IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2020] SGHC 277

Suit No 747 of 2018

Between

Hew Chee Chin

… *Plaintiff*

And

Tan Kia Tock

… *Defendant*

JUDGMENT

[Damages] — [Assessment]

Hew Chee Chin
v
Tan Kia Tock

[2020] SGHC 277

High Court — Suit No 747 of 2018
Choo Han Teck J
26–28 August, 1–2 September, 26 October 2020

18 December 2020 Judgment reserved.

Choo Han Teck J:

1 The plaintiff was a consultant with a company called Clearstate Pte Ltd ("Clearstate"), a healthcare research consultancy company that was subsequently acquired by the Economist Group. The plaintiff was born in June 1976, and so was 39 years old on 23 September 2015 when she was knocked down by a motor vehicle driven by the defendant ("the 2015 Accident"). She averred that she had been crossing the road at a pedestrian crossing. The defendant averred that the pedestrian crossing lights had not been working at the time and that the plaintiff had been using her mobile phone as she was crossing the road. The defendant admitted liability at 60%. Consequently, the proceedings before me concerned the assessment of damages only.

2 Clearstate was a company started by Ivy Teh in 2011 before it was acquired by the Economist Group. Ivy Teh met the plaintiff in 1999 when they

were both pursuing a Master's Degree in Business Administration at York University in Toronto and they became close friends. Ivy Teh worked for a market research and business consulting company called 'Synovate' before she started Clearstate.

3 There is no dispute that the plaintiff's injuries arising from the 2015 Accident included a fracture of the left occipital bone, brain haemorrhage, pneumocephalus, multiple sepsis, speech and memory impairment, and a loss of the sense of smell.

4 The parties have agreed on the compensation to be paid to the plaintiff under the following heads of damages:

(a) Pain and suffering: $125,000

(b) Medical expenses: $21,500

(c) Transport expenses: $1,500

(d) Cost of a caregiver: $5,050.92

5 As such, the defendant disputes only the following heads of damages:

(a) pre-trial loss of income;

(b) loss of future earnings;

(c) loss of earning capacity;

(d) future medical expenses; and

(e) future transport expenses.

6 Counsel for the plaintiff, Mr Balasubramaniam s/o Appuvu, asserts that the plaintiff is entitled to $4,410,547.36 for loss of future earnings, $2,154,887.40 for loss of earning capacity, $261,462.44 for future medical expenses, $5,250 for future transport expenses, and $763,741.70 for pre-trial loss of income, before apportionment for the plaintiff's contributory negligence. The defendant, who is represented by Mr Anthony Wee, disputes the plaintiff's case. Mr Wee challenges the causal connection between the 2015 Accident and the plaintiff's present injuries on the ground that the current and future state of her physical and mental impairments were caused by a separate accident in January 2018, as well as natural causes. Mr Wee also challenges the plaintiff's claim as to her pre-trial loss of income and her loss of future earnings on the basis that there is no reliable evidence that the plaintiff has suffered any loss.

7 I begin by examining the reports and memoranda tendered by the medical experts called by the parties. The extent of injuries suffered by the plaintiff from the accident of 23 September 2015 are set out in the medical report of Dr Wu Cheng Lun (alias Sein Lwin) ("Dr Wu"), a consultant neurosurgeon from the National University Hospital ("NUH"), in his report dated 20 May 2016. The injuries are described as follows:

> She was admitted to Neurosurgical unit and [underwent decompressive] craniectomy and ICP monitoring on [23 September 2015] due to her underlying acute subdural and traumatic subarachnoid haemorrhage on the left frontal lobe.
>
> She had a very stormy recovery period with multiple sepsis and electrolyte imbalance during her stay in the hospital. Eventually she recovered with speech and memory impairment from her traumatic brain injury. She had a very extensive rehabilitation procedure in NUH and TTSH for her post-traumatic complications. She was discharged on [26 October 2015].

