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/ 43

No. 5 of 1982

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA  
(APPELLATE JURISDICTION)

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B E T W E E N :

K. RATNASINGAM

Appellant  
(Plaintiff)

and

1. KOW AH DEK @ KOW LIAN POI.
2. YONG DO @ YUEN LOY CHOY  
t/a CHOP FUNG LEE HENG

Respondents  
(Defendants)

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RECORD OF PROCEEDINGS

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Le Brasseur & Bury,  
71 Lincoln's Inn Fields  
London WC2A 3JF

Philip Conway Thomas & Co.  
61 Catherine Place,  
London SW1E 6HB

Solicitors for the Appellant

Solicitors for the Respondents

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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FROM THE FEDERAL COURT OF MALAYSIA  
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6th July 1981

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA  
(APPELLATE JURISDICTION)

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B E T W E E N :

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Appellant  
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and

- 10 1. KOW AH DEK @ KOW LIAN POI.  
2. YONG DO @ YUEN LOY CHOY  
t/a CHOP FUNG LEE HENG

Respondents  
(Defendants)

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RECORD OF PROCEEDINGS

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No. 1

Writ of Summons - 16th September 1974

In the High  
Court in  
Malaya

WRIT OF SUMMONS

IN THE HIGH COURT IN MALAYA AT SEREMBAN

CIVIL SUIT NO. 195 OF 1974

No. 1  
Writ of  
Summons - 16th  
September  
1974

20 Between

K. Ratnasingam

Plaintiff

And

1. Kow Ah Dek @ Kow Lian Poi  
2. Yong Do @ Yuan Loh Choy  
T/A Chop Fung Lee Heng

Defendants

The Honourable Tan Sri Sarwan Singh Gill, P.S.M.,  
Chief Justice of the High Court in Malaya, in the  
name and on behalf of His Majesty the Yang di-  
Pertuan Agong

30 To:

In the High  
Court in  
Malaya

No. 1  
Writ of  
Summons -  
16th  
September  
1974  
(cont'd)

1. Kow Ah Dek @ Kow Lian Poi  
492, Jalan Temiang  
Seremban.
2. Yong Do @ Yuan Loh Choy  
T/A Chop Fung Lee Heng  
7 Sikomat New Village  
Seremban.

WE COMMAND YOU, that within 8 days after service of this Writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in an action at the suit of K. Ratnasignam of No. 32 Jalan SS 1/17, Kg. Tunku, Sg. Way, Selangor. 10

AND TAKE NOTICE that in default of your so doing the Plaintiff may proceed therein and judgment may be given in your absence.

WITNESS, Kang Hwee Gee, Senior Assistant Registrar of the High Court in Malaya, this 21st day of September, 1974.

Sgd: Khoo & Sidhu                      Sgd: Kang Hwee Gee                      20  
Plaintiff's Solicitors                  Senior Assistant  
   Registrar,  
   High Court, Malaya  
   Seremban

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 last renewal, including the day of such date, and not afterwards

The defendants (or defendants) may appear hereto by entering an appearance (or appearances) either personally or by solicitor at the Registry of the High Court in Malaya at Seremban. 30

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 \$3.00 with an addressed envelope to the Registrar of the High Court in Malaya at Seremban. 40

The Plaintiff's claim is for damages for personal injuries and consequential loss suffered by him and caused by the negligence of the First-named Defendant a servant or agent of the Second-named Defendant in the driving of a motor vehicle.

Dated this 16th day of September 1974.



In the High Court in Malaya

No. 2  
Statement of Claim - 16th September 1974  
(cont'd)

lorry No. NA 6509 which was being driven by the First-named Defendant a servant or agent of the Second-named Defendant and which was travelling in the opposite direction.

4. The said accident was caused by the negligence of the First-named Defendant a servant or agent of the Second-named Defendant.

PARTICULARS OF NEGLIGENCE OF THE FIRST-NAMED DEFENDANT

- (a) Failing to keep any or any proper look out; 10
- (b) Driving at an excessive speed in the circumstances;
- (c) Knocking into the Plaintiff and his motor car;
- (d) Failing to observe motor car No. BV 887 on the roadway;
- (e) Failing to give any or any sufficient warning of his approach;
- (f) Driving onto the wrong part of the road and knocking into the plaintiff and his motor car; 20
- (g) Failing to have any or any proper control or management over his vehicle;
- (h) Failing to have any or any regard for other users of the road;
- (i) Failing to apply his brakes in time to stop before knocking into the plaintiff and his motor car;
- (j) Failing to stop, slow down, swerve or otherwise avoid the said accident. 30

So far as it may be necessary the Plaintiff will rely upon the doctrine of *res ipsa loquitur*.

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

PARTICULARS OF PERSONAL INJURIES

The above Plaintiff was initially seen in the Department of Neurosurgery on 6.5.73 and was admitted then. He was discharged on 20.6.73 and



has since been seen on follow up on several occasions. He was apparently involved in a motor vehicle accident on 4.5.73 at about 12.45 p.m. for which he was admitted into the Seremban General Hospital. I initially saw him at Seremban in consultation and subsequently arranged for his transfer here to the General Hospital, Kuala Lumpur. At his initial examination, I found him to be in coma III, responding only to pain. He was irritable and showed evidence of marked contusion of his scalp over the (R) parietal area. He also had difficulties in respiration and showed evidence of considerable brain oedema. The following day, his level of consciousness improved and he was in a fit position to be transported to the General Hospital, Kuala Lumpur. There was a large laceration over his (L) shoulder area with considerable oedema which had been sutured previously. This measured 5" x 2". In addition, there was a fracture of his nasal bone with slight distortion and bleeding nostrils.

In the High Court in Malaya  
No. 2  
Statement of Claim - 16th September 1974  
(cont')

Following his admission here, angiography was done and this revealed normal appearances. However, to give him the benefit of the doubt, a burrhole was placed over the parietal area but there was no evidence of any hematoma or blood clot. He was treated with lafix and steriods, and nichkolin. He was nursed through and following his recovery from his head injured status, had to require plastic care for wound closure over the (L) shoulder.

The Plaintiff made uneventful recovery and was subsequently discharged from our Centre on 20.6.73.

He has subsequently been seen on following up on 4.7.75; 1.8.73; 17.8.73; 4.9.73; 8.10.73; 17.10.73; and again on 5.11.73. He was pronounced fit to return to work towards the middle of November 1973. He required anti-convulsives throughout his hospitalization and subsequently due to a seizure tendency that he developed during his head injured state. He now presently continues on this anti-convulsent therapy.

This Plaintiff as at the present time evidence of minimal brain damage. Although he is not given to headaches as such, he occasionally suffers from them. He has become increasingly talkative and garrulous by nature and seems to improve ever so slowly on our repeat examinations.

In the High Court in Malaya  
No. 2  
Statement of Claim - 16th September 1974  
(cont'd)

He, on his visit on 17.10.73, complained of further headaches on the (R) side and decreased vision on the (R) and examination at this time revealed evidence of mild pallor of the optic disc on the (R) side. An eye consultation was placed and visual acuity would appear to be satisfactory.

PARTICULARS OF SPECIAL DAMAGES

- 1) Loss of use of motor car at \$10/- per day and continuing \$
- 2) Travelling expenses to Hospital \$500.00 10
- 3) Extra and nourishing food \$750.00
- 4) Medical expenses and continuing \$

6. Further and in addition due to the accident and the injuries the Plaintiff has lost the opportunity of promotion and his ability in the teaching profession has been affected for which he claims damages.

7. The Plaintiff further claims interest on the amount of damages to be awarded by the Court at 6% per annum under Section II of the Civil Law Ordinance, 1956 from the 4th day of May, 1973 to date of judgment or payment. 20

8. And the Plaintiff claims general and special damages.

Dated this 16th day of September, 1974.

Sgd. Khoo & Sidhu  
Solicitors for the Plaintiff

to: 1) The First-named Defendant, Kow Ah Dek @ Kow Lian Poi 492, Jalan Temiang Seremban 30

And

2) The Second-named Defendant Yong Do @ Yuen Loh Choy T/A Chop Fung Lee Heng 7, Sikamat New Village, Seremban.

Statement of Defence - 5th November 1974

In the High  
Court in  
Malaya

IN THE HIGH COURT IN MALAYA AT SEREMBAN

CIVIL SUIT NO. 195 OF 1974

No. 3  
Statement of  
Defence  
5th November  
1974

Between

K. Ratnasingam

Plaintiff

And

1. Kow Ah Dek @ Kow Lien Poi

2. Yong Do @ Yuen Loh Choy

T/A Chop Fung Lee Heng

Defendants

10

STATEMENT OF DEFENCE

1. Paragraphs 1 and 2 of the Statement of Claim are admitted.

2. Save and in so far as it is alleged that on the day and at the place mentioned, a collision occurred between a motor car registration no. BV 887, travelling along Seremban/Tampin Road and in the direction of Seremban and a motor lorry registration No. NA6509 driven by the First Defendant as a servant or agent of the Second Defendant and which was travelling in the opposite direction, the rest of paragraph 3 of the Statement of Claim is denied.

20

3. The Defendants deny paragraph 4 of the Statement of Claim and each and every allegation set out under the heading "PARTICULARS OF THE FIRST-NAMED DEFENDANT"

4. The Defendants contend and will contend that the said collision was solely caused or in the alternative largely contributed to by the negligence of the Plaintiff.

30

PARTICULARS OF NEGLIGENCE

a) Failing to keep any or any proper look out or to observe or heed to the presence and approach of motor lorry registration No. NA 6509 on the road.

b) Failing to have any or any sufficient regard for other users of the road.

- In the High Court in Malaya  
Malaya  
 No. 3  
 Statement of Defence  
 5th November 1974  
 (cont'd)
- c) Failing to exercise due care and skill while having the management and control of motor car registration No. BV 887.
  - d) Failing to stop, swerve, slow down or otherwise avoid the said collision.
  - e) Driving at an excessive speed in the circumstances.
  - f) Failing to give any or any sufficient warning of his approach;
  - g) Colliding into motor lorry registration No. NA 6509. 10

In so far as the Plaintiff will rely on the doctrine of res ipsa loquitur the Defendants put the Plaintiff to very strict proof of the First Defendant's negligence, if any.

5. No admission is made to the injuries pain, loss and expense as alleged in paragraphs 5 and 6 of the Statement of Claim and the Plaintiff is put to strict proof thereof.

6. The Defendants contend that the Plaintiff's Claim for interest is misconceived in law. 20

7. Save as hereinbefore expressly admitted each and every allegation set out in the Statement of Claim is denied as if the same were herein specifically set out and traversed seriatim.

Wherefore the Defendants pray that the Plaintiff's claim be dismissed with costs.

Dated this 5th day of November, 1974.

Sgd. Messrs. Jagjit Singh & Co.,  
 Solicitors for the Defendants. 30

This Statement of Defence is filed by Messrs. Jagjit Singh & Co. Solicitors for the Defendants abovenamed whose address for service is at Room 1104, 11th Floor, Lee Yan Lian Building, Jalan Mountbatte, Kuala Lumpur.

IN THE HIGH COURT IN MALAYA AT SEREMBAN

CIVIL SUIT NO. 195 OF 1974

Between

K. Ratnasingam

Plaintiff

And

1. Kow Ah Dek @ Kow Lian Poi
2. Yong Do @ Juan Loh Choy  
t/a Chop Fung Lee Heng

Defendants

In the High  
Court in  
Malaya

Plaintiffs  
Evidence  
No. 4  
Ong Teng Keng  
4th December  
1975  
Examination

NOTES OF EVIDENCE

IN OPEN COURT

10

THIS 4TH DAY OF DECEMBER, 1975

Coram: AJAIB SINGH J

G. Tara Singh Sidhu for Plaintiff

Jagjit Singh for Defendants

Liability is admitted.

No. 4

Ong Teng Keng - 4th December  
1975

P.W. 1 Ong Teng Keng, affirmed, states in English.

20

I am the Assistant Director of Schools in the Ministry of Education. I am 52 years old, reside at 3484 Jalan Ampang Hilir, Kuala Lumpur.

30

From 1969 to 1973 I was Director of Education Negri Sembilan. I know the Plaintiff. He was the Headmaster of Tunku Besar School, Tampin from 1969 to 1973, from latter part of 1969. I left Seremban on 31.12.1973. I was on overseas leave on 4.5.73. The Plaintiff was transferred from the Victoria Institution Kuala Lumpur to Tampin. He was then A Division I Time-scale Officer on probation. He was asked to become the Headmaster. I do not know the reason the order came Kuala Lumpur. While I was here I found his work good - he was a good officer and efficient. During my time I had initiated a lot of projects which he carried out on my behalf. He did a good job to assist me. We built an extra block of classroom, a science laboratory, a new

In the High Court in Malaya  
Plaintiffs Evidence No. 4  
Ong Teng Keng  
4th December 1975  
Examination (cont'd)

school hall and a new tuck shop and a new playing field. I was very satisfied with the standard of the school. The Plaintiff is a Division I Officer - he is a graduate. He is a B.A. (hons). The next step for him would be Superscale G - before the Aziz Report. Now we have the Senior Timescale and other scales in between. Superscale G still remains. To get C- part of the experience is to be a Headmaster. As far as I know one has to be a Headmaster to get Superscale G. There are some administrative officers holding G posts. A Headmaster with a G post must have Form Six Classes. According to the needs of the country it is the policy of the Government to build more Form Six Schools.

10

Division I Officer goes up to \$1,800/- time-scale at an increase of \$50/- per month. There are one or two bars - on recommendation. The Plaintiff's chances for promotion were considered good from what I observed when he worked under me. In normal circumstances, he could have been promoted to Superscale G - at a salary scale of \$1,900/- and then \$2,000/-. When I was in Negri Sembilan the Plaintiff had not passed his Malay Examination.

20

Cross-Examination

Cross-examination:

Q. You strictly know the Plaintiff from 1969 to late 1973?

A. Yes.

I have found him a good officer. I had not met him before. I do not know if he was a good officer before I knew him. From Victoria Institution, Kuala Lumpur to Tampin was a promotion. It is a promotion, it gives wider experience. He was not Senior Timescale in the Victoria Institution. He was a timescale teacher. I do not have his service records.

30

The projects were my work - the Ministry work - It was J.K.R. work. He assisted me in the works. The planning was very important. I do not know now what the situation of the school was before Plaintiff became the Headmaster. Promotion to G grade also depends on vacancies. Yes, you must also pass your Bahasa to get confirmed.

40

Q. That point is - that preference is for Malay Officer?

A. I do not know about that.

Q. Chances of promotion - his conduct after 1975 would also be taken into account?

A. Yes.

It was my opinion that the Plaintiff was an efficient officer - a good officer.

