Ronnie Tan Siew bin v Chin Wee Keong
[2000] SGHC 82

Case Number : Suit 1149/1999

Decision Date : 09 May 2000

Tribunal/Court : High Court

Coram : Lim Teong Qwee JC

Counsel Name(s) : Ramasamy K Chettiar and Allister Lim (Harry Elias Partnership) for the plaintiff; Anparasan K and Cosmaz Gomez (William Chai & Rama) for the defendant

Parties : Ronnie Tan Siew bin — Chin Wee Keong

JUDGMENT:

GROUNDS OF JUDGMENT

1. On 2 September 1996 at about 1225 hrs there was a collision between a car and a van at Changi South Ave 2 near its junction with Changi South St 3. It was a clear day and the surface of the road was dry although shortly after the collision there was light rain or "slight drizzle" as the plaintiff Mr Tan said. He is the owner of the car and he was driving with his mother as a rear seat passenger. The van was driven by the defendant Mr Chin.

2. In this action Mr Tan claims damages for negligence and Mr Chin "denies that the accident was caused by him". He alleges that it was caused solely by the negligence of Mr Tan. Contributory negligence was not pleaded in his defence. On 1 February 2000 I gave judgment for Mr Tan for damages to be assessed. Mr Chin has given notice of appeal and these are my written grounds.

3. Changi South Ave 2 is in an industrial estate and in 1996 it was (and still is today) a straight four lane two-way street between Ave 1 to the West and shortly after St 3 to the East at which point it turned sharply to the north. There were two lanes each for westbound and eastbound traffic. At the point of time when the collision took place both vehicles were travelling east. Both Mr Tan and Mr Chin described the volume of traffic as light in their police reports made shortly after the collision.

4. Mr Tan said in his affidavit:

> "I was at first on the right lane [lane 1] next to the centre road divider. When my mother told me to slow down I did so and moved slightly to the left. Subsequently my mother pointed at a building on my left as the place we were looking for and by that time, my car was moving very slowly to the left lane [lane 2]. There were no vehicles in front of me and the road was almost deserted. All of a sudden, motor van no YH 7266R driven by the defendant collided into my side of the door from behind."

Under cross-examination he said that he had intended to go to the OCH building which was the building he was looking for. His car had moved from lane 1 to lane 2 and it was in lane 2 when the collision took place.

5. Mr Chin said in his affidavit:

> "I was travelling at about 40 km/h. While travelling, I noticed a lorry (cement mixer) [truck mounted concrete mixer] parked at the left side of the road. Suddenly, a motor vehicle, SBT 4157B in front of the cement mixer driven by the plaintiff pulled out into my lane. I was shocked and immediately stepped on my brakes and tried to steer my vehicle to the right but it was already too late."

Under cross-examination he said that he was going to make a delivery at Ave 4 which had its junction with Ave 2 shortly after the sharp turn to the north. He was employed as a delivery man and was driving his employer's van.

6. Mr Tan's car was inspected by a surveyor from Automotive Appraiser & Surveying Services ("AA & SS") on 31 October 1996 and the van was inspected by a surveyor from LBS Adjustment Service on 5 September 1996. Their reports dated 19 November 1996 and 12 September 1996 and the accompanying photographs are consistent with Mr Tan's car having been collided into on its right side near the front door by the front left side of the van. In his report to the police Mr Tan described the collision as "side swipe - same direction". Mr Chin described it as "head to side".

7. Mr Tan's mother Mrs Tan Siew Gek said in her affidavit that she "spotted" the building she was looking for and told her son "and he moved his vehicle towards the left lane [lane 2]". Mr Tan was cross-examined as to the presence of a truck mounted concrete mixer on the left side of Changi South Ave 2 and he denied the presence of such a vehicle. It was put to him that his car pulled out from a stationary position immediately before the collision but he also denied that. Mrs Tan was not cross-examined as to these matters.