> She was readmitted to our unit again for cranioplasty on [3 December 2015]. Her cranioplasty procedure was uneventful and [she was] discharged on [12 December 2015].

Dr Wu reported that the plaintiff was being assessed regularly for cognitive function and speech disturbances. He stated that the plaintiff was, as of 20 May 2016, "struggling with her speech and memory impairment as a consequence of her traumatic brain injury".

8 Mr Wee is not challenging the diagnosis and treatment set out in Dr Wu's 2016 report. It was Dr Wu's report almost three years later, dated 16 July 2018, that is proving problematic for reasons that I will elaborate shortly.

9 In his 2018 report, Dr Wu noted that the plaintiff was discharged from the hospital in December 2015 (he might have had the day wrong because he stated that it was the 22nd when he reported it as the 12th in his 2016 report). The doctor noted the new developments since as follows:

> … She has developed a mild hydrocephalus during [her] last admission to [the] hospital and we did a regular assessment for her existing hydrocephalus.
>
> Currently, she is adapting to the higher CSF pressure without having neurological consequences. Therefore, [an] MRI brain [scan] is necessary to prognosticate the underlying hydrocephalus and her brain condition … There is a risk of complication related to her head injury and existing hydrocephalus. Her communicating hydrocephalus is the consequenc[e] of her previous head injury and she can get a worsening condition of uncompensated stage and require intervention in future. The chance is more than 50%.

10 There were several other medical reports filed on behalf of the plaintiff. Most of those dealt with the plaintiff's speech impairment and psychiatric condition, and were non-contentious, passing without cross-examination. They

were the reports of Mr Troy Patrick Barry, Ms Ng Seok Kheng and Dr K Palaniappan for the plaintiff, as well as Dr Collinson Simon Lowes and Dr Perez Inez Sujatha for the defendant. Three other experts called by the plaintiff who were cross-examined were Dr Huang Wanping, Dr Lee Kae Meng Thomas and Dr Yeo Leong Litt Leonard.

11 Dr Huang, who is a clinical neuropsychologist at the Tan Tock Seng Hospital ("TTSH"), produced three medical reports. The first and main one was dated 1 August 2016, the second 13 March 2018 and the third 15 May 2019. Her assessment of the plaintiff's disabilities is set out in the penultimate paragraph of her first report. That paragraph reads:

> **Overall Impression:**
>
> The documented cognitive profile indicated that Ms Hew's various intellectual abilities including, verbal comprehension, perceptual reasoning and working memory abilities were below premorbid expectations, except for processing speed (i.e., *High Average* range). Nevertheless, the documented cognitive profile reflected intact orientation, memory functioning, and visuospatial skills. In particular, her memory profile was characterised by slowed learning, helped by repetition; generally intact retention and retrieval of information learnt, although provision of a recognition format would facilitate and enhance recall. In terms of Ms Hew's higher-level thinking skills (i.e., frontal/executive function), she demonstrated well-preserved planning and organisation, strategy generation, problem solving, inhibition of prepotent responses, in the context of significant deficits in verbal fluency (i.e., mental generativity), verbal reasoning skills affected by expressive difficulties, mental flexibility, set-shifting and divided attention. Ms Hew showed very good effort and motivation on testing and results of this assessment were deemed reflective of her current cognitive functioning.

12 In her short March 2018 report, Dr Huang wrote:

> … I continue to see her, and plan to see her at least bimonthly provided her work schedule allows, to address ongoing stressors in her life as she continues to adjust to life after

> [traumatic brain injury]. She is at risk of developing psychopathology which would impact her daily and occupational functioning if her psychological and emotional needs are not adequately addressed and supported.

Her third report is just as short, mainly stating the estimates of the costs of continued neuropsychological assessments and therapies.

