

Asian Casualty Report



Contents	<i>Contents by Country</i>	3
	<i>Compensation/Damage Summary Table</i>	5
	<i>Commercial General Liability/ Public & Products Liability</i>	6
	<i>Products Recall</i>	10
	<i>Professional Indemnity</i>	10
	<i>Medical Malpractice Liability</i>	12
	<i>Workmen's Compensation & Employers' Liability</i> ..	15
	<i>Directors' & Officers' Liability</i>	18
	<i>Employment Practices Liability</i>	18
	<i>Automobile Liability</i>	19
	<i>Environmental Liability</i>	21
	<i>Travel Insurance</i>	22

Contents by Country

Australia

Products Recall

AUD 10 million (USD 10.3 million) in damages for supply of defective set-top boxes 10

Automobile Liability

Nearly all passengers injured when tour bus rolls down sand dune 19

China

Commercial General Liability/Public & Products Liability

Reform of consumer protection law 6
First insurance claims following landslides 6
One fatality and 30 injured after subway escalator reversed 6
Compensation for victims of high-speed trains crash 6

Professional Indemnity

Internet company ordered to pay CNY 55,600 (USD 8,689) in damages to suicide victim's parents 10

Directors' & Officers' Liability

Listed company non-compliant though already under scrutiny 18

Environmental Liability

River polluted by leak in copper mine 21
Explosion in pipeline causes China's largest reported oil spill 21
Lead poisoning in Anhui province 22
Battery plant causes lead poisoning of 59 people 22

Hong Kong

Commercial General Liability/Public & Products Liability

Collision of building crane and train 6
Reform of consumer protection law 6
Phthalates found in 21 out of 30 toys 7

Workmen's Compensation & Employers' Liability

Lighting engineer awarded HKD 2.8 million (USD 358,799) in compensation 15
Settlement with quadriplegic former lifeguard 15
Union demands insurance coverage for self-employed construction workers 16
Brake drum explosion causes massive truck-wheel blast killing two workers 16

Employment Practices Liability

Compensation for teacher who was forced to wear a dress at school 18

Automobile Liability

Chinese Court imposes death sentence for hit-and-run accident 19

Travel Insurance

Travel insurer pays nearly HKD 12 million (USD 1.54 million) to families and survivors of hostage crisis 22
Extended coverage for travel insurance policy after Manila hostage crisis 22

Malaysia

Products Recall

Recall of close to 16,000 cars 10

Professional Indemnity

High Court holds adviser and arranger to be liable for defaulted MYR 140 million (USD 45.4 million) bond deal .. 10

Travel Insurance

Compulsory travel insurance for outbound travelers 22

Philippines

Commercial General Liability/Public & Products Liability

Dog attack at mall 7

Singapore

Commercial General Liability/Public & Products Liability

Loss or theft of valuable diamond ring 7
Engineer killed in crane accident 7
Collision of bus and lorry crane 7
Compensation for tree accident 7
Toy survey finds harmful chemicals 7
Woman hit by falling tree branches 8
School and operator sued for negligence after cable ski accident 8
School lock-in accident 8
Car damages by falling tree branches 8
Damages for fall on restaurant stairs 8
Advertising agency and supplier of water cooler ordered to pay compensation for damaged art 9
Food poisoning in three preschools 9
Golfer killed by lightning 9
Amusement Rides Safety Bill 9
Four elderly women injured by escalator defect in shopping centre 9

Products Recall

Recall of bacteria-contaminated mouth rinses and skin cleansing wipes 10
Starfruit juice contaminated by plasticisers 10

Professional Indemnity

Seven-hour plus bank service outage followed by regulative measures and contract penalty..... 10
High Court forbids South Korean watch manufacturer to use a brand name similar to that of a Swiss company 11
Investor sues Dutch bank in Singapore for refund of USD 1 million due to misrepresentation 11
Temple loses temporary occupation permit after architects miss deadline 11
Damage of failed property deal includes price increase until court assessment hearings 11
Scientist sues German bank in Singapore for SGD 61 million (USD 49 million) loss 11
Swiss bank sues private banking clients for refund of SGD 9.3 million (USD 7.5 million), clients file counterclaim for up to SGD 9.38 million (USD 7.54 million) in damages ... 12
Lawyer sued after unsuccessful civil suit 12

Medical Malpractice Liability

Severe allergic reaction to antibiotic 12
New council to oversee therapists 12
Patient brain-damaged during dialysis 13
Suspension for negligent physician upheld 13
IVF baby not related to alleged father 13
Surgeon sued for pierced liver 13
Second heart surgery was fatal 13
Toddler brain-damaged due to dislodged oxygen tube 13
Lasik treatment ruled not suitable for patient with ocular condition 14
Parents of leukaemia victim sue hospital for negligence 14
Fatal liposuction 14
Rise in medical complaints 14
Anaesthetist sued on account of neck injuries 14
Parents of half-blind girl sue paediatrician for professional misconduct 15

Workmen's Compensation & Employers' Liability

<i>Governmental measures for improving construction site safety</i>	16
<i>Paralysed worker turns down SGD 182,000 (USD 146,374) WICA-compensation and is awarded SGD 910,000 (USD 731,870)</i>	16
<i>National serviceman sues Singapore Armed Forces for damages due to service-related depression</i>	16
<i>Worker killed in crane accident</i>	16
<i>Workplace Safety and Health Act enhanced</i>	17
<i>High Court awards SGD 140,000 (USD 112,602) in compensation for worker's death</i>	17
<i>Two workers killed in explosion at shipyard</i>	17
<i>Contractor's insurance policy also covers subcontractor's liability</i>	17

Directors' & Officers' Liability

<i>Personal D&O insurance launched</i>	18
<i>Review of Companies Act</i>	18

Employment Practices Liability

<i>Former CEO claimed SGD 1.305 million (USD 1.05) in damages for wrongful dismissal</i>	18
<i>Molestation case settled with apology and SGD 15,000 (USD 12,066)</i>	18

Automobile Liability

<i>Personal injuries assessment guide and further recommendations of the motor insurance taskforce</i>	19
<i>Insurance industry worried by rise in bodily injury claims</i> ..	19
<i>Insurers may decline claims when vehicles are modified</i>	19
<i>High Court awards SGD 50,000 (USD 40,217) for post-traumatic stress disorder</i>	19
<i>Romanian diplomat sued for SGD 630,000 (USD 506,708) in damages for hit-and-run accident</i>	20
<i>Claims limit raised for non-injury motor accidents</i>	20
<i>SGD 108,000 (USD 86,881) for woman thrown off a bus seat</i>	20
<i>Insurer may pay provisional damages if victim's prospects are unclear</i>	20
<i>SGD 3 million (USD 2.4 million) claim for cyclist in vegetative state</i>	20

Taiwan

Environmental Liability

<i>Environmental damages after fire in petrochemical plant</i> ..	21
---	----

Summary of some typical claims in various countries

Country	Injury Type	Accident Type	Amount Sought by Victim	Amount Awarded or Settled	Note	Page
Australia	Property damages	Defective products	Not mentioned	AUD 10 m (USD 10.3 m)		10
China	Bodily injury	127 fatalities	CNY 560 m (USD 87.5 m)		Landslides/ Floods	6
China	Bodily injury	One fatality (suicide)	Not mentioned	CNY 55,600 (USD 8,689)	Appeal	10
Hong Kong	Bodily injury	One injured	Not mentioned	HKD 2.8 m (USD 358,799)	Accident at work	15
Hong Kong	Bodily injury	One quadriplegic	HKD 28 m (USD 3.58 m)	Amount is confidential	Settlement	15
Hong Kong	Bodily injury	One fatality, one injured	CNY 300,000 (USD 46,882)		Truck Accident	19
Malaysia	Financial loss	False financial information	MYR 149 m (USD 48.3 m)	MYR 140 m (USD 45.4 m)	False prospectus	10
Singapore	Bodily injury	One injured	SGD 1 m (USD 804,962)	SGD 500,000 (USD 402,440)	Falling tree	8
Singapore	Bodily injury	One injured	SGD 500,000 (USD 402,440)		Fall on stairs	8
Singapore	Bodily injury	One injured	SGD 240,000 (USD 192,856)		Cable ski accident	8
Singapore	Bodily injury	One fatality	SGD 435,000 (USD 349,551)		Medical Malpractice	13
Singapore	Bodily injury	One injured	SGD 1.7 m (USD 1.37 m)		Medical Malpractice	13
Singapore	Bodily injury	One fatality	SGD 1 m (USD 803,684)		Medical Malpractice	14
Singapore	Bodily injury	One injured	SGD 2.6 m (USD 2.09m)		Medical Malpractice	15
Singapore	Bodily injury	One paralysed	Not mentioned	SGD 910,000 (USD 731,870)		16
Singapore	Bodily injury	One fatality	Not mentioned	SGD 140,000 (USD 112,602)	Death at work	17
Singapore	Bodily injury	Two injured, one fatality	SGD 630,000 (USD 506,708)		Hit-and-run accident	20
Singapore	Bodily injury	One injured	SGD 300,000 (USD 241,375)	SGD 108,000 (USD 86,881)	Bus accident	20
Singapore	Bodily injury	One injured	Not mentioned	SGD 120,000 (USD 96,556)	Traffic accident	20
Singapore	Bodily injury	One injured	SGD 3 m (USD 2.4 m)		Traffic accident	20
Singapore	Financial loss	False financial advice	SGD 61 m (USD 49 m)			11
Singapore	Financial loss	False financial advice	SGD 887,000 (USD 713,111)			12
Singapore	Financial loss	Wrongful dismissal	SGD 1.3 m (USD 1.05 m)			18
Singapore	Personal injury	Molestation	Not mentioned	SGD 15,000 (USD 12,066)	Sexual harassment	18
Singapore	Personal injury	Nervous shock	Not mentioned	SGD 50,000 (USD 40,217)	Bus accident	19

Reform of consumer protection law

China: The Fengtai District People's Court in Beijing awarded the refund of the purchase price of CNY 1,100 (USD 172) and damages of CNY 11,000 (USD 1,719) to a couple that had bought 15 boxes of fake propolis capsules. The wife suffered eye discomfort after consuming the goods. The couple sued the seller for breach of the PRC Food Safety Law that had been implemented in June 2009, and the PRC Law on Protection on Consumer Rights and Interests.

The court decided that propolis capsules are to be regarded as food and, as the defendant purchased the capsules on the internet, that his conduct constituted knowingly selling goods inconsistent with food safety standards. As the defendant sold the capsules with the statement "10 times compensation for fake goods" he had to pay a corresponding amount of damages.

Source: Xinhua News, 6 May 2010

First insurance claims following landslides

China: On 8 August 2010, following massive rainfalls in northwest China's Gansu province, landslides and floods were triggered that killed at least 127 people with 1,300 still missing.

