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

[2025] SGHC 254

District Court Appeal No 12 of 2025

Between

Jeff Lim Wai Kit

… *Appellant*

And

Arumugam Alamuthu

… *Respondent*

JUDGMENT

[Tort — Negligence — Contributory negligence]
[Civil Procedure — Appeals — Time to appeal]

Lim Wai Kit Jeff
v
Arumugam Alamuthu

[2025] SGHC 254

General Division of the High Court — District Court Appeal No 12 of 2025
Low Siew Ling JC
7 November 2025

15 December 2025 Judgment reserved.

Low Siew Ling JC:

Introduction

1 This is an appeal against a District Court's apportionment of responsibility for a traffic accident that took place on the Ayer-Rajah Expressway ("AYE") on 14 June 2021 at about 8.30pm. Parties had agreed to bifurcate the trial and first proceeded before the District Judge ("DJ") on issues relating to responsibility for the accident (*ie*, duty of care, breach of duty and responsibility for the accident), with costs and other issues deferred to a later stage.

2 It was not disputed that the defendant owed the claimant a duty of care. The DJ found that the defendant had breached this duty by failing to exercise reasonable care when riding his motorcycle, which caused him to collide with

the claimant. The DJ found the defendant 90% responsible for the accident, with the claimant bearing 10% responsibility for his contributory negligence.

3 The defendant has appealed and argues that the claimant should bear 75% responsibility for the accident instead. In the rest of this judgment, I will refer to the defendant as the "Appellant", and the claimant as the "Respondent".

Factual background

4 On the night of 14 June 2021, the Respondent was a passenger in a lorry which was forced to stop near the Pioneer South Road Exit (Exit 18) of the AYE due to a punctured front tyre. The lorry (which I will refer to as the "Stationary Lorry") stopped on the leftmost lane of the AYE and the driver and some of the passengers disembarked to change the punctured tyre. At the lorry driver's instructions, the Respondent stood behind the lorry to redirect oncoming traffic. The Respondent did so while standing on the continuous white line separating the grass verge from the leftmost lane of the carriageway. There was no road shoulder on this part of the AYE, based on the definition of the term in r 2(1) of the Road Traffic (Expressway Traffic) Rules (Cap 276, R 23, 1990 Rev Ed) ("Expressway Traffic Rules"). On the Respondent's own evidence, he was standing about 6 metres behind the lorry, facing diagonally towards the lanes to the right of the leftmost lane.[1]

5 At the material time, the Appellant was riding his motorcycle on the leftmost lane of the AYE and approaching Exit 18. He was riding about one car's length (two metres) behind what was described by the Appellant and the

[1] Notes of Evidence ("NE") of 21 April 2025 at p 6 (lines 25–28), Record of Appeal ("ROA") vol 3 at p 58.

Respondent as a "big lorry" or a "sand truck" respectively.[2] For present purposes, it suffices to note that the Appellant was riding his motorcycle closely behind a large vehicle (which I will refer to as the "Unknown Lorry"). When the Unknown Lorry "suddenly" shifted from the leftmost lane into the adjacent lane on the right, the front of the Appellant's motorcycle collided into the Respondent's right leg.[3]

6 It was not disputed that at the time of the accident, the weather was fine, the road surface was dry, and traffic flow was moderate.

The decision below

7 On 7 May 2025, the DJ delivered her brief oral findings and found that the Appellant was 90% responsible for the accident, mainly because he had failed to keep a safe following distance behind the Unknown Lorry. The DJ then adjourned the matter for parties to consider entering consent interlocutory judgment at 90% against the Appellant.

8 As there was no consent, the DJ recorded interlocutory judgment accordingly on 21 May 2025 and issued her detailed grounds of decision on 18 July 2025 ("GD").

9 The DJ noted that according to r 67 of the Highway Code (Cap 276, R 11, 1990 Rev Ed) ("Highway Code"), a road user on wheels must keep a safe following distance of at least one car's length for every 16 km/h. The Appellant

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2 Jeff Lim Wai Kit's affidavit of evidence-in-chief ("Appellant's AEIC") at para 5; NE of 21 April 2025 at p 43 (lines 13–15), ROA vol 3 at p 95; NE of 21 April 2025 at p 41 (line 16), ROA vol 3 at p 93; NE of 21 April 2025 at p 27 (line 29), ROA vol 3 at p 79.

