

24

IN THE PRIVY COUNCIL

No. 50 of 1970

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ON APPEAL  
FROM THE COURT OF APPEAL OF TRINIDAD & TOBAGO

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BETWEEN :-

ANDREW SKEETE

Appellant

- and -

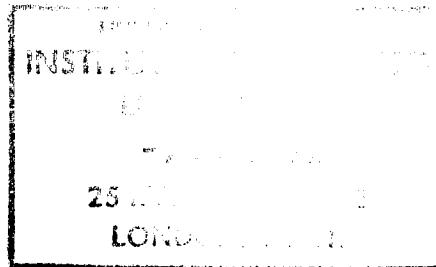
LEONARD JOHN

Respondent

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RECORD OF PROCEEDINGS

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JAQUES & CO.,  
2, South Square,  
Gray's Inn,  
London, WC1R 5HR.

Solicitors for the Appellant

CHARLES RUSSELL & CO.,  
Hale Court,  
21, Old Buildings,  
Lincoln's Inn,  
London, WC2A 3AS

Solicitors for the Respondent

(i)

IN THE PRIVY COUNCIL

No. 50 of 1970

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O N A P P E A L  
FROM THE COURT OF APPEAL OF TRINIDAD AND TOBAGO

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B E T W E E N :-

ANDREW SKEETE

Appellant

- and -

LEONARD JOHN

Respondent

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RECORD OF PROCEEDINGS

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1.

IN THE PRIVY COUNCIL

No. 50 of 1970

---

O N A P P E A L  
FROM THE COURT OF APPEAL OF TRINIDAD AND TOBAGO

---

B E T W E E N :-

ANDREW SKEETE

Appellant

- and -

LEONARD JOHN

Respondent

---

RECORD OF PROCEEDINGS

---

No. 1

In the High  
Court of  
Trinidad  
and Tobago

10.

WRIT OF SUMMONS

TRINIDAD AND TOBAGO:

IN THE HIGH COURT OF JUSTICE

No. 1023 of 1967

No. 1

Writ of  
Summons

8th June 1967

BETWEEN

LEONARD JOHN

Plaintiff

and

ANDREW SKEETE

Defendant

20

ELIZABETH THE SECOND, by the Grace of God, Queen  
of Trinidad and Tobago and of Her other Realms  
and Territories, Head of the Commonwealth.

TO: ANDREW SKEETE  
No. 4 McCarthy Lane,  
Belmont,  
Trinidad.

WE command you, that within eight days after the  
service of this Writ on you, inclusive of the day  
of such service, you do cause an appearance to be

In the High Court of Trinidad and Tobago

No. 1

Writ of Summons

8th June 1967

(continued)

entered for you in an action at the suit of

LEONARD JOHN

and take notice that in default of your so doing, the Plaintiff may proceed therein, and judgment may be given in your absence.

WITNESS: The Right Honourable Sir H.O.B. Wooding, P.C. Kt., C.B.E., Chief Justice of our said Court at Port of Spain, in the said Island of Trinidad this 8th day of June 1967.

10

N.B. This writ is to be served within Twelve Calendar months from the date thereof or, if renewed, within Six Calendar months from the date of the last renewal, including the day of such date and not afterwards.

The Defendant may appear hereto by entering an appearance either personally or by Solicitor at the Registrar's Office at the Court House, in the City of Port of Spain.

The Plaintiff's claim against the Defendant is for damages for personal injuries and loss arising out of an accident caused by the negligent driving of the defendant his servant and/or agent of motor car PH-9607 along the Ariapita Avenue on the 28th day of June, 1965.

20

This Writ was issued by MESSRS. T. MALCOLM MILNE AND CO. whose address for service is No. 32 St. Vincent Street, Port of Spain, Trinidad Solicitor for the said Plaintiff who resides at Mercer Street, Diego Martin, in Trinidad and is a carpenter by Trade.

30

/s/ T.M. Milne & Co. Plaintiff Solicitors

A true copy of this writ together with a statement of claim was served by me at No.4 McCarthy Lane, Belmont on the Defendant Andrew Skeete, Personally on Wednesday the 16th day of August 1967 at 12.45.

Indorsed the 16th day of August 1967.

(signed) /s/ Horace Lynch, Marshal's Asst. (Address) High Court of Justice, Port of Spain.

40

NO. 2

STATEMENT OF CLAIM

In the High  
Court of  
Trinidad  
and Tobago

TRINIDAD AND TOBAGO:

No. 2

Writ issued the 8th June 1967

IN THE HIGH COURT OF JUSTICE

Statement  
of Claim  
8th June 1967

No. 1023 of 1967

BETWEEN

LEONARD JOHN                      Plaintiff

- and -

ANDREW SKEETE                      Defendant

10

STATEMENT OF CLAIM

1. The Plaintiff is a Carpenter, residing at Mercer Road, Diego Martin in Trinidad and was at all material times the owner of motor cycle PC-57.

2. The Defendant was at all material times the owner of motor car PH-9607.

20

3. On or about the 28th day of June, 1965 the Plaintiff was lawfully riding his motor cycle in a westerly direction along Ariapite Avenue, Port of Spain when the Defendant his servant and/or agent so negligently drove managed and controlled his said motor car north unto the said Avenue from the premises of the Electric Ice Company Limited that the same came into violent collision with the Plaintiff's motor cycle, in consequence whereof the Plaintiff sustained severe personal injuries and his motor cycle was so extensively damaged that it became a total wreck.

30

PARTICULARS OF NEGLIGENCE

Failure to keep any or any proper or sufficient look-out; and/or failure to maintain efficient control of the said motor car; and/or driving the said motor car into the path of moving traffic

In the High  
Court of  
Trinidad  
and Tobago

No. 2

Statement  
of Claim  
8th June 1967  
(continued)

at a time when it was unsafe and/or dangerous so to do; and/or failure to stop slow down swerve or in any other way so to manage and control the said motor car as to avoid the said collision.

PARTICULARS OF INJURIES

Fracture of the left forearm; fracture of the left thumb; compound fracture of left leg; stiffness of left elbow and left ankle; resulting in 30% permanent partial disability. 10

4. By reason of the matters aforesaid the plaintiff experienced (and still experiences) great pain and suffering; he was hospitalized for some 5 months and had to undergo 5 operations; his left leg is now deformed and considerably shortened; he has now 30 per cent partial disability. Further the plaintiff has been put to expense and has suffered loss and damage.

PARTICULARS OF SPECIAL DAMAGE

(a)	Value of motor cycle \$850.00	20
	less value of wreck \$50.00 .....	\$800.00
(b)	Hospital dues.....	354.97
(c)	Surgical appliances.....	65.00
(d)	Medical attendance.....	15.00
(e)	Travelling expenses.....	306.00
(f)	Medicines.....	7.38
(g)	Medical report.....	10.00
(h)	Loss of earnings from 20.7.66 to date of writ at \$200.00 per month and continuing.....	2000.00
(i)	Loss of tools allowance.....	93.60
		<u>\$3651.95</u>

AND the Plaintiff claims damages.

