

CANADA / JUDGMENT

Chauhan v. Welock

2020 BCSC 1125

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Supreme Court of British Columbia

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2020 BCSC 1125 Chauhan v. Welock

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Chauhan v. Welock,

2020 BCSC 1125

Date: 20200807

Docket: M1710902

Registry: Vancouver

Between:

Jagdeep Kaur Chauhan

Plaintiff

And

Brenda Welock

Defendant

Before: The Honourable Mr Justice Crerar

Reasons for Judgment

Counsel for Plaintiff:

Priti Gandhi

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Counsel for Defendant:

Taeki Moon

Place and Date of Trial:

Vancouver, B.C.

March 2-6, 2020

July 28 and 30, 2020

Place and Date of Judgment:

Vancouver, B.C.

August 7, 2020

I. introduction

- [1] This action arises from a motor vehicle accident that occurred on March 16, 2016 at the intersection of Stewartson Way and Royal Avenue in New Westminster (the "accident"; the "intersection").
- [2] Both liability and damages are at issue.
- [3] The plaintiff argues that the defendant was at fault and failed to exercise due care and attention: as the following driver in a rear-end collision, she must discharge the jurisprudential presumption of liability. The plaintiff claims that the accident inflicted upon her lingering headaches and anxiety, as well as considerable pain to her shoulder, neck, and back that daily affects her family life and her working life as a bus driver. She claims \$551,878 in past and future earning capacity, past and future housekeeping capacity, future care, and non-pecuniary damages.
- [4] The defendant argues that the accident was caused solely by the plaintiff's unforeseeable braking in the face of two green "go-straight" arrows at the intersection. In the alternative, the defendant claims that the plaintiff is contributorily negligent to a substantial degree for the accident, and that damages should accordingly be discounted.

II. facts

A. The plaintiff

- [5] The plaintiff, Jagdeep Chauhan, is a 37-year-old married mother of two children. She was 33 years old at the time of the accident.
- [6] Her family immigrated to Canada in 2000. She and her family came off as supportive, hard-working people.

- [7] At the time of the accident, she worked as a senior customer service representative at the Bank of Montreal. She had just accepted a new job as a bus driver for Coast Mountain Bus Company ("CMBC"). She was in fact en route to sign the CMBC employment contract when the accident occurred.
- [8] When the plaintiff was around 24 years old, while walking across an intersection, she had been struck by a driver who had not heeded the fact that other cars had stopped for the plaintiff's crossing. She said that this experience has made her especially cautious about approaching intersections and ensuring that the passage is clear. She described this as an "insecurity" when approaching an intersection.

B. The intersection

- [9] Appendix "A" to these reasons is an exhibit showing an overhead view of the intersection, with the lights facing the plaintiff marked with a solid black line at centre bottom-right.[1] Appendix "B" shows the driver's-eye view, facing east, about three car lengths back from the intersection.
- [10] The intersection is not a typical four-way right-angle intersection.
- [11] Stewartson Way, which turns into Columbia Street at the intersection, runs roughly east-west. There is a very slight leftward curve as Stewartson Way approaches the intersection.[2]
- [12] At the intersection, Royal Avenue branches northeast at approximately a 45-degree angle.
- [13] Described from the plaintiff's viewpoint, heading eastbound towards the intersection, there are three lanes. The plaintiff was in the far right lane. This was the only through lane. The two lanes to her left were dedicated left-turn lanes, to turn onto Royal Avenue.
- [14] As shown in Appendix B, as drivers approach the intersection, they see not one but two sets of three white-arrow-on-black-background signs suspended above each lane, indicating that the two left lanes are left-turn lanes and that the right lane is a through lane. In addition, between those sets of suspended signs and beside the right lane is an ordinary roadside sign showing the two dedicated left turn lanes and the one through lane.
- [15] Eastbound traffic was controlled by a three panels of traffic lights located on the far side of the intersection. Two traffic light panels hung from the horizontal arm of the traffic light structure, above the road; one traffic light panel was attached to the column of the traffic light structure, to the right of the lane and above the thin green strip under the Skytrain. Appendix "C" shows the column and arm structure with the three traffic light panels that faced the plaintiff at the intersection.
- [16] The left panel of lights controlled the two left-turn lanes. The two right panels of lights (above and to the right) controlled the plaintiff's lane, the rightmost eastbound through lane.