3 Appellant's AEIC at para 8; NE of 21 April 2025 at p 16 (lines 1–5), ROA vol 3 at p 184.

conceded that his motorcycle was only one car's length behind the Unknown Lorry, even though the DJ found that he was riding at a speed of about 50–60 km/h. Had the Appellant kept a safe following distance, he would have had more reaction time after the Unknown Lorry shifted to the right lane and could have avoided the Respondent by braking or moving to the right lane as well. The DJ also found that the Appellant had breached his duty of care to the Respondent by failing to keep a proper lookout, as his own evidence was that his vision was fixated on the Unknown Lorry as it moved to the adjacent right lane.

10 Turning to the Respondent's responsibility for the accident, the DJ held that the Respondent should not be faulted for standing on the AYE despite the prohibition against going or remaining on an expressway on foot in r 14A of the Expressway Traffic Rules. In the DJ's view, this was not an absolute prohibition. The DJ referred to the High Court's judgment in *Tan You Cheng v Ng Kok Hin* [2021] 3 SLR 1385 ("*Tan You Cheng*") as authority for the proposition that it was not wrong for a pedestrian to stand on an expressway to direct or alert oncoming traffic to obstructions on the road.

11 Having considered the evidence, the DJ held that the Respondent should bear 10% responsibility for the accident as he should have positioned himself in a safer location to direct traffic, such as on the road shoulder or behind the vehicle impact guardrail. The DJ also found it unlikely that the hazard lights of the Stationary Lorry were turned on or that the Respondent had been signalling traffic with a red cloth as he claimed for the first time on the stand, as this evidence was not in the Respondent's affidavit of evidence-in-chief ("AEIC") or in any of the reports filed by him or his employer. However, the DJ held that it was unclear whether these precautions could have prevented the accident as the Appellant's view had been blocked by the Unknown Lorry.

Issues to be determined

12 While this appeal turns primarily on a factual assessment of the parties' respective responsibility for the accident, it also engages two ancillary procedural issues which have a bearing on my consideration of the appeal.

13 First, the Respondent contends that the present appeal was filed out of time, as the time for appeal should have started to run from the date the DJ delivered her oral findings on 7 May 2025. Second, the Appellant objects to a number of images in the Respondent's Reply, which the Respondent had included "for ease of reference".[4] These images were not exhibited in any affidavit and had not been admitted into evidence at the trial below.

14 The issues to be determined in this appeal are therefore:

(a) whether the time for appeal should run from the date of the DJ's oral findings or the date interlocutory judgment was entered (the "Time for Appeal" issue);

(b) whether I should have regard to the images included in the Respondent's Reply (the "New Evidence" issue); and

(c) the appropriate apportionment of responsibility for the accident between the parties (the "Apportionment of Liability" issue).

Time for Appeal: Time started to run from the date the District Judge entered interlocutory judgment

15 The trial below took place on 21 April 2025. As noted above, the DJ delivered her oral findings on responsibility for the accident on 7 May 2025.

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4 Respondent's Reply at paras 42, 43, 45 and 78.

She then asked if parties were prepared to enter consent interlocutory judgment at 90% against the Appellant with causation, damages, interest and costs reserved. This was "to allow for Assessment of Damages Court Dispute Resolution".[5]

16 As the Appellant's counsel needed time to take instructions, the DJ directed that the matter be adjourned to 21 May 2025, the hearing of which would be vacated if parties were able to come to an agreement before that and extract the consent interlocutory judgment accordingly.

17 As it transpired, the Appellant did not agree to enter consent interlocutory judgment on the proposed terms. After the Appellant's counsel informed the court of this on 21 May 2025, the DJ recorded the following in the notes of evidence:[6]

> In that case, Interlocutory Judgment is entered on the following terms:
>
> (1) the Defendant owes and has breached his duty of care to the Claimant; and
>
> (2) trial on the remaining issues of liability and quantum is to proceed based on the Court's finding that the Defendant is 90% responsible for the accident.

18 The present Notice of Appeal was filed on 4 June 2025.

Parties' arguments

19 The Appellant argues that the Notice of Appeal was filed within time as interlocutory judgment was only entered on 21 May 2025. The Respondent

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5 NE of 7 May 2025 at p 9, ROA vol 3 at p 159.

6 NE of 21 May 2025 at p 3, ROA vol 3 at p 163.

submits that the date of the interlocutory judgment should have been recorded as 7 May 2025, as the DJ had already decided on the parties' responsibility for the accident on this date. As the present Notice of Appeal was filed more than 14 days after 7 May 2025, the appeal was out of time.

Decision

20 Having considered the parties' submissions, I agree with the Appellant that time only started to run from 21 May 2025.

