

11/85

No. 7 of 1984

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA
(APPELLATE JURISDICTION)

B E T W E E N :

BANKERS & TRADERS INSURANCE Appellant
CO. LTD. (Second Defendant)

- and -

NATIONAL INSURANCE CO. LTD. Respondent
(First Defendant)

SUPPLEMENTARY
CASE FOR THE APPELLANT

1. Paragraph 12(i) of the Respondents' CASE states that the Respondents are not liable to satisfy the judgment obtained by the injured parties for

"(i) The said Ko Beng Lai did not notify the Respondents of the occurrence of the motor accident as required by condition 4 of the policy of insurance and as such liability thereunder was repudiated."

2. It is submitted that the said ground is not open to the Respondents on this appeal for the following reasons :

Record

(i) although the point was pleaded in paragraph 4 of the respondents' Defence, no evidence was called before the trial judge. The trial proceeded on Agreed Facts and the above facts were not included. The argument proceeded on agreed issues and the above was not raised. The Respondents appealed and the above was not a ground of appeal in the Federal Court;

P.7
L.11

P.10-11

P.14
L.20

P.18-19

(ii) mutatis mutandis the reasoning of the Federal Court at page 28 lines 9-22 applies.

P.28
L.9-22

GEORGE NEWMAN, Q.C.

LEE BIAN TIAN

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Appellant
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- and -

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Respondent
(First Defendant)

CASE FOR THE APPELLANT

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(Ref. AMDW.1223/RA)

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