/s/ Sonny G. Maharaj  
Of Counsel.

Filed with writ this 8th day of June, 1967 by Messrs. T. Malcolm Milne and Co., of No. 32 St. Vincent Street, Port of Spain, Solicitors for the Plaintiff.

In the High Court of Trinidad and Tobago

/s/ T.M. Milne & Co.  
Plaintiff's Solicitors

No. 2  
Statement of Claim  
8th June 1967  
(continued)

No. 3.  
DEFENCE.

No. 3  
Defence  
9th April 1968

TRINIDAD AND TOBAGO;

10

IN THE HIGH COURT OF JUSTICE

No. 1023 of 1967

BETWEEN

LEONARD JOHN                      Plaintiff

- and -

ANDREW SKEETE                    Defendant

DEFENCE

1. Paragraph 1 of the Statement of Claim is not admitted.

20

2. The defendant admits paragraph 2 of the Statement of Claim.

3. The defendant admits so much of the Statement of Claim as alleges that the Defendant's said motor car and the motor cycle driven by the Plaintiff were involved in a collision as the latter was being driven in a Westerly direction along Ariapita Avenue. Save as aforesaid the Defendant denies paragraph 3 of the Statement of Claim.



In the High  
Court of  
Trinidad  
and Tobago

No. 3

Defence  
9th April 1968

(continued)

4. The Defendant denies that he was guilty of the alleged or any negligence or that the said collision was caused as alleged in the Statement of Claim.

5. Further or alternatively the said collision was caused by the negligence of the Plaintiff, his servant or agent in the driving of motor cycle PC-57.

PARTICULARS OF NEGLIGENCE

- (a) Driving too fast; 10
- (b) Failing to keep any or any proper look-out or to heed the presence on the said road of the Defendant's said motor car;
- (c) Failing to see the Defendant's said motor car in time to avoid colliding with it or at all;
- (d) Driving without due care and attention
- (e) Breaking the line of traffic along the said road without regard to the presence of other vehicles thereon; 20
- (f) Failing to apply brakes in time or at all or so to steer or control the said motor-cycle as to avoid the said collision.

/s/ Ewart Thorne

Of Counsel

DELIVERED this 9th day of April 1968 by Messrs. Fitzwilliam, Stone & Alcazar, of No. 17 Chacon Street, Port of Spain, Solicitors for the Defendant.

/s/ Fitzwilliam, Stone & Alcazar 30

Defendant's Solicitors.

TO: Messrs. T. Malcolm Milne & Co.,  
32 St. Vincent Street,  
Port of Spain,  
Plaintiff's Solicitors.

No. 4

EVIDENCE OF LEONARD JOHN

In the High  
Court of  
Trinidad  
and Tobago

TRINIDAD AND TOBAGO:

IN THE HIGH COURT OF JUSTICE

No. 1023 of 1967

No. 4

Plaintiff's  
evidence

BETWEEN

LEONARD JOHN

Plaintiff

Leonard  
John

Examination

- and -

ANDREW SKEETE

Defendant

10

JUDGE'S NOTES OF EVIDENCE

Barnwell for plaintiff (Maraj with him)

Thorne for defendant

Leonard John sworn states:

Carpenter. In June 1965 was employed with Ministry of Works at \$9.00 per day.

20

On 28.6.65 I was riding my motor cycle P.C.57 along Ariapita Avenue, Port of Spain, from East to West. Near Electric Company the traffic was clear. A car came out of gateway on southern side of road and knocked me off my cycle. I found myself in Hospital. Dr. Kazim attended me. I remained there five months. My leg and arm were injured. I underwent two operations.

30

My bicycle was valued \$850.00. It was badly damaged and could not be repaired. I paid over \$400.00 for hospital expenses. Bought surgical appliances for \$50.00. When I left hospital and had to go back for treatment 3 times a week. Had further operations. Paid taxi \$ 300.00. I could not walk.

I worked under great discomfort until 1968 when I was examined by a medical board and pronounced unfit to work. Have not worked since. Accident occurred about 4.30 p.m. Road was

In the High Court of Trinidad and Tobago

clear.

(Dr. Robertson's evidence interposed by consent).

No. 4

Plaintiff's evidence

Leonard John Examination (continued)

No. 5

EVIDENCE OF EDWARD ROBERTSON

No. 5

Plaintiff's evidence

Edward Robertson Examination.

Edward Robertson sworn states:

Member Medical Board. Surgeon in private practice. Saw plaintiff Leonard John in June 1966. There was extensive wound on left forearm. It was covered by a split skin graft. The fingers, wrist and elbow of left arm were stiff. There was skin loss, ulceration of left leg, with infection of tibia and a comminuted fracture. The bone was in mal position. The foot was 75° downward. Ankle joint was fixed rigidly. The leg was functionless. 10

I did a skin graft on the leg. There remained serious formation due to infection of bone. The deformity was treated by physiotherapy and improved but leg is still 1½ inches shorter than other. He walks with limp. It was my opinion he was seriously incapacitated and no longer fit for any form of heavy work. He had suffered intensely from the injury and operations. He continues to have moderate pain. Would assess (sic) his permanent partial disability at 35% Would expect serious formation to continue. Swimming would aggravate it. Injury could have been sustained in vehicle accident. 20

Cross-examination

Cross-examined Thorne:

I would describe carpentry as heavy work. Plaintiff could do light work. There would be disfigurement from scarring. I last saw him about a year ago. I would not expect any serious improvement since then. 30

Not re-examined.

EVIDENCE OF AHMAD KAZIM

Ahmad Kazim sworn states:

Member Medical Board in private practice.

Examined Leonard John in June 1965 when I was attached to Hospital, Port of Spain. First saw him on 28.6.65. Injury consistent with vehicle accident. There was circulatory failure due to loss of blood. There was compound fracture of left leg; a wound 10 inches long on left forearm; abrasion of left thumb. He was in hospital for some time - from 28.6.65 to 9.11.65. Was out patient to June 1966 when he was referred to Dr. Robertson.

10

Not cross-examined.

In the High Court of Trinidad and Tobago

No. 6

Plaintiff's evidence

Ahmad Kazim Examination

No. 7

EVIDENCE OF LEONARD JOHN (Cross-Examination)

Leonard John - Cross-examined by Thorne:

Accident occurred about 4.15 p.m. It was a day in the week. Traffic was not heavy. It is not always heavy there at that time. Ariapita Avenue is about 40 feet wide. I was not struck at point 24 feet from southern side of road. It was not north of centre. There was one truck parked on southern side. No other vehicle except one bicycle. Accident was near to Colville Street. There are traffic lights at intersection. Accident was about 150 feet from there. Lights were green. I had to pass stationary truck. I was riding about 4 feet away from the outside of it.