The insurance regulatory authority had asked for daily catastrophe insurance indemnity reports and weekly catastrophe donation reports.

Ping An Property and Casualty Insurance Co. of China confirmed the first batch of insurance claims, totalling more than CNY 560 million (USD 87.5 million), divided into general insurance claims of about CNY 443 million (USD 69.2 million), machinery damage claims of about CNY 82.38 million (USD 12.9 million) and public liability claims of about CNY 35 million (USD 5.5 million).

Source: BestWire Services, 10 August 2010

One fatality and 30 injured after subway escalator reversed

China: In a very crowded subway station in Beijing on the morning of 5 July 2011 an ascending escalator reversed direction and, going down at high speed, caused its passengers to fall. Those standing in the middle section were most affected. A 13-year-old boy was killed and 30 others were injured, three of them seriously. It took 20 minutes for a medical team to arrive.

According to the subway operator, the escalators were checked every 15 days, lastly on 22 June 2011. After the accident, all ten escalators on said line were stopped.

In a similar incident, 24 persons were injured on 14 December 2010, when an escalator at a subway station in Guangdong province reversed direction. Also, 61 children were injured on 25 March 2011, when an escalator in Jiangsu province came to an abrupt halt.

Source: China Daily, 6 July 2011

Compensation for victims of high-speed trains crash

China: On 23 July 2011, two high-speed trains collided in the Zhejiang Province in eastern China. A bullet train, allegedly hit by lightning, was stalled on a bridge when a high-speed train drove into it. The last two carriages of the bullet train derailed, while the first four carriages of the high-speed train fell from the bridge. A total of 35 people died and more than 200 were injured.

Due to railway regulations, the railway operator will have to pay at least CNY 170,000 (USD 26,566) for each fatality and CNY 2,000 (USD 313) to each passenger for lost or damaged luggage.

After an April 2008 train crash with 72 fatalities and 416 injured the average insurance compensation had been CNY 200,000 (USD 31,255) per person, but because of the last three years' high inflation it is expected that the compensation in this year's accident will be higher. In an air crash in August 2010 with 42 fatalities and 54 injureds the average compensation was CNY 980,000 (USD 153,148) per person.

Source: AIR eDaily: Vol II No 146, 25 July 2011

Collision of building crane and train

Hong Kong: A building crane used on a construction site of a new public swimming pool tipped over and sent its 35-metre arm into a light rail train, causing injury to 14 people. The accident may possibly have been caused by ground softened by heavy rainfall the day before.

The Department for Labour and Welfare announced a thorough investigation. Building cranes have to comply with the "Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations", according to which a maximum penalty of 12 months' imprisonment and a HKD 200,000 (USD 25,630) fine may be imposed for breaches.

Source: South China Morning Post, 10 September 2010

Reform of consumer protection law

Hong Kong: The Hong Kong Department of Justice intends to reform the doctrine of privity of contract. At present product liability claims may only be initiated by the direct parties to a contract. In 2005 the Law Reform Commission suggested to give legal remedies to consumers that did not purchase the goods but received them otherwise, e.g., as a present. It is also intended to implement class actions.

Although in 1998 a Law Reform Commission committee recommended the implementation of a liability of the manufacturers of products (that had been introduced in the jurisdictions of many of Hong Kong's trading partners over 10 years ago) the government refrained from following this suggestion due to strong objections by trade representatives.

Between 2005 and 2010 there were 289 to 426 complaints to the Consumer Council about unsafe products every year. About 1% of all accident and emergency cases at hospitals are thought to have been caused by defective products.

Source: SCMP.com, 21 December 2010

Phthalates found in 21 out of 30 toys

Hong Kong: An independent laboratory that tested Chinese toys on behalf of Greenpeace found phthalates in 21 out of 30 toys. Phthalates are used to soften plastic and may account for hormone malfunctions and infertility. The samples were bought in four Chinese cities and were all produced by mainland factories.

Because children tend to put their toys in their mouths and their endocrine systems are in development, they are the most endangered group. In the EU and in North America the use of phthalates in toys is already restricted.

Source: Agence France-Presse, 18 May 2011

Dog attack at mall

Philippines: A customer at a Philippine shopping mall was attacked by a dog trained for bomb-sniffing purposes. The dog, a Belgian Malinois used by a private security firm contracted by the mall operator, bit the woman severely between her eyes, over her nose and on her forehead. She had petted the dog after having asked the dog's handler for permission.

Source: AFP, 17 November 2010

Loss or theft of valuable diamond ring

Singapore: A woman from the U.S. is suing the Singapore Shangri-la hotel for compensation for a missing diamond ring.

The plaintiff testified that she never took the ring off except when in the shower, which is why she neither placed it in a safe nor has any insurance. She also claims that two employees from the hotel spa as well as a butler were in her suite alone while she was in the bathroom, so that any of them would have had a chance to take the ring.

The value of the ring will have to be determined in trial by an expert witness since the parties involved value the ring quite differently (USD 220,000 versus USD 60,000).

Source: Straits Times, 26 January 2010

Engineer killed in crane accident

Singapore: The widow and the brother of an engineer who was killed in a crane accident are suing the building contractor, the crane supplier and the supplier of a steel rope in Singapore High Court.

The accident took place on a construction site in September 2009. The then 40-year-old engineer attended a meeting in a container office, when the steel rope of a crane, which was used to elevate the mast for a temporary workers' lift, snapped and a 500 kg metal structure crashed into the container office. Two of the nine attendants were injured, the engineer contracted serious head injuries and was pronounced dead at the scene.

The plaintiffs allege that the defendants had acted negligently in not ensuring workplace safety and not executing appropriate control and supervision. They ask the High Court to accept the claim and assess the amount of compensation.

His co-worker who suffered two deep cuts to his head and whose right forearm was crushed by debris is making a similar claim against the defendants.

Meanwhile the contractor turned to the High Court to prompt the Ministry of Manpower (MOM) to release the results of an investigation of the rope to determine the reason for the accident, as he hoped that the results would help him to defend his case. The court, however, supported the MOM not making the results public, the ministry reasoning that it did not mean to collect evidence "for the benefit of private litigants in the pursuit of their private interests".

Sources: More fatal accidents in Singapore worksites, www.topics.com, 23 May 2010; Straits Times, 15 April 2011

Collision of bus and lorry crane

Singapore: When a bus in Singapore was trying to overtake a lorry which was used for the pruning of trees the crane mounted on the bed of the lorry, which was protruding into the middle lane, crashed into the upper deck of the bus and killed a 50-year-old man and injured several other commuters.

Investigations as to the liability for the accident are being conducted. The widow of the killed victim is seeking compensation for the death of her deceased husband. The family is being offered help by public as well as by private donors.

Source: Today, 17 July 2010

Compensation for tree accident

Singapore: A car driver was killed when – due to a microburst (a localised, powerful, descending column of air) – a rain tree fell on his car.

The driver's family is seeking compensation from the National Parks Board (NParks). The issue of the rising number of accidents with falling trees or branches has already been raised in Parliament.

NParks has meanwhile stepped up inspection and pruning of trees over the last two months.

Source: Straits Times, 22 July 2010

Toy survey finds harmful chemicals

Singapore: The Consumers' Association of Singapore (CASE) tested 50 toys in July 2010 and found 46% of them to contain higher than permitted levels of phthalates, lead or both. The survey was conducted after a February 2010 incident when some students suffered food poisoning after handling a bean toy, which was later found to contain two types of phthalates.

Phthalates is a chemical used to soften plastics, whereas lead is often found in bright and colourful toy paint. Out of the 23 toys that failed the chemical test, 16 exceeded the phthalates limit, three exceeded the lead limit, and four exceeded the limit for both phthalates and lead. Five of the toys revealed a choking hazard. All retailers of toys that failed any of the tests were told to stop selling them.

Additionally, many of the toys were not labelled properly, missing, for example, the name and address of manufacturer and/or distributor and the age limit for which the toy is deemed suitable.

Interestingly, many of the toys carried the CE marking, which is the manufacturer's declaration that the product meets consumer safety standards set by the EU. CASE doubts the authenticity of these markings and urges the authorities to put in place stricter regulations for product safety, particularly regarding children's toys.

Source: Channel News Asia, 16 August 2010

Woman hit by falling tree branches

Singapore: A 45-year-old woman walking along St. Andrew's Cathedral was struck hard by falling branches from a tree growing on the church grounds, leaving her paralysed from the chest down. The victim claimed compensation as high as SGD 1 million (USD 804,962). After some argument from the cathedral, whose representatives initially claimed the accident was an act of God, an agreement was finally reached. The claimant received a total sum of SGD 500,000 (USD 402,440), with the compensation for loss of earnings accounting for SGD 30,000 (USD 24,142), and medical needs and maid expenses for the next 10 years at SGD 124,000 (USD 99,771).

The cathedral has since taken precaution to inspect the trees and trim them more regularly, if necessary.

Source: Straits Times, 24 September 2010

School and operator sued for negligence after cable ski accident

Singapore: In 2007 a 16-year-old student was taking cable ski lessons as part of his school's curriculum and suffered severe head injuries after falling face down into the water. He needed numerous operations, suffers permanently from spasticity and weakness on the left side of the body and is mostly wheelchair-bound. His father filed a writ of summons against the school and the cable ski operator claiming both acted negligently when failing to assess the risks properly and not requiring protective headgear. The complaints also cited the lack of competent personnel and the high speed of the cable.

The victim seeks damages for medical expenses (SGD 72,000 (USD 57,930)) and the employment of a maid for 20 years (SGD 168,000 (USD 135,157)), as well as compensation for loss of future earnings and pain and suffering.

Lawyers for the school as well as of the Ministry of Education argued that the father had signed a waiver, that the risks had been assessed properly and that it was in line with the International World Skiing Federation Cable Operating Handbook not to wear helmets. They pointed out that the family had already received payments of more than SGD 26,000 (USD 20,915) by the school's insurance. The lawyers also claimed that the accident was due to a stroke the student suffered while skiing.

Source: Straits Times, 26 October 2010

School lock-in accident

Singapore: A Singapore primary school teacher injured her ankle after climbing out of a window and falling about four metres to the ground. The teacher had entered the school premises, but not signed in, on a Saturday for some class preparation work. Having found herself locked in, she did not see a way out other than climbing out of a second-floor ventilation opening. The fall resulted in a fracture, numerous operations and a one-year medical leave.

The teacher is suing the Ministry of Education (MOE) for negligence for the lack of a safe working environment and for wrongful or false imprisonment.

The lawyer representing the MOE argued that the teacher was responsible for her own injuries since she acted unreasonably and against school regulations regarding sign-in and certain information procedures when working after 12.30 p.m. on Saturday when the school locked its doors. All teachers had attended a briefing in this regard. Furthermore she would have had the possibility to enter the staff room via a rear entrance where a phone was installed.

