

16

No. 22 of 1969

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA  
 HOLDEN AT SINGAPORE  
 (APPELLATE JURISDICTION)

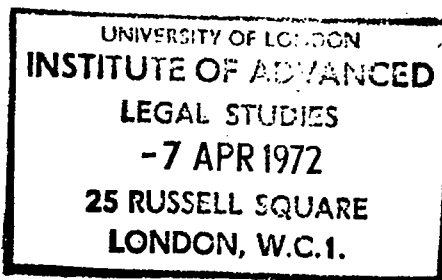
B E T W E E N :

RAMOO S/O ERULAPAN Appellant

- and -

1. GAN SOO SWEE  
 2. ONG AH HO Respondents

RECORD OF PROCEEDINGS



BERRYMAN'S,  
 124 Salisbury House,  
 London Wall,  
 London, E.C.2.

Solicitors for the First  
 Respondent

LE BRASSEUR & OAKLEY,  
 71 Great Russell Street,  
 London, W.C.1.

Solicitors for the  
 Appellant.

SPEECHLY, MUMFORD & SOAMES,  
 10 New Square  
 Lincoln's Inn,  
 London, W.C.2.

Solicitors for the Second  
 Respondent.

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N        A P P E A L  
FROM THE FEDERAL COURT OF MALAYSIA  
HOLDEN AT SINGAPORE  
(APPELLATE JURISDICTION)

B E T W E E N :

RAMOO S/O ERULAPAN                      Appellant

- and -

10                      1. GAN SOO SWEE  
                         2. ONG AH HO                      Respondents

RECORD OF PROCEEDINGS

No. 1

WRIT OF SUMMONS

In the High  
Court in the  
Republic of  
Singapore

IN THE HIGH COURT IN THE REPUBLIC OF SINGAPORE.

Suit No. 1219)  
of 1967                      )

BETWEEN

No. 1  
Writ of Summons  
20th June 1967

RAMOO S/O ERULAPAN                      Plaintiff  
and

20                      1. ONG AH HO  
                         2. GAN SOO SWEE                      Defendants

THE HONOURABLE MR. JUSTICE WEE CHONG JIN, CHIEF  
JUSTICE OF THE REPUBLIC OF SINGAPORE, IN THE NAME  
AND ON BEHALF OF THE PRESIDENT OF THE REPUBLIC OF  
SINGAPORE.

To 1. Ong Ah Ho,                      2. Gan Soo Swee,  
                         No. 1 Tampenis                      No. 257-Q Plantation  
                         Road 9 m.s.,                              Ave.  
                         SINGAPORE                              SINGAPORE

30                      We command you, that within eight days after the  
service of this writ on you, inclusive of the day of

In the High Court in the Republic of Singapore

No. 1

Writ of Summons

20th June 1967  
(continued)

such service, you do cause an appearance to be entered for you in a cause at the suit of Ramoo s/o Erulapan of Block No. J No. 17-18 Alexandra Road, Singapore, who is a labourer, and take notice, that in default of your so doing the plaintiff may proceed therein to judgment and execution.

WITNESS Mr. EU CHEOW CHYE Registrar of the High Court in Singapore the 20th day of June 1967.

(Sd.) MURPHY & DUNBAR  
Plaintiff's Solicitors

(sd.) K.W. Tay,  
Registrar,  
High Court, Singapore.

10

N.B.- This writ is to be served within twelve months from the date thereof, or, if renewed, within six months from the date of such renewal, including the day of such date, and not afterwards.

The defendant (or defendants) may appear hereto by entering an appearance (or appearances) either personally or by solicitor at the Registry of the High Court at Singapore.

A defendant appearing personally may, if he desires, enter his appearance by post, and the appropriate forms may be obtained by sending a Postal Order for \$5.50 with an addressed envelope to the Registrar of the High Court at Singapore.

20

The Plaintiff's claim is for damages for personal injuries and consequential loss and damage suffered by him and caused by the negligence of the 1st named Defendant and by the negligence of the 2nd named Defendant or alternatively by the negligence of one or other of them in the driving and use and management of their respective motor vehicles.

30

This Writ was issued by Messrs. MURPHY & DUNBAR of Hongkong Bank Chambers (7th Floor), Battery Road, Singapore, Solicitors to the said plaintiff who resides at Block J. No. 17-18 Alexandra Road, Singapore and is a labourer.

The address for service is at No. H-1. Hongkong Bank Chambers (7th Floor), Battery Road, Singapore.

No. 2

STATEMENT OF CLAIM

IN THE HIGH COURT IN THE REPUBLIC OF SINGAPORE

Suit No. 1219) Writ issued this 20th day of  
of 1967. ) July, 1967.

Between

Ramoo s/o Erulapan

...

Plaintiff

And

1. Ong Ah Ho

2. Gan Soo Swee

...

Defendants

10

STATEMENT OF CLAIM

1. On or about the 10th day of July, 1966 the Plaintiff was travelling as a passenger in motor taxi No. SH 4378 which was being driven by the 2nd named Defendant along Dunearn Road in the direction of Singapore city when at or near its junction with Whitley Road, the said motor taxi came into collision with motor lorry No. K 2338 which was being driven by the 1st named Defendant along Whitley Road in the direction of Stevens Road in the Republic of Singapore.

20

2. The said collision was caused by the negligence of the 1st named Defendant and by the negligence of the 2nd named Defendant or alternatively by the negligence of one or other of them in the driving of their respective motor vehicles.

30

PARTICULARS OF NEGLIGENCE  
OF THE 1st NAMED DEFENDANT

- (a) Failing to keep any or any proper lookout.
- (b) Driving at an excessive speed in the circumstances.
- (c) Driving from a minor road on to a major road when it was unsafe so to do and without regard for traffic on the major road.

In the High Court in the Republic of Singapore

No. 2

Statement of Claim

20th July 1967

In the High  
Court in the  
Republic of  
Singapore

                      
No. 2

Statement of  
Claim

20th July 1967  
(continued)

- (d) Failing to give any or any proper warning of his approach of his intention to drive on to the said major road.
- (e) Failing to give way to vehicles travelling on his right.
- (f) Failing to apply his brakes in time or at all or so as to steer or control his lorry as to avoid the said collision.
- (g) Driving against the traffic lights.

PARTICULARS OF NEGLIGENCE  
OF THE 2nd NAMED DEFENDANT

10

- (a) Failing to keep any or any proper lookout.
- (b) Driving at an excessive speed in the circumstances.
- (c) Failing to give any or any proper warning of his approach.
- (d) Driving against the traffic lights.
- (e) Failing to apply his brakes in time or at all or so as to steer or control his taxi as to avoid the said collusion.

20

3. By reason of the matters aforesaid, the Plaintiff has suffered injuries has endured pain and has been put to loss and expense.

PARTICULARS OF PERSONAL INJURIES

Compound fracture dislocation of the left elbow joint known as a Monteggia fracture.

This is a fracture of the upper third of the ulnar bone with dislocation of the upper end of the radius.

The complete mechanism of the joints is disrupted.

30

The fracture was reduced by the insertion of a Kirschner Wire to exert traction.

The ulnar bone again became displaced and the radius again became dislocated.



A further operation was done in which a Steiman's Pin was inserted down the length of the ulnar to maintain its position.

He now has 30° of flexion and extension, from a right angle position 90° down to 130° (total 40°) of the middle part of the movement.

10 Pronation and supination is through 90° in the middle portion of the movement. This movement is far from normal. The total flexion extension movement covers 160° and he therefore has only a quarter of the normal range.

In the supination and pronation he only has half the normal range and this is the mild portion only of the range.

He is unable to lift anything as the strain on the angled arm gives rise to pain.

He is now free of pain over the limited movement range but forceful flexion and extension beyond this is painful.

20 He is incapable of returning to his former works.

The Plaintiff underwent several operations and he had considerable pain and suffering.

The above injuries are permanent.

PARTICULARS OF SPECIAL DAMAGE

Transport to and from the hospital ... \$302-40

Loss of earnings as a labourer for  
7 months at the rate of \$180/- per month \$1260-00

Total \$1562-40

And the Plaintiff claims damages.

30 Dated and delivered this 20th day of July,  
1967, by

(Sd.) MURPHY & DUNBAR

SOLICITORS FOR THE PLAINTIFF

In the High  
Court in the  
Republic of  
Singapore

No. 2

Statement of  
Claim

20th July 1967  
(continued)

In the High Court in the Republic of Singapore

To: The abovenamed 1st Defendant, Ong Ah Ho, No. 1 Tampenis Road 9 m.s. Singapore.

No. 2

Statement of Claim

And to, The abovenamed 2nd Defendant, Gan Soo Swee, No. 257-Q Plantation Avenue, Singapore.

20th July 1967 (continued)

10

No. 3

No. 3

Defence of the Second Defendant

DEFENCE OF THE SECOND DEFENDANT

IN THE HIGH COURT IN THE REPUBLIC OF SINGAPORE

27th September 1967

Suit No. 1219 of 1967.

Between

Ramoo s/o Erulappan

Plaintiff

And

- 1. Ong Ah Ho
2. Gan Soo Swee

Defendants

20

DEFENCE OF THE SECOND DEFENDANT

1. Save that the Second Defendant admits that there was a collision between motor taxi SH 4378 driven by the Second Defendant along Dunearn Road in the direction of Singapore City and motor lorry K 2338 which was driven by the First Defendant along Whitley Road in the direction of Stevens Road at the junction of Dunearn Road/Whitley Road, Singapore, on or about the 10th day of July, 1966, the Second Defendant denies that the said collision was caused by the alleged or any negligence on his part. The Second Defendant does not admit that the Plaintiff was a passenger in the Second Defendant's said taxi at the material time of the said accident.

30

2. The said collision was caused solely or alternatively contributed to by the negligence of the First Defendant in the driving of motor lorry K 2338

In the High Court in the Republic of Singapore

PARTICULARS OF NEGLIGENCE  
OF THE FIRST DEFENDANT

No. 3

The Second Defendant adopts and repeats the particulars of negligence of the First Defendant as set out in paragraph 2 of the Statement of Claim.

Defence of the Second Defendant

10 3. The Second Defendant has no knowledge of paragraph 3 of the Statement of Claim and puts the Plaintiff to strict proof thereof.

27th September 1967  
(continued)

4. Save as has hereinbefore been expressly admitted, the Second Defendant denies each and every allegation contained in the Statement of Claim as if the same were set out herein seriatim and specifically traversed.

Dated and Delivered this 27th day of September, 1967.

20 (Sd.) HILBORNE & COMPANY

SOLICITORS FOR THE ABOVENAMED  
SECOND DEFENDANT.

To the abovenamed Plaintiff and to his Solicitors, Messrs. Murphy & Dunbar, Singapore.

30 And to the abovenamed First Defendant, Ong Ah Ho, No. 1 Tampenis Road 9 m.s., Singapore.

---

In the High Court in the Republic of Singapore

No. 4

DEFENCE OF THE FIRST DEFENDANT

IN THE HIGH COURT IN THE REPUBLIC OF SINGAPORE

No. 4

Defence of the First Defendant

30th October 1967

Suit No. 1219 )  
of 1967. )

Between

Ramoo s/o Erulapan

...

Plaintiff

And

- 1. Ong Ah Ho
- 2. Gan Soo Swee

...

Defendants

10

DEFENCE OF THE FIRST DEFENDANT

1. This Defendant has no knowledge as to whether the Plaintiff was a passenger in motor taxi No. SH 4378 at the time of the collision and shall therefore require strict proof thereof.

2. This Defendant in any event denies that the collision referred to in the Statement of Claim was caused by his any or any alleged negligence but says that the said collision was solely caused or contributed to by the negligence of the second named Defendant, particulars whereof are set out in the Statement of Claim which particulars this Defendant hereby adopts and repeats and further says that the second Defendant had also failed to take any or any sufficient precautions in the safety of his motor taxi and his passengers therein when entering the said junction of Dunearn Road and Whitley Road.

