

Mohit Singh v Sim Han Khoon and Another
[2009] SGHC 276

Case Number : DA 24/2009
Decision Date : 04 December 2009
Tribunal/Court : High Court
Coram : Philip Pillai JC
Counsel Name(s) : Ramesh Appoo (Just Law LLC) for the appellant/first defendant; Gurdeep Singh Sekhon and Peter Ezekiel (K S Chia Gurdeep & Param) for the first respondent/plaintiff; Jispal Singh s/o Harban Singh (UniLegal LLC) for the second respondent/second defendant
Parties : Mohit Singh — Sim Han Khoon; Subramaniam s/o PR Seeni
Tort - Negligence

4 December 2009

Judgment reserved.

Philip Pillai JC:

1 This is an appeal by the first defendant (also the “appellant”) against the decision of the district judge issued on 26 June 2009 in which the district judge adjudged the first defendant to be 100% liable for the accident where the first defendant’s car hit the second defendant’s taxi causing it to hit the plaintiff’s car in front of the taxi.

2 It is conceded by all counsel as trite law that the duty of an appellate court is simply as stated in *Aircharter World Pte Ltd v Kontena Nasional Bhd* [1999] 3 SLR 1 at [19] (which cited with approval Lord Shaw in *Clarke v Edinburgh and District Tramways Co 1919 SC (HL)* 35 at p 36):

... In my opinion, the duty of an appellate court in those circumstances is for each judge of it to put to himself, as I now do in this case, the question, Am I- who sit here without these advantages, sometimes broad and sometimes subtle, which are the privileges of the judge who heard and tried the case - in a position, not having those privileges, to come to a clear conclusion that the judge who had them was plainly wrong? If I cannot be satisfied in my own mind that the judge with those privileges was plainly wrong, then it appears to me to be my duty to defer to his judgment.

Also at [19] (which cited with approval Lord Thankerton in *Watt v Thomas* [1947] AC 484 at p 487-488):

... an appellate court which is disposed to come to a different conclusion should not do so unless it is satisfied that any advantage enjoyed by the trial judge by reason of having seen and heard the witnesses could not be sufficient to explain or justify the trial judge’s conclusion. ...

3 The grounds of this appeal are that first, the judgment of the district judge is improbable and against the weight of the evidence; second, that it is wrong in light of established documents, contemporaneous reports and photographs; and third, it disregards material facts.

4 In support of his case, the appellant submits the following factors as justifying an appellate

court to reverse the trial judge's decision:

- (a) firstly, that nowhere in the relevant contemporaneous Singapore Accident Statement or the Police Report of a Traffic Accident did any of the parties indicate that the plaintiff stopped for what the plaintiff stated in his evidence under cross examination that he stopped for 7-8 seconds before impact;
- (b) secondly, that the plaintiff had failed to call his wife who had been with him in his car as a witness; and
- (c) thirdly, that the trial judge had wrongly rejected the appellant's version of first collision and accepted the plaintiff's version of the prior collision.

5 Having considered the submissions carefully, I am not satisfied that these constitute sufficient grounds for me to alter the district judge's decision on liability. All these submissions have, in fact, already been canvassed before the district judge.

6 It was further argued before me by the appellant's counsel that some apportionment should have been appropriately ordered by the district judge to the second defendant based on the following factors:

- (a) the dark and rainy conditions at the time of the accident; and
- (b) the failure of the second defendant to keep a proper distance of one car length behind the car in front of it based on the Highway Code standard of keeping such distance for every 16 kmph, as all cars were approaching the Fort Road exit of the ECP. It is also argued that had this distance been kept, there might have been no impact or lesser damage to the plaintiff and his car.

7 Again, all these were fully canvassed before the district judge and nothing has been submitted before me which leads me to be satisfied to vary the district judge's decision that the appellant be held 100% liable to the plaintiff.

8 I would dismiss the appeal.

9 Costs of this appeal awarded against the appellant.

Appeal dismissed.