8. Mr Chin said under cross-examination:

> "Q: Where your van ended after collision? Show on copy of AB-20.
>
> A: (Witness marks on copy of AB-20).
>
> Court: Admit and mark D-2.
>
> Q: From your marking. Van parallel to road and front pointing towards Choo Building Centre?
>
> A: Agree.
>
> Q: AB-18A. Sign board for CASA MIA. Van next to sign board?
>
> (Note: AB-18A is a photograph of Changi South Ave 2 seen from the east.)
>
> A: Yes.
>
> Q: Lamp post. Tree. See it?
>
> A: Yes.
>
> Q: 'X' on D2. Lamp post?
>
> A: Yes.
>
> Q: After collision. Plaintiff's car came to stop. Where? AB-2. Sketch. As shown?
>
> A: Yes.
>
> Q: Final resting position of plaintiff's car and your van. Distance between 55 metres?

A: Don't agree.

Q: What distance?

A: About 45 metres to 50 metres."

9. Mr Goh Willy is a professional engineer with ROG Associates whose functions include traffic accident investigation and reconstruction. He was provided with copies of documents including AB-2 which is Mr Tan's police report. He inspected the scene of the accident. He established that the distance between the vehicles when they had come to a stop after the collision was about 55 metres. That is quite close to Mr Chin's estimate given under cross-examination but he has marked the position of the van a little further away. I think the distance was about 50 to 55 metres.

10. Under further cross-examination Mr Chin said:

"Q: After collision. Your van did half spin before coming to rest?

(Note: Counsel explained that by 'half spin' he meant a rotation of about 90 .)

A: No.

Q: At point of impact. Position of plaintiff's car and your van? Show on copy of AB-20.

A: (Witness marks on copy of AB-20).

Court: Admit and mark D-3.

Q: Based on your description at point of impact. Your motor van would have swerved to right after impact?

A: Don't agree."

D-3 shows Mr Tan's car on the line between lane 1 and lane 2 at an angle of about 15 to 30 to the side of the road as it might have been if it was pulling out from a stationary position in lane 2 and moving into lane 1. The van is shown as parallel to the side of the road.

11. I would have thought that if the car and the van were in the position shown on D-3 at the time of the collision the likelihood would have been for the van to swerve to the right ie towards the centre of the road immediately after the collision but Mr Chin did not agree. His evidence was:

"Q: Immediately after collision how your van moved?

A: Went straight on. Parallel to side of road.

Q: Front of plaintiff's car in front of your van and after collision your van went straight on parallel to side of road?

A: Yes.

Q: Version you just gave. Impossible?

A: Don’t agree."

On re-examination he said:

"Q: D-3. Shows your van on lane 1 immediately before collision.

D-2. Shows position of your van after collision. In lane 2. How from lane 1 to lane 2?

A: After collision I was shocked. I pulled over and parked at side.

....

Q: After collision. Why wanted to park at side?

A: Didn’t want to obstruct any oncoming traffic."

12. I find Mr Chin’s evidence quite unsatisfactory. Under cross-examination he said his van went straight on parallel to the side of the road. That would have been quite difficult. Mr Tan’s car would have been in its way. His van ended up in lane 2 by the side of the road according to him. He marked on a copy of the sketch plan where the van ended up after the collision. He said nothing about driving it there in his police report or his affidavit or under cross-exmination. On re-examination he said he pulled over and parked his van there. If this were true then his van could not have ended up where he said it did after the collision and as he marked on D-2. In any case his van would not have caused any obstruction to oncoming traffic as it was in lane 1 when the collision occurred and it did not swerve to the right but went straight on as he said. There is also no evidence as to any such traffic at all.

13. I think immediately before the collision Mr Tan’s car was in lane 2 having just moved very slowly from lane 1. It would have been parallel to the side of the road. The van driven by Mr Chin came from behind and collided into the right side of the car. It would have moved into the car from the right. The van ended up about 50 to 55 metres in front of the car. I find that there was no truck mounted concrete mixer or any other vehicle parked on the left side of the road as Mr Chin alleged. Mr Tan did not pull out from a stationary position in lane 2 whether in front of any such vehicle or not. It was not a case of his car pulling out and moving into the path of the van. It was a case of the van coming from behind and colliding into the right side of the car while it was travelling parallel to the side of the road in lane 2. This is sufficient to dispose of the issue of liability but I shall go on to consider other evidence which has been adduced.