20

3. This Defendant also does not admit the injuries, loss and damages alleged to have been suffered by the Plaintiff and shall require strict proof thereof.

30

4. This Defendant further says that if he is held liable to the Plaintiff, which liability is denied, this Defendant will ask this Honourable Court for Judgment against the second Defendant to an indemnity against the Plaintiff's claim and the costs of this action or to a contribution in respect of such claim and costs to the extent of

40

such amount as may be found by this Honourable Court to be just and equitable on the grounds that the negligence of the second Defendant in the driving and management of his motor taxi No. SH 4378 caused or contributed to the said collision.

In the High Court in the Republic of Singapore

No. 4

10 5. Save as herein expressly admitted the Defendant denies each and every other allegations contained in the Statement of Claim as if the same were set out seriatim and specifically traversed.

Defence of the First Defendant

Dated and Delivered this 30th day of October, 1967.

30th October 1967 (continued)

(Sd.) BATTENBERG & TALMA.

SOLICITORS FOR THE FIRST DEFENDANT.

- (1) To the abovenamed Plaintiff and to his Solicitors, Messrs. Murphy & Dunbar, Singapore.
- 20 (2) To the abovenamed Second Defendant and to his Solicitors, Messrs. Hilborne & Co., Singapore.

No. 5

EVIDENCE OF D.W.C. GAWNE

Plaintiff's Evidence

P.W.1. Douglas William Cowley Gawne  
Senior Orthopaedic Surgeon, G.H.  
Xn. in Chief.

No. 5

D.W.C. Gawne  
Examination

I had plaintiff in my care ever since the accident - 10.7.66.

27th May 1968

30 I produce medical report.

Less than half an inch shortening.

I don't think a further operation will assist the plaintiff.

In the High  
Court in the  
Republic of  
Singapore

He has now got osteoarthritis which will get worse with age and pain will increase. May later have to have elbow rendered rigid.

Plaintiff's  
Evidence

He was discharged from P.U.B. in October 1967.

Plaintiff cannot now do heavy work as a labourer.

No. 5

Loss to limb itself - One-sixth loss of pronation and flexion.

D.W.C. Gawne

Examination

27th May 1968  
(continued)

Cross-  
examination

Cross-Examined by Yap.

Plaintiff can do sedentary and light work.  
Right elbow is normal.

10

No Cross-examination by Hilborne.

No. 6

No. 6

Abdullah Bin  
Rahmat

EVIDENCE OF ABDULLAH BIN RAHMAT

Examination

P.W.2. Cpl. 1863 Abdullah bin Rahmat

27th May 1968

Sepoy Lines Police Station.

Xn. in Chief.

On 10.7.66 I went to scene of accident at Whitley and Dunearn Road junction.

Damage to lorry - K 2338

20

Front off-side mud-guard dented; front off-side lamp broken.

Damage to taxi SH 4378 -

Both front and rear near-side doors of taxi; front door displaced and rear door dented.

Cross-examination by Mr. Yap

Traffic lights control the whole intersection.

I arrived at 8.45 a.m. Traffic lights not in good order and defective.

Lights facing Whitley Road were turned from green to yellow and back to green without turning to red.

Changes of lights from green to yellow and red were very quick as you proceeded down Dunearn Road towards the city.

10

At one stage at junction all traffic lights showing green.

Taxi had been moved. I learnt this from taxi driver - some 82 feet 6 inches from where displaced door of taxi was on road.

Brake marks made by taxi.

I met both defendants and 2nd defendant pointed out brake marks as his.

20

No stop line at Whitley Road but there was at Dunearn Road.

Cross-examination by Mr. Hilborne

I made no report of faulty traffic lights - another constable did. He was not at scene when I arrived, P.C. 480. When I got to Orchard Road Police Station I found that he had made a report. A P.C. arrived with me and took over control of traffic. P.C.7319 of 'B' Division. P.C.7002 of 'E' Division.

Re-examination

30

Lorry driver told me lights were green - neither of the defendants made any complaint to me of faulty traffic lights.

I did call their attention to the faulty state existing at the time of my arrival but either of them could see them - they made no complaint and did not attribute faulty lights as the cause of the accident. Green lights remained longer than yellow facing Whitley Road.

In the High Court in the Republic of Singapore

Plaintiff's Evidence

No. 6

Abdullah Bin Rahmat

Cross-examination by Mr. Yap

27th May 1968

Cross-examination by Mr. Hilborne

Re-examination

In the High Court in the Republic of Singapore

No. 7

EVIDENCE OF L. PNG BOON HEE

P.W.3. L. Png Boon Hee.

Plaintiff's Evidence

P.U.B. as an Assistant Welfare Officer.

96 Bras Basah Road.

No. 7

Xn. in Chief.

I look at letter produced.

L. Png Boon Hee Examination

P.5 Admitted.

27th May 1968

which I sent to Plaintiff's solicitors.

On 30.9.67 Hawkers' Department wrote to Plaintiff telling him to return w.e.f. 1.10.67.

10

P.6 Admitted.

Daily-rated employees will continue to work to 60. That is my personal opinion.

No xxn. by Yap and Hilborne.

No. 8

No. 8

Ramoo S/O Erulapan

EVIDENCE OF RAMOO S/O ERULAPAN

Examination

P.W.4. Ramoo s/o Erulapan

27th May 1968

Block No. 45 Stirling Road Room No.446-F

Unemployed.

20

Xn. in Chief.

Discharged from Government on 1.10.67.

Before discharge I was given labourers' quarters.

Deducted from my salary a certain sum to cover quarters, water and light services - at rate of \$12 a month. I got quarters etc. for \$12 a month.

Now in a Housing and Development Board flat at Duchess Estate Queenstown. I pay rent \$55 a month. Water and electricity cost \$25 a month. I have to pay \$80 in all.

30

Loss to me is \$68.



On 10.7.66 - a Sunday - I was in a taxi travelling down Dunearn Road going towards City. I was seated in the front seat beside the driver. There were two other passengers in the taxi. An accident happened.

In the High Court in the Republic of Singapore

A lorry was coming from Whitley Road on my left side. Lorry collided with the taxi. There were traffic lights.

Plaintiff's Evidence

No. 8

10 I looked at traffic lights - they were green. Lorry was coming at 40 m.p.h. and taxi doing 40 m.p.h. The lorry maintained its speed.

Ramoo S/O Erulapan

I thought an accident was going to happen. I lifted my hands over my head and crouched down. That is the last thing I remember.

Examination

27th May 1968  
(continued)

As I approached intersection, I noticed nothing unusual about the lights. They were green.

20 On 1.10.67 I was discharged from Hospital. Since that date I have tried to obtain work but couldn't get a job. I went to some factories and workshops when they saw my arm - they said no work. I have to register my name at Labour Exchange but no reply so far.

Loss up to 30th September is \$500. I claim that loss, also loss of salary and housing allowance from 30th September till today and loss of future earnings.

I have 5 children - one of them is working.

Cross-examination by Mr. Yap

Cross-examination by Mr. Yap

30 I only noticed the green light - for about a minute. I was 15 yards away when I first saw green light. When I ducked my head and put my hands over my head the light was still green.

Dunearn Road is a straight road.

I did not see the lights in any other colour before I saw them green.

Lorry was very near and inside the intersection when I first saw it. Accident happened

In the High Court in the Republic of Singapore

very quickly after I saw lorry.

When I heard sound of lorry I looked out and saw it. I only guess the speed of both vehicles.

Plaintiff's Evidence

Taxi maintained the same speed.

Lorry was about 10 yards from the junction when I first saw it.

No. 8

I saw the lorry before the accident.

Ramoo S/O Erulapan

Cross-examination by Mr. Yap  
27th May 1968  
(continued)

Cross-examination by Mr. Hilborne

Cross-examination by Mr. Hilborne

I live in a 2-room flat.

Electricity \$15, water \$10.

10

I have only lived there for 6 weeks. My neighbours told me what the electricity and water was.

Prior to that I was allowed to stay in Government quarters.

I got a gratuity when I left of \$320.

Case for plaintiff.

Cashin on Damages - Page 19, p.15 and p.9.  
3 operations - very little movement - possibility of being immobilised - excessive pain.

20

No less than \$12,500 to \$15,000.

Loss of future earnings about \$250 a month - for 12 years at \$26,000 and 8 years at \$19,380.

2 years loss of earnings \$1,500 = \$2,000.

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No. 9

EVIDENCE OF SAY LIP BUCK

D.W.1. P.C. 480 Say Lip Buck

Bukit Timah Police Station.

Xn. in Chief.

On 10.7.66 I reported to Orchard Road Police Station traffic lights at Dunearn Road and Whitley Road junction out of order at about 7 a.m.

10 I came back after duty at Orchard Road Police Station and found all traffic jammed up at 7 a.m.

I saw no accident there.

Cross-examination by Mr. Hilborne

I arrived at 7 a.m. going home. I came along Stevens Road to Wayang Satu Barracks.

On Stevens Road lights changed from green to amber then back to green. Cars were tangled up at that junction.

20 On Bukit Timah side lights functioning in sequence but faster than normal. I phoned up at about 7 a.m.

I then controlled traffic on Bukit Timah Road. Police mobile van came at 7.30 to 8 a.m. and took over from me.

In the High Court in the Republic of Singapore

First Defendant's Evidence

No. 9

Say Lip Buck Examination  
27th May 1968

Cross-examination by Mr. Hilborne

No. 10

EVIDENCE OF LIM HOCK NGENE

D.W.2. Detective 6969 Lim Hock Ngee

K.K. Police Station

Xn. in Chief.

30 On 10.7.66 I went to scene of accident at Dunearn Road. I was on mobile round when I was

No.10

Lim Hock Ngee Examination  
27th May 1968

In the High Court in the Republic of Singapore

told of a traffic accident.

I arrived at 8.15 a.m. Received message at 8.05 a.m.

First Defendant's Evidence

Traffic lights were out of order. Green to amber and amber to green.

No.10

I didn't see the lights myself but was told about it. I was only on Dunearn Road side attending to injured persons.

Lim Hock Ngee Examination 27th May 1968 (continued)

Cross-examination by Mr. Hilborne

Cross-examination by Mr. Hilborne

I was only concerned with the accident and looking after the injured persons.

10

No xxn. by Cashin.

No.11

No. 11

Mickey Lee Examination 27th May 1968

EVIDENCE OF MICKEY LEE

D.W.3. Mickey Lee  
P.C. 7319  
K.K. Police Station

Xn. in Chief.

On 10.7.66 I went to scene of accident at Whitley and Dunearn Roads. I arrived at 8.40 a.m.

20

I saw the traffic lights green to amber and amber to green at Whitley Road leading to Dunearn Road.

No xxn. by Hilborne and Cashin.

EVIDENCE OF ONG AH HO

D.W.4. Ong Ah Ho  
41 Tampenis Road  
Lorry Driver

Xn. in Chief.

On 10.7.66 I was driving motor lorry K 2338  
along Whitley Road towards Dunearn Road.

10 I had an accident with a taxi at junction at  
8 a.m. Traffic lights there.

When I was 40 to 50 feet away from junction  
I noticed traffic lights - they were green facing  
me. I slowed down a little as I approached and  
when 15 feet from traffic lights I noticed it was  
still green. I accelerated across this junction  
- traffic light was still green.

20 When I was 12 feet inside Dunearn Road I heard  
sound of a strong blast of wind - (and applied my  
brakes immediately) - coming from my right - it  
was the sound of a coming vehicle.

I also swerved to the left.

My speed when I entered interesection I was  
travelling at was 15 m.p.h. I had a load of sand.

No xxn. by Hilborne.

Cross-examination by Mr. Cashin.

I saw both the traffic lights - one set on  
Whitley Road side, the other set near junction of  
Bukit Timah Road.

30 I was 40 to 50 feet away from traffic lights  
on left of Whitley Road.

I was approaching a double junction. I had  
travelled that road before.

I only began to look at traffic lights when  
I was 40 to 50 feet away.

