Tan Whei Tet Valerie v James Johnbritto
[2003] SGHC 34

Case Number : OS 50/2003

Decision Date : 24 February 2003

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : Ramasamy s/o Karuppan Chettiar (Harry Elias Partnership) for the Applicant; Perumal Athitham (Yeo Perumal Mohideen & Partners) for the Respondent

Parties : Tan Whei Tet Valerie — James Johnbritto

Civil Procedure – Appeals – Leave – Whether leave to appeal required Â– Proper interpretation of s 21(1) Supreme Court of Judicature Act (Cap 322).

1. This was an application for leave to appeal to the High Court. The applicant was the defendant in a District Court suit. The claim arose from a motorcar accident. The trial judge found the defendant to be 40% to blame for the accident. The plaintiff was a cyclist who collided with a car driven by the defendant. The court assessed damages at $79,800 on a 100% basis. The amount after apportionment of liability at 60% was $47,880.

2. The first issue before me was whether the defendant required leave of court to appeal against the decision below. Mr Ramasamy, counsel for the defendant, submitted that leave was not required whereas Mr Perumal, counsel for the plaintiff, submitted that since the amount awarded was $47,880 it was less than the $50,000 limit under s 21(1) of the Supreme Court of Judicature Act, the defendant, therefore, required leave to appeal.

3. This issue thus concerned the proper interpretation of s 21(1). The arguments advanced by counsel on both sides were virtually identical to submissions by counsel in another proceedings that was heard by me just preceding this originating summons, namely Originating Summons No. 1744 of 2002 which was heard together with Originating Summons No. 1766 of 2002.

4. I had delivered my judgment in this originating summons as well as that of Originating Summons No. 1744 of 2002 and Originating Summons No. 1766 of 2002, one after the other. Insofar as the issue of interpretation of s 21(1) of the Supreme Court of Judicature Act is concerned, my grounds are the same as that delivered in Originating Summons No. 1744 of 2002 and Originating Summons No. 1766 of 2002.

5. The difference between the two originating summonses is that the applicant in this originating summons (who was the defendant at the trial below) is the party who intends to appeal against the judgment sum of $47,880. As I had explained, the amount in dispute may be limited by the stand taken by the party concerned at the trial or hearing below. In this case the defendant's position below was that there was no liability, or zero sum. Her position after the trial was the same save that she now wishes to appeal against the sum adjudged against her, and that is $47,880. In either case, the amount in dispute in the cause does not exceed $50,000. In the circumstances, in this case, the defendant would require leave to appeal. I then considered the question as to whether leave ought to be granted.

6. The defendant seeks to overturn a finding of liability as well as the quantum of damages. The issue of liability was determined partly on findings of fact and partly from inferences from facts. There were no grounds of decision available from the trial judge. I accept the submissions of Mr Ramasamy and am of the view that the defendant has raised credible issues for argument on appeal, the merits of which must, of course, be reserved to the judge hearing the appeal. I also took into account the fact that the amount in dispute is very close to the $50,000 threshold.

7. I, therefore, granted leave to the defendant to appeal with costs in the cause here and below.