Source: Straits Times, 26 October 2010

Car damages by falling tree branches

Singapore: After heavy rainfalls, at least 20 trees fell and damaged several cars' roofs and doors. The car owners have three options: most motor insurance should cover damage caused by falling trees or branches; if the tree in question is on private land, the owner may be held responsible; or, if it is on public land, a claim may be submitted to the relevant authority, the National Parks Board (Nparks).

Source: Straits Times, 2 November 2010

Damages for fall on restaurant stairs

Singapore: A flight attendant is suing a Singapore restaurant for a fall she took on a flight of stairs, which left her with recurrent backaches. She claims that the restaurant had failed to ensure her safety by making sure that the stairs were free of slippery substances, respectively warning her of such substances and installing safety devices such as handrails or anti-slip mats. She also claims that a restaurant employee had – on behalf of the restaurant – taken full responsibility for the accident. The flight attendant is seeking more than SGD 500,000 (USD 402,000), mostly for loss of future earnings due to the recurrent backache that she claims will prevent her from working in her profession as long as originally planned.

The restaurant's lawyer argues that the plaintiff had looked tired after a long-distance flight and had tripped on the stairs due to her carelessness of using a mobile phone on the stairs and to her wearing high heels. The restaurant also claims that the plaintiff made up the story about the employee taking responsibility.

Source: Straits Times, 12 November 2010

Advertising agency and supplier of water cooler ordered to pay compensation for damaged art

Singapore: The owner of a gallery promoting artwork of Chinese painters will receive compensation for damages to 300 rice-paper paintings by a leaking water hose.

An advertising agency that occupied the floor above the art gallery had a water cooler installed. In September 2008, the hose carrying water to the cooler ruptured, and the water seeped through the floor to the gallery. The owner of the gallery sued the advertising agency as well as the supplier of the water cooler in High Court. He alleged that the cooler had not been installed in an appropriate location, a warning that was supplied together with the cooler stated that it should be installed in an area that provided precautions in case of water leaks.

Furthermore it was testified by expert witnesses that the material of the hose was not destined to carry water as it might break when exposed to water pressure. The judge followed this reasoning and decided that the supplier of the cooler was 70% at fault, the agency 30%. In addition to the court ordered the supplier to compensate the advertising agency for the amount it had to pay to the gallery owner.

Source: Straits Times, 12 May 2011

Food poisoning in three preschools

Singapore: Three preschools that used the same caterer experienced an outbreak of food poisoning on 10 May 2011. A total of 235 children – mostly between two and six-years-old – and 12 teachers suffered from vomiting, diarrhoea, abdominal pain and fever. In all, 34 persons were hospitalised.

The children had been served seafood spaghetti with marinara sauce, while the teachers ate mee goreng or fried noodles. An inspection at the catering company's premises by the Ministry of Health (MOH) and the National Environment Agency (NEA) revealed a dirty refrigerator door lining, but no other hygienic shortcomings. The caterer was ordered to disinfect its premises and all food preparation and storage items. Its licence was temporarily suspended.

According to MOH and NEA, the catering company had been fined for shortcomings at an event in December 2010 where 35 people at a company function contracted food poisoning.

Sources: Straits Times, 13, 14 and 18 May 2011

Golfer killed by lightning

Singapore: The widow and a son of a man who was struck by a bolt of lightning while playing golf are suing the Country Club where the incident took place. They demand compensation for pain and suffering arguing that the golf club hadn't exercised the necessary duty of care.

In order to support their claim the plaintiffs allege that the club had failed to sound a siren to warn golfers about the upcoming lightning although they had been informed on the impending weather conditions. Furthermore, the golf club did not have trained personnel that was able to provide timely and proper medical aid, as the golfer's

friends had called for help after the incident, and the personnel of the golf club was unable to use the defibrillator they had brought with them to revive the man.

In addition to compensation for their own pain and suffering they also demand damages for the deceased's pain as a result of his injuries.

The club denies any negligence or breach of duty of care arguing that the deceased had been a regular golfer who had contributed to his injury by not seeking shelter and that his injuries arose from natural causes that could not have been foreseen.

This is the first time that a lawsuit was filed against a golf club in Singapore over somebody being struck by a lightning.

Source: Business Times, 3 June 2011

Amusement Rides Safety Bill

Singapore: On 1 July 2011, the Amusement Rides Safety Bill came into force. Based on international regulatory practices, the new rules apply also to existing rides. Already licensed rides are allowed to operate under the previous law until their license expires.

Every ride must henceforth be inspected, certified safe and have a public liability insurance of at least SGD 1 million (USD 803,871). Fire and rescue plans must be approved by the Singapore Civil Defence Force. Each ride needs a permit for installation, operation and modification, and employ three responsible persons: one for managing and insuring the ride, a manager for operation and maintenance, and a qualified engineer for certification, installation and annual inspections.

The new framework was initiated in response to an incident in 2008 when 173 passengers were trapped for six hours on a defective Ferris wheel and another in 2010, when a seat fell off a rollercoaster during a testing.

Source: Straits Times, 25 June 2011

Four elderly women injured by escalator defect in shopping centre

Singapore: On 28 June 2011, four elderly women lost their balance and fell backwards when the handrail of an escalator in a shopping centre came to an abrupt halt. A 76-year old broke her cheekbone, her right arm and left leg and will be wheelchair-bound for several months. A 72-year old sustained a spinal compression, while another 72-year old and an 81-year old sustained deep cuts and bruises.

The company that owned the shopping centre apologised to the women after they had complained about the unkind behaviour of the mall management officers who had alleged that the accident was solely the women's fault. The company paid for the women's hospital bills on the day of the accident, which amounted to SGD 360 (USD 289). Future medical expenses will be settled by the company's insurance.

The company will also have its escalators maintained more often than monthly.

Source: Straits Times, 1 July 2011

Products Recall

AUD 10 million (USD 10.3 million) in damages for supply of defective set-top boxes

Australia: A three-judge federal court in Australia ordered the Singaporean subsidiary of a Japanese electronics corporation to pay AUD 10 million (USD 10.3 million) in damages to a major Australian electronics distributor. Between 2005 and 2007 the Singaporean company delivered three types of set-top boxes to the Australian firm. All products proved defective, even after being reworked by a third company, and had to be recalled. Each sold unit had to be reworked or returned for repair an average of 2.6 times after the first sale. Almost half of the sales staff hired by the Australian company between 2005 and 2007 were employed in remedying the defective products.

The court decided that the deliverance of three types of defective products constituted a single breach of contract. The Australian company was awarded AUD 6.1 million (USD 6.3 million) in September 2010 and another AUD 2.96 million (USD 3.05 million) in April 2011. The Singaporean company will also have to pay for interest (about AUD 2 million (USD 2.06 million)) and legal costs.

Source: Straits Times, 26 April 2011

Recall of close to 16,000 cars

Malaysia: Almost 16,000 cars were recalled by Malaysia's national auto manufacturer after routine tests discovered irregularities with the clock spring in two of its models produced between 2004 and 2008.

The clock spring connects switches and airbags to the radio, horn and cruise control. Besides sudden activation of horn or car lights, audio control switch malfunction and friction noise within the steering wheel, the defect can also induce deployment of the driver's side airbag.

Source: Associated Press Newswires, 8 October 2010

Recall of bacteria-contaminated mouth rinses and skin cleansing wipes

Singapore: The Health Sciences Authorities induced a voluntary recall of two mouth rinses and one brand of skin cleansing wipes that were contaminated with *B. cepacia* bacteria. Another contaminated mouthwash had been found a month ago.

B. cepacia appears in moist environmental sources and may affect people with such health problems as a weakened immune system or chronic lung disease. *B. cepacia* contamination of products had already been reported from other parts of the world.

Source: Channel NewsAsia, 30 December 2010

Starfruit juice contaminated by plasticisers

Singapore: After 13 food and drink brands from Taiwan had been tested by the Agri-food & Veterinary Authority, a brand of starfruit juice had to be removed from the market due to contamination by plasticisers. Two Singaporean manufacturers of bubble tea also stopped distribution of their drinks, because the fruit-flavoured syrup it contained was also supplied by a Taiwanese firm.

Source: Straits Times, 31 May 2011

Professional Indemnity

Internet company ordered to pay CNY 55,600 (USD 8,689) in damages to suicide victim's parents

China: A court in Zhejiang province ordered an Internet company to pay CNY 55,600 (USD 8,689) in damages to the parents of a 20-year-old student who died on 22 June 2010 in a suicide pact arranged over the company's instant messaging service. The 22-year-old partner in the suicide pact, who backed out and survived, was ordered to pay CNY 111,000 (USD 17,346) in damages.

The Internet company announced the intention to appeal the verdict because Internet service providers (ISPs) are not allowed to monitor user messages. The National People's Congress, on the other hand, demands that ISPs stop transmission of harmful online information.

Source: Agence France-Presse, 7 December 2010

High Court holds adviser and arranger to be liable for defaulted MYR 140 million (USD 45.4 million) bond deal

Malaysia: In a landmark judgment, the High Court of Malaysia held not only the issuer but also the adviser and the arranger of a bond deal to be liable for the bondholders' losses.

In April 2004, the bond issuer, a defence contractor, had raised MYR 140 million (USD 45.4 million) through Islamic debt securities, which defaulted in September 2005. He was sued by the bondholders, 10 Malaysian financial institutions, for MYR 149 million (USD 48.3 million) in 2005. He agreed to a consent judgment, but the deal's independent adviser, a unit of Malaysia's largest bank, and the arranger of the transaction opted to go to trial.

The court stated that the prospectus provided by the arranger was false and misleading and that the adviser failed to exercise the necessary care and due diligence expected of a trustee.

Source: Business Times Singapore, 2 July 2010

Seven-hour plus bank service outage followed by regulative measures and contract penalty

Singapore: After a bank service outage lasting more than seven hours, the Monetary Authority of Singapore (MAS) investigated whether the bank in question failed to meet the recommended standards set out in the Internet Banking and Technology Risk Management Guidelines (IBTRM).

The bank blamed the IT service provider to which the maintenance of the technological infrastructure was outsourced for practising outdated repair procedures. It was expected that contractual penalty clauses for reducing the maintenance fees will come into play.

The MAS indicated that the bank was not relieved of its responsibility by outsourcing its operations to third parties or joint-venture partners.

On 5 July 2010, from 3 a.m. to sometime after 10 a.m. the bank's ATMs, credit card and Nets payments, and online banking were out of service after a routine repair

job. The repair involved the replacement by the IT service provider of a defective storage component in the disk storage sub-system connected to the bank's mainframe. The bank's system redundancy and other fail-safe mechanisms did not start up to prevent the outage. The disaster recovery command centre was activated at 6.30 a.m.