20

I could see the gateway from which defendant's car emerged. I was struck about centre of that gateway - about 18 feet from southern side of road. I had gone about 8 feet beyond truck when I was hit. Sometimes the traffic is heavy there. I have never seen very heavy traffic there.

30

On date of accident I was a learner driver. My cycle was insured. There were not 3 lanes of traffic. I was not overtaking traffic. Truck was parked right next to kerb. I was not weaving in and out of traffic. No one was on cycle with me. I had been riding a cycle previously and had stopped. Had been riding for about a month before accident. It is not correct I was overtaking a line of traffic. There was no sand on road. My cycle did not skid.

40

No. 7

Plaintiff's evidence

Leonard John

Cross-examination.

In the High  
Court of  
Trinidad  
and Tobago

No. 7

Plaintiff's  
evidence

Leonard John  
Cross-  
examination  
(continued)

I think the car hit my leg before it hit the cycle. The left front bumper hit me. Car was then at an angle on the road. Do not remember if there is a white line. Car was not past centre of road. When I first saw car it was about 6 feet from me. I was going 10-15 m.p.h. I pulled to my right.

I did not buy the cycle new. I paid \$850.00 for it. It was badly damaged in accident. After accident I did not see it for 5 months. Do not know if anyone was using it during that time. Do not know if it was affected by the weather. The crank case, gas tank and wheels were damaged. Could not get it sold. 10

I had been continuously at work - the 2 years prior to accident. I was not a casual worker. I was an outpatient for about a year - three times a week. Had to travel from Diego Martin by a route taxi. It cost \$3.00 return. I hired the whole car. I had to be lifted into the car. I was paid wages for a year after accident. I do not work now. I have tried to get work at many firms. When I was laid off I received about \$1200.00 as provident fund. 20

Re-examined

Re-examined:

Car came out at fast rate.

No. 8

EVIDENCE OF GASTON BLACKMAN

No. 8

Plaintiff's  
evidence

Gaston  
Blackman

Examination

Gaston Blackman sworn states:

Live St. James. On 28.6.65 about 4 p.m. I was riding bicycle along Ariapita Avenue from East to West. Plaintiff passed me on a motor cycle. There was a truck parked on southern side of road. A car swerving out of gateway on southern side at fast rate and hit the plaintiff and knocked him over to other side of road. Some time afterwards I went to hospital to visit a patient and just by chance I saw plaintiff there. 30

Cross-  
examination.

Cross-examined by Thorne:

I had seen plaintiff riding before the accident. Did not know him. First time I saw him after accident was when I went to hospital about a week after the accident. I spoke to him. 40

I decided then I should give a statement to police. Do not remember when I did. The police got in touch with me at my work. I did not give the statement at plaintiff's house. I cannot remember where I gave it. I did not give it in Diego Martin. I gave it at B.H.Rose Ltd., where I work. I read it when I signed. (Shown document). This is my signature. I see the document is headed "Mercer Road, Diego Martin." I do not know why the policeman wrote that. I did not give the statement there.

In the High Court of Trinidad and Tobago

No. 8

Plaintiff's evidence

Gaston Blackman

Cross-examination  
(continued)

I was riding from east to west coming from work. There was not a lot of traffic on the road. The point of impact was about the centre of the road. The car was facing North East at time of impact. Left front bumper hit the cycle. I was about 10 feet from accident. There were no vehicles on road except parked truck. Plaintiff had been riding near kerb and pulled out to pass truck. Truck was parked near the gateway. It was East of the gate. I was not on scene when police arrived. It is true I witnessed.

Adjourned to 20th February, 1969

No. 9

EVIDENCE OF FRANK FRANCIS

Continuing - 20th February 1969:

Frank Francis sworn states:

Personnel Officer attached to Ministry of Works.

No. 9

Plaintiff's evidence

Frank Francis Examination

The plaintiff was attached to that Ministry as Carpenter Grade 1. He was ill from 28.6.65 and was never re-instated. He was medically boarded. The report is dated 6.8.68. During his illness he received wages up to 20.6.66. He was then on sick leave until 7.7.67. He never resumed work and was on no pay leave.

He used to draw a tool allowance which is calculated on his daily wages.

Cross-examined by Thorne:

Cross-examination

This tool allowance would only be paid while he was working. When he was boarded he received a severance allowance of \$400.00. This is different from payment out of the provident fund.

In the High Court of Trinidad and Tobago

No. 9

Plaintiff's evidence

Frank Francis

Cross-examination

(continued)

No. 10

Defendant's evidence

Andrew Skeete examination

He was regularly employed. There would be some periods when he could get no work but these would be short. In 1960 he worked 298 days:- 1961 - 247; 1962 - 263; 1963 - 283; 1964 - 277; 1965 - 273; 1966 - 156.

Not re-examined.

Case for plaintiff closed

No. 10

EVIDENCE OF ANDREW SKEETE

Andrew Skeete sworn states:

Live Point Cumana. Employed at T & T E C as supervisor of meter department.

10

On 28.6.65 about 4.20 p.m. I dropped two men at the North entrance of the power station on Ariapita Avenue. I then reversed on to the pavement. Only the two rear wheels went on pavement. Because of the traffic moving from East to West along the avenue I was not able to go forward. This traffic stopped because of the traffic lights at corner Colville Street. The car on my right stopped sufficiently far back as to leave a gap. The driver signalled me to come out.

20

I drove out into the gap intending to turn right. I looked to my left and saw road clear, I glanced right and saw nothing coming. My car was moving very slowly. At that stage I could not determine if traffic was coming from further along Ariapita Avenue. I heard the sound of a crash on my left. Immediately I pulled up the handbrake and got out of my car. I saw that a motor cyclist had hit left front of my car and gone across the road.

30

The cyclist was sitting on the road. His left arm was caught in the chain of his cycle. The point of impact was 26 feet from south side of road. The front of my car projected about 1 foot beyond the car that had let me through. My car was facing north-east. Traffic was heavy as it was being diverted from Wrightson Road to Ariapita Avenue. There was a line parked on

South side of road and two lines moving from East to West.

In the High Court of Trinidad and Tobago

No.10

Defendant's evidence

Andrew Skeete Examination

(continued)

Cross-examined by Barnwell:

Cross-examination.

10 There was no truck parked on South side near entrance of T & T E C. There was traffic moving from West to East. I cannot say how many lanes. When I came to centre of road I looked left. There was no traffic coming. I did not see the cyclist before I heard the crash. I was balancing on my clutch. Although I did not see the cyclist before the crash what I saw afterwards shows that he had come from my right and crossed the front of my car but he must have passed low. There were skid marks of the cycle across the front of my car.

20 It is not correct that I just drove out across the line of traffic and into the path of plaintiff. The stone shield and left bumper of my car were damaged and the left headlight was scratched by handle of motor cycle.

Not re-examined.

No. 11

EVIDENCE OF ROBERT RILEY

Robert Riley sworn states:

No.11

Special Reserve Police attached to Traffic Office, Port of Spain.

