

**THE EASTERN CARIBBEAN SUPREME COURT
SAINT LUCIA**

**IN THE HIGH COURT OF JUSTICE
(CIVIL)**

SLUHCV2010/0291

BETWEEN:

EDWARD INNOCENT

Claimant

And

**(1) VINCENT PIERRE
(2) PHILBERT WILSON**

Defendants

Appearances:

Ms. Antonia Auguste for the Claimant
Mr. Vern Gill for the Defendants

2019: February 6th

JUDGMENT

- [1] **WILKINSON J.:** Mr. Innocent filed his claim form and statement of claim on 15th April 2010. By his statement of claim, Mr. Innocent alleged that due to the negligent driving of Mr. Wilson, he suffered loss and damage. He seeks relief of special damages in the sum of \$19,091.00, interest at the rate of 6 percent, costs, and further or other relief. Mr. Pierre and Mr. Wilson filed separate defences. There was no counterclaim by either of them.
- [2] The accident happened on the 29th September 2007, at approximately 1.10 p.m. in the Town of Vieux Fort, Saint Lucia's second largest commercial centre, after the City of Castries. It is uncontested that Mr. Wilson was driving along the Laborie-

Vieux Fort Highway with the intention of entering Clarke Street, and Mr. Innocent was driving along Clarke Street with the intention of entering the Laborie-Vieux Fort Highway. One end of Clarke Street comes to T-junction with the Laborie-Vieux Fort Highway. At the T-junction between the Laborie-Vieux Fort Highway and Clarke Street, there are traffic lights controlling the movement of traffic coming out of or entering into Clarke Street or opting to move along the Laborie-Vieux Fort Highway in either direction. According to both Mr. Innocent and Mr. Wilson, the lights controlling the traffic were working on the day of the accident. According to Mr. Innocent the traffic light to turn right on leaving Clarke Street is set up across the road obliquely opposite Clarke Street and at the edge of the Laborie-Vieux Fort Highway, and the light to turn left off Clarke Street into the Laborie-Vieux Fort Highway is at the intersection. On the day of the accident, the traffic flow was not heavy.

- [3] Mr. Innocent, is a planning manager. At the time of the accident he was the owner and driver of a 2007 Chevrolet Aveo with licence registration no. PE9185.
- [4] According to Mr. Innocent, he drove along Clarke Street towards the lights at the T-junction of the Laborie-Vieux-Fort Highway. On arrival at the T-junction he saw the traffic light turn green. It was his intention to turn right. He accelerated and proceeded and was in the process of making his right turn onto the Laborie-Vieux Fort Highway in the direction of the Hewanorra Airport, when Mr. Wilson driving a Toyota Corolla licence registration no. PD8208 attempted to make a right turn from the Laborie-Vieux Fort Highway into Clarke Street and across the path in which Mr. Innocent's motor vehicle was travelling and there the accident happened.
- [5] According to Mr. Innocent, Mr. Wilson who was turning right into Clarke Street from the Laborie-Vieux Fort Highway, the street from which he was exiting, not only failed to stop, but also failed to negotiate the bend properly and attempted to make the turn at an angle which put him on Mr. Innocent's side of the road.

- [6] Mr. Innocent says that the accident was due to the negligent driving of Mr. Wilson. He is of the view that the accident would not have happened if Mr. Wilson had followed the signal to stop given by the traffic light and had ensured that it was safe to make his right hand turn, and negotiated the corner properly.
- [7] It is uncontested that Mr. Wilson moved his motor vehicle before the Police arrived.
- [8] Mr. Innocent disclosed an Insurance Council of Saint Lucia Estimate of Repairs. Therein it was stated that there would have to be purchased (a) left-hand apron, (b) radiator support, (c) left-hand A pillar, (d) condenser, (e) left-hand fender, and (f) front cross member. Mr. Innocent special damages of \$19,091.00 were broken down as follows: -

Repair cost	-	\$16,091.00
Less Excess	-	<u>(\$2,700.00)</u>
		\$13,391.00
Cost of survey report	-	\$ 200.00
Police Report	-	<u>\$ 200.00</u>
		\$13,791.00
Policy excess	-	\$2,700.00
30 days loss of use \$100.00 per day		<u>\$3,000.00</u>
		\$19,091.00

- [9] Under cross-examination, Mr. Innocent made certain allegations which he had to admit that he had not pleaded or set out in his witness statement. These included (a) that Mr. Wilson had hit him on the left hand side, (b) that Mr. Wilson was travelling with a lot of speed and this brought about damage not only to the left side of his motor vehicle, but also to the right fender, right headlamp and grill of his

motor vehicle, (c) Mr. Wilson was travelling from the Laborie direction and in the far left lane as if going straight to Castries and not in the centre lane to turn to go into Clarke Street and to the Vieux Fort Town, (e) that he did not see Mr. Wilson coming towards him because motor vehicles in the centre lane from Laborie and from New Dock directions were stopped. .