- [17] For greater certainty, the green lights in the three panels were not just illuminated green circles, but are direction arrows: two pointing left and one pointing up (straight). Appendix "C" in fact shows the colour of the arrow lights that faced the plaintiff as she approached the intersection just before the accident: red (left turn) -- green (through) -- green (through).[3]
- [18] In short, there are five clear indications to a driver heading eastbound that the right lane flows straight, in contrast to the two left left-turning lanes.[4]
- [19] The plaintiff's side of the intersection is delineated by a stop line. There is no pedestrian crossing.
- [20] There is no need for a pedestrian crossing: there is nowhere to go on the south side. The Skytrain runs to the south of the intersection (to the plaintiff's right), supported by concrete pillars. From the curb to the plaintiff's right, there is a thin strip of grass and dirt. The base of the traffic light structure as well as several trees are located on this thin strip. Further to the south/right is a fence running from pillar to pillar of the Skytrain structure, keeping people out of the train yards to the south. This describes the scene to the right of the plaintiff over the two long blocks as she approached the intersection.
- [21] The plaintiff was unfamiliar with the intersection: it was her first time there.
- [22] The defendant was familiar with the intersection. She has worked in New Westminster and taken the same route for some 23 years.
- [23] The speed limit on Stewartson Way in the stretch leading to the intersection was 50 km/hour.

C. The accident

- [24] On the day of the accident, the sun was shining. The road was dry and clear. Visibility was fine.
- [25] The accident occurred around 9 AM. Traffic was neither particularly heavy nor light: it was typical post-rush-hour traffic. There was a steady stream of cars proceeding eastbound, each separated by between two and five car lengths.
- [26] The Court has the benefit in evidence of dash-cam footage filmed from a vehicle in the lane immediately left of the plaintiff, driving in her direction. Just before the accident, the dash-cam driver had changed lanes to be in the far-left dedicated left-turn lane. The dash-cam footage is good quality and provides a generally clear and unobstructed view of the accident.
- [27] The plaintiff was driving her blue 2011 Honda Civic eastbound on Stewartson Way. The defendant, driving a grey Ford Escape (a four-door station wagon), was behind the plaintiff.
- [28] The dash-cam footage indicates that the defendant was following approximately two car lengths behind the defendant. The plaintiff said that she was aware the defendant was behind her, based upon her regular rear-view mirror checks.