In the High  
Court in the  
Republic of  
Singapore

First  
Defendant's  
Evidence

No.12

Ong Ah Ho  
Examination  
27th May 1968

Cross-  
examination  
by Mr. Cashin

In the High Court in the Republic of Singapore

Traffic lights were normal.

I could see traffic coming from my right down Dunearn Road for a distance of 40 feet.

First Defendant's Evidence

The front of my lorry was 12 feet inside Dunearn Road - that was the point at which I first saw the taxi. I swerved one foot and accident happened.

No.12

Near-side door of taxi came into contact with off-side bumper of my lorry - door got entangled with my off-side bumper.

Ong Ah Ho

10

Cross-examination by Mr. Cashin  
27th May 1968  
(continued)

Just before accident happened there was no traffic jam at all and no traffic around at all - it was a Sunday.

Case for 1st defendant.

Second Defendant's Evidence

No. 13

SUBMISSION BY MR. HILBORNE ON BEHALF OF SECOND DEFENDANT THAT NO CASE TO ANSWER

No. 13

Hilborne submits on behalf of 2nd defendant that there is no case to answer and elects to stand on that ground of defence.

Submission by Mr. Hilborne that no case to answer  
27th May 1968

20

On behalf of 2nd defendant - no case on the evidence against taxi driver at all.

No evidence of negligence on his part established by the evidence.

Case for 2nd defendant.

No. 14

JUDGMENT OF M. BUTTROSE, J.

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 1219 of 1967.

Between

Ramoo s/o Erulapan

...

Plaintiff

And

1. Ong Ah Ho

2. Gan Soo Swee

...

Defendants

Coram: Buttrose, J.

JUDGMENT OF BUTTROSE, J.

20 These proceedings arise out of an accident which occurred on the 10th July, 1966, at the junction of Dunearn and Whitley Roads between a motor lorry driven by the 1st defendant and a taxi, in which the plaintiff was a passenger, driven by the 2nd defendant.

The taxi was proceeding along Dunearn Road towards the City while the motor lorry was travelling along Whitley Road in the direction of Dunearn Road intending to proceed across it and over the bridge which spans the canal between Dunearn and Bukit Timah Roads and on into Stevens Road which is in effect a continuation of Whitley Road

The accident occurred in broad daylight on a Sunday morning at about 7.30 a.m.

30 This entire junction, i.e. the Dunearn/Whitley Road junction and the Bukit Timah/Stevens Road junction, is controlled by traffic lights.

Both the 1st defendant and the plaintiff said that the traffic lights at the Dunearn/Whitley Road junction appeared to be in order and each of them maintained that as they reached the junction on courses at right angles to each other the lights

In the High Court in the Republic of Singapore

No. 14

Judgment of M. Buttrose, J.

31st May 1968

In the High  
Court in the  
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No. 14

Judgment of M.  
Buttrose, J.

31st May 1968  
(continued)

controlling their respective entries on to and across the junction were green and in favour of each of them. The taxi driver (the 2nd defendant) was not called as Mr. Hilborne who appeared for him elected to call no evidence and took the stand that no prima facie case of negligence had been made out against his client.

The independent police evidence established quite clearly that at the material time the traffic lights controlling the entire junction were defective and not functioning properly. Apart from the other police evidence there was the evidence of P.C. Say Lip Buck who said that as he was returning to his barracks at Wayang Satu after coming off duty at Orchard Road Police Station he noticed that the traffic lights were out of order. This was about 7 a.m., some half an hour prior to the accident. The other police officers said that the traffic lights were still out of order after the accident.

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I find as a fact that at the material time the traffic lights were defective and not working properly at the junction.

The evidence established that the traffic lights facing traffic approaching the junction from Whitley Road changed from green to amber and then back to green again with no red light appearing at all. The traffic lights facing traffic approaching the junction down Dunearn Road changed correctly from green to amber and then to red in their proper sequence but the changes were at a very fast rate and not at their normal speed.

30

According to a Police Corporal who was at the scene after the accident and whose evidence I have no hesitation in accepting at various stages during this malfunctioning of the traffic lights at the junction the lights controlling the traffic in both directions would be showing green for brief periods at short intervals.

What then are the principles of the law of negligence applicable to these findings of facts?

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Mr. Yap for the 1st defendant asked me to say that in these circumstances there is no negligence



attributable to either defendant and the liability for the accident must rest with the traffic authorities for having a faulty traffic lighting control system in operation. He invoked in aid the case of *Joseph Eva Ltd. v. Reeves* 1938 2 A.E.R. 115 where the Court of Appeal considered the application of the principles of the law of negligence to crossings controlled by traffic lights.

In the High Court in the Republic of Singapore

No. 14

Judgment of M. Buttrose, J.

31st May 1968  
(continued)

10 But that was a case of a motor vehicle entering a crossing against the appropriate traffic lights when they were showing red and the Court of Appeal held that a motorist entering a crossing when the appropriate lights were green in his favour owed no duty to traffic entering the crossing in disobedience to the lights beyond a duty that if he in fact saw such traffic he ought to take all reasonable steps to avoid a collision. As

20 McKinnon, L.J. pointed out at p.125:- "If, as the judge found, the light Reeves approached was green before he reached it, he was prima facie entitled to consider himself as on the open thoroughfare, and to go forward, without any apprehension that, in breach of the prohibition from the red light, the appellants' van or any other on the crossing would be intruding upon the thoroughfare that was closed to it. As Reeves was entitled to be without such apprehension, I do not think it could be said that he was doing anything negligent in going freely

30 forward, when he was unable, by reason of the traffic which he was passing on his near side, to see into Lambeth Road upon that side."

It is perhaps not unworthy of note that all three members of the Court of Appeal felt some doubt as to whether, if they had been trying the case they would have arrived at the same conclusions of fact as did the trial Judge.

40 Be that as it may, it is not this case where the appropriate lights relating to both defendants were faulty. In the view I take to say, as I understood Mr. Yap to do, that because both traffic lights were not functioning properly or were even showing green at the material time that that absolves the defendants from all blame is to take a too superficial and a too simplified view of the matter. It is necessary, I think, to examine the situation closer in the light of all the surrounding circumstances.

In the High  
Court in the  
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No. 14

Judgment of M.  
Buttrose, J.

31st May 1968  
(continued)

That the traffic lights controlling the entire junction were defective and not functioning properly was palpably obvious to anyone approaching it be he pedestrian or motorist. The police officers who arrived at the scene had no difficulty in noticing this state of affairs and in fact one of them, P.C. Buck, to whose evidence I have had occasion to refer, said that on his arrival because of the faulty traffic lights cars, to use his own words, were all tangled up at the Bukit Timah/Stevens Road junction.

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A situation had therefore arisen which called for the exercise of the utmost care and caution.

If the defendants had been keeping any or any proper look out they must, in the view I take, have seen that their appropriate traffic lights were not functioning properly and were out of order which should have at once put them on their guard and warned them of the danger of proceeding across the junction until they were satisfied that it was safe to do so.

20

So, far from this object being achieved, they blithely carried on regardless apparently of any traffic approaching them on a course which must inevitably lead to a collision.

Not only were the traffic lights at the junction visible from a long way off in either direction but also traffic approaching it down Dunearn Road could clearly be seen for a considerable distance by motorists approaching it along Whitley Road and vice versa. There was nothing to impede the view of either of the defendants.

30

The remarkable feature of the 1st defendant's evidence was that he only noticed the traffic lights first when he was but 15 feet from the junction. I do not accept or believe this evidence. Even more astonishing was his statement that as the lights were green he accelerated his lorry to cross the junction and it was not until he had actually proceeded some 15 feet across it (i.e. into Dunearn Road) that he first became aware of a vehicle bearing down on him from his right.

40

He didn't even see it but said he heard a sound of a strong blast of wind - like the sound of an oncoming vehicle. He maintained he applied his brakes, although no brake marks were discernible on the road surface and swerved to the left. The damage to the vehicles clearly points to the fact that it was the 1st defendant's lorry which hit the near side of the taxi - the front near side door of the taxi being displaced and the rear near side door dented.

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I did not have the advantage of hearing the 2nd defendant's version of the accident as he was not called for the reasons I have stated. The Plaintiff's evidence added very little to the picture but as he was merely a passenger that is perhaps not surprising. He also failed to see the lorry until it was inside the junction and almost on top of him.

20

Another extraordinary feature of the case was that the question of the traffic lights being defective was first raised, so it would appear, at the trial and then by the 1st defendant's counsel in cross-examination of a police corporal called by the plaintiff. Mr. Yap also called further police evidence as to the lights being out of order and this despite the fact that his client maintained that they were in order.

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Neither of the defendants said a word about it in their police reports or in their pleadings although their attention was specifically drawn to the matter by the police corporal who arrived on the scene shortly after the accident occurred.

Both the defendants, in my judgment, were guilty of negligence in failing to keep any or any proper look out and in failing to drive their respective vehicles with that degree of care and caution which the circumstances of the case obviously required and the situation demanded.

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The further question which arises is as to the degree of their culpability. In my view the greater blame is attachable to the 1st defendant. He was proceeding from a minor road out on to a one way major road which takes virtually the whole of the city bound traffic coming from north of the junction.

In the High  
Court in the  
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Judgment of M.  
Buttrose, J.

31st May 1968  
(continued)

In the High  
Court in the  
Republic of  
Singapore

No. 14

Judgment of M.  
Buttrose, J.

31st May 1968  
(continued)

He was not concerned therefore with any traffic coming from his left but only from his right to which it was his duty to give way and on his own showing he never saw the taxi until the collision had to all intents and purposes taken place.

The 2nd defendant, on the other hand, was travelling down this one way major road and whatever the situation which arose would anticipate traffic on his left giving way if a collision appeared imminent by the two vehicles keeping on their respective courses. The 2nd defendant did apply his brakes as the 29 feet 7 inches brake marks on the road surface clearly indicate. I consider that the rapid changing of his appropriate traffic lights albeit in proper sequence should have been almost as effective a warning that something was wrong as the absence of any red light showing should have been to the 1st defendant.

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Giving the best consideration I can to the materials before me I apportion the blame as to 75 per cent on the 1st defendant and 25 per cent on the 2nd defendant.

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I now proceed to assess the damages to which, in my view, the plaintiff is entitled. He has undoubtedly suffered a very severe injury - a compound fracture dislocation of the left elbow joint known as a Monteggia fracture. It is considered one of the most serious injuries that can occur in the elbow joint because the complete mechanism of the joint is disrupted. The Plaintiff was admitted to Hospital on the day of the accident. The fracture was reduced by the insertion of a Kirscher wire to exert traction and a plaster was applied overall to maintain position. The reduction turned out to be unsatisfactory and a further operation had to be undertaken. This again was unsatisfactory and a still further operation became necessary in which a Steiman's Pin was inserted down the length of the ulnar to maintain its position.

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The plaintiff has undergone considerable pain and suffering over a long period due to the injury and the recurrent operations necessary to get some kind of use back in his elbow at least to be able to use his hand. His range of movement is

severely restricted as I was able to observe from a practical illustration which Mr. Gawne the Senior Government Orthopaedic Surgeon got the plaintiff to give me. He has already developed osteoarthritis in the elbow joint which will get worse with age and the pain will increase. According to Mr. Gawne it may well be that later on it will become necessary to immobilize the elbow joint and render it rigid. In all the circumstances I consider a sum of \$13,000 to be a fair and reasonable award for his pain and suffering and loss of amenities.

In the High Court in the Republic of Singapore

No. 14

Judgment of M. Buttrose, J.

31st May 1968  
(continued)

There remains to consider the plaintiff's loss of future earnings. This is always a difficult matter to determine. The plaintiff is now quite incapable of returning to his former work which was that of a labourer engaged in heavy labour. He is restricted now to sedentary or light work such as a watchman or a lift attendant work which does not entail lifting of weights.

His average monthly earnings were \$180 a month.

