lowered life expectancy which will reduce the compensation that she is entitled to, I award the plaintiff $205,000 in damages for her traumatic brain

injury. This amount falls within the suggested range of damages under the "Very severe brain damage" category in the 2010 Guidelines, and is comparable to the award in *Muhammad Adam* after the severity of the plaintiff's injury is duly accounted for.

(2) Partial loss of vision

32 As noted at [18], the plaintiff has made a separate claim for her partial loss of vision. Counsel for the plaintiff submits that a sum of $15,000 is appropriate based on the 2010 Guidelines and the precedent of *Ang Siam Hua v Teo Cheng Hoe* [2004] SGHC 147.[48] I have already dealt with the plaintiff's partial loss of vision and compensated her for that under the award of damages for traumatic brain injury. I therefore make no separate award for her partial loss of vision.

(3) Chest injury

(A) SUBMISSIONS OF THE PARTIES

33 The plaintiff claims $20,000 for her rib fractures and right pneumothorax and pleural effusion.[49] On the other hand, counsel for the first defendant submits that $16,000 would be a fair award.[50]

34 Referring to the 2010 Guidelines, counsel for the plaintiff submits that the plaintiff's chest injuries are "minor" and include the bruises and fractures of ribs which cause serious pain and disability over a period of weeks, but with no

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48 PCS at paras 47–49.

49 PCS at para 61.

50 1DRS at para 31.

lasting disabilities.[51] According to the 2010 Guidelines, the sum of $2,000 per rib is generally awarded, although overlapping injuries must be taken into consideration, with $3,000 to $4,000 added for pneumothorax or haemothorax. Counsel for the plaintiff also refers to the cases of *Lee Seow Chuan v Trans-Island Bus Services Pte Ltd & Anor* (DC Suit No 1442 of 2000) ("*Lee Seow Chuan*") and *Jagadesan Mukayah Pandaram v Wei Zuo Quan Tommy* (DC Suit No 2257 of 2015) ("*Jagadesan*"). In *Lee Seow Chuan,* the plaintiff suffered six left rib fractures with pneumothorax and was awarded $20,000 for his chest injuries. In *Jagadesan*, the plaintiff suffered fractures of his second to ninth ribs (eight ribs) with small pneumothorax and small pleural effusion, and was awarded $20,000 for his chest injuries.[52]

35 Counsel for the first defendant relies on the case of *Cheong Kok Leong v Teo Yam Hock* (DC Suit No 3790 of 1997), where the plaintiff sustained fractures of five ribs with pneumothorax and was awarded $12,000 for those injuries.[53] Counsel for the first defendant also relies on the case of *Tan Kim Lee v Mohd Yusof bin Hussain & Anor* (DC Suit No 3084 of 2000), where the plaintiff received an award of $15,000 for the fractures of his fifth to ninth ribs (also five ribs) with right haemo-pneumothorax.[54]

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51 PCS at para 58.

52 PCS at paras 59–60.

53 1DRS at para 29.

54 1DRS at para 30.

(B) MEDICAL EVIDENCE

36 According to Dr Ng's medical reports dated 30 July 2018,[55] 26 September 2019[56] and 4 November 2019,[57] the plaintiff suffered seven right rib fractures with small right pneumothorax and pleural effusion. Dr Ng recorded in the report dated 26 September 2019 that a right chest tube was inserted, and that no specific surgery was performed for her rib fractures.[58]

(C) ANALYSIS AND FINDINGS

37 I am of the view that the injuries in the precedents submitted by counsel for the plaintiff involving fractures of six ribs and eight ribs more closely proximate the plaintiff's chest injury, as compared to those in the precedents submitted by counsel for the first defendant involving fractures of five ribs. After considering the parties' submissions and taking into account the factor of overlap, I award damages in the amount of $18,000 for the plaintiff's chest injury.

(4) Shoulder fracture

38 The plaintiff suffered a mildly displaced left coracoid process fracture of the left scapula.[59] According to the 2010 Guidelines, the range of awards for

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55 Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 42.

56 Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 54.

57 Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 56.

58 Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 54.

59 Dr Kong Keng He's AEIC dated 5 July 2022 at pp 12 and 42 (Specialist medical report dated 19 July 2021 by Dr Kong Keng He (Senior Consultant, Department of Rehabilitation Medicine, TTSH Rehabilitation Centre) at p 1); Dr Ho Kee Hang's AEIC dated 21 July 2022 at p 10 (Specialist medical re-examination and report dated 18 February 2022 by Dr Ho Kee Hang (Consultant, Neurosurgery, Mount Elizabeth Medical Centre) at p 2).

"moderate" shoulder injuries is $2,000 to $10,000. This item is not in dispute. The parties submit that damages in the sum of $5,000 should be awarded.[60] I allow the plaintiff's claim for shoulder fracture and award $5,000 for the same.

(5) Abrasions, lacerations, and scarring

(A) SUBMISSIONS OF THE PARTIES

39 The plaintiff claims the sum of $9,500 for the abrasions, lacerations and scarring that she suffered.[61] Counsel for the first defendant submits, however, that only $6,000 should be awarded.[62]

40 Counsel for the plaintiff submits that according to the 2010 Guidelines, the range of awards is $2,500 to $5,000 for face lacerations; $5,000 to $15,000 for multiple scars; $1,500 to $3,000 for lacerations; and $500 to $3,000 for multiple abrasions. Counsel for the plaintiff relies on *Asmah binte Mohamed Salleh Patail v Seah Boon San* [2019] SGDC 185 ("*Asmah binte Mohamed Salleh Patail*")[63] and *Zulkifli Bin Azali v Anzarwawi Bin Azman* (DC Suit No 3813 of 2015) ("*Zulkifli Bin Azali*").[64] In *Asmah binte Mohamed Salleh Patail*, the plaintiff suffered lacerations on her upper and lower lips, with no evidence of scarring, and the court awarded her $4,500. In *Zulkifli Bin Azali*, the plaintiff suffered two superficial abrasions and five scars, and the court awarded him or her $1,500 and $6,000 respectively.

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60 PCS at para 67; 1DRS at para 35.

61 PCS at para 76.

62 1DRS at para 39.

63 PCS at para 74.

64 PCS at para 75.

41 Counsel for the first defendant relies on *Chin Swey Min (a patient suing by his wife and next friend Lim Siew Lee) v Nor Nizar bin Mohamed* [2004] SGHC 27 ("*Chin Swey Min*")[65] and *Ting Heng Mee v Sin Sheng Fresh Fruit Pte Ltd* [2004] SGHC 43 ("*Ting Heng Mee*").[66] In *Chin Swey Min*, the plaintiff was a 38-year-old supervisor at the time of his accident. He suffered deep neck lacerations and abrasions, with scarring on his face, chest, thigh, ankle and elbow. The court awarded $8,000 in total. In *Ting Heng Mee*, the plaintiff sustained multiple abrasions and/or lacerations of the left shoulder, right neck, right knee, right leg, left eyebrow, and dorsum of right foot and left forearm, with scars ranging from 3cm to 12cm. He was awarded $7,000 in damages for the abrasions and lacerations.

(B) MEDICAL EVIDENCE

42 Based on the medical reports, the following are the sites of the plaintiff's abrasions, lacerations and scarring:

(a) superficial laceration of right upper eyelid measuring about 1cm without any active bleeding;[67]

(b) laceration of right upper lip;[68]

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65 1DRS at para 37.

66 1DRS at para 38.

67 Dr Lee Kuan Ming, Llewellyn's AEIC dated 3 August 2022 at p 8 (Medical report dated 24 September 2019 by Dr Zhou Wenting (Senior Resident, Department of Ophthalmology, TTSH) at p 1).

68 Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 42 (Specialist medical report dated 30 July 2018 by Dr Vincent Ng Yew Poh (Senior Consultant, Department of Neurosurgery, TTSH) at p 1); Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 56 (Specialist medical report dated 4 November 2019 by Dr Vincent Ng Yew Poh (Senior Consultant, Department of Neurosurgery, TTSH) at p 1); Dr Ho Kee Hang's AEIC dated 21 July 2022 at p 10 (Specialist medical re-examination and report dated 18

(c) laceration measuring 3cm over right lower lip;[69]

(d) abrasions over the right pelvis;[70]

(e) abrasions over the right and left shoulders;[71] and

(f) scarring from her right upper lip laceration and right shoulder abrasions.[72]

(C) ANALYSIS AND FINDINGS

43 I am of the view that an award of $8,000 is appropriate to compensate for the abrasions, lacerations and scarring sustained by the plaintiff. I award $1,000 for the abrasions to the right pelvis and right and left shoulders; $4,500

February 2022 by Dr Ho Kee Hang (Consultant, Neurosurgery, Mount Elizabeth Medical Centre) at p 2).

69 Dr Gil Doy Alizer's AEIC dated 2 August 2022 at p 8 (Medical report dated 1 October 2019 by Dr Gil Doy Alizer at p 1); Dr Kong Keng He's AEIC dated 5 July 2022 at p 12 (Specialist medical report dated 19 July 2021 by Dr Kong Keng He (Senior Consultant, Department of Rehabilitation Medicine, TTSH) at p 1).

70 Dr Gil Doy Alizer's AEIC dated 2 August 2022 at p 8 (Medical report dated 1 October 2019 by Dr Gil Doy Alizer at p 1); Dr Kong Keng He's AEIC dated 5 July 2022 at p 12 (Specialist medical report dated 19 July 2021 by Dr Kong Keng He (Senior Consultant, Department of Rehabilitation Medicine, TTSH) at p 1).

71 Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 42 (Specialist medical report dated 30 July 2018 by Dr Vincent Ng Yew Poh (Senior Consultant, Department of Neurosurgery, TTSH) at p 1); Dr Ng Yew Poh's AEIC dated 5 August 2022 at p 56 (Specialist medical report dated 4 November 2019 by Dr Vincent Ng Yew Poh (Senior Consultant, Department of Neurosurgery, TTSH) at p 1); Dr Gil Doy Alizer's AEIC dated 2 August 2022 at p 8 (Medical report dated 1 October 2019 by Dr Gil Doy Alizer at p 1); Dr Kong Keng He's AEIC dated 5 July 2022 at p 12 (Specialist medical report dated 19 July 2021 by Dr Kong Keng He (Senior Consultant, Department of Rehabilitation Medicine, TTSH) at p 1); Dr Ho Kee Hang's AEIC dated 21 July 2022 at p 10 (Specialist medical re-examination and report dated 18 February 2022 by Dr Ho Kee Hang (Consultant, Neurosurgery, Mount Elizabeth Medical Centre) at p 2).

72 Dr Ho Kee Hang's AEIC dated 21 July 2022 at p 10 (Specialist medical re-examination and report dated 18 February 2022 by Dr Ho Kee Hang (Consultant, Neurosurgery, Mount Elizabeth Medical Centre) at p 2).

for the lacerations of the upper and lower lips and superficial lacerations of the right upper eye lid, considering, in particular, the more substantial 3cm laceration of the right lower lip; and $2,500 for the scarring to the right upper lip and right shoulder. In making these awards, I have accounted for some overlap in relation to the scarring that formed on the same sites as the abrasions to the right shoulder and laceration of the right upper lip.

44 In sum, under the component method, the total award to the plaintiff is $236,000, comprising the following:

Injury	**Award**
Traumatic brain injury	$205,000
Partial loss of vision	Considered under the claim for traumatic brain injury.
Chest injury	$18,000
Shoulder fracture	$5,000 as agreed by the parties.
Abrasions, lacerations, and scarring	$8,000
Total	**$236,000**

(6) The global award

45 I now turn to the second stage of the analysis to assess if the global award is reasonable and just. There are two key considerations: (a) first, whether there are overlapping injuries which have to be accounted for to avoid an excessive award; and (b) second, when compared with the relevant precedents, whether the award is a fair estimate of loss, and like cases are treated alike (*Lua Bee Kiang* at [17]–[18]).

46 With respect to the first consideration in *Lua Bee Kiang*, none of the parties submit that any of the injuries are overlapping. As for the second consideration in *Lua Bee Kiang*, counsel for the plaintiff submits that the plaintiff suffered not only traumatic brain injury but also injuries to different parts of her body, and that every injury should be taken into account in assessing fair compensation as long as there is no overlap in the injuries suffered.[73] Based on the submissions made by counsel for the first defendant, the total amount for pain and suffering using the component approach is $227,000. He refers, however, to four precedents to argue that the amount should be moderated downwards to a global award of $220,000.[74]

47 The first case that counsel for the first defendant relies on is *Toon Chee Meng Eddie v Yeap Chin Hon* [1993] 1 SLR(R) 407 ("*Toon Chee Meng Eddie*"). The plaintiff there was seven and a half years old at the time of the accident. He sustained a 5cm diameter haematoma in the left parieto-occipital region of the skull with surrounding abrasion, fracture of the parieto-temporal bone and fracture of the left skull resulting in contusion on the brain, poor blood

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73 Plaintiff's reply submissions ("PRS") at para 15.

74 1DCS at paras 12–18; 1DRS at para 40.

circulation and swelling of the brain. He was left with the same intellectual ability of a six-month to one-year-old child. He also had paralysis on the right side and shrinkage of the muscle of the right ankle due to disuse of the leg. He was unable to walk or stand and was wheelchair-bound. He could not speak but was able to make incomprehensible sounds to attract attention (at [5]–[16]). The plaintiff there was awarded $160,000 globally by the court (at [28]).

48 The second case that counsel for the first defendant relies on is *Yin Xiao Lian v Ang Hoo Kim* (Suit No 758 of 2002) (4 July 2003) (High Court) (unreported) ("*Yin Xiao Lian*"). Based on *Lua Bee Kiang* at [43], the plaintiff in *Yin Xiao Lian* was 36 years old when he was involved in an accident. The accident caused severe brain trauma and fractures to his right humerus, right radius, right ulna, right tibia and transverse process of the first thoracic vertebra. He underwent surgery which in turn left scars on his neck, right arm, right leg, left iliac crest and right lower abdomen. The plaintiff lost interest in sex, suffered incontinence periodically and developed slurred speech and slight incoordination on the right side. The plaintiff also became mentally unsound. He was unable to handle his own affairs and had to depend on others for essential daily tasks. The court there awarded a total of $151,500 for pain and suffering.

49 The third case that counsel for the first defendant relies on is *Ramesh s/o Ayakanno (suing by the committee of the person and the estate, Ramiah Naragatha Vally) v Chua Gim Hock* [2008] SGHC 33 ("*Ramesh s/o Ayakanno*"). The plaintiff there was a 26-year-old lorry driver when he was injured in an accident. He sustained severe injuries to both sides of the brain, bilateral cord palsy, deranged liver functions and sepsis, left iliac bone fracture, disc protrusions at different levels of the dorsal spine causing cord compression,

and contractures of the lower limb. As a result of his injuries, he was declared mentally disabled. He was unable to move or talk and required life-long medication for epileptic seizures (at [5]). The assessment of damages was made on the basis that the plaintiff would likely succumb to his injuries in ten years. The court awarded $185,000 for pain, suffering and loss of amenities (at [9]).

50 The fourth and final case that counsel for the first defendant relies on is *AOD, a minor suing by the litigation representative v AOE* [2014] SGHCR 21 ("*AOD*"). In *AOD*, the plaintiff was nine years old at the time of the accident. He suffered several haemorrhagic contusions with acute subarachnoid haemorrhage and subdural bleeding. He also had cerebral edema, early hydrocephalus, multiple pulmonary contusions with small pneumothoraxes and abrasions over his left forehead and temple (at [12]). The injuries caused life-shortening and he had a remaining life expectancy of 27 years (at [18]). He was left a quadriplegic requiring constant care (at [17]). He had the motor skills of a six-month-old and the sensory, thinking and language skills of a 12-month-old baby (at [18]). An Assistant Registrar of the High Court awarded $190,000 globally for pain and suffering, which was not challenged on appeal (at [27]).

51 I first make the observation that *Toon Chee Meng Eddie* was decided 30 years ago, *Yin Xiao Lian* was decided 20 years ago and *Ramesh s/o Ayakanno* was decided 15 years ago. The awards in those cases would have to be significantly uplifted to take into account the decrease in the value of money over the decades.

52 The case of *AOD* is more recent than the other three. The plaintiff's situation in that case was, however, different from the plaintiff in the present case. I note, in particular, that the Assistant Registrar specifically took into

account the fact that the plaintiff possessed limited awareness of his plight (at [26]–[27]) in awarding $190,000 for pain and suffering. In that case, the plaintiff was assessed to have the sensory, thinking and language skills of a 12-month-old baby and would have limited appreciation of his condition (at [18] and [25]). His condition was similar to that of the plaintiff in *Toon Chee Meng Eddie*, who had the intellectual abilities of a six-month to one-year-old child. The plaintiff's situation in *Toon Chee Meng* was therefore also distinguishable from the plaintiff here. There is no evidence here that the plaintiff's awareness of her condition is at the same rudimentary level. The award here would therefore be higher than the awards in *AOD* and *Toon Chee Meng Eddie*, given that she will have to endure her condition at a higher level of consciousness. Further, the plaintiff in *AOD* had a shorter life expectancy of 27 years, which is eight years less than the plaintiff's life expectancy of 35 years. In this regard, the plaintiff in *Ramesh s/o Ayakanno* had an even shorter life expectancy as he was expected to live for only another ten years from the date of the assessment. As the length of time that the plaintiff here will continue to feel pain or suffer from the injuries is longer, she would be entitled to more damages than the plaintiffs in *AOD* and *Ramesh s/o Ayakanno*. As for the case of *Yin Xiao Lian*, it offers little assistance as the details of that case are not available.

53 In my view, *Muhammad Adam*, which is a recent decision that the plaintiff relies on, and which has been discussed at [17], [19] and [29]–[31] above in considering the damages for the plaintiff's traumatic brain injury, is a more useful precedent. In that case, the court awarded $185,000 for the plaintiff's traumatic brain injury, and a total of $216,000 for pain and suffering for the plaintiff's traumatic brain injury, lung injuries, lower limb injuries, urinary tract infection, as well as bruises and lacerations. While the plaintiff in *Muhammad Adam* and the plaintiff in the present case both suffered widespread

and largely permanent injuries, the plaintiff in the present case suffered more severe brain damage, as explained at [29] above. It follows that the award in the present case would be higher than that in *Muhammad Adam*.

54 The case of *Tan Juay Mui (by his next friend Chew Chwee Kim) v Sher Kuan Hock and another (Liberty Insurance Pte Ltd, co-defendant; Liberty Insurance Pte Ltd and another, third parties)* [2012] 3 SLR 496 ("*Tan Juay Mui*") has several similarities to the present case. As with the plaintiff in this case, the plaintiff in *Tan Juay Mui* suffered injury to her brain with no skull fractures (at [9]), and had to live with paralysis to one side of her body, as well as impaired vision (at [10]–[11]). But, as submitted by counsel for the plaintiff,[75] the plaintiff's brain injury in the present case is more severe. In *Tan Juay Mui*, approximately 4 years after the accident, the plaintiff in that case could ambulate with minimal assistance, take her food herself and attend to her toilet needs (at [16]–[20]). Unfortunately, the plaintiff in this case did not make much recovery. She remains unable to stand or walk independently and is dependent on a fulltime caregiver. However, the plaintiff here did not suffer complications like the plaintiff in *Tan Juay Mui*, who had to have her limb amputated (at [16]), and in addition, developed diabetes (at [49]).

55 The plaintiff in *Tan Juay Mui* was granted an award of $250,000 for pain and suffering. The learned Assistant Registrar awarded her $230,000, comprising $170,000 for her head injuries and $60,000 for her leg injury which led to the amputation of a limb. This award was upheld on appeal (at [36] and [52]–[54]). An additional $20,000 was awarded on appeal for pain and suffering and loss of amenities arising from the plaintiff's diabetes (at [51]–[52]).

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75 Plaintiff's further submissions at paras 11 and 18(c).

Although the plaintiff here did not develop diabetes or undergo limb amputation, her situation is not far better given the severity of her mental incapacity and physical disabilities.

56 In my judgment, an award of $236,000 in damages for the plaintiff's pain and suffering is not inconsistent with the precedents after the similarities and differences in the cases are accounted for. There is therefore no need for any moderation or adjustment to be made, and I grant the award accordingly. I turn now to consider the issues relating to the plaintiff's claim for future losses.

Whether there should be an additional discount applied to awards for loss of future earnings and other future losses that are calculated based on the Singapore Actuarial Tables

(1) The parties' submissions

57 In closing submissions, counsel for the first defendant contends that an additional discount of 15% should be applied to all awards for future losses that are computed based on the Singapore Actuarial Tables,[76] such as loss of future earnings and future expenses like those for hiring a trained carer. The gist of the first defendant counsel's arguments is as follows:

> (a) Fundamentally, both the "old judicial multipliers method", where the court considers precedents when deciding on the applicable multiplier, and the use of the Singapore Actuarial Tables to determine the appropriate multiplier, concern judicial computation of future loss.[77]

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76 1DCS at paras 23 and 26(c).

