

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[1968] SGHC 17

Suit 2163/1967

Between

Wee Soon Hian

... Plaintiff

And

Lai Ching Mow

... Defendant

GROUND OF DECISION

Tort — Negligence — Duty of care

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Wee Soon Hian v Lai Ching Mow

[1968] SGHC 17

Suit 2163/1967
A V Winslow J
19 June 1968

1 This is one of those infrequent cases where I have no hesitation at all in rejecting the evidence of the plaintiff on all disputed matters. He was clearly proved to be a liar on about the most material issue in the case, to wit, whether there was an oncoming car which encroached on the defendant's side of the road in such a manner as to render the defendant's action inevitable in, what is frequently referred to as, the 'agony of the moment'. I have found it impossible to place any reliance in him at all. On the contrary, I accept the defendant as, substantially, an honest and reliable witness.

2 Taking the view which I do about their respective attitudes towards the truth, I do not propose to enter into a detailed analysis of their evidence.

3 I am satisfied beyond doubt that what the plaintiff himself said about the oncoming car in his original police report, to wit, that it took too much of the road and caused the defendant to swerve left to avoid it, which he denied in evidence, was a true account of what actually took place and that he has subsequently seen fit to falsify and tailor his evidence to suit the remedy he now seeks.

4 In my judgment, he has hopelessly failed to establish any negligence on the defendant's part. This should suffice to dismiss his claim but since the defendant's veracity has been called in question, I feel I ought to state my own views on his version of the accident which I have no hesitation in accepting as a true version of what really occurred.

5 As counsel who took over the conduct of the plaintiff's case at the continued cross-examination of the defendant on 30 May, after the case had been part-heard previously on 10 May this year, has himself stated in other motor accident cases in which he has appeared before me, it is difficult for witnesses to be mathematically precise some time after the event about matters such as times, distances and speeds. It is small wonder, therefore, that the defendant who was driving the taxi, in which the plaintiff was a passenger, just after midnight on the morning of 5 January 1967, on a left-hand bend in Upper Thomson Road at about the 5.75 milestone towards the city, was unable to be as mathematically precise about these matters as he was expected and required to be on this particular occasion.

6 Despite any apparent lack of precision on his part, I am satisfied, on the evidence as a whole, that he was telling the truth to the best of his ability as to why his taxi went off the road on to the grass verge and then landed upside down in a drain to his left.

7 I am also satisfied that there was an oncoming car which he suddenly saw approaching him at speed on his own half of the road after he had completed the left-hand bend. This left him with no alternative except to try to minimise the impending disaster as best he could. I do not accept the suggestion that he should have been crawling round the bend as he reached it at a very low speed in order to avoid possible speed maniacs who might have been bent on entering

the bend from the opposite direction by slicing it. He had driven on this particular route for a long time without mishap and even the plaintiff stated that on this particular night he had driven quite well from the 13th milestone until the accident.

8 I am satisfied that the avoiding action taken by him was one which any reasonable user of the road, like himself, confronted with the same situation, i.e. a head-on collision through no fault of his own, could well have adopted on emerging out of this particular bend short of having to commit virtual suicide. In other words, I accept his explanation.

9 The plaintiff's claim cannot succeed from any point of view and is accordingly dismissed with costs.

10 ***Claim dismissed.***

A V Winslow J

HE Cashin and Richard Ho (Murphy & Dunbar) for the plaintiff
M Coomaraswamy (Rodyk & Davidson) for the defendant