- [29] Neither the plaintiff nor the defendant were driving particularly fast or slow. Their speed was consistent with the traffic. Up to the point of the intersection, both of their driving patterns were calm, careful, and unremarkable.
- [30] The plaintiff confirmed that as she approached the intersection, she saw the three suspended black-and-white arrow signs indicating the two left dedicated-left turn lanes and the right through lane in which she drove.
- [31] She also said that as she approached the intersection she was aware that there were trains to her right, behind the Skytrain pillars.
- [32] At all material times, the go-straight arrow lights governing the plaintiff's lane -- both the panel of lights above her lane, and the column panel of lights beside her lane -- were illuminated green.
- [33] The plaintiff said that as she approached the intersection she saw the car to her left stop at the stop line of the intersection. She admitted at trial that she knew that the car to her left was in the dedicated left-turn lane.
- [34] The stopped car to her left was in the rightmost of the two dedicated left-turn lanes (that is, the middle of the three eastward lanes). Ahead of that car in the intersection (and ahead of and to the left of the plaintiff), was a semi-trailer truck. That truck was in the process of slowly turning left onto Royal Avenue. Based on the dash-cam footage, the truck likely started its left turn on the yellow left-turn light and finished on the red light. It would have been clear to the driver of the stopped car that he would not be able to safely complete his left turn during the yellow phase of the left-turn light. The car to the plaintiff's left accordingly had stopped at the stop line at the intersection: a normal occurrence.
- [35] I return to the plaintiff. She said that she "got confused" by the car stopping to her left. The plaintiff said at trial that she was worried that a child or dog may have run out onto Stewartson Way, or that someone was crossing the street, and that may have prompted the car to her left to stop. She thought that it might be unsafe to proceed forward, and so she slowed and then applied her brakes.
- [36] The dash-cam shows the plaintiff briefly decelerate and then apply her brakes about two car lengths before the intersection. She did not come to a full stop, but she came close. The brake lights are illuminated for approximately 1.2 seconds before the collision.
- [37] The defendant's vehicle struck the rear bumper of the plaintiff's car. The plaintiff's car moved about two car lengths forward into the intersection, propelled partly by the collision and partly by its own forward momentum.
- [38] The plaintiff describes the impact of the defendant on her rear bumper as "very hard." Her chest hit the steering wheel, leaving a red mark that went away after a week or so. Her knee hit the bottom of the dashboard. The airbags did not deploy.

D. The plaintiff's other versions of the accident

- [39] The plaintiff was not consistent in describing the key facts of the accident.
- [40] In her report of the accident to ICBC, she stated she had stopped at a red light, and that the person behind did not stop in time and had rear-ended her vehicle. On cross-examination, she disputed that the specific words recorded were her own, but did not dispute the accuracy of the ICBC record of her statements.
- [41] In September 2018, she recounted to her litigation medical expert Dr Giantomaso that she was stopped at a red light when she was struck from behind by another vehicle. In the September 2018 letter to Dr Giantomaso soliciting his opinion, her counsel wrote that "Ms. Chauhan was operating her motor vehicle in an eastbound direction when suddenly and without warning, her motor vehicle was struck from the rear by another driver."
- [42] By October 2019, when the plaintiff met with Dr Devlin, her story had evolved: she had stopped at a light which she thought was red but was in fact green.
- [43] What had changed? In November 2018, between the period when the plaintiff described the light as red and the period when she described the light as green, she saw for the first time the dash-cam video, which clearly shows a green light.

E. The defendant's testimony about the accident

- [44] The defendant Mrs Welock's testimony was straightforward. She was driving to work along the route that she had taken more or less every working day for the past 23 years. There was nothing out of the ordinary. She was paying regular attention to her surroundings. She was following around one-and-a-half or two car lengths behind the plaintiff's vehicle.[5]
- [45] Suddenly, and without apparent reason, the plaintiff's brake lights illuminated. Mrs Welock thought that the plaintiff was just slowing down, rather than stopping, as there was no apparent reason for stopping.[6] Mrs Welock jammed on her brakes, but it was too late. Her car bumped that of the plaintiff, which moved slightly forward and stopped.

F. The effect of the accident on the two vehicles

- [46] Post-accident photographs show the back bumper of the plaintiff's vehicle partly detached from the vehicle on the left. The trunk is pushed slightly inwards. The plaintiff was unable to fully close the trunk after the accident. The front bumper and grill of the defendant's vehicle were pushed slightly inwards.
- [47] ICBC concluded that the plaintiff's vehicle was a write-off.

G. After the accident

- [48] With one important exception, discussed below under "Credibility," the evidence of the parties generally match as to the aftermath of the accident.