- [10] Mr. Pierre had little to offer the trial. He is a shopkeeper, and was the registered owner of the motor vehicle licenced PD 8203 driven by Mr. Wilson. He had given Mr. Wilson his permission and consent to drive his motor vehicle. He was not present at the time of the accident. His motor vehicle suffered damage to the front bumper, the right fender, right park light, right head light, right indicator, the condenser, the radiator, and the chassis was bent. He did not pursue a claim for damage to his motor vehicle.

- [11] Mr. Wilson, is a watchman at the Augier Combined School. He knew Mr. Innocent prior to the accident. He was driving Mr. Pierre's motor car to run an errand for Mr. Pierre's father, Mr. Vincent "Son" Pierre.

- [12] Mr. Wilson said that he was travelling from the Laborie direction towards the airport direction on the Laborie-Vieux Fort Highway, and when he got to the intersection of the Laborie-Vieux Fort Highway with Clarke Street, he drove into the center lane to turn right into Clarke Street. There were no motor vehicles ahead of him. The light was red on his arrival in the center lane and he stopped. The light changed to green and he drove off turning turned right into Clarke Street.

- [13] While turning into Clarke Street, Mr. Wilson says that he felt a knock and realized that the motor vehicle was going backwards in a different direction. The motor vehicle stopped. He switched off the engine, opened the door and got out. At this time he saw a black motor vehicle stopped in front of the motor vehicle he was driving. He saw Mr. Innocent was outside the black motor vehicle and realized he

was the driver of it. He asked Mr. Innocent "Garcon, what happened?" Mr. Innocent told him: "I'll call the Police". He said to him "Go ahead".

- [14] Mr. Wilson observed that both motor vehicles were damaged. Mr. Innocent's on the left front, and Mr. Pierre's on the right front. He believed the accident occurred because Mr. Innocent did not obey the traffic lights and this left him responsible for the accident.
- [15] Under cross-examination Mr. Wilson said that he did look into Clarke Street. When asked what he saw there, he said that because of how the junction was built, you have to "swing into" Clarke Street and that you cannot see anything coming out from Clarke Street "one time". Subsequently on another question, Mr. Wilson admitted that he could see into the junction and up Clarke Street.
- [16] Under cross-examination when asked twice if he saw any motor vehicle at the entrance of Clarke Street, he responded on the second occasion "No". On a further question of if there was a motor vehicle at the junction of Clarke Street, if he would be able to see it, and Mr. Wilson responded "Not exactly, because of the way the junction is, and where he was in the centre lane."
- [17] Under cross-examination Mr. Wilson was asked if he was saying that if "you" going into Clarke Street, if you would have no idea if any motor vehicles were at the junction on Clarke Street and he responded that "Yes" he would.
- [18] When asked if at around the time of the accident happen, before he swung, if he saw any motor vehicles stopped on Clarke Street, Mr. Wilson responded "No". Or any motor vehicle moving and he responded "No."

- [19] Under cross-examination, Mr. Wilson was asked if before he manoeuvred the turn to go into Clarke Street, he saw Mr. Innocent's motor vehicle at all ? He responded "No".
- [20] It was put to Mr. Wilson that he would have to cut across a lane on his right (Laborie-Vieux Highway heading towards Laborie) to get into Clarke Street, and he answered "Yes".
- [21] Mr. Wilson was then asked, so when you moving off to go into Clarke Street, were there any vehicles moving in close proximity to him? He responded that he could not recall.
- [22] Under cross-examination, Mr. Wilson was asked whether the point of impact was closer to Clarke Street or on Laborie-Vieux Fort Highway and he responded that the point of impact of the accident was closer to the Laborie-Vieux Fort Highway. He then appeared to change his mind when it was put to him if he was saying that Mr. Innocent's motor vehicle was already out on the highway when the accident happened. Mr. Wilson responded that it was not really on the highway as yet. He was asked on what lane of the highway was the point of impact and he responded that it was on Clarke Street.
- [23] A Police traffic accident report was disclosed. The Police visited the accident scene, made inquiries of both drivers and took measurements. According to Mr. Wilson, what he gave the Police at the time was an explanation and he subsequently went to the Vieux Fort Police Station and gave a statement.