21 Pursuant to O 19 r 14(1) of the Rules of Court 2021 ("ROC 2021"), a party who intends to appeal to the General Division of the High Court against the judgment of a lower court must file and serve a notice of appeal within 14 days after the date of the judgment.

22 "Judgment" is defined in O 19 r 3 as "a judgment given by the lower Court in a trial", and "trial" is in turn defined as "the hearing on the merits of an originating claim … and includes all applications taken out or heard … at any time after the commencement of such hearing *until the giving of the judgment*" [emphasis added]. The Rules of Court (Cap 322, R 5, 2014 Rev Ed) uses the word "judgment" in the sense of an adjudication that "determines the cause of action or a defined part of it conclusively" and "terminates the litigation or a defined part of it in relation to that cause of action" (*PNG Sustainable Development Program Ltd v Rex Lam Paki* [2022] SGHC 188 at [41] and [46]). This observation applies to the ROC 2021 as well. Order 19 thus contemplates that the pronouncement of judgment is the point in time at which all outstanding issues in the case (or the particular tranche of the case) are finally and formally determined by the court on the merits. This makes good sense, since it is only

at that point that parties would be in a position to consider whether to file an appeal.

23 I also considered O 19 r 4(2)(*b*) of the ROC 2021, as this was a bifurcated trial. Although time for appeal does not usually start to run until the lower court has heard and determined all matters in the trial including costs, O 19 r 4(2)(*b*) provides that in the case of a bifurcated trial, where the lower court has heard and determined a distinct bifurcated portion of the trial, the time for the filing of an appeal or for the filing of an application for permission to appeal in respect of the bifurcated portion so determined starts to run from the date of that "determination".

24 I do not consider the use of the term "determination" as opposed to "judgment" to be significant in this context. There is no indication that O 19 r 4(2)(*b*) (which took effect from 1 February 2024) was intended to change the fundamental principle that the lower court's judgment should be final and formally pronounced before the time for appeal starts to run. In my view, the use of "determination" was simply to distinguish a trial judge's final decision on the initial set of bifurcated issues from the trial judge's final judgment on all outstanding issues.

25 In the present case, while the DJ had delivered her oral findings on responsibility on 7 May 2025, a careful reading of the record shows that the DJ had decided to suspend the pronouncement of formal judgment with the intention of encouraging parties to accept her findings and record judgment by consent instead. This was entirely within her discretion. Her findings, before formal judgment was entered, were in substance indications of the judgment she expected to pronounce at a later date, if it was necessary to do so. Until judgment

was formally entered, the DJ's findings remained tentative and there was in substance no "judgment" against which an appeal could have been lodged.

26 I would add that the Respondent's suggested approach would also create unnecessary uncertainty and dispute over when the time for appeal should begin to run. In the life cycle of a case, a trial judge may give indications or make findings on myriad issues at various points in time. It would be difficult for parties to ascertain in a given case exactly when all the relevant findings could be said to have been made *before* judgment is formally entered, such that the time for appeal starts to run. In my view, the date that judgment is formally pronounced and entered represents a clear and certain date at which point the lower court can be said to have applied its mind and finally determined all outstanding issues in a manner that may properly form the subject of an appeal.

27 It follows from my findings above that the appeal was not filed out of time, as the notice of appeal was filed within 14 days after judgment was entered by the DJ on 21 May 2025.

28 For completeness, this decision is consistent with the principles outlined in *Hulley Enterprises Ltd v The Russian Federation* [2025] SGHC(I) 27 ("*Hulley Enterprises*"), which was published after the hearing for this appeal. There, the Singapore International Commercial Court ("SICC") pointed out that an appeal lies against an outcome, and not the reasons given for that outcome, and cited Mason J in *Moller v Roy* (1975) 1432 CLR 522 at 639 for the proposition that a "judgment" is "the formal order made by a court which disposes of, or deals with, the proceeding then before it" (at [6]-[7]). In *Hulley Enterprises*, the applicant sought permission to appeal against a decision issued by the court concerning HC/SUM 286/2025 ("SUM 286"), where the SICC decided certain issues but did not make orders granting or dismissing the prayers

in SUM 286 (at [10]–[13]). The SICC in *Hulley Enterprises* held that the applicant could not appeal against that prior decision because "no order had been made disposing of or dealing with SUM 286", and so there was no "order" or "judgment" against which to appeal for the purposes of O 21 r 14(2) of the SICC Rules 2021 (at [18]). Likewise, in the present case, the DJ did not make any order disposing of or dealing with the case on 7 May 2025, despite providing her assessment of the merits. She only disposed of the case when she entered interlocutory judgment on 21 May 2025. It follows that the time for appeal only began to run from that date.

