

(1) Lim Kim Chet
(2) Nan Yit Development (M) Sdn.Bhd. Appellants

v.

Multar Bin Masngud Respondent

FROM

THE FEDERAL COURT OF MALAYSIA

ORAL JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL, DELIVERED THE 18TH JUNE 1984

Present at the Hearing:

LORD KEITH OF KINKEL
LORD ELWYN-JONES
LORD BRIDGE OF HARWICH
LORD BRANDON OF OAKBROOK
SIR ROBIN COOKE

[Delivered by Lord Keith of Kinkel]

This appeal from the Federal Court of Malaysia arises out of a collision which took place on 8th January, 1976, in the township of Johore Bahru between a motor cycle being driven by the respondent and a motor lorry being driven by the first appellant in the course of his employment with the second appellant.

The trial judge reached the conclusion that the respondent had not proved his case of negligence against the appellants and stated that the accident was probably caused by the fault of the respondent. The Federal Court reversed his judgment and gave judgment for the respondent on the ground that the accident was caused by the fault of the first appellant.

The first and second appellants now appeal to this Board. In their Lordships' opinion the reasons for his judgment given by the learned trial judge were unsatisfactory and in some respects contradictory of each other. It seems to their Lordships that this is very clearly a case where, consistently with the principles laid down by Lord Thankerton in *Thomas v.*

Thomas [1947] A.C. 485 at page 488, the Federal Court were entitled to review the findings of fact of the trial judge and to reach their own conclusion upon the evidence.

Further, their Lordships are in complete agreement with the Federal Court that upon a proper consideration of the evidence as recorded by the trial judge the correct conclusion is that the accident was caused by the negligence of the lorry driver and that the appellants are liable in damages. The damages are not now disputed, the defendants being content to accept the assessment made by the Federal Court.

Their Lordships will advise His Majesty, the Yang di-Pertuan Agong that this appeal should be dismissed. The appellant must pay the respondent's costs.