13 Dr Lee, who is a consultant psychiatrist, saw the plaintiff for medical examinations twice, once 20 March 2018 and again on 12 March 2019. After the first examination, Dr Lee diagnosed the plaintiff as suffering from adjustment disorder and stated in his medical report dated 16 April 2018 that she would need "individual psychotherapy and pharmacotherapy in order to manage her emotional distress and to acquire coping skills to better adjust to the stressors". However, he noted that the plaintiff's replies were "relevant" and that there was "no evidence of delusions, thought disorder, perceptual disturbances or self-harm intent". After the second examination, Dr Lee stated in his medical report dated 16 April 2019 that the plaintiff was still experiencing symptoms of adjustment disorder "with depressed mood" owing to the emotional disturbances, cognitive difficulties and communication problems which she had experienced after the 2015 Accident.

14 Dr Yeo is a consultant neurologist with NUH. He filed an affidavit of evidence-in-chief in which he stated that he had treated the plaintiff in 2018 and 2019, and attached two radiology reports (dated 6 December 2018 and 5 March 2019 respectively), two internal memoranda written on his behalf (both dated 11 December 2018), and a specialist medical report dated 23 March 2019. For reasons that will be explained shortly, these medical reports and Dr Yeo's evidence in court are significant.

15 The radiology report of 6 December 2018 concluded that there was a "[n]ew dural venous sinus thrombosis involving the superior sagittal sinus as well as the bilateral transverse sinuses". There was no venous infarction, and "[n]o evidence of hydrocephalus, as per clinical concern", at the time of the MRI imaging. The later MRI report dated 5 March 2019 concluded that there was recanalization of the posterior superior sagittal sinus, "albeit with smaller calibre than [as shown in the] MRI on 23 Jun[e] 2017". It goes on to conclude, "[n]o endoluminal filling defect is seen currently". There was also "[r]ecanalization of both transverse sinuses. The right transverse sinus is small and still demonstrates slow flow. Some residual thrombus in the left transverse sinus is seen".

16 Nothing turns on the two internal memoranda, but the specialist report of Dr Yeo dated 23 March 2019 is important. This report referred to the plaintiff's admission to the NUH on 6 December 2018 and her subsequent discharge on 11 December 2018. It was baffling as to why this report made no reference to the plaintiff's injuries from the 2015 Accident except for the brief reference to her complaint (in December 2018) of headaches over the left cranioplasty site – the site of the injuries she had suffered from the 2015 Accident. Aside from this report, every other medical report by the doctors and experts called by the plaintiff had explained the plaintiff's medical condition by reference to the 2015 Accident. I will elaborate on the significance of this fact in due course.

17 At trial, two important revelations were made. The first was by Dr Wu, who disclosed that when he saw the plaintiff for her most recent check-up on 27 July 2020, he discovered, from an MRI scan of the plaintiff taken just a week before, that the plaintiff had suffered a minor stroke "at that… mid-range level

on the injury site of the brain". Dr Wu's evidence was that "[n]obody would know" whether the stroke was causally related to the head injury the plaintiff had suffered from the 2015 Accident, or whether it was simply a consequence of ordinary degenerative process.

18 The second revelation was made by Dr Yeo, when he mentioned in passing that the plaintiff had sustained some injury after falling off her e-scooter in January 2018. That sudden revelation almost caused counsel for the defendant to fall off his chair. Dr Yeo's revelation was made when he testified after Dr Wu had given evidence of the discovery of the plaintiff's stroke.

19 When asked about this, Dr Yeo explained that the plaintiff had had another accident on 28 January 2018 ("the 2018 Accident") where she had fallen off an e-scooter that she was riding. Based on his records, the plaintiff had been riding the e-scooter at 15km/h without a helmet. She had fallen while trying to avoid hitting a pedestrian, whereupon she had "hit her upper limb on the ground and she [thought] she might have hit the right side of the head on the ground as well". She reported having headache with nausea and giddiness and was admitted at NUH overnight. Although the hospital's records stated that the plaintiff had suffered a "head injury" from this accident, a subsequent CT scan of her brain "did not show anything" and the plaintiff was discharged the next day.