New Evidence: New evidence should not be included in submissions and must be disregarded unless properly admitted

29 The Respondent's Reply included four images which purported to show the site where the accident took place. These were stated to be "[G]oogle map screenshot[s]" of the site, with the alleged locations of the Respondent and the Stationary Lorry marked in some of the images. It is undisputed that none of these images were adduced or admitted into evidence at the trial below, and that none of the witnesses have confirmed that the images accurately depict the scene of the accident at the material time.

Parties' arguments

30 The Appellant argues that these images should be disregarded as they constitute new evidence on appeal for which leave has not been granted. The Respondent reiterated in oral arguments that these were simply included to assist the court.

Decision

31 I agree with the Appellant that these images must be disregarded in the present appeal. In the first place, evidence should never be presented to a court for the first time in legal submissions. It is inappropriate for the Respondent to introduce new evidence on appeal by the sleight of hand of including them in his submissions and suggesting that these are included "[f]or ease of reference" to assist the court.[7] Evidence that has not been properly adduced and admitted does not assist the court in any way.

32 Even if the evidence had been properly presented on oath, the admission of new evidence on appeal is governed by strict conditions. In particular, the Respondent would have been required to establish "special grounds" for the admission of such evidence: O 19 r 7(7) of the ROC 2021. If leave had been sought for these images to be admitted on appeal, it would have been refused as the *Ladd v Marshall* conditions were clearly not satisfied. The Respondent did not highlight in his submissions that these images were not presented in the court below, let alone offer reasons to explain why they could not have been obtained for use at trial. There is also force in the Appellant's contention that the images are inaccurate and misleading. For instance, the accident took place at around 8.30pm, yet all the images show the site in the daytime. One of the images also depicts the Respondent wearing a bright yellow high-visibility vest, holding a large red cloth and directly facing oncoming traffic.[8] This image directly contradicts the Respondent's own evidence and the DJ's findings (which the Respondent does not dispute). To his credit, counsel for the

7 Respondent's Reply at para 42.

8 Respondent's Reply at para 42.

Respondent readily conceded during oral arguments that the image did not accurately represent the scene at the time of the accident.

Apportionment of liability: Appellant bears primary responsibility, but Respondent's share of responsibility increased to 25%

Parties' arguments

33 Turning to the apportionment of responsibility for the accident, the Appellant submits that the DJ erred in placing undue weight on the distance between the Appellant and the Unknown Lorry, and insufficient weight on the fact that the Respondent had breached r 14A of the Expressway Traffic Rules and placed himself in imminent danger by standing on the expressway in the path of oncoming traffic. The Appellant emphasises that the accident would not have taken place but for the Respondent's actions in standing on the expressway.

34 The Respondent submits that the DJ's decision should be upheld as r 14A is not an absolute prohibition. The Respondent was a good Samaritan who had only placed himself in harm's way to alert others to the Stationary Lorry on the expressway, and he had done the best he could with the situation he found himself in.

Decision

35 It is not seriously disputed that the collision would not have taken place if the Respondent had not been standing on the AYE. But this does not take the Appellant's case very far, as it is equally clear that the accident would not have taken place but for the Appellant's own actions in following so closely behind the Unknown Lorry that he did not notice the Respondent standing on the side of the expressway until it was too late.

36 The Appellant relies heavily on r 14A of the Expressway Traffic Rules, the relevant parts of which state:

> **Prohibition against going or remaining on expressway on foot or skates**
>
> **14A.**—(1) No person shall at any time while on foot go or remain on any part of an expressway not being a footway except —
>
> (*a*) for the maintenance, repair, improvement, cleaning or clearance of any part of the expressway; or
>
> (*b*) for the erection, laying, maintenance, alteration or removal of any structure, works, apparatus or other thing in, on, under or over any part of the expressway.
>
> …
>
> (4) A Deputy Commissioner of Police may authorise any person on foot to go or remain on any part of an expressway not being a footway on such occasions as he thinks fit or for the purpose of enabling such person to cross an expressway or to secure access to any premises abutting on or adjacent to the expressway.