- [49] The defendant got out of her car and walked to the plaintiff's car. She said words to the effect of "are you okay? I am so sorry."
- [50] After they both drove their cars to the side, the defendant apologized again and asked the plaintiff if she needed an ambulance. As the plaintiff did not think that the impact was so bad, she decided not to call an ambulance.
- [51] The plaintiff said that she immediately felt dizzy and anxious. Her heart was beating rapidly. She felt pain in her chest, and it was difficult to breathe. Nonetheless, she got back into her car and drove to CMBC to sign the employment contract. At CMBC she still felt dizzy and anxious. She called her brother, who recommended that she take a cab home. In the end, she opted once again to drive herself home.
- [52] That evening, she saw a doctor at the clinic of her regular family physician. She complained of pain in her chest, left knee and left shoulder. The doctor prescribed a painkiller. She also called ICBC that evening to report the accident.
- [53] On March 18, she was scheduled to fly to New York City, to be with her husband, who was still waiting immigration approvals to move to Canada. Although she did not want to go because of the pain and anxiety of the accident, she went on her husband's urging. As it turned out, they were unable to spend the trip sightseeing in New York as planned. She only went out for one day, and generally stayed back due to the pain.
- [54] When she started her new job as a bus driver for CMBC, she suffered double anxiety. First, there was the natural anxiety of driving a bus for the first time, and being entrusted with the safety of her passengers. But the anxiety caused by the accident made this even more acute. She felt terrible after each day of training. However, she persevered because the bus driver job was a well-paying position with a good pension, in contrast to what her former job would provide, and in general contrast to the opportunities afforded to someone of her limited education. The central motivator was that she was the main income earner for her family at that time.

III. credibility and reliability

- [55] Ultimately, the issue of liability in this case is largely determined on the strong evidence of the dash-cam video footage. Credibility and reliability are very much ancillary issues.
- [56] The plaintiff presented at trial as a sympathetic, careful, responsible, hard-working person, and a dedicated mother. That said, her shifting accounts of the accident, as well as the implausibilities in her evidence, undermine her credibility and reliability.
- [57] The defendant Mrs. Welock was a credible and sympathetic witness. In cross-examination, she faced three allegations that she had admitted liability for the accident. Her balanced and measured responses to these allegations further bolstered her credibility.

- [58] First, she readily conceded that she had apologized not once but twice to the plaintiff immediately after the accident. The evidence made clear that these were not legal admissions of liability, but simply the natural post-accident utterances of a decent and sensitive person. In this, the Apology Act, SBC 2006, c 19, also negates these words in themselves as express or implied admissions of fault or liability.
- [59] Second, counsel for the plaintiff asserted that Mrs Welock had admitted liability to ICBC in her post-accident telephone report of the accident. Mrs Welock's explanation in discovery, quoted in the cross-examination, was forthright and persuasive: "I said I hit her." "She [the ICBC agent] said "well then, it's your fault'", to which Mrs. Welock replied, "Well, I guess it is." Later in cross, Mrs Welock added that "I didn't argue with her [the ICBC agent]."
- [60] I do not find this statement to constitute an admission of liability, but rather a natural utterance in response to an assertion by a representative of ICBC, which in most motor vehicle accident will make a final determination of liability based upon basic default rules. The ICBC agent told her the default rule - that the rear driver is presumed at fault -- and Mrs Welock did the spoken equivalent of shrugging her shoulders.
- [61] Finally, the plaintiff claimed that immediately after the accident, along with the apologies, Mrs Welock said words to the effect that "I dropped something in my car," with the implication that Mrs Welock had been distracted and thus delayed in braking. On cross-examination Mrs Welock denied that she had said this, and denied that she had dropped anything: to her, she was in the middle of an uneventful commute, when the plaintiff inexplicably applied her brakes.
- [62] The plaintiff testified that she had told her husband that Mrs Welock had said that she had dropped something in her car; Mr Chauhan confirmed this in his testimony. The first time that this important fact was asserted outside of the Chauhan family unit, however, was in April 2019: three years after the accident, and 9 months after the defendant filed the response to civil claim, denying liability.
- [63] I prefer Mrs Welock's evidence on this point, for the reasons set out above, as well as below under "Discussion and decision." The dash-cam video provides further reassurances: Mrs Welock did brake reasonably quickly, inconsistent with a person focused on picking something up in her car. Further, had Mrs Welock been focused on picking something up, her car likely would have collided with a much greater force against the plaintiff's car when it inexplicably braked.