As a result of the accident he was discharged from his Government employment on the 1st October, 1967 and since then has been unemployed despite attempts to find a job. He is now 43 years of age. Despite the somewhat gloomy view which Mr. Cashin paints of the labour market I think it would be wrong for the plaintiff to look upon himself as unemployable although I appreciate with his arm in the state it is, it will be difficult to obtain employment and may take some considerable time.

Taking into consideration all the various factors and contingencies I consider a reasonable sum to award for loss of future earnings is \$15,000.

For loss of earnings to date claimed as special damages I award \$2,000.

This brings the total damages awarded to \$30,000.

There will accordingly be judgment for the plaintiff for \$30,000 and costs.

(Sd.) MURRAY BUTTROSE

JUDGE.

Singapore, 31st May, 1968.

In the High Court in the Republic of Singapore

No. 15

FORMAL JUDGMENT

IN THE HIGH COURT IN THE REPUBLIC OF SINGAPORE

No. 15

Suit No. 1219)  
of 1967 )

Between

Formal Judgment

Ramoo s/o Erulapan

31st May 1968

.. Plaintiff

And

- 1. Ong Ah Ho
- 2. Gan Soo Swee

.. Defendants

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31st MAY 1968.

THIS ACTION coming on for hearing on the 27th day of May 1968 before the Honourable Mr. Justice Buttrose in the presence of Counsel for the Plaintiff and for the 1st Defendant and for the 2nd Defendant AND UPON READING the Pleadings AND UPON HEARING the evidence adduced and what was alleged by Counsel aforesaid THIS COURT DID ORDER that this action should stand adjourned for Judgment AND this action standing for Judgment this day in the presence of Counsel aforesaid AND THE COURT having found that the responsibility for the damage to the Plaintiff was that of the 1st Defendant to the extent of 75 per cent and that of the 2nd Defendant to the extent of the remaining 25 per cent and having assessed the Plaintiff's damages in the sum of \$30,000-00 and directed that judgment be entered for the Plaintiff accordingly IT IS THIS DAY ADJUDGED that the Plaintiff do recover against the 1st and 2nd Defendants the sum of \$30,000-00 by way of damages AND THIS COURT DOTH ORDER that the Plaintiff's costs of this action as between party and party be taxed under the Higher Scale and paid by the 1st and 2nd defendants to the Plaintiff's solicitors AND THIS COURT DOTH FURTHER ORDER, but only as between the 1st Defendant and the 2nd Defendant, that the 1st Defendant do contribute 75 per cent and the 2nd Defendant do contribute 25 per cent of the said damages and costs AND THIS COURT DOTH FURTHER ORDER that the said sum of \$30,000-00 be paid by the 1st and 2nd

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Defendants to the Public Trustee in trust for the Plaintiff AND THIS COURT DOTH LASTLY ORDER that the Plaintiff's costs chargeable on a solicitor and client basis but not chargeable as between party and party be taxed and paid by the Public Trustee to the Plaintiff's solicitors out of the said sum of \$30,000-00.

In the High Court in the Republic of Singapore

No. 15

Entered this 26th day of June, 1968 in Volume CIII Pages 142 at 10.40 a.m.

Formal Judgment

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(Sgd.) Tay Chin Chye,

31st May 1968 (continued)

Dy. REGISTRAR.

No. 16

NOTICE OF APPEAL BY GAN SOO SWEE

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT SINGAPORE

In the Federal Court of Malaysia Holden at Singapore

(APPELLATE JURISDICTION)

No. 16

FEDERAL COURT CIVIL APPEAL NO.Y.24 of 1968

Notice of Appeal by Gan Soo Swee

Between

GAN SOO SWEE .. APPELLANT

28th June 1968

20

And

1. RAMOO S/O ERULAPAN  
2. ONG AH HO .. RESPONDENTS

(In the matter of Suit No. 1219 of 1967 in the High Court in Singapore

Between

Ramoo s/o Erulapan .. Plaintiff

And

1. Ong Ah Ho  
2. Gan Soo Swee .. Defendants).

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NOTICE OF APPEAL

TAKE NOTICE that Gan Soo Swee, the abovenamed Second Defendant/Appellant being dissatisfied with the decision of the Honourable Mr. Justice Buttrose

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore  
          

given at Singapore on the 31st day of May 1968,  
appeals to the Federal Court against the whole of  
the said decision or, alternatively, against that  
part thereof which apportioned the negligence as  
between the Second Defendant/Appellant and the  
First Defendant/Second Respondent.

No. 16

Dated this 28th day of June, 1968.

Notice of  
Appeal by  
Gan Soo Swee

(Sgd.) Hilborne & Co.

SOLICITORS FOR THE APPELLANT

28th June 1968  
(continued)

To the Chief Registrar,  
Federal Court Malaysia,  
Kuala Lumpur.

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To the Registrar,  
High Court in Singapore,  
Singapore.

To Messrs. Murphy & Dunbar,  
Solicitors for the First Respondent,  
Singapore.

And to Messrs. Battenberg & Talma,  
Solicitors for the Second Respondent,  
Singapore.

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The address for service for the abovenamed  
Appellant is at the office of Messrs. Hilborne &  
Company, Advocates and Solicitors, Nos. 22/23  
Nunes Building, 9 Malacca Street, Singapore.

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No. 17

MEMORANDUM OF APPEAL BY GAN SOO SWEE

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT SINGAPORE

(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO.Y.24 of 1968

Between

GAN SOO SWEE

...

APPELLANT

And

1. RAMOO S/O ERULAPAN

2. ONG AH HO

...

RESPONDENTS

(In the matter of Suit No. 1219 of 1967  
in the High Court in Singapore

Between

Ramoo s/o Erulapan

...

Plaintiff

And

1. Ong Ah Ho

2. Gan Soo Swee

...

Defendants).

MEMORANDUM OF APPEAL

1. The issue of fact before the Court, as pleaded and upon which evidence was led by the Plaintiff at the trial, was whether the 1st Defendant or the 2nd Defendant wrongfully passed through the "red light" at the road junction in question. Notwithstanding this and as a result of evidence which emerged at the trial, the learned trial Judge found as a fact that the traffic lights were defective in their function of controlling the traffic at the said junction, and on the basis of such finding he attributed blame to the both Defendants. The learned Judge erred in law in so doing and ought to have decided the action upon the pleadings.

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

No. 17

Memorandum  
of Appeal by  
Gan Soo Swee

7th August  
1968

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In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

No. 17

Memorandum  
of Appeal by  
Gan Soo Swee

7th August  
1968  
(continued)

2. No evidence was led by the Plaintiff upon whom the onus lay, as to the condition of the traffic lights, and their defectiveness or otherwise, at the time of the accident.

3. There was no evidence, or insufficient evidence, to establish the state or condition of the traffic lights at the time of the accident, and such evidence as there was was of an inexact, incidental and inexpert character.

4. Even if the learned Judge was entitled to find as a fact, which he did, that the state or condition of the said traffic lights at the time of the accident was similar to that regarding which evidence was given, yet there was no evidence, or insufficient evidence, of negligence on the part of the Defendants or either of them and this was not a case where one of the defendants was necessarily negligent within the meaning of the principle enunciated in *Bray V. Palmer* (1953) 2 AER 1449.

5. The finding that the said traffic lights were defective in their operation postulated negligence on the part of the person or persons responsible for their proper and efficient functioning, but such person or persons were not parties to the said actions, and it was not open to the Court to attribute liability to the Defendants or either of them on the ground that they were concurrent tortfeasors.

6. If nevertheless, it was open to the Court to find the Defendants or both or one of them negligent, the learned trial Judge ought to have found the 1st Defendant wholly to blame for the following reasons:-

(i) if the 1st Defendant was negligent in failing to observe the fact that the said lights were defective in their operation, as the learned Judge so found, he ought to have observed the rule that he must give way to the 2nd Defendant who was on his right;

(ii) while there was some evidence that the lights facing the 1st Defendant were not operating in their proper sequence, there

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was no such evidence in relation to the 2nd Defendant;

- (iii) the evidence of the Plaintiff established that the 2nd Defendant's light at the time when he crossed the junction was green.

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

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No. 17

Memorandum  
of Appeal by  
Gan Soo Swee

7th August  
1968  
(continued)

- 10 7. The 2nd Defendant submitted that there was no case to meet on the ground that the Plaintiff had failed to establish his case in law and he elected not to call evidence. The learned Judge ought to have ruled upon such submission but he failed to do, either during the hearing or in his judgment. Further, the learned Judge erred in that, notwithstanding such submission, he took into account and consideration the evidence given by the 1st Defendant and his witnesses.

Dated this 7th day of August, 1968.

(Sgd.) Hilborne & Co.

SOLICITORS FOR THE APPELLANT

- 20 To the Chief Registrar,  
Federal Court Malaysia,  
Kuala Lumpur.

And to the Registrar,  
High Court in Singapore,  
Singapore.

And to Messrs. Murphy & Dunbar,  
Singapore, Solicitors for the  
abovenamed First Respondent.

- 30 And to Messrs. Battenberg & Talma,  
Singapore, Solicitors for the  
abovenamed Second Respondent.

The address for service for the Appellant is at the office of Messrs. Hilborne & Co., Advocates and Solicitors, Nos. 22/23 Nunes Building, 9 Malacca Street, Singapore, 1.

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In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

No. 18

NOTICE OF CROSS APPEAL BY ONG AH HO

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT  
SINGAPORE

No. 18

(APPELLATE JURISDICTION)

Notice of  
Cross Appeal  
by Ong Ah Ho

FEDERAL COURT CIVIL APPEAL NO.Y.24 of 1968

16th August  
1968

Between

GAN SOO SWEE ... Appellant

And

1. RAMOO S/O ERULAPAN  
2. ONG AH HO ... Respondents.

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(In the matter of Suit No. 1219 of 1967  
in the High Court in Singapore

Between

RAMOO S/O ERULAPAN Plaintiff

And

1. ONG AH HO  
2. GAN SOO SWEE Defendants).

NOTICE OF CROSS APPEAL

TAKE NOTICE that, on the hearing of the above  
appeal, Ong Ah Ho, the Second Respondent abovenamed,  
will contend that the decision of the Honourable  
Mr. Justice Buttrose given at Singapore on the  
31st day of May, 1968, ought to be varied to the  
extent and on the grounds hereinafter set out:-

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1. That part of the Judgment of the Honour-  
able Mr. Justice Buttrose which held  
that the Second Respondent was 75%  
liable for the accident be set aside.

2. Having in effect accepted the evidence  
of this Respondent that the light at the  
junction at the material time was green  
in his favour when he proceeded across

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it, the learned trial Judge erred in law and in fact in holding this Respondent liable to the Plaintiff upon the pleadings.

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

No. 18

Notice of  
Cross Appeal  
by Ong Ah Ho

16th August  
1968  
(continued)

- 10           3.   Having found as a fact that at the material time the traffic lights at the junction of the scene of the accident were defective and not working properly the learned trial Judge erred in law and in fact in holding that the Second Respondent was in any way to blame for the accident.
4.   The learned trial Judge did not or did not sufficiently direct his mind to the law that a motorist entering a crossing when the appropriate lights were green in his favour owed no duty to traffic entering the crossing in disobedience of the lights beyond a duty that if he in fact saw such traffic he ought to take all reasonable steps to avoid a collision.
- 20           5.   The learned trial Judge did not or did not sufficiently direct his mind to the fact that the Second Respondent had no reason to believe that the lights for traffic coming down along Dunearn Road would be otherwise than red and was accordingly entitled to proceed across it.
- 30           6.   There was no or no sufficient evidence to support the learned trial Judge's finding that the traffic lights controlling the entire junction were defective and not functioning properly was palpably obvious to anyone approaching it be he pedestrian or motorist at the time when this Respondent proceeded across it.
- 40           7.   There was no or no sufficient evidence to support the learned trial Judge's finding that this Respondent was aware or ought to have been aware that a situation had arisen which called for the exercise of the utmost care and caution.
8.   The learned trial Judge misdirected his mind on the fact for finding it astonishing that as the traffic lights were in his

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

No. 18

Notice of  
Cross Appeal  
by Ong Ah Ho

16th August  
1968  
(continued)

favour the Second Respondent accelerated his lorry to cross the junction.