Mr. Innocent and Mr. Wilson were present when measurements were taken and neither lodged any objections to the measurements. The report was prepared at 28th February 2008, by the Officer in Charge of the Vieux Fort Police Station. The signature was not legible. The investigating Police Officer was WPC 585 Wilson.

The report recorded that the accident occurred at about 1.10 p.m. on 29th September 2007, on Clarke Street near the traffic lights. It set out the uncontested details for each motor vehicle, the owner, driver and insurer.

[24] According to the report, Mr. Innocent was travelling along Clarke Street towards the direction of the Laborie-Vieux Fort Highway with the intention of making a right turn into the said highway. Upon reaching the intersection Mr. Innocent brought his motor vehicle to a stop at the traffic lights. Investigations reveal that Mr. Wilson was travelling along the Laborie-Vieux-Fort Highway with the intention of turning right into Clarke Street. It was stated that it had been established that in proceeding Mr. Wilson failed to stop and negotiate the corner properly and so collided with Mr. Innocent's motor vehicle causing damages to its left front end.

[25] The damage to Mr. Innocent's motor vehicle was described as being to: the bonnet, left side, front bumper, left head lamp, left fender and right head lamp.

[26] The damage to Mr. Pierre's motor vehicle was described as being to: front bumper, right park light, right indicator light, right fender, right headlamp and grill filler.

[27] The report provided measurements for only Mr. Innocent's car, Mr. Wilson having removed the motor vehicle that he was driving from the place where the accident occurred. Since the report identifies the accident as happening on Clarke Street, the Court proceeds on the footing that the measurements relate to Clarke Street. The measurements were:

Width of road at P.O.I. = 38 feet .9 inches

P.O.I to left side of road facing airport = 18 feet .10 inches

P.O.I. to right side of road facing airport = 9 feet . 9 inches

Final position of m/car reg.# PE 9185 (Mr. Innocent):

Left front wheel of left side of road facing airport = 17 feet . 9 inches

Left front wheel to left side of road facing airport = 12 feet . 6 inches” ¹(there is an error in this

measurement as the left front wheel to left side is

recorded twice)

Right front wheel to right side of road facing airport = 14 feet . 5 inches

Right rear wheel to right side of road facing airport = 16 feet

Length and width of motor car reg.# PE 9185

Length = 13 feet 5 inches

Width = 5 feet

Length and width of motor car reg.# PD 8203

Length = 13 feet 6 inches

Width = 5 feet 4 inches

Front of motor car reg.# PE 9185 to broken white lines at intersection – 5 feet 4 inches

- [28] It was recorded on the report that Mr. Wilson was to be prosecuted for the offence of driving without due care and attention. Under cross-examination, Mr. Wilson said that he had not been prosecuted in relation to the accident.

Findings and Analysis

- [29] What is a fact, is that if both drivers were in their proper right turning lanes then unless the traffic lights before both drivers were faulty, then both drivers ought not

¹ There is an error in this measurement as the left front wheel to left side is already recorded immediately above.

to have been proceeding on a green light to make their right turns at the same time.

[30] As the Court recalls, Mr. Innocent would have had to cross over the Laborie-Vieux Fort Highway side of the road going towards Laborie and then get into the left lane heading towards the airport direction. Mr. Wilson on the other hand would have to come out of his left lane while heading towards the airport direction and into a middle/inner lane which provided for turning right into Clarke Street. To get into Clarke Street it would have been necessary for him like Mr. Innocent to cross over the Laborie-Vieux Fort Highway lane heading towards Laborie.

[31] As to exactly where the accident happened, according to Mr. Innocent, he was at the junction of Clarke Street and the Laborie-Vieux-Fort Highway, and in the process of making a right turn into the highway. According to Mr. Wilson, he drove off and turned into Clarke Street. He said that it was while he was turning into Clarke Street that he felt a knock and realized that his motor vehicle was going backwards.