20 There was no disclosure by the plaintiff whatsoever that she had this second accident in which, according to Dr Yeo, she might have hit her head in the fall. None of the other doctors appeared to know about this either, or at least, none of them mentioned that the plaintiff had had a second accident. As stated at [16] above, every doctor (other than Dr Yeo) had written their reports and

testified only in relation to the plaintiff's 2015 Accident as if her condition had no relation to any traumatic incident other than that accident. Only Dr Yeo appeared to contemplate the possibility that there was another cause (or other causes) of her injury, and this was reflected in the manner in which he had written his 23 March 2019 report.

21 It appeared that even Dr Wu did not appear to know about the 2018 Accident, and if he did, he had not drawn the court's attention to it as Dr Yeo had done. Based on the information which was available to him, Dr Wu's opinion was that the venous sinus thrombosis which the plaintiff was diagnosed with in December 2018 had been caused by the 2015 Accident. His conclusion was based on the fact that a venous sinus thrombosis had "already [been] noted in the first post-op[eration] date on the 24th of September 2015", *ie*, one day after the 2015 Accident. According to Dr Wu, it was likely that this venous sinus thrombosis had persisted from 2015 to 2018 even though its clinical symptoms had only begun to manifest in 2018.

22 Owing to the plaintiff's non-disclosure of the 2018 Accident, Dr Yeo, like Dr Wu, was cross-examined by counsel on the assumption that the plaintiff had only one accident, *ie*, the 2015 Accident. It also appeared that Dr Yeo had no knowledge of the stroke that was discovered by Dr Wu in 2020. Even so, Dr Yeo testified that in his view, the venous sinus thrombosis that the plaintiff was found to have in December 2018 was a "new" venous sinus thrombosis. In other words, it was neither related to the 2015 Accident nor the venous sinus thrombosis which the plaintiff had suffered in the immediate aftermath of the 2015 Accident. Dr Yeo gave three reasons for his answer: First, when venous sinus thrombosis occurs more than a month after a traumatic injury, it is very unlikely that it can be attributed to the trauma as the cause. Dr Yeo was clear

and emphatic on this point. Second, the plaintiff had been seen in the clinic fairly often between 2015 and 2018, and she had not complained of headaches or any other symptoms which she would have experienced if she had indeed been suffering a venous sinus thrombosis at the material time. Third, the MRI scans taken before December 2018 did not show that the plaintiff was suffering from any venous sinus thrombosis. In this regard, Dr Yeo conceded that an MRI scan was "not the best modality" of identifying a venous sinus thrombosis, but opined that it nevertheless "ha[d] some accuracy in detecting the clogs".

23 Dr Yeo also explained the statistical possibility of developing a venous sinus thrombosis as follows:

> So if you have a traumatic injury that---with a fracture that involves the sinus, the risk of [venous sinus thrombosis] is about 25%. If you do not have injury that involves the sinus, the risk of [venous sinus thrombosis] is very low. It's less than 5%. And if you already have a [venous sinus thrombosis], the risk of a recurrent [venous sinus thrombosis], assuming you cannot find the underlying cause, is 2 to 3 percent a year.

Dr Yeo further clarified that "all of us will have some chance of getting [venous sinus thrombosis]", even without any underlying traumatic injury, but that the risk of this is "very, very low".

24 Therefore, Dr Yeo's view is that the venous sinus thrombosis that the plaintiff suffered in 2018 bears no relation to her 2015 Accident but is merely a reflection of the statistical fact that 2 to 3 percent of those who have already had a venous sinus thrombosis can develop a recurrent one.

25 Having set out the medical evidence above, I now turn to examine the evidence concerning the plaintiff's employment, which is crucial to her claims for loss of future earnings, loss of earning capacity and loss of pre-trial income.