9. The learned trial Judge erred in law in suggesting that the fact that the traffic lights were faulty at the material time ought to have been pleaded by this Respondent in his defence and completely failed to direct his mind that this Respondent was entitled in law at the trial to adduce evidence to show that the accident was due entirely to the fault of some third person not a party to the proceedings even though not specifically pleaded. 10
10. The learned trial Judge's finding that the greater blame for the accident is attachable to this Respondent is against the weight of the evidence and the probabilities of the case.

(Sd.) Battenberg & Talma 20

Solicitors for the Second Respondent

DATED at Singapore this 16th day of August, 1968.

To:-

- (1) The Chief Registrar,  
Federal Court Malaysia,  
Kuala Lumpur.
- (2) The Registrar,  
High Court in Singapore,  
Singapore.
- (3) The abovenamed Appellant,  
and to his Solicitors,  
Messrs. Hilborne & Company,  
Singapore. 30
- (4) The abovenamed First Respondent,  
and to his Solicitors,  
Messrs. Murphy & Dunbar,  
Singapore.

The address for service of the Second Respondent is care of Messrs. Battenberg & Talma, Nos. 6L & M, Asia Insurance Building, Finlayson Green, Singapore, 1. 40

No. 19

JUDGMENT OF WEE CHONG JIN, C.J.,  
TAN AH TAH, J. and F.A. CHUA, J.

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT  
SINGAPORE

No. 19

(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO. Y24 OF 1968

Judgment of  
Wee Chong Jin,  
C.J., Tan Ah  
Tah, J. and  
F.A. Chua, J.

Between

GAN SOO SWEE ... APPELLANT

7th November  
1968

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And

1. RAMOO S/O ERULAPAN  
2. ONG AH HO ... RESPONDENTS

(In the matter of Suit No. 1219 of 1967 in  
the High Court in Singapore)

Between

Ramoo s/o Erulapan .. Plaintiff

And

1. Ong Ah Ho  
2. Gan Soo Swee .. Defendants).

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CORAM: Wee Chong Jin, C.J.  
Tan Ah Tah, F.J.  
Chua, J.

JUDGMENT

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On the morning of the 10th of July, 1966, a  
Sunday, the plaintiff was a passenger in a taxi  
driven by the 2nd defendant which was proceeding in  
a southerly direction along Dunearn Road, a one-way  
carriageway. At the same time the 1st defendant  
was driving a motor lorry laden with sand in a  
westerly direction along Whitley Road which was a  
dual carriageway. The two vehicles collided with  
each other in the middle of the junction of these  
two roads and as a result of the collision the  
plaintiff suffered a severe injury, namely a  
compound fracture dislocation of the left elbow

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

No. 19

Judgment of  
Wee Chong Jin,  
C.J., Tan Ah  
Tah, J. and  
F.A. Chua, J.

7th November  
1968  
(continued)

joint. That junction is a controlled junction, controlled by traffic lights operating automatically.

He commenced an action in the High Court of Singapore naming the driver of the motor lorry as the 1st defendant and the driver of the taxi in which he was travelling as the 2nd defendant alleging that the collision was caused by the negligence of the 1st defendant and by the negligence of the 2nd defendant or alternatively, by the negligence of one or other of them in the driving of their respective motor vehicles.

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The particulars of negligence alleged against the lorry driver, the 1st defendant, in the Statement of Claim were as follows:-

- (a) Failing to keep any or any proper lookout.
- (b) Driving at an excessive speed in the circumstances.
- (c) Driving from a minor road on to a major road when it was unsafe so to do and without regard for traffic on the major road.
- (d) Failing to give any or any proper warning of his approach of his intention to drive on to the said major road.
- (e) Failing to give way to vehicles travelling on his right.
- (f) Failing to apply his brakes in time or at all or so as to steer or control his lorry as to avoid the said collision.
- (g) Driving against the traffic lights.

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The particulars of negligence alleged against the taxi driver, the 2nd defendant, in the Statement of Claim were as follows:-

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- (a) Failing to keep any or any proper lookout.
- (b) Driving at an excessive speed in the circumstances.
- (c) Failing to give any or any proper warning of his approach.



- (d) Driving against the traffic lights.
- (e) Failing to apply his brakes in time or at all or so as to steer or control his taxi so as to avoid the said collision.

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

No. 19

Judgment of  
Wee Chong Jin,  
C.J., Tan Ah  
Tah, J. and  
F.A. Chua, J.

7th November  
1968  
(continued)

10 The lorry driver, the 1st defendant, in his Defence denied that the collision was caused by the alleged or any negligence on his part and pleaded that it was solely caused or contributed to by the negligence of the taxi driver, the 2nd defendant and adopted the particulars of negligence alleged against the 2nd defendant in the plaintiff's Statement of Claim. The 1st defendant also pleaded that the 2nd defendant had failed to take any or any sufficient precautions in the safety of his taxi and his passengers therein when entering the said junction of Dunearn Road and Whitley Road.

20 The taxi driver, the 2nd defendant, in his Defence denied that the collision was caused by the alleged or any negligence on his part and pleaded that it was caused solely or alternatively contributed to by the negligence of the 1st defendant in the driving of his motor lorry, the particulars of negligence whereof being as alleged against the 1st defendant in the plaintiff's Statement of Claim.

30 At the trial before Buttrose J. the plaintiff, who was seated beside the 2nd defendant, stated that approaching the junction he noticed nothing unusual about the traffic lights and they were showing green when the taxi entered the junction. He said that he first saw the traffic lights when he was 15 yards away. He first saw the lorry when it was very near the taxi and inside the intersection. He guessed the speed of the lorry at 40 miles per hour and the speed of the taxi also at 40 miles per hour.

40 A Police officer was called by the plaintiff to give evidence as to the damage suffered by both vehicles but in cross-examination by counsel for the 1st defendant he said that when he was at the scene the traffic lights were defective in that the lights facing Whitley Road changed from green to amber and back to green without ever changing to red and that the lights facing Dunearn Road changed from green to amber to red very quickly. Finally,

In the Federal Court of Malaysia Holden at Singapore

No. 19

Judgment of Wee Chong Jin, C.J., Tan Ah Tah, J. and F.A. Chua, J.

7th November 1968 (continued)

he said that at this junction the traffic lights both for Whitley Road and Dunearn Road traffic at one stage simultaneously showed green.

The 1st defendant, the lorry driver, said that he began to look at the traffic lights when he was 40 to 50 feet from the junction and they showed green. He slowed down a little as he approached the junction and when he was 15 feet from the junction the traffic lights were still at green. He then accelerated and when he was 12 feet inside the junction the collision occurred. At that time his speed was 15 miles per hour. There was no traffic jam at that time and there was no other traffic.

10

He called as a witness a police officer who came on the scene soon after the accident and who stated that he saw the traffic lights facing Whitley Road change from green to amber and then to green again.

The 2nd defendant elected to call no evidence, submitting that on the evidence there was no case for him to answer.

20

Buttrose J. held that both defendants were negligent and apportioned the blame as to 75 per cent on the 1st defendant and as to 25 per cent on the 2nd defendant. In his judgment he said that "both the defendants ..... were guilty of negligence in failing to keep any or any proper look out and in failing to drive their respective vehicles with that degree of care and caution which the circumstances of the case obviously required and the situation demanded."

30

He found that the traffic lights controlling this junction were not functioning properly at the time of the collision and although he did not specifically find that both defendants knew that they were defective it is clear that he came to the conclusion that both defendants knew that the traffic lights were defective and knew in what manner they were defective. This is contained in that portion of his judgment in which he said:-

40

"I consider that the rapid changing of his (the 2nd defendant's) appropriate traffic lights albeit in proper sequence should have been

almost as effective a warning that something was wrong as the absence of any red light showing should have been to the 1st defendant."

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

No. 19

Judgment of  
Wee Chong Jin,  
C.J., Tan Ah  
Tah, J. and  
F.A. Chua, J.

7th November  
1968  
(continued)

10 Both defendants appealed and both contend at the hearing of the appeal that the trial judge's findings that the traffic lights were defective at the time of the collision and that each of them knew the traffic lights were defective and knew the nature of the defect in relation to each of them were wrong and contrary to the evidence.

We are of the opinion that on the evidence it was open to the trial judge to find that at the time of the collision the traffic lights controlling this junction were defective and were defective in the manner described by the police witnesses. It does not follow, however, because they were defective, that the defendants knew that they were defective.

20 In our judgment there is no evidence that the lorry driver, the 1st defendant, knew that the traffic lights controlling his entry into this junction were defective. In fact the evidence appears to be all the other way. The 1st defendant stated that when he first saw the traffic lights he was 40 to 50 feet from the junction and the lights were showing green. When he was 15 feet from the junction the lights were still green and he accelerated and entered the junction at a speed of 15 miles per hour. The police evidence is that  
30 the lights controlling Whitley Road traffic were normal except for the failure to change to red from amber.

40 The trial judge also found the 1st defendant negligent in failing to keep a proper look-out presumably because he never saw the other vehicle, the taxi, "until the collision had to all intents and purposes taken place". The law in relation to junctions controlled by traffic lights is clear. The driver of a motor vehicle entering a cross-roads junction when the lights are green in his favour is entitled to assume that the traffic approaching the junction from his left or right would obey the red signal light prohibiting such traffic from entering the junction (see *Eva v. Reeves* (1938) 2 K.B. 393). He is under no duty

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

towards traffic entering the junction in disobedience to the red light to assume or to provide for the possibility of such entry. It follows that the trial judge was wrong in holding that the 1st defendant was negligent in failing to keep a proper look-out.

No. 19

Judgment of  
Wee Chong Jin,  
C.J., Tan Ah  
Tah, J. and  
F.A. Chua, J.

7th November  
1968  
(continued)

The trial judge also found it was "palpably obvious to any one approaching it be he pedestrian or motorist" that the traffic lights controlling the entire junction were defective and not functioning properly because the police officers who arrived at the scene had no difficulty in noticing that state of affairs and because earlier on cars were all tangled up at another parallel junction controlled by a similar set of traffic lights. We find great difficulty in understanding how the trial judge arrived at this finding as on the plaintiff's own evidence he himself noticed nothing unusual about the lights. The real question to be decided on this aspect of the case was whether either of the defendants knew or ought to have known, if he had kept a proper look-out, that the lights controlling his entry into the junction were defective and not functioning properly.

10

20

In the case of the 1st defendant, on the evidence, it was impossible to say that it was palpably obvious to him, a motorist, that the lights controlling his entry into the junction were defective and not functioning properly. Nor was it possible, on the evidence, to say that if he had kept a proper look-out he would have seen or would have been aware that these lights were not functioning properly.

30

In the case of the 2nd defendant, the evidence is different. The lights controlling his entry into the junction were changing rapidly, albeit in proper sequence, from green to amber to red to green to amber to red and so on. It may well be if there was sufficient evidence it could be held that had he kept a proper look-out in relation to the lights controlling his entry he would have noticed this malfunction and noticing this ought to have taken the necessary precautions when entering this cross-roads junction at a time when to his knowledge the lights controlling it were not functioning properly. He chose not to give evidence and there is therefore no evidence at all

40

as to when he first looked at the lights when approaching the junction. On the other hand there is no evidence as to the extent of the malfunctioning of the lights controlling his entry into the junction. The only evidence is that the lights "changed rapidly" in its proper sequence. How rapid this change was at the material time no one knows and it would be idle and wrong to speculate. It was for the plaintiff to prove that the change was so rapid that the 2nd defendant must have known the traffic lights controlling the junction were defective if he had kept a proper look-out. The case as pleaded by the plaintiff against him was in the usual common form and the case against him at the trial appeared to be that although he entered the cross-roads junction with the traffic lights in his favour he was driving at an excessive speed in the circumstances and failed to see the lorry, coming from his left, entering the junction at the same time in spite of the lights being against the lorry. On the pleadings and on the case as presented at the trial against the 2nd defendant we are of the opinion that the plaintiff cannot succeed against him and the trial judge was wrong in holding him negligent and blameworthy to the extent of having to bear 25 per cent of the blame for the injuries sustained by the plaintiff.

