

[TRIANAFYLLIDES, P., A LOZOU, MALACHTOS, JJ.]

ANDREAS IOANNIDES, AN INFANT, THROUGH HIS
MOTHER AND NEXT FRIEND, MAGDA IOANNIDOU,

Appellant - Plaintiff,

v.

ELEFThERIA HERODOTOU AND ANOTHER,

Respondents - Defendants.

(Civil Appeal No. 5123).

1974
April 22

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ANDREAS
IOANNIDES
AN INFANT
THROUGH
HIS MOTHER
AND NEXT
FRIEND MAGDA
IOANNIDOU

v.

ELEFThERIA
HERODOTOU
AND ANOTHER

Negligence—Contributory negligence—Road accident—Child of 11 knocked down by motor vehicle whilst coming on foot out of a side-road and trying to cross a main road—Child and driver saw each other in time and both stopped at a very short distance from each other—Child moving momentarily backwards but immediately dashing forward—Finding of trial Court that there was no liability in negligence on the part of the driver reasonably open to such Court.

Appeal.

Appeal by plaintiff against the judgment of the District Court of Limassol (Loris, P.D.C. and Hadjitsangaris, D.J.) dated the 13th October, 1972, (Action No. 2707/71) whereby plaintiff's action for damages for personal injuries which he suffered when he was knocked down by the car driven by defendant 1 was dismissed.

E. Michaelides with *L. Tsikkinis*, for the appellant.

G. Pelagias, for the respondents.

The facts sufficiently appear in the judgment delivered by :

TRIANAFYLLIDES, P. : The appellant, who at the material time was a minor, eleven years old, has brought an action, through his mother, against the respondents (the defendants in the Court below) claiming damages for personal injuries which he suffered when he was knocked

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down in a main road in Limassol by a car driven by respondent 1.

Counsel for the appellant has made it clear that he is not, in any event, insisting that respondent 2 ought to be held liable; so, we shall refer in this judgment to respondent 1 as "the respondent".

The accident occurred on July 20, 1971; whilst the appellant was coming on foot out of a side-road and trying to cross a main road; at that time a car driven by the respondent on the main road was approaching from the right-hand side of the appellant.

It appears that both the appellant and the respondent saw each other in time and, appreciating the danger of an accident, they both stopped at a very short distance from each other; then the respondent started forward in first gear, but the appellant dashed forward, too, and as a result he was knocked down by the car and was injured.

An important feature in this case is that, after stopping, the appellant moved momentarily backwards, giving thus the impression to the respondent that it was safe for him to proceed; immediately afterwards, however, the appellant, who had seen the car coming to a stop, dashed forward, thinking apparently that it was safe to pass in front of the car.

In the light of these circumstances the trial Court found that there was no liability in negligence on the part of the respondent and, as such finding was, in our opinion, reasonably open to such Court, we should not interfere with it.

This appeal is, therefore, dismissed, but we are not prepared, in the circumstances, to make an order of costs against the appellant.

*Appeal dismissed.
No order as to costs.*