

**REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**H.C.A. NO. 541 OF 1999**

**BETWEEN**

**ERROL MATTHEWS**

**Plaintiff**

**VS**

**YACOUB MOHAMMED  
AHAMAD MOHAMMED**

**Defendants**

**Before the Honourable Mr. Justice R. Narine**

**Appearances**

Mrs. Hyacinth Griffith for Plaintiff  
Mr. Ken Sagar for Defendants

**REASONS**

This action arose out of a vehicular accident which occurred on 7<sup>th</sup> June 1998 at the intersection of El Socorro Road and the Churchill Roosevelt Highway, San Juan.

The Plaintiff was the owner of motor vehicle PBC 5368 which was being driven by one Gary Mathews in an easterly direction on the Highway. The first Defendant was the owner of vehicle PAZ 1700, which was being driven by the Second Defendant. The accident occurred when PAZ 1700 was turning right into El Socorro Road from the west bound carriageway of the Highway. Both drivers claimed that they had the green light to proceed across the intersection.

A passenger in PAZ 1700 sustained severe personal injuries. She brought HCA No. 2205 of 200 against the Plaintiff, Gary Mathews, Gulf Insurance Limited, and the Defendants

to recover damages for her injuries. Both actions came up for trial before me on 12<sup>th</sup> January 2005. The Attorneys appearing for the parties in HCA 2205 of 2000 agreed to be bound by the decision of the Court on liability in HCA No. 541 of 1999.

Two witnesses gave evidence for the Plaintiff, the driver Gary Matthews and his female acquaintance Ms Sharon Marlon. They had been to a club at Normandie Hotel in Port of Spain. He was taking her to her home at Arima when the accident occurred. It was about 2.30 – 3.00 a.m.

It was the evidence of Gary Mathews that he was driving at about 50 mph in the eastbound carriageway. After he passed Courts he noticed that the traffic lights ahead turned red. On seeing this, he took his foot off the accelerator. On approaching the overpass the lights turned green again. He began to accelerate going towards the intersection. Then he lost consciousness. Just before the accident the road was clear. Apart from a “whitish” vehicle, with a flashing red light which he glimpsed in the westbound lane just before he reached the walkover, there was no other vehicle on the road. He was almost about to clear the grid box at the intersection when the accident occurred. He could still see a part of the box in front of him.

His then girl friend Sharon Marlon’s evidence was more or less to the same effect. However, there were a few differences. It was his evidence that he slowed down to 35 – 40 mph upon seeing the light turn red. Her evidence was that he slowed down to just over 20 mph or even slower. She was not looking at the speedometer. However in 1998 she had been driving for some ten years. He testified that he approached the intersection at 40 – 45m.p.h. She testified that they were going slowly across the intersection.

As they were going across the intersection, she was looking at the grid boxes. She remembered the front of the car crossing the further end of the grid box. She went blank after that.

The only witness called for the Defendants was the second Defendant. He was travelling west on the Highway. He entered the filter lane to turn right into El Socorro Road, where he lives. The light facing him was red. He came to a stop for 20-30 seconds. The lights turned green. He proceeded to turn right. He observed a car coming from the opposite side of the Highway. He assumed the car would stop. It was “a couple hundred feet” away. He proceeded across the intersection. A collision occurred and he lost consciousness. The front left of his car was damaged. The car hit his at a 90 degree angle at the front left corner, more to the broadside.

Having considered the evidence on both sides, on a balance of probabilities, I preferred the version of the events as given by the second Defendant.

In the first place I found the version given by Gary Mathews to be so detailed as to be contrived. At 2.30 – 3.00 in the morning Mr. Mathews was on his way to Arima to drop off his girlfriend. At this time the mental faculties of most of us are not as sharp as they might be during the day. Yet Mr. Matthews was able to recall that the lights in the Solo Factory were off. He could tell us where he was when the lights turned red, and then turned back green, and the speed he was doing at that time. If he was this alert, surely as he approached the intersection, he should have seen the Defendant’s vehicle as it turned into the highway.

I found the Defendant’s account of the accident to be more straightforward and consistent. He gave evidence of the damage to his vehicle, and where the vehicles came into contact with each other. This evidence is consistent with his account.

According to Ms. Marlon, the front of the Plaintiffs’ vehicle had already crossed the grid box at the intersection. This places the collision to the extreme east of the intersection. This would be more consistent with the Defendants vehicle making a U turn to go east on the Highway. It was the uncontradicted evidence of the Second Defendant that he lived at El Socorro road, and he was turning right to go into El Socorro Road. On his account the accident must have taken place more to the west of the intersection. It is unlikely

(given his uncontradicted evidence that he was turning into El Socorro Road) that the accident could have occurred as Ms Marlon or Gary Matthews suggested.

For these reasons, on a balance of probabilities, I preferred the evidence of the Second Defendant. Accordingly, I dismissed the Plaintiff's claim, and gave judgment for the Defendants on the counterclaim for damages to be assessed.

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

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**RAJENDRA NARINE**  
**Judge.**