

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

[2025] SGHC 91

Originating Claim No 235 of 2023

Between

Cheng Shi Ying Cherissa

... Claimant

And

- (1) Khoo Chong Kiat
- (2) Royal Clinics of O&G Pte Ltd

... Defendants

JUDGMENT

[Civil Procedure – Costs – Quantum]

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Cheng Shi Ying Cherissa
v
Khoo Chong Kiat and another

[2025] SGHC 91

General Division of the High Court — Originating Claim No 235 of 2023
Choo Han Teck J
17 April, 2 May 2025

20 May 2025

Judgment reserved

Choo Han Teck J:

1 Both parties attempted to settle the action multiple times prior to the commencement of the trial. The first defendant first offered a refund of his delivery fees as a gesture of goodwill on 9 May 2020, three days after the claimant developed the fistula. He then made another offer to settle the claim on 3 September 2021. Unfortunately, this was not accepted by the claimant. In end 2021, the parties arranged to mediate but this was put “on hold” by the defendants in February 2022 because of ongoing investigations by the Singapore Medical Council. No progress was made after that. On 4 December 2024, two months before the trial commenced, the claimant made an offer to the defendants. The defendants counter-proposed a figure on 13 January 2025. One week later, the claimant made a revised offer to the defendants. This was rejected by the defendants three days later, and the trial began more than a week after that.

2 Under O 22A of the Rules of Court 2014, indemnity costs may be awarded when a reasonable offer to settle (as determined by the court) is refused and the plaintiff obtains judgment on terms not more favourable than the terms of the offer. Although O 22A has been removed from the Rules of Court 2021 (“ROC 2021”), that does not mean that offers to settle are now inconsequential. On the contrary, parties may make such offers if they believe that litigation can be resolved by the offer. How that may affect the court’s order on costs will be left to the court’s discretion depending on the facts of each case. This is seen from O 21 r 2 of the ROC 2021 which provides as follows:

(1) Subject to any written law, costs are in the discretion of the Court and the Court has the power to determine all issues relating to the costs of or incidental to all proceedings in the Supreme Court or the State Courts at any stage of the proceedings or after the conclusion of the proceedings.

(2) In exercising its power to fix or assess costs, the Court must have regard to all relevant circumstances, including —

(a) efforts made by the parties at amicable resolution;

...

3 An offer to settle may directly compel the opposing litigant, whether claimant or defendant, to seriously assess his case and, upon consultation with his solicitors on the financial cost of pursuing the claim to the end, weigh the costs of winning against the costs of losing. Thereafter, if he proceeds, the die is cast. But it should be borne in mind that the amount offered is not the same thing as the reasonableness of that offer. The latter depends on the merits of the claim as well as other factors that the court thinks relevant. If, for example, a \$1m claim is eventually dismissed as being wholly unmeritorious, even a \$10,000 offer by the defendant might have been reasonable despite being just 1% of the claimed sum. The present case involves other factors, as will be seen in the following paragraphs. So far as the offer to settle is concerned, it appears that the parties here were still in the process of negotiation. In cases where

negotiations are protracted, parties ought to make their final offer clear not only in the amount to be settled, but that it is the final offer. It should be marked without prejudice as to the merits but an open offer as to costs.

4 The claimant here says that the defendants declined to mediate, were slow in providing information and documents (*eg*, medical records) and raised material matters belatedly, leading to wasted costs. The defendants say that they made multiple offers to settle, which were all rejected by the claimant who demanded “unreasonable sums that were plainly disproportionate to her alleged injuries”. The defendants also appointed a Senior Counsel as they thought that the claimant’s allegations would have “serious widespread repercussions on obstetric management in Singapore”. They refer to my costs order of \$600,000 on an indemnity basis in *Chia Soo Kiang (personal representative of the estate of Tan Yaw Lan, deceased) v Tan Tock Seng Hospital Pte Ltd and others* [2023] SGHC 56 (“*Chia Soo Kiang*”). The defendants here want costs of \$350,000 because they say that the claimant rejected the defendants’ offers to settle; that she was “not truthful about her condition” and “displayed no sincerity at all in reaching a settlement”.

5 It seems to me that both parties had made efforts to reach an amicable resolution, but their respective ideas of what a reasonable sum should be to settle amicably were just too far apart. The claim was neither complicated nor complex. The documents filed were not voluminous. In *Chia Soo Kiang*, the claimant refused the defendants’ offer to settle and made no counteroffer. He also filed affidavits without leave and made major amendments to his claim a week before the trial commenced. The trial took eight full days and two half days, and the defendants had to pay for the transport and accommodation of their witnesses from overseas. *Chia Soo Kiang* can be distinguished from the

present case, where the claimant had made efforts to mediate as well as offers to the defendants to settle the matter thereafter.

6 I also do not think that the claimant's conduct and the involvement of a Senior Counsel justify the defendants' claim for costs of \$350,000. I am of the view that the costs in this case should be within the mid-range under the guidelines set out in Appendix G of the Supreme Court Practice Directions 2021. A reasonable figure would be \$60,000 for pre-trial work, \$12,000 per day for trial and \$20,000 for post-trial work. Since there were about five days of trial in total, the costs for trial are fixed at \$60,000. The costs for the trial are therefore fixed at \$152,600 (including GST). The costs of the bifurcation application in HC/SUM 209/2024 ("SUM 209") are fixed at \$8,720 (including GST). I make no orders as to costs for the claimant's amendments to her statement of claim filed on 27 November 2024 as the amendments were minimal and the removal of her claims in relation to antenatal care was because of the defendants' belated disclosure of her medical records in late 2024. This brings the total costs to \$161,320 (including GST).

7 The claimant does not dispute many of the disbursements sought by the defendants, including \$16,742.59 for SUM 209 and other expenses, as well as \$44,145 for the fees paid to the defendants' expert witnesses. However, she disputes the remaining \$21,539.49 sought by the defendants. I accept that since the coloured pages were interspersed throughout voluminous documents, it was unfeasible for the defendants' counsel to selectively print black and white pages in monochrome and pages with exhibits and mark-ups in colour. However, there was no need for them to print three trial bundles as the claimant had printed the bundles for the court and the witnesses. I fix the reasonable disbursements for printing two bundles and miscellaneous expenses at \$10,900 (including GST). Therefore, the total sum for disbursements is fixed at \$71,787.59.

8 I thus order that the claimant pay the defendants costs fixed at \$233,107.59 (including disbursements).

- Sgd -
Choo Han Teck
Judge of the High Court

Cumara Kamalacumar, Celestine Luke Tolentino and Daniel Soo
(Selvam LLC) for the claimant;
Kuah Boon Theng SC, Kee Shu'en Theodora and Kimberly Chia
Wei Xin (Legal Clinic LLC) for the defendants.
