

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

1. Nawagamuwage Chandrawathie  
Perera,
2. Weweldeniya Arachchige  
Weerasena,  
Both of Malpitiya,  
Boyagane.

Plaintiff

C.A. No. 874 / 2000 F

**Vs.**

D.C. Kurunegala No. 5822 / M

1. Don Neville Dudley Sebastian  
Senclayard Jayatunge,  
No. 185, Puttalam Road,  
Anamaduwa.
2. Heenkanda Mudalige Don Francis  
Sunil Shantha,  
No. 32, Katchimaduwa,  
Kottukachchiya.

Defendants

**AND NOW BETWEEN**

1. Don Neville Dudley Sebastian  
Senclayard Jayatunge,  
No. 185, Puttalam Road,  
Anamaduwa.  
1<sup>st</sup> Defendant Appellant

**Vs**

1. Nawagamuwage Chandrawathie  
Perera,

2. Weweldeniya Arachchige  
Weerasena,  
Both of Malpitiya,  
Boyagane.

Plaintiff Respondent

Heenkanda Mudalige Don Francis  
Sunil Shantha,  
No. 32, Katchimaduwa,  
Kottukachchiya.

2<sup>nd</sup> Defendant Respondent

BEFORE : UPALY ABEYRATHNE, J.  
COUNSELS : The 1<sup>st</sup> Defendant Appellant – Absent and  
unrepresented  
Ajith Jayathilake for the Plaintiff Respondent  
ARGUED ON : 06.06.2012  
DECIDED ON : 26.02.2013

UPALY ABEYRATHNE, J.

The 1<sup>st</sup> and 2<sup>nd</sup> Plaintiff Respondent (hereinafter referred to as the Respondents) instituted the said action against the 1<sup>st</sup> and 2<sup>nd</sup> Defendant in the District Court of Kurunegala seeking to recover a sum of Rs. 200.000/- as damages resulting from an accident. The Respondent alleged that the 1<sup>st</sup> Defendant was the registered owner of the vehicle bearing No 41 Sri 1535. On or about 27.10.1997 the said vehicle which was driven by the 2<sup>nd</sup> Defendant along Colombo Kurunegala main Road has collided with the building belonged to the Respondent.

The 1<sup>st</sup> Defendant in his answer has admitted the said accident and has estimated the damage caused to the said building to a sum of Rs. 25,000/-. He further averred that at Pothuhera Police Station he paid Rs 5,000/ out of the said Rs. 25,000/- and he agreed to pay the balance sum in two instalments.

The case proceeded to trial on 20 issues. After trial the learned District Judge delivered judgement in favour the Respondent in a sum of Rs. 75,000/-. Being aggrieved by the said judgment dated 03.10.2000 the 1<sup>st</sup> Defendant Appellant (hereinafter referred to as the Appellant) has appealed to this court.

The Appellant has set out several grounds of appeal in paragraph 10 of the petition of appeal. Since the Appellant has admitted and has estimated the damage caused the Respondents to a sum of Rs. 25,000/- the only question to be dealt with by this Court is whether the order of Rs 75,000/ as damages is excessive?

I have carefully considered the evidence led before court and the impugned judgment of the learned District Judge. It seems to me that the learned trial judge has come to a right conclusion after going through the evidence of the case.

In the said circumstances I see no reason to interfere with the judgement of the learned District Judge dated 03.10.2000. Therefore I dismiss the appeal of the Appellant with costs.

*Appeal dismissed.*

Judge of the Court of Appeal