

43/82

ON APPEAL FROM

THE COURT OF APPEAL OF JAMAICA

B E T W E E N :

CLIVE MALCOLM Appellant

- and -

REX KNIGHT First Respondent

- and -

EZEKIEL WILLIAMS Second Respondent

CASE OF THE RESPONDENTS

RECORD

1. This is an Appeal from the Judgment and Order of the Court of Appeal of Jamaica (Henry, Kerr and Rowe JJA.) whereby by Order dated the 14th day of February, 1980 for reasons contained in a written Judgment dated the 14th day of March, 1980 the Court of Appeal allowed an Appeal by the Appellant herein against the Judgment and Order of the Supreme Court of Judicature of Jamaica (Common Law) (Allen J.) whereby by Order dated the 31st day of January, 1979 for reasons contained in an undated written Judgment the claim of the Appellant herein against the Respondents for damages for the negligent driving
pp. 7-13
p. 16
pp. 86-96

of a motor truck on the 28th day of June, 1973 was dismissed. By their Order the Court of Appeal of Jamaica had allowed the Appeal of the Appellant herein against the aforesaid dismissal of his claim against the Respondents by directing that the said Judgment of the Supreme Court of Jamaica (Common Law) be set aside and that there should be a new trial of the action.

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(10)

2. The sole question falling for consideration by the Judicial Committee of the Privy Council in this Appeal is whether or not the Court of Appeal in Jamaica was correct in directing a new trial of the Appellant's claim in the action.

3. The Respondents will not seek to argue at the hearing of this Appeal that the Judgment of the Learned Trial Judge ought to be restored. It is the case of the Respondents that the Court of Appeal of Jamaica was entitled, in the exercise of its discretion, to make the Order that it did in fact make directing a new trial. The Respondents will not seek at the hearing of the instant Appeal to submit that the conclusions of fact arrived at by the Court of Appeal of Jamaica were wrong, save insofar as may be necessary

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(20)

for the purpose of upholding the decision
of the Court of Appeal to Order a new trial. p. 12

It is respectfully submitted that it is not
incumbent upon the Board to seek to
reassess for itself issues relating to the
credibility of witnesses canvassed in the
courts below. Providing the Order for a
new trial is upheld in the instant Appeal
it is open to the Respondents, in their

(10) respectful submission, to attack the
validity of the conclusions of fact
reached by the Court of Appeal in the new
trial in relation to the evidence actually
adduced at that trial. In the premises
such concisions as the matters of fact
relating to the Respondents' case as are
made hereinafter or may be made in oral
argument at the hearing of the instant
Appeal ought not, in the Respondents'

(20) respectful submission, be deemed to have
any evidential value at the new trial if
the Order of the Court of Appeal
directing the same is affirmed. The
Respondents would respectfully invite
reference to be made to the limited terms
of this concession in the Judgment of the
Board.

pp. 7-13

4. The Appellant's claim against the
Respondents (the First Respondent being
(30) the employer of the Second Respondent

pp. 17-20

at the material time) arose out of a collision between a dumper truck driven by the Second Respondent and a bicycle ridden by the Appellant. There was a substantial dispute of facts before the courts below; the Appellant's case being that he had been struck from behind by the dumper truck and the Respondents' case being that there was a head on

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pp. 21-22

(10) collision between the Appellant riding his bicycle on the wrong side of the road and the said dumper truck. Certain facts which were either admitted, conceded or not contested were enumerated by the Learned Trial Judge. These do not seem to have been in issue before the Court of Appeal of Jamaica.

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They were as follows:

(20) (a) That there was a collision between the bicycle ridden by the Plaintiff and Fargo dumper truck driven by Defendant Hezekiah Williams, on 28th June, 1973.

(b) The place where Plaintiff's body fell was a concrete culvert.

(c) Location of Culvert - on Sligoville side of a corner described as "Mothers Flowers" corner,

(30) (d) Direction truck travelling: In direction from Sligoville towards McNeil Park.

(e) Daytime: The hour was not material to issues, and has been given by different witnesses as 11.30 a.m., 12 noon, 12.30 p.m.

(f) No evidence of other than fair weather conditions.

(g) No other traffic in vicinity of collision."