The plaintiff previously worked with IBM Global Business Services in China from 2005 till the end of 2012, when she accepted a job offer from Clearstate. The evidence suggests that she accepted Clearstate's offer partly to allow her daughter to enrol in a primary school in Singapore, and partly because the offer from Clearstate was attractive. Professionally, she had been doing better than her husband so the decision to move back to Singapore was based mainly on those two factors.

26 It is not disputed that as at 23 September 2015, the day of her accident, the plaintiff was earning $16,740 a month (not including CPF contributions) as Clearstate's Head of Greater China. She was on medical leave until the end of March 2016. When she returned to work on a part-time basis on 1 April 2016, her pay was increased to $17,242. A year later, in April 2017, her pay was again increased, from $17,242 to $18,104.

27 Then the plaintiff was involved in the undisclosed 2018 Accident. Notwithstanding that, she was assigned to manage Clearstate's data analytic unit in April 2018 and her salary was again increased, this time to $18,466. On 6 December 2018, the plaintiff claimed that she started experiencing symptoms due to her venous sinus thrombosis, and everyone assumed that it was due to the 2015 Accident. As a result, she was assigned to a lesser role in 'key account management', but there was no decrease in her salary and by April 2019, her pay was increased again to $18,836. Finally, and only on 1 April 2020, the plaintiff was re-assigned to the role of 'Client Engagement Manager' on a permanent basis, and her salary was decreased from the first time from $18,836 to $8,500 plus commission.

28 The assessment of damages on the plaintiff's entitlement of 60% is hampered by three major factors. The first (referred to at [20] above) is the plaintiff's wilful non-disclosure of the 2018 Accident. This incident was revealed only because Dr Yeo, when recounting the plaintiff's medical history, mentioned in passing that she had been admitted to NUH after falling off an e-scooter.

29 The second factor also concerns a wilful non-disclosure by the plaintiff. This time, it concerns the fact that Dr Wu had found a small stroke of recent origin when he last saw the plaintiff on 27 July 2020.

30 These two wilful non-disclosures by the plaintiff had an important impact on this trial. From the medical notes and reports, as well as their testimonies in court, both Dr Huang and Dr Wu (who were the plaintiff's key expert witnesses apart from Dr Yeo) did not seem to be aware that the plaintiff had been involved in a second accident with impact to her head. Her own counsel, Mr Balasubramaniam, also appeared to be oblivious to the existence of the 2018 Accident when he was re-examining the plaintiff's experts. Until Dr Yeo revealed the existence of the 2018 Accident, the focus of both the cross- and re-examinations was on the 2015 Accident.

31 The implications of the two non-disclosures are particularly important where Dr Wu's evidence was concerned. When Dr Wu was being cross-examined, the defendant's counsel could not pursue a line of questioning on the impact and consequences of the 2018 Accident because the existence of this accident had not yet been revealed. Thus, when Dr Wu was questioned on the causal connection between the 2015 Accident and the stroke that was discovered in July 2020, he testified that he could not conclude whether the stroke was

(a) connected to the 2015 Accident, or (b) a consequence of ordinary degenerative process. The third alternative of it arising from 2018 Accident was not put to Dr Wu because neither counsel knew about it at that time.

32 Likewise, even when Dr Wu was opining on the cause of the plaintiff's venous sinus thrombosis, he had not associated this with the 2018 Accident. Without the context of the e-scooter accident, Mr Balasubramaniam led Dr Wu into a re-examination that misleadingly assumed that the venous sinus thrombosis that the plaintiff had been treated for in December 2018 was traceable only to the 2015 Accident. When confronted, Dr Wu was visibly confused, as can be seen in his answers in re-examination, and finally in response to the question, "So, in a nutshell, [the venous sinus thrombosis] was always there and then the problem---symptoms started---severe symptoms started in 2018?" Dr Wu simply replied, "Yes". This is how the plaintiff's non-disclosure misled her counsel, who, in turn, misled Dr Wu. I reiterate that Dr Wu's evidence was given before that of Dr Yeo. So, until then, no one knew about the e-scooter accident in January 2018.

