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## **Case Summary: Trip-and-Fall Injury at Retail Store – Settlement Without Litigation**

### **Case Overview**

An elderly man, aged about 65 years old, tripped and fell over a raised platform when trying to enter a shop. He hurt his finger, knee and face. The shopkeeper helped him up and called for an ambulance to take him to hospital.

### **Key facts**

- The platform was not marked with contrasting colours or warning signs, making it a trip hazard.
- Following his discharge, the claimant revisited the store and observed that red tape had been added to the step, suggesting that the hazard had been addressed post-accident.

### **Injuries Sustained**

- Fracture in his right little finger
- Bruises on left knee and face
- Nerve pain in both arms

### **Medical Treatment**

- 5 days' hospitalisation
- Fitted with a splint for his fracture, and also given pain-relief medication for the bruises and nerve pain in his arms.
- Unable to work as a private driver, which was his usual occupation, for 56 days.

### **Claim for Negligence**

The claim was made against the store operator, alleging negligence due to its failure to highlight or warn users of the raised platform (e.g. with signage, visual indicators), despite it being a potential trip hazard.

### **Claim Amount**

The claimant asked for a total of ~\$12,000 in damages:

- **General damages:** \$6,000 for pain and suffering (\$2,500 for the fracture of his right little finger, \$2,000 for his left knee contusion, and \$1,500 for his facial contusion). These amounts were based on legal research on similar injuries in past cases, which provided a range of damages for such injuries (see *Guideline for the Assessment of General Damages in Personal Injury Cases*, Academy Publishing, 2010, by the Subordinate Courts **and** *Practitioners' Library, Assessment of Damages: Personal Injuries and Fatal Accidents* (Third Edition), LexisNexis, 2017).
- **Special damages:** ~\$2,000 in medical expenses for hospitalization, splint application, follow-up consultations, and therapy sessions. (He had the documents to prove this.)
- **Pre-trial loss of earnings:** \$2,400 for the 56 days he could not work. However, he was a contract worker, and had no documentary evidence to prove his lost income.
- **Others:** \$180 for medical report fees and \$1,500 in pre-action legal costs.

### **Settlement Process & Negotiation**

- The shopkeeper did not admit liability but engaged in negotiations.
- After several rounds of negotiation, the claimant settled at **\$5,000** for his whole claim.

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### **Key Takeaways**

- Claimants should be prepared to be flexible regarding the final settlement amount. The final settlement amount may be lower than the amount claimed initially.
  
- Evidence is crucial:
  - The claimant had taken a photograph of the platform after the accident, and also managed to find a photograph of the platform before the accident. This helped him to establish that the platform was a hazard.
  - The claimant had medical reports to support his account of his injuries and the treatment he needed.
  - However, the claimant had no documents at all to show what he could have earned if he had worked during the 56 days. This meant that his claim for loss of earnings was on weak ground and not accepted by the shopkeeper.