77 1DCS at para 52.

(b) The courts have long recognised the need to account for vicissitudes other than mortality ("Other Vicissitudes") when determining the applicable multiplier.

(c) Justice Quentin Loh (as he then was) noted in the Preface of the Singapore Actuarial Tables ("Preface, Singapore Actuarial Tables") (at pp viii–ix) that the Singapore Actuarial Tables only factored in accelerated receipt and mortality risk.[78] Unlike the United Kingdom Government Actuary's Department, *Actuarial Tables: With Explanatory Notes for Use in Personal Injury and Fatal Accident Cases* ("Ogden Tables")[79], the Singapore Actuarial Tables do not factor in Other Vicissitudes due to "a lack of granular longitudinal data in Singapore".[80] He further noted that there "may be other contingencies or vicissitudes that may cause the court in any particular case to make such adjustments to the multipliers as it deems just and fair" when using the Singapore Actuarial Tables.[81]

(d) With respect to loss of future income and investment losses, compensation without applying an additional discount is "effectively based on a model that as a certainty, [the plaintiff] would not have encountered obstacles in her career and her life, or that as a certainty,

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78 1DCS at para 30. See also Preface, Singapore Actuarial Tables at p v, where it is stated that "[besides] the consideration of projected mortality, the other critical factor is the applicable discount rate factor to account for accelerated receipt of the lump sum compensation to be awarded".

79 The edition referred to was the eighth edition published at the time the Singapore Actuarial Tables were published in 2021.

80 1DCS at para 33.

81 1DCS at para 34.

she would not make life choices that depart from the singular path of staying on the police force until the maximum retirement age".[82]

(e) With respect to future medical and caregiver costs, the court should consider the possibility that the plaintiff would face another accident which may necessitate such future care, or fall ill from common medical conditions such as cancer, dementia, diabetes and stroke, which would necessitate future care.[83]

(f) Drawing this court's attention to *Lua Bee Kiang*, counsel for the first defendant submits that, when assessing future losses such as loss of future earnings and costs of future nursing care, the standard of proof applied by the Court of Appeal at [73] is that based on "the reasonable possibility of a future event, which would then enable the court to grant a remedy that is proportionate to the degree of that possibility".[84] In that case, the risk of the plaintiff developing dementia was increased from 2% to 5–10% due to the accident, and it was also found that if the plaintiff developed dementia, it would be highly likely that he would require full-time nursing care (at [76]). Accordingly, a 40% discount was applied by the Court of Appeal to the award for costs of future nursing care to account "for the chance that he may not develop dementia and for the chance that a reason unconnected to the injuries caused by the defendant's negligence may contribute in some way to his possible future need for full-time care" (at [80]).[85] In this regard, the

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82 1DCS at para 36.

83 1DCS at para 37.

84 1DCS at paras 47–49.

85 1DCS at paras 76–77.

Court of Appeal noted at [72] that "the court should not be fixated on discerning a precise percentage by which the award should be discounted, because the exercise is inherently imprecise".[86]

(g) Counsel for the first defendant emphasises that a discount was applied by the Court of Appeal to an award for costs of future nursing care in *Lua Bee Kiang*, while reiterating Justice Loh's statement in the Preface of the Singapore Actuarial Tables (see above at [(c)]) that "clearly [envisages] an adjustment of [awards] for Other Vicissitudes".[87] As Singapore does not yet have enough granular longitudinal data like in the UK, the first defendant urges this court to "apply its judicial wisdom to rule on a fair estimate" of the percentage of the additional discount which should be applied.[88] The first defendant contends that "the quantification of the additional adjustment for Other Vicissitudes should be based on this Honourable Court using its judicial wisdom to apply a broad percentage discounter to the product figure derived from the Singapore Actuarial Tables".[89]

(h) Given that there should be a discount for Other Vicissitudes and the requirement is only to make an estimate of the reasonable possibility of future events rather than to discern a precise percentage discount, and relying on cases from foreign jurisdictions, counsel for the first defendant submits that an additional 15% discount should be applied to all awards for future losses calculated based on the Singapore Actuarial

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86 1DCS at para 74.

87 1DCS at para 62.

88 1DCS at para 74.

89 1DCS at para 45.

Tables.[90] According to counsel for the first defendant, "[following the] authorities from other jurisdictions, a 15% discounter is a fair, perhaps even conservative, quantification of these reasonable possibilities".[91]

(i) In support of the contention that an additional 15% discount should be applied, counsel for the first defendant refers to ss 13 and 14 of the New South Wales Civil Liability Act 2002 ("the NSW Act"). Under s 13, a plaintiff is to establish assumptions about future earning capacity or other events on which an award is to be based according with the claimant's most likely future circumstances but for the injury. Under s 14, a court is to discount for the possibility that those circumstances might not eventuate by applying a prescribed discount rate.[92] Counsel for the first defendant relies on several New South Wales authorities that were decided based on the relevant provisions of the NSW Act to show that 15% is the "conventional adjustment discounter" for Other Vicissitudes, unless departed from on the basis of specific evidence.[93] In addition, counsel for the first defendant cites authorities from Ireland to show that the "normal range" of deductions for future loss of earnings claims is between 15% to 25%.[94]

(j) Counsel for the first defendant further points to Hong Kong authorities, namely *Chan Pak Ting v Chan Chi Kuen and another (No. 1)* [2013] 2 HKC 182 and *Yeung Lai Ping v Secretary for Justice*

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90 1DCS at para 75.

91 1DCS at para 78.

92 1DCS at paras 54–58.

93 1DCS at para 69.

94 1DCS at paras 70–72.

[2019] HKFCI 881, to argue that the position in Hong Kong is similar to that in Singapore, and that the Hong Kong courts accept that an additional discount should be applied when applying the actuarial tables (although the exact value of the discount is still an open question).[95]

58 In reply submissions, the plaintiff's counsel argues that a discount for Other Vicissitudes should not apply to the present case for the following reasons:[96]

(a) Relying on Dr Ho's medical report dated 31 August 2022, which states that the plaintiff's life expectancy was likely to be reduced by 14 years, partially on account of the severity of the plaintiff's impairment in functional walking and feeding skills, it is submitted that the plaintiff is likely to be living a sedentary lifestyle at home. Her movements outside of her home would be restricted and monitored by either Mr Mani or a caregiver at any time.[97] Further, Dr Ho noted in his report that Mr Mani had been taking good care of the plaintiff,[98] which should negate the circumstances that would arise from Other Vicissitudes. In other words, the reasonable possibility of such vicissitudes occurring would be significantly lower for the plaintiff and the application of a further discount of 15% would result "in an overlap or even double reduction to the multiplier".[99]

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95 1DRS at paras 15–17.

96 PRS at para 33.

97 PRS at paras 34–35.

98 Dr Ho Kee Hang's Supplementary AEIC dated 31 August 2022 at p 4.

99 PRS at para 36.

(b) It is evident from the Ogden Tables that the determination of the discount involves multiple factors. Owing to its complexity, expert evidence would be required to assist the courts. In this regard, counsel for the first defendant did not lead any evidence to show that a discount rate should be applied and what the discount rate should be. Given the degree of complexity in such an exercise, the court should not simply apply an arbitrary figure.[100]

(c) Counsel for the plaintiff highlights the caution sounded by the Court of Appeal in *Quek Yen Fei Kenneth (by his litigation representative Pang Choy Chun) v Yeo Chye Huat and another appeal* [2017] 2 SLR 229 ("*Kenneth Quek*") that "radical and sweeping revisions of the discount rate on account of accelerated receipt lie within the province of Parliament and not the courts" even if a court could adopt a lower or higher discount rate where appropriate on the facts of a particular case (at [59]). He submits, therefore, that it should be for Parliament to legislate any radical and sweeping revisions of the discount rate, and further, that expert, financial or actuarial evidence ought to be in place for a fair assessment of what the additional discount rate should be.[101]

(2) Analysis and findings

(A) THE DEVELOPMENT OF THE SINGAPORE ACTUARIAL TABLES

59 The objective of an award of damages for future losses is to place a sum of money in the plaintiff's hands for him to draw down upon at periodic intervals

100 PRS at para 37.

101 PRS at para 40.

over the expected duration of his loss. The sum is reduced to zero at the end of period, after taking into account the vicissitudes of life and the time value of money (*Muhammad Adam* at [124], referring to *Kenneth Quek* at [43]–[44] and [58]).

60 An award for future losses, such as loss of future earnings or future medical expense, is assessed using the multiplier-multiplicand approach. The Court of Appeal reviewed the multiplier-multiplicand approach in *Kenneth Quek* and explained its application as follows (at [42]–[43]):

> 42 … The *multiplicand* represents the quantum of loss, whether in terms of an incurrence of medical expenses (for [future medical expenses]) or a reduction of earnings (for [loss of future earnings]), that the claimant is expected to suffer at periodic intervals in the future. The *multiplier*, in turn, is the mathematical tool used to calculate the lump-sum present value of the stream of future periodic losses across the remaining life expectancy and the remaining working life (collectively, "period of future loss") of the claimant.
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> 43 Three factual premises undergird the multiplier (see *Kemp & Kemp: The Quantum of Damages* (William Norris QC gen ed) (Sweet & Maxwell, Looseleaf Ed, 2009, Release 137 (October 2015)) ("*Kemp & Kemp*") at paras 10-009.1–10-009.2):
>
> > (a) first, the length of the expected period of future loss, from the date of the assessment of damages to the date of either death (for a lifetime multiplier) or retirement (for an earnings multiplier);
> >
> > (b) second, the receipt of compensation for the future losses by the claimant as an immediate lump sum, which can almost invariably be invested at a rate over and above that of inflation to make a profit, and the probability that mortality risks (and other vicissitudes of life) would curtail his expected period of future loss; and
> >
> > (c) third, the continual drawing-down and spending of the invested lump sum, such that by the end of the

> expected period of future loss the claimant will have nothing left.
>
> [emphasis in original]

61 It was observed by the Court of Appeal that the multipliers awarded in Singapore were based on the assumption that the lump-sum award could be invested to achieve real rates of return of between 4% and 5% per annum, and that the prevailing rates of return on fixed deposits were below 4% per annum for an extended period of time (*Kenneth Quek* at [55], referring to *Lai Wai Keong Eugene v Loo Wei Yen* [2014] 3 SLR 702 ("*Eugene Lai*") at [28] and [32]–[38]). The Court of Appeal noted that although there was scope for reform in the law, the courts were not in a position to undertake that reform, and opined that "[any] drastic change to the discount rate for accelerated receipt could only be undertaken after a careful study, with input from experts and the various stakeholders involved. This was a matter that fell within the institutional competence of the Legislature" (*Kenneth Quek* at [55(c)]).

62 In the light of the unsatisfactory state of the law, the Committee to Review the Law on Damages for Personal Injury and Death ("the Personal Injury Damages Committee") was set up in June 2014 to undertake a comprehensive review of the compensation regime for victims of personal injury or dependents in the case of death, and to consider reforms in related areas (see Preface, Singapore Actuarial Tables at p iii). One of the main areas of focus was the multiplier-multiplicand approach. The Personal Injury Damages Committee found that concerns over its application were valid and was of the view that the courts should no longer be constrained by comparable precedents, which were based on the assumption of achieving a rate of return of 4.5% per annum (see Preface, Singapore Actuarial Tables at p iii).

63 The Personal Injury Damages Committee published its report on 2 March 2018 and recommended the development of actuarial tables to assist the courts in the assessment of damages. In this regard, it recommended the constitution of another committee under the auspices of the Supreme Court of Singapore and the Monetary Authority of Singapore ("MAS") to look into three key areas (see Preface, Singapore Actuarial Tables at p iv):

> (a) the development of actuarial tables based on life expectancy to derive the basic multiplier for determination of future losses in personal injury and death claims (akin to the UK Ogden Tables);
>
> (b) the determination of an appropriate discount rate or rates for accelerated receipt of lump sum compensation; and
>
> (c) the development of methodology to consider other possible adjustment factors (besides life expectancy) to adjust the basic multiplier for other vicissitudes of life besides mortality.

64 The first edition of the Ogden Tables that the Personal Injury Damages Committee referred to was published in 1984, comprising only six tables: multipliers for pecuniary loss for life (males), multipliers for pecuniary loss for life (females), multipliers for loss of earnings to pension age 65 (males), multipliers for loss of earnings to pension age 60 (females), multipliers for loss of pension commencing age 65 (males) and multipliers for loss of pension commencing age 60 (females). These tables have developed over the years as more granular census data has become available (see Preface, Singapore Actuarial Tables at p v). Currently in its eighth edition (updated as of August 2022), the number of tables has increased to 36, and reduction factors to be applied to baseline multipliers that only factored in mortality have been included, so that adjustments may be made to account for Other Vicissitudes (see the Explanatory Notes accompanying the Ogden Tables (8th edition,

updated as of August 2022) ("Explanatory Notes, Ogden Tables") in Section B at paras 59, 60, 64 and 66). The reduction factors are found in Tables A to D of the Ogden Tables (see Ogden Tables (8th edition, updated as of August 2022) at pp 30–31) and are calculated with reference to: (a) gender; (b) age band; (c) education level; (d) whether the individual was disabled at the time of the accident; and (e) whether the individual was employed at the time of the accident. They are used to discount loss of earnings and pension loss multipliers for risks other than mortality (see Explanatory Notes, Ogden Tables in Section B at para 60).

65 Arising from the key recommendations of the Personal Injury Damages Committee, the Personal Injury (Claims Assessment) Review Committee ("PIRC") was formed. It was chaired by Mrs Hauw Soo Hoon, former Executive Director of the Insurance Supervision Department of the MAS, and comprised representatives from the MAS, as well as practitioners from the Singapore Actuarial Society, the General Insurance Association, the Life Insurance Association and the Law Society of Singapore, an independent actuarial consultant, and officers from the Supreme Court and State Courts (see Annex II of the Singapore Actuarial Tables). The PIRC published its report ("PIRC Report") on 29 May 2020. Following the acceptance of the PIRC Report by the Chief Justice on 8 July 2020, the Singapore Actuarial Tables were published in March 2021.

66 The Singapore Actuarial Tables serve as a proxy for calculating direct discount rates and multipliers. They are based on the 2019 preliminary population data produced by the Singapore Department of Statistics covering Singapore residents. The Singapore Actuarial Tables are based on a "yield curve that represents expected investment returns for investments of different periods

of time" (see Preface, Singapore Actuarial Tables at p v). This is an improvement over an approach that is based on a single rate of return, which does not reflect the fact that interest rates vary depending on the terms of the investment. Three key factors are built into the Singapore Actuarial Tables. First, an investment expense assumption is built into the rates of return on the yield curve, which is based on a mix of investments with different risk levels considered in the yield curve portfolio (see Preface, Singapore Actuarial Tables at p viii). Second, a 2% rate of inflation is built into the actuarial tables (see Preface, Singapore Actuarial Tables at p viii). Third, a mortality improvement of 2.6% per annum for both genders is built into the tables (see Preface, Singapore Actuarial Tables at p viii). Unlike the Ogden Tables (8th edition, updated as of August 2022), the Singapore Actuarial Tables do not provide for rates of discount to be applied to reduce the multipliers to account for Other Vicissitudes (see Preface, Singapore Actuarial Tables at p ix). In other words, there are no tables equivalent to Tables A to D in the Ogden Tables (8th edition, updated as of August 2022).

67 Paragraph 159(1) of the Supreme Court Practice Directions 2013 ("SCPD") provides that in all proceedings for the assessment of damages in personal injury and death claims that are heard on or after 1 April 2021, the court will refer to the Singapore Actuarial Tables to determine an appropriate multiplier, unless the facts of the case and the ends of justice dictate otherwise. Paragraph 159(2) of the SCPD states that the Singapore Actuarial Tables will serve as a guide, and that the selection of the appropriate multipliers and the amount of damages awarded remain at the discretion of the court. The court may depart from the multipliers in the Singapore Actuarial Tables "[where] appropriate on the facts and circumstances of the case". The use of the Singapore Actuarial Tables obviates the need to calculate discount rates and

multipliers because calculations have already been undertaken by experts when formulating the tables. An appropriate pre-determined figure may therefore be selected as the multiplier and applied when assessing damages (*Muhammad Adam* at [135], citing *Kenneth Quek* at [62]) on the use of actuarial tables.

(B) DISCOUNTING AWARDS CALCULATED BASED ON THE SINGAPORE ACTUARIAL TABLES

68 It is the common ground of the parties that the Singapore Actuarial Tables apply in the assessment of the plaintiff's claims for future losses. However, counsel for the plaintiff does not agree with counsel for the first defendant that an additional discount of 15% should be applied across the board to all awards for future losses calculated based on the Singapore Actuarial Tables.

69 In my judgment, counsel for the first defendant has not provided any principled basis for an additional discount of 15% to be applied. I therefore decline to apply an additional 15% discount to any of the awards for future losses in this case. I will, however, make an appropriate adjustment to the multiplier to be applied when calculating future loss of earnings. This is to account for Other Vicissitudes that might have interrupted or shortened the period of time that the plaintiff would have spent in employment, by selecting a multiplier for loss of future earnings that reflects the possibility of such interruptions and shortenings based on the specific facts and circumstances of this case. I elaborate.

70 It is clear from the authorities that a discount for Other Vicissitudes may be applied in the assessment of damages for personal injuries. In *Lai Wee Lian v Singapore Bus Service (1978) Ltd* [1983–1984] SLR(R) 388 ("*Lai Wee Lian*"),

an appeal against an award for loss of future earnings, the Privy Council held that a discount should be applied to account for accelerated receipt as well as the "inevitable contingencies and uncertainties of human life and working capacity" (at [20]). More recently, in *Kenneth Quek*, the Court of Appeal noted at [57] as follows:

> There are two primary reasons why a stream of future losses is to be discounted on account of its immediate payment as a lump-sum award of damages, *viz*: (a) accelerated receipt; and (b) contingencies including mortality and the effect of other personal and structural considerations on the remaining life expectancy (for lifelong [future medical expenses]) and remaining working life (for [loss of future earnings]/[loss of earning capacity].

71 The Court of Appeal in *Kenneth Quek* further endorsed at [58] its observations in *Poh Huat Heng Corp Pte Ltd and others v Hafizul Islam Kofil Uddin* [2012] 3 SLR 1003 ("*Hafizul*") regarding the methodology by which contingencies such as mortality and other vicissitudes of life may be accounted for in the calculation of a multiplier. In this regard, the Court of Appeal held that adjustments could be made on account of, *inter alia*, personal attributes of the claimant such as gender, educational attainment, employment status and pre-existing illnesses or disabilities, as well as the structural features of the claimant's industry and the wider economy (at [51], referring to *Hafizul* at [54]–[56]).

72 In my view, the principle that a discount for Other Vicissitudes may be applied in the assessment of damages remains unchanged with the use of the Singapore Actuarial Tables. In relation to contingencies and vicissitudes that affect a claimant in a particular case, the court has, in using the Singapore Actuarial Tables as an aid, a discretion to select a different multiplier to account for those contingencies and vicissitudes with the specific facts and

circumstances of the case in mind. As Justice Quentin Loh observed in the Preface of the Singapore Actuarial Tables, "[each] case must depend on its own unique facts", and there may be "other contingencies and vicissitudes of life that may cause the court in any particular case to make such adjustments to the multipliers as it may deem just and fair when using the tables" (see Preface, Singapore Actuarial Tables at p ix).

73 In the present case, one of the main planks of the first defendant counsel's argument that an additional 15% discount should be applied to all awards for future losses which are calculated based on the Singapore Actuarial Tables is that, unlike the Ogden Tables, the Singapore Actuarial Tables do not provide for Other Vicissitudes. Counsel for the first defendant also refers to various foreign authorities. It is the contention of the first defendant's counsel that "the quantification of the additional adjustment for Other Vicissitudes should be based on this Honourable Court using its judicial wisdom to apply a broad percentage discounter to the product figure derived from the Singapore Actuarial Tables" (emphasis in original) and that "a broad percentage discounter of 15% should then be applied, i.e. 85% of the product figure should be awarded".[102]

74 I am unable to accept the first defendant counsel's arguments. It is pertinent to note that the reduction factors in the Ogden Tables are not used to discount for *all* future losses. The Explanatory Notes, Ogden Tables state at paragraph 15 of page 10 that the reduction factors are "used for discounting *loss of earnings and pension loss multipliers* for contingencies other than mortality" (emphasis added).

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102 1DCS at para 45.

75 Further, the first defendant counsel's arguments are, quite plainly, not grounded in case-specific factors that justify an additional discount of 15% to be applied to awards for all future losses. Counsel for the first defendant is effectively seeking a discount to account for Other Vicissitudes *generally.* The Court of Appeal was clear in *Kenneth Quek* (at [55]), relying on their earlier decision in *Eugene Lai* (at [28] and [32]–[38]), that the courts are not in a position to undertake reforms involving any drastic change to the discount rate for accelerated receipt even though the court could adopt a lower or higher discount rate where appropriate. The application of a blanket discount to awards calculated based on the Singapore Actuarial Tables has the practical effect of implementing a discount on the multipliers computed by the experts to create the Singapore Actuarial Tables, when such a discount on the multipliers in the Singapore Actuarial Tables could not *hitherto* be determined due to the lack of granular longitudinal data in Singapore. The arguments of the first defendant must therefore be rejected.