33 This brings me to the third factor that makes the assessment of the plaintiff's damages difficult. The evidence shows that the plaintiff had already made plans to leave Clearstate when the 2015 Accident occurred. She later tried to disassociate herself from this evidence, perhaps upon realising its implications on her claim for loss of earnings. But this was not before she had filed an affidavit of evidence-in-chief revealing that on 8 January 2015, she had registered a company named 'Synaptic Networks' ("Synaptic"), with herself as the registered sole proprietor. The business activities of Synaptic were described in the Accounting and Corporate Regulatory Authority ("ACRA") profile as, *inter alia*, "science and technology solution provider", and "business and

management consultancy services". These are similar, albeit not identical, to Clearstate's principal business activities, and it is my view that Clearstate and Synaptic can reasonably be regarded as being in competition with each other. The defendant's case is that the plaintiff was planning to leave Clearstate and registering this business was the first step she had taken to meet this objective. The plaintiff denies this. She claimed under cross-examination that it was her husband, Yeow Tze Yian ("Yeow"), who had intended to start this business, and that she had merely assisted in registering the business because Yeow, who was a long-term visit pass plus holder, could not do so.

34 But the evidence is against the plaintiff. She was confronted by her own affidavit of evidence-in-chief in which she had declared that Synaptic was started by both Yeow and herself, and that they had both invested $25,000 in the business. Indeed, if Synaptic had been meant as a business only for Yeow, he had failed utterly because from January 2015 to date, almost six years, Yeow has done nothing with his business. Moreover, the plaintiff had initially claimed the expenses incurred for Synaptic as damages in this action, and only abandoned this head of claim at the doorstep of trial.

35 Most importantly, the evidence shows that Synaptic was not just a dormant entity. The plaintiff had actively taken steps to get Synaptic up and running. In July 2015, just a couple of months before her accident, the plaintiff employed one Zhou Yuqian ("Zhou") as an employee of Synaptic. Zhou's qualifications are impressive — she has a Diploma and a Bachelor's degree in Engineering Mechanics from the Wuhan University of Technology, a Bachelor's degree in Foreign Language (English), also from the same Wuhan university, and a Doctorate in Philosophy from the National University of Singapore. In the employment contract with Zhou (which was signed by the

plaintiff on behalf of Synaptic), the plaintiff was described as the "CEO" of Synaptic. If this designation were true, the plaintiff would have been in breach of her own employment contract with Clearstate. Zhou was paid by GIRO through a DBS Bank account opened in the name of Synaptic.

36 In addition, the plaintiff admitted that Synaptic had made name cards in August 2015 (though she was unable to produce these cards when asked to do so during cross-examination). For a couple of weeks in July 2015, Synaptic had booked project rooms in the National Library for its business, and on 19 July, secured its first contract with a company called 'FutureWorkz Pte Ltd' to have the latter develop online facilities for Synaptic. This agreement was protected by a non-disclosure clause. On 28 July 2015 Synaptic entered into another agreement, this time with the Singapore Infocomm Technology Federation for 'Co-working Services' and 'Usage of Collaborative Facilities'.

37 Zhou's contract of employment with Synaptic was almost an exact replication of the plaintiff's own employment contract with Clearstate, including the terms prohibiting the organisation of any competitive business activity, and against disclosing and/or utilising the company's confidential and proprietary information. Even the grammatical errors in both contracts were the same. The unavoidable inference was that the plaintiff had either used or allowed her employment contract with Clearstate to be used as a template for the drafting of Zhou's contract.

