

1980/3

19th May, 1980 10

Erino Giovanni Pastorini - v - Graeme John Wright.

1980/8

The accident in this case occurred in June, 1978, when both parties were going to work. The plaintiff was leaving Ivywell Cottage into the main road. He intended to turn right which he had done on a number of occasions for the last year previous to the accident, in order to go to his work in St. Helier. He told us that he had in fact been doing that for three years before this present case, but as the accident occurred two years ago, he had become used to that manoeuvre a year before the accident. He said he was regularly used to travelling along the road, and he knew that the road was dangerous because there was in fact a blind corner on his right with only 150 feet visibility for anyone coming from Hautes Croix. The defendant was also travelling to his place of work, which was Ronez Quarry, and he was travelling in a westerly direction. According to the plaintiff he looked to his left and then to his right, and proceeded carefully across the road intending, as we have said, to turn right. He was concentrating, having satisfied himself that the road was clear on both sides, on turning and he was looking straight ahead following the line of his car, and so his head gradually turned as the car turned to the right. He was then struck very near to where he was sitting by the defendant's car. The vehicles seemed to rebound off each other, as we understand the evidence, and the plaintiff's car travelled a little further across the road before both vehicles came to a stop. The defendant, however, said that he only noticed the plaintiff's car when he had reached the point approximately half-way from the first point of visibility from the kerb, that is to say approximately 75 feet. He said that the first thing he noticed from there was that the plaintiff's car emerged suddenly. He said he wondered whether he could drive round it to the right but as he could not, he put on his brakes and his car slid into that of the plaintiff. Shortly after the accident occurred the plaintiff said words which could be construed as admitting liability. We had to decide whether the plaintiff did admit liability.

We do not think this is so. We think that the plaintiff coming onto the main road may have thought himself to blame, but it is for us to evaluate the evidence and to decide whether the plaintiff is civil liable. Now, I want to make this clear, the Court has not taken into account Mr. Wright's previous convictions which we disregard for the purposes of this hearing nor have we taken into account proceedings at the Police Court which likewise we have disregarded. We have decided the case on the evidence of the parties and of their witnesses. The Jurats have the duty to ascertain the facts in these matters and prefer the evidence of the plaintiff's witnesses to that of the defendant and I concur. We think what caused the accident was the excessive speed of the defendant at that time of the morning and under those circumstances - that is on the evidence of the police and certain tests taken when other vehicles could stop when confronted with a vehicle fifty feet away, on the balance of probabilities, we prefer the evidence of the plaintiff and there will be judgment for the plaintiff with costs.