[32] It is a fact that Mr. Wilson moved the motor vehicle that he was driving and so there were no measurements for him in relation to the accident. He offered no explanation as to why he moved the motor vehicle before the arrival of the Police. Therefore, the sole motor vehicle stopped at the scene of the accident is that of Mr. Innocent and it is only from this motor vehicle that measurements are recorded.

[33] The Police report states that the accident happened on Clarke Street. An interesting item in the Police report is that the front of Mr. Innocent's motor vehicle was 5 feet 4 inches away from the broken white lines at the intersection. From this information, it would appear that there was first a setback line or similar indication at which Mr. Innocent was required to stop on a red light and it was away from the

actual broken white lines over which Mr. Innocent had to travel through to enter into the Laborie-Vieux Fort Highway.

[34] The Court's experience is that the broken lines are usually at the very end of the road, in this instance that would be Clarke's Street. The measurement of the front of Mr. Innocent's motor vehicle being 5 feet 4 inches away from the broken line therefore suggest that Mr. Innocent had not as yet moved into the intersection to cross over into the Laborie-Vieux Fort Highway. This confirms the accident being on Clarke Street.

[35] Returning to the measurements on Clarke Street, the width of the road is recorded as being 38 feet 9 inches. There is no mention of an inner lane on Clarke Street for cars wishing to turn right like Mr. Innocent was seeking to do, and as described by Mr. Wilson as being present on the Laborie-Vieux Fort Highway for his right turn into Clarke Street. This being so, it appears that Clarke Street at the junction was 2 lanes, 1 for going into the Town of Vieux Fort and 1 for coming out of the Town of Vieux Fort. That being so, each driver would be entitled to a lane averaging 19 feet 45 inches.

[36] Bearing in mind each driver into and out of Clarke Street would have an average of 19 feet 45 inches, the measurement of point of impact to left side of road facing the airport, is 18 feet 10 inches. Against this, the Court bears in mind that all damage to Mr. Innocent's motor vehicle is recorded as being on his left side. The point of impact would be the point at which Mr. Wilson and Mr. Innocent motor vehicles made contact on Mr. Innocent's left side. Giving Mr. Innocent the benefit of the doubt that he was initially properly in his lane, the point of impact suggest to the Court that Mr. Innocent had started to move out of his lane notwithstanding that he had not crossed the broken white lines at the intersection and had crossed over into the other lane of Clarke Street, the lane heading into the Town of Vieux Fort.

- [37] Again the measurement of where Mr. Innocent's left front wheel was to the left side of the road, 17 feet 9 inches appear to support the Court's position and so too does the position of the right front wheel which is 14 feet 5 inches away from the right side of the road, the right side of the road was not Mr. Innocent's lane – at least that lane should have averaged if he was not in that lane, approximately 19 feet 45 inches.
- [38] In regard to Mr. Wilson, both the Police report and Mr. Pierre identify the damage to motor vehicle driven by Mr. Wilson as being on the right side of the motor vehicle – the side where the driver is positioned.
- [39] The motor vehicle driven by Mr. Wilson having suffered damage to the right side which is the driver's side, and hit Mr. Innocent's motor vehicle on the left side, on a side of the road where Mr. Innocent was still within his 19 feet 45 inches rather than at the front or right side which would put him in the Clarke Street lane heading towards the Town of Vieux Fort, it appears that Mr. Wilson was driving up the wrong lane altogether and so is responsible for the accident. .
- [40] Had Mr. Wilson's damage been on the left side, and Mr. Innocent's been on his right, given the road measurement of Mr. Innocent's right wheels, then Mr. Innocent would have been in Mr. Wilson's approximate 19 feet 45 inches and likely responsible for the accident.
- [41] The Court therefore finds that Mr. Wilson is responsible for the accident. That being the finding of the Court, both Mr. Pierre and Mr. Wilson are responsible for Mr. Innocent's claim of special damages in the sum of \$19,091.00.

[42] Court's Order-

- i. Judgment is entered for Mr. Innocent.
- ii. Mr. Pierre and Mr. Wilson are jointly and severally liable to pay Mr. Innocent's special damages in the sum of \$19,091.00.
- iii. Interest is awarded at the rate of 3 percent from April 15th 2010, until the judgment sum is paid in full.
- iv. Prescribed costs are awarded to Mr. Innocent and is payable within 30 days.

**ROSALYN E. WILKINSON
HIGH COURT JUDGE**

BY THE COURT

REGISTRAR