

THE EASTERN CARIBBEAN SUPREME COURT

ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE

CLAIM NO. ANUHCV2023/0061

BETWEEN:

PAULA ELVIE

Claimant

And

DAVID ROBERTS

Defendant

Appearances:

Dr. David Dorsett for the Claimant

Ms. Jan Peltier for the Defendant

2026: June 23rd

JUDGMENT

[1] **WILLIAMS, J.:** This claim arises out of a road traffic accident which occurred on 8th September 2022 at or near the junction of All Saints Road and Vivian Richards Street (also described as Valley Road). The Claimant, Ms. Paula Elvie, was a pedestrian. The Defendant, Mr. Dave Roberts, was the owner and driver of a Toyota Vitz motor car A7690. It was agreed that trial would only proceed on the issue of liability with damages to be assessed if liability is established.

[2] It is common ground that there was a collision between the Defendant's vehicle and the Claimant. It is also not in dispute that the Defendant owed a duty of care to pedestrians

using the road including the Claimant.¹ The issues are whether the Defendant breached that duty and whether the Claimant was contributorily negligent.

- [3] The Claimant's case is that she was crossing the road from north to south near the intersection of Lower All Saints Road and Sir Vivian Richards Street. This is in the vicinity of Courts and the Industrial Workshop for the Blind. According to her, having looked to see that it was safe to cross she was struck by the Defendant who was turning from All Saints Road into Vivian Richards Street. She says the Defendant was not keeping a proper lookout and failed to control his vehicle to avoid the collision.
- [4] The Defendant denies negligence. His case is that traffic was at a standstill, that rain was falling and that as he began to make a right turn a lady came from behind another vehicle and "bumped into the side" of his fender. He therefore contends that the Claimant either caused or contributed to the accident.
- [5] The Court accepts the Claimant's evidence on the essential facts of the collision. Her account is materially supported by the evidence of Sergeant Leon Alves and by the Traffic Department report. Sergeant Alves states that, following his investigation and enquiries of the Defendant, he determined that the Defendant was travelling north to south on Lower All Saints Road. He further states that the Defendant told him he had "looked away for a second" while making a right turn into Vivian Richards Street. As a result, his vehicle came into contact with the Claimant. The police report records the same material conclusion and states that the Defendant was at fault.
- [6] The Defendant's evidence does not displace that conclusion. Even on his own account, the Claimant was in the vicinity of the junction before the turn was completed. The fact that another vehicle may have been present and that it may have been raining, made it more important for the Defendant to proceed cautiously and to keep a proper lookout for

¹ Cheryl Edwards Administratrix of the Estate of Janique Lewis v Ethel Mills Claim No. ANUHCv1998/0168 decided 28th November 2002 (unreported)

pedestrians. A driver turning across or into a road must ensure that the path is clear before committing to the turn.

[7] I therefore find that the Defendant was negligent. He failed to keep a proper lookout and also failed to see the Claimant in sufficient time to avoid the collision. His momentary glance away while executing the turn was the predominant cause of the accident.

[8] However, that does not end the matter. The Court must also consider whether the Claimant failed to take reasonable care for her own safety.² The Claimant was crossing at or near a junction. She was required to keep a continuing lookout as she crossed, particularly where vehicles were turning and where visibility or attention may have been affected by traffic conditions and rain.

[9] I accept that the Claimant looked before crossing and that she did not deliberately step into obvious danger. However, the evidence also places the crossing at or near a busy junction, in circumstances where vehicles could turn into Vivian Richards Street. The Claimant was therefore required not only to look before stepping off, but to maintain a continuing lookout as she crossed. On the evidence, the collision occurred while the Defendant was executing a right turn. I infer that the Claimant either did not see the Defendant's vehicle beginning or continuing its turn or did not appreciate in sufficient time that it might cross her path. That was a failure to take reasonable care for her own safety, although it was substantially less blameworthy than the Defendant's failure as the driver of the turning vehicle.

[10] I therefore find that the Claimant was contributorily negligent. The Defendant was the driver of a motor vehicle executing a turn and bore the greater responsibility to keep a proper lookout and to avoid striking a pedestrian. His failure was the principal cause of the collision. The Claimant's fault was limited to failing to exercise sufficient care while

² Ronald Greenaway v. Charles Edwards Claim No. ANUHCv2005/0212 decided 16th December 2008 (unreported)

crossing at or near the junction. I therefore apportion liability at 80% to the Defendant and 20% to the Claimant.

[11] The Court therefore orders as follows:

1. Judgment is entered for the Claimant with damages to be assessed by a Master on a date to be notified by the Court Office.
2. The Claimant's damages shall be reduced by 20% representing the Claimant's contributory negligence.
3. Prescribed costs are reserved, to be calculated on the value of damages assessed.

Rene Williams
High Court Judge

By the Court

Registrar