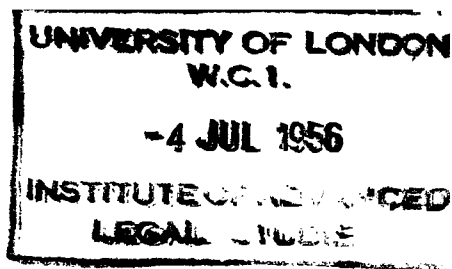


23, 1955
644-6-12



In the Privy Council.

No. 19 of 1954.

43577.

ON APPEAL FROM THE COURT OF APPEAL OF
THE SUPREME COURT OF THE COLONY OF
SINGAPORE. ISLAND OF SINGAPORE

BETWEEN

LIM JOO CHIANG *Appellant*
(*Defendant*)

AND

LIM SIEW CHOO and CHIA BOON LAI (the Administratrix
and Administrator of the Estate of Chia Boon Poh *alias*
Chia Boon Pah, deceased) *Respondents*
(*Plaintiffs*).

RECORD OF PROCEEDINGS

INDEX OF REFERENCE.

No.	Description of Document.	Date.	Page.
	IN THE HIGH COURT OF THE SUPREME COURT OF THE COLONY OF SINGAPORE, ISLAND OF SINGAPORE.		
1	Writ of Summons	23rd April 1952 ...	1
2	Memorandum of Appearance	9th May 1952 ...	3
3	Statement of Claim	14th May 1952 ...	4
4	Defence	11th July 1952 ...	6
5	Notes of Evidence of Murray-Aynsley, C.J. ...	19th September 1952...	6
6	Judgment	2nd October 1952 ...	9
7	Order	2nd October 1952 ...	10

No.	Description of Document.	Date.	Date.
IN THE COURT OF APPEAL OF THE SUPREME COURT OF THE COLONY OF SINGAPORE.			
8	Notice of Appeal	9th October 1952 ...	11
9	Memorandum of Appeal	5th November 1952...	12
10	Notes of Mathew, C.J.	16th December 1952...	14
11	Notes of Brown, J.	16th December 1952...	15
12	Notes of Knight, J.	16th December 1952...	17
13	Judgment	16th January 1953 ...	19
14	Order	27th January 1953 ...	21
15	Motion Paper for Leave to Appeal	20th May 1953 ...	22
16	Notice of Motion for Leave to Appeal	20th May 1953 ...	23
17	Affidavit of Defendant in support of Application for Leave to Appeal	20th May 1953 ...	24
18	Order granting Leave to Appeal to Her Majesty in Council	26th May 1953 ...	28

In the Privy Council

No. 19 of 1954.

ON APPEAL FROM THE COURT OF APPEAL OF THE SUPREME COURT OF THE COLONY OF SINGAPORE. ISLAND OF SINGAPORE

BETWEEN

LIM JOO CHIANG *Appellant*
(Defendant)

AND

LIM SIEW CHOO and CHIA BOON LAI (the Administratrix
and Administrator of the Estate of Chia Boon Poh *alias*
Chia Boon Pah, deceased) *Respondents*
(Plaintiffs).

RECORD OF PROCEEDINGS

No. 1.

Writ of Summons.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
ISLAND OF SINGAPORE.

Suit No. 370 of 1952.

Between

LIM SIEW CHOO and CHIA BOON LAI the Administratrix and
Administrator of the estate of Chia Boon Poh *alias* Chia
Boon Pah deceased *Plaintiffs*

10

and
LIM JOO CHIANG *Defendant.*

In the
Supreme
Court of the
Colony of
Singapore.

In the High
Court.

No. 1.
Writ of
Summons.
23rd April
1952.

ELIZABETH THE SECOND, by the Grace of God of Great Britain,
Ireland, and the British Dominions beyond the Seas Queen Defender of the

In the
Supreme
Court of the
Colony of
Singapore.

In the High
Court.

No. 1.
Writ of
Summons.
23rd April
1952—
continued.

Faith To Lim Joo Chiang of No. 33 Teck Chye Terrace, Singapore, Store-keeper.

WE COMMAND YOU, that within 8 days after the service of this Writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in a cause at the suit of Lim Siew Choo of No. 462-C Kim Chuan Road, Singapore, and Chia Boon Lai of No. 44 Chander Road, Singapore, the administratrix and administrator of the estate of Chia Boon Poh alias Chia Boon Pah deceased, respectively and take notice that in default of your so doing the Plaintiff may proceed therein to judgment and execution.

10

WITNESS the Honourable Sir Charles Murray Murray-Aynsley, Knight, Chief Justice of the Colony of Singapore, the 23rd day of April, 1952.

(Sgd.) HILBORNE & MURPHY,
Solicitors for the Plaintiffs.

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 may appear hereto by entering an appearance either personally or by solicitor at the Registry of the Supreme 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 \$2.50 with an addressed envelope to the Registrar of the Supreme Court at Singapore.

20

The Plaintiffs' claim is as administratrix and Administrator of the estate of Chia Boon Poh alias Chia Boon Pah deceased for damages for the estate and for the benefit of the dependants of the deceased, namely, Lim Siew Choo, the widow, Chia Kwee Cheng, Chia Kwee Hock and Chia Kwee Kim the sons of the deceased and Chia Geok Keow the daughter of the deceased who have suffered damages by reason of the negligence of the defendant in the driving of a motor car whereby the said Chia Boon Poh alias Chia Boon Pah deceased was killed on the 4th day of June, 1951.

30

PARTICULARS PURSUANT TO SECTION 8 OF THE CIVIL LAW ORDINANCE.

Names of the persons on whose behalf this claim is filed :—Lim Siew Choo, aged 43, the widow of the deceased ; Chia Kwee Cheng, aged 19, Chia Kwee Hock, aged 8 ; and Chia Kwee Kim, aged 14 months, sons of the deceased ; and Chia Geok Keow, aged 11, daughter of the deceased.

The deceased was a trishaw driver aged 49. He earned between \$8.00 and \$10.00 per day, living with his family. He was the sole support of his widow and three of the four children. He gave the widow \$250.00 per month of which his own keep is estimated at \$50.00 per month.

40

This Writ was issued by Messrs. Hilborne & Murphy, of No. 22 Nunes Building, 9 Malacca Street, Singapore, Solicitors to the said Plaintiffs, who reside at No. 462-C Kim Chuan Road, Singapore, and No. 44, Chander Road, Singapore, respectively, and are Administratrix and Administrator of the Estate of Chia Boon Poh alias Chia Boon Pah, deceased.

The address for service is No. 22 Nunes Building, Malacca Street, Singapore.

In the Supreme Court of the Colony of Singapore.

In the High Court.

No. 1.
Writ of Summons.
23rd April 1952—
continued.

No. 2.

Memorandum of Appearance.
Order 12, Rule 8.

10

No. 2.
Memorandum of Appearance.
9th May 1952.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
ISLAND OF SINGAPORE.

Suit No. 370 of 1952.

Between

LIM SIEW CHOO and CHIA BOON LAI the Administratrix and Administrator of the estate of Chia Boon Poh alias Chia Boon Pah deceased *Plaintiffs*

and

LIM JOO CHIANG *Defendant.*

20 To the Registrar.

Enter appearance for the above-named Defendant to the Writ of Summons in this Suit.

