

CHRISTOPHER LESLIE RICHARDS V STEPHEN PETER QUINTON (2000)

CA (Mantell LJ, Sir Ronald Waterhouse) 31/10/2000

PERSONAL INJURY

CYCLIST : CYCLE LANE : CAR DRIVER : CAR EMERGING FROM DRIVEWAY : CAR DRIVER HAVING RESTRICTED VIEWS : COLLISION : CYCLIST HAVING GREATER OPPORTUNITY TO TAKE EVASIVE ACTION : CONTRIBUTORY NEGLIGENCE : APPORTIONMENT OF LIABILITY

A cyclist riding in a cycle lane had the greater opportunity to take evasive action to avoid a collision with a car emerging from a driveway and although the car driver should have been proceeding with extreme caution, the cyclist was held to be 75 per cent contributorily negligent.

Defendant's appeal from the order of HH Judge Wilson made on 10 March 2000 at Oxford County Court giving judgment for the claimant for damages for personal injury subject to a finding of 50 per cent contributory negligence. On 20 February 1997 the claimant was injured when the bicycle he had been riding collided with the defendant's car. He had been cycling along a cycle path which ran between a pedestrian footpath and a main road. The defendant had been emerging from the driveway to his house, a manoeuvre requiring him to cross the footpath and the cycle path. It was dark and raining and the defendant's view to his left and right was restricted by foliage and the layout of the road. The cycle path was designed for cyclists to ride from right to left from the defendant's perspective with arrows painted on the path to indicate this. The claimant had been riding from left to right, but the defendant knew that cyclists sometimes did this. The defendant had stopped his car at the edge of the footpath before continuing forwards. He caught a glimpse of the approaching cyclist and stopped immediately but the claimant collided with the car. The judge found the parties equally liable for the accident holding that the defendant should have been proceeding with extreme caution and that the claimant should not have been cycling in the wrong direction. The defendant appealed.

HELD: (1) Having found that the defendant was aware that cyclists sometimes rode in the wrong direction, it could not be said that the fact that the claimant had been so cycling had any bearing on the issue of liability. (2) The claimant had had a much better opportunity of avoiding the accident. He had been cycling at between 8 and 10mph and would have had the opportunity of seeing the car bonnet emerging from the defendant's driveway. This would have been over and above any time the defendant would have had to have seen the claimant. (3) It could not be said however that no blame attached to the defendant. He had been confronted with a difficult manoeuvre, but one which was familiar to him. He knew that the opportunity of seeing a cyclist coming from either direction was severely limited and in the circumstances should have taken more care, perhaps even stopping each time he looked left or right. (4) Given that the claimant had had the much greater opportunity to avoid the accident the appropriate apportionment of liability was that the claimant was 75 per cent contributorily negligent.

Appeal allowed to extent stated.

Jonathan Howard instructed by Lamport Bassit (Southampton) for the defendant. David Melville instructed by Henmans (Oxford) for the claimant.

LTL 31/10/2000 EXTEMPORE (Unreported elsewhere)

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