

CANADA / JUDGMENT

Saini v. Pettipas

2025 BCSC 219

COURT

Supreme Court of British Columbia

DECIDED

17 January 2025

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2025 BCSC 219 Saini v. Pettipas

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Saini v. Pettipas,

2025 BCSC 219

Date: 20250117

Docket: M197871

Registry: Vancouver

Between:

Manpreet Saini

Plaintiff

And

Trevor Pettipas

Defendant

Before: The Honourable Mr. Justice Coval

Oral Reasons for Judgment

In Chambers

Counsel for the Plaintiff:

M.I. Zanic

Counsel for the Defendant:

S.A. Lavrisa

Place and Dates of Trial:

Vancouver, B.C.

January 7-9, 2025

Place and Date of Judgment:

Vancouver, B.C.

January 17, 2025

Introduction

- [1] THE COURT: This was a short trial to determine liability for a motor vehicle accident between the parties on November 9, 2018, in Abbotsford, BC.
- [2] As the traffic light changed colour, Ms. Saini drove through the intersection in question while Mr. Pettipas was turning left in front of her and their vehicles collided.
- [3] The key issue in the case is the colour of the traffic light as Ms. Saini approached and entered the intersection. She says it turned yellow as she entered the intersection, and so it would have been unsafe for her to stop. Mr. Pettipas says she entered the intersection after her light had already turned red.
- [4] Based primarily on the evidence of an independent witness with a clear view of the accident, I find Ms. Saini entered the intersection against a red light, and so is 100% responsible for the accident. Her claim against Mr. Pettipas is therefore dismissed.

Background Facts

- [5] Ms. Saini is 35 years old and lives in Abbotsford, BC. She came to Canada at 13 years of age from Uganda. She has a bachelor of dental hygiene and a medical degree from Xavier University School of Medicine in Aruba. She is currently pursuing her medical residency training in the United States.
- [6] Mr. Pettipas is 58 years old. He lives in Abbotsford and is employed as a warehouse worker.
- [7] The intersection in question is Clearbrook Road, which runs north/south, and George Ferguson Way, which crosses from the east. George Ferguson Way does not continue on the Westside of Clearbrook but instead dead-ends.
- [8] The accident occurred in the late afternoon. It was damp, the roads were wet, and it was getting dark. The traffic was fairly busy. Ms. Saini was driving northbound on Clearbrook Road. Mr. Pettipas was coming southbound on Clearbrook Road, waiting to turn left onto George Ferguson Way. Their accident occurred in the middle of the intersection.

Evidence of the Accident

[9] I will summarize the evidence of the accident from the four witnesses who testified.

Ms. Saini

[10] Ms. Saini was driving home from her parents' Quiznos restaurant. Her vehicle was a 2007 Land Rover. With her in the car was her friend, Anitpal Dhaliwal, who testified in the plaintiff's case.

[11] Driving approximately 50 kph, she approached the intersection driving north on Clearbrook. Just as she came to the crosswalk line on her side of the intersection, the traffic light for her direction turned from green to yellow. She felt it was unsafe to stop given her speed. The intersection appeared clear. She thought she might have accelerated somewhat as the light changed in order to clear the intersection. As she went through, she saw in her peripheral vision a vehicle coming toward her from the left. Reflexively, she swerved towards the right lane, but the vehicle hit her vehicle on the left side.

[12] Her evidence was that, as she entered the intersection, she did not see Mr. Pettipas's vehicle waiting to turn left because she was watching the lights and the lane ahead. The first she saw it was just before impact. In cross-examination, she agreed that, when she entered the intersection, the cars in the lane to her right might have been stopped, but it all happened too fast, and she could not recall.

[13] The impact was powerful and knocked her vehicle into the right lane. In shock, she remained in her car until ambulance attendants helped her out, and then she was taken to hospital. There was no evidence about any injuries she suffered.

[14] The damage to Ms. Saini's Land Rover was primarily to the driver's side door and passenger door.

Ms. Dhaliwal

[15] The plaintiff called her passenger, Ms. Anitpal Dhaliwal, as a witness. The two women have been friends since 2007. Ms. Dhaliwal explained that she was going to Ms. Saini's house to get ready for a family dinner that night.

[16] As Ms. Saini's vehicle approached the intersection, Ms. Dhaliwal was looking at her phone while texting. She only glanced up once or twice as they approached the intersection. She did not see the colour of the traffic light as they approached or entered the intersection.

[17] Just before impact, she felt Ms. Saini's car speed up and then felt a jolt as she swerved, and then the impact of the collision. Ms. Dhaliwal described the impact as strong and loud. She recalled a bang and the car being pushed.

Mr. Pettipas

- [18] Mr. Pettipas was driving home from work in his 2006 Ford CRV.
- [19] He was travelling southbound on Clearbrook Road in the left lane. While waiting at the intersection to turn left from Clearbrook Road onto George Ferguson Way, there were a few vehicles in front of him on Clearbrook also waiting to turn left. The vehicles in front all cleared the intersection during the advanced green light. Once the light changed from advanced green to regular green, he was now the front-most vehicle waiting to turn left. He pulled forward somewhat into the intersection.
- [20] He saw Ms. Saini's vehicle from around 75 feet away approaching the intersection. His light changed to yellow and then red. He saw her vehicle coming to the intersection but thought it would stop like the other vehicles heading in both directions on Clearbrook. After the light had been red for a few seconds, he moved his vehicle forward. Ms. Saini's vehicle did not stop but came through the red light, and the collision occurred. He was shocked that Ms. Saini's vehicle came through the red light and struck his car. The damage to Mr. Pettipas's Ford was primarily to the front left corner.
- [21] He made sure Ms. Saini and Ms. Dhaliwal were not injured and eventually got a ride home from a tow truck driver.