Re-examination:

By giving an opinion I am comparing him all the other officers in the State.

By Court:

10 The Tunku Besar School is a Secondary School.

---

No. 5

Idris Bin Haji Tain - 4th December  
1975

---

P.W. 2 Idris bin Haji Tain, affirmed, states in English.

Aged 43 years, attached to Ministry of Education - School Section, Kuala Lumpur. I live at 1259 Section 12 Road 31, Petaling Jaya.

20 I was Director of Education in Negri Sembilan from 1.12.73 to 1.7.75.

I know the Plaintiff. When I came here the Plaintiff was in the Education Department, Seremban. He was not the Headmaster of the Tunku Besar School, Tampin. I heard about his accident. I saw him in early 1974. I gave him light work as he had just recovered from his injuries. He appeared forgetful. He was not so active. I observed him by talking to him on several occasions that the Plaintiff was forgetful. He met me now and then or twice a day but said to me "I want to see Idris Tain". He was transferred from my office on 1.5.1974 to Education Office, Kuala Lumpur.

I had no personal knowledge of what the Plaintiff did in Tunku Besar School, Tampin.

In the High Court in Malaya

Plaintiffs Evidence No. 4  
Ong Teng Keng  
4th December 1975  
Cross-Examination (cont'd)

Re-Examination

No. 5  
Idris Bin Haji Tain -  
4th December 1975  
Examination

In the High Court in Malaya  
Plaintiffs Evidence  
No. 5  
Idris Bin Haji Tain -  
4th December 1975  
Cross-Examination

Cross-examination:

Yes, in giving the Plaintiff light work I used my own discretion. Yes, I knew him to be forgetful because I was directly supervising him and had direct contact with him. Probably I cannot say, if he was forgetful because I had not met him.

Re-examination:

Re-examination:

In my opinion the Plaintiff was not capable of doing heavy work during the few months he was with me.

10

No. 6  
N. Kulasingam  
4th December 1975  
Examination

No. 6

N. Kulasingam - 4th December 1975

P.W.3 N. Kulasingam, affirmed, states in English:

I am the Examination Secretary, Education Department, Selangor, Aged 40, live at 492, Jalan 17/17, Petaling Jaya.

I know the Plaintiff. He is attached to my section and assists me. He is paid, I hear from the school vote. He came to my section in March, 1973. I had drawn up a list of duties for him. He told me he was still receiving medical treatment and could not take sustained work and heavy responsibilities. So I had to revise the duties and gave him the minimum light work. My impression is that he was willing to do the work but was unable to take on the normal load of work.

20

Q. His behaviour in the office, Active or slow?

A. He appeared somewhat uncomfortable, restless, and often found him depressed, keeping to himself, sometimes I found him quite talkative.

30

By talkative I mean he comes up and starts talking on topics not related to office work. He was in medical leave for about 8 to 9 days since he came to my section. I do not have his Service Record.



Cross-examination:

In the High  
Court in  
Malaya

Plaintiffs  
Evidence  
No. 6

N. Kulasingam  
4th December  
1975  
Cross-  
Examination

I revised the duty list because the Plaintiff told me he could not take on the duties. Prior to March 1975 I did not know the Plaintiff. I know him only for the last 9 months.

Q. He was coming to a new sort of job?

A. No, the work in my section is not new to Headmasters because all H.Ms are invariably involved in executive work.

10 He did tell me he did some executive work in Negri Sembilan as Headmaster. Besides this, I do not know personally if he was involved in executive work. Any teacher could familiarise himself with the executive work in my section within a week. I had to revise my duty list about a week after the Plaintiff had joined me. Yes, I agree the Plaintiff had one week to familiarise himself with the work before he told me he could not do it. Yes, I did test him. I gave him a  
20 file on one aspect of my work planned for him. He tried to go through the file and I formed the impression that he found it difficult to grasp. This was during his first week. By moods of depression I mean that he appeared to go into deep thoughts and gradually becoming very quiet. I did not know Plaintiff before March, 1975. I did not know if he had moods of depression before that. I do not know if he is an introvert or extrovert by nature.

30 Talking of unrelated matters - he would start talking like "my father is blessed - my mother is blessed".

During the 9 months we became well acquainted.

Re-examination:

Re-  
Examination

The unrelated matters he talked were unusual matters. I formed the impression that he was not shirking responsibility. He appeared at all times to carry out his work but he was not able to take on the work.

40 By Court He is still with me.

Adjourned to a date to be fixed by S.A.R.

Sgd. Ajaib Singh J.  
4.12.1975

In the High  
Court in  
Malaya

IN THE HIGH COURT IN MALAYA AT SEREMBAN  
CIVIL SUIT NO. 195 OF 1974

Plaintiffs  
Evidence  
No. 7  
V. Murugesu  
14th  
September  
1976  
Examination

Between

K. Ratnasingam

Plaintiff

And

1. Kow Ah Dek @ Kow Lian Poi
2. Yong Do @ Yuen Loh Choy  
T/A Chop Fung Lee Heng

Defendants

IN OPEN COURT

This 14th day of September 1976

10

Coram: AJAIB SINGH J.

Mr. Tara Singh Sidhu - Puts in service  
record of Plaintiff - agreed by Mr Jagjit Singh -  
marked Exhibit P1

No. 7

V. Murugesu - 14th September 1976

PW4 - V. Murugesu, affirmed, states in English

Aged 46 years, live at 21, Jalan 14/56,  
Petaling Jaya, Director of Technical and  
Vocational Education, Ministry of Education,  
Kuala Lumpur.

20

In 1969 I was the headmaster of Victoria  
Institution, Kuala Lumpur. In the latter part of  
1969 the Plaintiff was transferred to the Victoria  
Institution from Kajang High School on 21.4.69 and  
he was transferred to Sekolah Menengah Tunku  
Basar, Tampin on 7.10.1969.

Yes, I am referring to notes made from the  
file - for the dates. He was transferred to  
Tampin as Headmaster of Sekolah Tunku Basar,  
Tampin. I might say that it was a promotion. In  
the V.I. he was also the hockey master and also  
assisted in cricket.

30

The Plaintiff - I would put him as more than an  
average good teacher while he was under me in the  
V.I. He was an active teacher. He was in charge  
of Forms IV, V, and VI. I had no occasion to find  
any fault with him.

I myself was transferred to Malacca as Chief Education Officer on 1.1.70. I was in Malacca for three years. During the three years I had occasions to visit Plaintiff's school in Tampin - once. I think it was a speech day in his school. It was a well organised speech day by the Plaintiff as a Headmaster. I have met him twice in the Rest House, Tampin - once before and once after the speech day. I found him very enthusiastic about the extension to his school. He also asked for my advice. He was transferred to Tampin as a result of his good work. I tried to keep him back but it was in his own interest to be transferred as a Headmaster. After his accident he did not work with me.

In the High Court in Malaya  
Plaintiffs Evidence No. 7  
V. Murugesu  
14th September 1976  
Examination (cont'd)

Cross-examination:

Cross-examination

Yes, Victoria Institution is one of the most premier schools in the country a very active school. Yes, I made my teachers work very hard in the V.I. to achieve good results. Plaintiff was active not because I made him work hard. Yes, he joined the V.I. as a graduate teacher. Generally graduate teachers are given higher forms to teach but if they are not good we remove them. The Plaintiff did history. He taught history in Form V. The Plaintiff was under me at the V.I. for six months. By going to Tampin as headmaster there was no increase in his salary. It was a more responsible job in that sense one might say that it was a promotion.

Yes, many events take place on a speech day.

Q. The teachers do all that?

A. It is the leadership of the headmaster. The headmaster is the person responsible for a good speech day. Yes, any school project for an extension has first got to be put up the Education Department. It then goes to the Ministry of Education. It is the early approval which is most important. If a headmaster is not enthusiastic nothing happens after the paper work stage.

Q. About your protest against his transfer to Tampin nothing appears in the record of service?

A. This will not appear in the record of service.

Re-examination:

This is a copy of my letter of protest,

Re-examination

In the High Court in Malaya

Plaintiffs Evidence No. 7

V. Murugesu 14th September 1976 Re-examination (cont'd)

Exhibit P2 In 1969 the schemes of headmasters had not been worked out yet. The running of a speech day reflects on the headmaster and it shows whether the headmaster is a good organiser or not. My opinion was that he had organised the speech day very well.

By Court:

I know that the Plaintiff was involved in an accident. He was in a sort of dazed condition. I would say he was not the same Mr Ratnasingam when I knew him at the Victoria Institution. If the Plaintiff was not a good teacher I would have no hesitation in saying so.

10

Adjourned to 7th and 8th December 1976.

Sd. Ajaib Singh J.  
14.9.76

No. 8  
Tuan Syed Zainal Abidin Bin Syed Abdul Rani - 24th January 1978  
Examination

IN THE HIGH COURT IN MALAYA AT SEREMBAN

CIVIL SUIT NO. 195 OF 1974

Between

K. Ratnasingam

Plaintiff

20

And

1. Kow Ah Dek @ Kow Lian Poi
2. Yong Do @ Kuen Loh Choy  
T/A Chop Fung Lee Heng

Defendants

IN OPEN COURT

THIS 24TH DAY OF JANUARY, 1978

Coram: AJAIB SINGH J.

Parties as before.

No. 8

Tuan Syed Zainal Abidin Bin Syed Abdul Rani = 24th January 1978

30

PW 5 - Tuan Syed Zainal Abidin bin Syed Abdul Rani, affirmed, states in English Aged 29 years, live at 120 Taman Dato' Wan, Seremban.

I am attached to the Education Department, Seremban as Executive Officer. I have particulars the Plaintiff was drawing \$1000/- per month under the Aziz report. Under the present Cabinet report his salary would be converted to \$1,225/- on probation. Under the Aziz scheme the Superscale G scale is \$1,800 to \$1,900. Under the Cabinet scheme Superscale G salary scale is from \$2,305 to \$2,425/-.

In the High Court in Malaya

Plaintiffs Evidence No. 8  
Tuan Syed Zainal Abidin Bin Syed Abdul Rani - 24th January 1978  
Examination (cont'd)

10 Plaintiff is on probation because he has not passed his Malay examination according to the Scheme of Service. He did pass his Paper I Malay on 6.6.72. He has to do Paper II, III and IV.

Paper I is essay and letter writing. Paper II is grammar. Paper III is history and culture and paper IV is oral.

20 Yes, the plaintiff is a B.A. Graduate in history. If he got through all his papers his increments would be back-dated to the date he passed his Paper I.

Under the Aziz Scheme a pensionable officer must serve at least 10 years. If a person is drawing \$1,800 for 25 years service he would receive a pension of about \$700 to \$800 and gratuity of about \$20,000 odd.

30 Under the new Cabinet report there are better pension benefits - pension would be half of salary and \$30,000 gratuity for a person who is on the maximum of time-scale. (Exhibit P 1 - Record of service)

The plaintiff was confirmed on 1.7.62 and he opted for the Aziz scale and therefore had to pass Malay. He was placed on the pensionable establishment as a college trained teacher. He graduated in 1969 and was appointed as an Education Officer on 5.9.69 and had to undergo a probation period again. As a graduate he was required to pass Malay.

Cross-examination

Cross-Examination

40 Until today he has not passed the Malay. He is still on probation. In 1971 he did not sit for the examination - the examination was held on 21st and 22nd June, 1979. He was required to sit for Standard II examination consisting of 4 papers. In June, 1971 he was not present for the examination. Again on 13th and 14th December, 1971 he did not turn up for the examination.

In the High Court in Malaya

Plaintiffs Evidence No. 8

Tuan Syed Zainal Abidin Bin Syed Abdul Rani - 24th January 1978  
Cross-Examination (cont'd)

The examinations are held every 6 months. On 25.1.72 there was an examination for one paper on Standard II but the Plaintiff did not turn up. The examinations were held again on 5th and 6th June, 1972. He passed Paper I and failed Paper II and he just did not turn up for Paper III.

Yes, the Ministry extended his probation period on 5.9.72 with a warning to pass the prescribed examinations. The extension was for one year from 5.9.72. If he did not pass within a year the Ministry might give him another chance and give another extension of the probationary period for another year. If the Ministry does not extend the probationary period any further after giving 2 or 3 extensions there is a possibility that the Ministry might terminate his services.

10

On 12th and 13th December, 1972 despite the warning he was not present at the examination.

Yes the plaintiff met with an accident on 4th May, 1973.

20

Q. Did the Ministry give any further warning?

A. Yes, a warning and another extension for one year on 5.9.73.

After his second warning he was transferred. He was given another warning on 5.9.74 and again a further extension for two years. Yes in all he was given three warnings. It depends on the Teachers' Service Commission how many warnings they would give - basing on special grounds.

Yes I think Paper III Malaya culture is a tough paper - tough of all the papers. He would be confirmed in his appointment when he finishes all his papers - from the date of passing his last paper. In terms of his salary - it would be adjusted as though he had passed the examinations at the proper time. He would not get any arrears - only notional increments.

30

Now before any Division I officer can be confirmed in his appointment he has to pass yet another paper known as Peperiksaan Am Kerajaan. This is in substitution of the Malay Standard II examination. This has not been implemented so far by the Government.

40

The 10 years to entitle him to pension would be from the time he joined service although he is placed on the pensionable scheme later.

I do not have his records up to date. I have the record until 1973.

Re-examination

In the High  
Court in  
Malaya

The Passing of Standard II was introduced by the Public Service Department. He was made a Education Officer on 9.9.1969. He had to pass Standard II after that. In 1971 he had two opportunities to sit for the examination. Yes, in June, 1972 he sat for the examination and passed one paper.

Plaintiffs  
Evidence  
No. 8  
Tuan Syed  
Zainal  
Abidin Bin  
Syed Abdul  
Rani - 24th  
January  
1978  
Re-  
Examination

10

The warnings - Yes they are to the effect that the increments are stopped. Paper I is not as difficult as the culture Paper III.

Q. A person who has done B.A. History would he not be in a better position to pass?

A. Yes in English - but in Bahasa it may be difficult.

The general paper I mentioned earlier is also in Bahasa Malaysia.