76 It is also clear that such an exercise should only be undertaken after the relevant data has become available for consideration, and after a careful study is done with input from the experts and stakeholders involved. The PIRC, which was specifically tasked to look into, *inter alia*, "the development of methodology to consider other possible adjustment factors (besides life expectancy) to adjust the basic multiplier for other vicissitudes of life besides mortality" (see Preface, Singapore Actuarial Tables at p iv) was, because of a lack of such data, unable to draw any firm conclusions or make any recommendations on adjustments (see Preface, Singapore Actuarial Tables at p ix). It therefore recommended that attempts be made to keep such a database, and stated that approaches would be made to the relevant bodies and agencies to build up the database for adjustment factors (see Preface, Singapore Actuarial

Tables at p ix). The first defendant's counsel, who did not provide any data or evidence to support his submission that an additional 15% discount should be applied, also did not explain how the court is to determine the value of a discount to account for Other Vicissitudes when the PIRC could not do so due to the lack of data.

77 In relation to counsel for the first defendant's submission that, "[in] a sentence, … the quantification of the additional adjustment for Other Vicissitudes should be based on this Honourable Court using its judicial wisdom to apply a broad percentage discounter to the product figure derived from the Singapore Actuarial Tables",[103] I have no hesitation in rejecting such a submission. Judicial wisdom is to be applied when considering the bases, reasons and evidence provided by the party seeking to persuade the court to exercise its discretion to select a different multiplier when using the Singapore Actuarial Tables based on the specific facts and circumstances of a case. It is not a convenient substitute for proper statistical bases and cogent reasons that a party must provide to persuade the court to exercise its discretion in his or her favour. In fact, judicial wisdom militates against any departure from the multipliers in the Singapore Actuarial Tables that is without basis or whimsical. Indeed, judicial wisdom is not a justification for plucking out a percentage discount from the air.

78 I turn next to the arguments of the first defendant's counsel who relied on foreign authorities to support his submission that an additional 15% discount should be applied. Counsel for the first defendant refers to cases from New South Wales, namely, *State of New South Wales v Moss* (2000) 54 NSWLR 536,

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103 1DCS at para 45.

FAI Allianz Insurance Ltd v Lang [2004] NSWCA 413, *Miller v Galderisi* [2009] NSWCA 353, *Taupau v HVAC Constructions (Qld) Pty Ltd* [2012] NSWCA 293 and *Avopiling Pty Ltd v Bosevski* [2018] NSWCA 146, mainly to make the point that 15% is the "conventional adjustment discounter" for Other Vicissitudes applied to awards for loss of future earning capacity or other events in New South Wales. In addition, counsel for the first defendant relies on case law from Ireland, namely *Reddy v Bates* [1984] ILRM 19 and *Joann Twomey v Jeral Limited* [2022] IECA 177, primarily to show that the courts in Ireland commonly apply discounts for future risks in the labour market for claims pertaining to loss of future earnings, and that the normal range of deductions for future loss of earnings claims is between 15% to 25%.[104]

79 The first defendant counsel's reliance on these foreign authorities is problematic on various fronts. First, the New South Wales cases were decided based on the NSW Act, for which there is no equivalent legislative provision in Singapore. Further, the apparent conventional discount rate of 15% in the New South Wales cases, or 15% to 25% in the Irish cases, were applied based on the circumstances in those jurisdictions. It is unclear whether the circumstances under which the discount rates were adopted are applicable to, or even relevant in, the local context, let alone in this case. There was no analysis on whether the circumstances in those cases are comparable to the circumstances in Singapore. It is also unclear how the numerical value of the discount at 15% (as opposed to any other numerical value) was selected in those cases and appropriate for selection here, just as it is unclear why, in relation to the Irish cases, it is appropriate to adopt the lower end of the Irish scale of discount to reduce the

104 1DCS at paras 70–72.

award of damages for future losses that are calculated based on the Singapore Actuarial Tables.

80 Second, it is unclear whether the assumptions or bases for the rates of discount applied in New South Wales and Ireland are compatible with the assumptions, such as those for investment expense, inflation and mortality risks (see [66] above), built into the Singapore Actuarial Tables. No evidence or submission is provided in this regard, or with respect to whether applying a blanket discount of 15% to awards calculated using the multipliers computed by the experts to create the Singapore Actuarial Tables is an appropriate method to account for Other Vicissitudes.

81 Third, there is the question of whether the adoption of the rates of discount applied in the foreign cases when using the Singapore Actuarial Tables to reduce the awards will lead to over deduction. This concern calls to mind the case of *Lai Wee Lian*. The appellant there appealed to the Privy Council against the trial judge's award in respect of her loss of future earnings. One of the issues which arose for determination was the selection of an appropriate multiplier, and how it should be discounted. The Privy Council in *Lai Wee Lian* cautioned against erroneous double counting by reducing the award for contingencies and accelerated receipt implicit in an application of a discounted figure as a direct multiplier (as was the practice in England) together with a set of present value (or financial) tables prepared by M/s Murphy and Dunbar, Solicitors ("the Murphy and Dunbar Tables") (which comprise discounts calculated on the assumption that a capital sum is invested at 5% interest and were in use in Singapore) (see [20]–[27]). It held that if the Murphy and Dunbar Tables were used, they must not be used by direct application of precedents as that would result in an over deduction (see [25] and [27]). Similarly, in this case, taking a

15% discount used in foreign precedents to attempt to reduce the awards calculated based on the multipliers in the Singapore Actuarial Tables may possibly result in the double deduction for accelerated receipts and/or mortality. Counsel for the first defendant did not submit on whether the discounts applied in each of the foreign precedents included accelerated receipt and/or mortality. In short, the discounts for contingencies and vicissitudes in the foreign cases were made in different contexts, and counsel for the first defendant did not provide any justification for them to simply be transplanted to discount the evidence-based calculations in the Singapore Actuarial Tables.

82 Fourth, as submitted by counsel for the plaintiff,[105] it is evident from the Ogden Tables that the determination of the discount to apply to reduce the multiplier is a complex process and involves multiple factors. Indeed, the reduction factors in Tables A to D of the Ogden Tables were developed based on extensive data from surveys and studies, as well as expert analysis and review (see Explanatory Notes, Ogden Tables (8th edition, updated as of August 2022) in Section B at paras 55–57). In this regard, the first defendant has provided no statistics, evidence or any principled basis to justify the adoption of a 15% discount to be applied across the board to awards that are calculated based on the Singapore Actuarial Tables. In any event, as noted at [75], the formulation of rates of discount to be applied across the board is plainly not an exercise that the courts are in a position to undertake.

83 For the reasons above, I conclude that there is no basis for the court to apply a 15% discount to awards for future losses calculated based on the Singapore Actuarial Tables generally, as sought by the first defendant. I turn

105 PRS at para 37.

next to consider whether there are any case-specific factors that may justify a discount, and if so, what the value of the discount should be.

84 Counsel for the first defendant argues that: (a) with respect to future income, compensation without applying an additional discount is "effectively based on a model that as a certainty, [the plaintiff] would not have encountered obstacles in her career and her life, or that as a certainty, she would not make life choices that depart from the singular path of staying on the police force until the maximum retirement age";[106] and (b) with respect to future medical and caregiver expenses, the court should consider the possibility that the plaintiff would face another accident, or fall ill from common medical conditions, which would necessitate such future care.[107]

85 The assessment of loss of future earnings is based on a plaintiff's hypothetical working life without the injuries that the plaintiff has sustained and on what the plaintiff would have earned in future had the plaintiff not met with the subject accident (*Lua Bee Kiang* at [73]). Adjustments may be made for contingencies and uncertainties of human life and working capacity. For example, the plaintiff "might have died or have been incapacitated by some other accident or by illness at any time during [her remaining working life]" (*Lai Wee Lian* at [20]). In the same vein, the Ogden Tables account for "the possibility that the claimant would have had interruptions in employment due to periods out for reasons including ill-health, childcare and redundancy" (see Explanatory Notes, Ogden Tables in Section A at para 40).

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106 1DCS at para 36.

107 1DCS at para 37.

86 I am not persuaded that the first factor put forth by the first defendant's counsel relating to the possibility of the plaintiff encountering career obstacles and making life changes provides a sufficient basis for a 15% discount to be applied to the award for loss of future earnings. In my view, it is simply insufficient for the first defendant's counsel to point to something which may happen in *practically every case* and then leap to the conclusion that a 15% discount ought to be applied. Beyond the fact that such career obstacles and life changes may happen in every case, the first defendant counsel's assumption that uncertainties in the plaintiff's career path must lead to a discount is flawed. On the facts of this case, there is nothing to suggest that the plaintiff would meet only with obstacles and not opportunities, or that she would only make life choices that would have an adverse and not a positive impact on her income. Challenges and changes in life can go both ways.

87 That having been said, a view may be taken that counsel for the first defendant's argument encompasses a reference to contingencies leading to periods of non-employment of the plaintiff. In that sense, I accept that the possibility of interruptions to the period of time that the plaintiff would have spent in employment from the date of the hearing to her retirement from the workforce may be accounted for and that an adjustment to the award for future loss of earnings may be made if it is warranted by the specific facts and circumstances of this case.

88 In relation to the quantification of the discount for the Other Vicissitudes affecting a claimant's working life, I am of the view that the observations of the court in *Hafizul* on adjustments that could be made to account for contingencies and other vicissitudes of life, although made before the publication of the Singapore Actuarial Tables, continue to provide valuable guidance. As noted

earlier at [71], factors such as gender, educational attainment, employment status and pre-existing illnesses or disabilities, as well as the structural features of the plaintiff's industry and the wider economy may be considered (*Hafizul* at [54]–[56]). Other relevant factors would include the employment track record of the plaintiff, the attitude of the plaintiff towards work, the security of the plaintiff's employment (in a case where the plaintiff is employed at the date of the accident), the knowledge, expertise and work experience of the plaintiff, the demand for such knowledge, expertise and work experience in the labour market, and the rate of unemployment. All these factors are indicative of the likelihood of the plaintiff remaining in employment if not for the accident.

89 Considering the specific facts and circumstances of this case and applying the above factors, I will make a modest adjustment to the award for loss of future earnings, by selecting the start of payment a year later than the age of the plaintiff at the start of the assessment, in other words, at age 38 instead of 37. This shortens the time period that the plaintiff would have been employed until her retirement from the workforce, and consequently reduces the multiplier to account for risks of non-employment. I will deal with the quantification of the discount in greater detail later in this judgment (see [122] to [126] below), together with the computation of the award for loss of future earnings.

90 With respect to future expenses, I do not accept the first defendant counsel's argument that the court should apply a discount of 15% to account for the possibility that the plaintiff might well have to incur such expenses since "the Plaintiff may have another accident which may necessitate such future care" or that "she may fall ill from medical conditions that a significant

proportion of our population falls prey to, such as cancer, dementia, diabetes, stroke and others".[108]

91 When it comes to future expenses, the assessment is based on a plaintiff's actual life post-accident with the plaintiff's injuries (*Lua Bee Kiang* at [73]). The basis for the assessment is therefore different from that for loss of future earnings, which is premised on the plaintiff's hypothetical life without the injuries sustained from the accident and what it would have been if not for the accident. In considering what to award for future expenses, the court will therefore ascertain the likely future needs of the plaintiff that are caused by the accident and the expenses that would have to be incurred to meet those needs in future. Discounts may be applied, for example, if a particular expense may eventually not have to be incurred in future because of possible changing needs, or if a risk necessitating an expense that the plaintiff is to be compensated for may not materialise, as was the case in *Lua Bee Kiang*.

92 In the present case, the evidence shows that the plaintiff will continue to have to incur the future expenses necessitated by the accident for the rest of her life. Given her present condition, which, according to the evidence, is unlikely to improve, it is questionable how another accident or other illnesses would render those expenses any less necessary, such that there is cause for the application of an additional discount to reduce the defendants' liability. I therefore decline to apply any discount to the awards for future expenses in this case.

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108 1DCS at para 37.

93 In summary, I reject the first defendant counsel's submission that an additional 15% discount should be applied to awards for *all* future losses that are calculated based on the Singapore Actuarial Tables to account for Other Vicissitudes. I will, as stated at [89] above, make an adjustment to the multiplier to account for employment risks that the plaintiff in this case would have been exposed to, had the accident not happened, to calculate the plaintiff's loss of future earnings. It is to her loss of future earnings that I now turn.

Loss of future earnings of the plaintiff

94 The plaintiff claims a sum of $2,094,443.93 for her loss of future income (inclusive of employer's Central Provident Fund ("CPF") contributions).[109] Counsel for the plaintiff asserts the following in support of the plaintiff's claim:

(a) The plaintiff would have retired from the SPF at the age of 60. Thereafter, she would have continued working in a similar industry of policing or security services, *albeit* earning a lower salary,[110] and would have retired from the workforce at the age of 72.[111] In this regard, Mr Mani testified that the plaintiff would have sought employment after retiring from the SPF as she had expressed the view that they would not be able to afford to retire.[112]

(b) Further, it is not unreasonable to expect the plaintiff to retire from the SPF at 60 years old and to seek employment after retirement

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109 PCS at paras 9, 110 and 207; PRS at paras 3, 42 and 105.

110 PCS at paras 108 and 113(c).

111 PCS at para 113(c).

112 Mr Mani's AEIC dated 30 May 2022 at paras 29 and 31; NE dated 13 September 2022 at p 41 at lines 4–28.

from the SPF since "the Government's policy is to increase retirement and reemployment age to 70 years by 2030".[113]

(c) The plaintiff would have remained as a Senior Staff Sergeant during the period of her employment in the SPF. As such, her salary scale (*ie*, $3,580 to $5,490) would have remained the same.[114]

(d) The plaintiff's salary increments should be calculated using percentage increments instead of a fixed figure.[115] Based on the evidence, the plaintiff's gross salary increments had been at least 3% for most years.[116] In Mr Mani's affidavit of evidence-in-chief dated 30 May 2022, it was claimed that the plaintiff's salary would have increased at the average rate of 4.94% per year (until her salary hit the top of her salary scale).[117]

(e) The plaintiff's salary ceiling would have been at the highest end of her salary scale (*ie*, $5,490). Based on the plaintiff's projections, she would have reached her salary ceiling at the age of 44 years old.[118]

(f) The plaintiff would have been awarded different types of bonuses if she had met their respective payment criteria, namely, a mid-year bonus, a year-end bonus, a performance bonus and a non-pensionable annual allowance (commonly known as the "13th month

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113 PRS at para 24 at S/N 10 and S/N 11.

114 PCS at para 105; PRS at para 24 at S/N 2.

115 PRS at para 24 at S/N 3.

116 PRS at para 24 at S/N 3; Mr Mani's supplementary AEIC dated 28 June 2022 at para 7.

117 Mr Mani's AEIC dated 30 May 2022 at para 30.

118 PRS at para 24 at S/N 3; PCS at Appendix A.

bonus) ("13th month bonus"). In this regard, she would have received between 3.5 to 4.5 months' bonus every year.[119] She received on average 1.5 to 2 months' performance bonus every year,[120] and about 0.5 month's mid-year bonus and 1 to 1.5 months' year-end bonus annually.[121] On top of bonuses, the plaintiff would have received other payments, including a monthly frontline allowance, the Police INVEST payment, the Strategic Payment and the Team Incentive Award.[122] The SPF stated that the exact amounts of these payments were not available as they were dependent on factors such as the plaintiff's future performance, future salaries and market conditions.[123] However, the plaintiff's past payment records provided by the SPF show that the plaintiff had received a mid-year bonus, a year-end bonus and a 13th month bonus every year except for 2019 when her employment was terminated, and that the plaintiff received 0.5 to 3 months' performance bonus from 2006 to 2018.[124]

(g) After her retirement from the SPF, the plaintiff would have drawn a salary of around $3,500 per month until her retirement from the workforce.[125]

(h) The method of computation for the plaintiff's future earnings is to first calculate her annual income, and thereafter add employer's CPF

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119 PRS at para 24 at S/N 7.

120 PRS at para 24 at S/N 7.

121 PRS at para 24 at S/N 5–6.

122 PCS at para 87.

123 Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 7 at S/N 16.

124 PCS at paras 89 to 90.

125 PCS at para 108.

contributions and deduct income tax. This figure should then be multiplied by the appropriate multiplier in the Singapore Actuarial Tables.[126]

95 Counsel for the plaintiff submits that the appropriate multipliers and multiplicands are as follows:

(a) The multipliers and multiplicands should be computed in three different periods.[127] The first period should be seven years (from age 37 to 43) on the assumption that it would be the plaintiff's prime years in active service. The second period should be 16 years (from age 44 to 60) on the assumption that she would have reached the pinnacle of her career. The third period would be 12 years (from age 61 to 72) on the assumption that she would have retired from the SPF at the age of 60 but that she would have continued working elsewhere till the age of 72.[128] Taking guidance from the Singapore Actuarial Tables, the multipliers to be applied are as follows:[129]

(i) 5.99 for the first period;

(ii) 12.85 for the second period; and

(iii) 4.69 for the third period.

(b) The appropriate multiplicands (*ie,* the plaintiff's annual salary, taking into account her employer's CPF contributions and income tax)

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126 PCS at para 107.

127 PCS at para 112.

128 PCS at para 113.

129 PCS at paras 110 and 113.

should be based on the average of the figures recorded in the plaintiff's Notices of Assessment for 2016 and 2017 (for income earned in 2015 and 2016), during which the plaintiff was on active duty.[130] As such, the starting point for the multiplicand should be the annual figure of $81,605.00, being the average of the figures recorded in the plaintiff's Notices of Assessment for 2016 and 2017, which works out to be $6,800.42 per month.[131] This figure excludes employer's CPF contributions but includes bonuses and all other payments.[132] The monthly figure of $6,800.42 would increase in the second period by $600, being the difference between her current monthly salary of $4,858 and the highest end of her salary scale at $5,490, to take into account the expected progress the plaintiff would have made in her career.[133] The multiplicands are divided into the same three periods:[134]

(i) $93,623.43 for the first period;

(ii) $102,779.82 for the second period; and

(iii) $45,398.50 for the third period.

96 Counsel for the first defendant contends that the plaintiff should only be entitled to $1,336,179.89,[135] and makes the following arguments in support of his contention:

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130 PCS at paras 91 and 93; PRS at para 24 at S/N 1.

131 PCS at paras 94 and 102.

132 PCS at paras 94 and 104.

133 PCS at para 107.

134 PCS at para 110.

135 1DCS at para 147.

(a) There are announced plans to increase the retirement age for Home Affairs uniformed workers to 58 years old by 2030,[136] and it is reasonable to expect that the plaintiff would retire from the SPF and the workforce at age 58.[137] There is no evidence to show how the SPF decides whether to employ a female officer to age 60 and it is highly speculative that the plaintiff's employment with the SPF will extend to age 60.[138]

(b) Mr Mani's testimony regarding the plaintiff's plan to seek employment even after retiring from the SPF is but a bare assertion.[139] As the plaintiff's only child would be 28 years old by the time the plaintiff is 58 years old, the child would no longer be dependent on her parents.[140] There is thus no clear necessity for the plaintiff to continue working after retiring from the SPF.

(c) The plaintiff would have remained as a Senior Staff Sergeant during the period of her employment in the SPF as there is no evidence to show that she would have been promoted beyond that rank. As such, her salary scale would have remained the same.[141]

(d) The salary increments the plaintiff received after she was promoted to Senior Staff Sergeant should be used to estimate the

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136 1DCS at para 140.

137 1DCS at para 139.

138 1DCS at para 141.

139 1DCS at para 142.

140 1DCS at para 143.

141 1DCS at paras 107–112.

plaintiff's increment prospects.[142] In terms of the plaintiff's salary ceiling, there is no evidence that the plaintiff's basic salary would have reached the highest end of the salary scale.[143] The plaintiff's monthly gross salary of $4,532.45 at the time of her promotion was close to the 50th percentile of her salary scale. The salary ceiling should thus be estimated at the 50th percentile between the plaintiff's last drawn salary (*ie*, $4,858.45) and the highest end of the salary scale (*ie*, $5,490), which is $5,174.24 ("the presumed salary ceiling").[144] It is reasonable to expect that the plaintiff's monthly basic salary would increase by $163 annually until she reaches the presumed salary ceiling. This is because her monthly basic salary was increased by $163 in both 2017 and 2018, after her promotion to Senior Staff Sergeant in 2016.[145]

(e) The Singapore Actuarial Tables state that any wage increment that is 2% per annum or below should not be factored into the multiplicand, as "the tables cater for inflation".[146] In other words, "the 2% is already factored into the multiplier and should not be factored into the multiplicand."[147] There would otherwise be a double counting effect if inflation is allowed for in both the multiplier and multiplicand.[148]

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142 1DCS at para 123.