That the Appellant sustained severe injuries as a result of the accident was not in dispute. The extent of these injuries is not material for the purposes of the instant Appeal in the respectful submission of the Respondents save insofar as the same provides some evidence in support of the Respondents' submissions as to (10) questions of facts. p. 87

5. By a Statement of Claim apparently served together with the Writ of Summons in the action dated 14th May, 1976 it was alleged that the relevant collision was caused solely by the negligence of the Second Respondent, the Particulars pleaded were: p. 17

- (20) "1. Hitting the Plaintiff from behind. p. 18
 2. Failing to see the Plaintiff and to take evasive action to avoid hitting the Plaintiff.
 3. Speeding around a curve.
 4. Failing to have regard for other users of the road including the Plaintiff."

6. In their Defence the Respondents alleged that the said collision was caused or alternatively contributed to by the negligence of the Appellant. pp. 21-22
 (30) The Particulars of Negligence pleaded

against him were as follows:

- "(1) Failing to keep to the left hand side of the road. pp. 21-22
- (2) Failing to heed the approach of other vehicles on the road.
- (3) Negotiating a gradient down hill at an excessive speed or at a speed which was excessive in the circumstances.
- (10) (4) Failing to brake, slow down or stop or in any other way so to manouvre his said pedal cycle as to avoid a collision.
- (5) Failing to have any or any effective brakes on his pedal cycle.
- (6) Failing to keep any or any proper outlook".

- (20) A plea was also raised of release by deed in respect of a deed apparently dated the 8th day of April, 1974. It seems this was not pursued at the trial. p. 22

7. The trial of the instant action came on before the Honourable Mrs. Justice Allen on the 16th day of January 1978; it appears that it was then adjourned part heard to eight further days namely 17th and 18th January, 29th, 30th and (30) 31st May, 9th, 10th and 11th October, 1978 with an oral judgment being given on 31st January, 1979 and an undated written judgment thereafter. pp. 23-85
- pp. 86-96
- Following the medical evidence of Professor Cross which it is not proposed to summarise in this case pp. 25-33
- pp. 33-44

the Appellant gave evidence on his own behalf. In his evidence in chief he described how the accident happened in the following terms:

"Four and a half to five years ago I was in an accident. I was riding a bicycle from Sligoville direction going towards McNeil Park.

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(10) Know deep left hand curve, you turn before reach McNeil Park. Something happened.

Truckman hit me from behind. Just feel the bicycle go up in air and know nothing more".

When it was put to the Appellant that he was riding from McNeil Park on the incorrect side of the road and that he went round a blind corner and came face to face with the Respondents'

p. 43

(20) truck, he denied those allegations.

The Appellant also disputed saying to an insurance company investigator the matters contained in a statement taken by the investigator which formed exhibit 1 (of which a copy forms the annexure to this case) when these matters were put to him although he acknowledged the signature thereon had been his own.

pp. 37-41

8. (30) The Appellant called two alleged witnesses to the accident. The first of these, one George McFarlane gave evidence apparently supporting the

pp. 44-52

Appellant's account. He said:

"I saw a truck and a bicycle in the accident. Truck travelling from Sligoville direction. Cyclist travelling from Sligoville. Cyclist was before the truck when I saw it. I was on a culvert bridge. From where I was could see from Sligoville end clearly. I was about half chain (10) across the road from the accident." p. 44

McFarlane alleged that the Second Respondent had said, in response to McFarlane saying:

"You are a murderer. You could save the man for no vehicle coming from McNeil Park and no vehicle behind." p. 45

the words "go away". It is to be observed that in the course of his cross-examination McFarlane altered (20) his evidence both as to how he calculated the time of the accident and the time that he had first been approached for a statement. pp. 45-52

9. The second witness as to the facts of the accident called by the Appellant was Noel McLennon. The gravamen of his evidence is contained in the following paragraph: pp. 52-56

"I was riding my bicycle going (30) towards Sligoville going towards the Postal Agency and I saw Clive coming down on a bicycle coming down towards me, face to me, and a dumper truck was behind him. Just as I bend the p. 52

the corner dumper truck come and hit him from behind and he fell to my right at a culvert and the bicycle was almost in the middle of the road more to my left hand side. I jump off my bicycle same time and run across the road and I recognise that it was a man that working with Mr. Robinson."

