

**IN THE COURT OF APPEAL OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA**

Thilaka Deraniyagala,
41, Edalewattha Road,
Boralesgamuwa.

Plaintiff

C.A. No. 185 / 2000 F

Vs.

D.C. Colombo No. 17589 / MR

1. Karuppan Ramasamy,
3, Kotta Road,
Borella, Colombo 8.
 2. Mariyappan Arogyasamy,
370, Galle Road,
Wellawatta, Colombo 6.
Presently of, 'Subashini Lodge'
No 169, Galle Road, Ratmalana.
- Defendants

AND NOW BETWEEN

Karuppan Ramasamy,
3, Kotta Road,
Borella, Colombo 8.
1st Defendant Appellant

Vs

Thilaka Deraniyagala,
41, Edalewattha Road,
Boralesgamuwa.
Plaintiff Respondent

Mariyappan Arogyasamy,
370, Galle Road,
Wellawatta, Colombo 6.
Presently of, 'Subashini Lodge'
No 169, Galle Road, Ratmalana.
2nd Defendant Respondent

BEFORE : UPALY ABEYRATHNE, J.

COUNSELS : Defendant Appellant- Absent and unrepresented
Plaintiff Respondent- Absent and unrepresented

DECIDED ON : 22.02.2012

UPALY ABEYRATHNE, J.

The Plaintiff Respondent (hereinafter referred to as the Respondent) instituted the said action against the 1st and 2nd Defendant in the District Court of Colombo seeking to recover a sum of Rs. 500.000/- as damages resulting from an accident in which the husband of the Respondent suffered severe injuries and after several months succumbed to his injuries. The Respondent alleged that the 1st Defendant Appellant (hereinafter referred to as the Appellant) was the registered owner of the vehicle bearing No 53 – 1149 and on or about 05th February 1994, the said vehicle which was driven by the 2nd Defendant along Ananda Mawatha, Maradana, while her husband was in the said vehicle, collided on a lamp post causing serious injuries to her husband.

The Appellant had filed answer denying the averments in the plaint and had pleaded a dismissal of the Respondent's action. Since the 2nd Defendant Respondent had failed to file his answer an ex-parte decree had been entered against him.

After trial the learned Additional District Judge delivered judgement in favour the Respondent. Being aggrieved by the said judgment dated 02.02.2000 the Appellant has appealed to this court.

The Appellant has set out several grounds of appeal in paragraph 10 of the petition of appeal. It is apparent from the said grounds of appeal that the Appellant's contention was that the learned trial Judge has failed to consider the evidence of the case. I have carefully considered the impugned judgment of the learned Additional District Judge. It seems to me that the learned trial judge has come to the conclusion after going through the evidence led before court.

When I consider the said circumstances I am of the view that the learned Additional District Judge has rightly concluded that the Respondent was entitled for a judgment.

In the said circumstances I see no reason to interfere with the judgement of the learned Additional District Judge dated 02.02.2000. Therefore I dismiss the appeal of the Appellant with costs.

Appeal dismissed.

Judge of the Court of Appeal