143 1DCS at para 115.

144 1DCS at paras 118–119.

145 1DCS at para 124; Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 7 at S/N 11.

146 1DCS at para 125.

147 1DCS at para 128.

148 1DCS at para 125, referring to Preface, Singapore Actuarial Tables at p viii and pp 5–6.

(f) The plaintiff would have received around three months' bonus every year, namely the 13th month bonus, one month's mid-year and year-end bonuses, and one month's performance bonus.[149] For mid-year and year-end bonuses, as well as performance bonuses, the SPF only stated that the plaintiff would be entitled to such bonuses if she met the payment criteria, declining to speculate what her average bonuses would be in the future.[150] In the ten years prior to 2016 (*ie*, 2006 to 2015), the plaintiff's average performance bonus was 1.6 months.[151] In view of the SPF's response and discounting for the possibility that the usual performance bonus would not be given, it is fair or within reasonable expectation to provide one month for the plaintiff's mid-year and year-end bonus, and one month for her performance bonus every year.[152]

97 Counsel for the first defendant submits that the multipliers and multiplicands are as follows:[153]

(a) The multipliers and multiplicands should be computed in two different stages. The first stage represents the average of the plaintiff's projected salary before it hit the presumed salary ceiling. The second stage is for the remaining years when her salary is expected to remain at the presumed salary ceiling.[154] In the second stage, the rate for

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149 1DCS at para 133.

150 1DCS at paras 131–132; Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 7 at S/N 15–16.

151 1DCS at para 132.

152 1DCS at paras 131–132.

153 1DCS at para 147.

154 1DCS at para 129.

employer's CPF contributions varies based on the plaintiff's age – 17% for 55 years old and below and 14.5% for 55 to 60 years old.[155] Although the multipliers and multiplicands should be computed in two different stages, there are essentially three periods for computation due to the different applicable rates for employer's CPF contributions. Taking guidance from the Singapore Actuarial Tables, the multipliers to be applied are as follows:

(i) 4 for the first five years (from 37 years to 41 years);

(ii) 11.32 for the next 14 years (from 42 years to 55 years); and

(iii) 2.43 for the final three years (from 56 years to 58 years).

(b) The multiplicands should be calculated with reference to the plaintiff's last drawn salary as a Senior Staff Sergeant. On the basis that the plaintiff's monthly salary would have increased by $163 annually until it hit the presumed salary ceiling,[156] the plaintiff's average monthly salary would be $5,027.53 for the first stage, after "[deducting] 2% … where the $163.00 represents an increment above 2%".[157] Further, income tax should be deducted from her earnings. As her average income tax based on her Notices of Assessment for 2016 and 2017 (*ie*, for income earned in 2015 and 2016 respectively) was $1,247.10 and she earned a lower monthly salary in those years than her projected

155 1DCS at para 135.

156 1DCS at para 124.

157 1DCS at para 128.

income, a lump sum of $1,400 should be deducted for income tax.[158] As for the period where the plaintiff's salary is at the presumed salary ceiling and the employer's CPF contribution is at 17% and 14.5%, the same calculations apply. The multiplicands are divided into the same three periods as follows:[159]

(i) $86,833.15 for the first period before the plaintiff reached the presumed salary ceiling;

(ii) $89,407.91 for the second period where the plaintiff's salary is at the presumed salary ceiling and the employer's CPF contribution is at 17%; and

(iii) $87,467.57 for the third period where the plaintiff's salary is at the presumed salary ceiling and the employer's CPF contribution is at 14.5%.

98 I turn now to address the issues relating to the determination of the multiplier and multiplicand.

(1) Multiplier

(A) AGE OF RETIREMENT FROM THE SPF

99 Under reg 10 of the Home Affairs Uniformed Services (INVEST Plan) Regulations, the retirement age of a member is 56 years old. However, reg 10(4) states that where the relevant authority is of the view that it is in the interests of the uniformed service for the member to continue in the service, the relevant

158 1DCS at para 137.

159 1DCS at para 147.

authority may make an offer for the member to retire on a later date, being no later than the 60th anniversary of the member's birth, as specified in the offer, and if the member accepts the offer within such period as the relevant authority may specify, the member shall be required to retire from the service on that later date as specified. While the plaintiff's counsel argues that the plaintiff would retire at age 60, there is insufficient evidence to suggest that the SPF would make such an offer to the plaintiff. For that matter, evidence on the criteria for such an offer to be made and that the plaintiff would meet the criteria has not been adduced. I thus reject the submission of the plaintiff's counsel that the plaintiff's age of retirement from the SPF would be 60. In view of the plans to increase the retirement age for Home Affairs uniformed workers from 56 years old to 58 years old by 2030, I accept the submission of the first defendant's counsel that the plaintiff's age of retirement from the SPF would be 58 years old.

(B) AGE OF RETIREMENT FROM THE WORKFORCE

100 According to the Prime Minister's announcement during his National Day Rally speech in 2019, the retirement and re-employment ages would be raised to 65 and 70 years of age respectively by 2030. In *Muhammad Adam*, this point was submitted by the plaintiff to argue that it would be reasonable to assume that the plaintiff, who was doing a three-year computer engineering course at the Singapore Polytechnic at the time of the accident, would be employed till the age of 70 (at [180]). The High Court agreed with the plaintiff's submission, observing that it is "a reasonable assumption to make given that in today's context, there is a growing incidence of people continuing to work after their official retirement age", which is "a trend that is being encouraged by the Government on account of Singapore's ageing population" (at [180]). In

reaching this conclusion, the court also noted statements made in Parliament in November 2021, when the Retirement and Re-employment Act (Cap 274A, 2012 Rev Ed) was amended, which emphasised the Prime Minister's statement that the retirement and re-employment ages for Singapore workers would be raised progressively to 65 and 70 years, respectively, by 2030 (at [181]).

101 In this case, it is reasonable to assume that the plaintiff would continue to work after her retirement from the SPF at the age of 58. This is in the light of the evidence showing that the plaintiff was continually and consistently working until she met the accident. As mentioned at [5] above, the plaintiff had been working since she was 16 years old, doing part-time jobs until her full-time employment in the SPF from when she was almost 19 years old till the day of the accident.[160] She joined the SPF as a Corporal in 2003[161] and rose through the ranks to a Senior Staff Sergeant in 2016, just a few months before the accident.[162] She was promoted three times between 2003 and 2016. Her first promotion was from Corporal to Sergeant in 2009, about six years after she joined the SPF. Her second promotion from Sergeant to Staff Sergeant was in 2014, five years after her first promotion. She served as Staff Sergeant for about two years before she was promoted again to Senior Staff Sergeant in 2016. I find, based on the plaintiff's work history and track record, that she had performed well, and appears to have had a positive attitude towards work. This is corroborated by the various medals and awards that she received in her years with the SPF.[163] Based on her demonstrated inclination to work, it is more likely

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160 NE dated 14 September 2022 at p 15 at line 12 to p 16 at line 5.

161 NE dated 14 September 2022 at p 15 at p 14 at line 26 to p 15 at line 11; PBD1 at p 25.

162 Mr Mani's AEIC dated 30 May 2022 at p 82.

163 Mr Mani's AEIC dated 30 May 2022 at p 82.

that the plaintiff would have continued to work after her retirement from the SPF. I respectfully agree with the observation of the learned Judge in *Muhammad Adam* (at [180]) that in the present-day context, there is a growing incidence of people continuing to work after their official retirement age. This is particularly the case for the plaintiff since she would have retired from the SPF at 58, a few years earlier than most workers.

102 I also find Mr Mani's evidence that the plaintiff would have sought work in the industry of policing or security services after her retirement from the SPF to be reasonable in view of her work experience and training as a police officer.[164] Given the nature of a security services job, which is generally more physically demanding and largely dependent on the plaintiff's health condition, it is my view that the plaintiff would have likely retired and left her security services job outside of the SPF at the age of 65.

(C) PERIOD OF COMPUTATION FOR LOSS OF FUTURE EARNINGS

103 I find that the period of loss of future earnings for the plaintiff is from 37 years old (*ie*, the age of the plaintiff at the time of the hearing) to 65 years old (*ie*, the expected age of the plaintiff at the time of retirement from the workforce). The appropriate multiplier based on Table 2 of the Singapore Actuarial Tables for females where the start of payment is at 37 years old and the end of payment is at 65 years old is 21.17.[165] The multiplier of 21.17 is divided as follows: 17.75[166] for the first period from the age of 37 to 58, when

164 NE dated 14 September 2022 at p 72 at lines 19–20.

165 Table 2-7 Multiplier for Females in the Singapore Actuarial Tables.

166 Table 2-6 Multiplier for Females in the Singapore Actuarial Tables.

the plaintiff would have been employed by the SPF,[167] and 3.42[168] for the second period from the age of 59 to 65, when the plaintiff would have been employed elsewhere after her retirement from the SPF.

(2) Multiplicand

104 The question here is what the plaintiff's yearly income would have been, but for the accident. The issues in relation to the determination of the multiplicand are: (a) whether the plaintiff would reasonably be expected to be promoted beyond the rank of Senior Staff Sergeant to Inspector in the SPF; (b) what wage increments the plaintiff would reasonably be expected to receive; and (c) what bonuses the plaintiff would reasonably be expected to receive.

(A) PROMOTION

105 Although the plaintiff was promoted to the rank of Senior Staff Sergeant in 2016 a few months before she turned 32, counsel for the plaintiff does not contend that she would have been promoted beyond the rank of Senior Staff Sergeant in the SPF.[169] Given that it is not the plaintiff's case that she would have been promoted despite her steady progression in the 13 years that she was employed by the SPF, this assessment will proceed on the basis that she would have remained in the rank of Senior Staff Sergeant until her retirement from the SPF, which I have found earlier to be at the age of 58.

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167 Table 2-6 Multiplier for Females in the Singapore Actuarial Tables.

168 Table 2-7 Multiplier for Females in the Singapore Actuarial Tables.

169 PCS at para 107; PRS at para 26.

(B) SALARY INCREMENTS

106 In my view, the figure of $5,490 at the highest end of the salary scale for a Senior Staff Sergeant should be taken as the plaintiff's expected salary ceiling, instead of $5,174.24 as submitted by counsel for the first defendant. I do not accept as reasonable the first defendant counsel's submission that the plaintiff would not have hit the salary ceiling for a Senior Staff Sergeant. Based on the parties' cases that the plaintiff would not have been promoted, if the first defendant counsel's submission is accepted, that would mean that the plaintiff would not even reach the salary ceiling of a Senior Staff Sergeant despite working for about 21 more years in that rank. As counsel for the first defendant concedes in his submissions, the plaintiff had been receiving salary increments since her promotion to Senior Staff Sergeant.[170] It makes no sense for the first defendant's counsel to then simultaneously argue that she would stop receiving salary increments once she hit the 50th percentile between her last drawn salary and the highest end of the salary scale. In fact, going by her last two annual increments, the plaintiff could possibly have hit the salary ceiling of $5,490 by June 2022, even before the hearing of the assessment, although I note that her case, as submitted by her counsel, is that she would hit the salary ceiling only at the age of 44 in 2029.[171]

107 In view of the parties' position that the plaintiff would have remained in the same rank as a Senior Staff Sergeant and the top end of the salary scale at that rank is only $631.55 more than her last drawn salary of $4,858.45 (being $5,490 less $4,858.45), I do not find it necessary to use a different basic salary figure for the period of her expected employment with SPF to account for her

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170 1DCS at para 123.

171 PCS at Appendix A; PRS at para 24 at S/N 3.

salary increments that would amount to no more than $631.55. Given the plaintiff's case that she would only have hit the salary ceiling at the age of 44, I estimate the average of her basic monthly salary for the entire period of her employment at the SPF to be at the 75th percentile between her last drawn monthly salary and the top end of the salary scale at $5,332.11 (being $4,858.45 + [(75 x $631.55) / 100]).

108 I do not agree with the first defendant's submission that 2% should be deducted where the plaintiff's increment of $163 represents an increment above 2%.[172] There is no issue of double provision for wage inflation here. As Justice Loh explained at p viii of Preface, Singapore Actuarial Tables:

> … It is assumed that the multiplier will be used with a multiplicand that does not allow for inflation. This is an important assumption; if inflation is allowed for in both the multiplier and multiplicand, there will be a "double counting" effect. The approach taken in these tables is to make an assumption about the long-term future inflation rate. No distinction is made here between price inflation and wage inflation as it is too granular given the approximations inherent in the rest of the calculations. Historically, the average annual price inflation in Singapore is about 2% … It is this rate that is adopted. The discount rates in the yield curve will be reduced to allow for this assumption. This can be done precisely so that the multiplier will be the present value of annual payments that increase by 2% each year.

109 Note (4) at page 7 of the Explanatory Notes accompanying the Singapore Actuarial Tables further state that:

> … Therefore, usual wage increments which tend to be below 2% pa should not be taken into account in determining multiplicands as these increments would already be incorporated. Only promotions which push a person's income to the next income bracket should be considered when determining multiplicands.

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172 1DCS at para 128.

110 In other words, when applying the Singapore Actuarial Tables, there is no need to further adjust the multiplicand to compensate for inflation. There is nothing in the Explanatory Notes to indicate that any deduction should be made in the manner submitted by the first defendant's counsel. The statements in the Explanatory Notes accompanying the Singapore Actuarial Tables (at [109] above) have no application to the plaintiff's wage increments of $163, as the plaintiff's wage increments would have exceeded 2%. The Explanatory Notes are *silent* on how increments which exceed 2%, but which do not result in the plaintiff moving into the next income bracket, are to be dealt with. More importantly, there is nothing in the Explanatory Notes which states that a 2% wage increment should be *deducted* from a wage increment that exceeds 2%. All the Explanatory Notes state is that a 2% per annum rate of inflation has been taken into account in the multipliers in the Singapore Actuarial Tables, and hence, that there is no need to cater for increments below 2% in the multiplicand. I am of the view that no deduction in relation to salary increments should be made based on my approach to assessing the multiplicand and I decline to make any deduction in relation to salary increments as contended by the first defendant's counsel.

111 The loss of future earnings is thus calculated using two periods:

(a) the first period ranges from age 37 to age 58, when the plaintiff would have been employed by the SPF, with an estimated average basic monthly salary of $5,332.11; and

(b) the second period ranges from age 59 to age 65, when the plaintiff would have been employed elsewhere at a lower monthly salary. As will be explained at Section (E) below, the lower monthly salary is assessed at $3,500.

(C) BONUSES, ALLOWANCES AND OTHER EMOLUMENTS

112 I am also unable to accept the first defendant counsel's submission that the plaintiff's future earnings should be calculated on the assumption that she would have received only three months' bonuses.[173] There are a number of different components to the plaintiff's income, which consists of her basic salary, the 13th month bonus, performance bonus, mid-year bonus, year-end bonus, and allowances and other emoluments.[174] The first defendant counsel's method of computation will undercompensate the plaintiff, as is evident from Tables A and B below. Leaving aside the allowances and emoluments that the plaintiff would have been entitled to but which the first defendant's counsel did not provide for, the proposed total of three months' bonuses annually is too low and not supported by the evidence before the court. In this regard, I calculate the average over the longest period covered by the evidence and publicly available information that the parties submitted concerning the bonuses received by the plaintiff or declared for civil servants, to come to a fair estimate of how much bonuses the plaintiff would have received.

(I) BONUSES

113 As seen from Table A below, the plaintiff received an average performance bonus of 1.76 months over a period of 13 years, from 2006 until 2018, the last year in which she received a performance bonus from the SPF.[175] As for the mid-year bonus and year-end bonus, the quantum declared from 2006 to 2022 averaged at 0.40 months for mid-year bonus and 0.74 months for year-

173 1DCS at para 133.

174 Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 7 at S/N 12–13, p 8 at S/N 21, p 14 at S/N 2 and p 16 at S/N 10.

175 Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at pp 17–18.

end bonus. I pause here to note that I prefer adopting the average quantum of mid-year and year-end bonuses from 2006 to 2022, as opposed to that from 2006 to 2018, although the plaintiff's employment was terminated in April 2019. Based on Table A below, the differences between the average figures are not significant. However, it would be more accurate to adopt the numbers derived from a longer period for the purposes of assessing loss of future earnings. This is because the effects of events generally affecting the economy (and hence bonus payments) which are captured using a larger set of data would be better reflected in the results. Taking these averages for performance bonus, mid-year bonus and year-end bonus, I derive an average of 2.90 months for these bonuses (being 1.76 for performance bonus + 0.40 for mid-year bonus + 0.74 months for year-end bonus). Adding the 13th month bonus to that, the total bonuses will add up to 3.90 months, which exceeds the 3 months proposed by counsel for the first defendant. Besides bonuses, the plaintiff was also paid allowances and other emoluments, which must be taken into account.

Table A

S/N	**Year**	**Performance Bonus**	**Mid-year bonus**	**Year-end bonus**	**Allowances and other emoluments**
1	2006	0.50 month	0.50 month	1.20 months (including a Special Bonus of 0.20 month)	Notices of Assessment not in evidence.

2	2007	0.56 month	0.50 month	1.00 month	
3	2008	2.65 months (including the average of 0.50 to 0.80 month of Range for Growth Bonus)	0.50 month	0.50 month	
4	2009	2.00 months	-	0.25 month	
5	2010	1.00 month	0.50 month	1.00 month	
6	2011	2.80 months (including the average of 0.00 to 1.60 months of range for Special Variable Payment)	0.50 month	0.75 month	
7	2012	1.50 months	0.30 month	0.70 month	

8	2013	3.00 months	0.40 month	1.10 months	
9	2014	2.00 months	0.50 month	0.80 month	
10	2015	1.40 months	0.50 month	0.65 month	See Table B below based on Notices of Assessment for 2016 to 2019 (*ie*, for income earned in 2015 to 2018).
11	2016	2.40 months	0.45 month	0.50 month	
12	2017	1.70 months	0.50 month	1.00 month	
13	2018	1.40 months	0.50 month	1.00 month	
Total (2006 – 2018)		22.91 months	5.65 months	10.45 months	42.31 months
Average (2006 – 2018)		1.76 months	0.43 month	0.80 month	2.90 months
14	2019	-	0.45 month	0.10 month	Notices of Assessment for 2019 to 2021 are in evidence.
15	2020	-	-	-	
16	2021	-	0.30 month	1.00 month	
17	2022	-	0.35 month	1.10 months	

Total	22.91 months	6.75 months	12.65 months	-
Average	1.76 months (For 2006 – 2018, 2018 being the last year that the plaintiff received a performance bonus from the SPF.)	0.40 month (For 2006 – 2022.)	0.74 month (For 2006 – 2022.)	-

(II) ALLOWANCES AND OTHER EMOLUMENTS

114 It is in evidence that the plaintiff was paid allowances and other emoluments, such as a monthly skill allowance of $200, the Team Incentive Award, the Strategic Payment and the Police INVEST Payment.[176] To ascertain the other allowances and other emoluments that the plaintiff was paid, I refer to her Notices of Assessment for 2016 to 2019 (for income earned from 2015 to 2018).[177]

115 I pause here to deal with the submission of the counsel for the plaintiff that the Court should only consider the figures from her Notices for Assessment

176 Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 7 at S/N 12–13, p 8 at S/N 21, p 14 at S/N 2 and p 16 at S/N 10.

177 Mr Mani's 2nd supplementary AEIC dated 7 September 2022 at pp 20–23.

for 2016 and 2017 (*ie,* her earnings in 2015 and 2016).[178] This is because she was on active duty in 2015 and 2016, before the accident on 2 November 2016.[179] I note that despite taking the position that the assessment should be based on her salary when she was on active duty, the plaintiff did not tender evidence of her Notices of Assessment before 2016. In any event, the plaintiff was still paid bonuses, namely performance bonus, mid-year bonus, year-end bonus and the 13th month bonus[180] although she was not in active service after 2016. The plaintiff was also paid Team Incentive Awards in 2017 to 2019.[181] I am of the view that the figures stated in the plaintiff's Notices of Assessment for 2018 and 2019 (*ie,* her earnings in 2017 and 2018) should be considered together with those in her Notices of Assessment for 2016 and 2017 (*ie,* her earnings in 2015 and 2016) in deriving an average of the plaintiff's income. The additional information from her Notices of Assessment for 2018 and 2019 will yield a more accurate and indicative representation of the plaintiff's earnings. This would strike a balance between obtaining a more accurate average figure and fairly treating the plaintiff's circumstances.

116 It may be seen from Table B below that based on her Notices of Assessment for 2016 to 2019 (*ie*, for work done for 2015 to 2018), she was paid 17.54 months of her average basic salary. It may be further seen from Table C that her average performance bonus, mid-year bonus, year-end bonus and 13th month bonus for the same period was 4.01 months. This means that

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178 PCS at para 93; PRS at p 13 at S/N 7.

