

1975
May 16

[TRIANTAFYLIDIS, P., L. LOIZOU, MALACHTOS, JJ.]

SAVVAS
CHARALAMBOUS

SAVVAS CHARALAMBOUS,

Appellant-Defendant,

v.

v.

ANDREAS
S DRAKOS

ANDREAS S. DRAKOS,

Respondent-Plaintiff.

(Civil Appeal No. 5390).

Negligence—Contributory negligence—Apportionment of liability by trial Court—Principles on which Court of Appeal interferes—Road accident—Collision at intersection (consisting of two “T” junctions) of two streets—Appellant entering main road from side street without stopping or slowing down or keeping a proper lookout as regards any traffic on main road—Rightly treated as being totally responsible, through negligence, for the collision. 5

The only issue in dispute in this appeal, arising from a judgment in a traffic collision case, is that of liability. The collision occurred at an intersection of two streets, which is not a cross-roads in the ordinary sense of the word, but it consists of two “T” junctions which are very close to each other. 10

From the material before the Court it was quite clear and it was, also, so found to be by the trial judge, that one of the said streets (Gonia Street) must be regarded as a main road, and the other (Psaron Street) as a side street. 15

The trial judge found that appellant entered the said main street from the said side street without stopping or slowing down or keeping a proper lookout as regards any traffic on the main road. And he also found that the respondent was driving at a low speed and in a careful manner. 20 25

Appellant contended that respondent was driving on the main road too near to his right-hand side in approaching the part of the side street lying to his right, and so visibility in relation to that part of the side road was severely restricted. In this connection the trial 30

judge found that the respondent was driving practically in the middle of the road.

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5 *Held*, (1) This Court cannot embark upon intricate mathematical calculations involving inches, or fractions thereof, in an effort to ascertain the exact position on the main road of the car of the respondent.

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10 (2) Bearing in mind that we are an appellate tribunal which must be satisfied by the appellant that there exists adequate reason to interfere with the determination by the trial Court of the issue of liability, as decided by it on findings of fact, we find ourselves unable to intervene in appellant's favour, and, therefore, we hold that the appellant was rightly treated as being totally responsible, through negligence, for the collision.

15 *Appeal dismissed.*

Appeal.

20 Appeal by defendant against the judgment of the District Court of Nicosia (Stavrinakis, P.D.C.), dated the 20th January, 1975, (Action No. 6936/71) whereby he was adjudged to pay to the plaintiff the sum of £1,200.- damages for personal injuries he sustained in a traffic collision due to the negligence of the defendant.

Ph. Clerides, for the appellant.

C. Velaris, for the respondent.

25 The facts sufficiently appear in the judgment of the Court delivered by :

30 TRIANTAFYLLIDES, P. : The appellant appeals against the judgment of the District Court of Nicosia by means of which he was found liable to pay C£1,200 damages to the respondent in connection with a traffic collision which occurred at the intersection of Stylli Gonia street and Psaron street at Ay. Dhometios, a suburb of Nicosia.

The amount of damages is not in issue; what is in dispute is the liability.

35 The intersection in question, as appears from the sketch prepared by the police and from other evidence, and as has been found by the trial judge, is not a cross-roads in the ordinary sense of the word; part of Psaron

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street is positioned in such a manner that somebody coming along it, as the appellant was doing at the time, would have to turn left into Gonia street and then immediately right in order to proceed along the other part of Psaron street; the said intersection consists, thus, of two "T" junctions, which are very close to each other. 5

The respondent was proceeding, immediately prior to the collision, along Gonia street, approaching the intersection from the left of the appellant. It is quite clear from the material before us, and it was, also, so found to be by the trial judge, that Gonia street must be regarded as a main road, and Psaron street as a side-road. 10

It has been contended by the appellant that the respondent was driving, in Gonia street, too near to his right-hand side in approaching the part of Psaron street lying to his right, and so visibility in relation to that part of Psaron street was severely restricted. But the trial court has found that the respondent was driving practically in the middle of the road; and in this connection this Court cannot embark upon intricate mathematical calculations involving inches, or fractions thereof, in an effort to ascertain the exact position in Gonia street of the car of the respondent. 15 20

The trial court, also, found that the respondent was driving at a low speed and in a careful manner; so careful, actually, that he had time to see the appellant emerging suddenly from his right, and to apply his brakes in an effort to avoid an accident. 25

It was found, on the other hand, that the appellant entered Gonia street from Psaron street without stopping or slowing down or keeping a proper lookout as regards any traffic on the main road; he has stated, in giving evidence, that he did not see anything coming from his left when he was entering Gonia street, and this shows what a poor lookout he was keeping, because otherwise he could not have failed to see, in time, the car of the respondent. 30 35

In these circumstances, and bearing in mind that we are an appellate tribunal which must be satisfied by the appellant that there exists adequate reason to interfere with the determination by the trial court of the issue 40

of liability, as decided by it on findings of fact, we find ourselves unable to intervene in appellant's favour, and, therefore, we hold that the appellant was rightly treated as being totally responsible, through negligence, for the
5 collision.

As a result this appeal is dismissed, with costs against the appellant.

Appeal dismissed with costs.

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