

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE  
(Sub Registry, San Fernando)

HCA No. S-1874 of 2004

BETWEEN

ROMERIO NARINESINGH

Appellant/Plaintiff

AND

CAPITAL INSURANCE LIMITED

Respondent/Defendant



**REASONS FOR DECISION**

**Before The Honourable Madam Justice C. Pemberton**

**Appearances:**

For the Plaintiff: Mr. B. Singh

For the Defendant: Ms. A. Bailey

- [1] This matter concerned a motor vehicle accident, which took place on 16<sup>th</sup> May 1998 along the Eastern Main Road.
- [2] The defendant filed an application to set aside the default judgment taken up by the Plaintiff.

[3] On 12<sup>th</sup> July 2005, when the matter came up for further hearing, I ordered that the parties should settle the matter failing which the matter should go to trial. The matter was adjourned to 20<sup>th</sup> July 2005 for the parties to report on settlement.

[4] On reading the Defendant's and the Plaintiff's affidavits, the court formed the opinion that the default judgment should be set aside on the following grounds:

- That issues of fact had been raised on the affidavit;

At this stage, it is the duty of the court not to try the matter but to be satisfied that the issues of fact raised by the Defendant ought to be tried and the Defendant ought not to be shut out from presenting his defence to the Court.

- That the explanation given by the defendant for not filing the defence in a timely manner was acceptable to the court.

[5] At the adjourned date, only Attorney at Law for the Defendant appeared and the matter was further adjourned to 28<sup>th</sup> October 2005 before the sitting Judge. During the interim, the Plaintiff took the course of filing an appeal against the decision to try to settle the matter and to return to court to report and/or receive directions for trial.

DATED this 9<sup>th</sup> day of January 2006.

CHARMAINE PEMBERTON  
HIGH COURT JUDGE