Dated this 9th day of May, 1952.

DONALDSON & BURKINSHAW,
Solicitors for the Defendant.

The place of business of Messrs. Donaldson & Burkinshaw is Mercantile Bank Chambers, Singapore. The address for service is Mercantile Bank Chambers, Singapore. The said Defendant requires a statement of claim to be filed and delivered.

In the
Supreme
Court of the
Colony of
Singapore.

No. 3.
Statement of Claim.

In the High
Court.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
ISLAND OF SINGAPORE.

No. 3.
Statement
of Claim.
14th May
1952.

Suit No. 370 of 1952. Writ issued the 23rd day of April, 1952.

Between

LIM SIEW CHOO and CHIA BOON LAI the Administratrix and
Administrator of the estate of Chia Boon Poh alias Chia
Boon Pah deceased *Plaintiffs*

and

LIM JOO CHIANG *Defendant.*

10

STATEMENT OF CLAIM.

1.—The Plaintiffs as administratrix and administrator of the estate of Chia Boon Poh alias Chia Boon Pah deceased bring this action for the benefit of Lim Siew Choo, the widow, Chia Kwee Cheng, Chia Kwee Hock and Chia Kwee Kim the sons and Chia Geok Keow the daughter of Chia Boon Poh alias Chia Boon Pah deceased and for the benefit of the estate under the provisions of Section 7 of the Civil Law (Amendment) Ordinance, 1940. Letters of Administration of the estate of the deceased were granted to the Plaintiffs on the 1st day of February, 1952 and the grant was extracted 20 on the 20th day of March, 1952.

2.—On or about the 3rd day of June 1951 the deceased was riding his trishaw along Geylang Road in the direction of Singapore at or near the junction of Lorong 40 and Geylang Road in the Colony of Singapore when he was run into and knocked down by a motor car driven by the Defendant and travelling in the same direction.

3.—The said collision was caused solely by the negligence of the Defendant.

PARTICULARS OF NEGLIGENCE.

- a. Failing to keep any or any proper lookout. 30
- b. Failing to give any or any sufficient warning of approach.
- c. Failing to drive along a safe or proper course.
- d. Driving at an excessive speed in the circumstances.
- e. Failing to manage or control the said motor car in such a way as to avoid the said collision.

In the
Supreme
Court of the
Colony of
Singapore.

**No. 4.
Defence.**

In the High
Court.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
ISLAND OF SINGAPORE.

No. 4.
Defence.
11th July
1952.

Suit No. 370 of 1952.

Between

LIM SIEW CHOO and CHIA BOON LAI the administratrix and
administrator of the estate of Chia Boon Poh alias Chia
Boon Pah deceased *Plaintiffs*
and
LIM JOO CHIANG *Defendant.*

10

DEFENCE.

For the purpose of this action only the Defendant admits liability
for negligence.

Dated and delivered this 11th day of July 1952.

(Sgd.) DONALDSON & BURKINSHAW,
Solicitors for the Defendant.

To the above-named Plaintiffs and to their
Solicitors Messrs. Hilborne & Murphy,
Singapore.

20

No. 5.
Notes of
Evidence of
Murray-
Aynsley,
C.J.
19th
September
1952.

**No. 5.
Notes of Evidence of Murray-Aynsley, C.J.**

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
ISLAND OF SINGAPORE.

Suit No. 370 of 1952.

Between

LIM SIEW CHOO and CHIA BOON LAI, Administratrix and
Administrator of the estate of Chia Boon Poh *Plaintiffs*
and
LIM JOO CHIANG *Defendant.*

30

Coram : MURRAY-AYNSLEY, C.J.

NOTES OF EVIDENCE.

19.9.52. Assessment of damages.

MURPHY.

L. A. J. SMITH.

MURPHY : Cost of L.A. agreed at \$350.
called

Dr. Balasingham. Pathologist. Examined deceased.

4.6.51. Report, general health good, normal span of life, 60, Trishaw driver—internal organs, heart good.

10 Xxd.

No disease of arteries in this case. Could continue with trishaw ; doubtful if he could pull up to 60. 40 miles a day heavy exertion.

Onn Lai Ting. Weld Road, trishaw rider, been at it ten years, 60—earn \$9—\$12—miles 50—60 per day.

Xxd.

Born in China, no certificate. Before that rickshaw. I used to own one ; now rent one, \$1 per day and night. Everything provided by owner. Cost \$100 upwards. Wife and child, costs me \$120 for food—other expenses, rent room \$12 p.m. Don't save.

20 Goh Kim Kiat, 12 Jalan Besar, 58, trishaw-driver 12—13 years, before that rickshaw ; earn \$12—\$13.

Xxd.

Average about \$10. Can be as little as \$6. Single, widower—no birth certificate. Born in China. Cost of living, spend what I earn. Hire trishaw \$1 ; licence, pay for it, \$12.00 last year, this year \$15.00. Repairs, I pay minor repairs—sometimes a few dollars.

30 LIM SIEW CHOO, administratrix, widow of deceased, age 43, children 4, ages 20, 10, 2 years, daughter 13. Eldest working, \$60—\$70 p.m., motor fitter, pays me \$30, lives at home. Occupy own house, attap, son not earning then, girl assists me at home, son at school—\$40 from brother-in-law—run coffee stall, coconut plantation—in front of house ; about \$100 p.m. Received from deceased \$8 p.d. to run home. 49 when he died, strong man. Saved a little. We try to manage.

Funeral expenses, receipt—\$663.00. Paid out of savings.

Xxd.

40 Saved little over \$800 at home, have out of savings. Deceased one meal a day at home, cost me about \$150 ; he bought his clothes. I paid medical expenses if anyone got sick. Deceased never got sick. Cost about \$1.00 for food—about \$30 per head per month ; children start earning at 20. Occupation depends on means ; daughter helps in house, 12 years—

In the
Supreme
Court of the
Colony of
Singapore.

In the High
Court.

No. 5.
Notes of
Evidence of
Murray-
Aynsley,
C.J.
19th
September
1952—
continued.

In the Supreme Court of the Colony of Singapore. goes to night classes—Chinese—might become teacher at 20—might get married. Saved \$20–30 p.m.

JOSEPH ILLARKY, Lloyd Gardens, Medical Practitioner. Trishaw drivers—healthy occupation, open air exercise ; better than clerks.

In the High Court. **XXD.**

Took opium, did not earn enough—might take to it like whisky. Age. no certificates, can tell more or less.

No. 5.
Notes of Evidence of Murray-Aynsley, C.J.

19th September 1952—
continued.

GEDDES, ALAN EDWARD. Actuary. Great Eastern Life. Life expectation Chinese 49—17 years. \$200 p.m. 17 years \$29,000 4%, 10 years \$19,000—8% \$26,000 or \$16,000. 10

XXD.

43 in England, have not got table, use table prepared recently locally, close to O.M. plus 5 years—table—43 expectation 27.13, loss £2 15s. 0d. £2,700 ; son at 10s. per week £140—daughter 3 years at 15s. £100, 6 years at 15s. £180 ; widow 15s. a week 6 years remainder at 30s. £1,300. £2 15s. 0d for 7 years £100 7 years \$135 p.m. \$9,000 \$100—\$6,600 \$35—\$2,400 \$75—\$5,000.

(1942) A.C. 601.