Defendant's evidence

30 On 28.6.65 I was riding from West to East along Ariapita Avenue, Port of Spain, about 4.15 p.m. Traffic was heavy especially that going East. There was a line parked on South side. When I was about 25 yards east of Colville Street the traffic came to a halt at traffic lights.

Robert Riley Examination



In the High  
Court of  
Trinidad  
and Tobago

No.11

Defendant's  
evidence

Robert Riley  
Examination  
(continued)

Cross-  
examination

I saw a car coming slowly across that line in a north easterly direction. I saw a motor cycle going from East to West overtaking the three lines of traffic. The car crossing the line of traffic barely moved out across the right hand car. The cyclist swerved and appeared to skid and crashed into the front of that car. Cyclist was going about 30 m.p.h.

After accident I saw patches of sand on the road and there were skid marks. There were 10  
small heaps of sand at regular intervals as if they had fallen off a truck. There were no vehicles going West behind the cycle.

Cross-examined by Barnwell:

As an S.R.P. I realise it is my duty to help the police, I did not do so on this occasion as we have been instructed at Traffic Office not to get involved in cases. I did not think anything serious would come out of it. I never gave a statement to the police. I gave one to 20  
the defendant's solicitor but cannot remember when. When I first saw cyclist I was about 75 yards from him. He was about 20 yards from the car.

I did not observe a truck parked on the South side as there was a lot of traffic. When I first saw defendant's car it was inching its way out of the line of traffic. I saw the cyclist begin to skid.

Re-examination

To Thorne (with leave):

30

After accident I put the cycle on side of road. The footrest was bent as well as handle bar. It could easily be free wheeled. It was not by any means a wreck.

I tested the brakes and found the back brakes were not working properly. It appeared as if the cyclist applied brakes and skidded.

Cross-examined by Maraj:

No. 12

EVIDENCE OF ARTHUR RAMJATTENArthur Ramjattan sworn states:

Draughtsman with T & T E C Office at  
Ariapita Avenue.

10 On 28.6.65 about 4.15 p.m. I was standing  
in my office facing West. I had a clear view of  
Ariapita Avenue. I saw traffic stop at traffic  
lights. I saw a motor cyclist come out of that  
line going East. I looked away. I was told  
something and looked back in time to see the  
cyclist about to fall. The traffic was heavy

In the High  
Court of  
Trinidad  
and Tobago

\_\_\_\_\_  
No.12

Defendant's  
evidence

\_\_\_\_\_  
Arthur  
Ramjattan  
Examination

Cross-examined by Maraj

I did not see the defendant's car when I  
first saw the cyclist. After the accident I  
saw the defendant get out of his car. That was  
the first time I saw his car. When I first saw  
cyclist he was about 120 feet from point of  
impact. When the cyclist pulled out from the  
line he proceeded along North of the centre.

Cross-  
examination

20 When I saw defendant's car it was facing  
North.

Not re-examined:Case for defence closed

Thorne addresses: Clark v Winchurch Times News  
2.11.68.

Barnwell replies: That case has no application  
here. The evidence here shows complete lack of  
care on part of defendant.

On damages - Cornilliac v St. Louis

7. W.I.R. 491

Judgment on date to be notified

\_\_\_\_\_

In the High  
Court of  
Trinidad  
and Tobago

No. 13

Judgment of the High Court

TRINIDAD AND TOBAGO:

IN THE HIGH COURT OF JUSTICE

No. 1023 of 1967

BETWEEN

LEONARD JOHN

Plaintiff

- and -

ANDREW SKEETE

Defendant

J U D G M E N T

10

This is a claim for damages arising out of an accident which occurred on Ariapita Avenue, Port of Spain, on 28th June, 1965.

The plaintiff was riding his motor cycle from East to West when he came up behind a line of traffic which was stopped (in some places two deep) because of the traffic lights at the corner of Airapita Avenue and Colville Street. The defendant had been driving his car from East to West and had turned in a gateway near to this line of traffic with the intention of returning whence he had come. The line of traffic was blocking his path but the driver of one of those cars made room for him to pass through so that he could proceed west on his proper side of the road. He came out through this opening very slowly at a time when the plaintiff was overtaking the line of traffic and a collision occurred. 20

In my view the liability for the collision rests almost entirely with the plaintiff who was overtaking at a time when it was unsafe for him to do so and without exercising any care. Some liability rests on the defendant in that he should have proceeded with a little more caution, although he could not have been expected to anticipate the arrival of the cyclist in those circumstances. I apportion liability as to 30

No.13  
Judgment  
17th April  
1969

90% on the plaintiff and 10% on the defendant.

As to damages, the evidence is that the plaintiff's left leg is now  $1\frac{1}{2}$  inches shorter than his right and that deterioration of it as a result of the injury sustained in the accident makes him unfit for any but light work. His permanent partial disability was assessed at 35%

In the High  
Court of  
Trinidad  
and Tobago

No.13

Judgment  
17th April  
1969

(continued)

10 At the time of his accident, he was employed with the Ministry of Works at \$9.00 per day. During the period 1960 - 1968 he worked for an average of 272 days per annum so that his yearly earnings would be \$2,448.00. He was boarded as medically unfit on the 3rd August, 1968 which is three (3) years after the accident but had, during that period, drawn wages for one year. So he lost two (2) years wages or \$4896.00. After that he was paid \$1200.00 as Provident Fund and \$400.00 severance pay which should compensate him for further loss of earnings.

20

Under the head of Special Damages I accepted his evidence as to the following:-

Loss of cycle	\$ 850.00
Hospital expenses	400.00
Surgical appliances	50.00
Travelling	<u>500.00</u>
	<u>£1800.00</u>

30 For pain and suffering I would allow \$7000:  
The total assessment would, therefore, be:

Loss of earnings	\$ 4896.00
Special damages	1800.00
General damages	<u>7000.00</u>
	<u>£13696.00</u>

There should be judgment for the plaintiff for 10% of \$13,696 and 10% of the taxed costs.

Stay of execution four (4) weeks.

Dated this 17th day of April 1969.

/s/ Maurice A. Corbin

Judge.

18.

In the High  
Court of  
Trinidad  
and Tobago

No. 14

ORDER

ON THE JUDGMENT OF THE HIGH COURT

No.14

TRINIDAD AND TOBAGO:

Order  
on the Judgment  
17th April 1969

IN THE HIGH COURT OF JUSTICE

No. 1023 of 1967

BETWEEN

LEONARD JOHN                      Plaintiff

- and -

ANDREW SKEETE                      Defendant

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Dated and Entered the 17th day of April, 1969  
Before the Honourable Mr. Justice Maurice Corbin

This action having been tried on the 19th  
and 20th days of February, 1969 before the  
Honourable Mr. Justice Maurice Corbin and the  
said Judge having this day ordered the judgment  
as hereinafter provided be entered for the  
plaintiff.

It is ordered that the defendant do pay to  
the plaintiff 10% of \$13,696.00 and 10% of his      20  
costs to be taxed.