37 Rule 14A sets out a general prohibition against standing or walking on any part of an expressway that is not a footway "at any time" save for very limited exceptions which are set out in the rule itself. As such, the Appellant argues that it is a "self-contained" rule that should be read literally, with no room for any other exceptions. The Appellant's case is that the DJ had erred in her interpretation of r 14A by finding that the Respondent should not be faulted for standing on the AYE despite not falling within any statutory exception. According to the Appellant, the DJ had improperly read in a more general exception to the prohibition, *viz*, that a person may remain on foot on an expressway to alert oncoming traffic to obstructions on the road.

38 In my view, the Appellant's "self-contained" interpretation of r 14A cannot be sustained. It is well-established that in construing any legislation, an

interpretation that furthers the purpose of the provision must be preferred: s 9A of the Interpretation Act 1965 (2020 Rev Ed). The first step of the framework set out in *Tan Cheng Bock v Attorney-General* [2017] 2 SLR 850 also makes clear that in ascertaining possible interpretations, the provision should be read in context within the written law as a whole: at [37].

39 In my view, the Expressway Traffic Rules, read as a whole, contemplate scenarios other than those explicitly set out in r 14A where a person may be allowed to disembark from a vehicle to stand or walk on the expressway. In particular, r 6 of the Expressway Traffic Rules provides:

> **Restriction on stopping**
>
> **6.**—(1) Subject to this rule, no vehicle shall stop or remain at rest on a carriageway.
>
> (2) Where it is necessary for a vehicle to stop or remain at rest while it is on an expressway —
>
> (*a*) *by reason of a breakdown or mechanical defect or lack of fuel, oil or water required for the vehicle;*
>
> (*b*) *by reason of any illness, accident or emergency;*
>
> (*c*) *to permit any person in or on the vehicle to recover or remove any object which has fallen on the expressway; or*
>
> (*d*) *to permit any person in or on the vehicle to give help to any other person in any of the circumstances specified in this paragraph,*
>
> the vehicle shall, as soon as is practicable, be driven or moved off the carriageway to the shoulder or verge on the left or near side of the vehicle.
>
> [emphasis added]

40 Rule 6(2)(*a*)–(*c*) impliedly envisages that a person may, after stopping his or her vehicle, disembark and stand or walk on the expressway to address or respond to the circumstances outlined there. Rule 6(2)(*d*) goes even further by contemplating that a person may stop his vehicle to give help to a person in

circumstances falling within r 6(2)(*a*)–(*c*). Clearly, this person would have to stand or walk on the expressway to render such assistance.

41 I accept that r 6 is predominantly concerned with the restriction on stopping a vehicle on an expressway rather than a prohibition on foot traffic, and that some of the scenarios spelt out in r 6(2) *(eg*, to permit a person to recover a fallen object on the expressway) can also be found as explicit exceptions in r 14A. For instance, r 14A(1)(*b*) provides "for the …. removal of any … thing in, on or under or over any part of the expressway". In my view, this goes to show that both rules are intended to be read together in a practical and common sense manner, such that a person may also be permitted to stand or walk on the expressway in the limited circumstances stated in r 6(2)(*a*)–(*d*).

42 Such an interpretation would also further the legislative purpose of the Expressway Traffic Rules, which must be to ensure the safety of all expressway users. In fact, the Appellant's position would, taken to its logical conclusion, lead to absurd outcomes. Since r 14A does not provide an explicit exception for emergencies, for example, the Appellant's "self-contained" approach would mean that persons would technically breach r 14A and commit an offence under s 131(2) of the Road Traffic Act 1961 (2020 Rev Ed) if they were to step out of a burning vehicle onto the expressway to save themselves. To take another example, the parties accept that a possible precaution that could have been taken in this case was to display a vehicle breakdown sign on the road some distance behind the Stationary Lorry. But in order to do so, a person would have to disembark from their vehicle and walk on the expressway, yet this does not appear to be covered by any of the exceptions in r 14A itself. Another established canon of statutory construction is that Parliament does not intend legislation to lead to absurd outcomes: *Public Prosecutor v Heah Lian Khin* [2000] 2 SLR(R) 745 at [53]–[54]. These examples strengthen my view that rr

6 and 14A are intended to be read harmoniously together, in a consistent and coherent fashion.

43 As the scenarios in r 6 and [42] above show, there may be compelling circumstances outside of those contemplated in r 14A where a person may need to walk on an expressway to ensure his own safety or the safety of others, whether it is to respond to an emergency or to render assistance.