- (10) This witness acknowledged in cross-examination that he did not make any attempt to report the matter to the police and stated that it was only the previous week that Mr. Campbell, the Attorney-at-Law for the Appellant had spoken to him. The other witnesses called by the Appellant, pp. 56-60
Aubrey Robinson and Violet Moore, the Appellant's mother, did not see the pp. 60-67
- (20) accident and it is respectfully submitted that their evidence does not assist in the determination of the instant Appeal.
10. Five witnesses were called on behalf of the Respondents herein. The first of these was Clinton Hines an Attorney-at-Law for the Respondents in the action who produced certain photographs that he had taken. The pp. 67-69
- (30) second witness was the Second Respondent himself. He gave the following account as to how the accident took place: pp. 69-77

- "Remember 28th June, 1973. On that day working as a driver. On that day I was driving from Sligoville towards Spanish Town, McNeil Park - and driving through the district of Thompson Pen. Yes, I approached that bend in road, I described as Mother Flowers' corner. As approach the corner I was in extreme left hand corner - a right hand driven dumper truck
 (10) Licence FB 818 a ten ton truck. As approach Mother Flowers' corner travelling at about 25 m.p.h., you cannot see around the corner as I was driving. As approach the corner I blow my horn. I even cut down on my speed. Immediately I saw a cyclist coming from direction of McNeil Park in the opposite direction. As I reached the corner I see him coming down the grade. He was on my left hand side of the road.
 (20) He was coming on a down handle bicycle. His head was down (indicating waist bend) He just suddenly come around the bend.

- When I saw him I swerved to my right and he hit on the left hand side of my truck. When I swerved to right he hit the truck already. Reason I swerved to right because if I stop same place I sure he would die same place on spot, so I pull up on the right hand side of
 (30) the road. I came out immediately."

11. Samuel George Oliver was the insurance company investigator who had taken the statement from the Appellant which had been put to him in cross-examination. He gave evidence as to the taking of this statement which was then admitted in evidence as Exhibit 1. He explained that this had been taken in the presence of the Appellant's father and the
 (40) Appellant's older sister. It appears that in cross-examination it was put to Oliver that he had suggested to the Appellant what had happened to him,

that he was taking the statement so that the Appellant could get money from the insurance company and that the Appellant's signature was required so that the insurance company could verify that the witness had actually visited the Appellant. It is to be observed that two potential witnesses who could apparently

- (10) corroborate these matters on behalf of the Appellant, namely his father and his sister were not in fact called.

12. Huntley Britton was the Corporal of Police who investigated the relevant accident. He spoke of slight damage pp. 80-81

to the left blinker and fender of the Respondents' truck and of damage to the front of the Appellant's bicycle.

Mr. Chutkan gave evidence in relation pp. 81-85

- (20) to the Appellant's injuries. The tenor of his evidence was that the injuries sustained were more consistent with the Respondents' version of the occurrence of the accident than that of the Appellant's.

13. After giving judgment for the Respondents herein and orally intimating the findings relevant thereto on 31st January, 1979, p. 16

- the Learned Trial Judge subsequently delivered a written judgment. She commenced the same by recapitulating in summary form the Appellant's injuries and the essential issue in the case; namely the conflict of fact as to whether the Appellant was riding his bicycle towards Sligoville or to McNeil Park. After setting out the
- (10) undisputed facts quoted hereinbefore, the Learned Trial Judge reviewed the Appellant's injuries more extensively. She noted the evidence of damage to the Respondents' truck and to the Appellant's bicycle given by Corporal Britton and then referred to the evidence of Aubrey Robinson.
14. The Learned Trial Judge then turned to the evidence of the Appellant himself and after stating that the Appellant's story was that he was hit from behind on his bicycle whilst riding towards McNeil Park, she assessed his evidence in the following way:
- "Plaintiff impressed the Court as being shrewd and intelligent, although no more than basic academic education. Although there were apparent gaps in his recollection, he showed a coherent grasp of his situation, displayed his understanding of shades of meaning and
- pp. 86-96
- p. 87
- p. 88
- p. 88
- pp. 89-91
- p. 89

- was alert to where his own interest lies and where it does not. Were it not for the evidence of eminent neurosurgeon, Professor Cross of brain damage, and of his mother, Miss Violet Moore, as to his post-accident change of habits and of personality, it would be difficult to believe that anything was wrong with his brain, or that his intellect was
- (10) affected by the damage to his brain. From the evidence of Miss Violet Moore - as incident to his personality change. Plaintiff demanded money not owed to him in truth, and speaks things not true. The Court did not believe him when he said that witness investigator to the Insurance Company of Jamaica, Mr. Samuel Oliver held his father's hand to sign statement (Exhibit 1). In the opinion
- (20) of the Court, it would be extremely unsafe to accept Plaintiff's evidence as to how the accident happened, and accordingly this evidence is rejected."