It is ordered and directed that execution  
herein be stayed for a period of four (4) weeks.

/s/ E. Matthews

Assistant Registrar

The above costs have been taxed and allowed  
at \$                      as appears by the Taxing  
Officer's Certificate dated the                      day  
of July, 1969

/s/ E. Matthews

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Assistant Registrar

No. 15

NOTICE OF APPEAL TO THE COURT OF APPEAL

TRINIDAD AND TOBAGO:

IN THE COURT OF APPEAL

Civil Appeal No. 28 of 1969

BETWEEN

LEONARD JOHN    Plaintiff/Appellant

- and -

ANDREW SKEETE    Defendant/Respondent

In the Court  
of Appeal  
of Trinidad  
and Tobago

No.15

Notice of  
Appeal  
10th May 1969

10            TAKE NOTICE that the Plaintiff/Appellant being dissatisfied with the findings or decision more particularly stated in paragraph 2 hereof of the High Court of Justice contained in the Judgment of the Honourable Mr. Justice Maurice A. Corbin dated the 17th April, 1969 doth hereby appeal to the Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

20            AND the Appellant further states that the names and addresses including his own of the persons directly affected by the appeal are those set out in paragraph 5.

2.            That the judgment be entered for the Appellant (plaintiff) on his claim in the sum of 10% of \$13,696.00 and 10% of the taxed costs and that a stay of execution be granted for 28 days.

GROUNDS OF APPEAL

- 30 (1) The decision is against the weight of evidence.
- (2) The decision is erroneous in point of law inasmuch as the Learned Judge misdirected himself on the question of negligence when he found;

In the Court  
of Appeal  
of Trinidad  
and Tobago

No.15

Notice of  
Appeal  
10th May 1969

(continued)

(a) that the Respondent had no duty of care to the Appellant or to other users who had the right of way on a major road;

(b) that because of a mere signal by another motorist the Respondent was entitled to leave a gateway and enter a major road regardless of the traffic which might then be on the road;

(c) that the Respondent was entitled to cross an alleged line of traffic and to proceed West (sic) regardless of the traffic which might then be on the road and even though the Respondent had actually obstructed traffic proceedings from East to West;

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(d) that the Respondent was not expected to anticipate the arrival of the Appellant who it is alleged was overtaking traffic;

(e) that the Appellant was overtaking at a time when it was unsafe for him to do so and without exercising any proper care which was not supported by the evidence.

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(3) The learned Judge failed to consider the effect of the Respondent admitting:-

(a) that he could not and did not see the traffic approaching to his right, that is, from East to West;

(b) that he did not see the Appellant's vehicle until it had passed his right front wheel; and

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(c) that he could not say from which direction the Appellant's vehicle had come.

(4) The Learned Judge misdirected himself in finding that the Respondent intended to proceed West on the Highway on his proper side of the road inasmuch as the evidence established that the Respondent intended to and had partially turned in an easterly direction.

(5) The Learned Judge did not apply the right principle in assessing the damages awarded to the Appellant which were wholly inadequate having

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regard to the nature of the injuries and the pain, suffering and the loss sustained by the Appellant.

4. That the Judgment of the Learned Judge be varied and that - - Judgment be entered for the Appellant for a greater sum of damages with costs of the appeal herein and in the Court below.

5.	<u>Name</u>	<u>Address</u>
10	Leonard John	Mercer Road, Diego Martin
	Andrew Skeete	4 McCarthy Lane, Belmont

Dated this 10th day of May, 1969

/s/ Hercules N. Adams

Solicitor for the Plaintiff/  
Appellant.

TO: The Registrar of the Supreme Court of  
Judicature

and

20	To: Messrs. Fitzwilliam, Stone & Alcazar, Independence Square, Port of Spain. Solicitors for the Defendant.
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In the Court  
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of Trinidad  
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Appeal  
10th May 1969

(continued)





In the Court  
of Appeal  
of Trinidad  
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No. 16

AMENDED NOTICE OF APPEAL

TRINIDAD AND TOBAGO:

No. 16  
Amended Notice  
of Appeal

IN THE COURT OF APPEAL

Civil Appeal No. 28 of 1969

BETWEEN

LEONARD JOHN Plaintiff/Appellant

- and -

ANDREW SKEETE Defendant/Respondent

AMENDED NOTICE OF APPEAL

10

1. TAKE NOTICE that the Plaintiff/Appellant being dissatisfied with the finding or decision more particularly stated in paragraph 2 hereof of the High Court of Justice contained in the Judgment of the Honourable Mr. Justice Maurice A. Corbin dated the 17th April, 1969 doth hereby appeal to the Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

20

AND the Appellant further states that the names and addresses including his own of the persons directly affected by the appeal are those set out in paragraph 5.

2. That the Judgment be entered for the Appellant (Plaintiff) on his claim in the sum of 10% of \$13,696.00 and 10% of the taxed costs and that a stay of execution be granted for 28 days.

GROUND OF APPEAL

(1) The decision is against the weight of evidence.

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(2) The decision is erroneous in point of law inasmuch as the Learned Judge misdirected himself on the question of negligence when he found:

(a) that the Respondent had no duty of care to the Appellant or to other users who had the right of way on a major road;

(b) that because of a mere signal by another motorist the Respondent was entitled to leave a gateway and enter a major road regardless of the traffic which might then be on the road;

10 (c) that the Respondent was entitled to cross an alleged line of traffic and to proceed West (sic) regardless of the traffic which might then be on the road and even though the Respondent had actually obstructed traffic proceeding from East to West;

(d) that the Respondent was not expected to anticipate the arrival of the Appellant who it is alleged was overtaking traffic;

20 (e) that the Appellant was overtaking at a time when it was unsafe for him to do so and without exercising any proper care which was not supported by the evidence;

(3) The Learned Judge failed to consider the effect of the Respondent admitting:-

(a) that he could not and did not see the traffic approaching to his right that is, from East to West;

(b) that he did not see the Appellant's vehicle until it had passed his right front wheel; and

30 (c) that he could not say from which direction the Appellant's vehicle had come.

(4) The Learned Judge misdirected himself in finding that the Respondent intended to proceed West on the Highway on his proper side of the road inasmuch as the evidence established that the Respondent intended to and had partially turned in an Easterly direction.

(5) The Learned Judge did not apply the right principle in assessing the damages awarded to the

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of Trinidad  
and Tobago

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Amended Notice  
of Appeal

(continued)

In the Court  
of Appeal  
of Trinidad  
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Amended Notice  
of Appeal

(continued)

Appellant which were wholly inadequate having regard to the nature of the injuries and the pain, suffering and the loss sustained by the Appellant. In the alternative if there was contributory negligence on the part of the Appellant it was so negligible that the quantum of damages awarded to the Plaintiff was not just and equitable.

4. That the Judgment of the Learned Judge be varied and that Judgment be entered for the Appellant for a greater sum of damages with costs of the appeal herein and in the Court below.