Davies v. Powell Duffryn.

26.9.52.

XXD. (cont'd.).

Expectation 30 years—annuity of £3 10s. 0d. about £3,000—£3,500—4% ; deducting pensions £2,000, present figure of annuity about £2,000.

GOH CHIEW CHWEE, receipt for funeral \$660 issued by me, paid by younger brother of. Prices fair and reasonable.

XXD.

Coffee bill cemetery ? Have to pay for plot and have grave dug—\$10 labour charges for digging. 4 persons carrying coffin.

Coffin \$500 “brayleng” good wood. Best wood \$1,000—\$2,000. This is 4th class ; can't get this type for \$200. There are cheaper types, less than \$100. 30

About \$300 would be good enough for deceased.

Case.

MURPHY :

1/3rd to children.

2/3rds to widow.

Special damage \$350 L.A.

Loss of expectation varies \$1,500 \$3,000 Sec. 4 children 19 }
8 } girl 11
14 months }

Expectation 17 years

10 years \$19,000 at \$200 p.m.

“Powell Duffryn” case does not set standard. 40

SMITH :

“ Powell Duffryn.”
(1942) 1 A.E.R. 657.
Russell of Killowen at 659.
Bishop v. Cunard White Star Line.
(1950) 2 A.E.R. 26.
Voluntary payment by brother of deceased should be deducted.
Coffee shop became hers.
Benham v. Gambling (1941) A.C. 157.

In the
Supreme
Court of the
Colony of
Singapore.

In the High
Court.

No. 5.
Notes of
Evidence of
Murray-
Aynsley,
C.J.
19th
September
1952—
continued.

10 MURPHY :

Powell Duffryn at p. 659.
5 lines omitted at C in Law Reports.
Roughead v. Railway Executive.
(1949) 65 T.L.R. 435.
C.A.V.
2.10.52.
Written Judgment read.
True copy.

(Sgd.) A. P. FERNANDEZ,
Private Secretary to the Chief Justice, Singapore.

20

No. 6.
Judgment.

No. 6.
Judgment.
2nd
October
1952.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
ISLAND OF SINGAPORE.

Suit No. 370 of 1952.

Between

LIM SIEW CHOO and CHIA BOON LAI the administratrix and
administrator of the estate of Chia Boon Poh alias Chia
Boon Pah deceased *Plaintiffs*

30

and
LIM JOO CHIANG *Defendant.*

Coram : MURRAY-AYNSLEY, C.J.

JUDGMENT OF MURRAY-AYNSLEY C.J.

I award under Section 7 of the Civil Law Ordinance \$2,000. This includes funeral expenses and costs of Letters of Administration.

In the
Supreme
Court of the
Colony of
Singapore.

In the High
Court.

No. 6.
Judgment.
2nd
October
1952—
continued.

Under Section 8 I award \$15,000. This is in addition to what may be received from the estate of deceased. Of this I apportion

- \$10,000 to widow
- \$1,200 to Chia Kwee Hock
- \$1,000 to Chia Geok Keow
- \$2,800 to Chia Kwee Kim

I do not award anything to Chia Kwee Cheng.
Costs to Plaintiffs.

\$6,000/- in Court to be paid to Plaintiffs. Stay for balance if notice of appeal filed in 14 days on usual undertaking. Sums for infants to be 10 paid into Court.

(Sgd.) C. M. MURRAY-AYNSLEY,
Chief Justice,
Singapore.

Singapore, 2nd October, 1952.

No. 7.
Order.
2nd
October
1952.

No. 7.
Order.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
ISLAND OF SINGAPORE.

Suit No. 370 of 1952.

20

Between

LIM SIEW CHOO and CHIA BOON LAI the Administratrix and
Administrator of the estate of Chia Boon Poh alias Chia
Boon Pah, deceased *Plaintiffs*

and

LIM JOO CHIANG *Defendant.*

2nd day of October 1952.

This action coming on for trial on the 19th and 26th days of September, 1952 before the Honourable Sir Charles Murray Murray-Aynsley, Chief Justice of the Colony of Singapore, in the presence of Counsel for the Plaintiffs and for the Defendant And Upon Hearing the evidence adduced by both parties and what was alleged by Counsel as aforesaid THIS COURT DID ORDER THAT this action should stand for Judgment and this action standing for Judgment this day THIS COURT DOth ADJUDGE that the Defendant do pay to the Plaintiffs \$400.00 for funeral expenses, \$350.00 for costs for Letters of Administration and \$1,250.00 for damages to the estate under Section 7 of the Civil Law Ordinance, the said sum of \$1,250.00 being apportioned in the following manner, that is to say \$416.68 to the widow and \$208.33 to each of the following children—Chia Kwee

Cheng (son) Chia Geok Keow (daughter); Chia Kwee Hock (son); and Chia Kwee Kim (son); all of whom are infants AND IT IS FURTHER ADJUDGED that the Defendant do pay to the Plaintiffs in addition the sum of \$15,000.00 as damages under Section 8 of the Civil Law Ordinance and that sum be apportioned in the following manner—\$10,000.00 to Lim Siew Choo, the widow; \$1,200.00 to Chia Kwee Hock, the son; \$1,000.00 to Chia Geok Keow, the daughter; and \$2,800.00 to Chia Kwee Kim, the son of the deceased AND IT IS FURTHER ADJUDGED that nothing be awarded to Chia Kwee Cheng, the son of the deceased AND IT IS

10 ORDERED that the total of the sums payable to the infants namely—Chia Kwee Cheng, Chia Geok Keow, Chia Kwee Hock and Chia Kwee Kim, be paid into Court in their names and for their benefit AND IT IS FURTHER ORDERED that the sum of \$6,000.00 paid into Court by the Defendant be paid to the Plaintiffs or their Solicitors forthwith AND IT IS FURTHER ORDERED that execution for the balance of \$11,000.00 be stayed for 14 days from the date hereof pending filing Notice of Appeal and if Notice is filed within that time execution be extended till after the disposal of the Appeal AND IT IS LASTLY ORDERED that the costs of this action be taxed on the Higher Scale and be paid by the Defendant to the Plaintiffs

20 on the Plaintiffs' undertaking to refund whatever sum may be due to be returned to the Defendant by reason of the decision of the Court of Appeal.

In the Supreme Court of the Colony of Singapore.
 In the High Court.
 No. 7.
 Order,
 2nd
 October
 1952—
continued.

Entered this 16th day of October, 1952 at 12.30 p.m. in Volume LVIII Pages 15 & 16.

By Order,
 (Sgd.) C. C. EU.,
Dy. Registrar.

No. 8.
 Notice of Appeal.

In the Court of Appeal.
 No. 8.
 Notice of Appeal.
 9th
 October
 1952.

30 IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
 ISLAND OF SINGAPORE.

Suit No. 370 of 1952.

Civil Appeal No. 21 of 1952.

Between

LIM SIEW CHOO and CHIA BOON LAI the administratrix and administrator of the estate of Chia Boon Poh alias Chia Boon Pah deceased *Plaintiffs (Respondent)*

and

LIM JOO CHIANG *Defendant (Appellant.)*

40 NOTICE OF APPEAL.

TAKE NOTICE that the above named Defendant Lim Joo Chiang will appeal to the next Court of Appeal in the Colony of Singapore against that part of the Judgment of the Honourable Chief Justice Sir Charles

In the
Supreme
Court of the
Colony of
Singapore.

