

Proceed with caution: Is it enough to merely obey traffic light signals?

The following article was written by Daniel Goh and Johnston Lee. Daniel heads the firm's Litigation and Dispute Resolution Practice Group and the Insurance and Personal Injury Practice Group. Johnston practises pre-dominantly in the Insurance and Personal Injury Practice Group.

There has been some development on the question of liability in relation to accidents involving vehicles and pedestrians at traffic junctions where lights are distinctly in favour of one party. Interestingly, the errant tortfeasors, be it driver or pedestrian, have not been held fully liable notwithstanding that the light signals were not in their favour.

In the recent Court of Appeal case of *Asnah Bte Ab Rahman v Li Jianlin* [2016] 2 SLR 944; [2016] SGCA 16 (“**Asnah**”), a pedestrian was knocked down by a vehicle while crossing a signalised pedestrian crossing with the green man in his favour. The Court of Appeal, in a rare 2-1 split decision (with Chief Justice Sundaresh Menon dissenting), held the pedestrian to be contributorily negligent notwithstanding that the driver had clearly “run the traffic lights” which had indicating red for about 8-10 seconds. The majority, comprising Chao Hick Tin JA and Quentin Loh J, established that the pedestrian ought to have kept a proper lookout for approaching traffic before stepping out onto the second half of the crossing situated along a dual-carriageway at a signalised pedestrian crossing with the lights in his favour. Accordingly, the errant tortfeasor-driver’s liability to the pedestrian was reduced by 15%, resulting in the blame between parties apportioned at 85%-15% in favour of the pedestrian-victim.

Our firm was involved in a case somewhat similar to *Asnah*, for which judgment on liability was given on 13 January 2017. In *Darren Khor Yong Tian v Arba’ah binte Abidin* (DC/DC 1853/2015) (“**Darren**”), there was an accident also involving a collision between a pedestrian (whom we represented) and an oncoming vehicle at a signalised pedestrian crossing. However, in contrast to *Asnah*, the pedestrian in this case was crossing the junction with the red man signal against him. The Court was faced with the same issue as that in *Asnah*, viz., whether the non-errant party was nevertheless contributorily negligent in the circumstances and if so, what apportionment of liability should be attributed to such contributory negligence.

The Court was of the view that the driver owed a duty of care to other road users to slow down as she approached the pedestrian crossing, notwithstanding that the traffic light was in her favour. Upon assessment of the evidence, the Court found that the driver had breached her duty of care by driving too fast under the circumstances, noting that it was a school zone and that there was a stationary lorry parked just before the pedestrian crossing that obstructed her view of the left side of the crossing. The driver, who had the right of way, was nevertheless found to be contributorily negligent and accordingly, the blame between parties was apportioned at 85%-15% in favour of the driver.

Looking at both cases, it does suggest that although a trial on liability for accident cases is necessarily factual, it appears that the courts are mindful that in such split-second traffic junction scenarios, it is unlikely that a “non-errant party” (whether a pedestrian or a motorist) can blame the other party entirely for trying to beat traffic lights and causing the accident. Both cases have shown that regardless of whether the driver or the pedestrian has the right of way, it is incumbent on both parties to take necessary and reasonable precaution against the possibility of negligence or recklessness by other road users.

A final thought – with the recent media attention on vehicles that are going against traffic, one wonders whether any motorist can say that with an oncoming vehicle against the flow of traffic, the latter should be fully liable in each and every scenario.

CONTACT



DANIEL GOH

Managing Director

admin@characterist.com

T: 6222 5562 F: 6222 5561



JOHNSTON LEE

Associate

johnston@characterist.com

T: 6222 5562

Characterist LLC is a multi-disciplinary full-service Singapore law firm for businesses and individuals, and we offer comprehensive and competent legal solutions while retaining expertise in specialized areas of practice. We are driven by our values, and these values work, because our clients greatly appreciate and deeply value our legal services. We look forward to doing the same for you.

Our practice was first established in 1978 by Mr Lie Kee Pong as Lie Kee Pong Partnership. In 2007, we merged with another growing law firm, Characterist LLC.

From our beginnings as a sole-proprietorship, we have since grown into a full-service law firm offering comprehensive, competent and cost-effective legal solutions while retaining specialized expertise across multiple practice areas. These include litigation and dispute resolution, corporate and commercial law, property and real estate, insurance and personal injury, criminal litigation and advocacy, family and matrimonial law, trust, estate planning, probate and administration, construction and intellectual property. Our clients include individuals, professionals and businesses, including SMEs, MNCs, Statutory Boards and listed companies on various exchanges.

But wherever and however we grow, we remain rooted to our values – we want to be a firm that connects with our clients and a community to effect change. We are, and will always be, Values at Work.