Adjourned to 11th and 12th May, 1978

Intd. A.S.  
24.1.78

20

IN THE HIGH COURT IN MALAYA AT SEREMBAN

CIVIL SUIT NO. 195 OF 1974

Between

K. Ratnasingam

Plaintiff

And

1. Kow Ah Dek @ Kow Lian Poi

2. Yong Do @ Kuen Loh Choy

T/A Chop Fung Lee Heng

Defendants

No. 9  
Dr. N.  
Arumagasamy  
27th  
September  
1978  
Examination

IN OPEN COURT

30

THIS 27TH DAY OF SEPTEMBER, 1978

Coram: AJAIB SINGH J

G. Tara Singh Sidhu for Plaintiff

Tara Singh Sidhu

Mr. Jagjit Singh is not here - no instructions from the Official Liquidator for First General

In the High Court in Malaya

No. 9  
Dr. N. Arumagasamy  
27th  
September  
1978  
Examination  
(cont'd)

Insurance Company. Mr. Jagjit Singh says he has no objections to Dr. Arumugasamy's evidence being recorded today. He will if necessary recall the Doctor at Defendants' expense for cross-examination.

(Bundle of Documents marked "A")

No. 9

Dr. N. Arumagasamy - 27th September  
1978

PW 6 : Datuk Dr. N. Arumagasamy, affirmed states in English. 10

I am attached to the General Hospital, Kuala Lumpur.

I am the Head of the Department of Neurosurgery at the General Hospital.

Yes, I know the Plaintiff as my Patient. Yes, I issued two medical reports - dated 11th January, 1974 and 6th January, 1976.

Yes, a day or so after his accident I also examined the plaintiff in the General Hospital, Seremban. He was unconscious responding only to pain - Coma 3, Coma 4 is the last stage - before death. 20

The first report - he had contusion. He had brain oedema - swelling of the brain. He also had an injury on the shoulder and fracture of the nasal bone. After discharge he visited the hospital very frequently even until today for out-patient treatment. He has been coming quite consistently as an out-patient for treatment - about twice or thrice a month on the average - to see me. Earlier he might have come more often to see other doctors. 30

Yes, he is given pills for headache, seizure (fits) and neck - also neck physiotherapy. For seizures he has to take medicine for the rest of his life.

Yes, although minimal there was some brain damage.

The second report - vasomotor instability - as explained in the early part of report - no self confidence, no concentration etc. He now cannot be relied upon to carry on normal work - his 40



persistent feeling of not being well. I do not think he can be in a position to concentrate on studies.

In the High Court in Malaya

Vertigo - means sense of spinning. Piles - it is possible as a result of the head injuries. Yes, I have seen a change in the plaintiff - from my first report to the latest. Yes, it is a change for the worse not for the better.

No. 9  
Dr. N.  
Arumagasamy  
27th  
September  
1978  
Examination  
(cont'd)

10 His shoulder injury - he had a large laceration which was sutured in Seremban General Hospital. The wound had to be re-sutured in Kuala Lumpur after treatment.

The plaintiff underwent plastic surgery of the shoulder and it is now healed. The collar he is wearing around the neck again is as a result of the accident - he feels pain.

20 Going back to teaching? I wrote to the Ministry of Education to keep him away from teaching for 6 months. It is still early to say for sure.

The brain is a very sensitive organ - a slight damage to it would involve complications and can be serious.

Yes, the plaintiff is somewhat forgetful too.

Case adjourned to a date to be fixed.

Intd. A.S.  
27.9.78

IN THE HIGH COURT IN MALAYA AT SEREMBAN

CIVIL SUIT NO. 195 OF 1974

IN OPEN COURT

THIS 26TH DAY OF JUNE 1979

Coram: AJAID SINGH J.

G. TARA Singh Sidhu for Plaintiff

Dato' Wong Seng Chow for Defendant

G.T.S. Sidhu

Now agreed - page 6 of Bundle A

Medical report dated 24.5.79 - agreed marked B

No. 10  
A. Krishnan  
26th June  
1979  
Examination

Plaintiffs

Evidence

No. 10

A. Krishnan

26th June

1979

Examination

(cont'd)

PW 7 - A. Krishnan, affirmed, states in English:  
Aged 46 years, live at 5 Woon Estate,  
Tampin - Senior Assistant Teacher at  
Tunku Besar School, Tampin - also in 1973.

I know the plaintiff. He was my Head Master. I came to know him when he was posted there in 1969. I worked under him until he met with an accident on 4.5.73. As a Head Master he was a very active man, interested in sports. During his period in school hall, block of 5 classrooms, a school lab and a canteen were built. He was also responsible for getting a new school field of about 10 acres. I have been in this school since 1960. Yes, when the plaintiff came the school was galvanised with greater activity.

10

Yes, in 1973 a school magazine was printed that year. In it an article was printed about the Headmaster, Exhibit P 3 - Page 21 - 22. After the accident I met him on several occasions. He seemed to have a depression - keeps on repeating himself, also became superstitious - believing that the accident was caused by someone "Charming" him. He is not the same Mr. Ratnasingam.

20

Cross  
examination

Cross-examination

In 1960 the Headmaster was Mr. Sivam. In 1963 Mr. Joginder Singh took over, then Mr. Harchan Singh and in 1969 the plaintiff.

Mr. Sivam was there from 1956.

30

Q. Before the plaintiff came there were any application made for the extensions to the school?

A. Could have been but I cannot remember.

Q. Are you aware of the procedure for extensions?

A. Not very clearly - but you have to apply to the Ministry of Education.

Approvals - difficult to say - sometimes they are approved fast - sometimes slow - also depends on the man. For the field, the hall and the library - these I am sure - the applications were made by the plaintiff. Exhibit P 3 - page 21 - 23 - Mr. John

40

Pillai was the editor. I do not know who wrote the article - pages 21 - 23. These are yearly features.

In the High Court in Malaya

The school is an English medium school converted to National Language School. In fact there are two mediums even now - Malay and English.

Plaintiffs Evidence No. 10  
A. Krishnan  
26th June 1979  
Cross-examination (cont'd)

10 Q. You agree that when Malay medium is commenced more attention is paid by the Government?

A. Probably.

After the accident he was no more in school. I have met him in hospital, on social occasions and in the Education Department.

Re-examination

Re-examination

20 This magazine is produced at the end of the year. When Exhibit P 3 was published the plaintiff was no more in the school. John Pillai was the general adviser to the magazine. At the end of the article J.P. stands for John Pillai. Yes, I agree that if the Headmaster is not enthusiastic approvals for extensions would take a very long time. Particularly the field - the plaintiff went quite often to see the District Officer.

---

No. 10

Kamala Devi

---

30 PW 8 - Kamala Devi, affirmed, states in English:  
Aged 42 years, live at No. 44 Jalan 21/35, Sea Park, Selangor, Not working, staying at home - not married.

40 The plaintiff is my younger brother. We grew up together and have lived together often. I am now taking care of him since the accident on 4.5.73. Before the accident he was a very active man - always on the move - for games and he had a lot of friends. After the accident he became just the opposite. No initiative. Sits in one place - after work. Does not sleep as well at night. His memory is not good- as it used to be. I have to remind him. He does not dress up as before. He was clean - now very dirty. Never wants to change his clothes. His talking habits - He used to talk

In the High Court in Malaya

Plaintiffs Evidence No. 10 A. Krishnan 26th June 1979 Re-examination (cont'd)

sense - now no - he keeps on repeating himself.

He cannot sleep well - gets up at night and says it is paining and he cries. He is now very hot tempered. We have to listen to him whatever he says. He has no friends now - no entertainments - nothing. Before the accident he had many friends - used to entertain them.

I have a brother in the hospital - admitted twice for stomach pain. The plaintiff refuses to visit him. He does not read now - takes his school magazine - keeps on looking at it. He does not remember the accident. He visits the hospital very often to see the Doctor. I have to cut his hair - does not want to go the barber. He is entirely a different person then what he was before the accident.

10

Cross-examination

Cross-examination

I have never worked.

Yes, his getting up and crying at night happen very often.

20

Before the accident he was not hot tempered.

Adjourned to 18.7.79.

Intd. A.S.

No. 11 Dr. N. Arumagasamy 10th August 1979 Examination (Recalled)

IN THE HIGH COURT IN MALAYA AT SEREMBAN

CIVIL SUIT NO. 195 OF 1974

IN OPEN COURT

THIS 10TH DAY OF AUGUST, 1979

Coram: AJAIB SINGH J.

G.T.S. Sidhu

for Plaintiff

Dato Wong Seng Chow

for Defendants.

30

No. 11

Dr. N. Arumagasamy (Recalled) - 10th August 1979

P.W.6 Dato Dr. N. Arumugasamy, affirmed, States in English

(Recalled)

After I had given evidence I have seen and

10 examined the Plaintiff on several occasions. He has begun to complain about his previous contained pain and he now requires continuous medication and requires medication and physiotherapy for his neck complaint. He now has further complaints about his piles. Complains of lack of sexual urge - no interest. He also shows some degree of instability. Since 18.1.75 he has been to see me on the average of 5 - 6 times a month. He has been to other Specialists in the hospital - also 5 - 6 times a month. There has been no improvement in his behaviour and personality. He continues to feel depressed.

In the High Court in Malaya  
Plaintiffs Evidence No. 11  
Dr. N. Arumagasamy  
10th August 1979  
(Recalled) Examination (cont'd)

Q. He is unstable?

A. Yes, shows some instability.

Cross-examination:

Cross-examination

Q. Could any of these symptoms self-induced?

A. No, I doubt it.

Re-examination

Re-examination

20 No. I do not think he is malingering.

Court adjourns.

11.00 a.m. Court resumes.

(Bundle of Testimonials - agreed - marked Exhibit P4)

CASE FOR PLAINTIFF

No. 12

Defendants' submissions - 10th August 1979

No. 12  
Defendants' submissions  
10th August 1979

Dato'Wong Seng Chow

30 Not calling any evidence  
Submit - on quantum - injuries  
Refer to Medical evidence  
Plaintiff instable?

Das page 94 - Plaintiff 9 years old.

Page 86 - Faridah

Page 88 - Abdullah

In the High Court in Malaya  
 No. 12 Defendants' submissions 10th August 1979 (cont'd)

Page 96 at 97 - Tan Eng Kuan  
 Page 101 - Wan Tong Ling  
 Page 105 - Chong Fah Fay  
 Page 115 - Wong Ah Nga  
 Page 122 - Khoo See Moi

Medical Reports - Bundle A.

Evidence of P.W. 6 - Datuk Dr. Arumugasamy - injuries similar to cases cited.

Submit a sum of \$35,000 should be reasonable.

Claim for loss of promotion.

10

Evidence of P.W.1 - Asst. Director of Schools.

P.W. 5 - Tuan Syed Zainal Abidin - Promotions Bahasa Paper - Plaintiff has not passed that.

Failed to attend some papers.

Das Page 34 "Loss of promotion" (Nee Kee Siong)

Page 678 - Yip Chin Hock

Plaintiff still in service. No threat that he would lose his job.

Promotion - depends on his passing Bahasa.

Submit - Loss of promotion - no proof adduced.

20

He is not entitled to this claim.

Special Damages

Concede item 2 - \$500

No evidence to support the other 3 items.

Submit - \$35,000 should be allowed.

G. Tara Singh Sidhu

Loss of earnings and earning capacity

Refer to the evidence - P.W. 1

P.W. 3 - Plaintiff works in his section

P.W. 4 - Murugesu

10 P.W. 5 - Aziz Scheme - then the Cabinet salary  
Report.

Plaintiff was efficient - P.W. 3 and P.W. 4.

Only thing was that he did not pass Bahasa.

He has passed Paper I.

Exhibit P 1 - record of service.

Plaintiff could have passed Bahasa

Exhibit P 4 - National Language - use of the  
subjects.

He had the basis to pass Bahasa

Exhibit P 1 - went to University - 1966

20 After passing his H.S.C.

Opted to the Aziz Scheme - Exhibit P 1 - 1971.

One condition - to pass Bahasa

Plaintiff was then a Headmaster in Tampin.

Had to run the school and to sit for Bahasa.

Could not sit in 1971 - no reflection against the  
Plaintiff.

In June, 1972 - passed Paper I - failed Paper 2.  
Paper 3 he did not take.

He would have got through if not for the accident.

30 Did not sit in December 1972 - a busy month for  
Headmasters.

In the High Court in Malaya  
Malaya  
No. 13  
Plaintiff's submissions  
10th August 1979  
(cont'd)

In May 1973 -he met with the accident.

Now - he has no chance of passing - medical reports - evidence of Dr. Arumugasamy.

Defendants' doctor's report - Bundle B - Page 2.

Chances of promotion were good before the accident.

Now drawing \$1,225 per month. On G scale he would have got \$2,300 rising to \$2,400

Submit his loss of future earnings - \$1,000 - \$1,200 to age 55.

10

He would also have got increased pension.

After 55 - \$500 per month as a private teacher

Working life - up to 65

Plaintiff 37 at the time of the accident.

18 years more in Government services.

Ask for \$1,000 for 15 years - \$124,560

Loss of pension - 8 years \$1,000

Gratuity - differences would be \$10,000

Court adjourns

Intd. A.S.

20

2.20 p.m. Court resumes.

G. Tara Singh Sidhu (continues)

Kemp v Kemp - 3rd Edition Vol. 1 230

On injuries - Cases cited by Dato Wong Seng Chow 1963 - 70

Medical Reports

Head injury - brain damage

Das - page 102 - Loh Hock Guan - epilepsy - \$12,000.

Piles, loss of sexual urge.

For all these - Submit \$70,000

30

Change of personality.



No. 14

Decision - 10th August 1979

In the High  
Court in  
Malaya

No. 14  
Decision  
10th August  
1979.

Decision

	For the injuries, loss of amenities and pain and suffering	-	\$70,000.00
	Future loss of earnings at \$1,000 per month for 13 years	-	\$112,722.80
10	Loss of earnings after retirement plus pension factor - \$1,000 per month for 6 years	-	\$60,908.00
	Gratuity factor	-	\$10,000.00
	Travelling expenses to hospital	-	\$500.00
	6% interest on general damages for the injuries from date of service of Writ.		

Costs to the Plaintiff

Sgd: Ajaib Singh J.  
10.8.79

No. 15

Order - 10th August, 1979

No. 15  
Order  
10th August  
1979

20

IN THE HIGH COURT IN MALAYA AT SEREMBAN

CIVIL SUIT NO: 195 OF 1974

Between

K. Ratnasingam

Plaintiff

And

1. Kow Ah Dek @ Kow Lian Poi
2. Yong Do @ Yuen Loh Choy  
T/A Chop Fung Lee Heng

Defendants

BEFORE THE HONOURABLE MR. JUSTICE AJAIB SINGH

30

JUDGE, HIGH COURT, MALAYA, SEREMBAN

THIS 10TH DAY OF AUGUST, 1979

IN OPEN COURT

In the High Court in Malaya

No. 15 Order 10th August 1979 (cont'd)

O R D E R

THIS SUIT coming up for continued hearing this day in the presence of Mr. G.T.S. SIDHU of Counsel for the Plaintiff and Datuk Wong Seng Chow of Counsel for the Defendants AND UPON HEARING the evidence adduced and what was alleged by Counsel IT IS ORDERED that judgment be and is hereby entered against the Defendants as follows:-

(a) General Damages	\$ 70,000.00	
(b) Loss of future earnings prior to retirement	112,722.80	10
(c) Loss of future earnings after retirement	60,908.00	
(d) Loss of gratuity	10,000.00	
(e) Special damages for transport	500.00	
	<hr/>	
	\$254,130.80	

AND IT IS FURTHER ORDERED that interest on the general damages of \$70,000/- be paid by the Defendants at 6% per annum from the date of service of the Writ of Summons to date of realisation AND IT IS LASTLY ORDERED that the Defendants do pay the party and party costs of this action. 20

GIVEN under my hand and the Seal of the Court this 10th day of August, 1979.