179 PCS at para 93; PRS at p 13 S/N 7 and at para 28.

180 Mr Mani's 3rd supplementary AEIC dated dated 5 January 2023 at p 17.

181 Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 14 at S/N 2 and p 16 at S/N 10.

the plaintiff's allowances and other emoluments between 2015 and 2018 was an average of about 1.53 months (being 17.54 months – 12 months – 4.01 months).

Table B

Year of Assessment	**Year income was earned**	**Basic Salary**	**Annual Assessment Amount**
2016[182]	2015	$50,363.40	$81,141
2017[183]	2016	$52,999.40	$82,069
2018[184]	2017	$55,530.40	$76,073
2019[185]	2018	$57,486.40	$77,005
Total		$216,379.60	$316,288
Average		$54,094.90 or $4,507.91 per month	$79,072 or 17.54 months of the average basic salary

182 Based on the plaintiff's Notice of Assessment ("NOA") 2016, for income earned in 2015. See Mr Mani's 2nd supplementary AEIC dated 7 September 2022 at p 20.

183 Based on the plaintiff's NOA 2017, for income earned in 2016 before the accident on 2 November 2016. See Mr Mani's 2nd supplementary AEIC dated 7 September 2022 at p 21.

184 Based on the plaintiff's NOA 2018, for income earned in 2017 while she was not in active service. See Mr Mani's 2nd supplementary AEIC dated 7 September 2022 at p 22.

185 Based on the plaintiff's NOA 2019, for income earned in 2018. See Mr Mani's 2nd supplementary AEIC dated 7 September 2022 at p 23.

Table C

Year income was earned	**Average performance bonus**	**Average mid-year bonus**	**Average year-end bonus**	**13th month bonus**	**Total average bonuses**
2015 - 2018[186]	1.73 months	0.49 month	0.79 month	1 month	4.01 months

117 It is clear that allowances and other emoluments should be included in the assessment of damages although such payments are based on the plaintiff's deployment and the SPF has indicated that it was not possible for them to say how much allowances she would have received if she had continued serving in the SPF.[187] In my view, it would nevertheless be reasonable, based on the plaintiff's past income records, which show that she had received an average of about 1.53 months' salary in allowances and other emoluments, to assume that she would receive *some* allowances and other emoluments. I therefore include one month for allowances and other emoluments in assessing the plaintiff's future income.

(D) MULTIPLICAND FOR THE PERIOD THAT THE PLAINTIFF WOULD HAVE BEEN EMPLOYED BY THE SPF

118 Based on Tables A to C above, I assess the multiplicand to be 16.9 months of the plaintiff's basic monthly salary (being 12 months of annual salary + 2.9 months in bonuses based on the averages in Table A, the 13th month bonus, and one month in allowances and other emoluments assumed based on Tables B and C), plus employer's CPF contributions less income tax.

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186 Based on the figures for the relevant years in Table A.

187 Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 7 at S/N 13–14 and p 8 at S/N 21.

119 I deal next with the rate of income tax that is used for calculating the plaintiff's annual income tax liability. The plaintiff submits that income tax should be estimated at 1.7%[188] based on the plaintiff's Notices of Assessment.[189] Counsel for the first defendant submits that income tax should be estimated at a lump sum of $1,400.[190] According to counsel for the first defendant, the plaintiff's average income tax paid in 2016 and 2017 (*ie*, for income earned in 2015 and 2016) was $1,247.10. Taking into account the fact that the plaintiff was, in those years, earning a lower gross monthly salary than her projected future earnings, counsel for the first defendant submits that a lump sum of $1,400 is appropriate.[191] The plaintiff's counsel acknowledges in his submissions that the parties' submitted figures only differ slightly – the plaintiff applies a percentage to the income earned, while the first defendant seeks a lump sum deduction.[192] I find that the rate of 1.7% submitted by the plaintiff is not unreasonable, as it is within the range of income tax rates applicable to the plaintiff from 2016 to 2019, and is higher than the applicable rates in most years:

(a) In 2016, the plaintiff's income tax was $1,434.66, which was around 1.78% of her assessable income of $80,547.[193]

(b) In 2017, the plaintiff's income tax was $1,324.34, which was around 1.62% of her assessable income of $81,529.[194]

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188 PCS at para 110.

189 PRS at para 24 at S/N 9.

190 1DCS at para 137.

191 1DCS at para 137.

192 PRS at p 14 at S/N 9.

193 Mr Mani's 2nd supplementary AEIC dated 7 September 2022 at p 20.

194 Mr Mani's 2nd supplementary AEIC dated 7 September 2022 at p 21.

(c) In 2018, the plaintiff's income tax was $1,051.76, which was around 1.39% of her assessable income of $75,540.[195]

(d) In 2019, the plaintiff's income tax was $1,093.76, which was around 1.43% of her assessable income of $76,465.[196]

120 As such, I will assume that the rate of income tax is 1.7% when calculating yearly income tax deductions for the purposes of this assessment.

(E) MULTIPLICAND FOR THE PERIOD AFTER RETIREMENT FROM THE SPF

121 For the second period from the age of 59 to 65, when the plaintiff would have been employed elsewhere, I accept the estimated salary of $3,500 that her counsel submitted. While the plaintiff did not provide evidence to substantiate this figure, it is within the range of published information on salaries in the security sector. According to the Ministry of Manpower website on the "Progressive Wage Model for the security sector", a full-time outsourced security officer will earn at least a monthly basic wage of $3,530 by 2028 (although the wage schedule is subject to review in 2025).

(3) Adjustment for Other Vicissitudes interrupting continuous employment

122 I turn now to explain the adjustment that I will make to the award for loss of future earnings to account for Other Vicissitudes that may have interrupted the continuous employment of the plaintiff or shortened the period that she would have been employed. In this regard, I will consider the factors listed at [88] above that are relevant to the case at hand.

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195 Mr Mani's 2nd supplementary AEIC dated 7 September 2022 at p 22.

196 Mr Mani's 2nd supplementary AEIC dated 7 September 2022 at p 22.

123 The plaintiff in the present case was able-bodied and active before the accident. There is nothing in evidence to suggest that she suffered from any pre-existing illnesses or disabilities before the accident. She had a long and consistent record of employment, working part-time jobs since she was 16 years old before her full-time employment in the SPF in 2003.[197] Her attitude towards work has been shown to be positive by her work history and track record, which indicates that the plaintiff would have stayed in continuous employment if not for the accident. This is fortified by the fact that her employment with the SPF was stable and secure, and provided benefits such as hospitalisation and medical leave. This can be seen from the fact that the plaintiff met with the accident in November 2016 and remained on paid hospitalisation and medical leave until 30 April 2019, more than two years after the accident.[198] The SPF will also continue to pay for her medical expenses for the rest of her life.[199] Further, it cannot be seriously disputed that she would be entitled to the usual leave entitlements of civil servants in Singapore, including sick leave, hospitalisation leave, childcare leave and annual vacation leave. These factors, when viewed together, indicate that the possibility of interruptions to the plaintiff's employment in the SPF would have been quite low.

124 As for interruptions to the plaintiff's employment after her retirement from the SPF, I consider the possibility of such interruptions to be higher than when she was employed by the SPF, given that the plaintiff would have been seeking fresh employment at the age of 58 and would not have had any work history with her new employer to fall back on. The risk of interruptions to

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197 NE dated 14 September 2022 at p 15 at line 12 to p 16 at line 5.

198 Mr Mani's AEIC dated 30 May 2022 at para 41 and p 168.

199 NE dated 14 September 2022 at p 58 at lines 10–16.

continuous employment would have also been higher, as the plaintiff would have been older and may have encountered more health-related issues, with new employment benefits which may not have been as favourable as before. That having been said, given her experience as an SPF officer, her positive work attitude and the low unemployment rate in Singapore (which is at 2.7% according to the Ministry of Manpower's website, "Overview on Unemployment" (October 2023)), it is likely that the plaintiff would not have encountered much difficulty in securing or keeping a job in the security-related sector in the years after her retirement from the SPF.

125 Based on these considerations, I am of the view that only a modest adjustment to the multiplier is appropriate. To that end, I make an adjustment by selecting the start of the payment age as 38, *ie*, adding a year to the plaintiff's age of 37 as at the date of the hearing, with the end of payment age remaining at 65, thereby shortening the time period for which she would have been employed until her retirement from the workforce. With this notional adjustment representing vicissitudes that may result in the plaintiff not being able to stay in employment until she retires from the workforce at 65, the multiplier for loss of future earnings is reduced by 0.44, from 21.17 (where the start of payment age is 37) to 20.73 years (where the start of payment age is 38).

126 In view of the fact that the chances of interruptions to her employment are higher after her retirement from the SPF, I distribute the 0.44 years in the reduction of the multiplier equally between the period of time she would have been employed by the SPF, and the period of time she would have been employed elsewhere after her retirement from the SPF, even though the former period would have been longer.

(4) Findings

127 My award for loss of future earnings is in Table D, as follows:

Table D

Age	Rate of Employer CPF Contribution	Multiplicand	Multiplier of 21.17 years where start of payment is at age 37	Multiplicand times multiplier	Adjustment for interruptions to employment - Multiplier of 20.73 where start of payment is at age 38 (A reduction of 0.44 years)	Award after adjustment
37 to 58	17% from age 37 to age 55	$5,332.11[200] (being 75th percentile between the last drawn salary of $4,858.45 and the top end of the salary scale of $5,490) x 16.9[201] x 1.17 (being Employer's CPF for age 55 and	15.95[202]	15.95 x $103,639.47 = $1,653,049.55	Distributing 0.44 years equally to the period before and after retirement from the SPF 0.44/2 = 0.22 Adjusted multiplier is 15.95 – (18/21 x 0.22) = 15.76	15.76 x $103,639.47 = $1,633,358.05

200 $4,858.45 + [(75 x $631.55) / 100] = $5,332.11.

201 Refer to [118] and Tables A, B and C above.

202 Table 2-6 Multipliers for Females in the Singapore Actuarial Tables.

		below) less 1.7% (being assumed rate of income tax) = $103,639.47				
	14.5% from above age 55 to retirement from the SPF when the plaintiff turns 58	$5,332.11 x 16.9 x 1.145 (being Employer's CPF for age above 55 to 60) less 1.7% (being assumed rate of income tax) = $101,424.95	17.75[203] – 15.95 = 1.8	1.8 x $101,424.95 = $182,564.91	Adjusted multiplier is 1.8 – (3/21 x 0.22) = 1.77	1.77 x $101,424.95 = $179,522.16
58 to 65	14.5% from age 58 to age 60	$3,500 x 12 months = $42,000 $42,000 x 1.145 (being Employer's CPF for age above 55 to 60) less 1.7% (being assumed rate of income tax) = $47,272.47	18.84[204] – 17.75 = 1.09	1.09 x $47,272.47 = $51,526.99	Distributing 0.44 years equally to the period before and after retirement from the SPF 0.44/2 = 0.22 Adjusted multiplier is 1.09 – (2/7 x 0.22) = 1.03	1.03 x $47,272.47 = $48,690.64

[203] Table 2-6 Multipliers for Females in the Singapore Actuarial Tables.

[204] Table 2-6 Multipliers for Females in the Singapore Actuarial Tables.

	11% from above age 60 to age 65	$42,000 x 1.11 (being Employer's CPF for age above 60 to 65) less 1.7% (being assumed rate of income tax) = $45,827.46	21.17[205] – 18.84 = 2.33	2.33 x $45,827.46 = $106,777.98	Adjusted multiplier is 2.33 – (5/7 x 0.22) = 2.17	2.17 x $45,827.46 = $99,445.59
-	-	-	21.17	$1,993,919.43	20.73	$1,961,016.44

128 In summary, upon computing the appropriate multiplier and multiplicand, I award to the plaintiff the sum of $1,961,016.44 for loss of future earnings.

Loss of retirement benefits under the INVEST Scheme

129 I turn to the issue of the assessment of damages associated with the plaintiff's retirement benefits from the SPF. The plaintiff claims a total of $323,210, or alternatively, $301,440.[206] On the other hand, counsel for the first defendant submits that the plaintiff should only be entitled to $249,186.62.[207]

130 The plaintiff, whilst she was employed with the SPF, was a participant in the INVEST Scheme.[208] Under the INVEST Scheme, the plaintiff contributed

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205 Table 2-7 Multipliers for Females.

206 PRS at para 52.

207 1DCS at para 166.

208 Mr Mani's 2nd supplementary AEIC dated 7 September 2022 at para 6.

7.75% of her gross salary on a monthly basis into a retirement account. The contributions would be invested under the scheme, such that the plaintiff would have been able to withdraw the full sum (including interest) upon retirement.[209] Various plans, with different levels of risk and returns, were available under the INVEST Scheme. The plaintiff had selected the "Balanced Plan".[210]

131 The key issue for my decision here is the average annual return the plaintiff would have enjoyed had she participated in the INVEST Scheme until her retirement. The counsel for the plaintiff submits that I should adopt an average annual return of 5% per annum, or, in the alternative, 4.61% per annum.[211] Counsel for the first defendant submits that I should adopt an average annual return of 4.56% per annum.[212] The second defendant did not submit that any specific figure should be awarded, but made general submissions that the first defendant's expert witness' projections should be adopted.[213] The third party stated that he fully concurs with the first and second defendants' submissions.[214]

132 The only expert who gave evidence on the computation of the INVEST Scheme's projected average annual return was the first defendant's expert, Mr Iain Potter ("Mr Potter"). Mr Potter is a chartered accountant, with experience in forensic accounting and auditing dating back to 2003.[215]

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209 Mr Mani's 2nd supplementary AEIC dated 7 September 2022 at para 6.

210 Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 15 at S/N 5.

211 PCS at paras 148–151.

212 1DCS at para 165.

213 2DCS at paras 15–20.

214 3PCS at para 4.

215 Mr Potter's AEIC dated 5 April 2023 at pp 20–21.

133 Mr Potter was instructed to assess the likely future annual rate of return that the plaintiff's funds would have generated within the INVEST Scheme's "Balanced Plan" from the date of his report until the date that the plaintiff would have retired from the SPF, but for the accident.[216] He was instructed to assume that the plaintiff would have retired from the SPF between the ages of 58 and 60.[217] Mr Potter's instructions meant that he would have to project the returns that the plaintiff's funds in the INVEST Scheme would have generated over around a 19 to 21-year period.[218]

134 In his report dated 15 March 2023, Mr Potter estimated that the expected annual rate of return for a "Balanced Plan" portfolio over 19 years is 4.56%, and the expected annual rate of return over 21 years is 4.25%.[219] Under Mr Potter's methodology, he elected to first consider the historic performance of the INVEST Scheme's "Balanced Plan" as disclosed in the INVEST Scheme's annual reports.[220] Mr Potter then compared this reported historic performance with a model he created based on the market returns, as reported by the Investment Management Association of Singapore and Life Insurance Association of Singapore, for key asset classes included in the INVEST Scheme's portfolios.[221] Mr Potter elected to consider historical data aggregated over a time horizon of about 20 years (*ie*, data from 2004 to 2022 for his 19-

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216 Mr Potter's AEIC dated 5 April 2023 at para 4.

217 Mr Potter's AEIC dated 5 April 2023 at para 4.

218 Mr Potter's AEIC dated 5 April 2023 at p 12, paras 2.1–2.2 and p 14, para 2.8.

219 Mr Potter's AEIC dated 5 April 2023 at p 14, para 2.8.

220 Mr Potter's AEIC dated 5 April 2023 at p 13, para 2.5.

221 Mr Potter's AEIC dated 5 April 2023 at pp 13–14, paras 2.6–2.7 and p 30; NE dated 4 May 2023 at p 45 at line 1 to p 46 at line 5.

year projection, and 2002 to 2022 for his 21-year projection).[222] This is because projections of market returns over the short term are subject to significant year-to-year changes,[223] and a longer time horizon would even out the short-term fluctuations.[224] Mr Potter concluded, from his analysis, that the *actual* historical performance of the INVEST Scheme's "Balanced Plan" and the *expected* performance of the said plan based on his model, as computed based on market returns for the plan's component assets, were aligned.[225] He explained that his model, as opposed to relying purely on the *historic* performance of the INVEST Scheme, provided a better projection of the *future* performance of the INVEST Scheme because his model accounted for the fact that the INVEST Scheme had changed its investment strategy to give less weight to equities since the financial year 2017.[226] Mr Potter further cross-checked his projections with ten-year forecasts published by investment firms and found that his projections were consistent with forecasts made by investment firms.[227]

135 Counsel for the plaintiff raises several issues with Mr Potter's analysis. Firstly, the plaintiff's counsel points to a document issued by the HUS INVEST Board of Trustees titled "HUS INVEST FUND Summary of Accounts for the period 14 Jul 2003 to 30 Apr 2019" ("Summary of Accounts").[228] This document states that the annualised rate of return on the contributions made by

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222 Mr Potter's AEIC dated 5 April 2023 at p 12, paras 2.1–2.2 and at p 14, para 2.8.

223 Mr Potter's AEIC dated 5 April 2023 at p 15, para 2.9.

224 NE dated 4 May 2023 at p 25 at lines 1–25.

225 Mr Potter's AEIC dated 5 April 2023 at p 14, para 2.7.

226 NE dated 4 May 2023 at p 64 at lines 20–30; Mr Potter's AEIC dated 5 April 2023 at p 12 at para 2.4.

227 Mr Potter's AEIC dated 5 April 2023 at p 16, paras 2.12–2.13.

228 PCS at para 125 referring to Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 31.

the plaintiff under the INVEST Scheme was 5.36%, which is a weighted rate of return that takes into consideration the compounding effect of returns over time. Counsel for the plaintiff submits that there is no reason to doubt the truth of the contents of the Summary of Accounts since it was provided by the Board of Trustees.[229] The plaintiff's counsel therefore submits that there is reason to question Mr Potter's projections, which deviate from the annualised rate of return of 5.36% stated in the Summary of Accounts.[230] The plaintiff's counsel further submits that this figure reflects the plaintiff's INVEST scheme returns starting from 2003, when she joined the SPF, until her exit from the SPF on 30 April 2019.[231]

136 Mr Potter provided oral evidence at the hearing on 4 May 2023 to explain why his projection differs from the 5.36% stated in the Summary of Accounts. He had conducted further computations and concluded that the 5.36% annualised rate of return reflected in the Summary of Accounts was calculated using the period that the plaintiff was contributing to the INVEST Scheme.[232] In other words, the 5.36% annualised rate of return was computed based on the returns from financial years 2010 (as opposed to 2003 as the plaintiff contends) to 2019, although the title of the relevant document specified the period to be from 14 July 2003 to 30 April 2019.[233] I note that this conclusion is corroborated by a document disclosed by the SPF, titled "INVEST Retirement Account Statement Information for Rajina Sharma D/O Rajandran (Jul 2009 to Sep

229 PCS at para 126.

230 PCS at para 127.

231 PCS at para 131.

232 NE dated 4 May 2023 at p 14 at line 27 to p 15 at line 10.

233 NE dated 4 May 2023 at p 17 at lines 1–9.

2013)",[234] which shows that the plaintiff started making contributions to the INVEST Scheme in July 2009. I agree with the submissions of the first defendant's counsel[235] that the reference to 14 July 2003 in the title of the Summary of Accounts[236] shows that this was the first day of the plaintiff's employment with the SPF, and that the reference to the 30 April 2019 date is to the plaintiff's last day of service in the SPF.

137 Mr Potter further explained that the 5.36% figure would not be a reliable figure for the purpose of projecting future returns because the 5.36% figure would capture exceptionally high returns from events such as the rebound from the global financial crisis in 2010 without capturing the downturn before 2010.[237] In other words, the 5.36% figure does not capture the negative returns in the earlier years of the global crisis itself and would therefore lead to a skewed result. Furthermore, the 5.36% figure would have been derived based on the previous investment strategy used by the INVEST Scheme. However, the investment strategy of the INVEST Scheme has changed over time through the offering of more plans, and the variation of the asset mix in the investment portfolio.[238] For instance, whereas the INVEST Scheme's "Balanced Plan" investment strategy was to invest approximately 40% of funds in equities from financial years 2010 to 2016,[239] this allocation of funds to equities was reduced to 35% from financial years 2017 to 2022.[240] While Mr Potter's own projections

234 Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 32.

235 1DRS at para 73.

236 Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 31.

237 NE dated 4 May 2023 at p 18 at line 24 to p 19 at line 7.

238 NE dated 4 May 2023 at p 19 at lines 8–23.

239 Mr Potter's AEIC dated 5 April 2023 at pp 36, 41, 48, 56, 64, 72 and 81.

240 Mr Potter's AEIC dated 5 April 2023 at pp 88, 96, 102, 108, 114 and 120.

for the future took into account these changes,[241] the 5.36% figure which reflected only historical data could not.[242] In addition, whereas the 5.36% figure was computed using data from a ten-year window (2010 to 2019), Mr Potter explained that his projections, which use a 19- and 21-year window, would allow for better averaging out of the impact of unusual major world events that affected the rates of return.[243] I agree with the submissions of the first defendant's counsel[244] that computing the average rate of return using a longer period of 20 years is more appropriate for a future projection of a similar period. The average obtained from the longer period will yield a better projection.

