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***Pollmann, Christian Joachim v Ye Xianrong* [2021] SGHC 77: Record Quantum of Damages Awarded in a Personal Injury Claim**

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Introduction

1. A record \$13.6 million in damages was recently awarded in the case of *Pollmann, Christian Joachim v Ye Xianrong* [2021] SGHC 77 (“*Christian Pollmann*”), the highest award for a personal injury claim or death claim in Singapore to date. This was due to the relatively high quantum of \$9.3 million awarded for the claimant’s loss of future earnings.
2. The previous record was \$8.6 million in damages awarded in the case of *Siew Pick Chiang v Hyundai Engineering and Construction Co Ltd and another* [2016] SGHC 266, a personal injury claim.
3. Although these cases are not medical negligence cases, the same legal principles apply in determining the quantum of damages to be awarded in a medical negligence case. In other words, once liability is established, in determining the quantum of damages to be awarded, it is irrelevant whether a personal injury was sustained by way of a road traffic accident, a medical procedure, or an accident in the workplace.

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Brief facts of *Christian Pollmann*

4. In *Christian Pollman*, the claimant was a Swiss banker who had suffered serious injuries in a road traffic accident in 2014. At the time of the accident, the claimant was 37 years old, and married with two young children. It was not disputed that the claimant would not be able to work after the accident.

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The multiplier-multiplicand approach

5. To calculate the quantum of certain “big-ticket” items of damages in personal injury and death claims, the Court applies the **multiplier-multiplicand approach**. This involves multiplying the **multiplicand** (i.e., the quantum of loss that the claimant is expected to suffer annually in the future) with the **multiplier** (i.e., the value used to determine the present value of the lump-sum compensation that a claimant should justly receive to compensate for the future periods of loss).

Loss of future earnings

6. The Court awarded damages of \$9,325,541 for the claimant’s loss of future earnings.
7. The claimant was 44 years old at the time of the assessment of damages. The claimant’s retirement age was deemed to be 65 years old, so that the period of future loss pre-retirement amounted to 21 years (i.e., from age 44 to age 65).

8. The Court awarded a multiplier value of 14 years (the multiplier value awarded by the Court is often less than the actual number of years mainly because the claimant is getting paid a lump sum up-front).
9. The multiplicand, i.e., the claimant's pre-retirement annual average post-tax net income, was \$658,967.24. The claimant's pre-retirement loss of future earnings was hence \$9,225,541 (i.e., \$658,967.24 x 14).
10. The Court also awarded the claimant a lump-sum award of \$100,000 for post-retirement loss of future earnings.

Pre-trial loss of earnings

11. The claimant's pre-trial loss of earnings was calculated for the period of 2015 to 2019. The claimant's net loss of earnings amounted to \$1,543,968. This was obtained by deducting the claimant's actual earnings during this period (i.e., \$587,108) from the sum which the claimant would have earned during this period if the accident had not occurred (i.e., \$2,131,076).

Recurring Future Medical Expenses

12. The Court awarded damages of \$1,094,212 for recurring future medical expenses. This comprised \$912,312 for recurring medical expenses (excluding psychiatric treatment expenses), and \$181,900 for recurring psychiatric treatment expenses.
13. In relation to future medical expenses (excluding psychiatric treatment expenses), the Court deemed the claimant's life expectancy to be 81 years of age, which was consistent with the average life expectancy in Singapore and Switzerland. The period of future loss amounted to 37 years (i.e., from age 44 to age 81). The multiplier value awarded by the Court was 18 years. Multiplying this by the multiplicand of \$50,684, a total of \$912,312 in damages was hence awarded for future medical expenses (excluding psychiatric treatment).
14. In relation to future psychiatric treatment expenses, the period of future loss began from 2025 onwards as the parties had already agreed on the cost of future psychiatric expenses from 2020 to 2025. The period of future loss was 32 years, from age 49 to age 81 (end of life). The Court awarded a multiplier value of 17 years, and multiplied this by a multiplicand of \$10,700 to obtain damages of \$181,900.

Other categories of damages

15. The Court also awarded \$694,422 for one-off future medical expenses, \$59,000 for the claimant's wife's pre-trial loss of earnings, \$643,000 in special damages, and \$300,000 for pain and suffering.
16. Hence, the total damages awarded amounted to a record \$13,660,183.05.

Application of the new Actuarial Tables to *Christian Pollmann*

17. The new actuarial tables published in *Actuarial Tables with Explanatory Notes for use in Personal Injury and Death Claims* (Academy Publishing, 2021) ("the Actuarial Tables") are applicable to hearings from 1 April 2021 onwards, regardless of when the incident forming the subject matter of the dispute occurred and when the legal claim was initiated. If the new

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Actuarial Tables were applied in *Christian Pollman*, we estimate that the damages awarded would likely have increased from the \$13.6 million actually awarded to \$16.4 million, amounting to a 19% increase in quantum.

18. With regards to the claimant's loss of future earnings, this would increase from the \$9,325,541 actually awarded to \$11,631,926.70. We estimate that the new multiplier value for pre-retirement loss of future earnings would increase to 17.5. Taking this new multiplier value into account, the claimant's pre-retirement loss of future earnings would be \$11,531,926.70 (i.e., \$658,967.24 x 17.5). After adding the \$100,000 of post-retirement loss of future earnings, the total quantum would be \$11,631,926.70.
19. For recurring future medical expenses (excluding psychiatric treatment), we estimate that the new multiplier value would be 24.46. Applying this to the multiplicand of \$50,684, the damages awarded would increase from the \$912,312 actually awarded to \$1,239,730.64.
20. For recurring future psychiatric treatment expenses, we estimate that the new multiplier value would be 23.19. Applying this to the multiplicand of \$10,700, the damages awarded would hence increase from the \$181,900 actually awarded to \$248,133.

Conclusion

21. *Christian Pollmann* is a notable decision due to the record quantum of damages awarded. It illustrates the high range of damages that can be awarded where the claimant earned a relatively high income prior to the incident that forms the subject of the claim.
22. Medical professionals in the private sector should consider whether they should **increase the maximum limit** of the quantum of damages covered by their professional indemnity insurance policies (if there is such a limit). This is especially given that the new Actuarial Tables may result in higher damages awarded, due to potentially increased multiplier values.

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