Sgd: Illegible

Senior Assistant Registrar,  
High Court,  
Seremban.

30

This Order is taken out by Messrs. Khoo & Sidhu Solicitors for the Plaintiffs and whose address for service is at No: 14 Lemon Street (Upstairs) Seremban.

Grounds of Judgment - 19th September 1979

In the High Court in Malaya

IN THE HIGH COURT IN MALAYA AT SEREMBAN

CIVIL SUIT NO. 195 OF 1974

No. 16  
Grounds of Judgment  
19th September  
1979

Between

K. Ratnasingam

Plaintiff

And

1. Kow Ah Dek @ Kow Lian Poi

2. Yong Do @ Yuen Loh Choy

10

T/A Chop Fung Lee Heng

Defendants

GROUNDS OF JUDGMENT

The Defendants having admitted liability they now appeal against the award of damages.

20

The evidence for the plaintiff shows that as a result of the injuries which he had received there has been a marked change in his personality. He was an active school-teacher before he was appointed head master in Tampin, where he undertook various educational projects and carried them out successfully. Now after the accident he is depressed, he is uncomfortable, restless and sometimes talks to himself. Mr. V. Murugesu (PW 4) with whom the Plaintiff had been teaching in Victoria Institution said that the plaintiff was not the same Mr. Ratnasingam when he knew him at the Victoria Institution.

30

Upon his promotion to head master the Plaintiff had to pass Bahasa Malaysia consisting of four papers. He had passed the first paper which was essay and letter writing but not the other three papers. On the evidence which was adduced in this case I accepted the submission of counsel for the plaintiff that the plaintiff would in all probability have passed the remaining three papers if not for the injuries which he had received. He is now in no position to sit for any paper and he has thereby lost all chance of further promotion. Dato' Dr. Arumugasamy (PW 6) describe clearly the injuries and their effect on the plaintiff which tends to show that "the spring has gone out of his life". (Jenkins v. Green wood as reported in Kemp & Kemp 3rd Edition Volume 1 page 230).

40

In the High  
Court in  
Malaya  
No. 16  
Grounds of  
Judgment  
19th  
September  
1979  
(cont'd)

In all the circumstances of this case I agreed with counsel for the plaintiff as to the amount of damages which should be awarded to the plaintiff but I disagreed with him as to the numbers of years purchase in respect of future loss of earnings. For the injuries, pain and suffering and loss of amenities as well as his vast change in personality and depression that he is now suffering I awarded a sum of \$70,000. I also held that the Plaintiff was entitled to future loss of earnings as he would have been earning more after he had passed his bahasa Malaysia Examination. For this I awarded \$1,000 per month for a period of 13 years which came to \$112,722.80. The Plaintiff was also losing retirement benefits. If not for his injuries he would have climbed up the Superscale G salary scale. The evidence of Tuan Syed Zainal Abidin bin Syed Abdul Rani (PW 5) on this point was as follows:-

Prior to the accident the plaintiff was drawing \$1,000/- per month under the Aziz report. Under the present Cabinet report his salary would be converted to \$1,225 on probation. Under the Aziz scheme the superscale G scale is \$1,800 to \$1,900. Under the Cabinet scheme Superscale G salary scale is from \$2,305 to be \$2,425. 20

Under the Aziz scheme a pensionable Officer must serve at least 10 years. If a person is drawing \$1,800 for 25 years Service he would receive a pension of about \$700 to \$900 and gratuity of about \$20,000 odd. 30

Under the new Cabinet report there are better pension benefits - pension would be half of salary and \$30,000 gratuity for a person who is on the maximum of time-scale.

I awarded a sum of \$1,000 a month for 6 years for loss of earnings after retirement including the pension factor. This came to \$60,908.00. Similarly the loss he is going to suffer on the gratuity factor was awarded at \$10,000. Lastly I awarded \$500 as travelling expenses which were agreed plus the usual interest. 40

Dated this 19th day of September 1979.

Sgd: Ajaib Singh (AJAIB SINGH)  
Judge, High Court,  
Malaya, Seremban.

Mr. G.T.S. Sidhu for Plaintiff  
Solicitors Messrs. Khoo & Sidhu, Seremban

Dato' Wong Seng Chow for Defendants 50  
Solicitors Messrs. Shearn, Delamore & Co., Kuala Lumpur.

No. 17

Notice of Appeal - 14th August, 1979

In the  
Federal  
Court

No. 17  
Notice of  
Appeal  
14th August  
1979

IN THE FEDERAL COURT OF MALAYA AT KUALA LUMPUR  
(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL

No: 165 OF 1979

Between

10 1. Kow Ah Dek @ Kow Lian Poi  
2. Yong Do @ Yuen Loh Choy  
T/A Chop Fung Lee Heng Appellants

And

K. Ratnasingam Respondent

(In the matter of Seremban High Court  
Civil Suit No: 195 of 1974

Between

K. Ratnasingam Plaintiff

And

20 1. Kow Ah Dek @ Kow Lian Poi  
2. Yong Do @ Yuen Loy Choy  
T/A Chop Fung Lee Heng Defendants)

NOTICE OF APPEAL

TAKE NOTICE that (1) Kow Ah Dek @ Kow Lian Poi and (2) Yong Do @ Yuen Loy Choy T/A Chop Fung Lee Heng, the Appellants/Defendants herein being dissatisfied with the decision of the Honourable Mr. Justice Ajaib Singh given at Seremban on the 10th day of August, 1979 appeal to the Federal Court against the whole of the said decision.

Dated this 14th day of August, 1979.

30 Sd. Shearn, Delamore & Co.  
Solicitors for the  
Appellants.

To: The Registrar,  
Federal Court,  
Malaysia,  
Kuala Lumpur.

In the  
Federal  
Court  
No. 17  
Notice of  
Appeal  
14th August  
1979  
(cont'd)

And to:

The Senior Assistant Registrar,  
High Court,  
Seremban.

And to:

The abovenamed Respondent/Plaintiff  
and/or his Solicitors,  
Messrs. Khoo & Sidhu,  
No: 14, Jalan Lemon,  
Seremban.

10

The address for service of the Appellants  
is Chartered Bank Chambers, Jalan Birch,  
Seremban.

Filed this                    day of                    1979.  
and security in the sum of \$500/- lodged at the  
same time.

Senior Assistant Registrar,  
High Court, Seremban.

This Notice of Appeal is filed by Messrs.  
Shearn, Delamore & Co., Solicitors for the  
Appellants of and whose address for service is  
Chartered Bank Chambers, Seremban.

20

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Memorandum of Appeal - 20th September  
1979

In the  
Federal  
Court

No. 18  
Memorandum  
of Appeal  
20th  
September  
1979

IN THE FEDERAL COURT OF MALAYSIA

(Appellate Jurisdiction)

FEDERAL COURT CIVIL APPEAL NO. 165 OF 1979

Between

1. Kow Ah Dek @ Kow Lian Poi  
2. Yong Do @ Yuen Loh Choy  
T/A Chop Fung Lee Heng

10

Appellants

And

K. Ratnasingam

Respondent

(In the matter of Seremban High Court  
Civil Suit No. 195 of 1974)

Between

K. Ratnasingam

Plaintiff

And

1. Kow Ah Dek @ Kow Lian Poi  
2. Yong Do @ Yuen Loy Choy  
T/A Chop Fung Lee Heng

20

Defendant)

MEMORANDUM OF APPEAL

We, (1) Kow Ah Dek @ Kow Lian Poi and (2) Yong Do @ Yuen Loh Choy T/A Chop Fung Lee Heng, the appellants herein being dissatisfied with the decision of the Honourable Mr. Justice Ajaib Singh appeal to the Federal Court against the whole of the said decision on quantum given at Seremban on the 10th August, 1979 on the following grounds:-

30

1. That the Learned trial Judge awarded the sum of \$70,000.00 as general damages for the injuries, pain and suffering, and loss of amenities as well as change in personality and depression, and

(a) it is contended the Learned trial Judge misdirected himself as the award was excessive and he acted upon some wrong principle of law, and that the amount awarded was so extremely high as to make it

In the  
Federal  
Court

No. 18  
Memorandum  
of Appeal  
20th  
September  
1979  
(cont'd)

an entirely erroneous estimate of the damage.

(b) That the Learned Trial Judge failed to follow the assessments which the courts have made over the years as they form some guide to the kind of figure which is proper and which the Court should have followed.

(c) That the Learned Trial Judge mis-directed himself in appreciating the facts adduced and which facts if they had been fully appreciated would have shown the award was extremely in consistent with the discernible trend and that the award was made on an erroneous assumption. 10

2. The Learned Trial Judge erred in Law and in fact in awarding \$112,722.80 for the loss of future earnings prior to retirement; \$60,908.00 for loss of future earnings after retirement and \$10,000/- for loss of gratuity.

(a) The Learned Trial Judge misdirected himself on the evidence when he accepted the submission of counsel for the Plaintiff/respondent "that the plaintiff would in all probability have passed the remaining three papers if not for the injuries which he had received" when in fact there is evidence "IN 1971 he did not sit for the examination held on 21st and 22nd June, 1971. Again he did not turn up for the examination on the 13th and 14th December, 1971. He did not turn up for an examination on 28.1.1972. The examinations were held again on 5th and 6th June, 1972. He passed Paper I and failed Papers II and Paper IV and he just did not turn up for Paper III." 20 30

(b) The Learned Trial Judge was palpably wrong in holding the plaintiff is now in no position to sit for any paper and he has thereby lost all chance of further promotion.

(c) The Learned Trial Judge should have followed the evidence of PW 5 in that a person who has done B.A. History may be in a better position to pass English but in Bahasa it may be difficult. 40

(d) The Learned Trial Judge erred in law and in fact in holding "if not for his injuries he would have climbed up the Superscale G Salary Scale" when there is evidence that the plaintiff opted for the Aziz Scale and therefore had to pass Malay. This puts the



question of damages under this head even beyond the realm of little more than speculation.

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20th  
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(cont'd)

(e) The Award of loss of future earnings prior to retirement, loss of future earnings after retirement and for loss of gratuity and the findings on the same have been arrived at upon a misreading of the evidence in the case and upon erroneous approach to the case.

10

(f) The Learned Trial Judge erred in law in taking the pension into account when the weight of authorities and public policy support the view that Pensions are not to be brought into account in assessing damages at Common Law.

(g) The said findings are based conjunctivies and surmises.

(h) In coming to the said findings there is omission to consider material evidence.

20

(i) The said findings are manifestly erroneous and unjustified on a correct assessment of facts.

Dated this 20th day of September, 1979.

Sgd: Messrs. Shearn, Delamore & Co  
Solicitors for the Appellants

- (1) The Chief Registrar  
Federal Court of Malaysia  
Kuala Lumpur
- (2) The Senior Assistant Registrar,  
High Court  
Kuala Lumpur.
- (3) The Respondent abovenamed or their  
Solicitors,  
Messrs. Khoo & Sidhu  
No. 14, Jalan Lemon  
Seremban.

30

The address for service of the Appellants is c/o  
Messrs Shearn, Delamore & Co Chartered Bank  
Chambers, Seremban.

In the  
Federal  
Court

No. 19

Notes of Suffian, Lord President - 13th  
January 1981

No. 19  
Notes of  
Suffian, Lord  
President -  
13th  
January  
1981

IN THE FEDERAL COURT OF MALAYSIA AT KUALA LUMPUR  
(Appellate Jurisdiction)  
FEDERAL COURT CIVIL APPEAL NO: 165 OF 1979

Between

1. Kow Ah Dek @ Kow Lian Poi  
2. Yong Do @ Yuen Loh Choy  
T/A Chop Fung Lee Heng Appellants 10

And

K. Ratnasingam Respondent

(In the Matter of Seremban High Court  
Civil Suit No. 195 of 1974)

Between

1. K. Ratnasingam Plaintiff

And

1. Kow Ah Dek @ Kow Lian Poi  
2. Yong Do @ Yuen Loh Choy  
T/A Chop Fung Lee Heng Defendants 20

Coram: Suffian, L.P.;  
Salleh Abas, F.J.;  
Abdul Hamid, F.J.

NOTES OF SUFFIAN, L.P.

Tuesday, 13th January, 1981

Datuk S.C. Wong for appellants.  
G.T.S. Sidhu for respondent.

Datuk Wong addresses

Quantum only.

First ground

30

Flint v. Lovell (1935) 1 K.B. 354.

Davies (1942) A.C. 601, 616-7

Rasidin (1976) 2 MLJ 214, 215.

Above state principles on which Federal Court can disturb High Court Judgment.

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No. 19  
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Suffian, Lord  
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(cont'd)

Trial Judge awarded \$70,000.

Injuries in agreed medical report,

pp. 54-63.  
Page 54, F3.  
Page 56, B.  
Page 59, B3, E2. G.  
Page 60, B3.  
Page 61, C.  
Page 62, E4.  
Page 63, B4.

10

Rasidin (supra), p. 215. How to calculate damage.

Chan Kam Lan (1979) 1 MLJ xxxviii - \$50,000.

Chong Fah Fey (1970) 1 MLJ xv - \$54,000.

Yatina, same page - \$60,000.

20

Here respondent still employed. (Sidhu: yes but only as a clerk in the Education Office but paid - as a teacher - on old salary.)

Submit respondent should get only about \$60,000 or \$65,000.

Second ground

Page 49.

Judge assumed that respondent would have passed Malaya examination - as can be seen from the evidence. Submit he was wrong.

Page 20, PW.1.  
PW. 5, p. 31

30

From their evidence, various schemes, p.20 F3, p 21 C, G, p. 22 D5.

Page 31 D4 to p. 32 to p. 33

Page 35.

Mohd. Yusuf (1973) 1 MLJ 48, 49.

Here he drew same salary from accident until trial - so no loss of earning. Period 1. Respondent would have got promotion. Assumption wrong.

