

LOOK OUT BEFORE YOU CROSS! A COMMENTARY ON ASNAH BTE AB RAHMAN V LI JIANLIN [2016] SGCA 16

An average pedestrian crossing the road has always been taught to look left and right and then left again before crossing the street since young. We were taught that this rule should apply even if we were crossing the road at a traffic light.

Roads are however not only used by motorists, they are also used by pedestrians. This recent Court of Appeal decision tries to find that balance between these 2 groups of road users and ultimately highlights the importance of being wary of one's own surroundings before crossing a road, regardless of whether you are a motorist or a pedestrian.

The Facts

The facts of the case are a typical situation one may face when crossing any road in Singapore.

The Plaintiff was a full time National Serviceman and was crossing a road at a pedestrian crossing with the traffic light in his favour. The road was a two way road with dual lanes on each side and a road-divider separating the 2 sides with a low metal fence. The Plaintiff was hit by a taxi after he had passed the road divider i.e. more than half of the road.

In the High Court, the Honourable Choo Han Teck J found wholly in favour of the Plaintiff, and apportioned 100% of the liability to the Defendant who had hit the Plaintiff. Dissatisfied with the decision, the Defendant then appealed to the Court of Appeal.

The decision of the Court of Appeal

On appeal, the decision of the Court of 3 judges was surprisingly not unanimous and was split 2:1. Such a situation is usually not common.

The majority judgment was delivered by the Honourable Chao Hick Tin JA. In the said majority's judgment, the Court discussed the function of a road controlled by a traffic light and concluded that all road users, including motorists and pedestrians had a part to play in ensuring that roads are safe for use by all. In particular, the Court emphasized that a pedestrian had a duty to do the following:

- A. Before crossing a road, he is to ensure that all approaching vehicles have stopped or are coming to a stop even if the lights are in the pedestrian's favour regardless of the time that has passed since the lights turned in the pedestrian's favour.
- B. If he sees a vehicle from a distance at a speed that suggests that a collision may occur, he should avoid stepping into the path of the speeding vehicle even if the lights are in the pedestrian's favour.

The Court also emphasized that a pedestrian cannot fully discount the possibility of a driver beating traffic lights turning against his favour or long after the lights had been changed.

In relation to this, the Court relied on statistics showing motorists who had beat the red light and held that a pedestrian must bear in mind that this is a real possibility that a motorist may do any of the above for any reason including fatigue or just carelessness. The Court then concluded that a pedestrian's duty of care extended to him taking measures to ensure his safety before he proceeds to cross the road. This would include ensuring that there are no cars intending to go against the lights that are not in the driver's favour.

The dissenting judge, the Honourable Sundaresh Menon CJ, disagreed with the majority's decision. In particular, his Honour was of the view that all a pedestrian had to guard against was the possibility of a driver beating a traffic light i.e. when the light had just turned against the driver's favour. The pedestrian should not be expected to be cautious of a driver who would be wholly indifferent to a traffic light.

Parting Note

It is interesting to note the difference in views between the majority and the dissenting judge which boiled down to the type of potential dangers a pedestrian had to guard against and be wary of.

This type of case advancing to the Court of Appeal is also a rare treat as it provided the Court the opportunity of providing their varying views on a very relevant issue that is of public interest: the delicate balance between all users of roads in Singapore.

The point to ultimately take away from this case is that pedestrians too are users of roads and bear a shared responsibility with motorists as to how roads are to be used and how safety is to be observed.



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