Murray Murray-Aynsley in relation to damages delivered hereon on the 2nd day of October, 1952.

Dated this 9th day of October, 1952.

In the
Court of
Appeal.

(Sgd.) DONALDSON & BURKINSHAW,
Solicitors for the Defendant/Appellant.

No. 8.
Notice of
Appeal.
9th
October
1952—
continued.

To the Registrar,
Supreme Court,
Singapore.

To the above named Plaintiffs/Respondents and to their Solicitors,
Messrs. Hilbourne & Murphy, Singapore.

10

No. 9.
Memoran-
dum of
Appeal.
5th
November
1952.

**No. 9.
Memorandum of Appeal.**

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
ISLAND OF SINGAPORE.
IN THE COURT OF APPEAL.

Suit No. 370 of 1952.
Civil Appeal No. 21 of 1952.

Between

LIM JOO CHIANG *Appellant (Defendant)* 20
and

LIM SIEW CHOO and CHIA BOON LAI the administratrix and
administrator of the estate of Chia Boon Poh alias Chia
Boon Pah deceased *Respondents (Plaintiffs)*

MEMORANDUM OF APPEAL.

Lim Joo Chiang the Defendant (Appellant) appeals to the Court of Appeal in Singapore against the whole of the Judgment of the Honourable Chief Justice Sir Charles Murray Murray-Aynsley which relates to damages on the grounds following :—

1.—The damages of \$15,000/— awarded under Section 8 of the Civil Law Ordinance were excessive and is an entirely erroneous assessment. 30

2.—The learned Trial Judge erred in law in assessing damages under Section 8 of the Civil Law Ordinance by not taking into account the fact

that the widow and children dependents of the deceased or alternatively the widow benefited by the death of the deceased to the extent that the widow and the children or alternatively the widow acquired the coffee-shop of the deceased whereby the widow was able to make \$100/- per month for the benefit of herself and the children dependents of the deceased.

In the
Supreme
Court of the
Colony of
Singapore.

3.—The Learned Trial Judge erred in law in assessing damages under Section 8 of the Civil Law Ordinance by not taking into account the fact that after the deceased's death and up to the date of the award the deceased's brother voluntarily contributed to the widow for the maintenance of herself and the children dependents of the deceased or alternatively her own maintenance the sum of \$40/- per month. The said sum was a benefit accruing to the widow and reduced her loss and the loss of the children dependents by that amount.

In the
Court of
Appeal.

No. 9.
Memoran-
dum of
Appeal.
5th
November
1952—
continued.

4.—The Learned Trial Judge erred in law in assessing damages under Section 8 of the Civil Law Ordinance by wrongly assessing the basic loss of the widow and dependents before taking into account the benefits referred to in Paragraphs 2 and 3 hereof and other benefits accruing as a result of the death at \$170/- per month and should have assessed the said basic loss at not more than \$150/- per month for the reason that of the \$250/- per month received by the widow during the lifetime of the deceased \$50/- per month was spent on the maintenance of the husband, approximately \$30/- per month on the maintenance of a child who was no longer dependent and the sum of \$20/- to \$30/- per month was saved by the widow out of the housekeeping money which savings in law belonged to the deceased and the cessation thereof was not a loss to the widow or dependents.

5.—The Learned Trial Judge erred in law in assessing damages under Section 8 of the Civil Law Ordinance by not taking into account the benefits which would accrue to the dependents from the estate which consisted of the damages for loss of expectation of life and the sum of \$800/- saved by the widow during the lifetime of the deceased out of the housekeeping money given to the widow by the husband.

6.—The Learned Trial Judge erred in law in making the award under Section 8 of the Civil Law Ordinance additional to the award under Section 7 of the Civil Law Ordinance.

7.—The Learned Trial Judge erred in law in allowing the cost of letters of administration under Section 7 of the Civil Law Ordinance.

Dated at Singapore this 5th day of November, 1952.

(Sgd.) DONALDSON & BURKINSHAW,
Solicitors for the above-named Defendant/Appellant.

In the
Supreme
Court of the
Colony of
Singapore.

No. 10.
Notes of Mathew, C.J.

Singapore Civil Appeal No. 21 of 1952.

In the
Court of
Appeal.

16th December, 1952.

L. A. J. SMITH for Appellant.

MURPHY for Respondent.

No. 10.
Notes of
Mathew,
C.J.
16th
December
1952.

SMITH : Deceased 49. \$250 a month. \$30 a month each for children.
\$50 for herself.

Says property of husband. \$140 a month enough. There was a coffee
shop about \$100 a month profit. 10

Ord. page 22.

Widow saved \$800. That belonged to the husband.

Blackwell v. Blackwell 1943 (2) AER 579.

Bradshaw v. Lancs & York Ry. Co., 1875 L.R. (C.P.) page 189.

Funeral expenses—letter of administration not a head of damage.

Section 8—*Bradshaw's* case.

Section 7—“Loss of expectation of life.”

2 separate awards—not split up Section 7.

Awarded damages twice.

Davies v. Powell Duffryn Associated, 1942 A.C. 601. 20

Coffee shop—not profit earning investment.

\$100 coffee shop should be taken into account.

\$600 from brother-in-law.

\$800 she saved.

10 years at \$170 at 4%—\$15,000.

\$140. \$50 a month for widow and \$30 a month for each of three
children.

Baker v. Dalgleish Steam Co., 1922 (1) K.B. 361—pages 364, 367, 371.

Roughead v. Ry. Executive, 65 T.L.R., page 435.

Grand Trunk Ry. v. Jennings, 13 A.C. 800–803. 30

Reasonable number of years—7 or 8.

Bishop v. Cunard White Star, Ltd., 1950 (2) AER, 22.

Reads judgment.

\$750 among widow and 3 children.

\$800, \$270 to widow \$530 \$130 each.

Under Section 8 \$15,000, under Section 7 additional.

Clearly did not take into account value of estate.

MURPHY : *Cunard* case divided up.

Roughead case divided up.

\$350 for letters of administration. 40

Feay v. Barnwell, 1938 (1) AER 31.

Too high.

Coffee shop was introduced to show that he could return to coffee-shop.
Maximum 17 years.
\$17,000 about right.
\$15,000 not the maximum sum.

In the
Supreme
Court of the
Colony of
Singapore.

SMITH : Fundamentally usual to have awards on actuarial basis.

Lory v. Great Western Ry. 1942 (1) AER. 230.

Upkeep of family only consideration.

My friend has argued not a single point to reduce the figure.

\$40 a month from brother-in-law.

10 \$200—what is the amount for maintenance of family.

11 years at \$140—18,480 = 13,860.

11 years at \$170—22,540 = 17,000 approx.

In the
Court of
Appeal.

No. 10.
Notes of
Mathew,
C.J.
16th
December
1952—
continued.

c.a.v.

True copy.

(Sgd.) Illegible,

P.S. to Chief Justice,

Federation of Malaya. 1.10.53.

No. 11.

Notes of Brown, J.

No. 11.
Notes of
Brown, J.
16th
December
1952.

IN THE SUPREME COURT OF THE COLONY OF SINGAPORE.

20 IN THE COURT OF APPEAL.

Civil Appeal No. 21 of 1952.