Ms. Zlotucha

- [22] Mr. Pettipas called Ms. Wendy Zlotucha as a witness. Ms. Zlotucha is a 61-year-old municipal employee from Manitoba. At the time of the accident, she lived in Abbotsford.
- [23] Ms. Zlotucha was in the passenger seat of her vehicle while her husband was driving. Their car was stopped at the red light on George Ferguson Way. It was the front car in the right-hand lane, facing west, waiting to turn right onto Clearbrook.
- [24] Ms. Zlotucha's evidence was that she recalled the accident very well. She saw Mr. Pettipas's vehicle waiting in the intersection to turn left onto George Ferguson Way. She then saw the light for the traffic on George Ferguson Way turn green. When it turned green, she told her husband not to go because, on her left, she could see Ms. Saini's vehicle approaching from her left and not indicating it was going to stop. She recalled the cars behind her were honking because their light had turned green, but her husband was not proceeding forward because of Ms. Zlotucha's warning to him. She testified that when Mr. Pettipas made his turn, her light was already green and "he should have been able to clear the intersection". She saw Ms. Saini's vehicle "barrelling through the intersection" and collide with Mr. Pettipas's. After the accident, she gave Mr. Pettipas her information because she felt Ms. Saini had run the red light.

[25] In cross-examination, her evidence was there were no cars impeding her view of Ms. Saini's and Mr. Pettipas's vehicles. When asked in cross-examination if she saw that Ms. Saini had a red light when she entered the intersection, Ms. Zlotucha said that she did not look at the light for Clearbrook but that Ms. Saini "ran the red light" because a few seconds before Ms. Saini came through the intersection, the light for George Ferguson Way had already turned green.

Analysis

[26] There is obviously a credibility dispute as to whether Ms. Saini entered the intersection as her light turned yellow or when it was already red.

[27] On that issue, and on how the accident occurred generally, I accept Ms. Zlotucha's evidence over Ms. Saini's. Ms. Zlotucha was an independent witness who had not spoken to either party since the accident. From where she was seated in her vehicle as a passenger, she had a clear view of the lead-up to the accident. I accept her evidence that she had a good recollection of what occurred. As she explained, the incident made an impact on her because she felt her vehicle would have been hit by Ms. Saini's if she had not told her husband to wait. Her evidence of how the accident occurred was detailed, consistent, cogent, and undisturbed on cross-examination. It fully explained how and why the accident happened. Her evidence is also consistent with Mr. Pettipas's regarding Ms. Saini entering the intersection when her light was already red.

[28] Based on Ms. Zlotucha's evidence, I find that Ms. Saini entered the intersection after her light had already turned red. I accept Ms. Zlotucha's evidence that after the light for traffic on George Ferguson Way turned green, she told her husband not to proceed because she saw that Ms. Saini was not stopping but, to use Ms. Zlotucha's words, was "barrelling through the intersection". I accept her evidence that cars behind hers honked because the light for George Ferguson Way had gone green, but her car was not proceeding. After Ms. Zlotucha's light on George Ferguson Way was already green, she saw Mr. Pettipas begin his turn in order to clear the intersection, and then the collision occurred. Based on this evidence, I find Ms. Saini entered the intersection after the light on George Ferguson Way was green, and therefore the only reasonable inference is that she did so after the light on Clearbrook Road had already turned red.

[29] The Motor Vehicle Act, R.S.B.C. 1996, c. 318, says this about a driver's obligation to stop at a red light:

129 (1) Subject to subsection (2), when a red light alone is exhibited at an intersection by a traffic control signal, the driver of a vehicle approaching the intersection and facing the red light must cause it to stop before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, before entering the intersection, and subject to the provisions of subsection (3), must not cause the vehicle to proceed until a traffic control signal instructs the driver that the driver is permitted to do so.

[30] The Act says this about the obligations of a driver turning left at an intersection:

174 When a vehicle is in an intersection and its driver intends to turn left, the driver must yield the right of way to traffic approaching from the opposite direction that is in the intersection or so close as to constitute an immediate hazard, but having yielded and given a signal as required by sections 171 and 172, the driver may turn the vehicle to the left, and traffic approaching the intersection from the opposite direction must yield the right of way to the vehicle making the left turn.

[31] On these facts, Mr. Pettipas was entitled to proceed on the assumption that Ms. Saini would stop for her red light, absent any reasonable indication to the contrary.

[32] I find that, on the evidence, Mr. Pettipas exercised reasonable care. There was not a basis for a reasonable and prudent driver in his circumstances to have recognized that Ms. Saini would fail to stop for her red light. I say this because of the evidence about how late Ms. Saini came into the intersection. I have accepted Ms. Zlotucha's evidence that when Ms. Saini came through the intersection, Ms. Zlotucha's light was already green, and the cars behind her were honking for her car to go. That is consistent with Mr. Pettipas's evidence that he did not even begin his turn until his light had been red for three to five seconds and the cars in the other Clearbrook lanes had stopped.

[33] In those circumstances, Ms. Saini was solely at fault for the accident (*Salaam v. Abramovic*, 2010 BCCA 212, paras. 25-26; *Yang v. Croin*, 2021 BCSC 955, paras. 4-7; *Glanville v. Moberg*, 2014 BCSC 1336).

Conclusion

[34] I find Ms. Saini 100% at fault for the accident, and so her claim against Mr. Pettipas is dismissed.

[35] Subject to either party wishing to speak to costs, Mr. Pettipas is awarded costs of the proceeding at Scale B.

(SUBMISSIONS RE DOUBLE COSTS)

[36] THE COURT: I think it is important exactly what witness statements the plaintiff has received by the time of the offer. So I think the best thing is probably for the two of you to have an exchange of brief short written submissions.

"Coval J."

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