14. Mr Goh said in his report dated 7 January 2000:

"Damage to Toyota SBT 4157B

Based on the photographs and the survey report of Automotive Appraiser And Surveying Services, it is noted that -

(a) The wing mirror together with its support base was completely dislodged;

(b) The profile of the dented R/F door shows a curve, which is steeper towards the front fender;

(c) The right front tyre and rim is in good condition ie no damage at all.

Damage to Van YH 7266R

Based on the photographs and the survey report of LBS Adjustment Service, it is obseved that -

(a) The left front bumper is buckled and distorted;

(b) The left front headlamp is smashed;

(c) The left front side/corner panel is crumpled;

(d) Grazing marks and rubbing marks were along the corner panel and on the left door;

(e) The step panel was in good condition ie no damage."

He said the damage to the vehicles was "consistent with a side swipe collision as described by the plaintiff".

15. Mr Koay Hean Lye Kelvin is a chartered professional engineer and accident reconstructionist and the principal consultant with Proper Consultancy Services. He prepared a report dated 29 December 1999 in which he stated:

> "Having completed investigations into this traffic accident, I am of the opinion that the Toyota sedan (SBT4157B) [Mr Tan's car] had turned right from lane-2 into lane-1 into the travel path of the Nissan van (YH7266R) [Mr Chin's van] at the material time, thus causing the Nissan van to collide into its (Toyota sedan) driver door."

16. Mr Koay had not examined the damage to Mr Tan's car or the van when he made his report. He had not even seen the survey report of AA & SS on the car or any of the accompanying photographs. After having seen these he made a further report dated 6 January 2000 which he said was "submitted to further reinforce the earlier findings in [his] report dated 29 December 1999".

17. At page 8 of his second report Mr Koay stated:

> "The large angle of impact as analysed from the vehicle damages shown in the surveyors' photographs would rule out a sideswipe or glancing collision between the two vehicles. A gradual veer of the vehicle to its left due to driver's inattentiveness on the wheels was also unlikely, unless there was a mechanical defect in the steering system at the material time."

The "large angle of impact" was not "analysed from the vehicle damages". What Mr Koay said was:

> "The surveyor's photographs of the Toyota sedan shows (*sic*) that the vehicle has sustained contact damage to its driver's door (ie the right side frontal door), consistent with an impact of a moderate nature in a direction approximately 30 to 45 from right to left of the vehicle."

The "large angle of impact" was what he said was consistent with what the photographs show.

18. Mr Goh said in para 8(c) of his report:

"The damage to the R/F door of the Toyota shows an inward curve, which is steeper towards the front fender indicating a greater departing angle. There is no damage to the R/F door glass window and R/F fender wheel and rim, which I would have expected to see if the Toyota cut into the path of the van at a 45 degree angle."

By contrast Mr Koay did not make any observations as to these matters or appear to have taken them into consideration but under cross-examination he said he did not agree with Mr Goh's observations on the damage to the door of the car.

19. In his affidavit Mr Tan said:

"Prior to the collision I heard a screeching sound from the defendant's van and the impact of the collision sent my wing mirror flying over quite a distance."

Under examination in chief he said:

"Q: After collision damage report showed right wing mirror dislodged. How?

A: Flew off. Upon impact right wing mirror flew off in front and landed about 10 to 15 metres in front of my car.

Q: Condition of right wing mirror after collision?

A: When I went to pick it up from the road it was cracked. Glass cracked.

Q: AB-5/6. Repair estimate?

A: Yes.

Q: AB-7/11. Survey report on your car?

A: Yes.

Q: AB-10 (A), 10 (B). Photographs of your car? Show car as damaged after collision?

A: Yes."