138 I accept Mr Potter's analysis, which is properly reasoned and substantiated. Importantly, I note that the SPF itself does not hold out the 5.36% figure as a figure to be used for projecting the INVEST Scheme's future returns. When asked by the plaintiff's solicitors what would have been the plaintiff's retirement sum under the INVEST Scheme at her retirement age, the SPF stated that the final retirement sum "cannot be projected with accuracy as it is dependent on her future salaries and the INVEST returns/dividends".[245] This is a clear indication that the 5.36% figure is not the projected future annual rate of return for the INVEST Scheme. Instead, the 5.36% figure reflects the historical returns of the INVEST Scheme for the period over which the plaintiff participated in the scheme. In short, Mr Potter's projections relate to *future* returns and not solely to historical performance, and does not involve, contrary

241 Mr Potter's AEIC dated 5 April 2023 at p 12, paras 2.3–2.4.

242 Mr Potter's AEIC dated 5 April 2023 at p 12, paras 2.3–2.4.

243 NE dated 4 May 2023 at p 19 at line 27 to p 20 at line 22.

244 1DCS at para 158.

245 Mr Mani's 3rd supplementary AEIC dated 5 January 2023 at p 8 at S/N 20.

to the plaintiff's assertions, any insinuation that the Summary of Accounts provided by the SPF was wrong.

139 Secondly, counsel for the plaintiff complains that Mr Potter, when computing his projections, included quasi-government bonds in the projected asset mix of the INVEST Scheme, when such bonds should have been excluded because the INVEST Scheme could not invest in stocks, bonds or securities issued by the Singapore government.[246] Counsel for the plaintiff also complains that Mr Potter did not have sufficient granular information about the specific investment strategy of the fund managers of the INVEST Scheme, and that any assumptions based on past data would be inaccurate with the change of fund managers in the financial year 2021/2022.[247]

140 These submissions do not take the plaintiff's counsel far. Mr Potter had pointed out that the INVEST Scheme could invest in quasi-government bonds issued by other countries or state bodies in other countries.[248] He was prepared to adjust his calculations in the midst of cross-examination to consider the impact of the omission of quasi-government bonds from his computations. In that regard, he found that by removing quasi-government bonds from his computations, he ended up with a slightly *lower* projection of the INVEST Scheme's estimated annual rate of return, which would have been less favourable to the plaintiff.[249] As regards the contention of the plaintiff's counsel that Mr Potter did not have data available to him at a sufficient level of granularity nor details on the types of equities and bonds that the *current* fund

246 PCS at paras 136 and 139–140.

247 PCS at paras 138 and 140.

248 NE dated 4 May 2023 at p 66 at lines 23–29.

249 NE dated 4 May 2023 at p 68 at lines 16–30.

managers invested in, Mr Potter explained that the data in the annual reports show that across financial years 2017 to 2022, the INVEST Scheme's investment strategy for the "Balanced Plan" was to allocate 35% of funds to equities.[250] That is different from financial years 2010 to 2016, during which the INVEST Scheme's "Balanced Plan" investment strategy allocated approximately 40% to equities.[251] His model has taken this change in investment strategy into account. For the period between 2017 to 2022, he had used more granular data that was made available in the annual reports for the financial years 2018 to 2020.[252] While the annual reports for the financial years 2021 and 2022 had less granular data as compared to the annual reports for the financial years 2018 to 2020, Mr Potter had made an assumption that in 2021 and 2022, the INVEST Scheme would not radically depart from the type of assets that it invested in for the financial years 2018 to 2020.[253] He testified that this was a reasonable assumption to make, even with a change of fund managers in the financial year 2021/2022, because of the costs involved in making such a change.[254] In response to the plaintiff counsel's query about the omission of certain types of assets from Mr Potter's model, Mr Potter explained that these assets occupied a small percentage of the INVEST Scheme's assets, and their market performance would likely be aligned with other assets that had already been considered in his model.[255] Pertinently, I note that Mr Potter had cross-checked the figures he computed with forecasts published by investment

250 Mr Potter's AEIC dated 5 April 2023 at pp 88, 96, 102, 108, 114 and 120.

251 Mr Potter's AEIC dated 5 April 2023 at pp 36, 41, 48, 56, 64, 72 and 81.

252 NE dated 4 May 2023 at p 41 at lines 24–30.

253 NE dated 4 May 2023 at p 41 at line 24 to p 42 at line 9.

254 NE dated 4 May 2023 at p 42 at lines 10–29.

255 NE dated 4 May 2023 at p 76 at line 30 to p 77 at line 20.

firms.[256] While, as the plaintiff's counsel notes, the publications against which Mr Potter cross-checked his analysis contain disclaimers that past performance is not a guarantee of future success,[257] I am of the view that it would be unreasonable to demand complete certainty when matters of future projection are concerned. The fact that Mr Potter's projections are consistent, to a large degree, with forecasts published by investment firms, adds to the reliability of his projections.

141 I note that counsel for the plaintiff has also submitted that the plaintiff's return on investment would change because her monthly contributions to the INVEST Scheme would have increased as her salary increased over time, had she continued in the SPF's employment.[258] Mathematically, this submission is misguided. The annual rate of return or the return on investment for a portfolio does not change regardless of how much is invested into the portfolio. In other words, a 4.56% per annum return remains at 4.56% per annum, regardless of the amount the plaintiff deposits into the INVEST Scheme each month.

142 Fundamentally, I note that while the plaintiff's counsel has sought to poke holes in Mr Potter's analysis, he has not offered any reasoned competing projection of his own to justify his submission that "a conservative figure of 5%"[259] should be used for the purposes of calculating the balance in the plaintiff's INVEST Scheme account at the point of her retirement.

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256 Mr Potter's AEIC dated 5 April 2023 at p 16, paras 2.12–2.13.

257 PCS at paras 141–142.

258 PCS at para 131.

259 PCS at para 145.

143 In his closing submissions, counsel for the plaintiff argues that if this court rejects the 5.36% figure found in the Summary of Accounts and does not accept his submission that the future annual rate of return of 5% should be applied for the INVEST Scheme,[260] then a rate of return of at least 4.61%, which is the *actual* historic performance of the INVEST Scheme based on data from financial years 2011 to 2022, should be adopted.[261] The plaintiff's counsel argues that 4.61% is preferable to Mr Potter's 4.56% figure because there are purportedly "median figures" from Mr Potter's report showing that the returns from the INVEST Scheme would be higher than 4.61%.[262] I do not accept the submission of the plaintiff's counsel as it misinterprets Mr Potter's expert report. Mr Potter had included data in his report showing that median projections, based on investment firms' forecasts, for the future ten-year expected annual rate of return of an INVEST Scheme "Balanced Plan" portfolio, fluctuated significantly on a year-to-year basis.[263] In fact, using recent forecasts from 2021 and/or 2022, the investment firms would have forecasted a *lower* ten-year expected annual rate of return as compared to Mr Potter's estimate. Mr Potter had explained that it would not be reliable to use these forecasts alone because the investment firms' forecasts were for ten- to 15-year periods and not for a 21-plus year period, which would have left them more vulnerable to fluctuations in short-term returns.[264] Moreover, these forecasts were volatile and changed significantly from year to year, such that for 2021 and 2022, the median forecasted annual rates of return were 2.97% and 3.57%

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260 PCS at paras 144 and 150.

261 PCS at paras 143–144; Mr Potter's AEIC at p 14, footnote 11.

262 PCS at paras 143–144.

263 Mr Potter's AEIC dated 5 April 2023 at p 32.

264 Mr Potter's AEIC dated 5 April 2023 at p 16 at para 2.13(a).

respectively, as opposed to 6.31% in 2023.[265] Further, as counsel for the first defendant has submitted, the 4.61% figure included returns from some years that were based on an asset mix which differs from the current one under the Balanced Plan.[266]

144 Taken in the round, Mr Potter's projection of 4.56% for a 19-year period is reasonable. Accordingly, I adopt the 4.56% figure as the average rate of return per annum. According to the first defendant's closing submissions, based on that average rate of return per annum, the projected payout under the INVEST Scheme when the plaintiff retires at age 58 is $346,838.05.[267] That sum is calculated based on lower monthly salaries than that which I found above at [107]. On the basis that the plaintiff will retire from the SPF at age 58, the multiplier based on the Singapore Actuarial Tables is 17.75. I have accounted for the contingencies of employment leading to possible periods of non-employment and adopted a reduced multiplier of 17.53 to compute the plaintiff's loss of future earnings, in accordance with the reasoning set out at [123] above. I will adopt the same reduced multiplier in assessing the plaintiff's loss of retirement benefits under the INVEST Scheme, given that the plaintiff's entitlement to such benefits would have been tied to her employment in the SPF and the monthly contributions from her salary into the retirement account. Based on a 4.56% annual rate of return, I award a sum of $296,375.58 (being $355,042.05 (see Annex A of the judgment)/21 years x 17.53). For the reasons already stated (at [74]–[93] above), I decline to apply a 15% discount as submitted by the defendants.

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265 Mr Potter's AEIC dated 5 April 2023 at p 16 at para 2.13(b).

266 1DRS at paras 78–79.

267 1DCS at para 166 and Annex A.

Future miscellaneous supplies and transport expenses

145 I turn to the plaintiff's claim for future miscellaneous supplies and transport expenses.

146 The plaintiff claims a total of $111,919.03, comprising $83,683.03 for future miscellaneous supplies and $28,236 for future transport expenses.[268] Counsel for the first defendant contends that the plaintiff should only be entitled to a sum of $57,525.84,[269] comprising $33,188.64 for future miscellaneous supplies [270] and $24,337.20 for future transport.[271]

(1) Multiplier

147 Counsel for the plaintiff submits that in assessing future expenses, a multiplier of 23.53 should be applied.[272] On the other hand, counsel for the first defendant submits that a (higher) multiplier of 23.86 should be used.[273]

148 The parties agree that the plaintiff's future expenses should be pegged to her remaining lifespan. As discussed at [19] above, the plaintiff's life expectancy was shortened by her injuries. She is expected to live up to the age of 72, as opposed to the age of 86 for other females born in the same year. The plaintiff can thus expect to live for a further 35 years.

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268 PCS at para 165.

269 1DRS at para 93.

270 1DCS at para 93.

271 1DRS at para 93.

272 PCS at paras 165 and 184.

273 1DCS at para 94.

149 I agree with the submissions of counsel for the first defendant. The multiplier should be selected from Table 3 in the Singapore Actuarial Tables in a case involving shortening of life.[274] As explained in footnote 1 at page 1 of the Preface, Singapore Actuarial Tables:[275]

> … In cases where shortening of life is involved, in calculating the multiplier for future medical expenses, a pure present value discount should be used without consideration given to the shortened lifespan; otherwise, there would be double deduction. For this aspect only present value discount should be considered in the form of annuity term certain. The multiplier factors for annuity term certain have been included in Table 3.

The multiplier based on Table 3 for a 35-year term is 23.86. Accordingly, I adopt the multiplier of 23.86 to calculate the future expenses of the plaintiff.

(2) Multiplicand

150 The plaintiff's claims for future expenses are as follows:

(a) $120 per month for diapers[276] and $17 per month for nappy rash cream;[277]

(b) $100 per month to commute to her maintenance therapy sessions twice a month, spending an average of $25 per one-way trip;[278]

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274 1DCS at para 94, footnote 68.

275 See also Example 6, "Future medical costs and expenses" at page 9 of the Singapore Actuarial Tables.

276 NE dated 14 September 2022 at p 92 at lines 1–21.

277 NE dated 15 September 2022 at p 7 at lines 11–16.

278 NE dated 15 September 2022 at p 7 at lines 7–10.

(c) $148 per month for nutritional supplements, which Mr Mani states was recommended by the plaintiff's dietician;[279] and

(d) With respect to the maintenance of the wheelchair and the commode, $1.82 per month for the wheelchair[280] and $9.55 per month for the commode.[281]

151 The first defendant's counsel accepts the expenses incurred by the plaintiff in relation to: (a) diapers; (b) transportation; and (c) maintenance of her wheelchair and commode.[282] Accordingly, I allow the plaintiff's claim for these expenses.

152 However, the first defendant's counsel disagrees with the following:

(a) The monthly costs of the nappy rash cream, as the plaintiff did not produce any evidence of such costs.[283] Counsel for the first defendant submits that an award of $1,500 per year for both the diapers and the nappy rash cream would be fair.[284]

(b) With respect to nutritional supplements, counsel for the first defendant submits that no provision should be made for it as there is no evidence of any medical necessity for such supplements.[285]

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279 NE dated 14 September 2022 at p 92 at line 22 to p 93 at line 11; PCS at para 160.

280 NE dated 14 September 2022 at p 96 at line 21 to p 97 at line 31 and at p 98 at lines 24–26.

281 NE dated 14 September 2022 at p 99 at line 3 to p 103 at line 4.

282 1DRS at para 92 at S/N 1, 3, 5, and 6.

283 1DCS at para 90; 1DRS at para 92 at S/N 2.

284 1DCS at para 90; 1DRS at para 92 at S/N 1 and 2.

285 1DCS at para 89; 1DRS at para 92 at S/N 4.

153 With respect to the nappy rash cream, Mr Mani explained that the plaintiff needs the cream as she is always in diapers and seated or lying down for long periods of time.[286] Mr Mani testified that a tube of nappy rash cream costs about $8.50, and that he uses one tube for at most two weeks. As such, he spends $17 on nappy rash cream per month.[287] The plaintiff is only claiming $17 per month for this item and there is no reason for me to doubt Mr Mani's evidence on how much must be incurred for the nappy rash cream. I therefore allow the claim for nappy rash cream. As regards the expenses for nutritional supplements, I agree with the first defendant's counsel that there is no evidence to show that such expenses are necessitated by the accident. I therefore make no award for this item.

154 The calculations for the award of damages for future miscellaneous supplies and transport expenses are set out in Table E below:

Table E

Item	**Monthly costs**	**Annual costs**
Diapers	$120	$1,440
Nappy rash cream	$17	$204
Transport	$100	$1,200
Maintenance of wheelchair	$1.82	$21.84
Maintenance of commode	$9.55	$114.60
		Total annual expenses: $2,980.44
		Total award: $2,980.44 x 23.86 = **$71,113.30**

286 PRS at para 58.

287 NE dated 15 September 2022 at p 7 at lines 11–16.

155 Upon applying the multiplier of 23.86, I award the sum of $71,113.30 to the plaintiff. For the reasons already stated (at [74]–[93] above), I decline to discount this sum by a further 15% as submitted by the defendants.

Future caregiver expenses

156 The plaintiff claims a total of $705,900 for her future caregiver expenses.[288] Mr Mani states that he wishes to return to work and needs to hire a caregiver to take care of the plaintiff.[289] Counsel for the plaintiff submits that the plaintiff requires a trained caregiver given her current level of reliance on Mr Mani.[290] The plaintiff's counsel points out that in Dr Kong's medical report dated 19 July 2021, Dr Kong recorded that the plaintiff would require a trained carer to assist her with her daily living needs. The trained carer could be a domestic helper provided with the necessary training at TTSH.[291] In court, Dr Kong clarified that the carer would require about five to six sessions of training, which would take around three to four weeks.[292] Given the plaintiff's volatile moods and reliance on Mr Mani as her caregiver, the trained carer would need some time to familiarise himself or herself with the plaintiff's needs.[293] Dr Kong further testified that it is unnecessary for the plaintiff to engage a caregiver with previous experience, since Dr Kong and his medical team at TTSH would provide the necessary training.

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288 PCS at para 185.

289 Mr Mani's AEIC dated 30 May 2022 at para 36; NE dated 13 September 2022 at p 18 at lines 11–13.

290 PCS at para 168.

291 PCS at para 170 referring to Dr Kong Keng He's AEIC dated 5 July 2022 at p 14; NE dated 16 September 2022 at p 40 at line 24 to p 41 at line 5.

292 NE dated 16 September 2022 at p 41 at lines 14–24.

293 NE dated 16 September 2022 at p 38 at lines 12–29.

157 Counsel for the plaintiff submits that the current cost of a live-in trained caregiver is about $2,500 per month. The quotation provided by one of the agencies, Angel Maids, was a total of $1,990 per month. The breakdown is as follows: (a) salary of $1,300; (b) levy of $60; (c) miscellaneous fees of $150; and (d) salary for an off-day caregiver of $480 (for four hours every week).[294] Counsel for the plaintiff submits that the costs would be higher than $1,990, as the caregiver would need scheduled rest and/or off days and home leave, during which an interim caregiver would be required.[295] Further, the figure of $1,990 does not include insurance for the caregiver,[296] and does not take into account agency fees payable for the hiring of new caregivers every six years or so.[297] The plaintiff's counsel proposes a figure of $2,500 per month, with the breakdown as follows: (a) salary of $1,300; (b) administrative costs (comprising levy, miscellaneous fees and interim caregiver costs) of $690; and (c) agency fees (comprising application and other fees, cost of medical insurance, pre-employment medical examination fees and transportation fees) of $510.[298] The plaintiff's counsel submits that a multiplier of 23.53 is appropriate.[299]

158 Counsel for the first defendant submits that the plaintiff should only be entitled to claim $211,590.10.[300] The first defendant's counsel acknowledges that it is fair to compensate the plaintiff for the costs of engaging a domestic

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294 Mr Mani's AEIC dated 30 May 2022 at p 157.

295 PCS at para 176.

296 PCS at para 177.

297 PCS at para 178.

298 PCS at paras 181–182.

299 PCS at para 184.

300 1DCS at para 103.

helper who could be trained to care for the plaintiff.[301] Counsel for the first defendant submits, however, that $600 per month is sufficient to cover the caregiver's salary, since that was the amount Mr Mani paid his current domestic helper, along with $60 for levy.[302] Counsel for the first defendant proposes an annual figure of $10,285, with the breakdown as follows: (a) salary of $7,200; (b) one-time agency fee of $400 per annum (assuming that the total agency fee is $2,000 and a new helper is engaged every five years); (c) insurance fees of $165 per annum (assuming that the total fee is $330 for 24 months); (d) levy of $720; and (e) other expenses including medical care and cost of living of $1,800 per year.[303] Counsel for the first defendant further submits that the costs of training at TTSH should be provided for, and he proposes a lump sum of $3,000.[304] With respect to interim caregiver costs, counsel for the first defendant submits that it is unlikely that an interim caregiver would be engaged for such short periods of time, or that the plaintiff would be receptive to an interim caregiver.[305] Instead, it is reasonable to expect Mr Mani to care for his wife when the caregiver is away on off days or home leave, since Mr Mani would be available during the weekend, or can apply for annual leave otherwise.[306] Finally, counsel for the first defendant submits that a (higher) multiplier of 23.86 is appropriate.[307]

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301 1DCS at para 100.

302 1DCS at para 101.

303 1DCS at para 101.

304 1DCS at para 102.

305 1DRS at paras 99 and 101.

306 1DRS at para 102.

307 1DCS at para 103.

159 The second defendant submits that "there is a legal basis for compensating domestic helper costs" and agrees with the multiplicand proposed by the first defendant. The second defendant contends, however, that the domestic helper's services would likely benefit the entire household rather than just the plaintiff, such that there should be a discount applied.[308] The second defendant also submits that there is no medical evidence to support the plaintiff's claim that she requires a specially trained domestic helper.[309]

160 I deal first with the second defendant's assertion that a discount should be applied to the award for future caregiver expenses because the domestic helper's services would benefit the entire household and not just the plaintiff. As noted at [24] above, Dr Kong gave evidence that the plaintiff had suffered "a severe traumatic brain injury … with permanent impairments of right hemiparesis, language and cognition, leading to loss of functional independence and the need for a *fulltime carer*" (emphasis added).[310] Dr Kong's medical report dated 19 July 2021 also makes it clear that the plaintiff would require a trained caregiver to assist her with her daily living needs.[311] Given the plaintiff's limited mobility and heavy dependence on others for her activities of daily living, it is obvious that the plaintiff's caregiver will have to devote her whole attention to the plaintiff. Indeed, Dr Kong indicated in his report that the plaintiff needs a

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308 2DCS at para 21.

309 2DCS at para 22.3.

310 Dr Kong Keng He's AEIC dated 5 July 2022 at p 13 (Specialist medical report dated 19 July 2021 by Dr Kong Keng He (Senior Consultant, Department of Rehabilitation Medicine, TTSH Rehabilitation Centre) at p 2).

311 Dr Kong Keng He's AEIC dated 5 July 2022 at p 14 (Specialist medical report dated 19 July 2021 by Dr Kong Keng He (Senior Consultant, Department of Rehabilitation Medicine, TTSH Rehabilitation Centre) at p 3).

"fulltime carer". There is therefore no basis for any discount as submitted by the second defendant.

