

1 **Affendi b Mohamed Isa**
v
Mohd Nurhilman b Mat Yusop

5 Sessions Court, Ipoh – Summons No 3-53-712-2005
 Tan Hooi Leng scj

10 **[34] Quantum** – *Lower limb – Tibia and fibula – Closed fracture of shaft of left tibia and fibula – Muscle wasting – Scars*

Date of accident
 April 20, 2005

15 **Date of judgment**
 August 15, 2008

Brief description of plaintiff’s injuries

1. Closed fracture of the shaft of the left tibia and fibula

20 **Disabilities**

1. 3 cm muscle wasting in the left thigh
2. Inability to squat fully or maintain one leg stand independently on the left leg
3. Infection of the left tibia interlocking nail with osteomyelitis
- 25 4. Muscle power in the left lower limb is Grade 4 as compared to Grade 5 in the right limb
5. Reduced range of dorsiflexion in the left ankle by 15 degrees and flexion in the left knee by 20 degrees

30 **Plaintiff’s age**

- | | | |
|----------------------------|---|----------|
| (a) As at date of accident | : | 32 years |
| (b) As at date of hearing | : | 35 years |

Plaintiff’s occupation

- | | | |
|------------------------------|---|----------|
| (a) As at date of accident | : | Mechanic |
| 35 (b) As at date of hearing | : | Mechanic |

Plaintiff’s earnings

- | | | |
|------------------------------|---|--|
| (a) As at date of accident | : | RM40.00 per day (number of working days are between 18 to 20 days) |
| 40 (b) As at date of hearing | : | RM1,200.00 |

Liability

80% against the defendant

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Award (Based on 100% liability)1. *General damages*

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- (a) Closed fracture of the shaft of the left tibia and fibula (Note: The plaintiff as a result suffers from reduced range of dorsiflexion in the left ankle by 15 degrees and flexion in the left knee by 20 degrees, inability to squat fully or maintain one leg stand independently on the left leg, 3 cm muscle wasting in the left thigh, Grade 4 muscle power in the left lower limb as compared to Grade 5 in the right and infection of the left tibia interlocking nail with osteomyelitis) – RM25,000.00 15
- (b) Scars (4 cm x 1 cm post surgical scar over the anterior aspect of the left knee and 20 cm x 5 cm scar over the anterior aspect of the left tibia) – RM 5,000.00 20

2. *Special damages*

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- (a) Cost incurred by plaintiff's family in visiting the plaintiff whilst hospitalised (agreed) – RM 100.00
- (b) Cost of outpatient treatment (agreed) – RM 100.00
- (c) Hospital expenses (agreed) – RM 519.00
- (d) Payment for outpatient treatment – RM 10.00 25
- (e) Purchase of metal plates – RM 850.00
- (f) Purchase of walking stick (agreed) – RM 60.00

Interest

- (a) 4% per annum on special damages from the date of accident until date of judgment 30
- (b) 8% per annum on general damages from the date of filing of summons until date of judgment
- (c) 8% per annum on total judgment sum from date of judgment until date of full settlement. 35

Solicitors

S V Namasoo and Shabnam Hasneena (S V Namasoo & Co) for plaintiffs
D Ramarmuty (Ng Chee Kong & Co) for defendants

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