44 Of course, whether there was a breach of the Expressway Traffic Rules is not the end of the enquiry. Even in circumstances where the Expressway Traffic Rules contemplate that a person may disembark from their vehicle on an expressway, they must still exercise care to ensure their own safety and the safety of other road users by keeping a proper lookout at all times and taking all the necessary precautions to alert others to their presence on the road. While the standard is one of reasonable care, what is reasonable in these circumstances must take into account the particular danger of being on foot on an expressway. As the majority of the Court of Appeal noted in *Asnah bte Ab Rahman v Li Jianlin* [2016] 2 SLR 944 at [39]:

> Tort law exacts a degree of care commensurate with the danger the situation presents … Danger comprises two components: the court must consider both the probability of the risk eventuating and the gravity of the potential injury itself. It has therefore been widely recognised that … the degree of care demanded of a person by an occasion is dependent upon a consideration of three key factors: the likelihood of injury; the gravity of the injury and the cost of taking precautions to guard against such risks. …

45 Considering the likelihood of injury and the gravity of the potential injury when a person stands or walks on an expressway, a heightened sense of caution must be necessary. Pedestrian traffic on expressways is extremely dangerous, both for the pedestrian and other road users, who would be travelling

at relatively high speeds, and who would not ordinarily expect persons to be standing or walking on the expressway.

46 It would be apposite to discuss the case of *Tan You Cheng* at this point. While the DJ had relied on the *obiter* remarks by Andre Maniam JC (as he then was) for the proposition that a pedestrian could not be faulted for standing on an expressway to direct or alert oncoming traffic to obstructions on the road, the Appellant also relied on the same case to argue that the Respondent ought to bear primary responsibility for the accident for standing on the expressway in the first place. This was not a possibility that the Appellant could reasonably have foreseen, since (quoting from the opening sentence of the High Court's judgment in *Tan You Cheng*) "[a]n expressway is no place for a pedestrian".[9]

47 In *Tan You Cheng*, the plaintiff was driving a lorry laden with goods which were not properly secured. When he and his passenger Mr Chew were travelling along the Pan-Island Expressway ("PIE") at around midnight, they heard some of the goods fall onto the expressway. The plaintiff stopped the lorry in "lane 3" (counting from the right) of the four-lane expressway and switched on the hazard lights. He and Mr Chew then alighted from the lorry to pick up the goods on the road. As the plaintiff moved from the back of the lorry to the right side of the lorry to secure the canvas sheet over the goods, he stepped into "lane 2" (*ie*, the lane to the right of lane 3) and was struck by the defendant's car. At the time of the accident, the plaintiff was standing in the shadow of the lorry, with the lorry blocking the nearest street lamp from illuminating the area where he was standing.

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9 NE of 21 April 2025 at p 84 (lines 8–20), ROA vol 3 at p 136.

48 Maniam JC found the plaintiff to be 80% responsible for the accident. Had the plaintiff ensured that the goods were properly secured, the accident would not have occurred in the first place. The plaintiff compounded the danger by leaving his lorry stationary in lane 3 of the PIE for quite some time, then stepping into the shadow of the lorry into lane 2, where there was nothing to warn oncoming traffic about his presence in the lane. Maniam JC then made the following remarks at [49] of the judgment (the italicised portion of which was relied on by the DJ):

> Even if the plaintiff had intended to use the lorry to warn oncoming traffic of the goods on the road, he ought to have set up a warning sign as well, but he did not. Moreover, the plaintiff could have served as a lookout, or *he could have asked Mr Chew to alert oncoming traffic* or at least watch out for their own safety, but that was not done. Instead, they apparently thought they were quite safe, even though they were walking about in the middle of an expressway. [emphasis added]

49 I agree fully with Maniam JC's remarks above, which are consistent with my views on what a person who finds it necessary to stand on an expressway should do: see [44]–[45] above. That being said, the Appellant is correct in pointing out that r 14A was never cited to the court in *Tan You Cheng*, let alone discussed. The issue in *Tan You Cheng* was not whether it was reasonable for the plaintiff and his passenger to disembark from his lorry to retrieve the goods from the expressway (which did not appear to be disputed), but the precautions they could have taken *in those circumstances* to protect themselves from harm. In this case, the Appellant argues that it was not reasonable for the Respondent to have even stood on the expressway in the first place.

50 Having regard to my views on the proper construction of r 14A in the context of the Expressway Traffic Rules as a whole, I am unable to agree with

the Appellant. Given the situation he was in, I agree with the DJ that the Respondent could not be faulted for standing on the expressway to redirect traffic away from the Stationary Lorry. Rule 6(2)(*d*) of the Expressway Traffic Rules impliedly contemplates that a person may stand or walk on the expressway to render assistance to any other person who has suffered a vehicular breakdown.