161 As for the provision of an interim caregiver, I find that it is not reasonable to demand that Mr Mani spend all his weekends and his annual leave entitlement to fill in for the caregiver whenever the caregiver is away on off days or home leave. I accept that Mr Mani will be able to attend to the plaintiff, and indeed, given the evidence on how he has been devoted to caring for the plaintiff, Mr Mani will likely take care of the plaintiff when her caregiver is not available. However, it will be reasonable to provide Mr Mani and the plaintiff's family with support on the days that the plaintiff's caregiver is away, and some buffer for times when Mr Mani is also unavailable. In this regard, I find the plaintiff's claim for the costs of engaging an interim caregiver for four hours, which will cover part of the time that the caregiver is away on off days, to be reasonable, and I will allow this item of the plaintiff's claim. For similar reasons, I will also allow the plaintiff's claim for the costs of engaging an interim caregiver when the plaintiff's caregiver is away on home leave. In this regard, I will allow a provision of six hours for seven days per year. This is fair considering that Mr Mani will have to attend to the plaintiff's needs for the rest of each day and night in each of those weeks that the plaintiff's caregiver is away on home leave.

162 I award damages for future caregiver expenses of $400,848. This figure comprises the following:

(a) Salary of $650 per month or $7,800 per year. This is within the range of $600 to $1,000 based on a quote from Active Global Caregiver,

which is another agency that Mr Mani was in contact with.[312] Based on Active Global Caregiver's quote, and the fact that Mr Mani testified to paying his current helper $600 per month,[313] I find that $650 is reasonable to cover the caregiver's salary. I also note that the plaintiff did not provide any reason why the quote provided by Angel Maids should be preferred to that provided by Active Global Caregiver.

(b) Levy of $60 per month or $720 per year. This is based on the levy currently paid by Mr Mani for his domestic helper.[314]

(c) Insurance of $165 per year. This is based on the cost of insurance of $330 for 24 months, as submitted by counsel for the first defendant,[315] which is quite close to the quote of $292 for 26 months provided by Active Global Caregiver.[316]

(d) Living expenses, including biannual medical checkups, of $150 per month or $1,800 per year. This is based on the miscellaneous expenses submitted by the plaintiff,[317] as well as the expenses covering medical care and cost of living submitted by counsel for the first defendant.[318]

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312 Mr Mani's AEIC dated 30 May 2022 at p 156; NE dated 15 September 2022 at p 25 at line 15 to p 26 at line 4.

313 NE dated 14 September 2022 at p 70 at lines 1–7.

314 NE dated 14 September 2022 at p 70 at lines 1–7.

315 1DCS at para 101.

316 Mr Mani's AEIC dated 30 May 2022 at p 156.

317 PCS at paras 175 and 181.

318 1DCS at para 101(e).

(e) Interim caregiver for weekends of $400 per month or $4,800 per year. According to the quotations provided by both Active Global Caregiver and Angel Maids, part-time help would cost at least around $25 per hour.[319] On the basis that a part-time caregiver would be required for four hours every weekend and that each hour will cost $25, this adds up to $400 per month.

(f) Interim caregiver for home leave of $1,050 per year, on the basis that the plaintiff's caregiver will be away on home leave for at least one week each year and a part-time caregiver would be required for six hours each day for seven days.

(g) It is assumed that agency fees of $2,800 will be incurred every six years as submitted by the plaintiff, or about $465 per year. Active Global Caregiver quoted $2,675 while Angel Maids quoted $2,800 for agency fees.[320] I have taken the higher quote of $2,800 as the expected costs, considering that the estimate that the plaintiff will need to hire a new helper every six years is a fairly conservative one. Counsel for the first defendant has estimated that a new helper will be engaged every five years.

163 With respect to the multiplier, as explained at [149] above, 23.86 is the correct multiplier to apply.

164 The calculations for the award of damages for future caregiver expenses are set out in Table F below:

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319 Mr Mani's AEIC dated 30 May 2022 at pp 156–157.

320 Mr Mani's AEIC dated 30 May 2022 at pp 156–157.

Table F

Expense	**Costs per year**
Salary	$7,800
Levy	$720
Insurance	$165
Living expenses	$1,800
Interim caregiver for weekends	$4,800
Interim caregiver for home leave	$1,050
Agency fee	$465
Total	$16,800 (or $1,400 per month)
Multiplied by 23.86	**$400,848**

165 Upon applying the appropriate multiplier of 23.86, I award to the plaintiff the sum of $400,848 for her future caregiver expenses. For the reasons already stated (at [74]–[93] above), I decline to discount this sum by a further 15% as submitted by the defendants.

Special damages

Pre-trial transport expenses

166 The plaintiff claims a total of $12,532.76 for pre-trial transport expenses. This includes the plaintiff's transport expenses when travelling to and from

TTSH for her follow-up medical treatment in the sum of $11,588.36,[321] and flight tickets for the plaintiff and Mr Mani to travel to and from Beijing for stem cell therapy in the sum of $944.40.[322] As the claim for the flight tickets was subsequently withdrawn,[323] I make no order on this claim.

167 Counsel for the first defendant submits that the plaintiff should only be entitled to claim $10,800 for her transport expenses, based on monthly estimates of such expenses.[324] Counsel for the first defendant explains that based on the receipts, the plaintiff's trips to and from the hospital work out to about five times a month. Assuming that each roundtrip costs $30, the total sum of $10,800 for an average of five roundtrips per month from 2017 to 2022 is fair.[325]

168 I do not accept the calculations of the counsel for the first defendant, which are based on monthly estimates of the plaintiff's transport expenses instead of actual transport expenses incurred by the plaintiff. Having reviewed the receipts for transport expenses from March 2017 to April 2022, I find that they add up to $11,311.02.[326] As such, I award the sum of $11,311.02.

Pre-trial medical equipment expenses

169 As the parties are in agreement, I award the sum of $8,196.31 for the plaintiff's pre-trial medical equipment expenses.

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321 PCS at paras 201(a) and 201(c).

322 PCS at para 201(b) referencing Mr Mani's AEIC dated 30 May 2022 at para 47.

323 PRS at para 101.

324 1DCS at para 181.

325 1DCS at para 181.

326 Mr Mani's AEIC dated 30 May 2022 at pp 211–379.

Pre-trial loss of earnings of the plaintiff

170 The plaintiff claims the sum of $315,458.84 for pre-trial loss of earnings from 1 May 2019 to 13 September 2022.[327] She uses the same method as her computation under the head of damages for loss of future earnings for the first period from 37 years old to 43 years old (see [95] above).[328]

171 Counsel for the plaintiff submits that her monthly income would be $7,801.95, which is derived from the monthly average of her annual income from her Notices of Assessment for 2016 and 2017 (*ie,* for income earned from 1 January 2015 to 31 December 2016), adding employer's CPF contributions and deducting income tax.[329] She thereby arrives at the sum of $315,458.84 by multiplying the figure for her monthly income by 40 months and 13 days. Her computation is as follows:

Year	**Monthly income**	**No. of months**	**Annual Salary**
2019 (1 May 2019 to 31 December 2019)	$7,801.95	8 months	$62,415.60
2020	$7,801.95	12 months	$93,623.40
2021	$7,801.95	12 months	$93,623.40
2022 (1 January 2022 to 13 September 2022)	$7,801.95	8 months and 13 days	$65,796.44
Total pre-trial loss of income			**$315,458.84**

327 PCS at para 189.

328 PCS at para 187.

329 PCS at paras 187–189.

172 Counsel for the first defendant contends that the sum of $275,777.13 is appropriate.[330] This is based on the plaintiff's last drawn gross monthly salary of $4,858.45, adding to that employer's CPF contributions and a provision of three months' bonuses for each year from 2019 to 2021, and deducting income tax. Counsel for the first defendant thereby arrives at the total sum of $275,777.13 by multiplying the figure for the plaintiff's monthly income by 40.5 months.[331] The first defendant counsel's computation is as follows:

Year	**Last drawn gross monthly salary**	**No. of months (inclusive of 3 months bonuses except for 2022)**	**Salary inclusive of employer's CPF**	**Less income tax**	**Annual salary**
2019	$4,858.45	11	$62,528.25	($1,400.00)	$61,128.25
2020	$4,858.45	15	$85,265.80	($1,400.00)	$83,865.80
2021	$4,858.45	15	$85,265.80	($1,400.00)	$83,865.80
2022	$4,858.45	8.5	$48,317.29	($1,400.00)	$46,917.29
Total pre-trial loss of income					**$275,777.13**

330 1DRS at para 106.

331 1DRS at para 106.

173 Essentially, the plaintiff's method is based on what she had actually earned, as evidenced by her Notices of Assessment for 2016 and 2017 (*ie,* what she had earned in 2015 and 2016), which included her salary, bonuses as well as allowances and other emoluments, before adding employer's CPF contributions and deducting taxes. On the other hand, the first defendant counsel's method is based on the plaintiff's last drawn gross salary and a provision of a total of three months' bonuses annually, before adding employer's CPF contributions and deducting taxes.

174 I have already dealt with the plaintiff's suggested method of computation based only on her Notices of Assessment for 2016 and 2017 and explained why it would be more appropriate to consider the average of her salary based on her Notices of Assessment for 2016 to 2019 (at [115] above). The same observations apply here. I have also explained why the first defendant counsel's proposed method of computation, which provides only three months' bonuses, would lead to an under compensation (at [112]–[113] above). I therefore reject both methods of computation, in favour of using the average of what the plaintiff had received, based on her Notices of Assessment for 2016 to 2019 (for income earned from 2015 to 2018) as the basis for the assessment of her pre-trial loss of earnings. The plaintiff's Notices of Assessment for the years after 2019 are not used because her employment with the SPF was terminated in 2019. The average of the plaintiff's yearly income for 2015 to 2018 is as shown in Table B at [116] above, which I reproduce for ease of reference:

Year of Assessment	**Year income was earned**	**Basic Salary**	**Annual Assessment Amount**
2016[332]	2015	$50,363.40	$81,141
2017[333]	2016	$52,999.40	$82,069
2018[334]	2017	$55,530.40	$76,073
2019[335]	2018	$57,486.40	$77,005
Total		$216,379.60	$316,288
Average		$54,094.90 or $4,507.91 per month	$79,072 or 17.54 months of the average basic salary

175 I calculate the plaintiff's loss of pre-trial earnings for 2020 separately. It is the plaintiff's own case in her counsel's reply submissions that in 2020, due to the COVID-19 pandemic, there were no mid-year and year-end bonuses paid to civil servants.[336] Hence, in computing the plaintiff's income for 2020, I deduct

332 Based on the plaintiff's NOA 2016, for income earned in 2015.

333 Based on the plaintiff's NOA 2017, for income earned in 2016 before the accident on 2 November 2016.

334 Based on the plaintiff's NOA 2018, for income earned in 2017 while she was not in active service.

335 Based on the plaintiff's NOA 2019, for income earned in 2018.

336 PRS at para 25.

the average of 1.28 months (*ie*, 0.49 + 0.79 months) of the plaintiff's monthly salary, being the average of her mid-year and year-end bonuses from 2015 to 2018.

176 I cross-check the average numbers for the mid-year, year-end and performance bonuses for 2015 to 2018, which I use for the assessment of pre-trial loss of earnings here, against the average numbers for the same over a much longer term, between 2006 and 2018. I note that the numbers are comparable, as may be seen from Table G below:

Table G

Period	**Average performance bonus**	**Average mid-year bonus**	**Average year-end bonus**	**Total average bonuses**
2006 – 2018[337]	1.76 months	0.43 months	0.80 months	2.99 months
2015-2018[338]	1.73 months	0.49 months	0.79 months	3.01 months
Comparison between the 2 periods			Difference of 0.02 months or 0.6 days	

177 I award to the plaintiff the sum of $300,291.34 for her pre-trial loss of earnings. I set out my calculations for the plaintiff's pre-trial loss of earnings in Table H below, which comprise the following:

337 Based on the figures in Table A.

338 Based on the figures in Table A.

(a) The average of the plaintiff's annual income for 2015 to 2018, as reflected in her Notices of Assessment for 2016 to 2019, is $79,072 (see Table B). I add to that a sum of $13,442.24, being employer's CPF contributions at 17%,[339] to obtain a total of $92,514.24. I deduct from that a sum of $1,572.74 for income tax, assumed at 1.7%, to arrive at an annual income of $90,941.50 or amonthly income of $7,578.46.

(b) For the period between 1 May 2019 and 13 September 2022, excluding the year 2020, I multiply the monthly average income of $7,578.46 by 28.5 months (*ie,* 40.5 months – 12 months in 2020) to derive the plaintiff's loss of income in the sum of $215,986.11.

(c) For the 12 months in 2020, I deduct 1.28 months, being the average mid-year and year-end bonuses for 2015 to 2018, from the average annual salary of $79,072. That deduction amounts to $5,770.12 ($4,507.91 being the average monthly salary for 2015 to 2018 x 1.28 months) to arrive at the income of $73,301.88 for 2020. I add to that a sum of $12,461.32, being employer's CPF contributions at 17%,[340] to obtain a total of $85,763.20. I deduct from that a sum of $1,457.97 for income tax, assumed at 1.7%, to arrive at an annual income of $84,305.23.

(d) Adding $215,986.11 and $84,305.23 together, the total loss of pre-trial earnings is $300,291.34.

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339 PCS at para 110; 1DCS at paras 135–136.

340 PCS at para 110; 1DCS at paras 135–136.

Table H

Period	**Annual average income**	**Employer's CPF contributions at 17%**	**Less income tax at 1.7%**	**Monthly average income**	**Multiply by 28.5 months**
1 May 2019 to 12 September 2022, but excluding 2020	$79,072	$13,442.24	$1,572.74	$7,578.46	$215,986.11
					Income for 2020
For year 2020	$73,301.88	$12,461.32	$1,457.97	7,025.44	$84,305.23
Total pre-trial loss of earnings					**$300,291.34**

Pre-trial loss of earnings of the plaintiff's caregiver

178 The plaintiff claims for the pre-trial loss of earnings of Mr Mani, who stopped working to care for the plaintiff.[341] Prior to the accident, Mr Mani was earning a gross monthly salary of $3,640.[342] He was on no-pay leave from 1 May 2017 to 31 August 2017 to care for the plaintiff, after she was discharged and returned home on 11 March 2017. He tendered his resignation on 21 August 2017 to tend to the plaintiff full-time from 2 September 2017 onwards.[343]

341 PCS at paras 190, 191 and 197.

342 Mr Mani's AEIC dated 30 May 2022 at para 50 and p 381.

343 PCS at paras 190–191.

179 Relying on *AOD* and *Pollmann, Christian Joachim v Ye Xianrong* [2021] 5 SLR 1111 ("*Pollmann v Ye Xianrong*"), the plaintiff "claims for her Representative's pre-trial loss of income in two parts".[344] Counsel for the plaintiff argues that as the primary caregiver of the plaintiff, Mr Mani should be entitled to his full salary for the period when he was on no-pay leave (*ie*, 1 May 2017 to 31 August 2017) and to the salary a trained caregiver would have received for the subsequent period (*ie*, 2 September 2017 to 13 September 2022).[345] The plaintiff claims a total of $93,079.60, being $14,560 for the first period of four months that Mr Mani was on no-pay leave based on Mr Mani's monthly salary (*ie*, $3,640 x 4) and $78,519.60 for the subsequent period of 60 months and 12 days based on a caregiver's monthly salary of $1,300 (*ie*, $1,300 x 60 months and 12 days).[346]

180 Counsel for the first defendant submits that the plaintiff's claim for Mr Mani's pre-trial loss of earnings should not be allowed. In *Pollmann v Ye Xianrong*, the court held that the only route for a plaintiff to recover his caregiver's loss of income is to characterise the caregiver's loss as the plaintiff's own loss (at [253]). The loss of the plaintiff is, in this regard, the need for care (at [255]). Counsel for the first defendant asserts, however, that the loss being claimed by the plaintiff here has been characterised as being "'*her Representative's pre-trial loss of income*' i.e. *Mr Mani's* loss of income" [emphasis in original],[347] and therefore, the claim is still that of Mr Mani's.[348]

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344 PCS at para 197.

345 PCS at paras 192–199.

346 PCS at para 199.

347 1DRS at para 110.

348 1DRS at paras 108–110.

181 Counsel for the first defendant also submits that the claim should not be allowed because Mr Mani is both the tortfeasor and the caregiver. The first defendant (*ie*, Mr Mani) has already compensated the plaintiff by providing gratuitous care. If the court were to order the first defendant to pay damages to the plaintiff under this head of claim, the first defendant would be paying double compensation.[349] It is further argued that ordering the first defendant to pay damages would result in a circularity of payment. Since the purpose of allowing the plaintiff to claim the pre-trial loss of earnings of her caregiver is to allow the caregiver to receive proper remuneration for his services, an award of damages against the first defendant in favour of the plaintiff would ultimately flow back to the hands of the first defendant, thus rendering the award superfluous.[350]

182 I deal first with the contention that the plaintiff's claim should fail due to her alleged failure to characterise Mr Mani's loss as the plaintiff's own loss. This can be disposed of quickly. It is clear from the plaintiff's submissions that the plaintiff is seeking compensation for her own loss, being the costs of meeting the need for care that was created by the accident, when she claims "for her Representative's pre-trial loss of income". The plaintiff's counsel makes references to Mr Mani's loss in his submissions for the purpose of quantifying the plaintiff's loss in the amount of the pre-trial loss of income of Mr Mani. Hence, his submissions must be read in that context. I therefore do not accept this argument raised by counsel for the first defendant.

183 I also do not accept the argument that awarding damages for pre-trial loss of earnings of the plaintiff's caregiver in the present case would result in

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349 1DCS at paras 174–175.

350 1DCS at paras 175–176.

the defendants paying double compensation and in circularity of payment. In my judgment, where services are volunteered to another family member in need out of affection, devotion or a sense of duty by a family member who is also the tortfeasor ("tortfeasor-family member"), the situation should be treated in the same manner as where gratuitous services are provided by third parties out of sympathy or the goodness of their hearts. If the tortfeasor-family member is not providing the services as a tortfeasor seeking to pay or mitigate damages arising from his tortious act, it would be inaccurate to characterise and treat such services as compensation or payment in the discharge of legal liability, or as giving rise to double compensation. There is also no circularity of payment because damages are awarded to compensate the plaintiff *for the plaintiff's loss* and to meet the plaintiff's needs, and not to compensate the tortfeasor-family member. A tortfeasor-family member who is acting out of affection, devotion or duty when caring for the plaintiff does so with no expectation of getting paid by the plaintiff to begin with. I elaborate.

184 In support of his arguments, counsel for the first defendant relies on the Singapore High Court case of *Gul Chandiram Mahtani and another (administrators of the estate of Harbajan Kaur, deceased) v Chain Singh and another* [1998] 2 SLR(R) 801 ("*Gul Chandiram*"). In that case, the first defendant was driving his wife and daughter when they got into an accident that caused the death of his wife. The administrators of the estate of the wife commenced a loss of dependency claim against the first defendant and his insurer, whereby one of the claims sought was the cost of providing for the daughter during the pre-trial period. In view of the fact that the first defendant there had been providing for the daughter during that period, the court held that the plaintiff could not recover such costs as "to order the first defendant to pay for the expenses of looking after the daughter for the period up to trial would

amount to making the first defendant pay double compensation" (at [25]). In coming to its decision, the court referred (at [25]) to the House of Lords decision of *Hunt v Severs* [1994] 2 AC 350 ("*Hunt v Severs (HL)*").

185 In *Hunt v Severs (HL)*, the plaintiff was seriously injured whilst riding pillion on a motorcycle ridden by the defendant. The defendant, who was the plaintiff's boyfriend, looked after her at the hospital and thereafter. In the plaintiff's action for damages for personal injuries, the defendant admitted liability but disputed the claims for travelling expenses and the claim for services rendered and to be rendered by him. The trial judge allowed these claims, and his findings were affirmed by the English Court of Appeal in *Hunt v Severs* [1993] 3 WLR 558 ("*Hunt v Severs (CA)*"). Sir Thomas Bingham MR (as he then was) held in *Hunt v Severs (CA)* that the damages recoverable by an injured plaintiff from a tortfeasor are compensatory in nature (at 569). Where a tortfeasor who is also a family member of the plaintiff gratuitously renders services to a plaintiff, such services are "in the same category as services rendered voluntarily by a third party, or charitable gifts, or insurance payments", which are "not to be regarded as diminishing the plaintiff's loss" (at 570).