38 It was thus evident that the plaintiff had been in breach of her employment contract in at least two respects: first, by discreetly participating in a business that competed with Clearstate, and second, by improperly disclosing Clearstate's confidential and/or proprietary information. It would not have been

reasonable for Clearstate, or its ultimate parent company (*ie*, the Economist Group), to have allowed the plaintiff to remain in its employ had it known of the plaintiff's breaches of her employment contract involving Synaptic. Even if the plaintiff had merely set up Synaptic to help her husband start his own business, the plaintiff overlooked the fact that should Clearstate or the Economist Group have known that a person who had been designated as the Head of Greater China was helping her husband set up a rival company, she would not likely have been kept in the company, let alone be promoted to Head of Asia Pacific. Either way, the plaintiff does not look like she would have a future with Clearstate. That much is clear.

39 Ivy Teh, the plaintiff's erstwhile boss and close friend, conceded under cross-examination that she knew that the plaintiff had registered Synaptic because the plaintiff had told her about it, but did not say whether she had reported this to the Economist Group. She testified, instead, that she had no issues with the plaintiff's actions because the plaintiff had told her that Synaptic was Yeow's business. Upon learning that the business was for Yeow (which, as explained above, did not seem to be the case), Ivy Teh made no further inquiry even though the plaintiff had expressly admitted her involvement in helping to register Synaptic. That attitude by Ivy Teh can only be explained by either or a combination of the following: (a) Ivy Teh was blithely unaware of the competition that Synaptic would pose to Clearstate; (b) having sold her stakes in Clearstate to the Economist Group, Ivy Teh was no longer motivated to defend it; or (c) Ivy Teh might have been thinking of joining Synaptic herself. The reason for Ivy Teh's lack of action was not pursued by Mr Wee, perhaps because he thought it unnecessary.

40 So far as the long-term effects of the plaintiff's 2015 Accident are concerned, the medical evidence show that the plaintiff suffered serious head injuries in the 2015 Accident, but after the brain surgery to relieve the swelling and bleeding, the plaintiff has made a very good recovery. Where the plaintiff's physical injuries are concerned, Dr Wu's evidence is that the plaintiff currently has a mild hydrocephalus, for which she may eventually be required to go through a shunt procedure. However, no other long-term physical conditions were noted.

41 Dr Huang also noted some intellectual deterioration after the 2015 Accident although the plaintiff's processing speed remained unaffected. The main areas of deterioration concerned memory, verbal comprehension, and perceptual reasoning. However, Dr Huang observed:

> … well-preserved planning and organisation, strategy generation, problem solving, inhibition of prepotent responses, in the context of significant deficits in verbal fluency (i.e. mental generativity), verbal reasoning skills affected by expressive difficulties, mental flexibility, set-shifting and divided attention.

42 So far as the plaintiff's verbal skills are concerned, Ms Ng Seok Kheng, a speech therapist from TTSH, noted that the plaintiff had mild aphasia and moderate impairment in reading in November 2015, but had shown improvement by February 2016. At trial, the plaintiff appeared to comprehend all the questions and was able to verbalise her answers to them with no difficulty.

43 Apart from these, there appears to be no other long-term medical implications apart from the adjustment disorder, low mood and the risk of psychopathology that the psychiatrists and psychologists reported. These reports, though stoutly defended by Dr Huang as being objective, rely mainly

on what the plaintiff told the doctors. For example, Dr Lee's report of 16 April 2018 includes findings such as "she found a significant decline in her mental processing and ability to digest information", which are largely based on statements made by the plaintiff herself.

44 As for the venous sinus thrombosis, I accept Dr Yeo's evidence that there were two different and unrelated incidences of venous sinus thrombosis — one which arose in 2015 as a direct and immediate consequence of the 2015 Accident, and another which arose in 2018, possibly due to the 2018 Accident or another unknown cause. The two venous sinus thromboses were not interrelated. The venous sinus thrombosis arising from the 2015 Accident appears to have been at least partially resolved as the plaintiff returned to work in her former post and was given pay increments each year until 2020, when she was assigned to the role of 'Client Engagement Manager'.

45 For completeness, I also state my view that the plaintiff has not proven that the stroke discovered in 2020 was caused by the 2015 Accident. Indeed, Dr Wu himself acknowledged that it was impossible to determine whether the two were causally linked.