It is respectfully submitted that by p. 89

the words "was alert to where his own interest lies and where it does not", the Learned Judge was indicating a degree of scepticism towards the Appellant's evidence which she was

- (30) entitled to adopt. It is to be observed that the Learned Trial Judge p. 92
- specifically rejected his evidence where it conflicted with Samuel Oliver's evidence over the signing of the Appellant's statement by the Appellant's father. The conclusion reached by the Learned Trial Judge that it was unsafe to accept the Appellant's evidence is one, which it is respectfully
- (40) submitted, which she was entitled to make and which is only amenable to review on

appeal in accordance with the well known criteria relating to review of primary findings of fact.

15. Thereafter the Learned Trial Judge turned to the witness McFarlane and set out the nub of his evidence. She then held:

(10) "I doubted that he saw how the accident happened, and that he spoke to the driver of the truck as he alleged. I form the opinion that he was untruthful and unreliable and rejected his evidence of how the accident happened upon those grounds."

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This finding is likewise submitted to be within the competence of the Learned Trial Judge upon the material before her. The rejection of this evidence in the premises is not amenable to review on appeal in the respectful (20) submission of the Respondents.

16. The evidence of the witness McLennon was then more extensively quoted by the Learned Judge. She passed the following comments upon his evidence:

(30) "This witness impressed me with the shock he felt as he made the bend and saw the accident happen right before his eyes, and I believe and accept that he did see the collision. However, in view of the position in the road where he must have been when he 'bent' the corner, the statement which he made as to the pre-accident movement and direction of the truck and of the Plaintiff is inconsistent with the immediacy of the earlier statement."

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These comments, in the submission of the Respondents, are those that caused the greatest difficulty to the Court of Appeal in Jamaica. It may be that the Learned Trial Judge held the view that this witness was attempting to be an honest witness.

In the submission of the Respondents it is necessary to analyse the passage

- (10) quoted above together with the following passage:

- "The witnesses speak of a fence - Mother Flowers' fence - and a zinc fence is shown (in Exhibit A1) around the corner. If the accident happened "right before my eyes" as witness McLennon bent the corner, then this witness could not see the movement of vehicles approaching him and travelling on their correct hand. He could only see approaching traffic as they broke his line of vision diagonally at a tangent to the corner.
- (20)

p. 95

- I therefore find that witness McLennon lied when he said that he saw Plaintiff coming down the road towards him, the truck behind Plaintiff, and when he said he saw the truck swerve, apparently to avoid ruts."
- (30)

Whether or not the Learned Judge formed the view that the witness was lying rather than being mistaken is, in the respectful submission of the Respondents irrelevant. It is submitted that the Learned Judge was entitled to reject the evidence of the witness McLennon without deciding whether or not the

witness was lying or mistaken. All that was necessary for her to do was to give the basis of her reasoning for such rejection. In stating that from the position where the witness placed himself at the time of the accident it was not possible to see the same the Learned Judge gave a reason, which it is respectfully submitted was more (10) than adequate.

17. At this stage the Learned Judge dealt with the evidence adduced by the Respondents herein. She summarised the evidence of the Second Respondent noting that he had swerved to the right to avoid striking the Appellant when the Second Respondent discovered the Appellant heading towards the truck on the wrong side of the road.

p. 94

(20) Although, as observed by the Court of Appeal, the Learned Judge nowhere specifically accepted the evidence of the Second Respondent, its acceptance must be implicit, it is respectfully submitted both from the judgment itself and, in particular, her rejection of McLennon's evidence. This, it is submitted, implies not only preference for but

p. 10

(30) acceptance of the Second Respondent's

evidence.

