

**IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(CIVIL)**

CLAIM NO. GDAHCV2003/0151

BETWEEN:

W. E. JULIEN AND COMPANY LIMITED

Claimant

and

RICHARD LEWIS

Defendant

Appearances:

Mr. Alban John, Mrs. John, and Ms. Nicole Pivotte for the Claimant
Dr. Francis Alexis, Q.C. for the Defendant

2010: May 5, June 2

JUDGMENT

- [1] **PRICE FINDLAY, J.:** On the 26th June 2002 an accident occurred at the junction of Beaulieu and La Mode. That this accident occurred involving the vehicles driven by the servant of the Claimant and the Defendant is not disputed.
- [2] The Claimant claims that the vehicle being driven by their driver that day, Mr. Carl Sylvester, received damages amounting to \$4,619.00. The Defendant alleges that the accident was not caused by his negligence and that the Claimant caused or contributed to the damages allegedly suffered by them.
- [3] The Claimant was and is a Company formed under the Laws of Grenada. It is engaged in the distribution of soft drinks throughout the State of Grenada. It is the registered owner of vehicle number T6579.
- [4] On the 26th June 2002, the Claimant's vehicle was being driven by one of its employees, Carl Sylvester. He testified that he was about his work. He said that he had stopped at a shop to conduct business. Once he had completed his business at the shop, got into his vehicle which was on the right side of the main

road, crossed to the left side of the road and proceeded in the direction of St. George's towards the Beaulieu/La Mode Junction.

- [5] He approached the junction; he made a left turn into the said junction into the La Mode Road. The vehicle he was driving, according to the measurements taken by the Police Officer, PC Shorn Pascal, was 15' 5" in length and 5' in width, not a small vehicle by any standards.
- [6] While he was turning left into the La Mode Road, he said he observed a motorcycle approaching his vehicle. He said that the motor bike was approaching from the opposite direction. He estimated the speed of the bike at about 65 mph. He described the motor bike as speeding. He said he accelerated into the La Mode Road and then he heard an impact. He said when he first saw the motorcycle it was approximately 30 feet away from the vehicle he was driving.
- [7] He says that he had completed the turn prior to the accident, but admits that a portion of the back of the vehicle he was driving was still in the Beaulieu Main Road.
- [8] He denied that he was not keeping a proper lookout for traffic coming from the direction of St. George's. He denied making two attempts to get into the La Mode Road. He denied that he crossed the Beaulieu midline in order to manoeuvre his vehicle into the La Mode Road.
- [9] The Defendant in his witness statement was, to put it succinctly, brief – too brief. The witness statement of the Defendant reads as follows:-

- "1. My name is RICHARD LEWIS. I live at Snug Corner, St. George's, Grenada. I am the Defendant in the above matter.
- 2. On or about the 26th June 2002, I was riding my motor cycle registration No. P 372 along the Beaulieu Public Road and the Claimant was driving the motor vehicle registration No. T6579.
- 3. I was riding carefully, not negligently.

4. My riding of my motor cycle did not cause the collision. The collision was not due to my negligence. The Claimant caused the collision.
5. I did not cause the Claimant to suffer the alleged or any loss and damage, the same was not caused by the alleged or any negligence on my part, but was caused solely or contributed to by the negligence of the Claimant by the Claimant."

- [10] Part 29.5 speaks to statements of fact in a witness statement. The Defendant in this case produced a witness statement which did not include any statement of fact relative to the issue at hand.
- [11] In essence, all he said was that on the date in question he was riding his motor cycle P372 on the Beaulieu Public Road; he was driving carefully; his riding did not cause the accident. The Claimant caused the collision. "I did not cause the Claimant to suffer any loss."
- [12] There is not one fact recited which would give the Court any insight as to what happened on the day in question.
- [13] As I understand it, a witness statement is supposed to set out the facts that the maker of the witness statement intends to depend on, whether he or she is Claimant or Defendant. The Defendant in this case gave the Court little, in fact nothing, upon which the Court can say that this is his case.
- [14] The witness statement filed on behalf of the Defendant is bereft of any fact or circumstance from which the Court can glean what his version of the events of 26th June 2002 were.
- [15] It was only during cross-examination did the Court hear for the first time that the Claimant driver was reversing from the La Mode Road onto the Beaulieu Road. This was not in the Defendant's pleadings either.
- [16] In further cross-examination he said that he first saw the Claimant's vehicle when he was about 30' away. He said he was travelling at around 45 mph.