IV. LIABILITY

A. Law: obligation of a driver to brake when the vehicle ahead suddenly stops

[64] All drivers have a duty to drive with due care, which includes making reasonable allowance for the possibility of unexpected hazards on the road, including a sudden stop by the vehicle ahead: *Greenway-Brown v. MacKenzie*, 2019 BCCA 137 at para. 56. As part of this duty, drivers are required to maintain a safe distance from any vehicle in front of them. These responsibilities are codified in ss. 144 and 162 of the Motor Vehicle Act, RSBC 1996, c. 31:

144(1) A person must not drive a motor vehicle on a highway

- (a) without due care and attention,
- (b) without reasonable consideration for other persons using the highway, or
- (c) at a speed that is excessive relative to the road, traffic, visibility or weather conditions.

...

162(1) A driver of a vehicle must not cause or permit the vehicle to follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the amount and nature of traffic on and the condition of the highway.

[65] In rear-end collisions, the onus is often said to fall upon the rear driver to show that the collision was not their fault: *Barrie v. Marshall*, 2010 BCSC 981 at para. 23; *Cue v. Breitkreuz*, 2010 BCSC 617 at para. 15. This principle should not be taken as reversing the legal burden of proof where the rear driver is the defendant. Rather, it reflects the fact that a rear-end collision is itself *prima facie* evidence that the rear driver failed to keep a safe distance or drive with due care and attention.

[66] The strength of this presumption varies in accordance with the circumstances of the accident. Where a driver encounters unexpected and unforeseeable conditions, the fact of the accident itself does not necessarily establish negligence on the part of rear driver: *Vo v. Michl*, 2012 BCSC 1417 at para. 14; *Dubitz v. Knoebel*, 2019 BCSC 1706 at para. 242. Instead, the court must consider whether the driver's conduct met the applicable standard of care, in light of the conditions prevailing at the relevant time and any reasonably foreseeable risk of harm inherent in those conditions. In assessing the rear driver's conduct, the court may consider the following factors (*Biggar v. Enns*, 2017 BCSC 2290 at para. 46, citing *Ayers v. Singh* (1997) 85 BCAC 307):

- a) the speed of the rear vehicle;
- b) the distance between the two vehicles as they were driving along;
- c) what the driver of the rear vehicle was doing as they were driving along; and
- d) as the emergency arose, how the rear driver responded.

[67] Drivers are expected to exercise due care and attention, and to adapt their driving to the changing circumstances of the road, but they are not required to anticipate every possibility, however remote. In *Ayers*, for example, the defendant front driver stopped suddenly and inexplicably at an intersection, causing a rear-end collision. >[7] Like the plaintiff in this case, he mistakenly believed that he was faced with a red light, which was in fact green. The Court found the front driver 100% liable for the accident:

I have given consideration to the alternative contention by counsel for the Defendant that even if the light phase was green under these circumstances where there was a chain rear-end collision is it conceivable that Mr. Ayers was following too close under the circumstances contrary to Section 164 Subsection (1) of the Motor Vehicle Act that a prudent driver should be prepared for contingencies of an emergent nature.

I think that as a general proposition that is true depending on the particular circumstances. As I outlined here, this was a situation where drivers still on the green phase coming to the stop line certainly expected to go on through the traffic and no doubt were accelerating at that time. When they were confronted with the sudden stopping there was insufficient time for them to apply their brakes and stop in a timely manner. I am of the view that under these circumstances that certainly was an agony of the moment where it would be very difficult to stop and although I have given consideration to the application of contributory negligence, I am of the view that in these particular circumstances I would discount that factor.