In the  
Federal  
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Notes of  
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(cont'd)

Here respondent not even confirmed.

Period 2.

Period 3.

Same argument applies here.

Trial judge wrong.

Submit respondent would not have passed his Malay exam. (he was 37 at time of accident on 5.5.73). So trial judge should have awarded him nothing.

Tara Singh Sidhu addresses

10

Difference between \$65,000 (suggested by Wong) and \$70,000 (judge's award) very small.

Here brain damaged. Though minimal damage, respondent suffered severe personality change. Page 74.

Page 74 to p. 75.

Page 37A. Coma 3.

Large laceration, p. 55B.

Page 55 F2. Epilepsy.

Page 37D. Medicine for life.

20

Piles, p.37F.

No concentration on studied.

Page 37 F2 - vertigo.

Page 43 B. No interest in sex.

Spring of life gone.

Kemp & K. on Damages, 3rd edition p. 230.  
Jenkins v. Greenwood \$8,000 for loss of sexual power.

Inflation should be taken into account, as done by all judges.

30

\$70,000 not too much.

Respondent started in ordinary way - gradually educated himself - became graduate, graduate teacher, headmaster.

Testimonial dated 1.9.60, p.79, Note he had passed bahasa.

Service record, p.1, shows how respondent rose. Pages 1, 2, 3.

Likely to have passed Malay if not for accident - in view of his past achievements.

Prospects of promotion good. Work satisfactory. As headmaster.

Page 209.

10 In normal circumstances he would have reached G.

Murugasu, p. 27 G, p.28 C, p.29.

Page 70.

On probability judge right to say respondent would have reached G.

Since trial G salary has been increased. Pension factor also.

Respondent kept in Education Office, p.24.

Page 25, p. 26.

20 Kemp & K., vol. 1, 4th edition, p. 135.

Respondent has lost earnings.

CAV

M. Suffian 13.1.81.

In the  
Federal  
Court

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Notes of  
Suffian, Lord  
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January  
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(cont'd)

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Federal  
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No. 20

Judgment of Federal Court - 21st February  
1981

No. 20  
Judgment of  
Federal  
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IN THE FEDERAL COURT OF MALAYSIA AT KUALA LUMPUR  
(Appellate Jurisdiction)

FEDERAL COURT CIVIL APPEAL NO: 165 OF 1979

Between

1. Kow Ah Dek @ Kow Lian Poi
  2. Yong Do @ Yuen Loh Choy  
T/A Chop Fung Lee Heng
- Appellants 10

And

K. Ratnasingam Respondent

(In the Matter of Seremban High Court  
Civil Suit No: 195 of 1974)

Between

K. Ratnasingam Plaintiff

And

1. Kow Ah Dek @ Kow Lian Poi
  2. Yong Do @ Yuen Loh Choy  
T/A Chop Fung Lee Heng
- Defendants 20

Coram: Suffian, L.P.  
Salleh Abas, F.J.  
Abdul Hamid, F.J.

JUDGMENT OF THE COURT

The respondent was the headmaster of Tunku Besar School, Tampin. On the 4th May, 1973 he was injured in a road accident at the 4th milestone Seremban Tampin road. Liability for the accident was conceded by the appellant, and so after hearing evidence on quantum the learned trial judge awarded him a total sum of \$254,130.80 made up as follows:-

- |   |   |              |
|---|---|--------------|
| (a) For pain suffering and loss amenities of life | - | \$ 70,000.00 |
| (b) Loss of future earnings prior to retirement   | - | 112,722.80   |
| (c) Loss of future earnings after retirement      | - | 60,908.00    |

30

(d)	Loss of gratuity	-	\$ 10,000.00
(e)	Special Damages for transport	-	500.00
			<u>\$254,130.80</u>
			=====

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10           Datuk Wong Seng Chow, Counsel for the  
appellant submitted that the quantum of damages is  
too high to be a fair and reasonable award. He  
said that the sum of \$70,000 awarded for pain,  
suffering and loss of amenities of life should be  
reduced to \$60,000 or \$65,000 and that there ought  
to be no award at all for loss of future earnings  
and gratuity, as the respondent continues to be  
employed on the same pay as before the accident,  
though he is no longer the headmaster of the school.

20           On admission to hospital following the  
accident, the respondent was in Coma III,  
responding only to pain. He had a marked contusion  
of his scalp over the right parietal region and  
showed evidence of a considerable evidence of  
brain oedema, i.e. swelling of the brain. He also  
had a large laceration over his left shoulder with  
considerable oedema measuring 5" x 2". In addition  
he had a fracture of his nasal bone with slight  
distortion and bleeding nostrils. He was  
discharged from hospital on 20th June, 1973 and  
subsequently seen regularly on follow-up check-ups  
by Dr. N. Arumugasamy, M.D. Head of Department of  
Neurosurgery on a number of occasions. He was  
pronounced fit to return to work in the middle of  
30           November, 1973 - i.e. about six months after the  
accident. According to Dr. N. Arumugasamy the  
respondent suffers a minimal brain damage  
resulting in a considerable change in his behaviour.  
He becomes very talkative and is full of complaints  
even over small matters. He has lost self-  
confidence and relies a great deal upon his sister  
for material support. He has frequent headache on  
the right side of his head and suffers decreased  
vision on his right eye. He is unable to apply  
40           himself to task requiring mental concentration,  
and has poor memory. He suffers from severe  
episode of vertigo - i.e. unsteady on his feet.  
He also has fits and dizziness. Further because  
of the accident he is wearing a collar around his  
neck. Dr. K.L. Yeoh of the Department of  
psychological Medicine of the University of Malaya  
and Dr. Teoh Jin Inn a consultant psychiatrist in  
private practice who both examined the respondent  
confirmed the conclusion of Dr. N. Arumugasamy.

50           For these injuries the learned judge assessed

In the  
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a sum of \$70,000 as damages for pain suffering and loss of amenities. In another case, Federal Court Civil Appeal No: 197 of 1979, heard by a different panel this court awarded \$70,000 for pain suffering and loss of amenities for more severe brain injuries caused to a girl aged 7 years now aged 11 years plus. The girl has suffered permanent irreversible brain damage with regressive effects, such as mental retardation to a child of 3 to 5 years old, inability to control her bowel and requiring constant care and attention. Admittedly the injuries in that case are more severe than those suffered by the appellant and so the award under this heading in this case for the sake of consistency should be less than \$70,000/-. However, we do not see any reason why we should reduce the award under this heading though it is on the higher side, unless it can be shown that the learned judge has wrongly used his discretion in arriving at this figure. In any case counsel for appellants submitted that the award under this heading should be between \$60,000 and \$65,000. The difference of \$5,000 between the judge's figure and counsel's figure is minimal and therefore gives us no reason to interfere with the award. And so the figure of \$70,000 awarded for pain suffering and loss of amenities of life is confirmed.

10

20

As regards loss of future earnings, the learned judge divided the award into two sub-headings, (a) \$112,722.80 as loss from the date of the accident to the date of respondent's retirement and (b) \$60,908.00 as loss after retirement. The award under subheading (a) is based on the assumption that, but for the injuries received by him, the respondent would be all probability have passed the Bahasa Malaysia examination and so would have the chance of being promoted to Superscale G post entitling him to a higher salary.

30

40

The respondent was and still is an unconfirmed education officer when he met with the accident on 4th May, 1973. He was appointed to the service subject to a three year probationary period with effect from 5th September, 1969. This period would have expired on 4th September, 1972 unless extended further. As regards his work several witnesses gave evidence in his favour that he was an efficient and capable officer. He, however, had problems with the passing of the prescribed Bahasa Examinations. Until and unless he has passed these examinations he would not be confirmed in the service and so there would not be any opportunity for further promotion in the service.

50



These examinations consist of four papers: Paper I (essay and letter writing), Paper II (grammar), Paper III (history and culture) and Paper IV (oral.) The examinations are held twice a year; in June and December of each year. So far a three year period of probation there are no less than six examinations held. As he was appointed on 5th September, 1969, the earliest opportunity for him to sit for the examinations was in December 1969 and the latest was June 1972. It is our view that the fact that he did not sit for the December 1969 examinations should not be held against him, because he was appointed to the service only four months earlier. However he made no attempts at all to sit for the examinations in the subsequent two years: 1970 and 1971. On 25th January, 1972 there was another examination, but the respondent never turned up for the examination. His first and only attempt was on 6th June, 1972, i.e. just three months before the expiry of his probationary period, when he sat for two papers - Paper I and Paper II. He passed in Paper I but failed in Paper II. When his probationary period ended on 4th September, 1972, the Ministry of Education extended it for another year until 4th September, 1973 subject to the stoppage of salary increments and a warning that he had to pass the remaining three papers during the one year extended period. Despite the warnings and the stoppage of increments he also did not sit for the December, 1972 examinations. No reason was given as to why he neglected to sit for these examinations. His counsel submitted that as the headmaster the respondent was too busy to sit for the examinations. In our view this is a lame excuse, because we know for a fact from our own experience as civil servants that there are thousands of other busy officers like the respondent, who yet sit and pass the examinations. He was injured on 4th May, 1973, i.e. one month before the June, 1973. i.e. one month before the June 1973 examinations. There is no evidence on record to show what preparations he had made in order to sit for these examinations, but judging from his previous attitude it is safe to conclude that he made no preparations at all. In the circumstances, we are of the view that the learned judge's assumption that the respondent would in all probability have passed the examinations cannot be sustained. The evidence completely negates such probability.

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The loss of future earnings assessed by the learned judge is the difference between the respondent's present salary and what he could get as a Superscale G officer, and this assessment

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began from the date of the accident as if he was already in Superscale G. In our view such assessment is untenable as it is contrary to evidence and common experience. It is a well known fact that the passing of the prescribed Bahasa Malaysia examinations only entitles an officer to confirmation in the service. It does not however automatically promote him to Superscale G. Promotion to this scale depends upon vacancies. Thus a confirmed officer has to wait for at least eight to ten years for a vacancy to occur before he can be expected to act in Superscale G. In the present case the respondent was not even confirmed, much less promoted to Superscale G which is as remote as it is purely speculative. The correct view should be that as he suffers no diminution in salary, but continues to be paid his accident salary he loses nothing, although he is now no longer the headmaster. We therefore hold that the learned judge's award of \$112,722.80 calculated at the rate of \$1,000 per month 13 years as loss of future earnings from the date of the accident to date of retirement cannot be sustained. 10 20

The second subheading for loss of future earnings is the sum of \$60,908.00 awarded for loss of earning after retirement. This figure represents the estimate income which he would otherwise enjoy from a post retirement occupation and the estimated reduced pension which he would suffer for losing the chance of promotion to Superscale G. The combined estimated loss of these two constituent elements is at \$1,000 per month for six years. The total loss therefore is arrived at the sum awarded. We do not know how much of this amount of \$1,000 is attributable to loss of pension and what is the method of calculating it. In our view since promotion to Superscale G was not even a possibility at the time of the accident, there can never be a loss or reduction of pension factor entitling him to higher pension. Loss of pension factor and reduction of pension should not at all be taken into consideration. We however agree that employment after retirement from the public service at the age of 55 is a common occurrence which should be taken into consideration. If not injured the respondent being a teacher would likely give a least private tuitions to some needy pupils. The income from such occupation may be fixed to be at \$600/- per month and taking into consideration various contingencies, such as illness and lack of interest in taking up post-retirement job we think it is fair that we should fix 5 years of purchase. This will bring a sum of \$31,172.23. 30 40 50

As for the award of \$10,000 for loss of gratuity factor, the assessment is also based on promotion to Superscale G. For similar reason stated above we quash this part of the award.

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Federal  
Court  
          
No. 20  
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Federal  
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1981  
(cont'd)

We however allow the amount of special damage of \$500.00 for travelling expenses to hospital.

In conclusion, our award is as follows:-

10	(a) For pain suffering and loss of amenities	\$ 70,000.00
	(b) Loss of future earnings	31,172.23
	(c) Travelling expenses to hospital	500.00
		<hr/>
		\$101,672.23
		=====

Interest at 6% per annum is charged on (a) from the date of the issue of the Writ, and interest at 4% on (b) and (c) from the date of the judgment.

The appeal is therefore allowed with costs.

20 (Sgd.) TAN SRI DATO  
MOHD. SALLEH BIN ABAS  
(Salleh Abas)  
Judge  
Federal Court.

Kuala Lumpur  
21st February, 1981.

Hearing on 13th January, 1981.

Counsel:

30 For Appellants: Dato' Wong Seng Chow  
c/o Messrs. Shearn Delamore & Co.,  
Advocates & Solicitors,  
Seremban.

For Respondent: Mr. G.T.S. Sidhu  
c/o Messrs. Khoo & Sidhu,  
Advocates & Solicitors,  
Seremban.

In the  
Federal  
Court

No. 21

Order - 21st February 1981

No. 21  
Order - 21st  
February  
1981

IN THE FEDERAL COURT IN MALAYSIA AT KUALA LUMPUR  
(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO. 165 OF 1979

Between

1. Kow Ah Dek @ Kow Lian Poi  
2. Yong Do @ Yuen Loh Choy  
t/a Chop Fung Lee Heng Appellants

And

K. Ratnasingam Respondent

10

(In the Matter of Seremban High Court  
Civil Suit No. 195 of 1974)

Between

K. Ratnasingam Plaintiff

And

1. Kow Ah Dek @ Kow Lian Poi  
2. Yong Do @ Yuen Loy Choy  
t/a Chop Fung Lee Heng Defendants)

CORAM: SUFFIAN, LORD PRESIDENT, FEDERAL COURT, MALAYSIA; SALLEH ABAS, JUDGE, FEDERAL COURT, MALAYSIA; ABDUL HAMID, JUDGE, FEDERAL COURT, MALAYSIA; 20

O R D E R

THIS APPEAL Coming on for hearing on the 13th day of January, 1981 in the presence of Dato Wong Seng Chow of Counsel for the Appellants and Encik G.T.S. Sidhu of Counsel for the Respondent AND UPON READING the Appeal Record filed herein AND UPON HEARING the argument of Counsel as aforesaid citing their authorities filed herein IT WAS ORDERED that this Appeal do stand adjourned for delivery of Judgment AND UPON THIS APPEAL coming on for delivery of Judgment this day in the presence of Dato Wong Seng Chow of Counsel for the Appellants and Encik Khoo Eng Chin of Counsel for the Respondent IT IS ORDERED that this appeal be and is hereby allowed and that the Order of the High Court below be and is hereby set aside AND IT

30

IS ORDERED that the Appellants do pay to the Respondent a sum of Ringgit Seventy Thousand only (\$70,000/-) as general damages and a sum of Ringgit Five Hundred only (\$500/-) as special damages AND IT IS ALSO ORDERED that the Appellants do pay to the Respondent a sum of Ringgit Thirty One Thousand One Hundred and Seventy Two and cents Twenty Three Only (\$31,172.23) as loss of future earnings AND IT IS FURTHER ORDERED that the sum of Ringgit Five Hundred Only (\$500/-) deposited into Court by the Appellants as security of this Appeal be and is hereby refunded to the Appellant AND IT IS LASTLY ORDERED that the costs of this Appeal be taxed and paid by the Respondent to the Appellants.

