

1987 September 18

TRIANTAFYLIDIS, P. DEMETRIADES, LORIS JJ

1. ANDREAS MAKRIS

Appellant-Plaintiff,

2 NEOPHYTOS KYRIACOY,

Appellant - Third Party,

v

ANDREAS TZIOVANNI SAVVIDES,

Respondent - Defendant.

(Civil Appeal No. 6847).

Appeal — Findings of fact — In the circumstances of this case the finding of the trial Court cannot be disturbed as it was warranted by the evidence adduced at the trial.

The facts of this case sufficiently appear in the judgment of the Court

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Appeal dismissed with costs

Appeal.

Appeal by plaintiff and third party against the judgment of the District Court of Lamaca (Papadopoulos, P.D.C.) dated 13th November, 1984 (Action No. 1567/83) whereby they were found fully liable for an accident which took place on the main Lamaca - Dhekelia road.

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Ch. Kyriakides, for the appellants.

A. Stavrou, for the respondent.

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TRIANTAFYLIDIS P.: The judgment of the Court will be delivered by H.H. Mr. Justice Demetriades.

DEMETRIADES J.: This is an appeal against the judgment of the President of the District Court of Lamaca, by which he found the

appellants, i.e. the plaintiff and the third-party, fully liable for an accident that took place at 2.00 p.m. on the 10th June, 1983, on the main Lamaca - Dhekalia road.

5 The accident occurred outside the entrance of the installations of the ESSO Petroleum Co., which are situated on the right-hand side of the road as one travels from Lamaca to Dhekalia, whilst tanker lorry under Registration No. NE 872, driven by the respondent, was negotiating a right turn in order to enter into the area of the installations and whilst a taxi, under Registration No. 10 TPD 672, driven by the third-party who was employed by the plaintiff, was in the course of overtaking a line of cars - a convoy - which was formed as a result of the crawling pace of the lorry.

15 It was the allegation of the appellants that the accident occurred as a result of the driver of the tanker lorry cutting across the passage of the taxi without first giving sufficient warning of his intention to turn to the right in order to enter into the ESSO installations. According to their allegations, the driver of the tanker lorry neither signalled with his trafficator, nor did he give any other signal of his intention to do so.

20 On the other hand, it is the allegation of the respondent that when he was at a distance of about 200 to 230 feet away from the gate of the installations, he switched on his trafficator, warning traffic following him, that he intended to turn to the right.

25 The trial Court accepted the allegation of the respondent that when he was at a distance from the gate he did signal that he intended to turn to the right. This finding is supported not only by the evidence of the respondent but, also, by the evidence of one of the defence witnesses who said that immediately after he heard the bang of the accident he looked and saw the trafficators of the 30 tanker lorry flashing.

Having considered the argument of counsel for the appellant, we find that the finding of the Court cannot be disturbed as it was warranted by the evidence before it.

In the result, this appeal fails with costs.

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*Appeal dismissed
with costs.*