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**Muthukumar a/l Samivel**

**v**

**Chai Siew Moi**

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**Sessions Court**, Teluk Intan – Civil Suit No. AC-A53KJ-56-04/2018  
Norita Mohd Ardani scj

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**[49] Quantum** – *Head – Loss of consciousness/cerebral concussion – Lower limb – Degloving injury over right foot – Fracture dislocation of right 3rd, 4th and 5th metatarsal bones – Fracture head proximal phalanx of right 5th toe (ray amputation of right little toe) – Scar*

**Date of accident**

March 6, 2016

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**Date of judgment**

January 31, 2019

**Judgment received**

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October 22, 2019

**Brief description of plaintiff’s injuries**

1. Degloving injury over the right foot
2. Fracture dislocation of the right 3rd, 4th and 5th metatarsal bones (the fourth metatarsal bone has been removed with the exception of its head)
- 25 3. Fracture head proximal phalanx of the right 5th toe (ray amputation of the right little toe)
4. Loss of consciousness/cerebral concussion

**Disabilities**

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1. 14 cm scar over the medial length of the foot
2. Difficulty to squat, climb staircases, walk on uneven grounds and gradients, press down firmly with right foot, lift or carry heavy loads and be on the feet for prolonged periods
3. Reduced agility of the right foot
4. Stiffness of the right foot
- 35 5. Unable to walk fast and long distances
6. Walks flat footed

**Plaintiff’s age**

- |    |                            |   |    |
|----|----------------------------|---|----|
| 40 | (a) As at date of accident | : | NA |
|    | (b) As at date of hearing  | : | NA |

**Plaintiff's occupation**

- |                            |   |    |   |
|----------------------------|---|----|---|
| (a) As at date of accident | : | NA | 1 |
| (b) As at date of hearing  | : | NA |   |

**Plaintiff's earnings**

- |                            |   |            |   |
|----------------------------|---|------------|---|
| (a) As at date of accident | : | RM1,388.54 | 5 |
| (b) As at date of hearing  | : | NA         |   |

**Liability**

50% against the defendant

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

- |  |   |             |    |
|--|---|-------------|----|
| (a) 14 cm scar over the medial length of the foot  | – | RM 4,000.00 |    |
| (b) Broken previous cerclage wire in the right patella   | – | RM15,000.00 |    |
| (c) Degloving injury over the right foot   | – | RM20,000.00 | 15 |
| (d) Fracture dislocation of the right 3rd, 4th and 5th metatarsal bones (the fourth metatarsal bone has been removed with the exception of its head) (Note: The plaintiff as a result suffers from flat foot, stiffness and reduced agility of the foot, inability to walk fast and long distances and difficulty to squat, climb staircases, walk on uneven grounds and gradients, press down firmly with right foot, lift or carry heavy loads and be on the feet for prolonged periods) | – | RM30,000.00 | 20 |
| (e) Fracture head proximal phalanx of the right 5th toe (ray amputation of the right little toe)   | – | RM10,000.00 | 25 |
| (f) Loss of consciousness/cerebral concussion  | – | RM 5,000.00 |    |

2. *Special damages*

- |  |   |             |    |
|--|---|-------------|----|
| (a) Loss of earnings including allowance   |   |             | 30 |
| i. Post trial (RM1,388.54 × 23 months)   | – | RM31,936.42 |    |
| ii. Pre-trial (RM1,388.54 × 30 months)   | – | RM41,656.20 |    |
| (b) Loss of EPF contribution (RM182.00 × 50 months)  | – | RM 9,100.00 |    |
| (c) Hospital bills incurred at Teluk Intan Hospital  |   |             | 35 |
| i. March 6, 2016 to March 10, 2016   | – | RM 125.00   |    |
| ii. March 31, 2016 to April 8, 2016  | – | RM 51.00    |    |
| (d) Travelling expenses incurred by the plaintiff whilst undergoing outpatient treatment at the hospital | – | RM 350.00   | 40 |
| (e) Travelling expenses incurred by the plaintiff's family whilst visiting the plaintiff at the hospital | – | RM 350.00   |    |

1 **Interest**

(a) 2.5% per annum on special damages from date of accident until date of judgment.

(b) 5% per annum on general damages from date of service of summons until date of judgment.

5 (c) 5% per annum on total judgment sum from date of judgment until date of full settlement.

**Solicitors**

*Shabnam Haseena Mohamad Hanif* (SV Namasoo & Co) for plaintiff

10 *Lavania Pathmanathan* (Raj Selva & Co) for defendant

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