

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHC 63

HC/Suit No 769 of 2016

Between

Hapsuwan Sakon

... Plaintiff

And

1. CT Civil Construction Pte Ltd
2. Lim Poh Guan

... Defendants

EX TEMPORE JUDGMENT

[Tort]–[Negligence]

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Hapsuwan Sakon
v
CT Civil Construction Pte Ltd and another

[2017] SGHC 63

High Court — Suit No 769 of 2016
Woo Bih Li J
23–24, 27 March 2017

29 March 2017

Ex Tempore Judgment

Woo Bih Li J:

1 This is a claim by a plaintiff cyclist (“the Cyclist”) against two defendants arising from an accident in the morning of 27 September 2015. The second defendant was the driver (“the Driver”) of a 10-wheel Isuzu tipper truck and was the employee of the first defendant at the date of the accident. It was not disputed that if the Driver was negligent, the first defendant would be vicariously liable for his negligence.

2 The accident occurred when the truck was heading from a construction site onto a side road which was leading to the main road known as Tampines Road. The Cyclist was coming from the left at a right angle towards the truck. His version was that he was cycling along a foot path which led to the side road. The Driver’s version was that the Cyclist was cycling along the main road when the Driver reached the junction of the side road and the main road.

3 Therefore, one of the questions was whether the Cyclist was cycling along the footpath or along the main road. The Cyclist said he was cycling along the footpath. The Driver did not notice the Cyclist so he could not really say where the Cyclist was. The defendants were trying to infer from the evidence of where there was some blood stain and the location of the truck when it stopped that the Cyclist was cycling along the main road but such evidence was neither here nor there.

4 Although the Cyclist was not a very reliable witness on other aspects of his evidence, he was consistent about cycling along the footpath. That was also the safer and, logically, the more natural route than cycling along the main road opposite the flow of vehicular traffic coming towards him. I find that he was cycling along the footpath.

5 The footpath which the Cyclist was travelling on was at a right angle to the side road which the Driver was on. The side road led to a junction with the main road which was Tampines Road. I agree with the defendants that as between the footpath and the side road, the footpath should be considered as the minor road and the side road as the major road.

6 The first main issue was whether the Driver was negligent. He said he had stopped twice. The first time was at the intersection where the footpath led into the side road. The second time was at the junction where the side road led into the main road. He said that each time he had looked left and right and did not notice the Cyclist.

7 I do not believe that the Driver stopped twice. The first intersection is just a short distance from the junction with the main road. There would have been no reason for him to stop there especially since he did not notice a cyclist before reaching that intersection.

8 In my view, the Driver had failed to keep a proper lookout as he was driving along the side road even though he had the right of way until he reached the junction with the main road. If he had kept a proper lookout, he would have noticed the Cyclist on his left. There is no suggestion that even if he had noticed the Cyclist, it would have been too late for him to stop or to swerve to avoid the Cyclist. Furthermore, if the Driver had noticed the Cyclist, he would have been under a duty to sound the horn of the truck to warn the Cyclist of the approaching truck, especially if it appeared that the Cyclist might not have noticed the presence of the truck. Consequently, as the Driver did not notice the Cyclist, he continued driving towards the junction with the main road and the Cyclist collided into the truck, not at that junction, but at the intersection between the footpath and the side road.

9 In my view, the Driver was negligent in failing to notice the Cyclist and taking evasive action and/or failing to warn the Cyclist of the approaching truck.

10 However, this is not a case of a truck hitting a cyclist but rather a cyclist hitting the truck. This is borne out by the fact that the Cyclist claimed that his bicycle hit the truck around or near the centre of the truck. If the truck had hit the Cyclist it would have been the front of the truck that did so.

11 The next main issue was whether the Cyclist had contributed to the accident by his own negligence.

12 I find that the Cyclist was also negligent because he did not keep a proper lookout for any vehicle that might have been coming out from the construction site onto the side road from his right. It was his own evidence that the first time he saw the truck, the truck was one foot away from his bicycle. Furthermore, he said that before the collision, he was looking left, instead of to the front or to the right. From his demonstration in court, he had turned his eyes from the left to the front and he then saw the truck in front of him.

13 I find the Cyclist more to blame as he was coming from the footpath and should have given way to the truck. Secondly, the truck was larger and he should have noticed the truck before the Driver should have noticed him. Thirdly, as the defendants submitted, the truck is a noisy vehicle and the Cyclist should have also heard the sound of a truck arriving from the right. He did not. Fourthly, as the Cyclist claimed that he was riding the bicycle at a leisurely pace, it would have been easier for him to stop or swerve the bicycle he was on than for the Driver to stop or swerve the truck.

14 In the circumstances, I grant the Cyclist interlocutory judgment against the first defendant and the Driver on the basis that the Driver was 20% negligent and the Cyclist was 80% negligent.

15 Damages are to be assessed by the Registrar. The costs of the assessment and the action and interest are to be determined by the Registrar.

Woo Bih Li
Judge

Tan Heng Khim and Lisa Yeo Poh Choo (Apex Law LLP) for the
plaintiff;
Ramasamy K Chettiar and Lim Hwee Peng, Scarlett (Central
Chambers Law Corporation) for the defendants.