The result is unfortunate but we have here a case where the plaintiff was alleging that either the lorry driver or the taxi driver or both were responsible for the accident. He had therefore to prove a state of facts from which the reasonable inference to be drawn was that prima facie one if not both drivers had been negligent before he is entitled to call on both defendants for an answer. To make a prima facie case he must prove facts from which in the absence of an explanation liability could properly be inferred. In the case of the taxi driver, the 2nd defendant, in whose taxi he was at the time of the accident, his evidence proved that the 2nd defendant was not to blame for the accident. In the case of the lorry driver, the 1st defendant, the evidence at the trial clearly establishes that no blame could be imputed to him for the accident.

For all these reasons the appeals of both

In the Federal  
Court of  
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Holden at  
Singapore

No. 19

Judgment of  
Wee Chong Jin,  
C.J., Tan Ah  
Tah, J. and  
F.A. Chua, J.

7th November  
1968  
(continued)

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

No. 19

Judgment of  
Wee Chong Jin,  
C.J., Tan Ah  
Tah, J. and  
F.A. Chua, J.

7th November  
1968  
(continued)

defendants are allowed and in the result the judgment of Buttrose J. is set aside with costs here and in the Court below.

(Sd.) WEE CHONG JIN

CHIEF JUSTICE  
SINGAPORE.

(Sd.) TAN AH TAH

JUDGE,  
FEDERAL COURT

(Sd.) F.A. CHUA

JUDGE.

10

SINGAPORE, 7th November, 1968.

No. 20

Order

7th November  
1968

No. 20

ORDER

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT  
SINGAPORE

(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO. Y24 OF 1968

Between

GAN SOO SWEE ...

APPELLANT

20

And

1. RAMOO S/O ERULAPAN

2. ONG AH HO ...

RESPONDENTS

(In the matter of Suit No. 1219 of 1967  
in the High Court in Singapore

Between

Ramoo s/o Erulapan ..

Plaintiff

and

1. Ong Ah Ho

2. Gan Soo Swee ..

Defendants).

30

CORAM: THE HONOURABLE MR. JUSTICE WEE CHONG JIN,  
CHIEF JUSTICE, HIGH COURT, SINGAPORE;  
THE HONOURABLE MR. JUSTICE TAN AH TAH,  
JUDGE, FEDERAL COURT, MALAYSIA; AND  
THE HONOURABLE MR. JUSTICE F.A. CHUA,  
JUDGE, HIGH COURT; SINGAPORE.

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

No. 20

IN OPEN COURT

Order

THIS 7th DAY OF NOVEMBER 1968

7th November  
1968  
(continued)

O R D E R

10 THIS APPEAL coming on for hearing on the 9th  
day of September 1968 in the presence of Mr. K.E.  
Hilborne of Counsel for the abovenamed Appellant  
and Mr. H.E. Cashin of Counsel for the abovenamed  
1st Respondent and Mr. T.M. Yap of Counsel for the  
abovenamed 2nd Respondent AND UPON READING the  
Record of Appeal filed herein AND UPON HEARING what  
was alleged by Counsel aforesaid IT WAS ORDERED that  
this Appeal should stand adjourned for judgment and  
the same coming on for judgment this day in the  
20 presence of Counsel aforesaid IT IS ORDERED that  
this appeal be allowed AND IT IS FURTHER ORDERED  
that the judgment of the Honourable Mr. Justice  
Buttrose dated the 31st May 1968 be set aside AND  
IT IS FURTHER ORDERED that the costs of the  
Appellant/2nd Defendant and 2nd Respondent/1st  
Defendant of this appeal and of the Court below be  
taxed as between Party and Party under the Higher  
Scale of Costs and be paid by the 1st Respondent/  
Plaintiff to the Appellant/2nd Defendant and to the  
30 2nd Respondent/1st Defendant AND IT IS LASTLY  
ORDERED that the sums of \$500-00 and \$30,000-00 paid  
into Court by Messrs. Hilborne & Company for and on  
behalf of the Appellant be paid out by the Accountant-  
General to his Solicitors Messrs. Hilborne & Company.

GIVEN under my hand and Seal of the Court this  
7th day of November, 1968.

The Seal of The  
Federal Court  
Malaysia.

(Sd.) Tay Chin Chye

Dy: REGISTRAR.

In the Federal  
Court of  
Malaysia  
Holden at  
Singapore

No. 21

ORDER GRANTING LEAVE TO APPEAL TO THE JUDICIAL  
COMMITTEE OF THE PRIVY COUNCIL

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT  
SINGAPORE

(APPELLATE JURISDICTION)

Federal Court Civil Appeal No. Y24 of 1968

No. 21

Order granting  
leave to Appeal  
to the Judicial  
Committee of  
the Privy  
Council

Between

Gan Soo Swee .. Appellant

And

1. Ramoo s/o Erulapan  
2. Ong Ah Ho .. Respondents

10

(In the Matter of Suit No. 1219 of 1967  
in the High Court in Singapore

Between

Ramoo s/o Erulapan .. Plaintiff

And

1. Ong Ah Ho  
2. Gan Soo Swee .. Defendants)

CORAM: THE HONOURABLE MR. JUSTICE WEE CHONG JIN,  
CHIEF JUSTICE, HIGH COURT, SINGAPORE;  
THE HONOURABLE MR. JUSTICE TAN AH TAH,  
JUDGE, FEDERAL COURT, MALAYSIA; AND  
THE HONOURABLE MR. JUSTICE F.A. CHUA,  
JUDGE, HIGH COURT, SINGAPORE.

20

IN OPEN COURT  
THIS 10th DAY OF MARCH 1969.

O R D E R

UPON MOTION made unto the Court this day by  
Mr. Howard Edmund Cashin of Counsel for the above  
named 1st Respondent in the presence of Mr. Kenneth  
Edward Hilborne, Counsel for the abovenamed Appellant  
and Mr. Robert Yap Tyou Min, Counsel for the 2nd  
Respondent AND UPON READING the Notice of Motion  
dated the 10th day of February 1969 and filed herein  
AND UPON HEARING Counsel as aforesaid IT IS ORDERED  
that leave be and is hereby granted to the above-  
named 1st Respondent to appeal to the Judicial  
Committee against the whole of the Judgment and

30



Orders of the Federal Court of Malaysia given herein at Singapore on the 7th day of November 1968 aAND IT IS FURTHER ORDERED that the costs of and incidental to this application be paid by 1st Respondent to the Appellant and the 2nd Respondent in any event.

Given under my hand and the Seal of the Court this 10th day of March 1969.

(Sd.) Illegible

DY. REGISTRAR.

Legal Seal.

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10

In the Federal Court of Malaysia Holden at Singapore

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No. 21

Order granting leave to Appeal to the Judicial Committee of the Privy Council

10th March 1969  
(continued)

EXHIBITS

P.1. - SKETCH PLAN AND KEY THEREOF

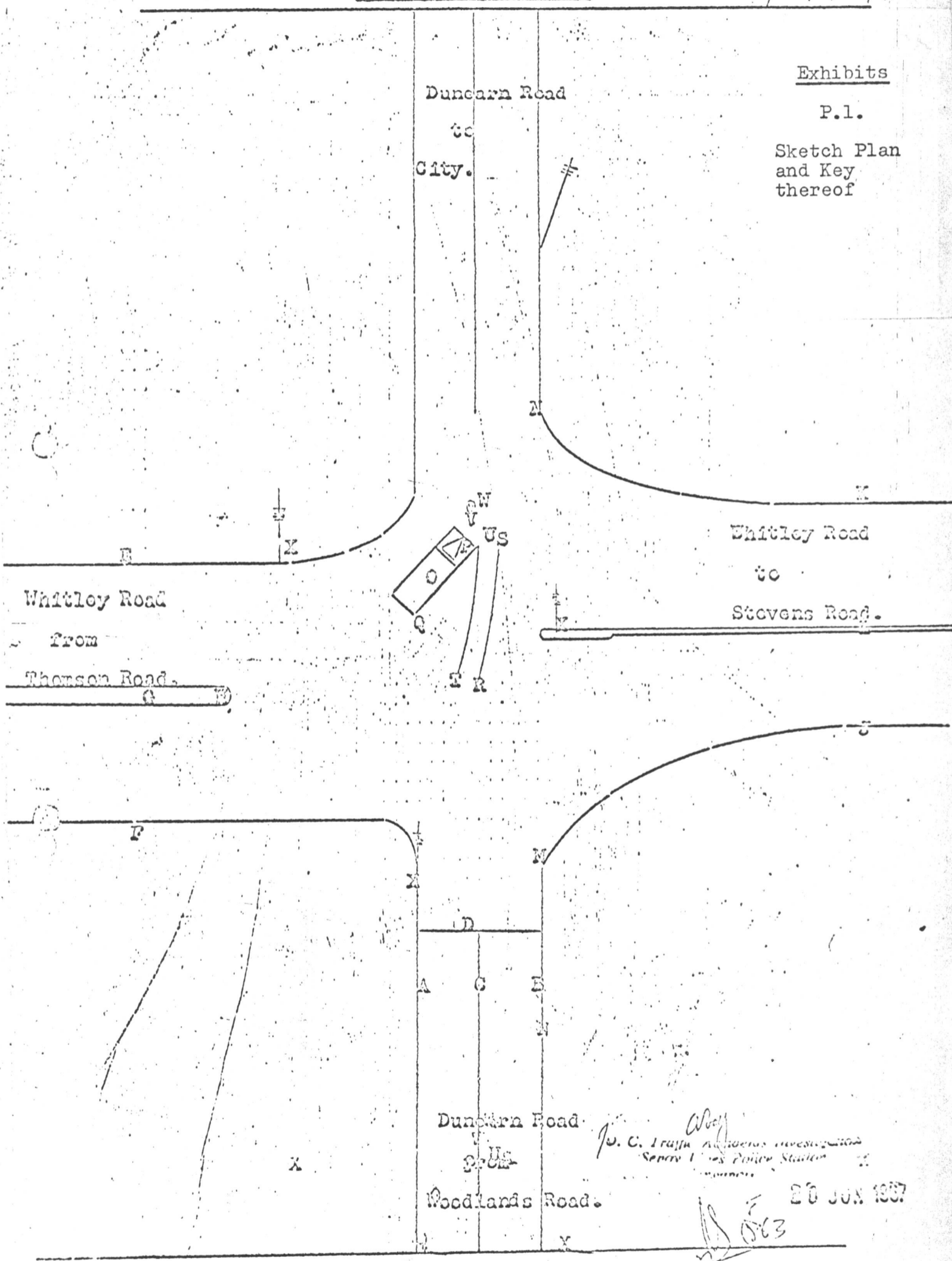
I.P. No: 04793/66.

TP/100/A/134/57

Exhibits

P.1.

Sketch Plan  
and Key  
thereof



*Woy*  
P. C. Traill  
Senior Investigator  
Senior Police Station

20 JUN 1967

*1863*

Abdullah Cpl. 1863.

TP/ACC/A/134/67

ExhibitsI. P. No: 04796/66

P.1.

