

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(Civil)

Suit No. 867 of 1994
BETWEEN:

- (1) **ST. LUCIA BANANA GROWERS
ASSOCIATION**
(2) **MATTHEW LIONEL**

Plaintiff

and

JUDE CHARLES

Defendant

Appearances:

Mrs. Veronica Barnard for the Plaintiffs
Mrs. Petra Jeffrey-Nelson for the Defendant

2001: June 01.

ORAL JUDGMENT

- [1] **BARROW, J. (Ag.)** The accident happened near or at a junction of a minor road, from which Plaintiff emerged and a major road, on which Defendant was traveling. It is automatic that the Plaintiff had a duty to stop and to give way to traffic on the major road. In cross-examination the Plaintiff accepted that it was difficult for him to see up the major road because of a hump in the road.
- [2] Plaintiff says he first saw Defendant's vehicle after he had left the minor road and was already on the major road. He declined to estimate how far away it was when he first saw it.
- [3] I believe the Plaintiff that he had already left the minor road when he first saw the Defendant's vehicle. I distinctly do not believe the Plaintiff that he was already driving on his side of the major road when the impact

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occurred. Had that been the case the two vehicles would have passed each other without collision.

- [4] I believe the Defendant that the Plaintiff came out of the minor road and drove on to the Defendant's side of the major road. It is more probable than not that the Plaintiff did not see the Defendant and that is why he emerged into the major road.
- [5] Mrs Barnard sought to put the responsibility on the Defendant to have stopped. She says a driver on the major road owes a duty of care to a driver emerging from the minor road. That is true. They each owe a duty to the other. But the right of way is given to one and the obligation to yield is imposed on the other. The driver on the major road is entitled to drive according to the Highway code; he is entitled to expect the other driver to stop.
- [6] I find Plaintiff No.2 wholly to be blamed for the accident. He was an authorized driver of Plaintiff No.1 at the time – Vicarious liability. Judgment – dismissing Plaintiff's claim; judgment for Defendant on counter claim.
- [7] The damage claimed by the Defendant on the counter-claim is made out. I therefore award the Defendant \$37,435.00 with interest from 11th January 1995 at six percent (6%) per annum. Costs to the Defendant in the sum of \$4,000.00

Denys A. Barrow S.C.
High Court Judge (Ag.)