

Tan Chwee Ang - - - - - *Appellant*

v.

Hsia Kho Ing - - - - - *Respondent*

FROM

**THE COURT OF APPEAL IN SINGAPORE**

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE  
OF THE PRIVY COUNCIL, DELIVERED THE 7TH JULY 1983

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*Present at the Hearing :*

LORD FRASER OF TULLYBELTON

LORD KEITH OF KINKEL

LORD SCARMAN

LORD BRIDGE OF HARWICH

LORD TEMPLEMAN

[*Delivered by* LORD FRASER OF TULLYBELTON]

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On 2nd September 1975 a collision occurred in a street in Singapore between a motorcycle driven by the appellant (plaintiff) and a motorcar driven by the respondent (defendant). The appellant sustained serious injuries to his left leg and in February 1978 he took proceedings against the defendant, claiming damages for personal injuries and consequential loss caused, as he alleged, by the negligence of the defendant. The defendant admitted that the collision had occurred, but he denied that he had been negligent and he blamed the appellant. At the trial the appellant and the respondent both gave evidence. One other witness, an officer of the traffic police who had made a sketch plan of the locus shortly after the accident, also gave oral evidence. There were no other witnesses but an agreed bundle of documents was put in evidence, comprising the police sketch plan, police accident reports, medical reports and a statement by the General Electric Company of Singapore explaining the system on which the traffic lights at the locus worked. Damages were agreed at \$21,500 and the only issue was liability.

The learned trial judge (Choor Singh J.) decided that the accident had been wholly caused by the fault of the respondent, and he awarded damages at the agreed amount to the appellant. In his written grounds of judgment, the learned judge explained that he accepted the evidence of the appellant, and he gave reasons for so doing. The respondent appealed to the Court of Appeal in Singapore. That Court (Wee Chong Jin CJ., Kulasekaram and A.P. Rajah JJ.) allowed the appeal, but they gave no reasons for doing so.

The complete absence of reasons for the decision of the Court of Appeal has placed this Board in some difficulty; they are left entirely in the dark as to why the Court of Appeal allowed the appeal. Without the assistance that they would normally have obtained from the Court of Appeal, their Lordships have carefully considered the trial judge's grounds of judgment but they have not been able to detect any error of fact or fallacy of reasoning which would justify an appellate court in disturbing his decision.

The question which the trial judge had to decide was purely one of fact. The action was straightforward and presented no particular difficulty. The circumstances of the accident which gave rise to it were of a type which is unfortunately all too familiar to courts in any country where there is dense traffic on the streets. The judge's decision must have depended largely on his assessment of the credibility of the two principal witnesses, the parties to the action. In such cases it is of course elementary that the decision of the trial judge, who has had the advantage of seeing the witnesses, is entitled to the greatest respect, and ought not to be disturbed by an appellate court, unless that court, which has to rely on the printed evidence, is satisfied that the judge has reached a wrong decision and 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". The words quoted are from the speech of Lord Thankerton in *Thomas v. Thomas* [1947] SC (HL) 45, 54 (reported *sub nom. Watt or Thomas v. Thomas* [1947] A.C. 484). There is much authority to the same effect both in the House of Lords and in the Privy Council—see for example *Powell and wife v. Streatam Manor Nursing Home* [1935] A.C. 243, *Chow Yee Wah and Anor v. Choo Ah Pat* (1978) 2 M.L.J. 41 and *Muthusamy s/o Tharmalingam v. Ang Nam Cheow* (1979) 2 M.L.J. 271.

True, the trial judge's decision is not immune from attack. Thus in *Powell*, (*supra*) Lord Wright said at pages 267–8:

" . . . even where the judge decides on conflicting evidence, it must not be forgotten there may be cases in which his findings may be falsified, as for instance by some objective fact: thus in a collision case by land or sea the precise nature of the damage sustained by the colliding objects or their relative or final positions may be determinant and indisputable facts. . . ."

In the present case their Lordships have considered whether there are any objective facts which might falsify the judge's finding. They have found none. The practical issue for the judge was whether the appellant or the defendant had given a truthful account of how the accident occurred. The appellant was riding his motorcycle along Paya Lebar Way, intending to turn into Aljunied Road. Paya Lebar Way and Aljunied Road cross at right angles and the crossing is controlled by traffic lights. The appellant's turn into Aljunied Road involved a right-angled turn to his offside, across the line of any oncoming traffic in the opposite direction. His evidence was that he reached the crossing when the lights were green, in favour of traffic going straight along Paya Lebar Way, and that he waited until the next phase of the traffic lights, when they showed a green arrow which permitted him to turn right. As he turned, he saw the defendant's car coming in the opposite direction. He expected it to stop. It did not stop but ran into him. The defendant's evidence was that the lights were green as he approached the crossing and that, after he had crossed the "stop line" with the intention of carrying on along Paya Lebar Way, the appellant's motorcycle suddenly emerged from behind a stationary lorry, turned to the right into the path of the respondent's car. The respondent was unable to stop in time and collided with the motorcycle. The judge had to choose between these conflicting accounts. Such other evidence as there was relating to brake marks on the road and the position of the vehicles after the accident was, at the highest from the respondent's point of view, neutral.

It certainly did not demonstrate that the judge's findings were false. Their Lordships accordingly see no sufficient ground for an appellate court to conclude that the judge had come to the wrong conclusion.

For these reasons their Lordships will allow the appeal, and restore the judgment of Choor Singh J. The appellant must have his costs in the Court of Appeal and before this Board.