Key to PlanSketch Plan  
and Key thereof

<u>Sr. Letters</u>	<u>Alleged Occurrence</u>	<u>Authority</u>	<u>Remarks</u>
A & B	Tepi kiri dan kanan jalan Dunearn Road menghala ka-City.	Cpl. 1863	
	C	Kedudukan line putih di atas jalan.	"
10	D	Kedudukan Stop line di atas jalan.	"
E & F	Tepi kiri dan kanan jalan Whitley Road menghala ka-Dunearn Road.		"
	G	Kedudukan road divided di atas jalan. (3'6")	"
	H	Putusan road divider di atas jalan.	"
20	J & K	Tepi kiri dan kanan jalan Whitley Road daripada Stevens Road menuju ka-Dunearn Road.	"
	L	Kedudukan road divider di atas jalan. (1')	"
M & N	Lebar muka simpang Whitley road menghala ka-Dunearn Road.		"
30	O	Kedudukan lorry K.2338 (20'8" x 6'5") di atas jalan menghala ka-City.	"
	P & Q	Penjuru depan dan belakang kanan lorry K.2338.	"
	R & S	Kedudukan tanda tyre brake sebelah kanan di atas jalan.	"
	T & U	Kedudukan tanda tyre brake sebelah kiri di atas jalan.	"
	V	Kedudukan tanda darah di atas jalan.	"
40	W	Kedudukan pintu taxi SH.4378 atas jalan.	"
	X	Kedudukan traffic lights.	"

<u>Exhibits</u>	<u>Ukuran nya.</u>		
P.1.	A to B .....	27'6"	
	A to C .....	13'6"	
Sketch Plan	D to F .....	24'0"	
and Key thereof	F to G .....	25'6"	
	G to E .....	25'6"	
	H to A .....	40'0"	
	J to L .....	20'8"	
	L to K .....	26'5"	
	M to N .....	98'4"	10
	O to G .....	15'2"	
	P to B .....	14'1"	
	Q to B .....	26'3"	
	R to B .....	13'2"	
	R to D .....	53'5"	
	R to S .....	29'7"	
	S to B .....	9'9"	
	T to R .....	4'3"	
	T to D .....	53'5"	
	T to U .....	29'7"	20
	V to B .....	14'0"	
	V to O .....	7'2"	
	V to W .....	2'8"	
	W to A .....	11'5"	

O.C. Traffic Accidents Investigation  
 Sepoy Lines Police Station  
 Singapore.

(Sd.) ~~Abdullah Cpl. 1863~~  
 Abdullah Cpl. 1863.

Translation of this document was made by me. 30

(Sd.) Mohd. Yatim Dohon.  
 Sworn Interpreter,  
 Supreme Court,  
 Singapore.

Date 23.3.68...

I. P. No: 04796/66ExhibitsTranslation of Key to Plan

P.1.

<u>Sr. Letters</u>	<u>Alleged Occurrence</u>	<u>Authority</u>	<u>Remarks</u>	Sketch Plan and Key thereof (continued)
A & B	Left and right sides of Dunearn Road in the direction of City	Cpl. 1863		
	C	Position of white line on the road	"	
10	D	Position of stop line on the road	"	
	E & F	Left and right sides of Whitley Road in the direction of Dunearn Road.	"	
	G	Position of road divider on the road (3'6")	"	
	H	Break of road divided on the road	"	
20	J & K	Left and right sides of Whitley Road from Stevens Road in the direction of Dunearn Road.	"	
	L	Position of road divided on the road (1')	"	
	M & N	Width of Whitley Road junction in the direction of Dunearn Road	"	
30	O	Position of lorry K.2338 (20'8" x 6'5") on the road facing the City	"	
	P & Q	Front and rear off side corners of lorry K.2338.	"	
	R & S	Position of brake mark of the right side on the road.	"	
	T & U	Position of brake mark of the left side on the road.	"	
	V	Position of blood stain on the road.	"	
40	W	Position of door of taxi SH 4378 on the road.	"	
	X	Position of traffic lights.	"	

Exhibits

MEASUREMENTS

P.1.  
 Sketch Plan  
 and Key thereof  
 (continued)

A to B	.....	27'6"
A to C	.....	13'6"
D to F	.....	24'0"
F to G	.....	25'6"
G to E	.....	25'6"
H to A	.....	40'0"
J to L	.....	20'8"
L to K	.....	26'5"
M to N	.....	98'4"
O to G	.....	15'2"
P to B	.....	14'1"
Q to B	.....	26'3"
R to B	.....	13'2"
R to D	.....	53'5"
R to S	.....	29'7"
S to B	.....	9'9"
T to R	.....	4'3"
T to D	.....	53'5"
T to U	.....	29'7"
V to B	.....	14'0"
V to O	.....	7'2"
V to W	.....	2'8"
W to A	.....	11'5"

10

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Abdullah Cpl. 1863.  
 .....

EXHIBITS

P.2. - POLICE REPORT OF ONG AH HO AND TRANSLATION THEREOF

Exhibits

P.2.

Police Report of Ong Ah Ho and translation thereof

10th July 1966

For Police use only above this	SINGAPORE POLICE FORCE REPORT INVOLVING A VEHICLE		Station of origin <i>St. L.</i>	Report No. <i>34273</i>	Station Diary No. <i>939</i>
	ORIGINAL		Duplicate passed for action to:	Time and date when this report was made <i>12.00 a.m. 14/7/66</i>	
Particulars of Informant	Full name <i>ONG. AH. HO.</i>		Address <i>1. THOMPSON RD. #105</i>		
	Occupation <i>DRIVER.</i>	Sex <i>m.</i>	Age <i>34.</i>	Race <i>CHINESE.</i>	Language <i>MELAY.</i>
Particulars of vehicle involved		Particulars of driver of vehicle		N.R.I.C. NO.	Particulars of vehicle insurance
Registration No. <i>K. 2338.</i>	(If the driver is the informant, write "informant" against N.R.I.C. No., Name and address)		Name		(for accident cases only) Insurance Co. <i>The Asia. Ins. Coy Ltd.</i>
Type <i>LORRY.</i>	Address		Insurance Certificate No. <i>G.P. / 346030.</i>		Expiry date of Certificate <i>28.5.66</i>
Make <i>CHIEU ROBERT.</i>	Colour <i>BIRU.</i>		Driving Licence No. <i>A. 8798/52.</i>	Expiry date of driving licence <i>Aug. 66.</i>	
Unladen Wt. (lorries or vans)					
Brief details (including extent of damage, if any, and a sketch plan overleaf in all cases of alleged dangerous, negligent or inconsiderate driving) ENDING WITH SIGNATURE OF INFORMANT.					
At (time) <i>07.30 hrs.</i> on (date) <i>10. - 7 - 66.</i> at (place) <i>WHITLEY RD - DUNEARN RD.</i>					
<i>Suat jalankan lorry K. 2338. dari Thomson Rd. mahu pergi. Tiong Bahru. Sampai di-Fempat tersebut. lampu traffic hijau jalan terus lalu satu taxi SH. 4378 dan Dunearn Rd. kemau. terus langgar mudgard. dan bumper depan kanan orang dalam taxi luka. pergi Hospital. mudgard. lorry pecah.</i>					
Signature of officer recording the report <i>[Signature]</i>		Rank <i>[Signature]</i>	No. <i>2833.</i>	Signature of interpreter (if any) <i>[Signature]</i>	
Description of Offence:					
DO NOT WRITE IN THIS SPACE DIARY OVERLEAF.					

Translation of Report No. 34575Exhibits

Report No. : 34575 Station of Origin: S/L.

P.2.

Station Diary No. : 939 Duplicate passed for  
action to : -Police Report  
of Ong Ah Ho  
and trans-  
lation thereofTime & date when this report was made: 1240 hrs.  
10.7.66

Full Name : ONG AH HO

10th July 1966  
(continued)

Address : 1, Tampenis Road 9 m.s.

Occupation: Driver Sex : Male Age: 34

10 Race: Chinese Language : Malay

N.R.I.C. No. : S<sup>4</sup><sub>P</sub>02973 Registration No. : K.2338

Type : Lorry Make : Cheuroleh Colour : Green

Driving Licence No.: S8798/52 Expiry date of  
driving licence : Aug 66.

Insurance Co. : The Asia Ins. Coy. Ltd.

Insurance Certificate No. : GP 1346030

Expiry date of Certificate: 28th Sept. 66.

20 At 0730 hrs. on 10.7.66 at Whitley Rd. - Dunearn Rd. I was driving lorry K. 2338 from Thomson Road intending to go to Tiong Bahru. On reaching the said place the traffic light was green, proceeded on. Then taxi SH 4378 from Dunearn Road, on the right knocked into the mudguard and front bumper on the offside. Passenger in the taxi injured and went to hospital. Mudguard of lorry damaged.

Sd. in Chinese.

30 I hereby certify that the above is a true translation made by me of the original which is in the Malay language.

(Sd.) Mohd. Yatin Dohon  
Sworn Interpreter  
Supreme Court  
Singapore

Date: 23.3.68



P.3. - POLICE REPORT OF GAN SOO SWEE  
AND TRANSLATION THEREOF

Exhibits

P.3.

Police Report  
of Gan Soo  
Swee and  
translation  
thereof

11th July  
1966

For Police use only above this line	SINGAPORE POLICE FORCE REPORT INVOLVING A VEHICLE	Station of origin - SL -	Report No. 34450
	ORIGINAL	Duplicate passed for action to:-	Station Diary No. 6070
			Time and date when this report was made 1230 hrs. a.m. 11-7-66

Particulars of Informant	Full name Gan Soo Swee	Address 257 @ Plantation Ave		
	Occupation Taxi Driver	Sex M.	Age 36	NRIC No. 55.03122
		Race Malayan	Language Malay	

Particulars of vehicle involved	Particulars of driver of vehicle	N.R.I.C. NO.	Particulars of vehicle insurance
Registration No. 5114378	(If the driver is the informant, write "Informant" against N.R.I.C. No., Name and address)		(for accident cases only) Insurance Co.
Type Taxi	Name		
Make Mercedes	Address		Insurance Certificate No.
Colour Hijau			
Unladen Wt. (1000 lbs or vans)	Driving Licence No. S. 13052 / 53	Expiry date of driving licence 23-6-67	Expiry date of Certificate

Brief details (including extent of damage, if any, and a sketch plan overlaid in all cases of alleged dangerous, negligent or inconsiderate driving) ENDING WITH SIGNATURE OF INFORMANT.  
At 0820 hrs on 10-7-66 (time) (date) (place) Dunearn Rd, Whitley Rd.

Saya sedang memandu Taxi Di. 4378, etc. yang dari Blok Timah menuju arah ka. Pity. Saya sampai Dunearn Rd & Whitley Rd, masa itu saya teros, lampu traffic ada hijau, di dalam taxi saya ada penumpang satu duduk di hadapan dia orang duduk di belakang.

Signature of officer recording the report: [Signature] Rank: Lt No. 2112 Signature of interpreter (if any): [Signature]

Description of Offence: Memalangkan.

dengan fibar satu lori numben tidak tahu datang dari whitley rd, fibar tengah sun-pang sudah pangar, dengan taxi saya, lalu saya tidak sadar diri lagi ambulan ea bawa saya pergi hospital masuk w78. add: 206672, pada 11-7-66, saya keluar dari padu hospital, m-lah pingeduan saya.

[Signature] [Signature]

Translation of Report No. 34450Exhibits

Report No. : 34450 Station of Origin: S.L.

P.3.

Station Diary No.: 1030 Duplicate passed  
for action to: -Police Report  
of Gan Soo  
Swee and  
translation  
thereof.Time & date when this report was made: 1230 hrs.  
11.7.66.

Full Name : GAN SOO SWEE

Address: 257 Q Plantation Ave.

Occupation: Taxi Driver Sex: Male Age: 36

11th July 1966  
(continued)

10 Race: Hokkien Language: Melayu

N.R.I.C. No.: S5D 03122

Registration No. : SH 4378 Type: Taxi

Make : Mercedes Colour: Green

Driving licence No. : S. 13052/53

Expiry date of driving licence: 26.6.67

Insurance Co.:

Insurance Cert. No.:

Expiry date of Cert.:

At 0820 hours on 10.7.66 Sunday Dunearn Rd = Whitley Rd.