Suit No. 370 of 1952.

Between

LIM JOO CHIANG *Appellant-Defendant*

and

LIM SIEW CHOO and CHIA BOON LAI, etc. ... *Respondents-Plaintiffs*

Coram : MATHEW, C.J., Federation.

BROWN, J.

KNIGHT, J.

30 NOTES OF ARGUMENT TAKEN BY BROWN, J.

16.12.52.

L. A. J. SMITH for Appellant.

MURPHY for Respondents.

SMITH :

Deceased aged 49. Would live 10 years and work.

Savings are property of husband 3 x \$30 \$90 for her.

Making \$100 p.m. out of coffee shop.

In the
Supreme
Court of the
Colony of
Singapore.

Saved \$800 out of housekeeping. Belonged to husband.
Blackwell v. Blackwell (1943, 2 A.E.R. 579).

In the
Court of
Appeal.

No. 11.
Notes of
Brown, J.
16th
December
1952—
continued.

ADMINISTRATION CASES.

Bradshaw v. Lanc. & Yorks Rly. Co. (1875 L.R. 10 C.P. 189).

Section 816, repeats *Bradshaw's* case.

Davies & Anor. v. Powell Duffryn (1942 A.C. 601) 606-608.

C. J. has now considered benefit which will be received by the parties
from the estate.

C. J. has made one award under Section 7.

Separate award under Section 8.

Has made these two additional to one another.

In principle that is wrong (*Powell Duffryn*)

\$800 Savings

\$600 from brother-in-law

10

\$1400

\$15,000 is actuarial figure of cost of annuity of \$170 p.m. for 10 years
discounted at 4%.

Maximum as a starting point was \$140 as follows :

\$50 for widow

\$30 for each of 3 children

20

\$140

For 10 years this would be \$12,600

Take off just under \$1,000

1,400

1922, 1 K.B., 361 at p. 371.

Roughead v. Railway Executive, 65 T.L.R. 435.

G. T. Railway of Canada v. Jennings, 1888 13 A.C. 800.

Bishop v. Cunard, 1950, 2 A.E.R. 221.

Total amount to be divided among dependents is \$750. \$800
savings — \$270 to widow ; \$130 to each of other 4.

30

F \$15,000 less \$1250 — 350 = \$900

\$15,000 for 10 years at \$170

MURPHY.

Feay v. Barnwell (1938, 1 A.E.R. 31). Letters of administration.

C. J.'s intention was to give a general award of \$17,000 and split it up.
Thus the order.

When C. J. said " in addition to " he is saying that he awards \$17,000
altogether which he is dividing up into \$2,000 under s. 7 and \$15,000
under s. 8.

SMITH.

Lory v. Great Western Rly. 1942, 1 A.E.R. 230.

40

(Sgd.) A. F. FERNANDEZ,
Private Secretary to
The Chief Justice, Singapore.

No. 12.

Notes of Knight, J.

In the
Supreme
Court of the
Colony of
Singapore.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.

ISLAND OF SINGAPORE.

IN THE COURT OF APPEAL.

In the
Court of
Appeal.

Civil Appeal No. 21 of 1952.

Suit No. 370 of 1952.

Tuesday 16th December 1952.

No. 12.
Notes of
Knight, J.
16th
December
1952.

Between

10 LIM JOO CHIANG *Defendant-
Appellant*

and

LIM SIEW CHOO and CHIA BOON LAI the administratrix and
administrator of the estate of Chia Boon Poh alias Chia
Boon Pah deceased *Plaintiffs-
Respondents.*Coram : MATHEW, C.J., F. of M.
BROWN, J.
KNIGHT, J.

NOTES OF ARGUMENT.

20 SMITH.
MURPHY.

SMITH—\$140 reasonable—Coffee shop made about \$100 p.m.—this became hers on deceased's death. C. J. said he did not regard this as a profit earning investment. After death brother gave her \$40 p.m. C.J. said this was given to prevent family stealing. Admit that after death these should not be taken into account.

From shop and brother she got \$140 after death.

Widow's savings \$800—submit this belong to husband—should have been taken into account.

30 *Blackwell v. Blackwell* 1943 A.E.R. 579.
Bradshaw v. Lancashire & Yorkshire Railway Co. 1875 L.R. 10 C.P. 189.
Submit cost of L/A cannot be claimed as a head of damage.
Submit C.J. gave damages twice under Sections 7 and 8.
Davies v. Powell Duffryn Associated Collieries Ltd., 1942 A.C. 601.
Two awards made additional to one another—wrong in principle—
Davies' case.
Benefit to wife because of husband being alive was \$50—children \$30 each. She worked before and after—but shop now hers. Shop

In the Supreme Court of the Colony of Singapore.

In the Court of Appeal.

No. 12. Notes of Knight, J. 16th December 1952—continued.

formerly her husband's. She ran it at her husband's house. Submit shop substantive benefit to widow + \$600 from brother \$800 from savings. Further \$15,000 which is the actual cost of an annuity of \$170 p.m. for ten years—discounted at 4%.

Maximum C.J. could have allowed is \$140 i.e. \$50 and \$30 for each—10 years \$12,600.

Less \$1,000 Loss of Expectation of Life. *Baker v. Dalgleish Steam Shipping Co.* 1922 1 K.B.D. 364 (371).

Roughead v. Railway Executive T.L.R. Vol. 65-435.

Grand Trunk Railway v. Jennings 1888 A.C. 800 (803).

Bishop v. Cunard White Star Co. 1952 2 A.E.R. 22.

Widow & children \$750—of savings \$270 to Widow—\$530 for four children i.e. \$130 each.

\$15,000 has included \$2,000 in Section 7.

C.J. dealt with it as a separate entity.

\$750 cannot be included in Section 7.

Ask damages be reassessed or take \$15,000 figure and make deductions.

MURPHY—No provision under Sections 7 and 8 for cost of L/A but Plaintiff gets it.

Feay v. Barnwell 1938 1 A.E.R. 31.

C.J.'s intention was to give a general assessment of \$17,000—which he did—see Ordinance page 22.

If coffee shop was his business it would have been included in particulars page 5 Statement of Claim.

Geddes says normal span 17 years—he need not have been a trishaw rider as late as that.

We don't know how long C.J. took as deceased's span of life had it been uninterrupted.

Figures given by Geddes range from \$29,000 to \$16,000—C.J. gave \$17,000 in all and split it up.

Just because a child gets a job it doesn't follow that father reduces housekeeping allowance—Submit nothing unreasonable in award in view of evidence.

SMITH—Actuaries fundamentally unsound—do not give evidence in U.K.

Lory v. Great Western Railway Co. 1942 1 A.E.R. 230.

Damages too high—£2,000 allowed in *Lory v. Great Western Railway*, £2,000 awarded in this case. Former Policeman aged 35—latter trishaw rider.

C.J. cut Murphy short as to coffee house and voluntary payments.

If \$17,000 was allowed—clearly too high.

(a) 11 years @ 140 = \$18,480

(b) 11 years @ 170 = \$22,540

(a) Annuity approx. \$13,860

(b) „ „ \$17,000

10

20

30

40

Reductions \$1,400 & coffee shop—in all some \$11,500.

C. A. V.

(Sgd.) C. KNIGHT, J.
16/12/52

Tuesday 27th January, 1953.