He was not cross-examined as to the "wing mirror flying over quite a distance". The photographs which were all agreed show that the wing mirror had been completely dislodged.

20. Mr Chin said in his police report that "for the other car, the driver's door was dented and the right wing mirror damaged". He made no reference to the damage to the wing mirror in his affidavit. Under cross-examination he said:

"Q: After collision wing mirror of plaintiff's car thrown forward?

A: Don't agree.

Q: Know where wing mirror landed?

A: Still hanging with some wires.

Q: Put: After collision wing mirror completely dislodged and flew forward?

A: Don't agree."

I do not accept Mr Chin's evidence as to the wing mirror. On the evidence before me I find that the wing mirror on the driver's side of the car was completely dislodged as shown in the photographs at AB-10 (A) and AB-10 (B) as a result of the collision. It was thrown forward by a combination of the force of the collision and to a lesser extent the forward movement of the car.

21. Mr Goh said in para 8(a) of his report:

> "Wing mirror of Toyota - The wing mirror of the Toyota is a foldable type such that a push would cause it to fold either inwards or outwards. In this case the entire unit was dislodged from its support base and it flew some distance in front of the Toyota. This indicates that there was considerable force to the support base of the wing mirror and the direction of the force must be parallel to the Toyota. The defendant's version cannot be supported because if it is a head to side collision (assuming the Toyota was at a 45 degree angle to the van) on impact to the wing mirror there would be damage to the R/F window panel, R/F fender, wheel and rim and also to the front windscreen. Photographs show that there was no damage to these parts."

And in part of para 8(b) he said:

> "The set in dents to the corner panel of the van indicates that an object protruding from the Toyota (wing mirror) came into heavy contact with the side corner panel of the van."

22. Mr Koay made no reference as to the wing mirror in either of his reports. Under cross-examination he said:

> "Q: Wing mirror of car upon impact flew 10 to 15 metres in front of car. Would this assist you to reconstruct type of collision?
>
> A: No. Not significant. Wing mirror basically structure weak. If force applied at angle 30 to 45 after dislodged may be thrown on to front bonnet. Because vehicle was still moving would be carried added distance.
>
> (To court): Impact at angle 30 to 45. At speed of 57 km/h would expect to see some damage to remainder of housing. I did not inspect housing. An inspection would help in my coming to conclusions. Should think if no damage would be more consistent with a narrower angle impact than a 30 to 45 impact."

He was not referred to the photographs which show the remainder of the housing in position. As Mr Goh observed in his report the photographs do not show any damage to the surrounding areas. 57 km/h was the pre-impact speed of the van estimated by Mr Koay.

23. Finally Mr Koay was referred to the statement at page 8 of his second report where he said that "a gradual veer of the [van] to its left due to driver's inattentiveness on the wheels was also unlikely". He said:

> "A: My conclusion would still hold even assuming greater pre-impact speed and narrower angle impact. Assume also profile of dent in plaintiff's car door and damage as observed in P-1 para 8 item (c). Given these circumstances I would say less unlikely."

P-1 is Mr Goh's report. Para 8(c) appears above.

24. I do not think that any useful purpose is served by any attempt to distinguish a "side swipe - same direction" collision from a "head to side" collision. The van came from behind and collided into the right side of the car. It was not at an angle of 30 to 45. It was at a narrower angle. It was not unlikely that the van veered to its left and collided into the car. There was no basis for Mr Koay's opinion "that the [car] had turned right from lane-2 into lane-1 into the travel path of the [van]" an opinion which he gave before he had seen the survey report of AA & SS on the car and the accompanying photographs.

25. On the facts as I have found I am satisfied that Mr Chin has failed to keep a proper look-out or to observe the presence of Mr Tan's car and has failed to steer the van on a safe and proper course. In my judgment he was negligent as alleged in the statement of claim and I gave judgment for damages to be assessed.

Dated this 9th day of May 2000.

LIM TEONG QWEE

JUDICIAL COMMISSIONER

SUPREME COURT

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