18. Thereafter the Learned Judge turned to the evidence of the Insurance Investigator Samuel Oliver. After noting that the statement produced by him contained an apparent admission by the Appellant herein in the following terms:

(10) "I remember that as I was riding on the main at Thompson Pen, I ran into the front of a truck that was travelling towards me from the opposite direction". p. 92

The Learned Judge then went on to reject this statement as having any evidentiary value on the basis that the circumstances under which it was taken were unfair; she eschewed making any finding as to whether or not the words attributed by Mr. Oliver were in fact said by the Appellant. The Respondents would (20) acknowledge that it is not open to them before the Board to invite the Board to reverse the findings of the lower courts in relation to this evidence. It is nonetheless respectfully submitted that the Learned Trial Judge fell into error in failing to make any finding as to whether or not the words in the statement attributed to the Appellant were in fact spoken (30) by him. The rejection of their having

any evidentiary value by the Learned Trial Judge in the summary fashion used in her judgment was, in the Respondents' respectful submission, an error. It is submitted that she ought to have asked herself

- (a) were the words spoken? (b) if so, is there any reason to doubt that the Appellant believed they were true
- (10) when they were spoken and (c) if the Appellant did not doubt their truth at the time of speaking the words, what effect do the same have upon the credibility of the Appellant's case at the trial? In the Respondents' submission it is difficult to reconcile the Learned Judge's rejection of the words as having evidential value upon the premise that the Appellant was
- (20) suffering disorientation from brain damage with her own assessment of him as being shrewd and intelligent and alert to where his own interest lay. Although, as has already been conceded, the Respondents acknowledge that it would not be competent for them to submit to the Board that the Judge's rejection of this evidence can be reviewed by the Board, it is
- (30) submitted that the evidence of Samuel Oliver could be reassessed at a new trial.

It would be unjust in the respectful submission of the Respondents to deprive the Respondents of the benefit of the Order for a new trial when there is material for demonstrating that the Trial Judge failed to take due advantage of seeing and hearing a witness called for the Respondents as is the case here.

- 19.(10) The Learned Judge then went on to deal with three specific aspects of the evidence; the medical evidence, evidence as to speed and evidence as to the point of collision. So far as medical evidence pp. 92-93 was concerned, the Learned Judge held in effect that this was neutral. In the submission of the Respondents the medical evidence is in fact consistent only with the Second Respondent's evidence. So
- (20) far as speed was concerned, the Learned Judge held, it is submitted correctly, pp. 93-94 that there was no evidence of excessive speed by the Respondents' truck. In relation to the point of collision, the Learned Judge regarded this as an pp. 94-95 essential point in the case. She held, it is also submitted correctly, that p. 95 because the point of collision was not visible to the witness McLennon, she
- (30) was obliged to reject his evidence.

After examining what the Learned Judge styled the "inanimate evidence" she concluded that this was consistent with the Respondents' case and held that on the balance of the probabilities the Appellant had failed to prove that there was negligent driving by the Second Respondent or that such negligence caused the accident. In (10) the circumstances she dismissed the claim.

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p. 96

20. By an undated Notice of Appeal the Appellant gave notice of his intention to Appeal to the Court of Appeal of Jamaica. The grounds of appeal related to the assessment of the evidence by the Learned Judge in the Court below.

pp. 4-6

21. It appears from the record that the (20) Appeal was heard before the Court of Appeal of Jamaica on five days, namely, the 30th, the 31st January, 1st, 13th and 14th February with judgment being reserved until 14th March 1980. The judgment of the Court of Appeal was delivered by Henry J.A. with which Kerr and Rowe J.J.A. concurred. After summarising the

p. 7

p. 7

relevant facts from the evidence and the judgment of the court below, the Learned Judge of Appeal noted, it is submitted p. 9 correctly, that what was crucial to the resolution of the issue between the parties was that there should be a proper appraisal of the credibility of the respective witnesses. This he correctly acknowledged to be a matter for (10) a trial judge. The Learned Judge of Appeal thereafter dealt with the passage relating to the assessment of McLennon's evidence quoted above. It is respectfully submitted that he fell into error for the reasons given above in his conclusion that the Learned Trial Judge was favourably impressed by the witness McLennon. The crucial sentence in the Judgment of the Court of Appeal in the respectful submission (20) of the Respondents is:

"However she rejected his evidence as to the direction in which the vehicles were travelling prior to the collision for the specific reason that in her opinion he was unable to see. An examination of the photographs tendered in evidence however makes it clear that the witness would have been able to see what he said he saw." p. 10