Court & Counsel as before.

Judgment in C.A. 21/52 read.

(Sgd.) C. KNIGHT, J.

Certified true copy :

10 (Sgd.) HENG PENG HOE,
Private Secretary to Judge, Court No. 2,
Supreme Court, Singapore 9/10.

In the
Supreme
Court of the
Colony of
Singapore.

In the
Court of
Appeal.

No. 12.
Notes of
Knight, J.
16th
December
1952—
continued.

No. 13.

Judgment.

IN THE SUPREME COURT OF THE COLONY OF SINGAPORE.
IN THE COURT OF APPEAL.

Civil Appeal No. 21 of 1952.

Suit No. 370 of 1952.

LIM JOO CHIANG *Appellant*

20 *versus*

LIM SIEW CHOO and CHIA BOON LAI the Administratrix and
Administrator of the Estate of Chia Boon Poh alias Chia
Boon Pah (deceased) *Respondents Plaintiffs.*

Cor : MATHEW, C.J.
BROWN, J.
KNIGHT, J.

JUDGMENT OF MATHEW, C.J.

30 This is an Appeal against the quantum of damages awarded in a case arising under Section 7 and 8 of the Civil Law Ordinance. In the judgment appealed from, a sum of \$2,000 was awarded under Section 7, which sum included \$400 for funeral expenses and \$350 for costs of letters of administration. Under Section 8 \$15,000 was awarded, and it was stated in the judgment that that sum was to be additional to anything that might be recovered from the deceased's estate. No reasons were given as to how

No. 13.
Judgment.
16th
January
1953.

In the
Supreme
Court of the
Colony of
Singapore.

In the
Court of
Appeal.

No. 13.
Judgment.
16th
January
1953—
continued.

these sums were calculated, and specific points argued by Counsel in the Court below were not made the subject of specific findings.

It is well established in the case of *Davies v. Powell Duffryn Collieries, Ltd.* (1942) A.C. 601, that damages recoverable under Section 7 of the Ordinance must be taken into account in assessing damages under Section 8 in the case of dependants who will benefit from the damages under Section 7. I take it that the intention was that the amount awarded for loss of expectation of life under Section 7 was taken into account when the awards to the dependents under Section 8 were calculated, and were accordingly reduced by the amount which the dependants would gain under Section 7. 10

It is convenient in cases of this kind if the basis of calculating awards under Section 8 is fully set out and the award to each dependant calculated separately.

The sums awarded for funeral expenses and letters of administration should be under the appropriate section, and the necessary set off made under Sections 7 and 8. It is clearly in the interests of both parties to this appeal, bearing in mind the necessity to avoid the incurring of additional costs, that the question before us should be decided without further reference to the Court below.

I consider that the proper way to deal with this appeal is to re-assess the amount awarded in the light of settled authority for the purpose of comparing the result with the awards made in the Court below. If as a result of this detailed examination the amounts are manifestly excessive, the appeal must succeed. 20

The deceased who was a trishaw driver aged 49 was in a good state of health and had an expectation of life of 17 years. The widow received from the deceased a sum of \$8 a day to run the home. There were 4 children of the marriage, but one of them is now earning and able to support himself. The living expenses of the widow were \$50 a month and of the 3 children dependent on her about \$30 a month each. The widow sold coffee from the house in which the family lived, and earned about \$100 a month, an earning which is unaffected by the death of the deceased, and does not require consideration in calculating the sum to be awarded. 30

During the life-time of her husband the widow saved \$800 out of her house-keeping money, and was given \$600 by her brother-in-law after her husband's death. These sums require to be deducted from any sums calculated. The family was deprived, on the death of the deceased, of a sum of \$140 a month, an amount necessary to maintain the widow and the 3 dependent children. It is reasonable to suppose that the deceased could have carried on his work as a trishaw driver for a further eleven years. 40

On the basis of \$140 per month for 11 years, the cost of an annuity would be \$13,860. The fact that he could no longer pursue the career of a trishaw driver for more than another eleven years did not necessarily mean an end to his earning capacity, and a further sum could reasonably be added, say \$1,200. From this total of \$15,060 must be deducted the sum of \$800 savings from the house-keeping money and \$600 given after the death of the deceased to the widow by her brother-in-law. The resulting figure is \$13,660. To this must be added the sum of \$400 for funeral expenses and

\$350 for costs of letters of administration, giving a total of \$14,410. The total of the amounts awarded in the Court below to the deceased's dependants, deducting the sum of \$288.33 which was awarded under Section 8, is \$16,711.67. The calculations I have made do not err on the side of generosity and bearing this in mind I do not feel that the awards made in the Court below are so manifestly excessive that they require reduction.

In the Supreme Court of the Colony of Singapore.

I would dismiss the appeal with costs, and order the deposit to be paid out to the Respondents against their costs.

In the Court of Appeal.

(Sgd.) CHARLES MATTHEW,
Chief Justice, Federation of Malaya.

No. 13.
Judgment.
16th
January
1953—
continued.

10 Kuala Lumpur,
16th January, 1953.

I agree.

(Sgd.) T. A. BROWN,

27.1.53.

I agree.

(Sgd.) C. KNIGHT,

27.1.53.

20

No. 14.

No. 14.
Order.
27th
January
1953.

Order.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.

ISLAND OF SINGAPORE.

In the Court of Appeal.

Civil Appeal No. 21 of 1952.

Suit No. 370 of 1952.

Between

LIM JOO CHIANG *Appellant-Defendant*

and

30 LIM SIEW CHOO and CHIA BOON LAI, the Administratrix and
Administrator of the estate of Chia Boon Poh alias Chia
Boon Pah, deceased *Respondents-Plaintiffs.*

27th January, 1953.

This Appeal coming on for hearing on the 16th day of December, 1952, before the Honourable Mr. Charles Mathew, Chief Justice of the Federation of Malaya ; the Honourable Mr. Thomas Algernon Brown, Judge ; and the Honourable Mr. Clifford Knight, Judge, in the presence of L. A. J. Smith of Counsel for the Appellant/Defendant and Denis Murphy of Counsel for

In the
Supreme
Court of the
Colony of
Singapore.

In the
Court of
Appeal.

No. 14.
Order.
27th
January
1953—
continued.

the Respondents/Plaintiffs And Upon Reading the Record And Upon hearing what was alleged by Counsel for both parties THIS COURT DOTH ORDER that the said Appeal should stand for Judgment and the same standing for Judgment this day in the presence of Counsel for the Appellant/Defendant and for the Respondents/Plaintiffs as aforesaid THIS COURT DOTH ORDER that the Appeal of the Appellant/Defendant be dismissed with costs to be taxed and paid by the Appellant/Defendant to the Respondents/Plaintiffs AND THIS COURT DOTH FURTHER ORDER that the sum of \$500.00 paid into Court by the Appellant/Defendant as security for costs of the Appeal be paid out to the Respondents/Plaintiffs or their Solicitors on 10 account of costs payable to them.

Entered this 7th day of February, 1953, at 12.30 p.m.

Pages 307 and 308 in Volume LVIII.

(Sgd.) C. C. EU,
Dy : Registrar.

No. 15.
Motion
Paper for
Leave to
Appeal.
20th May
1953.

No. 15.
Motion Paper for Leave to Appeal.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
ISLAND OF SINGAPORE.
IN THE COURT OF APPEAL.