46 In the light of the aforementioned medical evidence, all of which were from medical witnesses called by the plaintiff, I conclude that 2015 Accident had resulted in some long-term injuries, mainly psychological and a general mental capability a little lower than her mental capability prior to the accident. The extent of that deterioration in mental capability is not easy to ascertain, and that has to do with two factors. The first is that venous sinus thrombosis might also arise in a person who has not experienced the traumatic injury suffered by the plaintiff in the 2015 Accident, although (as stated at [44] above) I would

accept that the first venous sinus thrombosis was attributable to the 2015 Accident, but not the second. In any event, the effect of the first venous sinus thrombosis on the plaintiff's future mental capability is not clearly made out; but I nonetheless accept that it will cause some, though not all the deterioration alleged by the plaintiff.

47 When assessing loss of pre-trial income, loss of future earnings and loss of earning capacity, the court has to take into account and blend both the medical evidence and the evidence of the plaintiff's actual working ability and capacity. In this regard, in spite of the plaintiff's claims, the record of her work performance six months after the 2015 Accident can be described as impressive, and from a record of more than two years of work recognised by annual pay increments, she seemed to suffer little setback at her place of work — until, of course, the 2018 Accident, after which she gradually began to have more mental ailments to complain about, culminating in the December 2018 examination by Dr Yeo in which it was discovered that the plaintiff had a venous sinus thrombosis, as well as Dr Wu's July 2020 examination in which he found evidence of a mild stroke that must have taken place between December 2018 and July 2020.

48 In the circumstances, I agree with Mr Wee that no award should be given for loss of future earnings and pre-trial loss of income, but I am of the view that some award may be given under the claim for loss of earning capacity. I am of the view that the sum suggested by Mr Wee (*ie*, $25,000 a year for 10 years) is generous, but I will not stand in the way of the defendant's generosity and I therefore award the plaintiff $250,000 for loss of earning capacity.

49 I now come to the claim for loss of future medical expenses. I agree with Mr Wee that the costs of a future shunt should on a public hospital rate, which according to Dr Wu, would be approximately $5,000. As to other medical expenses, I also agree that the defendant should only be liable for those that can be attributable to the 2015 Accident. I make my assessment bearing in mind that some of the injuries and symptoms suffered by the plaintiff because of the 2015 Accident may be aggravated by the 2018 Accident, the second venous sinus thrombosis, and the recently-discovered stroke. The potential medical expenses for the 2015 Accident would accordingly overlap with those arising from these incidents and/or conditions. Using the average medical expenses incurred by the plaintiff prior to 2018, excluding the hospitalisation costs, the multiplicand should be $4,000 (rounded up from $3,566.16). So far as the multiplier is concerned, I am of the view that for the 44-year-old plaintiff, a multiplier of 16 should be applied. I think that Mr Wee's submission of 12 years is low, and Mr Balasubramaniam's 19 years, too high. For future medical expenses I therefore award $69,000 ($5,000 + ($4,000 × 16)).

50 As for future transport expenses, based on the evidence, the plaintiff may need to see an average of two or three doctors or therapists a year, and assuming that a round trip taxi fare may cost $40, I am of the view that Mr Wee's submission of $2,500 is closer to what I had in mind and I so order that future transport expenses be $2,500.

51 The above awards, after adjustment for contributory negligence of 40%, are therefore as follows:

(a) Loss of earning capacity: $150,000

(b) Future medical expenses: $41,400

(c) Future transport expenses: $1,500

Total: $192,900

52 I therefore award the sum of $192,900, along with the sums agreed by parties at [4] above, as damages to the plaintiff, and will hear arguments as to costs at a later date if costs are not agreed.

- Sgd -
Choo Han Teck
Judge

Balasubramaniam s/o Appavu (BSA Law Chambers LLC)
for plaintiff;
Wee Anthony and Pang Weng Fong (United Legal Alliance LLC)
for defendant.