10

GIVEN under my hand and the Seal of the Court this 21st day of February, 1981.

20

Sgd. Illegible  
Senior Assistant Registrar,  
Federal Court Malaysia,  
Kuala Lumpur.

This Order is taken out by Messrs. Shearn, Delamore & Co., of the Chartered Bank Chambers, Seremban, Solicitors for the Appellants herein.

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No. 22

Order granting Final Leave to Appeal to  
H.M. the Yang Di Pertuan Agong - 2nd  
November 1981

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30

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT KUALA LUMPUR

(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO. 165 OF 1979

Between

1. Kow Ah Dek @ Kow Lian Poi
2. Yong Do @ Yuen Loh Choy  
t/a Chop Fung Lee Heng

Appellants

And

K. Ratnasingam

Respondent

40

(In the Matter of Seremban High Court Civil Suit  
No. 195 of 1974

In the  
Federal  
Court  
No. 21  
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February  
1981  
(cont'd)

No. 22  
Order  
granting  
Final Leave  
to Appeal  
to H.M. the  
Yang Di  
Pertuan  
Agong - 2nd  
November  
1981

In the  
Federal  
Court

Between

K. Ratnasingam

Plaintiff

No. 22  
Order  
granting  
Final Leave  
to Appeal  
to H.M. the  
Yang Di  
Pertuan  
Agong - 2nd  
November  
1981  
(cont'd)

And

1. Kow Ah Dek @ Kow Lian Poi
  2. Yong Do @ Yuen Loh Choy  
t/a Chop Fung Lee Heng
- Defendants)

CORAM: RAJA AZLAN SHAH, AG. LORD PRESIDENT,  
FEDERAL COURT, MALAYSIA:  
LEE HUN HOE, CHIEF JUSTICE, HIGH COURT  
BORNEO:  
MOHD. AZMI, JUDGE, HIGH COURT, MALAYA.

10

IN OPEN COURT

THIS 2ND DAY OF NOVEMBER  
1981

O R D E R

UPON MOTION preferred unto Court this day by  
Miss Rasamani Kandiah of Counsel for the  
Respondent/Applicant and mentioning on behalf of  
Messrs. Shearn, Delamore & Co., Solicitors for  
the Appellants/Defendants

20

AND UPON READING the Notice of Motion dated  
the 6th day of October, 1981 and the Affidavit of  
K. Ratnasingam affirmed on the 29th day of  
September, 1981 and filed in support of the said  
Motion

AND UPON HEARING Counsel for the Respondent/  
Applicant IT IS ORDERED that final leave be and is  
hereby granted to the Respondent to appeal to His  
Majesty the Yang Di Pertuan Agong against the  
Order of the Federal Court dated the 21st day of  
February, 1981 AND IT IS ORDERED that the costs of  
and incidental to this Application be costs in the  
cause.

30

GIVEN under my hand and the Seal of the Court this  
2nd day of November, 1981.

Sgd. Illegible  
Senior Assistant Registrar,  
Federal Court, Malaysia.

Filed by Messrs. Khoo & Sidhu, Solicitors for the  
Respondent/Applicant and whose address for service  
is at 6th Floor, Wing On Life Building, 16 Jalan  
Silang, Kuala Lumpur.

40

Exhibit 'A' - Medical Reports - 11th  
January 1974

Exhibit  
'A'  
Medical  
Reports  
11th January  
1974

N. ARUMUGASAMY, A.M., N.B., M.D.  
(S'pore) Diplomats Neurosurg, (USA)  
F.A.C.A. F.I.C.S. Consultant  
Neurosurgeon, and Head Dept. of  
Neurosurgery, General Hospital,  
Kuala Lumpur.

Date 11th January, 1974.

10 Messrs. Khoo & Sidhu,  
Advocates & Solicitors,  
No. 14 Lemon Street, (Upstairs),  
Seremban,

Dear Sirs,

Mr. K. Ratnasingam - H.123/73  
Your ref. TS/QEI/9787/73

20 The above patient was initially seen in the  
Department of Neurosurgery on 6.5.73 and was  
admitted then. He was discharged on 20.6.73 and  
has since been seen on follow-up on several  
occasions. He was apparently involved in a motor  
vehicle accident on 4.5.73 at about 12.45 p.m.  
for which he was admitted into the Seremban General  
Hospital. I initially saw him at Seremban in  
consultation and subsequently arranged for his  
transfer here to the General Hospital, Kuala  
Lumpur. At his initial examination, I found him  
to be in Coma III, responding only to pain. He  
was irritable and showed evidence of marked  
30 contusion of his scalp over the (R) parietal area.  
He also had difficulties in respiration and showed  
evidence of considerable brain oedema. The  
following day, his level of consciousness improved  
and he was in a fit position to be transported to  
the General Hospital, Kuala Lumpur. There was a  
large laceration over his (L) shoulder area with  
considerable oedema which had been sutured  
previously. This measured 5" x 2". In addition,  
40 there was a fracture of his nasal bone with slight  
distortion and bleeding nostrils.

Following his admission here, angiography was  
done and this revealed normal appearances. However,  
to give him the benefit of the doubt, a burrhole was  
placed over the parietal area but there was no  
evidence of any hematoma or blood clot. He was  
treated with lafix and steriods and nichkolin. He  
was nursed through and following his recovery from  
his head injured status, had to require plastic  
care for wound closure over the (L) shoulder.

Exhibit

'A'

Medical  
Reports  
11th January  
1974  
(cont'd)

The patient made uneventful recovery and was subsequently discharged from our Centre on 20.6.73.

He has subsequently been seen on follow-up on 4.7.73, 1.8.73, 4.9.73, 8.10.73, 17.10.73, and again on 5.11.73. He was pronounced fit to return to work towards the middle of November, 1973. He required anticon-vulsives throughout his hospitalization and subsequently due to a seizure tendency that he developed during his head injured state. He now presently continues on this anti-convulsent therapy.

10

This patient has at the present time evidence of minimal brain damage. Although he is not given to headaches as such, he occasionally suffers from them. He has become increasingly talkative and garrulous by nature and seems to improve ever so slowly on our repeat examination. He, on his visit on 17.10.73, complained of further headaches on the (R) side and decreased vision on the (R) and examination at this time revealed evidence of mild pallor of the optic disc in the (R) side. An eye consultation was placed and visual acuity would appear to be satisfactory. If you have any further questions, I shall be more than pleased to try and answer them for you.

20

Thanking you for your inquiry, I remain.

Yours sincerely,  
Sgd.  
(N. Arumugasamy, M.D.)  
Head, Department of  
Neurosurgery

30



Exhibit 'A' - Medical Reports 6th January 1976

N. ARUMUGASAMY, A.M. M.B. (Mal), M.D.  
(S'pore) Diplomate Neurosurg, (USA)  
F.A.C.S., F.I.C.S., Senior Consultant  
Neurosurgeon, and Head Dept. of  
Neurosurgery, General Hospital, Kuala  
Lumpur.

Exhibit  
'A'  
Medical  
Reports  
6th January  
1976

Tel. 86161/290421 Ext. 422

6th January, 1976

10 Messrs. Khoo & Sidhu,  
No. 14 Lemon Street (Upstairs),  
Seremban.

Dear Sirs,

Mr. K. Ratnasingam, 36 years - N.123/73  
Your ref: TS/QEI/9787/73

20 The above was seen in the Department of  
Neurosurgery on 6.5.73. He was discharged on  
20.6.73 but since his discharge has been seen on  
regular follow-up examinations at our Neurosurgical  
Out-patient Clinic. He was apparently quite well  
until he was involved in a motor vehicle accident  
on 4.5.73 at about 12.45 p.m. which led to his  
admission to the Seremban General Hospital. I  
was called to the Seremban General Hospital from  
Kuala Lumpur in consultation to see him there. I  
then arranged for his transfer to the General  
Hospital, Kuala Lumpur for further treatment.

30 At his initial examination, he was comatose  
responding only to pain. He showed marked  
evidence of irritability and contusion of his (R)  
parietal cortex. He also was having difficulty  
in breathing and showed evidence of considerable  
cerebral oedema. His level of consciousness  
improved the following day, making him fit for  
transportation to the General Hospital, Kuala  
Lumpur. A large laceration over his (L) shoulder  
area with considerable oedema had been sutured  
previously but this gave way requiring secondary  
suture here at the General Hospital, Kuala Lumpur.  
40 This laceration measured some 5" x 2" at the time  
that the sutures gave way. In addition he had a  
fracture of his nasal bone with some distortion  
and bleeding from his nostrils.

Following his admission here, angiography was  
undertaken and this showed normal appearances. A  
burr hole was placed in view of the rather slow  
recovery from the comatose state and no definite  
blood clot was found. He was treated with lazix  
and steroids and nickholin. The patient was

Exhibit  
'A'  
Medical  
Reports  
6th January  
1976  
(cont'd)

discharged from our care on 20.6.73. He was subsequently seen on follow-up examinations on 4.7.73, 1.8.73, 17.8.73, 4.9.73, 8.10.73, 17.10.73, 5.11.73, 7.12.73, 11.3.74, 6.4.74, 17.4.74 and thereafter at monthly intervals up to the present time of this report. He was pronounced fit to return to work towards the middle of November, 1973. However, he continued to require anti-convulsant medication throughout his hospitalization and to the present time due to a seizure disorder since the head injury that he sustained. He is presently still on anti-convulsant therapy. 10

There has been considerable change in the behaviour of this patient since the accident. I have been given to understand that he has lost considerable self-confidence and is unable to apply himself to tasks requiring mental concentration. He has become increasingly talkative and garrulous by nature but continues to show very short attention spans. He was full of complaints and paid undue emphasis to small things which would ordinarily be considered unimportant by a normal person. In view of the past head injured state, he is also given to headaches and some degree of vasomotor instability. 20

On the 24th of July, 1973, he came down with a severe episode of vertigo and although he never really fell, he became very unsteady on his feet. These vertiginous episodes, which were first complained of at this time, were attributed to labyrinthine dysfunction. He was placed on Stemetil 5 mg. bid. and followed up. 30

In October of 1973, he first began to complain of poor memory. He was unable to recall words, recall places where he might have placed objects the day previously associated with some decrease in his vision over the (R) eye. Examination revealed mild optic pallor and he was given further medical leave at this time. 40

In April of 1974, he developed a perianal fistula with mild external piles and required treatment. He subsequently underwent an operation for a fistula in ano. It is difficult to state if the piles and fistula were the direct result of his head injured state. It is entirely possible that repeated enemas during his inpatient stay in hospital may have aggravated the onset of a piles situation. However, it must also be realised that people in his age group are not infrequently given to this similar ailment. 50

Exhibit  
'A'  
Medical  
Reports  
6th January  
1976  
(cont'd)

10 Since his visit to us in April of 1974 he has been seen very regularly, almost on monthly basis, for various vague complaints. These have all been related with a loss of confidence with some degree of immaturity not becoming of a Headmaster. Complaints of frequency of misturition, lack of sexual urge and other somatic complaints, like backache, dizziness, hazy vision, were all considered in the light of a post head injured state. Supportive medications and reassurance were given during his visits to us. During several clinical interviews, he was profusely communicative and most of its content was indicative of a dependence of his close relatives for material support. This again speaks for loss of self-confidence on the part of the individual who up to then prior to the accident, was a decision maker in the family.

20 Neuorlogically, however, I am unable to document any neurological deficits from the point of view of paralysis or impairment of movement is concerned. The only problem at the present time would appear to be a memory change with lack of confidence and inability to concentrate and a continued dependence on sisters for material support. In addition, he requires regular medications for a seizure disorder which he unfortunately acquired as a result directly of the  
30 please not hesitate to write to us.

Thanking you, I remain.

Yours sincerely,  
Sgd.  
(N. Arumugasamy, M.D.)  
Head  
Department of Neurosurgery

Exhibit  
'A'  
Medical  
Reports  
11th May  
1977

Exhibit 'A' - Medical Report - 11th May  
1977

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UNIVERSITY MALAYA  
Lembah Pantai  
Kuala Lumpur.  
Bil. Kami.

Your ref. JS/P/282/11364

11th May, 1977.

Jagjit Singh & Co.  
Room 1104, 11th Floor,  
Lee Yan Lian Building,  
Jalan Tun Perak,  
Kuala Lumpur.

10

K. Ratnasingam - Age 39+ years

UHRN. 385084

Patient was seen on three occasions, 7.5.77, 9.5.77 and 10.5.77. During testing patient occasionally complained of being in pain but this was ignored. He was also somewhat loquacious. With firm handling patient was co-operative and his speech was coherent; he was not anxious.

20

On the WAIS (Wechsler Adult Intelligence Scale) patient obtained a full scale I.Q. of 104 (average) with verbal I.Q. at 111 and I.Q. 95, this discrepancy of 16 points between the verbal and performances scores does indicate that this right hemisphere is functioning at a lower level than the left hemisphere. As for the subtests there was little scatter except for digit symbol. In digit symbol (this test involved eye and hand co-ordination) he was extremely slow. This does indicate slight dysfunction in motor movements. Moreover his handling of either a pen or pencil shows him to be awkward with fine motor movements.

30

On the aphasia screening tests patient evidenced no dysfunction. On sensory perceptual examination (finger tip number writing and astereognosis) patient evidenced no dysfunction.

On the factual Performance Test, patient was slow with his right hand but was good with the left hand as well as when both hands were used. His memory and tension scores were with normal limits. The time taken for him to finish this test also indicate minimal brain dysfunction.

40

On the Trial making test, patient performed

adequately on Part B but was slightly slow on Part A, this again indicate a less efficient right hemisphere.

Exhibit  
'A'  
Medical  
Reports  
11th May  
1977  
(cont'd)

Opinion

There is minimal dysfunction in patient's right hemisphere. As for his concentration and memory I find it to be adequate for my testing.

Yours sincerely,  
Sgd. Dr. K.L. Yeo  
Lecturer  
Department of Psychological  
Medicine, University of Malaya,  
Kuala Lumpur.