20

Civil Appeal No. 21 of 1953.

Suit No. 370 of 1952.

Between

LIM JOO CHIANG *Appellant-
Defendant*

and

LIM SIEW CHOO and CHIA BOON LAI administratrix and
administrator of the Estate of Chia Boon Poh alias Chia
Boon Pah *Respondents-
Plaintiffs.*

Mr. L. A. J. SMITH of Counsel for the above named Appellant/ 30
Defendant moves for an order that the Appellant/Defendant be at liberty
to appeal to Her Majesty in Council and for a certificate that this case as
regards the amount and value thereof and the nature of the legal issues
and questions involved is a fit one for appeal to Her Majesty in Council.

Dated this 20th day of May, 1953.

(Sgd.) DONALDSON & BURKINSHAW,
*Solicitors for the above named
Appellant/Defendant.*

No. 16.

Notice of Motion for Leave to Appeal.

In the
Supreme
Court of the
Colony of
Singapore.

In the
Court of
Appeal.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
ISLAND OF SINGAPORE.
IN THE COURT OF APPEAL.

Civil Appeal No. 21 of 1953.

Suit No. 370 of 1952.

No. 16.
Notice of
Motion for
Leave to
Appeal.
20th May
1953.

Between

10 LIM JOO CHIANG *Appellant-
Defendant*

LIM SIEW CHOO and CHIA BOON LAI Administratrix and
Administrator of the Estate of Chia Boon Poh alias Chia
Boon Pah *Respondents-
Plaintiffs.*

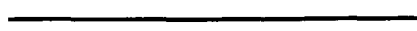
20 TAKE NOTICE that the Court will be moved on Tuesday the
26th day of May, 1953 at 10.30 o'clock in the forenoon, or so soon thereafter
as Counsel can be heard by Mr. L. A. J. Smith Counsel for the Appellant/
Defendant for an Order that the Appellant/Defendant be at liberty to
appeal to Her Majesty in Council and for a certificate that this case as
regards the amount and value thereof and the nature of the legal issues and
questions involved is a fit one for appeal to Her Majesty in Council.

Dated the 20th day of May 1953.

(Sgd.) DONALDSON & BURKINSHAW,

*Solicitors for the abovenamed
Appellant/Defendant.*

30 To : The Registrar, The Supreme Court, Singapore.
The above named Plaintiffs/Respondents and
their Solicitors Messrs. Hilborne & Murphy,
Singapore.



No. 17.

In the
Supreme
Court of the
Colony of
Singapore.

Affidavit of the Defendant in support of the Application for Leave to Appeal.

In the
Court of
Appeal.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.

ISLAND OF SINGAPORE.

IN THE COURT OF APPEAL.

No. 17.
Affidavit
of the
Defendant
in support
of the
Application
for Leave
to Appeal.
20th May
1953.

Civil Appeal No. 21 of 1952.

Suit No. 370 of 1952.

Between

LIM JOO CHIANG ... ..	...	...	...	...	...	...	...	...	<i>Defendant- Appellant</i>	10
and										
LIM SIEW CHOO and CHIA BOON LAI the administratrix and administrator of the estate of Chia Boon Poh alias Chia Boon Pah deceased ... ..	...	...	...	...	...	...	...	...	<i>Plaintiffs- Respondents.</i>	

AFFIDAVIT.

I, LIM JOO CHIANG, of No. 33 Teck Chye Terrace, Singapore, the above named Defendant/Appellant do hereby affirm and say as follows :

1.—On the 23rd day of April 1952 a writ claiming damages was issued against me by the Respondents as administratrix and administrator of the estate of Chia Boon Poh alias Chia Boon Pah deceased for damages for the estate and for the benefit of the dependents of the deceased namely : Lim Siew Choo, the widow, Chia Kwee Cheng, Chia Kwee Hock and Chia Kwee Kim, the sons of the deceased, and Chia Geok Keow, the daughter of the deceased, who had suffered damage by reason of the negligent driving of a motor car by me on the 4th day of June 1951 when by virtue of the aforesaid negligent driving the said Chia Boon Poh alias Chia Boon Pah was killed. 20

2.—I admitted liability in the action as to damages only and the cause came on for trial on the 19th and 26th days of September 1952 before the Honourable Sir Charles Murray Murray-Aynsley, Chief Justice of the Colony of Singapore when after the hearing Judgment was reserved and later delivered on the 2nd day of October 1952 and an order was made which reads as follows :— 30

“ This action coming on for trial on the 19th and 26th days
“ of September 1952, before the Honourable Sir Charles Murray
“ Murray-Aynsley, Chief Justice of the Colony of Singapore, in
“ the presence of Counsel for the Plaintiffs and for the Defendant
“ And Upon hearing the evidence adduced by both parties and
“ what was alleged by Counsel as aforesaid THIS COURT DID

“ ORDER that this action should stand for Judgment and this
 “ action standing for Judgment this day THIS COURT DOTH
 “ ADJUDGE that the Defendant do pay to the Plaintiffs \$400.00
 “ for funeral expenses, \$350.00 for costs for Letters of
 “ Administration and \$1,250.00 for damages to the estate under
 “ Section 7 of the Civil Law Ordinance, the said sum of \$1,250.00/-
 “ being apportioned in the following manner, that is to say \$416.68
 “ to the widow and \$208.33 to each of the following children—
 “ Chia Kwee Cheng (son); Chia Geok Keow (daughter); Chia
 10 “ Kwee Hock (son); and Chia Kwee Kim (son); all of whom
 “ are infants AND IT IS FURTHER ADJUDGED that the Defendant
 “ do pay to the Plaintiffs in addition the sum of \$15,000.00 as
 “ damages under Section 8 of the Civil Law Ordinance and that
 “ that sum be apportioned in the following manner—\$10,000.00
 “ to Lim Siew Choo, the widow; \$1,200.00 to Chia Kwee Hock,
 “ the son; \$1,000.00 to Chia Geok Keow, the daughter; and
 “ \$2,800.00 to Chia Kwee Kim the son of the deceased AND
 “ IT IS FURTHER ADJUDGED that nothing be awarded to Chia
 “ Kwee Cheng, the son of the deceased AND IT IS ORDERED
 20 “ that the total of the sums payable to the infants namely—
 “ Chia Kwee Cheng, Chia Geok Keow, Chia Kwee Hock and
 “ Chia Kwee Kim, be paid into Court in their names and for
 “ their benefit AND IT IS FURTHER ORDERED that the sum of
 “ \$6,000.00 paid into Court by the Defendant be paid to the
 “ Plaintiffs or their Solicitors forthwith AND IT IS FURTHER
 “ ORDERED that execution for the balance of \$11,000.00 be stayed
 “ for 14 days from the date hereof pending filing Notice of Appeal
 “ and if Notice is filed within that time execution be extended
 “ till after the disposal of the Appeal AND IT IS LASTLY ORDERED
 30 “ that the costs of this action be taxed on the Higher Scale and
 “ be paid by the Defendant to the Plaintiffs on the Plaintiffs’
 “ undertaking to refund whatever sum may be due to be returned
 “ to the Defendant by reason of the decision of the Court of
 “ Appeal.”

In the
Supreme
Court of the
Colony of
Singapore.

In the
Court of
Appeal.