186 On appeal, the House of Lords disagreed and held that where care has been provided by the tortfeasor, there is no ground in public policy to require the tortfeasor to pay damages to the plaintiff in respect of care that he himself has provided. This was because the underlying rationale of awarding damages is to enable the plaintiff to compensate the caregiver for his services. In this regard, it was held that a plaintiff who recovers such damages should hold them on trust for the caregiver who provided gratuitous services. Lord Bridge of Harwich at 357–358 of *Hunt v Severs (HL)* stated that:

> … Difficult questions may arise when the plaintiff's injuries attract benefits from third parties. According to their nature these may or may not be taken into account as reducing the tortfeasor's liability. The two well established categories of receipt which are to be ignored in assessing damages are the fruits of insurance which the plaintiff himself has provided against the contingency causing his injuries (which may or may not lead to a claim by the insurer as subrogated to the rights of the plaintiff) and the fruits of the benevolence of third parties motivated by sympathy for the plaintiff's misfortune. The policy considerations which underlie these two apparent exceptions to the rule against double recovery are, I think, well understood: see, for example, *Parry v. Cleaver* [1970] AC 1, 14, and *Hussain v. New Taplow Paper Mills Ltd* [1988] AC 514, 528. But I find it difficult to see what considerations of public policy can justify a requirement that the tortfeasor himself should compensate the plaintiff twice over the self-same loss. …

187 At 363 of *Hunt v Severs (HL)*, Lord Bridge further stated that:

> … [In] both England and Scotland the law now ensures that an injured plaintiff may recover the reasonable value of gratuitous services rendered to him by way of voluntary care by a member of his family… But it is nevertheless important to recognise that the underlying rationale of the English law, as all the cases before *Donnelly v. Joyce* [1974] Q.B. 454 demonstrate, *is to enable the voluntary carer to receive proper recompense for his or her services* and I would think it appropriate for the House to take the opportunity so far as possible to bring the law of the two countries into accord by adopting the view of Lord Denning M.R. in *Cunningham v. Harrison* [1973] Q.B. 942 that in England the injured plaintiff who recovers damages under this head should hold them on trust for the voluntary carer.
>
> By concentrating on the plaintiff's need and the plaintiff's loss as the basis of an award in respect of voluntary care received by the plaintiff, the reasoning in *Donnelly v. Joyce* diverts attention from the award's central objective of compensating the voluntary carer. Once this is recognised it becomes evident that there can be no ground in public policy or otherwise for requiring the tortfeasor to pay to the plaintiff, in respect of the

> services which he himself has rendered, a sum of money which the plaintiff must then repay to him. …
>
> [emphasis added]

188 By characterising the payment as intended for the caregiver, focus is shifted away from the fact that the gratuitous care given by a tortfeasor-family member is also the fruit of benevolence. Also, by taking the view that the award of damages is to compensate the caregiver, the House of Lords found that one of the reasons to deny recovery to the plaintiff would be circularity of payment or futility of having the tortfeasor-family member pay an amount which is to be paid back to the tortfeasor-family member.

189 I will first address the argument that awarding damages for pre-trial loss of earnings of the plaintiff's caregiver would result in circularity of payment. The position in Singapore is that a plaintiff is entitled to claim for a caregiver's loss of income not because it is the caregiver's loss, but because it is *the injured plaintiff's loss* (*Lee Wei Kong (by his litigation representative Lee Swee Chit) v Ng Siok Tong* [2012] 2 SLR 85 ("*Lee Wei Kong*")). In the words of the Court of Appeal in *Lee Wei Kong* at [53]:

> It is well-established that this head of damage is recoverable not because it is the [caregiver's] loss, but because it is *the [plaintiff's] loss*, being the reasonable cost of meeting the need created by the tort: see *Donnelly v Joyce* [1974] QB 454 ("*Donnelly*") and *Kuan Kian Seng v Wong Choon Keh* [1995] SGHC 43…
>
> [emphasis in original]

190 In *Lee Wei Kong*, the plaintiff was an 18-year-old boy who was knocked down by the respondent's taxi (at [2]). The plaintiff's mother quit her job as a part-time teacher to care for him (at [54]). Referring to *Donnelly v Joyce* [1974] QB 454 ("*Donnelly v Joyce*"), the Court of Appeal held that the head of damage

sought, *ie*, the loss of income of the plaintiff's mother, was recoverable, as it was the plaintiff's loss (at [53]).

191 *Donnelly v Joyce* was a case concerning a six-year-old plaintiff boy, whose mother had given up her job to care for the plaintiff. In holding that the plaintiff was permitted to claim for his mother's loss of wages, Megaw LJ emphasised (at 461H–462C) that the loss was wholly the plaintiff's:

> We do not agree with the proposition … that the plaintiff's claim, in circumstances such as the present, is properly to be regarded as being … 'in relation to someone else's loss,' merely because someone else has provided to, or for the benefit of, the plaintiff—the injured person—the money, or the services to be valued as money, to provide for needs of the plaintiff directly caused by the defendant's wrongdoing. The loss *is* the plaintiff's loss. … [emphasis in original]

192 It is notable that *Lee Wei Kong* was decided 18 years after the House of Lord decision of *Hunt v Severs (HL)*. The Court of Appeal in *Lee Wei Kong* referred to *Donnelly v Joyce* and placed similar emphasis on a plaintiff's loss as the basis of an award in respect of voluntary care received by the plaintiff, instead of characterising the award as payment intended for the caregiver or for the compensation of the caregiver. More recently, in *Pollmann v Ye Xianrong*, the High Court also referred to *Donnelly v Joyce* and held at [255] that the loss which the defendant's tort had inflicted is the need for care and that the measure of damage for that loss is the proper and reasonable costs of meeting the plaintiff's need for care.[351]

193 It was observed by the learned Judge in *AOD (a minor suing by his litigation representative) v AOE* [2016] 1 SLR 217 at [89] that regardless of the

[351] 1DRS at para 109.

position in England as to whether damages for gratuitous services should be held on trust for caregivers, the position in Singapore is that a plaintiff's loss, being the need for care created by the tort, may be directly recoverable as damages for the reasonable value of the services rendered, even if such services were offered gratuitously by friends or family members (at [86]–[89]). Given that the award of damages is for the plaintiff's loss and meant to fund the plaintiff's needs, and that the damages will in all likelihood go towards aiding the family in their care for the plaintiff, I am of the view that the award should not be considered as flowing back to the hands of the defendant. There is therefore no circularity of payment. Further, a tortfeasor-family member who is acting out of affection, devotion or duty when caring for a plaintiff, as in the case of Mr Mani, does so without expectation of payment or reimbursement from the plaintiff.

194 The first defendant will also not be regarded as paying double compensation, which is the other main argument made by counsel for the first defendant. Where a tortfeasor-family member volunteers services out of affection, devotion or a sense of duty to care for and attend to a plaintiff as another family member in need, it would be inaccurate to characterise and treat the tortfeasor-family member's services in such a situation as compensation or payment in the discharge of legal liability. In other words, the tortfeasor-family member's services are not provided to pay off the damages due to the plaintiff. Such services are instead of the same nature, and should be regarded in the same way, as "the fruits of the benevolence of third parties motivated by sympathy for the plaintiff's misfortune", a well-recognised exception to the rule against double recovery (*Hunt v Severs (HL)* at 358).

195 The role undertaken by a tortfeasor-family member when providing gratuitous care to a plaintiff and the motivation for providing such care were taken into account in *Dodds v Dodds* [1978] 1 QB 543 ("*Dodds v Dodds*"). This was a decision raised by the plaintiff in *Gul Chandiram*. Although the court in *Gul Chandiram* ultimately declined to follow *Dodds v Dodds*, instead adopting the principles in *Hunt v Severs (HL)*, I find the reasoning in *Dodds v Dodds* to be compelling. There, the tortfeasor's negligence had led to the death of her husband in a car accident. Following her husband's death, the tortfeasor obtained full-time employment which enabled her to maintain her son's previous standard of living. In considering counsel's argument that the tortfeasor's earnings used to support the plaintiff's son should be treated as payments voluntarily made by the tortfeasor in an attempt to mitigate the damage she caused, Balcombe J considered (at 552) that there was no evidence that the tortfeasor worked because she was "*conscious of being a tortfeasor who want[ed] to make up to her son the loss she [had] caused him*; she work[ed] simply as a widow who [had] a child to support" [emphasis added].

196 In the same vein, in *Hunt v Severs (CA)*, Sir Thomas Bingham MR (as he then was) considered the motivation of and role assumed by a tortfeasor who is also a caregiver in characterising services that were gratuitously provided to a plaintiff as benefits that do not diminish a plaintiff's loss (at 570):

> Where services are voluntarily rendered by a tortfeasor in caring for the plaintiff *from motives of affection or duty* they should in our opinion be regarded as in the same category as services rendered voluntarily by a third party, or charitable gifts, or insurance payments. They are adventitious benefits, which for policy reasons are not to be regarded as diminishing the plaintiff's loss. On the facts of the present case the judge's decision was not in our view contrary to principle or authority

> and it was fortified by what we regard as compelling considerations of public policy. …
>
> [emphasis added]

197 Counsel for the first defendant argues that *Dodds v Dodds* should be distinguished on the grounds that it concerned a loss of dependency claim, while the present case involves an injured victim requiring special care.[352] I am not persuaded by this argument. The first defendant's counsel has not furnished any reasons to justify the distinction that he has drawn, nor explained how any legal principle from *Dodds v Dodds* only pertains to dependency claims, and not to a case such as the present. Counsel for the first defendant has in fact himself relied on the case of *Gul Chandiram*, which concerned dependency claims, to advance his arguments for the same issue.

198 Counsel for the first defendant further argued that there is no need for this court to consider whether a tortfeasor is acting as a tortfeasor mitigating his liability or as a spouse or other family member acting out of affection, devotion or a sense of duty, as this would "bring into the fray a subjective element to the test when deciding such claims".[353] In particular, counsel for the first defendant contends the following:[354]

> The introduction of a subjective test would be an ineffective control mechanism, as a tortfeasor-family member with recourse to insurance monies could be expected to make self-serving statements to secure payment. Likewise, if there was no insurance money available, for example because the accident involved a cyclist or a user of a Personal Mobility Device (PMD) who is not statutorily required to purchase liability insurance, one may expect the tortfeasor to be giving evidence that he or she always intended for the value of his care to reduce the

352 1DFS at para 8.

353 First defendant's further submissions dated 3 January 2024 ("1DFS") at para 6.

354 1DFS at para 11.

> money damages payable as he or she would be personally exposed to make compensation.

199 I do not agree with the first defendant counsel's submission. The hypothetical which counsel for the first defendant relies on does not take the matter very far. It is necessarily the case that the court will have to consider the specific facts of each case when assessing the damages to be awarded under any head of claim. In so far as this involves characterising the nature or purpose of a payment made or service rendered, this is the type of analysis the court commonly engages in. In conducting the analysis, the court will look *beyond* a tortfeasor's word, examine the evidence of the parties, and reach the necessary conclusions. Having to do so cannot be a reason to disregard the distinction between a service provided to the plaintiff out of affection, devotion or a sense of duty as a concerned family member responding to another family member in need, as opposed to as a tortfeasor seeking to pay or mitigate damages in the discharge of his legal liability.

200 In any event, the scenario postulated by counsel for the first defendant does not arise in the present case. The evidence before the court clearly supports a finding that, when Mr Mani was on no-pay leave from 1 May 2017 to 31 August 2017 and when he tendered his resignation on 21 August 2017 to care for the plaintiff full-time from 2 September 2017 onwards, he did so as a family member acting out of affection, devotion and a sense of duty. The plaintiff required his care and Mr Mani provided it. The evidence is clear that Mr Mani is an attentive husband who has spared little effort in looking after the plaintiff. These were also the observations of both the plaintiff's and the defendant's

doctors.[355] Pertinently, there is nothing in evidence to suggest that Mr Mani was acting to discharge his liability as a tortfeasor or that he was acting any differently from relatives and friends who could come forward to help out of sympathy or concern. There is therefore no reason to treat the care provided by Mr Mani any differently from *gratuitous* services rendered by third parties for which the plaintiff may directly recover.

201 For the reasons above, I disagree with the first defendant counsel's argument that the plaintiff's claim will result in the first defendant paying compensation twice over as Mr Mani is both the tortfeasor and the plaintiff's caregiver, and I respectfully take a different view from *Gul Chandiram* and *Hunt v Severs (HL)*.

202 In reaching this conclusion, I have taken into account an additional factor. I note that the decision in *Hunt v Severs (HL)* denying damages for gratuitous services to a tortfeasor-caregiver was recommended for statutory reversal by The Law Commission in *Damages for Personal Injury: Medical, Nursing and other Expenses; Collateral Benefits* (November 1999) ("The Law Commission Report"). As identified in The Law Commission Report (at paras 1.12, 2.27 and 3.70–3.71), a practical consequence of the decision in *Hunt v Severs (HL)* is that it may encourage a plaintiff to turn down the care of the tortfeasor-family member, and to, instead, seek commercial care since he would then be able to secure an award of damages. This step may be taken by the plaintiff even if the tortfeasor-family member is the best placed to provide the necessary care. This was also considered by Bingham MR in *Hunt v Severs (CA)* (at 570):

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[355] NE dated 16 September 2022 at p 21 at line 8 to p 22 line 15, at p 38 at lines 13 to 19; Dr Ho Kee Hang's Supplementary AEIC dated 9 September 2022 at p 4.

> Arguments based on public policy are notoriously treacherous. But it would, we think, be unfortunate if the law gave plaintiffs an incentive, which their advisers would quickly recognise, to rely on the paid help or the voluntary services [of] third parties rather than the voluntary services of those in the position of the defendant. It would be no less regrettable if the law were to encourage the making of contracts between plaintiffs and those in the position of the defendant. …

203 Counsel for the first defendant submits that the legislation proposed by The Law Commission Report that damages should not be reduced merely because care had been given gratuitously by a defendant (clause 1 of the draft Bill, Appendix A of The Law Commission Report) was never enacted,[356] and contends that the concerns highlighted in The Law Commission Report would not arise as significantly in the Singapore context, given the possibility in Singapore of engaging a foreign domestic worker to care for an injured plaintiff. Counsel for the first defendant also points to the fact that the duty to mitigate losses would militate against claims in which a plaintiff opted for institutional care over other cheaper options.[357]

204 I respectfully agree with the views of Bingham MR that it would be regrettable if the law should incentivise plaintiffs to seek paid or commercial help or refuse care voluntarily provided by tortfeasor-family members in order to preserve their claims for damages. I fail to see how the option to hire a foreign domestic worker in Singapore goes towards addressing the concern. Counsel for the first defendant's contentions miss the point that denying recovery creates a strong disincentive for a plaintiff to rely on a tortfeasor-family member's care, even where the tortfeasor-family member may be best placed to care for the plaintiff, or where it may be in the best interest of the plaintiff for the tortfeasor-

356 1DFS at para 25.

357 1DFS at paras 18–20.

family member to provide such care. As for the first defendant counsel's submission on a plaintiff's duty to mitigate losses, that is a separate issue from whether a plaintiff may claim for the value of services provided gratuitously by a tortfeasor-family member.

205 Accordingly, I reject the first defendant's submission that the plaintiff's claim under this head of damage should be denied because Mr Mani is both tortfeasor and caregiver. Leaving aside the fact that the defendants' insurers will get a windfall by saving on a pay-out that they would otherwise be obligated to make, it will be wholly unfair for the plaintiff to be denied her claim only because Mr Mani has acted faithfully, and out of his love for his wife. The defendants should pay for the cost of Mr Mani's care. I award the plaintiff a total of $93,080 in damages that arises as the reasonable cost of meeting the plaintiff's need created by the tort. The calculations are as follows:

(a) For the period from 1 May 2017 to 31 August 2017, when Mr Mani was on no-pay leave, I award damages of $14,560. This is computed by multiplying Mr Mani's monthly gross salary of $3,640[358] by four months. On the facts, I find that it is reasonable for Mr Mani to personally tend to the plaintiff in the first few months after the plaintiff's discharge from the hospital, and that the loss of salary of 4 months is the reasonable costs for meeting the need for care created by the tort.

(b) For the period from 2 September 2017 to 13 September 2022, after Mr Mani had resigned from his job to care for the plaintiff, I award damages of $78,520. This is based on the plaintiff's claim for $1,300 each month, which is close to the monthly quantum allowed for the

358 Mr Mani's AEIC dated 30 May 2022 at para 50 and p 381.

plaintiff's future costs of engaging a helper (as I have found above at [162]), and not unreasonable. Multiplying $1,300 by 60 months and 12 days (*ie*, $1,300 x 60 months + ($1,300/30 days) x 12 days), I arrive at the sum of $78,520.

Conclusion

Damages awarded to the plaintiff

206 The damages awarded to the plaintiff are as set out in Table I below:

Table I

S/N	Item category / description	Damages awarded
1	Pain and suffering	$236,000
2	Loss of future earnings of the plaintiff	$1,961,016.44
3	Loss of retirement benefits under the SPF INVEST Scheme	$296,375.58
4	Future miscellaneous supplies and transport expenses	$71,113.30
5	Future caregiver expenses	$400,848
6	Pre-trial transport expenses	$11,311.02
7	Pre-trial medical equipment expenses	$8,196.31
8	Pre-trial loss of earnings of the plaintiff	$300,291.34
9	Pre-trial loss of earnings of the plaintiff's caregiver	$93,080
Total damages		**$3,378,231.99**

Interest payable to the plaintiff and costs

207 I will hear parties on the issues pertaining to interest payable to the plaintiff and costs.

Teh Hwee Hwee
Judge of the High Court

Lalwani Anil Mangan and Nachiappan Shanmugam Ganesan (DL Law Corporation) for the plaintiff;
Teo Weng Kie and Shahira binte Mohd Anuar (Securus Legal LLC) for the first defendant;
Tay Boon Chong Willy (Willy Tay's Chambers) for the second defendant;
Koh Keh Jang Fendrick, Christine Chiam and Wee Anthony (Titanium Law Chambers LLC) for the third party.

Annex A

Age	Gross Monthly Salary ($5,332.11) * 12 months	Amount in the account, with starting figure of $54,379.99 obtained from P3SAEIC Page 7, Qn 18)	Contribution (7.75% of Gross Monthly Salary X 12 months)	Estimated Annual Rate of Return	Total Annual Dividend	Closing Balance
36	$ 63,985.32	$ 54,379.99	$ 4,958.86	4.56%	$ 2,705.85	$ 62,044.70
37	$ 63,985.32	$ 62,044.70	$ 4,958.86	4.56%	$ 3,055.36	$ 70,058.93
38	$ 63,985.32	$ 70,058.93	$ 4,958.86	4.56%	$ 3,420.81	$ 78,438.60
39	$ 63,985.32	$ 78,438.60	$ 4,958.86	4.56%	$ 3,802.92	$ 87,200.39
40	$ 63,985.32	$ 87,200.39	$ 4,958.86	4.56%	$ 4,202.46	$ 96,361.71
41	$ 63,985.32	$ 96,361.71	$ 4,958.86	4.56%	$ 4,620.22	$ 105,940.79
42	$ 63,985.32	$ 105,940.79	$ 4,958.86	4.56%	$ 5,057.02	$ 115,956.68
43	$ 63,985.32	$ 115,956.68	$ 4,958.86	4.56%	$ 5,513.75	$ 126,429.29
44	$ 63,985.32	$ 126,429.29	$ 4,958.86	4.56%	$ 5,991.30	$ 137,379.45
45	$ 63,985.32	$ 137,379.45	$ 4,958.86	4.56%	$ 6,490.63	$ 148,828.94
46	$ 63,985.32	$ 148,828.94	$ 4,958.86	4.56%	$ 7,012.72	$ 160,800.53
47	$ 63,985.32	$ 160,800.53	$ 4,958.86	4.56%	$ 7,558.63	$ 173,318.02
48	$ 63,985.32	$ 173,318.02	$ 4,958.86	4.56%	$ 8,129.43	$ 186,406.31
49	$ 63,985.32	$ 186,406.31	$ 4,958.86	4.56%	$ 8,726.25	$ 200,091.42
50	$ 63,985.32	$ 200,091.42	$ 4,958.86	4.56%	$ 9,350.29	$ 214,400.58
51	$ 63,985.32	$ 214,400.58	$ 4,958.86	4.56%	$ 10,002.79	$ 229,362.23
52	$ 63,985.32	$ 229,362.23	$ 4,958.86	4.56%	$ 10,685.04	$ 245,006.13
53	$ 63,985.32	$ 245,006.13	$ 4,958.86	4.56%	$ 11,398.40	$ 261,363.40
54	$ 63,985.32	$ 261,363.40	$ 4,958.86	4.56%	$ 12,144.30	$ 278,466.56
55	$ 63,985.32	$ 278,466.56	$ 4,958.86	4.56%	$ 12,924.20	$ 296,349.62
56	$ 63,985.32	$ 296,349.62	$ 4,958.86	4.56%	$ 13,739.67	$ 315,048.15
57	$ 63,985.32	$ 315,048.15	$ 4,958.86	4.56%	$ 14,592.32	$ 334,599.33
58	$ 63,985.32	$ 334,599.33	$ 4,958.86	4.56%	$ 15,483.85	$ 355,042.05

Sum awarded ($355,042.05/ 21 years x 17.53)	$ 296,375.58