

Wong Thin Yit - - - - - Appellant

v.

Mohd. Ali bin P. S. Ismail (Suing as an Infant through his father
and next friend Abdul Rahman s/o Syed Ibramsbah) - Respondent

FROM

THE FEDERAL COURT OF MALAYSIA

ORAL JUDGMENT OF THE LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL, DELIVERED THE
24TH OCTOBER, 1973

Present at the Hearing:

LORD DIPLOCK
LORD GUEST
VISCOUNT DILHORNE
LORD KILBRANDON
LORD SALMON

[*Delivered by* LORD DIPLOCK]

This is an appeal from the Federal Court of Malaysia in a running-down action. That court dismissed an appeal from the judgment of the High Court in Malaya at Ipoh in which the learned judge awarded to the respondent, an infant, damages for negligence amounting to 32,000 dollars.

The respondent was one of three boys who, on the 21st February 1969, were walking along a road (the Degong/Teluk Anson Road) when, as was found as a fact by the learned judge, and this finding was upheld by the majority of the Federal Court, somewhere very near the left edge of the road—either on the grass verge or on the road—he was run into from the rear by the appellant on his motor cycle. It was broad daylight; there was no other traffic. That finding of fact was concurred in by the majority of the Federal Court and, needless to say, upon that finding the appellant was held to be 100 per cent negligent.

It is not the practice of this court to review concurrent findings of fact from courts in Malaysia. Counsel for the appellant has thus been driven to argue that the circumstances described in that finding of fact either do not amount to negligence or justify and require the court to find the respondent contributorily negligent. That argument in their Lordships' view is quite untenable.

Their Lordships will report to the Head of Malaysia their opinion that this appeal ought to be dismissed with costs.

In the Privy Council

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v.

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Syed Ibrahimshah)

DELIVERED BY
LORD DIPLOCK