No. 17.
Affidavit
of the
Defendant
in support
of the
Application
for Leave
to Appeal.
20th May
1953—
continued.

3.—I am dissatisfied with the Judgment and Order delivered and made by the Honourable Sir Charles Murray Murray-Aynsley, Chief Justice of the Colony of Singapore, as recited in paragraph 2 hereof and on the 9th day of October, 1952, I gave notice of appeal to the Court of Appeal against that part of the Judgment dated 2nd October, 1952, in relation to damages.

40 — On the 5th day of November, 1952, I filed a Memorandum of Appeal in the said proceedings and therein set out the grounds of appeal.

5.—The appeal came on for hearing on the 16th day of December, 1952, before the Honourable Mr. Charles Mathew, Chief Justice of the Federation of Malaya, the Honourable Mr. Thomas Algernon Brown, Judge, and the

In the
Supreme
Court of the
Colony of
Singapore.

In the
Court of
Appeal.

No. 17.
Affidavit
of the
Defendant
in support
of the
Application
for Leave
to Appeal.
20th May
1953—
continued.

Honourable Mr. Clifford Knight, Judge, in the presence of Counsel for me and for the Respondents when judgment was reserved and later delivered on the 27th day of January, 1953, in the presence of Counsel for me and for the Respondents and an order was made which reads as follows :—

“ This Appeal coming on for hearing on the 16th day of
“ December, 1952, before the Honourable Mr. Charles Mathew,
“ Chief Justice of the Federation of Malaya ; the Honourable
“ Mr. Thomas Algernon Brown, Judge ; and the Honourable
“ Mr. Clifford Knight, Judge, in the presence of L. A. J. Smith of 10
“ Counsel for the Appellant/Defendant and Denis Murphy of
“ Counsel for the Respondents/Plaintiffs and Upon reading the
“ Record And Upon hearing what was alleged by Counsel for
“ both parties THIS COURT DOTH ORDER that the said Appeal
“ should stand for Judgment and the same standing for Judgment
“ this day in the presence of Counsel for the Appellant/Defendant
“ and for the Respondents/Plaintiffs as aforesaid THIS COURT
“ DOTH ORDER that the Appeal of the Appellant/Defendant be
“ dismissed with costs to be taxed and paid by the Appellant/
“ Defendant to the Respondents/Plaintiffs.

“ AND THIS COURT DOTH FURTHER ORDER that the sum of 20
“ \$500.00 paid into Court by the Appellant/Defendant as security
“ for costs of the Appeal be paid out to the Respondents/
“ Plaintiffs or their Solicitors on account of costs payable to
“ them.”

6.—I am advised and humbly submit that the said Order of the Court of Appeal is erroneous and ought to be reversed on the grounds set out in my Memorandum of Appeal and further that the Court of Appeal in estimating the proper figure of damages to be awarded to the Respondents erred in the following matters :—

- (A) The Court of Appeal erred in law in their method of assessing the 30
damages because they took as the figure of damages to which the
widow and the dependants were entitled before deducting the
pecuniary benefits referred to by the learned Judges of the Court
of Appeal the cost of an annuity. In so doing the Court of Appeal
erred in law and should only have taken the cost of an annuity
into account as one of the factors to enable them to consider the
real question to which they should have directed their minds
namely what sum of money would compensate the persons con-
cerned for their loss.
- (B) The Court of Appeal erred in law in adding a further sum of 40
\$1,200/- as possible further earnings after a period of 11 years to
the resultant figure arrived at after deducting the various benefits
from the cost of an annuity. If it was open to the Court of Appeal
on the evidence to consider that the deceased would have lived

longer than 11 years and continued to earn something then the Court of Appeal should have taken into account this fact in directing their minds only to the general question, namely, what sum of money, when awarded, would compensate the persons concerned for their loss, and should not have added the future earnings in their entirety.

In the
Supreme
Court of the
Colony of
Singapore.

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(c) The Court of Appeal erred in fact in considering that the deceased might have lived beyond a period of 11 years and might have earned something thereafter, as according to the medical evidence, the said period of 11 years was the maximum time that the deceased was likely to live if he was able to maintain his strength by getting the sustenance necessary for his occupation, which would in turn be dependent on the continuation of the prosperous conditions pertaining at the time of his death.

In the
Court of
Appeal.

No. 17.
Affidavit
of the
Defendant
in support
of the
Application
for Leave
to Appeal.
20th May
1953—
continued.

(D) The Court of Appeal erred in fact in not taking into account the capital value of the coffee shop.

7.—I am advised and humbly submit that the Court of Appeal wrongly allowed the cost of Letters of Administration.

8.—I am advised and verily believe that the matters set out in paragraph 6 and 7 hereof are the grounds of the proposed appeal.

9.—I am advised and humbly submit that a sum in excess of \$5,000/- is involved in the Appeal and that the principles set out herein relating to the estimation of damages are of extreme public importance in the Colony of Singapore.

Affirmed at Singapore this 20th day of
May, 1953, through the interpretation of
(Sgd.) C. M. WONG,
a sworn Interpreter of the Court.

(Sgd.) LIM JOO CHIANG.

Before me,

30

(Sgd.) C. M. WONG,
A Commissioner for Oaths.



In the
Supreme
Court of the
Colony of
Singapore.

No. 18.

Order granting Leave to Appeal to Her Majesty in Council.

In the
Court of
Appeal.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.
ISLAND OF SINGAPORE.

Civil Appeal No. 21 of 1953.

Suit No. 370 of 1952.

No. 18.
Order
granting
Leave to
Appeal to
Her
Majesty in
Council.
26th May
1953.

Between

LIM JOO CHIANG *Appellant-Defendant*

and

LIM SIEW CHOO and CHIA BOON LAI Administratrix and
Administrator of the estate of Chia Boon Poh alias Chia
Boon Pah deceased *Plaintiffs-Respondents.*

10

BEFORE THE HONOURABLE THE CHIEF JUSTICE
IN OPEN COURT.

UPON Motion preferred unto Court this day by Lim Joo Chiang the above-named Appellant/Defendant AND UPON HEARING Counsel for the applicant and for the Plaintiffs/Respondents AND UPON READING the affidavit of the said Lim Joo Chiang affirmed and filed herein on the 20th day of May, 1953, THIS COURT DOTH ORDER that the Appellant/Defendant be at liberty to appeal to Her Majesty in Council AND THIS COURT DOTH 20 FURTHER ORDER that the balance of the damages and costs namely \$11,883-50 be paid into Court pending the outcome of the appeal.

Dated this 26th day of May, 1953.

(Sgd.) C. C. EU,
Dy. Registrar.



In the Privy Council.

No. 19 of 1954.

ON APPEAL FROM THE COURT OF APPEAL OF
THE SUPREME COURT OF THE COLONY OF
SINGAPORE. ISLAND OF SINGAPORE.

BETWEEN

LIM JOO CHIANG *Appellant*
(Defendant)

AND

LIM SIEW CHOO and CHIA BOON
LAI (the Administratrix and
Administrator of the Estate of Chia
Boon Poh *alias* Chia Boon Pah,
deceased) *Respondents*
(Plaintiffs).

RECORD OF PROCEEDINGS

SPEECHLY MUMFORD & CRAIG,
10 New Square,
Lincoln's Inn,
W.C.2,
Solicitors for the Appellant.