10

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Exhibit 'B' - Medical Report - 24th May  
1979

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'B'  
Medical  
Report  
24th May  
1979

DR. TEOH HIN INN  
CONSULTANT PSYCHIATRIST  
M.B.B.S. (Sing), DPM (Eng).,  
FRC Psych (Lond) MANZC (Aust. & N.S.)  
AM (Mal.)  
Dip Psychotherapy (Aberdn)

20

RN 000623                      2nd Floor, Bangunan Juru Ukur,  
64/66, Jalan 52/4,  
Your Ref:                      Town Centre,  
SD 2040/13(CA)                Petaling Jaya, SELANGOR  
Tel. 03-551869

Attn: Mr. Surinder Gurdial Singh

Shearn, Delamore & Co.,  
Advocates & Solicitors,  
P.O. Box No: 138  
Kuala Lumpur, 01-02

30

24th May, 1979

Dear Sirs,

Re: Psychiatric Opinion and report  
on Mr. Ratnasingam s/o Kumarusamy  
42 years, Male, Indian.  
Education Officer.  
Seremban High Court Civil Suit No.195/74

Thank you for referring Mr. Ratnasingam whom I saw at my clinic. I interviewed him and his sister,

40

Exhibit

'B'  
Medical  
Report  
24th May  
1979  
(cont'd)

Madam Kamala Theyy on 22.5.79 and on 23.5.1979.

He was involved in a motor vehicle accident on 4.5.73 and sustained multiple injuries and a head injury whereby he was comatose. He was subsequently transferred from Seremban General Hospital to Kuala Lumpur General Hospital under the care of Dr. N. Arumugasamy - Senior Consultant Neurosurgeon.

Prior to the accident he was a stable, self-confident, extraverted, athletic person who was full of drive and was pursuing a fairly successful career as a Headmaster at Tampin. 10

It has been 6 years since his accident and head injury and he came to see me wearing a collar to support his cervical spine. His sister said that he has undergone a severe change of personality since the accident. In view of his disabilities and virtually continuous pain over his body, he has become morose, irritable, isolated and shuns all friends and company. He would sit alone for hours staring into space and has no interest whatsoever in anything. He neglects his hygiene and has lost interest in even dressing tidily. His sleep has become irregular and he takes no interest in eating or his toilet habits. 20

There are periods when he becomes confused and disorientated, at intervals he can be a very reasonable person and at other times totally unreasonable. His personality has become exactly the opposite of what he was prior to his accident. 30

On interviewing Mr. Ratnasingam he complained of constant pain over his right temporal region, his neck at the bridge of his nose, left shoulder, right knee pain and lumber pain. This pain is temporarily relieved by analgesic drugs. He is aware that he has changed to become irritable, drugs. He is aware that he has changed to become irritable, preoccupied with his pains and his bodily functions. He has become self-centred, hypochondrical and isolated. He admits to depression since the accident - since he is now a cripple no more able to do the active, athletic activities he used to enjoy. In fact he broke down and cried over his fate when we discussed his disabilities after the accident. 40

When alone, he would cry quietly to himself ruminating over his handicaps and his family responsibilities. There is no doubt that Mr. Ratnasingam has been suffering from a depressive reaction over his incapacities had has had a 50

severe personality change from that of an extra-  
verted, active man to become a cripple who is  
constantly tortured by pain.

Exhibit  
'B'  
Medical  
Report  
24th May  
1979  
(cont'd)

10 Clinical examination for brain damage has  
indicated that there is minimal brain damage  
sustained by the head injuries. He is slow in  
his reaction but was able to perform the clinical  
test (orientation, 5- minute memory test, proverb  
test for abstraction, subtraction test, digit span  
test) quite adequately with a few mistakes.

Mr. Ratnasigman's problem are summarized as  
follows:-

- 1) Minimal brain damage with epilepsy;
- 2) A chronic disease personality whereby he has  
become a changed personality i.e. from that  
of an active extraverted person to that of a  
sad hypochondriacal and isolated person.
- 20 3) A depression reaction due to his physical  
handicaps and injuries and constant pain  
(which can be aggravated by a chronic disease  
personality).

There is no doubt that the motor vehicle  
accident he sustained in May 1973 has had a devastating  
effect on his life and has physically and mentally  
handicapped him to a vast extent.

Sgd.  
Dr. Teoh Hin Inn  
Consultant Psychiatrist.

30 cc. Mr. Ratnasingam s/o Kumarasamy,  
44 Jalan 21/35,  
Petaling Jaya,  
Selangor.





ENCIK K. RATNASINGAM

Post	Pensionable Non-Pensionable or paid from on open vote	Date of Appointment	Monthly salary	Remarks
Pel.Phg.1177/ Vol.2(70)STK/ 1037/2/(98L)				Selected to attend a one year course in physical Education at the Specialis Institute K.L. w.e.f. 1.1.62
Pel.Phg.386/ 55/B(35)K.P. 5338/1 Vol.4 (418)P.A.C.G./ 33/14/2/1.Vol 14/57				Confirmed in appointment w.e.f. 12.1.61 and emp ced on the Pensionable establishment w.e.f. 1.7.62
Eng.Sch.Tr. Col.Trd.Abu Bakar School Temerloh	N.P.	1.2.62	352	Annual Increase
"	Pension	1.1.63	352	Returned from Specialis Teachers Institute, KL. Obtained a Gr. 1 Cert. in Physical Education.
STK.1099/2 (14)Pel.Phg. 1177/3/131				

Exhibit

P.l.  
Record of  
Service  
(Translation)  
(cont'd)

Exhibit

P.l.  
Record of  
Service  
(Translation)  
(cont'd)

ENCIK K. RATNASINGAM

	Post	Pensionable Non-Pensionable or paid from on open vote	Date of Appointment	Monthly salary	Remarks
Pel.Phg.1663/ 3/2/Prl.Phg 1663/6/(84) dIm.Pel.Phg. 2955/(3)dIm Perj.Pel. Sel.5737	Eng.Sch.Tr. Col.Trd.Abu Bakar School Temerloh "	Pension "	1.2.63 1.2.64	366 380	Annual Increment - do - Transferred to the Met dist Boy's Sec.Sch.KL. w.e.f. 1.11.64
SE.5737/6	"	"	1.11.64	389	Transferred from Pahan & posted to Methodist Boy's Sec. School, KL. w.e.f. 1.11.64.
- do -	"	"	1.2.65	394	Increase
- do - (19)KP(pp) 0036/10/41	"	"	1.2.66	408	Granted a Non-Pen. ALICE. of \$14/= p.m. w.e.f. 11.1.65 Increase
SE.57/37/25	"	"	1.2.66	408	Increase

ENCIK K. RATNASINGAM

Post	Pensionable Non-Pensionable or paid from on open vote	Date of Appointment	Monthly salary	Remarks
SE.5737/KP (PP)0048/ 5/8				Granted 540 days half pay leave and 555 no pay leave w.e.f. 23.5.66 Ceased to draw ½ pay leave w.e.f.14.11.67 and now is on no pay leave for 555 days.
" /97A	Pension	1.3.67	422 00	Granted one additional increment for passing HSC Exam. w.e.f. 1.3.67 vide KP(PP)0046/5/8(9) dd.13.4.67
" /99A	"	24.1.69	422 00	Placed back to teach in SMJK(English) Kajang w.e.f. 24.1.69
" /104	"	24.2.69	450 00	Given 3 (National Increments) w.e.f. 24.1.69 vide bil: 102 dlm.Pej.Pel. Sel. 5737.
		1.2.69	460 00	

Exhibit

P.1.  
Record of  
Service  
(Translation)  
(cont'd)

Exhibit  
P.l.  
Record of  
Service  
(Translation)  
(cont'd)

ENCIK K. RATNASINGAM

	Post	Pensionable Non- Pensionable or paid from on open vote	Date of Appoint- ment	Monthly salary	Remarks
SE.5737/109A KP (PP) 5002/391/ (18)	Graduate teacher	Pension	21.4.69	464 00	Transferred to Victoria Institution, KL.w.e.f. 21.4.69
KP.SULIT.0503/ PP(137)SE 5737 /131	Sgd. o.b. Chief Education Officer Selangor				Transferred as Guru Besar Sek.(M) Tunku Besar, Tampin, N. Semb w.e.f. 7.10.69
SPA.J./44851/ 2KP (PP) (5002/ 39/(32) SE.5737 /135) (SE /137)	Education Officer (M)	Pensionable	5.6.69	592 00	Appointed as Education Officer in Ministry of Education w.e.f.5.9.
	"	"	5.9.69 to 6.10.69	592 00	Adjustment of salary for period 5.9.69 to 6.10.69
(2)dIm.JP.NS P/6103KP. SULITO503/OP /139	o.b. Chief Education Officer, Selangor. "	"	7.10.69	592 00	Transferred from Selangor placed to teach in Sek.Men. Tunku Besar.

ENCIK K. RATNASINGAM

	Post	Pensionable Non-Pensionable or paid from on open vote	Date of Appointment	Monthly salary	Remarks
(32) & (33) Jln.JP.NS P/6103	Education Officer (M)	Pensionable	1.8.70	592 00	Stopped contributing to widow's and Orphans Pension Scheme according to prescribed form 'S' part 1, para 2(b) Date opted was 22.6.70
(44)dIm.JR. NS.P/6103 (52)	"	"	1.10.70	628 00	Change in nett salary and placed in Education Service Circular Bil: 1071(JPA.SULIT 2804/Bhg.5/(46)Jad.Bil.Kat D. 1 date of increment of New Salary unchanged 1st.Oct. 800x50-850 SP/950x50-1 New salary scale: 150/SK 1/1,300x50-1,500/SK 11
			1.10.71	662 00	
			1. 1.70	850 00	
			1.10.70	950 00	
			1.10.71	1000.00	

Exhibit  
P.l.  
Record of  
Service  
(Translation)  
(cont'd)

<u>Exhibit</u>		<u>Remarks</u>	
P.l. Record of Service (Translation) (cont'd)	Perj. 25760/Bhg IV/62(14) BS 247/26/(54) & (60) JPNS.48/14. Vol.2/(9) & (17)	Absent for Std. 11 Governemtn Malay language Examination on 21st and 22nd June 1971.	
	Perj.28343/Bhg IV ( )247/(27) Bil. (35)d1m.JPNS48/ 14.Vol 2	Absent for Malay Language Examination Std. 11 on 13th & 14th December, 1971.	10
	Perj.26343/Bhg. IV. Bil:(72)d1m.NS. 2247/27bil: (73) d1m. NS 247/27 JPNS.48/14 Vol.2/37	Absent for paper 11 in History and Culture Std. 11 Government Malay Language Examination on 25.1.	
	Perj.26718/ Bhg.4(30)	Has passed in paper 1 but failed in paper 11 and 1V and was absent for paper 111 in Std. 11 Malay Language Government Examination on 5th & 6th June, 72.	20
	SPA.J/44851/ 11.bert.27. 3.73KP(PP) 5001/391/49 bert.12.3.73	Approval given by Public Services Commission for extending the probation period with fine for another year w.e.f. 5.9.72 as Education Officer or until the date of completion, whichever is earlier.	
	Perj.27263/ Bhg.4(2)bil (51)d1m.NS.247/ 29.JPNS.48/14. Vol.2/58B.	Ab-sent for Government Malay Language Examination on 12th and 13th December, 1972	30
	" (68) Perj.27720/ Bhg.	Absent for Government Malay Language Examination on 12th and 13th June, 1973.	
	SPP.70/1/1 -92/(16) 87A/5737	Approval given by Education Services Commission for extending his probation period with fine for another year w.e.f. 5.9.73 as Category D 1 Education Officer.	40

Sgd.  
Director of Education  
Negeri Sembilan

	<u>Remarks</u>	<u>Exhibit</u>
	Transferred to Victoria Institution, Jalan Shaw, KL. w.e.f. 1.5.	P.1. Record of Service (Translation)
	Transferred from Sek. Tunku Besar, Tampin to S.M. Victoria Institution, K.L. w.e.f. 1.5.74	(cont'd)
10	Failed in Section 11 and 1V in Std. 11 Government Bahasa Malaysia Examination which was held on 17th and 18th June, 1975 absent for paper 111.	
	Approval given by Education Services Commission to extend his probation period with fine and warning for another 2 more years w.e.f. 5.9.74 as Category D 1 Education Services Officer.	

20

Sgd.  
o/b. Director of Education  
Selangor and Federal Territory  
15/12/75

This is the True Translation of the Original Document produced in Serial No. 252 of 1981.

Interpreter  
High Court,  
Kuala Lumpur.

Exhibit

P.2  
Letter of  
Protest

Mr. Ratnasingham was originally transferred to Selangor on compassionate grounds.

He has been in the V.I. since only 21.4.69. He is teaching History to Upper 6 and Form 5 classes. The school is desperately short of teachers. We are working without eight graduates and classes are being combined to meet the acute shortage.

Pupils have been very badly affected by the disturbances. Much of our syllabus is left to be completed and the transfer of Mr. Ratnasingham will surely result in the failure of many innocent children in the Arts classes.

I appeal in the name of the future of the pupils, who have been badly affected by the closure of the school during the disturbances, to postpone or cancel the transfer of Mr. Ratnasingham or send a replacement immediately.

I would strongly urge that his appeal be given sympathetic consideration. His is a very deserving case.

GURU BESAR, V.I.

Enche' Ratnasingham mula 2 di-tukarkan ke-Selangor atas dasar belas kasihan.

Beliau telah berada di-V.I. mulai ~~disin~~ 21.4.69 sebagai. Beliau mengajar ~~2~~ Ilmu Sejarah di-Tingkatan Enam Atas dan Tingkatan Lima. Sekolah ini sangat 2 kekurangan guru. Kami bekerja dengan kekurangan lapan 2 orang guru siswazah dan kelas 2 tersebut terpaksa di-chantumkan untuk mengatasi kesukitan tersebut. Pelajaran Murid 2 telah banyak terganggu akibat ketidakhadiran. Banyak lagi daripada sukatan pelajaran kami belum di-habiskan ~~and~~ dan perukaran Enche' Ratnasingham mungkin mengakibatkan kegagalan banyak murid 2 yang tidak berdosa di-kelas 2 Sastera.

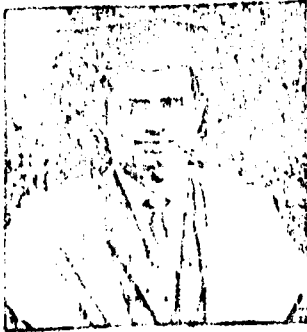
Saya merayu di-atas nama masa depan murid 2, yang telah terganggu dengan tertutupnya sekolah masa ketidakhadiran, supaya mengijinkan atau membatalkan ~~perukaran~~ perukaran Enche' Ratnasingham atau menghantar perganti-nya dengan segera.

