

**IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(CIVIL)**

CLAIM NO. GDAHCV2006/0465

BETWEEN:

CHRISTOPHER LORD

Claimant

AND

GERALDINE PITT-SAMUEL

Defendant

Appearances:

Ms. Kim George for the Claimant
Mr. Alban John for the Defendant

2010: November 15, 29

JUDGMENT

[1] **PRICE FINDLAY, J.:** This matter arises out of a motor vehicle collision which occurred on the St. Paul's Main Road on the morning of the 10th November 2003.

[2] The Claimant claims:

(a) Loss of use for 6 days (at \$100.00 per day)	\$ 600.00
(b) Cost of repair/replacement parts	14,473.65
(c) Cost of labour	1,571.42
(d) Cost of police report	<u>10.00</u>
TOTAL	<u>\$ 16,655.07</u>

[3] The Defendant counterclaims:

- (i) Damages;
- (ii) Fixed costs of \$750.00 on issuing the Counterclaim;
- (iii) Interest for such period and at such rate as the Court shall deem fit;

- (iv) Such further or other relief as the Court shall deem fit; and
- (v) Costs.

- [4] There were only two witnesses in the matter, the Claimant and the Defendant.
- [5] The Claimant testified that at around 10:00 a.m. he was travelling from St. David to St. George's along the St. Paul's Public Road. He testified that he was travelling at around 20-25 mph on his left and proper side of the road. It was raining heavily, the road was wet, visibility was not poor but he had his park lights on. He said that it was misty. He was alone. He was transporting about 100 pounds of frozen chicken which he was delivering to a supermarket in town. He had been driving for 15 - 20 years.
- [6] Upon approaching a corner on the road he said he saw a vehicle coming towards him at a fast speed; the vehicle was approaching on his side of the road. The vehicle, according to him, was travelling at around 45-50 mph.
- [7] He said when he saw this he stopped his vehicle to give the vehicle clearance to get back on its side. The vehicle continued on his side of the road, and collided with his causing damage to the right front side of his vehicle.
- [8] The vehicle hit him and continued travelling some 29 feet past the point of impact, ran off the road and hit a bank on the right side of the road, spun around and ended up facing in his direction of travel.
- [9] He further testified that his vehicle was an Isuzu double cab pick up type vehicle. It was larger than the "Suzuki" Tracker that the Defendant was driving. It was significantly longer than the "Suzuki".
- [10] He denied that he was travelling faster than 20-25 mph given the road conditions. He said the Defendant's vehicle was deep inside the corner, "she was over on the next side of the road." He said that when he first saw the Defendant, her vehicle was on his side of the road.

- [11] He denied that he was driving in the middle of the road. He denied that his vehicle had hit the Defendant's vehicle, pushing it off the road, causing the damage sustained by it.
- [12] He agreed that the Defendant's vehicle suffered the damage as seen in the pictures and in the report of Mr. Denzil Greasley but denied that he had caused the said damage.
- [13] After the collision he said he had a conversation with the Defendant where she indicated that she was late for a meeting. The Defendant denies that this conversation took place, but nothing turns on it. Both agree that the police came to the scene and took measurements later. He also spoke of the state of the Defendant's tyres. The Defendant's vehicle ended up behind his vehicle after the collision.
- [14] He produced an estimate from Jonas Browne & Hubbards in the sum of \$14,473.65 plus \$1,571.42 for the repairs to his vehicle. He claimed for loss of use and for the police report.
- [15] The Defendant also gave evidence. She testified that she was driving her vehicle, a GEO Tracker, from St. George's to Grenville via the St. Paul's Main Road. She had been driving for 18- 19 years, and drove in Grenada for about 12 years.
- [16] She said she was driving on her left side and about to take a corner going from right to left when she was confronted by an oncoming vehicle which was coming directly towards her.
- [17] She formed the impression that the vehicle was unable to make the corner without hitting her vehicle. She straightened her steering wheel, keeping to the grass verge which was to the left of her vehicle, but did not actually go onto the grass verge, which was wet.
- [18] There was an embankment to her left which was created by the natural slope of the land. She said she was already driving on her extreme left.

- [19] She was going to the Bank that morning. She was not late for work. She was not going to a meeting in Grenville and did not tell the Claimant so.
- [20] She was very familiar with the road, having travelled it regularly while she lived in Grenada. She now resided in St. Lucia.
- [21] She agrees with the Claimant that the road was wet and that it was raining heavily; she disagreed that it was misty. Her wipers were going full blast.
- [22] She said that when she straightened her steering wheel she believed that she was doing the best way to prevent her vehicle from going more into the road. She denied that she was driving faster than 20-25 mph.
- [23] She denied telling the police officer at the scene that she swung; she said to the police officer that she held on firmly to her vehicle.
- [24] The Claimant's vehicle hit her vehicle, causing the damage the vehicle suffered. He struck her vehicle about the middle of her right side door. Her vehicle was a two-door vehicle. The impact threw her vehicle off the road and into the embankment on the left side of the road (her side). She ended up facing back towards St. George's, partly on and partly off the road.
- [25] She agreed that the police came on the scene and took measurements. Both she and the Claimant agreed on the point of impact. She followed the officer as he took the measurements.
- [26] The measurements were taken by the police officer at the scene, that is, Officer Hacon Sylvester. The measurements are as follows:

"Width of road at Point of Impact	17' 5"
To St. Paul's direction:-	
Point of Impact to where TO 870 stopped	1"
Point of Impact to right of road	9' 2"
Point of impact to left of road	8' 3"
Right front wheel to right of road	8' 6"

Right rear wheel to right of road	9'
Left front wheel to left of road	3' 3"
Left rear wheel to left of road	3' 3"
Width of vehicle	5' 7"
Length of vehicle	16' 4"

Measurements were taken and recorded for vehicle registration number PL43 are as follows:

Both drivers agree on the same Point of Impact

Vehicle PL43 completely went off the road

Width of vehicle	5' 3"
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Length of vehicle	11' 4"
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Distance from Point of Impact to where vehicle went off road	29'
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[27] The width of the road at the point of impact was 17' 5". The most important measurement in the eyes of the Court is the measurement of point of impact to the right side of the road (in relation to TO 870, the Claimant's vehicle) - 9' 2".

[28] When one looks at this measurement it places the Claimant's vehicle firmly on the left and proper side of the road, and points to the Defendant's vehicle being on the Claimant's side of the road.

[29] It belies the Defendant's evidence that she pulled to the far left of the road on her side of the road in order to avoid the collision. The measurement clearly shows that the point of impact was over the imaginary centre line which would have divided the road for the purpose of the left side of the road for the defendant.

[30] Another important measurement was the measurement which places the Claimant's vehicle 1" away from the point of impact.

[31] If the Claimant was travelling at greater than 20-25 mph and it was he who "slammed" into the Defendant's vehicle, it would be almost impossible for his vehicle to have stopped 1" away from the point of impact.

[32] It is more likely, on a balance of probabilities, that given the measurements, that the Claimant's version of events is what transpired, and the Court so finds.

[33] In the circumstances, there will be judgment for the Claimant as follows:

(1) Special Damages in the sum of \$16,655.07 comprised as follows:

(a) Loss of use	\$ 600.00
(b) Cost of repair/replacements	14,473.65
(c) Labour costs	1,571.42
(d) Police Report	10.00

(2) Interest to run on the sum at the rate of 6% from the date of judgment to the date of payment.

(3) Costs agreed by the parties in the sum of \$3,500.00.

[34] The Defendant's counterclaim is dismissed.


Margaret Price Findlay
High Court Judge