

Koh Siang Hong v Hum Weng Fong
[2007] SGHC 218

Case Number : Suit 682/2006
Decision Date : 12 December 2007
Tribunal/Court : High Court
Coram : Lee Seiu Kin J
Counsel Name(s) : Abraham Teo Siew Kuey (Abraham Teo & Co) for the plaintiff; Edwin Chua and Peter Wong (Lawrence Chua & Partners) for the defendant
Parties : Koh Siang Hong — Hum Weng Fong

Tort

12 December 2007

Lee Seiu Kin J:

1 The plaintiff is the widow of Teow Moi Chye ("Teow") and the administratrix of his estate. Teow died as a result of an accident on 26 January 2004 at about 4.45am in which he, while riding his bicycle, collided with a motorcycle ridden by the defendant ("Hum") along Ang Mo Kio ("AMK") Ave 3. The plaintiff brought this action on behalf of Teow's dependents, namely herself, her youngest son, her mother and Teow's mother.

2 After a one day trial on 23 July 2007, I adjudged Hum to be liable to the plaintiff for two-thirds of damages which are to be assessed. I reserved the question of costs to the registrar. Hum has since lodged a notice of appeal against my decision on the extent of his liability and I now give my grounds of decision.

3 The plaintiff gave evidence that Teow was a school-bus driver. She assisted him in his work as a bus attendant. It was his practice to cycle from his home at Block 618 AMK Ave 4 to the place where his bus was parked for the night, at Serangoon Garden South School at AMK Ave 3. He would drive it home to pick up the plaintiff. He usually set off at around 4.30am and the plaintiff testified that he did so on the morning of 26 January 2004. That was the last time she saw him alive.

4 Hum gave evidence that he had been a welder until he retired at 55 years of age. He was about 58 years old at the time of the accident. On the night before the accident, he was at a coffee shop at Kallang Baru from about 9pm for dinner. He met up with some friends and they drank together. He said that he consumed three large bottles of Carlsberg beer. As it was raining heavily he could not leave for home until about 4.15am the next morning. Hum said that he did not sleep at the coffee shop while he was there. As he left he put on his raincoat, and got on his motorcycle to head for home, which was at Block 678 Hougang Ave 8. He first took the Central Expressway ("CTE") and turned out at AMK Ave 3 towards Hougang.

5 Hum said that his speed on the CTE was a little faster than 50 km/h while along AMK Ave 3 he travelled at 50 km/h at it was raining at the time. The accident took place at the junction of AMK Ave 3 and AMK Industrial Park ("AMKIP") 2, which is a T-junction. At this location, AMK Ave 3 is a divided road with three lanes in either direction. Hum said that he was on the centre lane as he approached the junction and the traffic light was green in his favour. His headlights were on. Hum said that as he arrived at the junction Teow came out of AMKIP 2 on his bicycle. Teow had turned left into the slip

road to enter AMK Ave 3 in the direction that Hum was travelling. Hum said that he tried to swerve to the right and apply the brakes of his motorcycle but was unable to avoid colliding into Teow. Hum's motorcycle skidded, their vehicles collided and Teow's head knocked against Hum's, fracturing his left cheekbone. Hum said he did not sound the horn as there was no time to do so.

6 Hum is the only eyewitness to the accident. Under cross-examination he maintained that he was not travelling at a speed higher than 50 km/h at the time. He maintained that the traffic light was green in his favour and that Teow had cut into his path suddenly. In his affidavit evidence-in-chief, he had stated that he was travelling in the middle lane of AMK Ave 3. This version was repeated in the sketch plan he made for the purpose of his insurance report. However during cross-examination he said that he filtered from the centre lane to the extreme left lane as he neared a Caltex petrol station (which was located at the junction of AMK Ave 3 and AMKIP 2, on Teow's side of the road). Hum said that he first saw Teow only when the latter was only a car length away from him. Hum was by then on the left lane. This is a considerably different version from the sketch that Hum had submitted to his insurer, in which he drew a line in the middle lane throughout AMK Ave 3, indicating that he was travelling on that lane throughout and the collision took place at the left edge of the middle lane.

7 From the photographs and the police sketch plan of the scene, Teow's bicycle was lying at the left kerb of AMK Ave 3 at the point where the slip road from AMKIP 2 joins up with it. Teow's body was lying on the left edge of the middle lane. Hum's motorcycle was lying on the right edge of the left lane. This is inconsistent with Hum's version that he had swerved to the right immediately upon seeing Teow cut in front of him. Were that the case, his motorcycle would have ended on the right side of AMK Ave 3, not the leftmost lane.

8 In view of these inconsistencies, I was not satisfied with the overall quality of Hum's evidence. I noted that he had admitting drinking three large bottles of Carlsberg between 9pm and 4.15am. He had remained awake through the night and was returning home after that long stretch, on a rainy morning and travelling on a wet road. He admitted to travelling at 50 km/h.

9 One of the difficulties I had with Hum's evidence was that he only saw Teow when the latter was only about one car length from him, which explains why it was too late for him to avoid the collision. Hum said that the traffic at that hour was light, as one would expect. Therefore there were no vehicles stopped along AMKIP 2 at the junction with AMK Ave 3 to block Hum's view of Teow who, as Hum was approaching the junction, must have been cycling along AMKIP 2 and turning into the slip road to AMK Ave 3. Yet Hum said that he had changed lane from the middle lane to the left lane, directly into the path that Teow was heading. It would appear that Hum was not even able to swerve, given the position that his motorcycle ended up, although I cannot say conclusively that this was so. But if Hum had changed to the left lane as he neared the Caltex station, this meant that he was heading in the direction of Teow who would be cycling along the slip road. Hum could have seen Teow pedalling along the slip road about to enter AMK Ave 3 but he admitted he did not until Teow was one car length away. This showed that Hum was not alert to the dangers of the road as he was travelling on it. The road was wet, it was raining, he had spent the last seven hours or so drinking, it was a long night and he was going home to bed. Yet he chose to travel at 50 km/h which, although it is within the speed limit for that stretch of road, is hardly a safe speed given the lighting, wet road conditions and the state of alertness he was in. As it tragically turned out, he chose to change to the left lane at a time when he could and ought to have seen, but failed to see, Teow cycling on the slip road on a course that would bring them to a collision.

10 On the part of Teow, he was entering AMK Ave 3 from the slip road and was obliged to ensure that it was safe for him to do so. So he was also at fault. However, on Hum's own evidence that he

had changed lane which brought him on a collision course with Teow, I was of the view that Hum was the party more culpable and held that he was liable to Teow for two-thirds of the damages.

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