- [17] He also said in cross-examination that he had no recollection of any conversation he had with the investigating officer at the scene. He admitted that his memory would have been better at the time of the accident than it was at present.
- [18] He said that he was unable to stop the motor cycle in time to avoid the collision.
- [19] He did admit that after the accident he observed the Claimant's vehicle mostly in the La Mode Road. The motor cycle he was driving that day was a 500 KLR Kawasaki. He stated that it was a powerful bike.
- [20] A site visit took place on the 10th May 2010. The Claimant pointed out a point of impact which was close to the middle of the Beaulieu Main Road, a point which placed the point impact on his left and proper side of the road. The Claimant also reiterated that a portion of the vehicle he was driving was still on the Beaulieu Main Road. Unfortunately, Officer Pascal did not attend the site visit.
- [21] The Defendant also pointed out a point of impact on the site visit. The area he pointed to was on the Beaulieu Main Road, around the middle of the road and appeared to be on the side of the road which the Claimant would have been properly occupying.
- [22] Officer Pascal gave evidence of the measurements he took at the scene:-

MEASUREMENTS TOWARDS TEMPE DIRECTION – VEHICLE #T 6579

Width of road at point of impact	17' 11"
Point of impact to left of road	1' 7"
Point of impact to right of road	16' 4"
Point of impact to rear of van	3' 2"
Length of van	15' 5"
Width of van	5' 5"

MEASUREMENTS TOWARDS TEMPE DIRECTION – VEHICLE #P 372

Difference in point of impact	5' 1"
Width of road at point of impact	17' 11"
Point of impact to left of road	11' 6"
Point of impact to right of road	6' 5"
Front wheel to right of road	10' 5"
Rear wheel to left of road	12' 2"
Front wheel to left of road	7' 3"
Rear wheel to left of road	5' 7"
Length of motor cycle	7' 5"
Width of motor cycle handle bars	3'

- [23] The Officer produced two separate reports with respect to the accident, but the measurements were the same in both reports. The Court and Counsel for both sides agreed to depend on the oral testimony of the Officer rather than the somewhat confusing reports. The Officer brought his original notebook to Court and was allowed to give the evidence of his measurements therefrom.
- [24] The measurements seem to place the Defendant's motor bike in a position which is close to, if not over the middle line of the Beaulieu Main Road and on the Claimant's side of the road.
- [25] Further, the Court having visited the scene was able to see for itself the view that the Defendant had of the Claimant's vehicle on the day in question.
- [26] The Court is not satisfied that the Defendant only saw the Claimant vehicle from 30' away. The Court is of the view that the Defendant saw the Claimant's 15' 5" long vehicle from some considerable distance away.
- [27] The Court is of the view that the Defendant was travelling at a speed in excess of the 45 mph that he testified to.
- [28] The Court does not accept the evidence of the Defendant that the Claimant reversed onto the Beaulieu Road from the La Mode Road onto his path.

- [29] The Court accepts the evidence of the Claimant that he had made the turn into La Mode Road from the Beaulieu Main Road with only a small portion of the vehicle still in the Beaulieu Road.
- [30] I find that the accident resulted solely from the negligence of the Defendant who was driving too fast in the circumstances, and who failed to keep any or any proper lookout.
- [31] As a result, the defendant is to pay to the Claimant the sum claimed, \$4,619.00, with interest thereon at 6% per annum from the date of filing of the action to the date of payment.
- [32] Costs to the Claimant in the sum of \$1,300.00.



Margaret Price Findlay
High Court Judge