Chan Susan *v* Lai Tet Chong and another
[2012] SGHC 139

Case Number : Suit No 306 of 2011

Decision Date : 28 June 2012

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : Subbiah Pillai and Brown Pereira (Cosmas & Co) for the plaintiff; Anthony Wee (United Legal Alliance LLC) for the defendants.

Parties : Chan Susan — Lai Tet Chong and another

Tort – Negligence

28 June 2012

Choo Han Teck J:

1 The plaintiff fell as she was trying to catch a bus (SBS 655L) owned by the second defendant. The first defendant was the driver of that bus at the time. The plaintiff sued the defendants for damages in negligence. Her case as pleaded in the Statement of Claim and in her affidavit of evidence-in-chief was that on the day in question, namely 14 March 2010 at 9 am, she wanted to board the bus at the bus-stop along Tanjong Katong Road but the first defendant shut the front (boarding) door without warning and drove off "causing the plaintiff to lose her balance and [fall] off and run over by the bus". Twice in her affidavit of evidence-in-chief she asserted that "one of [her] legs was on the steps of the bus when the bus suddenly and without warning started to move off" thus "causing [her] to lose her balance." This evidence as Mr Wee, counsel for the defendants, pointed out were inconsistent with the police report made by the plaintiff and the averments made in her Statement of Claim and the amendment to the Statement of Claim embellishing her account to the clearly untrue version that the bus driver stopped the bus and allowed her to put one foot on the bus but he drove off before she could board.

2 The defendants' case and evidence from the first defendant driver was that the bus had already started moving because there were no more passengers alighting or boarding. The bus could not move unless both doors were shut. The plaintiff ran from behind the bus and slipped when she was hoping to catch the bus before it could leave.

3 The defendants produced a video clip of the incident. The video was filmed by another bus driver with the camera mounted on his bus which was travelling behind SBS 665L. The video clip was shown in court and I had watched it again many times, each time focussing on different aspects of the incident. The video showed that the plaintiff was walking along the pavement towards the bus stop when passengers were alighting from SBS 665L. She was not in a queue as averred in her evidence-in-chief and police report. When it appeared that no passenger was at the boarding door in the front of the bus, and the last passenger had alighted, the driver shut the doors and the bus began to move. It was almost simultaneously that the plaintiff must have realised that the bus was moving that she began to run.

4 She was just at or slightly ahead of the rear door of the bus when she started running. She then lost her footing because she was running too close to the edge of the pavement, and fell. At

that point she had not reached the front door of the bus. The bus driver was probably watching the traffic on his rear right since he was moving ahead. The sequence of events as shown on the video clip showed that the plaintiff fell when she slipped as she was running for the bus that was already about to move if not having already moved. Having seen the video I am satisfied that the first defendant (and consequently, the second defendant) had not caused the plaintiff's fall and that the injury to the plaintiff could not reasonably have been avoided. Even if he had seen the plaintiff running after the bus he was not obliged to stop and even if he was, not stopping was not the cause of the plaintiff's fall. There appeared no necessity for him to say that he looked in the rear view mirror but he said he did not only because counsel asked if he did.

5 The plaintiff must have realised the true state after she had sight of the video because she amended her affidavit of evidence-in-chief by deleting the portions I had quoted above. The video does not show the plaintiff tapping on the bus but it appeared that she was either attempting to tap it or had reached out when she lost her footing, but that motion (of stretching her arm) took place as she lost her footing. There was nothing the bus driver could have done. As he had prepared to move off or was moving off it was not unreasonable for him to look to the right and to the road. The accident happened too quickly for the driver to avoid.

6 The sole issue before me in this trial therefore was whether the first defendant caused the plaintiff to fall and subsequently injuring her. The evidence showed that the first defendant did not cause her to fall, and even if causation was shown, he was not negligently responsible for her injury in that there was no time for him to have avoided injury to her if the injury had been caused by contact with the bus after she fell. I agree with Mr Wee that the first defendant was not in breach of any duty of care to the plaintiff in these circumstances. Mr Pillai submitted that I should consider the objective evidence. However, the only objective evidence which seemed not in dispute, such as her age and what she wanted to do, were irrelevant with regard to the causation of the injury, is no fault on the part of the defendant.

7 I am thus of the view that the plaintiff has failed to prove her case. The claim is therefore dismissed and I will hear the parties on costs at a later date if they cannot agree costs.