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5.	<u>Name</u>	<u>Address</u>
	LEONARD JOHN	Mercer Road, Diego Martin
	ANDREW SKEETE	4 McCarthy Lane, Belmont

Dated this                      day of July, 1969

/s/ Hercules N. Adams

Solicitor for the Plaintiff/Appellant

To: The Registrar of the Supreme Court of  
Judicature

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and

To: Messrs. Fitzwilliam, Stone & Alcazar,  
Chacon Street,  
Port of Spain.

Solicitors for the Defendant.



No. 17

JUDGMENT OF THE COURT OF APPEAL

TRINIDAD AND TOBAGO:

IN THE COURT OF APPEAL

Civil Appeal  
No. 28 of 1969

BETWEEN

LEONARD JOHN

Plaintiff/Appellant

and

10

ANDREW SKEETE

Defendant/Respondent

Before: C.E.G. Phillips, J.A.  
H. Aubrey Fraser, J.A.  
K.P. de la Bastide, J.A.

July 2, 1970

V. Barnwell with C.N.Cherrie, for the appellant  
E. Thorne, for the respondent

JUDGMENT

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It is apparent from the findings of the trial judge that he accepted and acted upon the version of the facts presented by the respondent and his witnesses. Consequently, it is only necessary to examine those findings in the light of that evidence and determine whether his conclusions were justified. If it is found that the inferences drawn by the trial judge are not justified, this court is entitled to draw its own inferences having regard to the provisions of s.39(1) (b) of the Supreme Court of Judicature Act, 1962.

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The respondent's case in substance was as follows:

About 4.20 p.m. on June 28, 1965 he drove to the northern entrance of the Electric Ice Company premises where he reversed on the pavement facing north with his rear wheels on the pavement.

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He was stationary in that position and intended to turn east into Ariapita Avenue when it became opportune; but he was unable to do so because there was motor traffic proceeding from east to west along Ariapita Avenue and which had come to a halt because of a red traffic light westward at the junction of Ariapita Avenue and Colville Street. According to the respondent there were three lanes of traffic; the first, nearest him, was parked at the side of the road immediately north of the southern pavement on which his rear wheels stood; and the other two being parallel lines of mobile vehicles proceeding westward but in the course of halting temporarily to obey the traffic lights. In course of time, the moving car nearest the right of the respondent's vehicle stopped sufficiently far back to leave a gap and the driver of that car signalled the respondent to drive out of the entrance in which his car stood.

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In order to give that piece of evidence its full weight it is necessary to include all that it implies. If there was a gap through which the respondent could drive it is to be inferred that both lanes of mobile traffic stopped "sufficiently far back" to leave a gap. If the driver of the car on his right signalled it is possible that the signal may have been given by one of two drivers if there were in fact two lanes of traffic; but the respondent did not say which of the two signalled him. It may be, however, that at the precise time and place there was only one lane of mobile traffic clearly visible to the respondent while the other and more northerly lane was merely in the offing. In that event the inference must be that the driver of the middle lane of traffic (or the southern lane of mobile traffic) signalled the respondent to drive out. The driver of that vehicle did not give evidence and so it is not known what were the circumstances he considered before giving the signal. Was he aware of a lane of traffic moving parallel to his lane though slightly to the east? Did he ascertain whether the coast was clear before signalling? The evidence before the Court provided no answers to those questions and therein lies one of the many important differences between the facts of this case and those of *Clarke v Winchurch* (1969) 1 All E.R. 275 upon which the respondent relied.

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Another important difference between the two cases is that there is no evidence here that the appellant either knew or should have reasonably expected, that a vehicle would drive northward out of the entrance in which the respondent's car stood. In Clarke v Winchurch, the trial judge found as a fact that the rider of the moped knew "that there was a whole series of motor cars parked on his nearside of the road, some of which would want to go in the direction of Rotherdam, some would want to cross the line of traffic through gaps (if they could find a gap)". There are other differences between the facts of the two cases, but I mention these two to demonstrate the danger of urging as authority a conclusion by a court based upon facts substantially different from the facts under present consideration.

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I return now to the evidence. The respondent drove into the gap intending to turn to the right or east into Ariapita Avenue. He looked to the left or west side of Ariapita Avenue and saw no oncoming traffic going eastward, he glanced to the right or east side and saw nothing coming. These were his actual words -

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"I drove out into the gap intending to turn right. I looked to my left and saw road clear, I glanced right and saw nothing coming. My car was moving very slowly. At that stage I could not determine if the traffic was coming from further along Ariapita Avenue. I heard the sound of a crash on my left".

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Obviously, the respondent saw nothing when he glanced right because he could not see north of the northern line of traffic, although he ought to have heard the sound of the appellant's moving motor cycle; and yet, in spite of his inability to see, he proceeded. If he was in a position to see he must have seen the appellant's motor cycle.

The findings of fact of the trial judge were brief and may be stated in full:

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(continued)

"The plaintiff was riding his motor cycle from East to West when he came up behind a line of traffic which was stopped (in some places two deep) because of the traffic lights at the corner of Ariapita Avenue and Colville Street. The defendant had been driving his car from East to West and had turned in a gateway near to this line of traffic with the intention of returning whence he had come. The line of traffic was blocking his path but the driver of one of those cars made room for him to pass through so that he could proceed west (sic) on his proper side of the road. He came out through this opening very slowly at a time when the plaintiff was overtaking the line of traffic and a collision occurred". 10

On those findings his conclusions were that:

"liability for the collision rests almost entirely with the plaintiff (appellant) who was overtaking at a time when it was unsafe for him to do so and without reasonable care". 20

There was no evidence that it was unsafe for the appellant to overtake; moreover the respondent whose evidence was accepted by the judge had himself said there was no traffic proceeding from west to east along Ariapita Avenue and thus, it may be added, there was no traffic approaching the appellant's motor cycle from the opposite direction. Consequently, I am of the view that the judge's conclusion was not justified on the facts as found by him and I am therefore free to draw reasonable inferences from the evidence accepted by the trial judge. Such inferences should, however, be subject to the provisions of regulation 27 of the Motor Vehicles and Road Traffic Regulations, which provides as follows: 30

27. Every driver of a motor vehicle shall comply with the following rules:- 40

- (2) He shall not, when on a motor vehicle, be in such a position that he cannot have full control over the same, or that he cannot obtain a full view of the road and traffic ahead of

the mo the motor vehicle.

(5)(g) He shall not cross a road or turn in a road or proceed from one road into another road, or drive from a place which is not a road into a road, or from a road into a place which is not a road unless he can do so without obstructing any other traffic on the road, and for this purpose he shall be held to be obstructing other traffic if he causes risk of accident thereto.