22.(30) It is respectfully submitted that this review of the evidence given at the trial was properly undertaken by the local Court of Appeal. It is respectfully

- submitted that the Board ought not to undertake a further review in view of the Order being made for a new trial. It is clear from the cases cited by the Court of Appeal in its judgment that the Court was well aware of the practical fetters relating to a review of primary findings of fact by a Court of Appeal. Although the Respondents respectfully submit that
- (10) the Court of Appeal fell into error in its conclusion that the Trial Judge was favourably impressed with and accepted part of the evidence of the witness McLennon, they acknowledge that before the Board it would not be right for them to seek to argue that the review effected by the local Court of Appeal should be subject to a further review when an order for a new trial has been made. The
- (20) Respondents are content that the Order for a new trial should stand and that all issues of fact should be subject to a fresh appraisal at the new trial.
23. The Respondents respectfully submit that the question of whether or not a new trial should be ordered is very much a matter of local practice and procedure and is not a matter upon which the Board ought to vary the discretion properly exercised by the
- (30) local Court of Appeal. It is incumbent,

it is respectfully submitted, upon the Board in the instant Appeal to refrain from reviewing the exercise of discretion unless the Appellant can bring himself within the principles of law governing the review of discretionary orders by a lower court on appeal. In the instant appeal, in the Respondents' submission, there is no material upon which it can be

(10) suggested that the local practice of ordering re-trials in cases of doubt is wrong or that the discretion was improperly exercised.

24. The Respondents would respectfully submit that if the instant appeal were to be allowed the Board would have to take upon itself the task of assessing the credibility of the various eye-witnesses.

In Yahaya Bin Mohamad v. Chin Tuan Nam
 (20) (Privy Council Appeal No. 25 of 1973)

the Board deprecated the test which had been followed in Malaysia whereby a Judge, in case of doubt, should decide the case on photographs, or plans, and the nature of damage to the vehicles. Lord Edmund-Davies stated of such a test that nothing could be wider of the mark. It is submitted that if the Board were to re-examine the consideration of this

(30) case by the Court of Appeal of Jamaica

it would be driven to just such a consideration of extraneous evidence.

In the instant case also the Board does not have the advantage of a full transcript of the evidence heard by the Learned Judge. This may have influenced the Court of Appeal in exercising their discretion to order a re-trial. Although in this case it

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- (10) does not appear that the evidence of any of the witnesses was given through an interpreter, it appears that the local Court of Appeal was well aware of the practical limitations of its ability in the circumstances of the case to disagree radically with the conclusion of the Trial Judge. Those limitations were expressed by Lord Russell of Killowen in Muthusamy S/O Tharmalingam v. Ang Nam Cheow (Privy Council Appeal No. 3 of 1978) as:

- (30) "It is of course true to say that an Appeal to the Court of Appeal is a re-hearing of the case. But much authority goes to show that such a court is, and indeed should be, much fettered in practice in its ability to disagree with the findings of a trial judge in matters of this kind, particularly when they are restricted to the judge's notes of the evidence given, and given through an interpreter, and particularly when the judge has formed from the manner in which one of the parties has given his evidence that he was lying."

25. By Order dated the 12th day of October p. 97
1981 the Court of Appeal of Jamaica
(Zacca P. Ross and White J.J.A.)
granted the Appellant herein final
Leave to Appeal to Her Majesty in
Council from the substantive Order
of the Court of Appeal of Jamaica pp. 7-12
herein.

26. The Respondents respectfully submit
(10) that the Appeal of the Appellant
herein should be dismissed with
costs for the following amongst other

R E A S O N S

- (i) that the Court of Appeal of
Jamaica was entitled to make
an Order for a new trial and
the exercise of its discretion
to so order is not amenable to
review in the circumstances
(20) of the instant case,
(ii) that the Court of Appeal of
Jamaica was right to make an
Order for a new trial on the
material before it,
(iii) that the Respondents will be
substantially prejudiced if
the Order for a new trial
is not upheld.

IN THE PRIVY COUNCIL

ON APPEAL FROM

THE COURT OF APPEAL OF JAMAICA

B E T W E E N

CLIVE MALCOLM

Appellant

- and -

REX WILLIAMS

First Respondent

- and -

EZEKIEL WILLIAMS

Second Respondent

CASE FOR THE RESPONDENTS

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