The IBTRM demands the banks to deliver consistently reliable internet banking services. This means a 99.99% systems availability (less than 53 minutes of downtime a year) or even a 99.999% availability (5 minutes 15 seconds of downtime a year).

Sources: Business Times, 7 July 2010 and 14 July 2010

High Court forbids South Korean watch manufacturer to use a brand name similar to that of a Swiss company

Singapore: On 21 July 2010, the High Court, reversing a judgement of a lower court, decided that a South Korean watch manufacturer was not allowed to market its watches and jewelry under the trademark "J. Estina" in Singapore because of its similarity to the name of the Swiss watch distributor Festina.

The High Court judged that the trademarks were visually dissimilar – the J. Estina brand shows a crown symbol and the Festina brand a crest – but conceptually and aurally similar. The High Court stated that the South Korean company had not been able to explain convincingly how it came to use the meaningless word "Estina" as a brand name, and therefore assumed that the defendant simply copied the Swiss trademark.

Source: Straits Times, 22 July 2010

Investor sues Dutch bank in Singapore for refund of USD 1 million due to misrepresentation

Singapore: A Bangladeshi businessman – through his investment vehicle – sued a Dutch bank in Singapore that had sold him a Lehman product in February 2008. He claimed refund of his full investment of USD 1 million plus interest and cost because of negligent product representations.

The investor alleged that the bank's relationship manager had told him, based on a comparison of the performance of the Philadelphia Housing index against the share prices of two Hong Kong companies, the product could give a 30% return after its one-year term and was practically risk-free. The plaintiff alleged that because of the dot-com bust he would never have invested in a U.S. firm, but was neither told it was a Lehman product nor shown the term sheet. He also claimed he was told that he could not withdraw from the product before its maturity in February 2009.

The defendant bank disputed the claims and stated that the plaintiff was a high net worth, experienced and sophisticated investor with a reasonable appetite for risks. In addition, the term sheet that he had been shown before investing bore the Lehman logo. The bank felt that the plaintiff had decided against selling the product prematurely only because of the penalty clauses.

Source: Straits Times, 24 July 2010

Temple loses temporary occupation permit after architects miss deadline

Singapore: On 29 July 2010, the trustees of a temple in Gaylang informed its members that the temple's temporary occupation permit (TOP) had been revoked.

The new temple building received its TOP in August 2009. In March 2010, the Singapore Civil Defence Force (SCDF) downgraded the temple's fire safety certificate to a temporary fire permit due to absent fire doors, misplaced exit signs and missing smoke detectors. In April 2010, the Building and Construction Authority (BCA) restricted the temple's TOP, so the third to seventh floors could no longer be used, as the fire escape staircase featured only a 1.8-metre headroom instead of the required 2 metres.

The SCDF revoked the temporary fire permit after the architects did not meet the 30 June 2010 deadline that had been set. The BCE then suspended the remainder of the TOP for the temple's first and second floors.

Source: Straits Times, 17 August 2010

Damage of failed property deal includes price increase until court assessment hearings

Singapore: The High Court ruled that a law firm liable for a failed property purchase had to pay its clients a sum that would have enabled them to buy a similar object at the time of the court assessment hearings, even though the market price had risen in the meantime.

In April 2007, the law firm failed to meet a deadline for its clients' option on an apartment. After an alternative unit could not be purchased, the clients, a married couple, sued the law firm for the loss incurred. Between April 2007 and the court assessment hearings in September 2008, the property's value rose from SGD 3.53 million (USD 2.8 million) to SGD 5.38 million (USD 4.3 million) in May 2008.

The High Court Assistant Registrar assessed the loss due to the price to be SGD 418,000 (USD 336,086) within two months of the law firm's mistake. On both sides' appeal, the judge decided that the damages had to be reassessed on basis of the flat's price during the time when the court assessment hearings took place.

Source: Straits Times, 21 October 2010

Scientist sues German bank in Singapore for SGD 61 million (USD 49 million) loss

Singapore: A 62-year-old Taiwanese scientist sued a German bank in Singapore in the High Court for negligent advice, breach of fiduciary duties and fraudulent misrepresentation that led to a loss of SGD 61 million (USD 49 million) from an investment in so-called accumulators.

In 2007 the scientist sold his stake in the pharmaceutical company he had founded, and which represented his life's work, to a large biotech firm for SGD 146.9 million (USD 118 million) and made some large donations.

Between 2007 and 2008 the scientist, being inexperienced in investments, trusted the advice of his German bank's counselor and built up an investment portfolio consisting of 34 derivative contracts through Discounted Share

Purchase Programmes (DSPP) that were linked to shares of American and European banks. During the financial crisis, he lost SGD 61 million (USD 49 million) on these high-risk derivative investments and was even sued by the German bank for an owing sum of SGD 2.24 million USD 1.8 million.

The plaintiff claimed that the bank did not warn him of the substantial risks involved in margin financing of derivative products. He also claimed that the bank counsellor made fraudulent misrepresentations, including that the counselor was acting as a fiduciary or an adviser to him. The plaintiff stated that the bank's contractual terms were inconsistent with what was represented to him and also fell short of the minimum standards of various laws, regulations and codes of conduct in Hong Kong and Singapore.

Sources: Straits Times, 27 October 2010, Business Times Singapore, 30 October 2010

Swiss bank sues private banking clients for refund of SGD 9.3 million (USD 7.5 million), clients file counterclaim for up to SGD 9.38 million (USD 7.54 million) in damages

Singapore: The Singapore branch of a Swiss bank sued two private banking clients – a couple – for SGD 9.3 million (USD 7.5 million) in the High Court. The couple responded with a counterclaim for up to USD 6.15 million and AUD 1.1 million (USD 1.1 million), plus interest, damages and cost, for breach of duty and/or contract.

The bank alleged that in June 2008 the couple had agreed to a required margin – i.e., a minimum amount to be kept on their account – for such private banking services as an overdraft facility and a short-term advances facility with a maximum limit of USD 60 million, which the couple used to engage in leveraged foreign exchange transactions. On 3 October 2008, the bank sent the couple a margin call letter because of a USD 1.07 million shortfall in their account. When the couple did not restore the required margin, the bank closed out their positions and claimed the total shortfall plus interest and costs.

The couple stated that when their relationship manager changed in June 2008 they were not informed about the lowering of the margin requirements until some time afterwards. Even when their account got into a warning status due to a margin call in August 2008, their relationship manager showed gross negligence in failing to alert them of the fact that their account was in contractual close-out status, and had also failed to close their positions when they instructed her to do so.

As their former relationship manager often advised them how to avoid a close-out because of their relative inexperience in financial markets, the negligence of their new relationship manager was a breach of implied terms of contract.

The couple's counterclaims were based on various scenarios, one of them including USD 6.15 million they would have had in their account in August 2008, if notified correctly, and AUD 1.1 million (USD 1.1 million) they put into their account, being unaware of its true status.

Source: Business Times, 29 November 2010

Lawyer sued after unsuccessful civil suit

Singapore: A group of investors sued a bank for bad advice regarding an investment of SGD 887,000 (USD 713,111), based on losses occurred during the financial crisis.

The group had portrayed themselves as conservative investors, a portrayal that was upended when it emerged that the investors had bought structured products in the amount of almost SGD 6.49 million (USD 5 million).

The investor group is now suing their lawyer, claiming that he failed to advise them correctly on the necessity to fully disclose documents to the court, reply to letters of the bank's lawyers and appear at several hearings.

Source: Today, 15 June 2011

Medical Malpractice Liability

Severe allergic reaction to antibiotic

Singapore: A patient suffered a cardiac arrest during ear surgery and had to be revived. The still deeply traumatized patient is suing two physicians as well as Parkway Hospital for negligence. He claims that an allergy to the antibiotic amoxicillin, prescribed against infection during surgery, had caused his heart to stop.

Chief arguments include whether the surgeon, anaesthetist and nurse had been told about a pre-existing allergy against antibiotics, if a red band had been placed around the patient's wrist by the nurse in order to warn the doctors of the patient's allergy problem, and whether an allergy was marked down in the patient's medical file.

The doctors' and the hospital's defence strategy is to claim that they had not been informed of any allergy and that the cardiac arrest could have been the result of a pre-existing heart condition or an allergic reaction to some other drug.

Source: Straits Times, 4 July 2010

New council to oversee therapists

Singapore: The Singapore Health Ministry plans to introduce a regulatory body called the Allied Health Professions Council, composed of eight members nominated by the Health Ministry, which will oversee the conduct and practice of the country's 600 to 700 physiotherapists, 400 to 500 occupational therapists and more than 160 speech therapists. The Council will maintain a register for qualified therapists and accredit training programmes and providers, and prescribe minimum numbers of hours of continuing education. The Council will also have the power to take disciplinary action, if necessary, such as disqualifying unprofessional therapists or imposing fines of up to SGD 50,000 (USD 40,192).

Currently, there are only guidelines for different kinds of therapists but no ways of taking disciplinary action in case of mishaps.

Other allied health professionals, such as clinical psychologists, may also eventually be put under the Council's scrutiny.

Source: Straits Times, 9 September 2010

Patient brain-damaged during dialysis

Singapore: A dialysis patient was receiving treatment when the tube connecting the dialysis machine to her chest became disconnected and she started bleeding heavily. After suffering a cardiac arrest and having to be revived, she was left with brain damage and was bedridden.

The dialysis machine has an alarm system that is usually set off as soon as a tube is disconnected, but in this case it was not triggered until minutes later, thus reducing the chance of earlier response by the medical team and preventing the dire consequences. Questions arose around how the tube became disconnected as well as the possibly negligent conduct of the hospital personnel, since the disconnection of the tube went unnoticed for some time.

Source: Straits Times, 21 September 2010

Suspension for negligent physician upheld

Singapore: In 2005 a patient, who had undergone an endoscopic retrograde cholangiopancreatogram (ERCP) to remove a stone in his bile duct, experienced severe pain after the surgery and died a few weeks later.

The surgeon had started the ERCP procedure, involving inserting a scope down the patient's throat but was unsuccessful. He then performed a second procedure, a pre-cut sphincterotomy, which was also unsuccessful. Some 25 hours after the surgery, it turned out that the surgery had caused a perforation of the patient's duodenum and that the patient was left in the care of a junior physician instead of being observed by the surgeon.

Perforation is a known risk of ERCP and the pre-cut technique can, if left untreated, cause a life-threatening infection.

The surgeon was found guilty of mismanagement of the post-operative treatment of a patient by the Disciplinary Committee of the Singapore Medical Council.

The Council reported that the surgeon carried out the riskier pre-cut technique far more often than other experienced endoscopists.

The surgeon was suspended for six months and advised to review his practice. The Court of Appeal dismissed the surgeon's appeal in November 2010.

