

1988 November 3

(A LOIZOU P DEMETRIADES PIKIS JJ)

1 GEORGHIOS IOANNIDES,  
2 CHAMBOS IOANNOU,

*Appellants-Defendants*

v

ANDREAS KYRIACOU,

*Respondent-Plaintiff*

*(Civil Appeal No 6851)*

---

*Evidence — Real evidence — Importance of, in road traffic accident cases*

5 *Evidence — Conflict between testimony and statement to police — Failure of trial Court to deal specifically with the matter — Notwithstanding such a failure there is, in the circumstances of this case no room for interference*

The appellant (defendant) appeals against the finding that he was solely to blame for the collision between his car and that of respondent (plaintiff) that occurred on the old Koshi — Lymbia road

10 By the scene of the accident the tarmac was very narrow, no more than 13 ft wide, whereas the berm on either side of the road was at a level lower than the asphalted part of it

15 The Court accepted that the impact occurred 4 ft from the left edge of the tarmac, viewed from the direction of the respondent, that was due to the fact that the appellant lost control of his vehicle in the process of re-emerging on the asphalted part of the road. Broken glass scattered prominently by the point indicated by the respondent as the spot of the collision was found to provide corroboration of his story. Moreover the tyre marks and their direction, viewed in  
20 conjunction with the point of impact, serve to indicate the route followed by the vehicle of the appellant before the accident

The verdict of the trial Court is challenged as unsustainable on the ground, inter alia, of failure on the part of the Court to direct itself adequately respecting the conflict or discrepancy between aspects of

the testimony of respondent and his statement to the Police regarding the circumstances affecting the stoppage of his car after the accident.

Held, dismissing the appeal: (1) Although the trial Court did not direct itself specifically to a discernible conflict between respondent's testimony and his statement to the Police with regard to the circumstances under which his car was brought to a standstill, the summing up of the evidence was on the whole adequate leaving no room for interference in this respect. 5

(2) In making its findings, the trial Court attached, as it was perfectly entitled to do, considerable importance to the real evidence. As often acknowledged by this Court, the value of real evidence in road accidents as a pointer to what had happened is hard to overstate. 10

*Appeal dismissed with costs.*

Cases referred to: 15

*Haloumias v. Police* (1970) 2 C.L.R. 154;

*Meshiou v. Eleftheriou* (1982) 1 C.L.R. 486;

*Adamis and Another v. Eracleous* (1982) 1 C.L.R. 746;

*Charalambous and Another v. Kaifas* (1986) 1 C.L.R. 278;

*Teklina Ltd. v. A. P. Lanitis and Another* (1987) 1 C.L.R. 614. 20

### Appeal.

Appeal by defendant No. 1 against the judgment of the District Court of Nicosia (Demetriou, Ag. P.D.C.) dated the 20th November, 1984 (Action No. 4470/82) whereby he was adjudged to pay to the plaintiff the sum of £2,200.- as damages for personal injuries and damage cause to his car as a result of a traffic accident. 25

*P. Ioannides with E. Kekkou (Miss)* for the appellant.

*N. Ioannou (Mrs) with Ph. Valiantes*, for the respondent.

*Cur. adv. vult.*

A. LOIZOU P.: The judgment of the Court will be delivered by Pikis, J. 30

PIKIS J.: The appellant (defendant) appeals against the finding that he was solely to blame for the collision between his car and that of respondent (plaintiff) that occurred on the old Koshi - Lymbia road and should, on that account, bear sole responsibility 35

for the consequences. The accident occurred on an uphill stretch of the road by a left bend as one travels towards Lymbia, the direction followed by the respondent. By the scene of the accident the tarmac was very narrow, no more than 13 ft. wide, whereas the  
5 berm on either side of the road was at a level lower than the asphalted part of it. Driving along such a road could not have been but a hazardous business requiring extraordinary care on the part of users of the road.

Before the accident the respondent was following a lorry tanker,  
10 a fact which alongside with the existence of the bend limited the visibility of the respondent to the scene immediately ahead of him. The visibility of the appellant who was coming from the opposite direction was likewise restricted. The accident occurred when the  
15 vehicle of the appellant passed the lorry tanker and the driver was engaged in the process of steering the car back on the tarmac. The tyre marks left on the edge of the tarmac provided evidence of the direction of his car and furnished an indication of what followed thereafter. Conflicting versions were advanced by the two sides  
20 respecting the circumstances leading to the accident and those that followed.

After reviewing the rival contentions and contrasting the evidence given in support thereto with the findings made by the investigating officer at the scene of the accident, the trial Court found for the respondent. The Court accepted that the impact  
25 occurred 4 ft. from the left edge of the tarmac, viewed from the direction of the respondent; while the respondent was steadily driving forward towards his destination. The appellant on the other hand lost control of his vehicle in the process of re-emerging on the asphalted part of the road, a fact that caused his vehicle to  
30 collide with that of the respondent producing the consequences for which he was adjudged to bear responsibility. The position and direction of tyre pressures left by the car of appellant coupled with the point identified by the Police Constable who investigated the accident as the point of impact, were found to provide confirmation of the  
35 testimony of the respondent regarding the circumstances of the accident. Broken glass scattered prominently by the point indicated by the respondent as the spot of collision were found to provide corroboration of his story. Moreover the tyre marks and their direction, viewed in conjunction with the point of impact,  
40 serve to indicate the route followed by the vehicle of the appellant

before the accident. The trial Court rejected the testimony of the appellant and his witnesses to the effect that the accident occurred to the right of the centre of the road (viewed from the direction of respondent). It was noted that the respondent appeared at first, when the plan was shown to him, to agree with the point identified by the respondent as the point of impact. 5

The verdict of the trial Court is challenged as unsustainable mainly on two grounds:

(a) Failure on the part of the Court to direct itself adequately respecting the conflict or discrepancy between aspects of the testimony of respondent and his statement to the Police regarding the circumstances affecting the stoppage of his car after the accident. 10

(b) Misappreciation of the facts relevant to the position of scattered glass. 15

In relation to the presence of broken glass at the scene of the accident, the finding of the Court cannot be faulted for lack of support by the evidence. There was evidence before the Court that suggested that whereas broken glass was to be found over a wider area, the bulk of it was to be found by the point of impact. 20

Reverting to the first complaint of appellant, the crux of the matter is that although the trial Court did not direct itself specifically to a discernible conflict between his testimony and his statement to the Police with regard to the circumstances under which his car was brought to a standstill, the summing up of the evidence was on the whole adequate leaving no room for interference in this respect either. It is evident that in making its findings, the Court attached, as it was perfectly entitled to do, considerable importance to the real evidence; evidence of a kind that often provides a safe guide for the reconstruction of the circumstances surrounding an accident that are often dimmed in the mind of the drivers by the confusion that the dramatic experience of an accident produces in their mind. As often acknowledged by the Court, the value of real evidence in road accidents as a pointer to what had happened is hard to overstate\*. 35

---

\* See, *inter alia*, *Georghios Prodromou Haloumias v Police* (1970) 2 C.L.R. 154; *Meshiou v. Eleftheriou* (1982) 1 C.L.R. 486; *Adamis & Another v. Eracleous* (1982) 1 C.L.R. 746; *Charalambous & Another v. Kaitas* (1986) 1 C.L.R. 278, *Teklima Ltd. v. A P. Lanitis Ltd and Another* (1987) 1 C.L.R. 614

As well as providing a yardstick for testing the reliability of testimony, real evidence is equally useful as a guide to assess the accuracy of conflicting versions advanced in relation to road accidents.

- 5 The appeal is dismissed with costs.

*Appeal dismissed with costs.*