

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

HIGH COURT CLAIM NO.: 473 OF 2001

BETWEEN:

COURTS (ST. VINCENT) LTD

Claimant

v

**IVAN ROBERTS
IVAN ROBERTS JR.**

Defendants

Appearances:

Mr. Sam Commissiong for the Claimant

Mr. Ronald Marks for the Defendants

2003: May 19
2004: October 11

JUDGMENT

- [1] **BRUCE-LYLE, J:-** On the 10th March 2001 just at about midnight, a motor vehicle accident occurred at Villa, in a wide bend in the road just before the Ballantyne's residence if one is driving from Calliaqua to Kingstown. Motorists traveling in either direction in this bend had a fairly clear view of one another's vehicle traveling from the opposite direction.
- [2] The two vehicles involved in this accident, were T 4089 owned by Courts (St. Vincent) Ltd and driven by Ian Antoine, and P 9533 owned by Ivan Roberts and driven by his son Junior Roberts. Ian Antoine was a driver of some 13 years standing, whilst Junior Roberts was a driver with only two years experience in driving.

THE FACTS

- [3] The Claimant's story was that he was traveling towards Calliaqua whilst the second defendant Junior Roberts was coming from Calliaqua to Kingstown; in the opposite direction. The Claimant said he was traveling at about 20 mph on the left side of the road.
- [4] He said as he turned the bend below the Ballantyne's residence he saw P 9533 coming very quickly in the centre of the road with the lights focused on the right side of the road. He said he said something to his passenger and soon thereafter the right side of the oncoming vehicle collided with the right rear side of his vehicle.
- [5] The second Defendant Junior Roberts told the Court that he was traveling from Calliaqua at 25 to 30 mph on his left side of the said road and on reaching the bend below the Ballantyne residence he saw T 4089 travelling just off its hand around the bend. From his evidence he clearly meant T 4089 was on his, Junior Roberts' side of the road.
- [6] He further stated that the front right side of his vehicle P 9533 was struck by the rear right side of T 4089, and that the collision took place on his side of the road. He said the collision spun his vehicle around and the tail of T4089 collided with someone's gate nearby on his extreme right hand side of the road.
- [7] Junior Roberts further said that after the accident Ian Antoine was staggering and appeared to be drunk and agreed to fix his vehicle. This allegation of drunkenness was also supported by the two passengers Junior Roberts had with him in his vehicle – Kenol Bowens and Desburn Creese. But these two witnesses did not hear, nor testify, that Ian Antoine promised to fix Roberts' vehicle.

DAMAGE TO VEHICLES

- [8] P 9533 suffered extensive damage to its bonnet, windshield, right front fender, bumper, headlamp, indicator lights, right front post and left rear tyre.

- [9] T 4089 suffered damage to its right front door, pan near to the cowl, and the right mudguard to the left rear wheel. These damages from the evidence I would consider to be minimal or cosmetic.
- [10] The wide bend in the road where the accident occurred measured 25 ft 6 ins at its widest point. At the point of impact the road was at least 25 feet wide. P 9533 measured 5 ft 3 ins wide and 12 ft long and T 4089 measured 6 ft 7 ins wide and 19 ft 10 ins long. T 4089 is in fact a truck whilst P 9533 is a jeep.
- [11] From these measurements it is obvious that the combined width of both vehicles was 11 ft 10 ins. Therefore if both vehicles were being driven on their respective sides of the road measuring at least 25 ft wide, why then did this accident occur?
- [12] Again P 9533, from the evidence had left brake impressions of 31 feet. This impression was 8 ft 7 ins from the southern side of the road or on the Ballantyne's residence side of the road. If one combines that measurement of 8 ft 7 ins and the width of P 9533 this would give a total width of 15 ft 4 ins across a 25 ft 6 ins width of road. It must be obvious therefore that P 9533 was traveling at least 3 feet right of the centre line, which is consistent with the Claimant's story. It clearly meant that P 9533 was traveling off its hand of the road and puts the defendants and their witnesses testimony in serious doubt as to their credibility.
- [13] It is also significant that T 4089 sustained damage on the upper right side between the right rear pan and the mudguard. No part of its front was damaged. This to my mind is suggestive of the fact that it was on its right side of the road, and rather it was P 9533 which moved right to damage its right side.
- [14] From the evidence again, it is clear that T 4089 was a relatively light and small lorry. It was also traveling uphill. After the collision it ended up in a slanted position across the road and was forced onto a nearby gate. P 9533 being a jeep (Korando) and traveling

downhill, no doubt at some considerable speed in excess of the speed limit which is 20 mph for that area, to my mind would have generated considerable force to spin T 4089 around and cause it to break a gate and its padlock. I find that the superior force of P 9533 and its colliding with the right side of T 4089 caused these two vehicles to end up in their respective final positions.