Source: Straits Times, 3 November 2010

IVF baby not related to alleged father

Singapore: A baby who was conceived through in vitro fertilisation (IVF) was determined to have DNA that doesn't match the father's. The parents have charged the IVF clinic in District Court for breaching the terms and conditions of its license issued by the Ministry of Health and for failing to follow suitable procedures.

Allegedly, two semen specimens were processed at the same workstation at the same time, and pipettes seem to have been reused instead of being discarded per standard procedure.

In the case of a conviction, the Medical Centre could be fined up to SGD 20,000 (USD 16,078).

In the meantime, the clinic is suspended from initiating fresh cycles of IVF.

Sources: Straits Times, 3 November 2010 and 16 June 2011

Surgeon sued for pierced liver

Singapore: A 63-year-old patient was admitted to hospital with chest pains in July 2007. It was determined that a blood vessel had ruptured in his chest, and the patient underwent several months of treatments and procedures. When a chest tube was inserted on the right side of his chest to remove fluid, his liver was accidentally pierced and the patient died of internal bleeding about two hours later.

The surgeon, an allegedly highly skilled and experienced physician, is being sued for malpractice with the widow claiming SGD 390,000 (USD 313,447) in medical treatment SGD 45,000 (USD 36,166) for funeral and bereavement expenses.

The widow's lawyer claims that the tube insertion was performed in an unsafe region of the rib cage and that the family was not properly informed of the risks or complications.

The surgeon's lawyer claims that the physician had taken reasonable steps to address and minimise the risks involved in the procedure, had obtained the family's consent and had exhausted every effort to save the patient.

Source: Straits Times, 19 November 2010

Second heart surgery was fatal

Singapore: A 65-year-old American citizen, who had undergone bypass surgery in the U.S., complained of chest pains a few months after returning to his workplace in Singapore.

A cardiothoracic surgeon, regarded as highly skilled, performed a re-do coronary artery bypass graft surgery on the patient, who died a few weeks later from an infection and multiple organ failure.

His widow is now suing the surgeon for negligence. She questions the appropriateness of the treatment as well as the allegedly flawed information on options and risks made available to the patient before surgery.

Source: Straits Times, 6 April 2011

Toddler brain-damaged due to dislodged oxygen tube

Singapore: The parents of a toddler who was born with congenital abnormalities and admitted to hospital for treatment, where he suffered acute cardio-respiratory collapse, have reached a settlement with the hospital. The collapse occurred after an oxygen tube was displaced while its position was being adjusted.

Since then the toddler has been unable to walk, suffers from epilepsy and has difficulty eating and speaking. The parents claimed reimbursement for medical costs and future expenses in the amount of about SGD 1.7 million (USD 1.37 million).

The hospital denied the claims and stated that the decision to adjust the position of the tube was reasonable and not caused by negligence, and that the displacement of a tube is an inherent, recognised risk.

The amount of damages will be assessed by a High Court registrar.

Source: Straits Times, 22 April 2011

Lasik treatment ruled not suitable for patient with ocular condition

Singapore: A 24-year-old near-sighted patient was treated with a Lasik procedure and was left with blurred vision.

Since the patient was not a suitable candidate for Lasik treatment due to a generation of the cornea structure and had not been informed of the risks by the eye surgeon, the High Court ordered the physician and the Lasik Surgery Clinic and the Singapore Medical Group to pay damages in an amount still to be fixed.

The surgeon was found to have been negligent since no responsible and competent surgeon would have prescribed Lasik to a patient with the condition of the claimant. Also, the clinic should have implemented safety measures to oversee the surgeon in his work.

Source: Straits Times, 25 May 2011

Parents of leukaemia victim sue hospital for negligence

Singapore: The parents of a leukaemia victim sued a hospital and the attending doctor in High Court for SGD 1.8 million (USD 1.45 million) in damages, including the loss of being supported by their son in their old age.

In January 2009, the 14-year-old boy was hospitalised with acute promyelocytic leukaemia (APL). On 15 January 2009, the parents were told that the chemotherapy and a treatment with all-trans retinoic acid had to wait until 19 January because of a bacterial infection as well as the high risk of haemorrhage due to APL. The boy died on 18 January 2009 from cerebral haemorrhage.

The parents alleged that the hospital had not told them about the risk of waiting for APL treatment. The suit was finally settled confidentially out of court.

Source: Straits Times, 2 June 2011

Fatal liposuction

Singapore: A 44-year old patient died shortly after a liposuction procedure performed in a clinic led by two general practitioners.

The family of the deceased is suing the two doctors for about SGD 1 million (USD 803,684). Allegedly, there was no anaesthetist on site during the procedure, and the patient suffered numerous puncture wounds in his intestines and appendix.

The liposuction accreditation of the doctors as well as the clinic's liposuction license were suspended.

Source: Straits Times, 12 June 2011

Rise in medical complaints

Singapore: According to the annual report of Singapore's Medical Council (SMC), 152 medical complaints were filed in 2010. In 2009 there had been 96, preceded by 138 in 2008. Of the complaints filed in 2010, 44 alleged professional negligence and incompetence, 23 alleged rudeness or poor attitude, 13 alleged over or unnecessary treatments and 12 alleged excessive or inappropriate prescription of drugs.

According to the Medical Protection Society (MPS) the number of compensation claims in 2010 was 90% higher than in 2006. The increase is thought to be partly due to media reports about compensation sums that encourage other patients to sue their doctors. This makes more and more doctors to practice a defensive medicine that leads to more testing and thus results in higher medical costs for the patients.

Due to a massive backlog of complaints in the SMC, 64 cases were carried over to 2010 from 2009, and 88 from 2010 into 2011. In January 2011, the Medical Registration Act was amended to raise the cap on the number of members in the Complaints Panel. The amendment also allows legally trained persons into the disciplinary tribunals. This is meant to improve efficiency, ensure fair outcomes and waterproof decisions, as two decisions of the disciplinary committee were reversed by the High Court in 2010 and 2011.

In total, the SMC brought 128 complaints to an end in 2010. Also, 52 were dismissed, 14 were referred to a disciplinary committee, 11 ended with a letter of warning and 51 with a letter of advice. In addition, 27 complaints alleged professional negligence and incompetence, of which eight were dismissed, three were referred to a disciplinary committee, four ended with a letter of warning and 12 with a letter of advice.

The SMC also dealt with 16 disciplinary inquiries in 2010. Ten of them were for excessive or inappropriate prescription of drugs, three for using non-medically proven remedies and three others for professional misconduct. All doctors were censured and received a fine and/or a suspension.

According to MPS 99% of claims are settled out of court as doctors want to avoid negative publicity. In spite of the rise in claims, the amount of compensation did not increase sharply and the MPS was able to keep its premiums constant over the past two years. Premiums for plastic surgery and aesthetic medicine are up to SGD 28,250 (USD 22,703) p.a., for obstetricians and gynaecologists up to SGD 25,695 (USD 20,652) p.a., for neurosurgeons and spinal surgeons up to SGD 20,930 (USD 16,822) p.a., and for family doctors only SGD 1,490 (USD 1,198) p.a.

Sources: Straits Times, 23 June 2011, Legal News Archive, 20 July 2011

Anaesthetist sued on account of neck injuries

Singapore: Joanne Tong, a 39-year-old woman, is suing an anaesthetist in High Court for negligence. She alleges that he had overstrained and/or injured her neck when inserting a breathing tube down her airway during preparations for her giving Caesarian birth in 2006.

The plaintiff, who is mother of six children, claims that she has since suffered severe pain in her neck and back, numbness in her hands and feet, frequent loss of balance, and that she cannot sit up for long. Thus she is unable to help her children with their schoolwork or drive them around.

She alleges that the anaesthetist had signed the consent form without informing her about the risks, and that he did not review her properly after the operation.

The plaintiff demands SGD 400,000 (USD 321,499) for already incurred and SGD 1 million (USD 803,694) for future medical expenses as well as compensation for loss of income in the amount of SGD 1.2 million (USD 964,460).

The defendant denied that he had manipulated the plaintiff's neck and stated that neck injuries during intubation are neither a known nor a material risk in a healthy patient and thus needed no explanation.

Sources: Straits Times, 29 June and 29 July 2011

Parents of half-blind girl sue paediatrician for professional misconduct

Singapore: The parents of an 11-year-old girl sued a consultant paediatrician in High Court for gross negligence.

The parents alleged that the paediatrician failed to conduct an eye screening soon after their daughter's premature birth in 2000, although it was a long-standing practice to do so, and thus he did not detect that their child suffered from retinopathy of prematurity (ROP). The girl is now totally blind in her left eye and has only low vision in her right eye.

The paediatrician disputed the claims. In 2008 the Singapore Medical Council suspended the doctor for three months after a disciplinary inquiry on account of this case.

Source: Today, 2 July 2011

Workmen's Compensation & Employers' Liability

Lighting engineer awarded HKD 2.8 million (USD 358,799) in compensation

Hong Kong: The Hong Kong Court of First Instance awarded a lighting engineer HKD 2,858,086 (USD 366,240) in damages plus interest and costs against his employer, a television company. The amount consists of HKD 220,000 (USD 28,191) for pain, suffering and loss of amenities, HKD 721,847 (USD 92,499) for loss of earnings until 7 June 2008, HKD 220,114 (USD 28,206) for pre-trial loss of earnings, HKD 1,526,125 (USD 195,560) for future loss of earnings, HKD 120,000 (USD 15,377) for loss of earning capacity and HKD 50,000 (USD 6,407) for special damages, with the latter allowing for HKD 5,000 (USD 641) for the extra tonic food.

On 19 October 2005, at about 12.20 p.m., the plaintiff was cleaning up in a dark, narrow passage between a fixed and a movable backdrop when he stepped on a loose socket board, lost his balance, fell and landed on the back of his right hand and wrist. He suffered a painful, bleeding cut on the back of his hand that healed within a week. As the plaintiff still complained of loss of the ability to grip and pain in the right wrist, he had an arthroscopy of the wrist on 7 September 2006. On 7 June 2008, the plaintiff returned to work but had to cease work again due to his injury.

The Court of First Instance ruled that the unsafe state of the passageway where the plaintiff had been working was a clear breach of the Occupational Safety and Health Ordinance and also a breach of the common law duty of care. The defendant was at fault for leaving the equipment and installations in the same untidy state in which the outside contractor had left them. The court considered whether the plaintiff's inaction constituted contributory negligence but denied this because the plaintiff had been in the process of carrying out work in the intended manner.

Sources: SCMP.com, 25 August 2010; Judgement of the Hong Kong Court of First Instance (HCPI 695/2008), 24 August 2010

Settlement with quadriplegic former lifeguard

Hong Kong: On 3 March 2011, a 25-year-old paralysed former lifeguard and the Leisure and Cultural Service Department, that had hired him as a summer lifeguard in 2003, settled on an undisclosed sum at the High Court. The former lifeguard had disputed the department's compensation of HKD 14.6 million (USD 1.87 million) and claimed more than HKD 28 million (USD 3.58 million) for pain and suffering and his inability to work.