Saya meragukan gesean yang rayuan beliau di-beri pertimbangan yang sa-wajar-nya. Rayuan-nya layak di-beri pertimbangan.

Wahid Husna Saibek



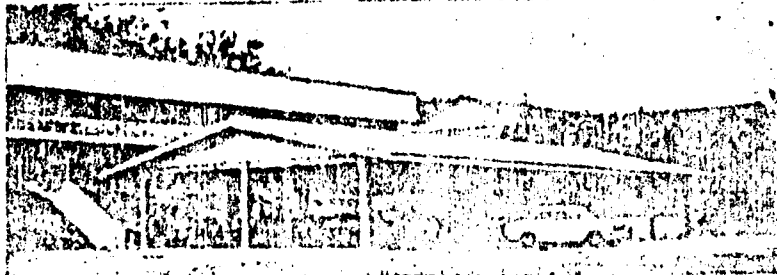
# Mr. K. Ratnasingham, Our Headmaster.



Mr. K. Ratnasingham

If anyone writes the history of our school, surely Mr. K. Ratnasingham will be on record as one of the modern pioneers of our school. Our School has come a long way to what it is now; from a little setup but in 1924 to a huge complex in 1973. The scope for further development is unlimited. And the man most responsible for getting for our school many buildings and facilities is none other than our Headmaster, Mr. K. Ratnasingham.

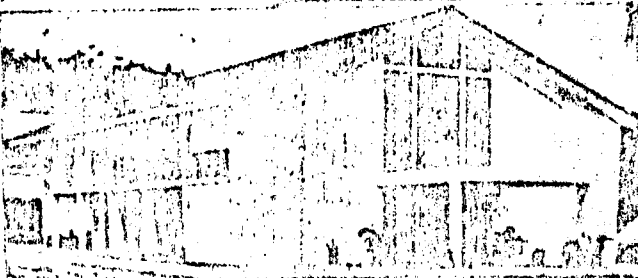
Mr. K. Ratnasingham, B. A. Hons. (Mal.), C. T., S. I. T. I., became the Headmaster of our School in 1969. Though he has been here only for a



Our new Canteen: KR was a regular customer...

short period, he has done a tremendous lot for the school. One outstanding feature of Mr. Ratnasingham was that he was personally involved in whatever he had in mind. And he had plenty in mind.

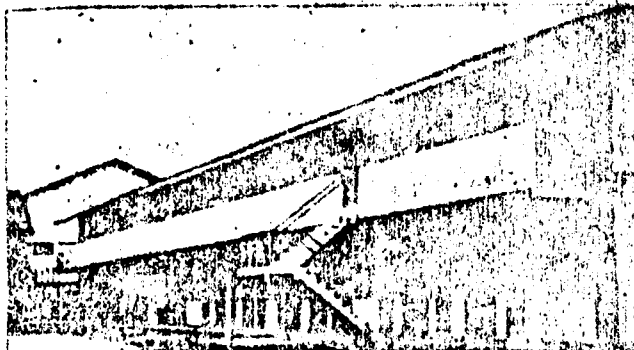
He wanted a new Padang, a new Canteen, a new Library, additional Science Blocks, more Classrooms, and even a Retaining Wall and a new Gate! He would talk about his plans in the school, in the Canteen, on the Padang and in the



The New Hall: KR's favourite swimming and

Club. And he succeeded in getting all these for the School by pestering everybody he could possibly pester!

He would appeal to the Ministry of Education, the C.E.O., the Board, and everyone till he finally got for the school all these much needed amenities. That was not all. Mr. Ratna would personally supervise the work-site. His



The New Library and Science Blocks

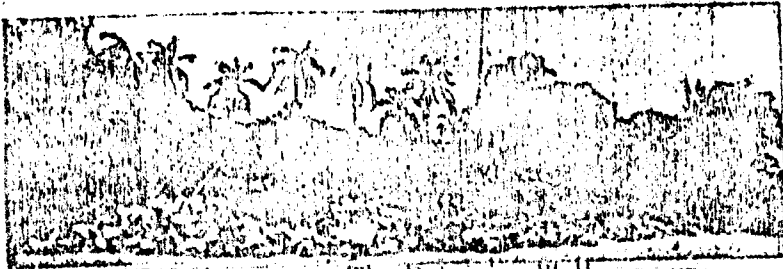
Page 7

Exhibit

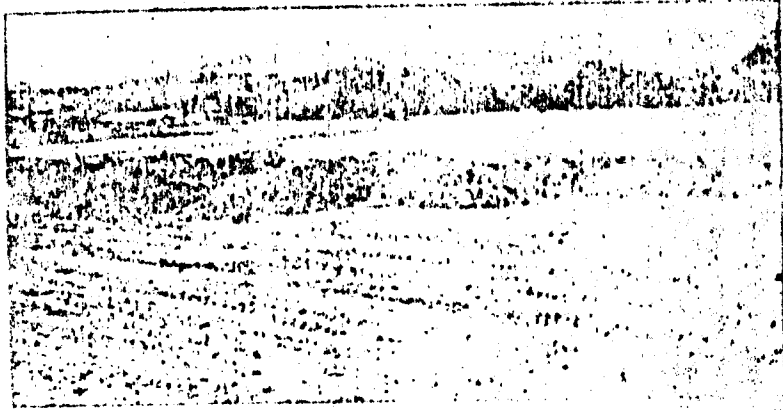
P.3  
School Magazine

*note you  
know?*

passion was  
the Padang.  
if any late-  
comer tried  
to take a  
short cut by  
going through  
the side gate  
he was in for  
a shock -- he  
would find Mr.  
Ratna standing near the padang watching the construction stage by stage



The Retaining Wall goes up .....



The New Padang: his pet project .....

He would also be at the Gate, at the Retaining Wall, and near the Hall. So  
no chance for any late-comer!

*Get over?*

Mr. Ratna met with a motorcar accident on the 4th of May, 1973. We  
wish him a speedy recovery. — J.P. *Secretary of the ...*

*Thanks  
for articles.*



*Is this supposed to be me?*

Exhibit P.3. - School Magazine

Mr. Ratnasingam our Headmaster

Exhibit

P.3.  
School  
Magazine

10

If anyone writes the history of our school, surely Mr. K. Ratnasingam will be on record as one of the modern pioneers of our school. Our School has come a long way to what it is now; from a little attap hut in 1924 to a huge complex in 1973. The scope for further development is unlimited. And the man most responsible for getting for our school many buildings and facilities is none other than our Headmaster, Mr. K. Ratnasingam.

Mr. K. Ratnasingam, B.A. Hons, (Mal.), C.T., S.T.T.I., became the Headmaster of our School in 1969. Though he has been here only for a short

20

period, he has done a tremendous lot for the school. One outstanding feature of Mr. Ratnasingam was that he was personally involved in whatever he had in mind. And he had plenty in mind. He wanted a new Padang, a new Canteen, a new Library, additional Science Blocks, more Classrooms, and even a Retaining Wall and a New Gate! He would talk about his plans in the school, in the Canteen, on the Padang and in the Club. And he succeeded in getting all these for the School by pestering everybody he could possibly pester!

30

40

He would appeal to the Ministry of Education, the C.E.O., the Board, and everyone till he finally got for the school all these much needed amenities. That was not all. Mr.

Exhibit

P.3.  
School  
Magazine  
(cont'd)

Ratna would  
personally  
supervise the  
work-site.  
His passion  
was the  
Padang. If  
any late-  
comer tried to  
take a short  
cut by going  
through the  
side gate he

10

was in for  
a shock --  
he would  
find Mr.  
Ratna  
standing  
near the  
padang  
watching  
the  
construction  
stage by stage!

20

He would also be at the Gate, at the Retaining  
Wall, and near the Hall. So no chance for any  
late-comer!

Mr. Ratna met with a motorcar accident on  
the 4th of May, 1973. We wish him a speedy  
recovery. - JP.

30

Exhibit P.4. - Bundle of Testimonials

Exhibits

P.4.  
Bundle of  
testimonials

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METHODIST BOYS' SCHOOL

KUALA LUMPUR

Telephone 2293

Date 2nd May, 1956

TO WHOM IT MAY CONCERN

10

K. Ratnasingam has always shown sound and steady work in the class-room. As a monitor his career has been characterised by a deep devotion to duty. He has also distinguished himself in a variety of games.

His character and conduct is good, and I feel he will make an ideal teacher.

Sgd: Isaac Illegible  
EDUCATION OFFICER

Exhibits

P.4.  
Bundle of  
testimonials  
(cont'd)

METHODIST BOYS' SCHOOL

KUALA LUMPUR

Telephone - 2293

date 7th June 1956

TO WHOM IT MAY CONCERN

K. Ratnasingam has been in the Methodist Boys' School since October, 1945. In December 1954 he took the Cambridge School Certificate Examination passing it with a Division II Certificate.

10

He is an intelligent student who is also interested in Extra-mural activities. He is keen and hard-working. He is now in the Form VI Arts Class and is a reliable Form monitor. Prefect 1956. His conduct is very good.

He has represented the school at Hockey from 1953 to 1954. He has been a credit to our School Hockey XI. He has also played for the Combined Schools' Hockey XI on five occasions. School Hockey Captain 1955 & 1956.

20

He has also represented the school in Cricket for the last three years. He was capped early this year for his good performance.

I recommend him strongly.

METHODIST BOYS' SCHOOL

KUALA LUMPUR

Sgd. Illegible

Principal

KEMENTERIAN PELAJARAN  
PERSEKUTUAN TANAH MELAYU  
(MINISTRY OF EDUCATION, FEDERATION OF MALAYA)

Exhibits  
P.4.  
Bundle of  
testimonials  
(cont'd)

This is to certify that RATNASINGAM S/O V.K. KUMARASAMY who was trained for teaching at the MALAYAN TEACHERS COLLEGE, PENANG, from January 1957 to December 1958, verily completed the course of training and passed qualifying examination in the following subjects:-

- 10            PRACTICAL TEACHING  
              EDUCATION  
              ENGLISH  
              NATIONAL LANGUAGE  
              PHYSICAL EDUCATION (SPECIAL SUBJECT)  
              HISTORY (SPECIAL SUBJECT)

Sgd. O.L. Semmens  
              PRINCIPAL,  
              MALAYAN TEACHERS COLLEGE,  
              PENANG.

20            September 1960.

Exhibits

Fic 253

P.4.

Bundle of  
testimonials  
(cont'd)

This is to Certify that INCHE RATNASINGAM S/O  
KUMARESAMY of ABU BAKAR SECONDARY SCHOOL, TEMERLOH,  
PAHANG attended an In-Service Course in PHYSICAL  
EDUCATION from 7th August, 1961 to 12th August,  
1961 at MALAYAN TEACHERS' COLLEGE, PENANG.

This course was conducted at Federal Level  
by the Ministry of Education.

Sgd. Henry A. Illegible  
Chief Instructor

Sgd. Illegible  
Director Teacher Training 10  
for Permanent Secretary  
Ministry of Education  
Federation of Malaya

Date OCT. 14 1961



MINISTRY OF EDUCATION FEDERATION OF MALAYA

MAKTAB PERGURUAN ILMU KHAS

This is to Certify that V.K.K. RATNASINGAM has successfully completed the course of GURU-GURU ILMU KHAS for the term of 1 year in the subject of Physical Education.

Grade : 1

Year : 1962

Certificate serial No : 140/62

10

Sgd.  
Principal

Sgd.  
Director of teachers'  
training  
o/b. Permanent Secretary

This is the True Translation of the Original Document produced in Serial No. 253 of 1981.

Exhibits

P.4.  
Bundle of testimonials  
(cont'd)

Exhibits

MALAYAN TEACHERS COLLEGE, PENANG

P.4.  
Bundle of  
testimonials  
(cont'd)

COLOURS

ARE AWARDED TO :-

RATNASINGAM

FOR

HOCKEY

SEASON 1957-1958

DATE 2.12.1958

PRINCIPAL W. Dunnell

Maktab Perguruan Ilmu Khas,  
Jalan Cheras,  
Kuala Lumpur.

4th March, 1963.

Exhibits  
P.4.  
Bundle of  
testimonials  
(cont'd)

To Whom It May Concern

Mr. K. Ratnasingam

10 Mr. K. Ratnasingam joined the Specialist  
Teachers' Training Institute in 1962 to follow a  
one-year specialist course in Physical Education.  
He proved to be a good student of Physical  
Education. He participated fully in the training  
and made creditable progress in all aspects of the  
course, especially in games. In the teaching of  
Physical Education he reached a high standard.  
During his training he has shown critical  
appreciation of the many areas of study and has  
developed a sound background in his subject.

20 Mr. Ratnasingam is possessed of a strong  
sense of responsibility, and when the occasion  
demands is able to lead by example. His pleasant  
nature and mature attitude made him a very  
acceptable member both to his colleagues and the  
lecturing staff. This character trait together  
with his interest in Physical Education should  
place him as a suitable choice for consideration  
as a teacher-trainer.

Sgd. Teoh Teik Lee  
(Teoh Teik Lee)  
Senior Lecturer, Physical  
Education

30

Exhibits

P.4.

Bundle of testimonials  
(cont'd)

Sekolah Men. Abu Bakar,  
Temerloh, Pahang.

22nd September, 1965.

To whom it may concern:

K. Ratnasingam

The above teacher served in Abu Bakar Secondary School, Temerloh, for five years and during his association with the school, I found him to be a conscientious, sincere and able teacher. Besides carrying out his classroom duties efficiently, he found time to organise school games and also inter-school sports activities. He took a keen interest in Physical Education and was a great asset to the school where coaching in the various games was concerned. He was responsible for forming and training the first gymnastic squad of the school. 10

I have full confidence in the work of this teacher, especially in the field of Physical Education. 20

Sgd. Illegible  
Headmaster,  
Abu Bakar Sec. School,  
Temerloh.

(C. Sivapakiam)

No. 5 of 1982

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA  
(APPELLATE JURISDICTION)

B E T W E E N :

K. RATNASINGAM

Appellant  
(Plaintiff)

and

1. KOW AH DEK @ KOW LIAN POI.
2. YONG DO @ YUEN LOY CHOY  
t/a CHOP FUNG LEE HENG

Respondents  
(Defendants)

RECORD OF PROCEEDINGS

Le Brasseur & Bury,  
71 Lincoln's Inn Fields  
London WC2A 3JF

Philip Conway Thomas & Co.  
61 Catherine Place,  
London SW1E 6HB

Solicitors for the Appellant

Solicitors for the Respondents