51 In so far as the Appellant seeks to draw parallels with the facts in *Tan You Cheng* to persuade me that the Respondent should bear the lion's share of responsibility for the accident, I do not think the comparison serves the Appellant's case at all.

52 The only real similarities between the two cases are that both accidents took place at night and involved moving vehicles colliding into persons standing on the expressway. The similarities end there. The plaintiff in *Tan You Cheng* had created the hazard in the first place because he had failed to properly secure the goods on his lorry, and he compounded the danger by leaving his lorry in the middle of the expressway and crossing into lane 2 of the PIE, while standing in the shadow cast by his own lorry. In the present case, the Respondent could not be faulted for the tyre puncture of the Stationary Lorry, which was stopped on the leftmost lane of the AYE as the driver and other passengers changed the tyre. It was not disputed that the grass verge beside the continuous white line on the leftmost edge of the road was too narrow to fit the Stationary Lorry. It was also not disputed that the Respondent was standing on the far left side of the expressway, on the continuous white line on the leftmost edge of the left lane. Unlike the plaintiff in *Tan You Cheng*, the Respondent did not create the obstruction in the first place, and he did not venture into the main carriageway of the expressway. Accordingly, their positions and relative blameworthiness can hardly be equated.

53 Apportionment is also a relative exercise. The defendant in *Tan You Cheng* shouldered some liability for the accident as he had been sleepy and failed to keep a proper lookout when driving on the PIE. The Appellant's actions in the present case went beyond failing to pay attention or keep a proper lookout. By following just two metres behind the Unknown Lorry at a relatively high speed (a point which I will turn to at [57] below), the Appellant had actively obscured his own field of vision such that it would have been extremely difficult for him to see (let alone react to) any obstructions in front of him.

54 While precedents are helpful guides in principle, the proper apportionment of liability for an accident is ultimately a question of judgment that turns on the facts of the particular case. In determining apportionment, the court will weigh: (a) the relative causative potency or extent to which each party's conduct contributed to the damage; and (b) the relative moral blameworthiness of each party, which is a more wide-ranging consideration that takes into account various factors to arrive at a just and equitable result on the facts: *Ting Jun Heng v Yap Kok Hua* [2021] SGHC 44 at [42].

55 With those two considerations in mind, I find that the Appellant must bear primary responsibility for the accident.

56 As noted above, the Appellant was following just two metres (one car's length) behind the Unknown Lorry at the material time. The speed at which he was riding at the time of the accident was not seriously in dispute, but the DJ appeared to have erred in finding that he was riding at 50–60 km/h at the material time (GD at [27]). The Appellant's evidence in his AEIC was that he and the Unknown Lorry were both travelling at a speed of about 60–70 km/h. This was also the speed he stated he was travelling at in his police report filed on 18 June 2021. The Appellant maintained under cross-examination that he

was travelling at 60–70 km/h when he was in the leftmost lane behind the Unknown Lorry. As the Appellant's evidence was consistent throughout, it is unclear why the DJ found that the Appellant was riding at a speed of 50–60 km/h. The Respondent did not contradict the Appellant's evidence on this point, nor was he in any position to do so, since his own evidence was that he did not even see the Appellant before the collision took place.

57 Based on his estimated speed of 60–70km/h, the Appellant should have kept a distance of at least four to four-and-a-half cars' length behind the Unknown Lorry (based on r 67 of the Highway Code). His following distance was just a quarter of that. As the High Court noted in *Cheong Ghim Fah v Murugian s/o Rangasamy* [2004] 1 SLR(R) 628 at [58], "The [Highway Code] is an important statement of practice, usage and responsibility … Failure to observe the [Highway Code] can be perilous to other road users." The Appellant conceded that his actions were dangerous, especially because he was following behind a large vehicle and could not see what was in front of the Unknown Lorry. On re-examination, the Appellant candidly admitted that he "totally did not notice what was in front of the [U]nknown [L]orry … [b]ecause the lorry … was too big".[10] In other words, the Appellant was travelling on the expressway at a moderately high speed with almost zero visibility of the road situation ahead.

58 Moreover, when the Unknown Lorry moved to the adjacent right lane (presumably to avoid the Stationary Lorry), the Appellant conceded that his vision was fixated on following the Unknown Lorry's movement, and he only focused his attention back to the front of his lane after that. I accept that this would have been just for a few seconds, but those few seconds would have been

[10] NE of 21 April 2025 at p 74 (lines 4–6), ROA vol 3 at p 126.

crucial to the Appellant's reaction time, particularly because his visibility had been so severely hampered in the lead-up to these moments. Had the Appellant noticed the Respondent just a few seconds earlier, he would have had more time to react and may well have avoided colliding into the Respondent. Given that the Appellant's actions had rendered it almost impossible for him to notice any obstructions on the road until it was too late, he must bear primary responsibility for the accident.