On 2 July 2003, the 17-year-old plaintiff had been hit on his head by a hard object during surf dive practice. He sustained spinal injury and is now quadriplegic. He is wheelchair-bound, has very limited control of shoulder and elbow movements, and is completely dependent on the help of others. Although he achieved a master's degree in social policy and social development with a distinction he did not find a permanent employment and is now working as a volunteer for charity organisations.

Source: SCMP.com, 4 March 2011

Union demands insurance coverage for self-employed construction workers

Hong Kong: The Hong Kong Construction Industry Employees General Union has demanded legal action to provide insurance coverage for self-employed construction workers. Self-employed workers encounter difficulties when trying to acquire insurance because they work in a high risky working environment.

Due to their status as sole proprietors, self-employed workers cannot be covered by employee insurance. According to the deputy chairman of General Insurance Council of the Hong Kong Federation of Insurers, they can only buy personal accident insurance instead.

The Construction Industry Council, the industry's self regulating body, issued guidelines requiring contractors to ensure self-employed workers are covered. Because some private companies said they are not legally bound, this measure has not been put into place. Therefore the union demands that the government enacts legislation to extend the protection to self-employed people.

Source: China Daily Information Company, 28 April 2011

Brake drum explosion causes massive truck-wheel blast killing two workers

Hong Kong: Two young workers (24 and 19 years old) were killed when a pressurized brake drum exploded and caused a massive truck-wheel to fly around and hit them. The men worked in a container yard removing a massive wheel from the back of a crane truck when the incident happened.

The worker's employers gave burial allowances to the bereaved families. They agreed not to disclose the amount. A lecturer at the Institute of Vocational Education's department assumes that the workers may not have followed proper procedures.

Source: The Standard, 17 May 2011

Governmental measures for improving construction site safety

Singapore: The Ministry of Manpower and the Workplace Safety and Health Council took measures to improve the safety of construction sites. Thirty-one construction-related fatalities had occurred in 2009, followed by 15 in the first half of 2010.

Starting in January 2011, crane erectors will have to attend a new course. Crane operators will need at least a Level 3 status under the bizSAFE programme (half of the approved crane operators have already attained this level), and must attend a crane safety awareness workshop before renewal of their licenses. Main contractors are advised to make bizSAFE Level 3 a requirement for subcontractors.

Furthermore, a new Design for Safety programme course for the construction industry was started in August 2010 with the aim to reduce work accidents through good design.

Source: Business Times Singapore, 3 July 2010

Paralysed worker turns down SGD 182,000 (USD 146,374) WICA-compensation and is awarded SGD 910,000 (USD 731,870)

Singapore: A Bangladeshi construction worker, who was paralysed from the waist down in an accident in 2008, rejected an out-of-court compensation of SGD 182,000 (USD 146,374) – as recommended by the Work Injury Compensation Act (WICA) – sued his employer, and was awarded SGD 910,000 (USD 731,870) by the court.

In the expedited out-of-court compensation process under WICA, the claimant is awarded a capped compensation if he can show his injury arose out of and in the course of employment, regardless of whether the employer was at fault. On a regular basis, the compensation caps are adjusted to the changes in wages and medical expenses. The last review took place in 2008. Generally, 75% of the claims are settled within six months.

Source: Straits Times, 17 September 2010

National serviceman sues Singapore Armed Forces for damages due to service-related depression

Singapore: A 23-year-old full-time national serviceman and his 53-year-old mother sued the Singapore Armed Forces (SAF) for damages in the High Court.

In October 2008, the plaintiff hurt his ankle during basic military training. He was downgraded for medical reasons and became a storeman with the 5th Singapore Infantry Regiment. In February 2009, he was referred to the SAF Psychological Care Centre, but did not keep subsequent appointments with the SAF Psychological Care Centre and the SAF Counselling Centre. In January 2010, the plaintiff underwent treatment at a SAF ward in a hospital as a day patient, but disappeared during a consultation and refused further in-patient treatment.

The plaintiff claimed that he was treated in a suspicious and hostile manner by the medical officer who took care of his injured ankle. Because of the poor treatment, he developed a phobia of military life, paranoia and depression. His mother stated that she had to give up her polyclinic job to watch over her suicidal son.

The SAF denied the allegations and stated that the plaintiff abused medical leave several times. The plaintiff was arrested for this in August 2010 and put in detention.

Source: Straits Times, 28 October 2010

Worker killed in crane accident

Singapore: On 25 January 2011, at a shipyard in Sembawang a 34-year-old Indian crane operator was severely injured when the turntable of the 15-tonne crane stopped abruptly. The crane had been lifting four bags of sludge and the abrupt stop caused its boom assembly and cabin to fall onto a metal floating dock three storeys below. The worker died in hospital. The Ministry of Manpower ordered the shipyard company to stop the use of all similar dockside cranes on its premises.

In 2008 five workers were killed in crane accidents, followed by nine more in 2009. One-and-a-half years ago a national taskforce on crane safety had been formed to initiate better training of crane operators. As a result, crane operators are required to attend a safety-awareness workshop before renewal of their licences.

Source: Straits Times, 26 January 2011

Workplace Safety and Health Act enhanced

Singapore: The enhanced Workplace Safety and Health Act covers all workplaces, including wholesale and retail trade, public administration, administrative and support services. Over 100,000 organisations with more than 1.6 million workers are affected.

Starting September 2011 first-aid boxes have to be supplied at every workplace. Workplaces with more than 25 employees must have dedicated persons trained in First Aid.

The Ministry of Manpower (MOM) will inspect workplaces regularly. Those with higher risks – as the construction sector which has the highest number of fatalities – will be checked more frequently. In 2010 60% of all in all almost 6,000 inspections were conducted in the construction sector.

Workers in the marine, metal-working and construction industries will have to pass a safety-orientation course before commencement of work. Scaffolding and lifting operation workers will have to be certified beforehand. Every contractor will be responsible for his subcontractors.

There will also be a SGD 70 million (USD 56.3 million) Workplace Safety and Health 2018 Fund.

Source: Today, 12 April 2011

High Court awards SGD 140,000 (USD 112,602) in compensation for worker's death

Singapore: The family of a 21-year-old airport worker who had a heart attack at work was awarded SGD 140,000 (USD 113,460) in compensation. The worker collapsed at Changi Airport after carrying heavy food and drink containers that were to be loaded onto a plane. He died in hospital about an hour later.

The verdict was appealed by the employers and their insurers, arguing that the worker's death was not work-related because the cardiac arrest occurred after a long time resting after delivering goods to the plane. After the death it turned out that the worker was unknowingly suffering from a heart condition, which caused an irregular heartbeat.

The judge rejected the appeal saying in a written judgement that the cardiac arrest occurred at work and therefore the incident happened in the course of employment.

Source: Straits Times, 11 May 2011

Two workers killed in explosion at shipyard

Singapore: On 12 May 2011 at around 1.20 p.m. two workers – a 43-year-old Malaysian and a 20-year-old Bangladeshi – were killed in an explosion at a shipyard. Other workers sustained minor injuries. The two workers that were killed were checking a barge's tank compartments for leaks when the explosion occurred.

The explosion also damaged several buildings nearby – glass panels broke, a ceiling panel collapsed and a roof fell in. The Manpower Ministry ordered the company that occupied the shipyard to stop all work on the accident location. Furthermore all occupiers of the premises were ordered to vacate the building by 16 May 2011.

Source: CAN/cc/ac, 12 May 2011

Contractor's insurance policy also covers subcontractor's liability

Singapore: Overturning a judgement of the High Court from last year, the Court of Appeals decided that a contractor's standard insurance policy also covers its subcontractor's liability. The wording of the standard clause that defined the insured treated all contractors in the project as a single entity.

A Bangladeshi worker who had fallen from a 9-metre-high scaffolding at a construction site in Tuas in November 2007 sued the main project contractor at the High Court for compensation of his injuries due to non-compliance with workplace safety requirements. The contractor accepted a 95% liability, but its insurer declined payment because the worker was a subcontractor's employee and therefore not hired directly by the contractor. The insurer said it would have compensated the plaintiff had he sued the subcontractor instead of the main contractor, because of a "relationship of employment" between the plaintiff and the subcontractor.

Heretofore, the main contractor had usually purchased workmen's compensation insurance policies for both itself and its subcontractors.

Source: Straits Times, 4 July 2011

Directors & Officers Liability

Listed company non-compliant though already under scrutiny

China: A PRC-listed company received an administrative penalty from the China Securities Regulatory Commission for failing to comply with their disclosure obligations and for making false statements in its reports between 2003 and 2006.

The irregularities had continued for several years, even after the commencement of a CSRC investigation into the company.

The fine now imposed on the chairmen of the company, in accordance with Article 177 of the PRC Securities Law, amounts to CNY 300,000 (USD 46,804), the maximum fine for persons in charge or with direct responsibility.

The company may also be facing civil claims by its minority shareholders since the right to bring proceedings depends on a decision on administrative penalty of a relevant authority or a criminal ruling.

Source: Securities Daily, 7 June 2010

Personal D&O insurance launched

Singapore: The Singapore Institute of Directors (SID) and Aon Singapore launched a portable and individual D&O insurance. The policy offers the same protection as traditional D&O policies but is taken out in the name of an individual director or officer rather than for an entire board of directors. It is useful for directors of companies with inadequate coverage and also offers a run-off protection in case of resignation or retirement.

The policy is provided for up to three separate directorships. It is offered exclusively for SID members and costs SGD 1,000 (USD 804) p.a. with a SGD 1 million (USD 804,376) limit.

Source: Business Times, 29 June 2011

Review of Companies Act

Singapore: The steering committee for review of the Companies Act decided against the decriminalization of a breach of directors' duties. Directors will remain both civilly and criminally liable due to Section 157(3) of the Companies Act. According to Section 157(3b) the fine must not exceed SGD 500 (USD 403) and an imprisonment may not be more than 12 months. Although directors in the UK and New Zealand are not criminally liable for a breach of their statutory duties, the committee feared this might encourage misconduct stating that the criminal liability served as a useful deterrent.

The committee also recommended that chief executive officers must disclose conflicts of interest in transactions with the company and shareholders. Furthermore it was suggested to remove the age limit of 70 years for directors.

The Singapore Exchange requested the use of multiple proxies instead of the current limit of two in annual general meetings.

Source: Business Times, 21 June 2011

Employment Practices Liability

Compensation for teacher who was forced to wear a dress at school

Hong Kong: After a former teacher filed a writ in the District Court demanding the school give up its discriminatory dress code, her ex-employer apologised and paid an unknown compensation.