Accordingly, I must conclude that the proximate cause for this accident was the abrupt stopping by Mr. Singh without any contribution in terms of contributory negligence by Mr. Ayers, judgment accordingly.[8]

[68] By contrast, in *Harry v. Kalutharage*, 2019 BCSC 579, the rear driver was found 100% liable for colliding with a truck that had stopped suddenly in the midst of a left-hand turn. In contrast to the facts in *Ayers*, the Court found that the circumstances leading to the collision were easily foreseeable (at para. 23):

A reasonable, ordinary person who follows a left turning truck whose size and position obstructs the following driver's view of oncoming traffic would, in entering an intersection at a yellow light, anticipate the possibility that there would be sudden braking or other emergent situations that would require the following driver to leave more room between his or her vehicle and any leading vehicle.

[69] Similarly, the court in *Vo* found a rear driver liable for driving too quickly in icy conditions. These conditions were apparent to the driver, since he had been driving in them for some time. *Savage J* (as he then was) distinguished these circumstances from those in *Borthwick v. Campa* (1989), 67 Alta LR (2d) 123 (QB), where "a patch of 'black ice' in otherwise deceptively benign conditions" led to the accident in question (at para. 16).

[70] In other words, the standard of conduct required of a following driver must be assessed in light of the circumstances known, or reasonably knowable, to the driver in advance, and not with the benefit of hindsight. While drivers must exercise due care and caution to avoid colliding into vehicles in front of them, they are not required to foresee the unforeseeable. As in all negligence cases, the standard of care is met by reasonable prudence, not perfection.

B. Discussion and decision

- [71] The plaintiff admits that she was confused as she approached the intersection. It was her first time there. Her "insecurity" about intersections based on her earlier accident may have hindered her perception, understanding, or judgment. But there was nothing out of the ordinary that would have justified her braking.
- [72] While the intersection is not a typical cross-shaped intersection, it was not one of particular complexity. Indeed, the dedicated straight-through lane in which he drove, coupled with the lack of traffic to her right, or any cross-traffic, made passage an easier transaction than in most intersections.
- [73] As the plaintiff approached the intersection, not one but two "go straight" traffic light arrows shone green, indicating clearly that she should proceed through the intersection. Further, as shown in the dash-cam video, the plaintiff could have followed the visual cue of seeing at least three drivers immediately ahead of her proceed through the intersection. Had she followed the flow of traffic, there would have been no accident.
- [74] The plaintiff claimed that she did not see either green traffic light arrow governing her lane. She claimed that the middle-lane left-turning truck blocked her view of both of the traffic signals governing east-bound traffic on Stewartson Way. She claimed that the truck not only obscured the left hanging panel of traffic lights (governing the two left-turn lanes) but also the right hanging panel of traffic lights governing her lane: the rightmost, through lane. She said that she never saw the rightmost traffic light panel, on the column of the traffic light structure ahead and to her right.
- [75] The dash-cam footage and the configuration of the intersection make clear that the plaintiff's explanation makes no sense. Indeed, it is physically impossible. A large truck turning left in the centre lane would not obscure the view of a driver in the right lane of the through-traffic green straight-arrow lights above and beside her lane. Indeed, those lights are visible from the vantage of the dash-cam, two lanes to the left of the plaintiff.
- [76] A driver in the plaintiff's lane, looking straight ahead, would have clearly seen not one but two sets of green straight-arrow lights in front of her (the hanging panel and the right panel on the column of the traffic light structure) inviting and directing drivers in her lane to continue forward.