59 This does not mean that the Respondent was without fault. I accept that he was trying to ensure the safety of other road users by directing traffic away from the Stationary Lorry. This goes to the issue of relative blameworthiness. Nevertheless, when a person finds it necessary to stand or walk on an expressway in circumstances contemplated by the Expressway Traffic Rules (such as to render assistance to a person because of a vehicular breakdown), they must exercise a heightened sense of caution and take especial care not to endanger themselves or other road users (see [44]–[45] above). In my view, the Respondent failed to take reasonable precautions to ensure his own safety and the safety of other road users in the circumstances.

60 I agree with the DJ that instead of standing on the leftmost side of the carriageway, the Respondent should have directed traffic from the relative safety of the grass verge on the left of the continuous white line. It was unnecessary for the Respondent to place himself in such perilous proximity to oncoming traffic.

61 The time at which the accident took place is also relevant. While traffic was moderate as the accident took place during a period of COVID-19 restrictions, this was still an expressway with fast-moving vehicles, and

obstacles would necessarily have been less visible at 8.30pm than in broad daylight.

62 The DJ found that the hazard lights of the Stationary Lorry were not turned on, and the Respondent was not holding a large red cloth as he had claimed. The Respondent does not dispute these findings on appeal, nor do I see any reason to disturb them. It was also undisputed that no vehicle breakdown sign was placed on the road to warn other road users of the Stationary Lorry, even though there was such a sign on board the lorry.[11] In other words, the Respondent did not take any active steps to alert other road users to his presence on the edge of the carriageway of the AYE that night.

63 The Respondent does not contend that it would have been difficult or impossible for him to put up the breakdown sign or turn on the hazard lights; his position is simply that it was for the driver to do so, not him. But it was incumbent on the Respondent as the person standing at the edge of the carriageway of the AYE to take all reasonable precautions to alert other road users to his presence. In my view, the lack of these precautions also had causative force. The "Basic Theory of Driving: The Official Handbook" issued by the Singapore Traffic Police recommends that the vehicle breakdown sign be placed at least 20m behind the vehicle. If the vehicle breakdown sign had been placed at a distance behind the Stationary Lorry, the Unknown Lorry would have moved out of the way much earlier, thereby allowing the Appellant to notice the Respondent on the expressway. One also cannot dismiss the possibility that the Unknown Lorry could have taken similar evasive action

[11] NE of 21 April 2025 at p 22 (lines 27–30), ROA vol 3 at p 74; NE of 21 April 2025 at p 77 (lines 13–14), ROA vol 3 at p 129.

earlier if the Respondent had taken other reasonable precautions to alert road users to his presence.

64 Moreover, the Respondent's own evidence was that he was not directly facing oncoming traffic but facing diagonally towards the right side of the expressway. This amplified the risk of collision, since the Respondent would not have been fully alert to any vehicles that may have been coming towards him at speed. In fact, the Respondent readily admitted in cross-examination that he was looking at the Unknown Lorry as it moved to the adjacent right lane and did not even see the Appellant's motorcycle until it hit him.[12]

65 In the circumstances, I agree with the Appellant that the DJ had erred in apportioning only 10% of responsibility for the accident to the Respondent. While the Appellant bears primary responsibility for the accident, the Respondent's own actions in standing so close to oncoming traffic on the expressway and failing to take reasonable precautions while doing so contributed significantly to the collision as well. Bearing in mind the twin considerations of relative causative potency and relative moral blameworthiness, an apportionment of 25% responsibility to the Respondent more accurately reflects the significance of his actions and omissions while still recognising that the Appellant's conduct was the predominant contributing factor to the collision.

Conclusion

66 Accordingly, I allow HC/DCA 12/2025 and apportion responsibility for the accident at 75% to the Appellant and 25% to the Respondent.

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12 NE of 21 April 2025 at p 17 (lines 28–30), ROA vol 3 at p 178.

67 I will hear parties on costs.

Low Siew Ling
Judicial Commissioner

Lynette Chew Mei Lin and Andy Yeo Yong Chuan (Holborn Law LLC) for the appellant;
Namasivayam Srinivasan and Vicneshri d/o Vicnaysen (Hoh Law Corporation) for the respondent.