[15] I also find that the left rear tyre of P 9533 burst after it had made the brake impressions of 31 ft. These brake impressions were 8 ft 7 ins from the end of the left side of the road. This leads me to the conclusion that P 9533 was driving over the centre line, thereby causing the collision with T 4089 which resulted in P 9533 being thrown into the drain on the left side of the road resulting in the burst left rear tyre.

[16] Certain inconsistencies also spring from the defendants' case. The second defendant in paragraph eight of his witness statement said he was driving way to the extreme left of his hand of the road, yet the brake impressions of 31 ft coming from his left wheels was 8 ft and 7 ins from his left side of the road. This bring one to a clear conclusion that he was traveling in the middle of the road at least about three feet over the centre line. This confirms the claimant's story when he said the defendant was traveling on the wrong side of the road. This also puts the credibility of the other witnesses for the defence in serious issue.

[17] The second defendant again told the police investigator that on seeing the claimant's vehicle he pulled his vehicle more to the left, but despite that the right front of the claimant's vehicle T 4089 collided with the right front of his vehicle P 9533. The fact is, the right front of the claimant's vehicle was not damaged at all. It rather sustained damage on its right rear side.

[18] On close examination of the nature of the collision between the two vehicles, it is evident that the defendants vehicle P 9533 was at a slanting angle when it hit the claimant's vehicle, T 4089 on its right rear pan, and that goes to show that the claimant's vehicle was on its right side of the road facing Calliaqua, the direction in which it was traveling.

- [19] Then there is also the fact, undisputed that is, that the claimant's vehicle T 4089 was pushed forcibly against the gate of the Bailey's residence and ended up slanting across the road. Considering that P 9533 was a jeep and T 4089 a truck, it would have taken considerable speed and force to have placed T 4089 in that position after the collision. One has to bear in mind that P 9533 was proceeding downhill at that area of the collision. In view of that I do not believe the driver of P 9533 when he says he was traveling between 25 mph and 30 mph.
- [20] There was evidence from the second defendant that the claimant promised to fix his vehicle P 9533. But it is interesting to note that none of the second defendants' two witnesses mentioned that in their witness statements nor heard such an offer. What they all agreed on was that the driver of the claimant's vehicle was staggering and looked drunk. I am very reluctant to accept this piece of evidence as coming from the defendants' case as staggering and looking drunk after a collision such as this would lead one to draw numerous inferences. In the absence of a blood test or other examination on the claimant to determine if he had consumed alcohol and if he had, what levels of alcohol were in his blood stream, I hold this piece of evidence to be of no consequence. And if the second defendant strongly believed the claimant's driver to have been under the influence of alcohol, as indeed stated by his two witnesses why did they not insist that the claimant's driver be tested as regards the levels of alcohol in his blood stream, if any?
- [21] The claimant's driver spoke of various overtures made to him by the second defendant to change his story as to how the collision occurred; some of which bordered on threats. I would not make any heavy weather of this piece of evidence, as to my mind the facts of the case as specifically drawn as to how the collision occurred speaks for themselves. The defendant (2nd) was clearly wrong and totally liable for the accident. There are no other inferences I could draw as to how the accident occurred and neither am I assisted by any law or authorities that may have been posited by the defence to make me think otherwise.

CONCLUSION

- [22] Frankly speaking, I am not at all convinced by the version put forward by the defence and I reject it outright. I find the claimant's version to be credible and plausible in the circumstances, balancing all probabilities and having considered the facts as I have found them. I find the second defendant liable for the accident as occurred and accordingly find for the claimant on his claim. The counterclaim by the defendants is hereby dismissed in its entirety.
- [23] This suit will therefore proceed before the Master of the Supreme Court for assessment of damages and costs.

Frederick V. Bruce-Lyle
HIGH COURT JUDGE