20 I was driving taxi SH 4378 coming from Bukit  
Timah going in the direction of the city. I reached  
Dunearn Road and Whitley Road I proceeded on as the  
traffic light was green. In my taxi there was a  
passenger seated in front and two at the rear.  
Suddenly a lorry, number not known, coming from  
Whitley Road collided with my taxi in the middle of  
junction and I became unconscious. Ambulance  
conveyed me to hospital and I was warded in ward  
W 7A, admission 206672. On 11.7.66 I was discharged  
30 from hospital. This is my report.

Sd. in Chinese.

I hereby certify that the above is a  
true translation made by me of the original  
which is in the Malay language.

(Sd.) Mohd. Yatim Dohon  
Sworn Interpreter  
Supreme Court  
Singapore.

Date: 23.3.68  
.....

ExhibitsP.4. - THREE MEDICAL REPORTS OF THE PLAINTIFF

P.4.

M.R. 1967/66/567

Medical Reports  
of Plaintiff

CONFIDENTIAL.

25th March, 1968.

(i) 9th  
January 1967  
(ii) Undated  
(iii) 25th  
March 1968M/S Murphy & Dunbar,  
Hongkong Bank Chambers,  
Battery Road,  
Singapore 1.Re: E. Ramoo H-50651  
M/40 years Indian

10

This man's condition has not improved since 17th April, 1967. He has only one third of the normal range of movement of his elbow joint which gives him approximately a 20% disability and since the joint is out of alignment, it is likely that he will develop osteoarthritic changes in a very short time. There are, in fact, already signs of osteoarthritis as it creaks on movement. I would therefore estimate his injury to be in the region of 20% to 25% permanent disability.

20

Forwarded.

Sd: D.W.C. Gawne,

Yr.ref. RKC/PB/634/66.

D.W.C. Gawne, F.R.C.S.,  
Senior Govt. Orthopaedic  
Surgeon,

R. NO. 645947.

General Hospital,  
Singapore.

8.4.68.

Sd: S.N. Kapur  
(Dr. S.N. Kapur).  
Penguasa Perubatan  
Rumah Sakit Besar,  
Singapore 3

30

M.R.1967/66/567

Exhibits

P.4.

Specialist Report:

M/s. Murphy & Dunbar,  
Hongkong Bank Chambers,  
Battery Road,  
Singapore 1.

Thro'  
M.S., G.H.

Medical Reports  
of Plaintiff

(i) 9th  
January 1967  
(ii) Undated  
(iii) 25th  
March 1968

Re: E. Ramoo H-50651  
M/40 yrs. Indian.

10

The above was involved in a motor accident on 10.7.66, and was found to have sustained a compound fracture dislocation of the Left elbow joint, known as a Monteggia fracture. This is a fracture of the upper third of the ulnar bone, with dislocation of the upper end of the Radius. It is one of the most serious injuries, that can occur in the elbow joint, because the complete mechanism of the joint is disrupted.

20

The patient was admitted to Hospital the same day. The wound was excised and sutured, and the fracture was reduced by the insertion of a Kirschner Wire to exert traction. A plaster was applied overall to maintain position.

30

Reduction was unsatisfactory, the ulnar remained angulated, and the head of the radius was still dislocated. Further reduction had to be postponed on account of the compounding, and it was necessary to wait for the wound to heal before anything further could be done.

The patient was allowed out of bed on 12.7.66 and went home on 14.7.66. He was to be followed up in Out-patients, which he attended regularly, and the wound was healed soundly on 29.11.66, but the bones were still out of position. The ulnar was angled forward and the head of the radius was out of position.

He was admitted to Hospital again on the same day for further operation, which was necessary for

Exhibits

P.4.

Medical Reports  
of Plaintiff

(i) 9th

January 1967

(ii) Undated

(iii) 25th

March 1968

(continued)

correction of the deformity. At operation on 1.12.66, the ulnar deformity was corrected. The head of the Radius could not be replaced, as the ulnar fragments had partially absorbed at the broken ends and the ulnar bone had become shortened. In consequence, the head of the upper end of the Radius had to be excised before the Radius could be got into position.

The patient was discharged from Hospital on 19.12.66. He continued treatment as an Out-patient. On 15.8.66, it was found that the ulnar bone had again become displaced, and the Radius had again become dislocated. A further operation was done in which a Steiman's Pin was inserted down the length of the ulnar to maintain its position. 10

The Pin was removed one month later. The patient continued as an Out-patient on February 17th, when he was fit for lighter work. The elbow was however extremely stiff with only five degrees of Pronation and supination and ten degrees of flexion and extension. He was therefore prescribed physiotherapy to try to get further movement. 20

He continued up to April 17 1967, but was unable to continue longer as he could not take time off from work to come to Hospital. In consequence, it was thought that the exercises as a consequence of working would be as effective as physiotherapy, the bones being now soundly united and the Radius being retained in position. This in fact has occurred, because the movement of the elbow has improved. 30

On examination today (15.4.67) the patient now has thirty degrees of flexion and extension, from a Right angle position  $90^{\circ}$  down to  $130^{\circ}$  (total  $40^{\circ}$ ) of the middle part of the movement. Pronation and supination is through  $90^{\circ}$  in the middle portion of the movement. This movement is however far from normal. The total flexion extension movement covers  $160^{\circ}$ , and he therefore has only a quarter of the normal range. In the supination and pronation, he only has half the normal range, and this is the mid portion only of the range. He can therefore touch the top of his head, but not touch his face with his Left hand. He can reach the lower part of his body in dressing, but as the arm 40

cannot be fully extended, he cannot lift anything as the strain on the angled arm gives rise to pain.

He is now full of pain over the limited movement range, but forceful flexion and extension beyond this is painful.

10 This man was previously employed in heavy labour, loading a lorry and carrying objects up to 100 lbs. He cannot any longer do this kind of work. He could probably carry a ten pound weight in his Left hand for a limited time 5 - 10 minutes, but a longer period would almost certainly give rise to pain.

The patient has I think recovered now as much as is possible. He has undergone considerable pain and suffering for a long period, due to the injury and the recurrent operations necessary to get him some kind of use back in his elbow at least to be able to use the hand.

20 He has recovered considerable power in his grip and he can use the hand now fairly effectively for the amenities of life, but of course over a limited range.

30 It is my opinion, that this man is quite incapable of returning to his former work and that in fact he is limited to what may be termed light work, i.e. a watchman, lift attendant or work not entailing the lifting of weight. I doubt even that he would be much use as a cleaner as this requires the use of the long handled brush or broom. These kinds of work could of course be done, but not effectively.

The only way in which an approximate estimate of the permanent disability can be made is by calculation.

Loss of  $\frac{3}{4}$  movement flexion and extension normally estimated at  $17\frac{1}{2}\%$  usefulness to the total body movements, a loss therefore amounting to approximately 13%.

40 Loss of half the movement of pronation and supination the full range being  $17\frac{1}{2}\%$  in relation to 100% body function or approximately 8%. The total

Exhibits

P.4.

Medical Reports  
of Plaintiff

(i) 9th  
January 1967  
(ii) Undated  
(iii) 25th  
March 1968  
(continued)

Exhibits

P.4.

Medical Reports  
of Plaintiff

- (i) 9th  
January 1967
- (ii) Undated
- (iii) 25th  
March 1968
- (continued)

disability of this joint and body function loss is therefore in the region of 21% (i.e. additive loss of both movements). The full range of an elbow joint is estimated to be 35% of the total body range of function at 100% (hundred per cent).

(Sd.) D.W.C. Gawne.

D.W.C. Gawne, F.R.C.S.,  
Senior Govt. Orthopaedic Surgeon,  
General Hospital,  
Singapore.

10

Our ref. M.R. 1967/66.

CONFIDENTIAL

Dr. Lim Swee Keng, M.O.,	The Medical Superintendent,
Dept. of Orth. Surgery	General Hospital,
"O" Unit, G.H. S'pore	Singapore 9.1.67

Re: E. Ramoo. H-50651

This patient was admitted to General Hospital, Singapore on 29th November, 1966.

An excision of the head of the Left radius was done on 1st December, 1966 by Mr. D.W.C. Gawne.

20

He was discharged on 19th December, 1966, to our Orthopaedic Out-patients. He was last seen at the Out-patient Dept. on 30th Dec. 1966, with advise to come for further treatment.

He may be unfit for work for two months from to date.

M/S. Murphy & Dunbar.  
Hongkong Bank Chambers,  
Battery Road, S'pore. 1.

(Sd.) Lim Swee Keng  
.....  
(Dr. Lim Swee Keng)

Forwarded.  
Yr. ref. DHM/RKC/G/634/66  
R. No.62519.  
24.2.67.

(Sd:) S.N. Kapur  
(Dr. S.N. Kapur).  
Penguasa Perubatan  
Rumah Sakit Besar,  
Singapore 3

30

P.5. - LETTER FROM DEPUTY DIRECTOR OF MEDICAL SERVICES (HEALTH)

Exhibits

P.5.

Telephone: 75161

Health 523-W 3113

Extn.: 35

MINISTRY OF HEALTH, SINGAPORE

PLEASE ADDRESS

PUBLIC HEALTH DIVISION

YOUR REPLY quoting  
reference P.H./P.31

Headquarters PALMER ROAD,  
SINGAPORE 2.

to .....

Branch: Labour & Welfare Unit

.....

.....

Date: 31 August 1967

(if no address is  
shown above please  
reply direct to the  
Headquarters address  
shown opposite)

Letter from  
Deputy  
Director of  
Medical  
Services  
(Health)

31st August  
1967

10

Messrs. Murphy & Dunbar,  
Hongkong Bank Chambers (7th floor),  
Battery Road,  
Singapore 1.

20 Sirs,

Re: Ramoo s/o Erulapan

Please refer to your letter RKC/ML/634/66 dated  
18 August 1967 addressed to the Superintendent,  
Market & Hawkers Department.

2. The information required are as follows:-

(a) The labourer's daily wage is \$4.90 per diem  
and his average earning is \$180 per month.

(b) For the year 1966, the loss of pay for  
period from 4.9.66 to 30.10.66 is \$323.40  
and from 30.11.66 to 31.12.66 is \$186.20.  
The total amount is \$509.60.

(c) The normal retiring age is 60 years.

(d) The matter is under active consideration.

3. It is hoped that the above information are  
sufficient for your purpose.

Yours faithfully,

(Sd.) Png Boon Hee.

(L. Png Boon Hee)

f. Dy. Director of Medical  
Services (Health)  
MINISTRY OF HEALTH

40

LPBH/CFY  
1000hrs

c.c. P.H.276C



ExhibitsP.6. - LETTER FROM SUPERINTENDENT, HAWKERS  
DEPARTMENT

P.6.

Letter from  
Superintendent,  
Hawkers  
Department

G 39-W 0360

KSL/EST

MEMORANDUM

30th September, 1967

30th September  
1967

From

To

Hawkers Department,  
Scotts Road,  
Singapore, 9.

Mr. E. Ramoo, C.P.O.No.31,  
Redhill Market,  
Singapore.

File C.P.O. No.31

Retirement on Medical Ground  
w.e.f. 1/10/67

10

I am directed to inform you that you are to  
retire from the Service w.e.f. 1/10/67.

2. You are also advised to return the M.B.E. Cards  
issued to you and members of your family as soon as  
possible.

(Sd.) (Illegible)

f. Superintendent,  
Hawkers Department,  
Public Health Division.

20

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N        A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA  
HOLDEN AT SINGAPORE  
(APPELLATE JURISDICTION)

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B E T W E E N :

RAMOO S/O ERULAPAN                      Appellant

- and -

1. GAN SOO SWEE  
2. ONG AH HO                                      Respondents

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RECORD OF PROCEEDINGS

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BERRYMAN'S,  
124 Salisbury House,  
London Wall,  
London, E.C.2.

Solicitors for the First  
Respondent

LE BRASSEUR & OAKLEY,  
71 Great Russell Street,  
London, W.C.1.

Solicitors for the  
Appellant.

SPEECHLY, MUMFORD & SOAMES,  
10 New Square  
Lincoln's Inn,  
London, W.C.2.

Solicitors for the Second  
Respondent.