- [77] It should have been obvious to the plaintiff why the car to her left had stopped. Again, there were no fewer than three sets of signs telling approaching drivers that the two left lanes were dedicated left lanes, and that the plaintiff's lane was a through lane. It is likely that even the left hanging panel left-turn arrow traffic lights, which would have been yellow and then red, would have also been fully visible to the plaintiff, notwithstanding the presence of the left-turning truck. They are also visible from the perspective of the dash-cam driver, located right behind the turning truck.
- [78] While her caution as she approached the intersection may have been commendable in the abstract, her braking was objectively unreasonable and unforeseeable to those around her. It was unlikely that anyone would be crossing the street, as there was no crosswalk and no obvious destination. There was no park or even a sidewalk to her right. For several blocks leading up to and including the intersection, it would have been obvious to the plaintiff that there was only the thin strip of grass and fence to her right, under the Skytrain. It was highly unlikely that a child or dog would emerge from her right. It would have been near-impossible for a child or dog to emerge from her left: in that direction she could see the turning truck and the car behind it.
- [79] To conclude, it would have been clear to the reasonable driver that the right lane was a through lane, in contrast to the two dedicated left-turning lanes which were governed by a separate set of lights. The plaintiff in the right lane had the benefit of not one but two illuminated "go straight" green arrows telling her to proceed through the intersection. She saw or ought to have seen the three drivers ahead of her drive through the intersection unimpeded. Road conditions were perfect. There were no distractions or intrusions in the intersection. In contrast to most of the rear-end collision case law surveyed above, in the present case there was no emergency that forced the front driver to brake suddenly.
- [80] The defendant Mrs Welock did nothing wrong. She was driving with due care and attention, with reasonable consideration for other persons using the road. She was following the plaintiff at a safe distance and at a safe speed, consistent with the traffic flow around her. Traffic ahead was flowing unimpeded through the intersection. It was highly unlikely that a pedestrian or anything else would enter the intersection.
- [81] The plaintiff's stop, in the face of two green "go straight" arrow lights governing her lane, was inexplicable and unforeseeable. Even if Mrs Welock possessed superior powers of reaction, she likely would not have been able to wholly stop, and the accident would still have occurred. Given the plaintiff's sudden braking, and the traffic to her left and the Skytrain pillars to her right, evasive actions such as swerving would have been ineffective and dangerous.
- [82] The defendant has convincingly dislodged the presumption imposed on a following driver that the collision was her fault. Liability for the accident lies 100% at the feet of the plaintiff.

V. conclusion and costs

- [83] The defendant has been successful at trial. Subject to further submissions on any costs issues that may arise from these reasons, she is entitled to her costs on the ordinary scale.
- [84] If the parties wish to make submissions on costs, they should exchange and provide to the Court via the Registry written submissions, not exceeding five pages each, within 30 days of these reasons.

"Crerar, J"

Appendix "A"

Appendix "B"

Appendix "C"

- [1] In the exhibited map, the plaintiff's lane is somewhat difficult to discern, due to the darkness of the asphalt in the absence of vehicles.
- [2] The plaintiff argued that the curve somehow affected her vision of the intersection. The dash-cam photographs make clear that the very slight curve did not affect visibility, and ought to have played no role in the accident.
- [3] Although the right through lane has a stop line, and is governed by two identical panels of traffic lights with three circles each, the green light arrow is always illuminated, and the lane flows freely forward, in ordinary operating circumstances. No traffic crosses the right lane, because of the Skytrain and train yard to the right.
- [4] Even more if one counts the lanes themselves, the arrows painted on the lanes, and the left-turn signal light.
- [5] The dash-cam video indicates that Mrs Welock was likely being more cautious than she gives herself credit for: it appears that she is following the plaintiff's vehicle with two car lengths' distance.
- [6] The dash-cam video confirms that the plaintiff never made a complete stop, but slowed down in hesitation just before the intersection.
- [7] The roles of the drivers are reversed from the present case: the plaintiff Mr Ayers was the rear driver (actually two cars behind the defendant), who sued Mr Singh, who had stopped on the green light, likely because he was confused by the intersection and looking at the wrong set of traffic lights: the advance left-turn signals.
- [8] At para. 8 (CA), citing the trial decision, indexed at 1995 CanLII 2314 (BCSC).

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