

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN COMMON LAW

SUIT NO. C.L. D 094/1999

BETWEEN	BEVERLEY DOUGLAS	CLAIMANT
AND	CHARELA INN LTD.	1 st DEFENDANT
AND	DANIEL ROUMEL	2 ND DEFENDANT

Ms. Dacia Wills and Mr. Christopher Dunkley for Claimant instructed by Cowan Dunkley and Cowan.

Ms Ayana Thomas instructed by Nunes Scholfield, DeLeon and Co. for both Defendants.

HEARD: 25TH May 2007

CAV 15TH June, 2007

CORAM: D.O. MCINTOSH J.

JUDGMENT

On Sunday the 17th May, 1998 between 3:00 p.m. and 4:00 p.m. two motor vehicles, one driven by Beverley Douglas and the other by Daniel Roumel collided on the Mandeville to Spur Tree main road.

This road was dry, with asphalt surface. The claimant was going towards Mandeville up a slight grade to enter a slight right bend. The second defendant was going around a slight left bend and descending from Spur Tree towards Mandeville.

Both vehicles impacted to their front right side. Immediately following this impact the second defendant's vehicle came to a stop and was hit in the back by a vehicle traveling behind him.

After the impact the second defendant's vehicle ended up or remained on its left side of the road going towards Mandeville, while the claimant's vehicle was across the road, its back to the left side of the road as one faces Spur Tree and its front towards the second defendant's vehicle.

The claimant was alone and her evidence by way of witness statement was brief and concise and a bare skeleton. Under cross-examination, she contradicted herself on several occasions, was often evasive and did not impress me as a witness of truth.

It was apparent she knew very little if any thing about the accident after which she was taken away to hospital for treatment.

The second defendant and his wife Sophia Roumel gave evidence for the defence. I found, in particular, the evidence given by Mrs. Sophia Roumel to be truthful and a factual account of how the accident took place.

On a balance of probabilities this court found that the claimant while driving towards Spur Tree, was looking towards her left and not on the road, that

her car moved across the road and slammed into the car driven by the second defendant who could do nothing to prevent the collision and

that the claimant was solely to be blamed for the accident.

This court will therefore dismiss the claimant's claim with costs to the defendants to be agreed or taxed.

On the defendants' counter claim this court awards damages to the defendants against the claimant as follows:

Special Damages agreed at \$448,386.15 with interest @ 6% from the 17/5/98 to 25/5/07.

General Damages of \$75,000.00 with interest @ 6% from the 8/11/99 to the 25/5/07.

Costs to the defendants to be agreed or taxed.