In 2007, on the teacher's first day at the school, she was criticised by the headmaster at the assembly for wearing a blouse and trousers instead of a dress. She quit after two months because of the unfairness of the dress code, which required women to wear a dress but contained no restrictions for men other than a ban on jeans and T-shirts.

Source: South China Morning Post, 11 September 2010

Former CEO claimed SGD 1.305 million (USD 1.05 million) in damages for wrongful dismissal

Singapore: An IT and communications company was sued at the High Court by its former CEO for wrongful termination of his employment. The plaintiff claimed SGD 1.305 million (USD 1.05 million), including the rest of the income he would have received had the three-year service agreement not been cancelled, compensation for his damaged reputation, and legal cost and interest. The plaintiff also sued the company's adviser and a former director, alleging that these two had conspired against him for his dismissal.

The plaintiff became a member of the company's board and CEO in November 2009. In April 2010, he was removed from the board and in June 2010 dismissed as CEO in spite of his 19.97% stake in the company. It is said that his dismissal was due to a false declaration of the plaintiff's SGD 35.9 million (USD 28.9 million) shareholding in the company.

Sources: Business Times, 26 August 2010 and 15 September 2010

Molestation case settled with apology and SGD 15,000 (USD 12,066)

Singapore: A 46-year-old lawyer, who sexually harassed a married 24-year-old secretary at the law firm where they worked, received an acquittal after he wrote an apology and paid SGD 15,000 (USD 12,066) to the victim. The woman, prosecution and court agreed to this compensation. Had he been convicted, the defendant would have faced up to two years of jail, plus caning, or a fine.

In the years 2008 and 2009 the lawyer had hugged the woman against her will and touched her inappropriately.

Source: Straits Times, 11 November 2010

Automobile Liability

Nearly all passengers injured when tour bus rolls down sand dune

Australia: On 24 July 2011, on the outskirts of Lancelin (north of Perth) the driver and most of the 33 predominantly Singaporean passengers were injured when a tour bus rolled over. The driver had tried to reverse the four-wheel-drive bus, which was built for off-road driving, down a sand dune when part of the dune collapsed.

Five passengers remained in hospital: a man in critical condition with bleeding in the neck, a woman in serious condition with a broken neck and three others in stable condition.

Source: Agence France Presse, 25 July 2011

Chinese Court imposes death sentence for hit-and-run accident

Hong Kong: The Shenzhen Intermediate People's Court sentenced a 32-year-old man to death because of intentional homicide. The punishment was suspended for two years, during which the convict will do prison labour. With good conduct, the man may see his sentence changed to 20 years to life in jail.

On the morning of 25 April 2010 the convict struck a 20-year-old mother, who was pushing a stroller containing her three-month-old son across Busha Road in Shenzhen, with his Hong Kong-licensed container truck. He left the mother with a broken skull and dragged the stroller, which was caught under the truck, with him. The baby's lifeless body was found in the Tanglangshan tunnel four days later.

The baby's father announced that he will claim a compensation of more than CNY 300,000 (USD 46,882) from the driver.

Source: SCMP.com, 18 December 2010

Personal injuries assessment guide and further recommendations of the motor insurance taskforce

Singapore: The Consumer Association of Singapore (CASE) and the Automobile Association of Singapore formed a motor insurance taskforce to prevent a further increase of motor insurance premiums. Since 2004, premiums have risen by 30% to an average of more than SGD 1,000 (USD 804).

Following recommendations by the motor insurance taskforce, the Subordinate Courts created a personal injuries assessment guide for the various categories of soft tissue neck injuries (ranging from mild neck sprains to severe whiplash injuries) with a compensation scale for minor personal injuries and a personal injury protocol to facilitate out-of-court settlements.

The taskforce also asked the Financial Industry Disputes Resolutions Centre to raise the limit for non-injury claims from SGD 1,000 (USD 804) to an amount less than SGD 10,000 (USD 8,044); to introduce compulsory rehabilitation for injury claims without hospitalization; and to require an assessment of the damage by the insurance company's surveyor before repairs.

Source: Straits Times, 4 July 2010

Insurance industry worried by rise in bodily injury claims

Singapore: According to the General Insurance Association (GIA), bodily injury claims rose from 8,704 in 2007 to 16,174 in 2008 and 17,868 in 2009, which led to higher costs and premiums.

One reason for this increase may be that since 1999, it is no longer necessary to report an accident to the police if no one was injured or received outpatient medical leave for less than three days, although accidents with pedestrians or cyclists are excepted. Up until then, fear of fines or demerit points impelled the motorists to settle the claims in private. Now the motorists may be less scrupulous in making claims and may possibly inflate them.

Another reason for the increase is touts that hunt for possible accident victims and encourage them to make false claims. Grade 1 whiplash injuries are especially easy to feign, as there are no physical symptoms that can be proven. In June 2010, 16 persons were charged for false injury insurance claims of SGD 4,000 (USD 3,218) to SGD 10,400 (USD 8,366).

The Law Society issued a code of conduct on this matter in December 2009.

Source: Straits Times, 4 July 2010

Insurers may decline claims when vehicles are modified

Singapore: Some insurers do not accept modified vehicles at all, while others only accept legally modified cars at 10% to 50% higher premiums. After an accident, if it is discovered that the policyholder did not report a modification, the insurer may decline the claim because of non-disclosure. Thus, when buying a used car, it is important to check up on undeclared alterations.

According to the Land Transport Authority, 1,746 illegally modified cars were discovered in 2008, 2,510 in 2009, and 1,381 in the first half of 2010. Illegal modifications include the removal of the catalytic converter, changing the engine's capacity or installing crash bars.

Even if the policy is void because of undeclared modifications, insurers have to pay for injury claims (but not for property damage claims) if their policyholder causes an accident, but they will recover the costs from the policyholder.

Source: Straits Times, 2 November 2010

High Court awards SGD 50,000 (USD 40,217) for post-traumatic stress disorder

Singapore: The High Court awarded SGD 50,000 (USD 40,217) to an accident victim suffering from post-traumatic stress disorder (PTSD). This is the highest sum ever awarded since the first time a court awarded damages for nervous shock in 1993 (SGD 30,000 (USD 24,130)).

In June 2006, the now 26-year-old woman saw the grossly disfigured body of her 44-year-old mother after the tour bus they had both been travelling with had crashed headlong in a lorry on the North-South Expressway.

Altogether, the woman and her father received about SGD 430,000 (USD 345,857) in damages against the Malaysia-based driver and the bus company. The defence lawyers had doubted her claim of PTSD as she performed well in work in the years since the accident, but it turned out that she had masked her symptoms to get on with her life.

Source: Straits Times, 26 November 2010

Romanian diplomat sued for SGD 630,000 (USD 506,708) in damages for hit-and-run accident

Singapore: The former chargé d'affaires ad interim of the Romanian Embassy in Singapore was sued at the High Court by a 24-year-old croupier-trainee for SGD 630,000 (USD 506,708) in damages including loss of future earnings, medical expenses and transport costs after a hit-and-run accident. The former diplomat was also charged with homicide, causing physical injuries and making false statements.

On 15 December 2009, the diplomat drove at excessive speed and in spite of the red traffic lights over a pedestrian crossing, knocked over three pedestrians and moved on. A 30-year-old was killed, while a 19-year-old and the plaintiff were injured. The latter suffered severe head, facial and leg injuries that would have been fatal in 50% of similar cases. He was on medical leave until May 2010 and then got back to his croupier-training, but might not be able to finish it, as he is now slow at calculations and forgetful, unable to stand for more than 30 minutes without pains in his right knee and can only move slowly.

Sources: Straits Times, 3 July 2010 and 26 November 2010

Claims limit raised for non-injury motor accidents

Singapore: In the second half of 2011 the claims limit for non-injury motor accidents will be raised from SGD 1,000 (USD 804) to SGD 3,000 (USD 2,413). Claims below this limit can only be brought to court after a hearing by the Financial Industry Disputes Resolution Centre (FIDReC).

As the average amount of a non-injury motor claim is said to be SGD 5,000 (USD 4,022), the Motor Insurance Task Force already suggested a further increase of the claims limit to SGD 10,000 (USD 8,044).

The Non-Injury Motor Accident Scheme was initiated in March 2008. With the help of this scheme, about 1,200 claims every year are resolved out of court, making the settlement of these claims faster and less costly. Although in 2010, insurances in Singapore gained a 3.7% rise in gross premium total to SGD 3.03 billion (USD 2.44 billion), motor insurance still operates at a deficit of SGD 49 million (USD 39.4 million).

Because of the prevalence of inflated and fraudulent claims, the Motor Insurance Task Force also recommended mandatory vehicle inspections before repair in non-injury cases and registration of motor vehicle assessors.

Source: Straits Times, 1 April 2011

SGD 108,000 (USD 86,881) for woman thrown off a bus seat

Singapore: On 10 May 2011, the High Court awarded a 43-year-old woman SGD 20,000 (USD 16,093) on her appeal for loss of future earnings capacity and SGD 6,032 (USD 4,854) for acupuncture treatment. The High Court

also upheld the lower court's decision, which had already awarded the woman SGD 82,000 (USD 65,980), including SGD 30,000 (USD 24,135) for her complex regional pain syndrome (CRPS).

The plaintiff had been thrown off a passenger seat on a bus on 28 April 2004 when the bus braked suddenly. She fell against the knees of her sister, who sat opposite her, and twisted her wrists and legs. She alleged that the accident not only caused her CRPS, but also a secondary fibromyalgia and diabetes, which left her wheelchair-bound, and sued the bus company for SGD 300,000 (USD 241,375) in damages. Both the lower court and the High Court judged that only her CRPS was a result of the accident.

Source: Straits Times, 11 May 2011

Insurer may pay provisional damages if victim's prospects are unclear

Singapore: In a landmark precedent on 20 May 2011, the Court of Appeal decided that an insurer may pay provisional damages instead of a lump sum compensation for loss of future earnings if the accident victim's professional prospects are unclear. This ensures that the victim will be compensated only for actual loss.

The plaintiff, now a 24-year-old woman, was knocked down by a motorcyclist in a July 2004 accident. Her contributory negligence was 40%. Because of brain injuries, she is now blind in one eye, unable to fully retain and process information and had to give up her studies toward a polytechnic diploma. Her current income as a data entry clerk is SGD 400 (USD 322) a month. In 2010, the High Court awarded her SGD 414,000 (USD 333,065) for future loss of earnings.

The Court of Appeal decided that the plaintiff will receive only provisional damages of SGD 120,000 (USD 96,556) as she might still recover from her brain injuries. She might receive a larger sum in four years should her monthly income still be less than 80% of what she would have earned as a civil servant had she obtained her polytechnic diploma (i.e., less than SGD 1,832 (USD 1,474)).