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(continued)

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Having regard to the conduct of the respondent as described by himself and to his statutory obligations as a driver it seems right to hold, in my judgment, that he was negligent in driving his motor car and was substantially to blame for the resulting collision. It is to be observed that the trial judge found that the respondent was negligent "in that he should have proceeded with a little more caution" and held that his liability should be apportioned at 10%. After careful consideration of the facts I accept the finding of the trial judge that the appellant was contributorily negligent, but I do so on the ground that he ought to have observed the gap across the two lanes of traffic and, had he done so, was under the duty of approaching it with caution because of the possibility of a vehicle attempting to use the gap to cross the road. In these circumstances I would apportion liability for the accident as to 10% on the appellant and 90% on the respondent.

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I turn now to the question of damages. It is not necessary to make any comment about the trial judge's assessment of the amounts for loss of earnings and for special damages. On the question of general damages, however, the trial judge said briefly "for pain and suffering I would allow \$7,000". Although the case was short and the evidence truncated there was, comparatively speaking, a good deal of evidence about the injuries suffered by the appellant and their resultant effect. In those circumstances the trial judge's brevity is unhelpful in the light of this court's decisions in Cornilliac v St. Louis (1965) 7 W.I.R. 491 and Simon v Nurse



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(1967) 12 W.I.R. 107. In the former case it was held that the considerations which ought properly to be borne in mind in assessing general damages are (a) the nature and extent of the injuries sustained; (b) the nature and gravity of the resulting physical disability; (c) pain and suffering; (d) loss of amenities; and (e) the extent to which pecuniary prospects were affected. Of all those factors the only one mentioned by the trial judge is pain and suffering and so the decision of the latter case becomes relevant because it was there held that a judge when making an assessment of damages should incorporate in his judgment all the several heads of damage or at any rate all the findings he has taken into account and, having done so, he must be presumed to have omitted from consideration all or any other relevant factors. "These omissions by the trial judge are not of small account and as to the question of the extent to which the appellants pecuniary prospects were affected it is of significance to note the judge's opinion that the appellant's receipt of \$1200 as provident fund and \$400 as severance pay "should compensate him for further loss of earnings". In these circumstances I hold that the learned judge has made a wholly erroneous estimate of the damage suffered by the appellant - see Davies v Powell Duffryn Associated Collieries, Ltd. (No. 2), (1942) 1 All E.R. 657. It is helpful also to mention Phillips v London and South Western Ry. Co. (1879) 4 Q.B.D. 406 where it was held in an action for negligence causing personal injuries that a jury cannot be said to take a reasonable view of the case unless they consider and take into account all the heads of damage in respect of which a plaintiff complaining of a personal injury is entitled to compensation.

Accordingly, I shall now examine the appellant's claim to damages in relation to the several heads referred to above.

1. The Nature and Extent of the injuries sustained:

After the collision the appellant was admitted to hospital where Dr. Ahmad Kazim found

(a) there was a circulatory failure due to loss of blood; (b) a compound fracture of the left leg; (c) a wound 10 inches long on the left forearm; (d) abrasion of the left thumb. He was hospitalised from June 28 to November 9, after which date he became an out-patient attending 3 times a week until June, 1966 when he was referred to Dr. Robertson.

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of Trinidad  
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10 2. Nature and Gravity of resulting physical disability:

(continued)

20 Dr. Edward Robertson found the extensive wound on the left forearm covered by a split skin graft. The fingers, wrist and elbow of the left arm were stiff. There was skin loss, ulceration of the left leg with infection of the tibia and a comminuted fracture. The bone was in malposition and the foot was at a 75 degree angle downwards; the ankle joint was fixed rigidly and the left leg was functionless. The doctor did a skin graft on the leg but there was serous formation due to infection of the bone. The deformity was treated by physiotherapy and it improved but the leg is still 1½ inches shorter than the other. The appellant walks with a limp. he is seriously incapacitated and no longer fit for heavy work. His permanent partial disability was assessed at 35% and there would be disfigurement from scarring.

30 3. Pain and suffering:

In the opinion of Dr. Robertson the appellant suffered intensely from the injury and operations, and continues to have moderate pain. He said also that he would expect the serous formation to continue. The appellant said he worked under great discomfort until 1968 when he was examined by a medical board and pronounced unfit to work.

4. Loss of amenities suffered:

There was no evidence of loss of amenities.

In the Court  
of Appeal  
of Trinidad  
and Tobago

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Judgment  
2nd July 1970  
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5. The extent to which the appellant's pecuniary prospects have been materially affected:

At the time of the collision in 1965 the appellant was employed in the Ministry of Works as a carpenter at \$9.00 per day. In 1968 he was pronounced unfit for work and was medically discharged. He had not worked again up to the time the action was heard in April, 1969 and Dr. Robertson was of opinion that the appellant was no longer fit for heavy work which included carpentry. He said the appellant could do light work. There is, however, an inexplicable omission which could affect an assessment under this head and it is the omission of the evidence of the appellant's age at the time of the hearing of the action. 10

The appellant's injuries were serious and required him to be hospitalised for a long time. His disability although partial will be permanent and he will continue to endure pain although only moderately. Taking all the relevant facts into consideration I would affirm the trial judge's award of \$4,896 for loss of earnings, and \$1,800 for Special Damages, and I would award \$17,000 as general damages. The total assessment would therefore be as follows : 20

Loss of Earnings	-	\$ 4,896	
Special Damages	-	1,800	30
General Damages	-	<u>17,000</u>	
		<u>\$ 23,696</u>	

In my judgment, the appellant contributed to his damage to the extent of 10% and consequently I would allow this appeal with costs and vary the order of the trial judge by substituting judgment for the plaintiff/appellant for 90% of \$23,696 (\$21,326.40) and 90% of the taxed costs of the action in the court below.

H. Aubrey Fraser  
Justice of Appeal

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C.E.G. Phillips, J.A.:

I agree and have nothing to add

Clement E. Phillips  
Justice of Appeal

In the Court  
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of Trinidad  
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K.P. de la Bastide, J.A.:

I also agree.

K.P. de la Bastide  
Justice of Appeal

Judgment  
2nd July 1970  
(continued)

No. 18

ORDER

No.18

Order on the  
Judgment  
2nd July 1970

10

ON THE JUDGMENT OF THE COURT OF APPEAL

TRINIDAD AND TOBAGO:

IN THE COURT OF APPEAL

Civil Appeal No. 28 of 1969

BETWEEN

LEONARD JOHN

Plaintiff/Appellant

and

ANDREW SKEETE

Defendant/Respondent

Dated and Entered the 2nd day of July, 1970

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Before the Honourables, MR. JUSTICE C.E. PHILLIPS  
MR. JUSTICE H.A. FRASER  
MR. K. DE LA BASTIDE

UPON reading the Notice of Appeal filed  
herein on behalf of the above mentioned plaintiff/  
appellant dated the 10th day of May, 1969, and the  
judgment hereinafter mentioned

UPON Reading the record filed herein

In the Court  
of Appeal  
of Trinidad  
and Tobago

No.18

Order  
on the  
Judgment  
2nd July 1970  
(continued)

UPON Hearing Counsel for the plaintiff/  
appellant and Counsel for the defendant/respondent

And mature deliberation thereupon had

IT IS HEREBY ORDERED

(i) That this appeal be allowed

(ii) that the Order of the Honourable Mr. Justice  
Maurice Corbin be varied by substituting judgment  
for the plaintiff/appellant for 90% of \$23,696  
(\$21,326.40) and 90% of the taxed costs of the  
action in the court below

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(iii) that the costs of this appeal be taxed and  
paid by the defendant/respondent to the  
plaintiff/appellant.

/s/ Wendy Sandra Punnett

Ag. Asst. Registrar

No.19

Order for  
conditional  
leave to  
appeal to  
Her Majesty  
in Council  
27th August  
1970

No. 19

ORDER

FOR CONDITIONAL LEAVE TO APPEAL TO HER MAJESTY  
IN COUNCIL

TRINIDAD AND TOBAGO:

20

IN THE COURT OF APPEAL

ON APPEAL FROM THE COURT OF APPEAL

Civil Appeal No. 28 of 1969

BETWEEN

LEONARD JOHN

Plaintiff/Appellant

and

ANDREW SKEETE

Defendant/Respondent

Entered the 27th August, 1970

on the 27th day of July, 1970

Before the Honourables: Sir Arthur McShine,  
 Chief Justice (President)  
 Mr. Justice Aubrey Fraser  
 Mr. Justice Karl de la  
 Bastide

In the Court  
 of Appeal  
 of Trinidad  
 and Tobago

\_\_\_\_\_  
 No.19

10 UPON HEARING THE PETITION of the above named  
 Petitioner dated the 16th day of July, 1970,  
 preferred unto this Court this day for leave to  
 appeal to Her Majesty in Council against the  
 Judgment of the Court of Appeal made herein on  
 the 2nd day of July, 1970

Order for  
 conditional  
 leave to  
 appeal to  
 Her Majesty  
 in Council  
 27th August  
 1970

UPON READING the said Petition, and the  
 affidavit of Carlyle Bharath sworn to the 17th  
 day of July, 1970 both filed herein

(continued)

AND UPON HEARING Counsel for the Petitioner  
 and Counsel for the Respondent

20 THIS COURT DOTH ORDER that subject to the  
 performance by the Petitioner of the conditions  
 hereinafter mentioned and subject also to the  
 final order of this Honourable Court upon the  
 compliance with such conditions, leave to appeal  
 to Her Majesty in Her Majesty's Privy Council  
 against the said Judgment be and the same is hereby  
 granted to the Petitioner.

30 AND THIS COURT DOTH FURTHER ORDER that the  
 Petitioner do within a period of sixty (60) days  
 from the date hereof provide security to the  
 Respondent in the sum of Five Hundred Pounds  
 sterling (£500), to the satisfaction of the  
 Registrar of the Supreme Court of Judicature or  
 deposit into Court the said sum of Five Hundred  
 Pounds sterling (£500) for the due prosecution  
 of the said Appeal and for the payment of all such  
 costs as may be payable by him in the event of his  
 not obtaining an order granting him final leave  
 to appeal or of the appeal being dismissed for  
 non-prosecution or of the Judicial Committee of  
 the Privy Council ordering him to pay the costs  
 of the appeal.

40 AND THIS COURT DOTH FURTHER ORDER that a  
 stay of execution be granted on the condition that  
 the Petitioner enter into a bond with a surety in  
 the sum of \$21,000.00 to the satisfaction of the

In the Court  
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No.19

Order for  
conditional  
leave to  
appeal to  
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27th August  
1970

(continued)

Registrar of the Supreme Court of Judicature  
pending the determination of the said Appeal;  
and the Petitioner do also pay to the Respondent's  
Solicitor the sum of \$1,369.60 within thirty (30)  
days from the date hereof.

AND THIS COURT DOETH FURTHER ORDER that the  
Petitioner do within ninety (90) days from the  
date hereof in due course take out all  
appointments that may be necessary for settling  
and preparation of the transcript record in such 10  
appeal to enable the Registrar of the Supreme  
Court of Judicature to certify that the said  
transcript record has been settled and that  
the provisions of this order on the part of the  
Petitioner have been complied with and that the  
said transcript record, which the Petitioner  
proposes will be printed in Trinidad and Tobago,  
be transmitted to the Registrar of the Privy  
Council within sixty (60) days thereafter.

AND THIS COURT DOETH FURTHER ORDER that the 20  
costs of and incidental to this petition be  
costs in the cause.

/s/ Wendy Sandra Punnett  
Ag. Assistant Registrar  
Supreme Court of Judicature

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No. 20  
ORDER  
ALLOWING FINAL LEAVE TO APPEAL TO HER MAJESTY  
IN COUNCIL

In the Court  
of Appeal  
of Trinidad  
and Tobago

TRINIDAD AND TOBAGO  
IN THE COURT OF APPEAL  
Civil Appeal No.28 of 1969

No.20  
Order  
allowing final  
leave to  
appeal to  
Her Majesty  
in Council  
27th November  
1970

BETWEEN

LEONARD JOHN Plaintiff/Appellant

and

ANDREW SKEETE Defendant/Respondent

10

Entered on the 27th day of November 1970

On the 5th day of November 1970

Before the Honourables:

Mr. Justice Clement Phillips, President

Mr. Justice Aubrey Fraser

Mr. Justice Karl De La Bastide

UPON MOTION made unto this Court this day by  
Counsel for the above named Defendant/Respondent for  
an Order granting the said defendant/respondent  
final leave to appeal to Her Majesty in Her Privy  
Council against the Judgment of the Court of Appeal  
dated the 2nd day of July, 1970, and Upon Reading  
the said Notice of Motion dated the 23rd day of  
October, 1970, the affidavit of Carlyle Bharath  
sworn the 22nd day of October, 1970 together with  
the exhibit therein referred to, all filed herein,  
And Upon Hearing Counsel for the defendant/  
respondent in the presence of Counsel for the  
plaintiff/appellant

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THIS COURT DOTH ORDER

That final leave be and the same is hereby  
granted to the said defendant/respondent to appeal  
to Her Majesty in Her Privy Council against the  
said Judgment and the costs of this motion be  
costs in the cause.

.....  
Ag. Asst. - Registrar.



IN THE PRIVY COUNCIL

No. 50 of 1970

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ON APPEAL  
FROM THE COURT OF APPEAL OF TRINIDAD & TOBAGO

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BETWEEN :-

ANDREW SKEETE

Appellant

- and -

LEONARD JOHN

Respondent

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RECORD OF PROCEEDINGS

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JAQUES & CO.,  
2, South Square,  
Gray's Inn,  
London, WC1R 5HR.

Solicitors for the Appellant

CHARLES RUSSELL & CO.,  
Hale Court,  
21, Old Buildings,  
Lincoln's Inn,  
London, WC2A 3AS

Solicitors for the Respondent