Source: Straits Times, 21 May 2011

SGD 3 million (USD 2.4 million) claim for cyclist in vegetative state

Singapore: On her husband's behalf the wife of a 54-year-old project engineer sued a lorry driver and the lorry driver's company at the High Court for SGD 3 million (USD 2.4 million) in compensation.

On 27 December 2010, the engineer was cycling on a three-lane road when he was knocked down by the lorry coming from behind. Although the cyclist wore a helmet, he is now in a vegetative state.

The lorry driver, who was sentenced by a criminal court for inconsiderate driving, claimed that the cyclist suddenly cut his lane. The cyclist's wife stated that the lorry's damages show that the bicycle was hit straight from behind. She claims that there was evidence that the lorry driver was changing lanes and – according to the skid marks on the road – was driving very fast and thus could not stop in time.

Source: Straits Times, 13 July 2011

Environmental Liability

River polluted by leak in copper mine

China: On 3 July 2010, the Ting river, a major waterway in the southeastern Fujian province, was contaminated by a leaking sludge pond from a copper mine owned by China's third largest copper producer. Roughly 1,890 metric tons of fish were poisoned.

The company alleged that the drinking water quality in Shanghang county and the lower reaches of the river were not affected and announced intentions to compensate the fish farmers for their losses.

In China more than 200 million people do not have access to safe drinking water because of the heavy pollution of rivers and lakes.

Source: Agence France-Presse, 13 July 2010

Explosion in pipeline causes China's largest reported oil spill

China: On 16 July 2010, an explosion at the Xingang port in Dalian damaged two main crude pipelines and a nearby crude depot. The owner of the pipeline was a Chinese oil company that is Asia's biggest oil and gas producer by volume.

To prevent the spread of the fire to a nearby tank filled with dimethylbenzene, the valves of the depots were not closed until 22 July 2010, and thus large quantities of crude oil were released into the sea. The oil spread over 430 square kilometres.

The Chinese government stated that 1,500 metric tons were spilled, but Greenpeace experts estimated that 60,000 metric tons was a more realistic figure.

Almost 4,000 fishing boats and 8,000 workers cleaned up the Dalian coast with low-tech means, during which a 25-year-old worker was thrown from a vessel by a wave and drowned.

If the remaining oil in the sea disperses, it will damage fisheries and shrimp farms and impact the local marine life for more than a decade.

Sources: Associated Press Newswires, 22 July 2010, Reuters, 26 July 2010 and 30 July 2010

Lead poisoning in Anhui province

China: After a case of lead poisoning in Gaohe, a town in Huaining county, a battery factory was closed. Since 2007, the plant had been illegally operating within 20 to 30 metres of a housing zone, which the county government had tolerated. Another even larger battery factory in this neighbourhood is still at work.

The county government announced that ground water, soil, air and farm goods would be tested for contamination. It also declared that approximately 300 children under age 18, who lived within 500 metres of the factories, would receive free medical check-ups.

Blood tests revealed that many children had lead levels between 100 and 400 mg per litre. Approximately 28 children between nine months and 16 years were hospitalised, some of them with lead concentrations in their blood that exceeded 400 mg.

Normal lead levels are between 0 and 100 mg. Levels above 200 mg are hazardous, even more so if children are affected. Lead poisoning can affect growth and mental development of children and sometimes causes paralysis.

According to official figures, there were at least nine lead poisoning outbreaks in China in 2010, and 12 cases of metal pollution in 2009. Environmentalists fear even more outbreaks due to continuous leaking of toxic metals into rivers and lakes.

Source: SCMP.com, 7 January 2011

Battery plant causes lead poisoning of 59 people

China: 136 people living in the neighborhood of a company that produced lead acid batteries for vehicles in Heyuans city, Guangdong province were detected to have dangerously high levels of lead in their blood; 59 of the residents suffered from lead poisoning, and at least 10 children had to be hospitalised. The plant, which passed a local environmental protection test in 2008, has suspended operations. The government announced its intention to pay the costs for the residents' medical treatment.

With more than 160 plants, Guangdong province is the second-largest production base of lead batteries in China. The provincial bureau of environmental protection announced that all lead acid battery plants situated less than 300 meters from residential areas were ordered to stop production for inspection.

Exposure to lead accounts for a multitude of diseases, including damage of the nervous, digestive and reproductive systems.

Source: China Daily, 21 May 2011

Environmental damages after fire in petrochemical plant

Taiwan: In July 2010, two fires at the petrochemical plant of Formosa Plastics Group in Taiwan's Yunlin County caused severe damage (like pollution of air, water and soil) and health hazards to the county's residents (e.g. cancer rates are reported to be higher than the Taiwanese average). The event was followed by a wave of protests and several rounds of talks between residents and the company.

The residents rejected an offer of NTD 450 million (USD 15.208 million) claiming that the sum might be sufficient to compensate farmers and fishermen for their losses but did not cover health checks and health compensation for residents.

Protests and calls for suspension of work at the complex will continue. Voices have been raised that the central government failed to protect residents adequately against health hazards of the petrochemical industry.

Source: Taiwan News, 10 August 2011

Travel Insurance

Travel insurer pays nearly HKD 12 million (USD 1.54 million) to families and survivors of hostage crisis

Hong Kong: An American travel insurer paid HKD 1 million (USD 128,146) in compensation to each of the families of four victims of the May 2010 Manila hostage crisis. The insurer classified the hostage situation as an accident involving public transportation and thus raised the compensation from the standard amount of HKD 500,000 (USD 64,074). The insurer covered also the cost of the bodies' transportation to Hong Kong.

Furthermore, each of the families will receive HKD 300,000 (USD 38,445) from the travel insurer and HKD 20,000 (USD 2,563) in gratuity from the Hong Kong government. The agency in the Philippines that insured the bus will also pay at least PHP 60,000 (USD 1,396) to each of the families.

Two severely injured survivors of the ordeal were donated HKD 1 million (USD 128,148) by the American travel insurer. A 46-year-old man who was shot in the hands and had both wrists broken received HKD 400,000 (USD 51,260), and a 32-year-old woman who suffered from a shattered lower jaw and lost two fingers received HKD 600,000 (USD 76,889). The two survivors plan to take action against the Philippine authorities.

The travel insurer stated that according to the terms of the travel insurance neither victim qualified for compensation, as they were not completely disabled. The insurer set out a fund from which 11 other victims gained almost HKD 7 million (USD 897,034). The company will launch a new kind of travel insurance with expanded coverage.

On 23 May 2010, a dismissed police officer had taken as hostages 20 tourists, a tour guide from Hong Kong and four Filipinos who were on a tour bus. Eight of the hostages and the hijacker were killed, while many other hostages and bystanders were injured.

Sources: BestWire Services, 25 August 2010, AIR eDaily, 26 August 2010 and SCMP.com, 6 May 2011

Extended coverage for travel insurance policy after Manila hostage crisis

Hong Kong: Following a lot of criticism of Hong Kong insurers after the Manila hostage crisis one American insurer is now going to offer a new personal accident policy which also covers the loss of a part of a limb as a percentage of the total sum insured. The new coverage will be available at a higher premium and in addition to the traditional policy that only covers the total loss of a limb.

In Hong Kong, travel insurance policies are mainly sold by travel agencies. After the hostage crisis persons concerned complained that they had not been informed on the full details of the coverage.

Source: South China Morning Post, 22 August 2011

Compulsory travel insurance for outbound travelers

Malaysia: Travel insurance shall become compulsory for outbound travelers to help spread the risk and thus ensure a better chance for insurers to make profit.

Travel insurance covers losses such as medical expenses, loss of personal belongings, travel delay, and personal liabilities.

According to the chairman of Malaysian Takaful Association (MTA), travel insurance is shunned by insurance companies as it can be very cost-intensive due to high losses. In the last few years, worldwide claims on travel insurance cover have risen due to the fact that a record number of people has been seeking emergency medical treatment while abroad.

However, the chairman of MTA is supportive of the plan as there will be better spread and as such a better chance for underwriting profit. Also a leading reinsurer sees a growth opportunity for insurance companies once made compulsory.

The Federation of Malaysian Consumer Associations (Fomca) pointed out that premiums shall remain competitive and shall not be a burden to consumers.

Source: Business Times, 6 September 2011

For additional information please contact:

**General Reinsurance AG
Singapore Branch**
9 Temasek Boulevard
#10-01 Suntec Tower 2
Singapore 038989

Global Casualty Facultative
Yanbin Chen
Tel. +65 6438 7636, ychen@genre.com

Collin Sim
Tel. +65 6438 7632, csim@genre.com

Kim Mee Tan
Tel. +65 6438 7635, kim.mee.tan@genre.com

**General Reinsurance AG
Hong Kong Branch**
Suite 6802-03, 68/F Central Plaza
18 Harbour Road
Wanchai, Hong Kong

Global Casualty Facultative
Yanbin Chen
Tel. +852 2598 2210, ychen@genre.com

Koo Sung Jeong
Tel. +852 2598 2202, koosung.jeong@genre.com

Jack Wu
Tel. +852 2598 2268, jack.wu@genre.com

**General Reinsurance AG
Tokyo Branch**
TT-2 Bldg. 11F
3-8-1 Ningyocho, Nihonbashi
Chuo-ku, Tokyo 103-0013

Global Casualty Facultative
Shinichi Kitazawa
Tel. +81 3 3663 7752, shinichi_kitazawa@genre.com

General Reinsurance Australia Ltd.
Angel Place, Level 24
123 Pitt Street
Sydney NSW 2000

Global Casualty Facultative
Peter French
Tel. +61 2 8236 6135, pfrench@genre.com

Carolyn Norris
Tel. +61 2 8236 6137, cnorris@genre.com

Jeffrey Gonlin
Tel. +61 2 8236 6143, gonlin@genre.com

Damien Leary
Tel. +61 2 8236 6133, dleary@genre.com

General Reinsurance Australia Ltd.
Level 29, 367 Collins Street
Melbourne VIC 3000

Global Casualty Facultative
Trevor Rossi
Tel. +61 3 9628 4009, trossi@genre.com

Karen Monsborough
Tel. +61 3 9628 4010, kmonsbou@genre.com

Eun Young Jung
Tel. +61 3 9628 4003, ejung@genre.com



**General Reinsurance AG
Singapore Branch**
Tel. +65 6438 7990, Fax +65 6884 8035
www.genre.com

Photo: © istockphoto/Steve Rosset

© General Reinsurance AG, Singapore Branch 2011

For information with regard to this publication, please contact

Nana Lech
Tel. +65 6438 7630, nlech@genre.com

Sanna Wong
Tel. +852 2598 2205, sanna.wong@genre.com

This information was compiled by Gen Re and is intended to provide background information to our clients, as well as to our professional staff. The information is time sensitive and may need to be revised and updated periodically. It is not intended to be legal advice. You should consult with your own legal counsel before relying on it.