

Docket No:CA 161168
and CA 161169
Date: 20001006

NOVA SCOTIA COURT OF APPEAL

[Cite as: *Pattingale v. Pattingale*, 2000 NSCA 116]

Roscoe, Hallett and Cromwell, JJ.A.

BETWEEN:

TRUDY DAWN PATTINGALE

- and -

LAWRENCE PATTINGALE and STEPHEN CAMUS

Appellants

- and -

TRUDY DAWN PATTINGALE

- and -

WOODROW OLDFORD, Administrator of the Estate
of Wanda Oldford-MacLellan and Guardian of Shalon
Kendra Bernadine Oldford-MacLellan and **STEPHEN
CAMUS**

Respondents

REASONS FOR JUDGMENT

Counsel: David A. Miller, Q.C. and Nancy Murray, for the appellant,
Harvey M. McPhee and Tony Mozvik for Mr. Pattingale,
Scott C. Norton and Paul McLean, for Mr. Camus,
Vincent A. Gillis for Mr. Oldford.

Appeal Heard: October 6, 2000

Judgment Delivered: October 6, 2000

THE COURT: Appeal and cross-appeal are dismissed, per reasons for judgment
given orally by Roscoe, J.A.; Hallett and Cromwell, JJ.A.,
concurring.

Roscoe, J.A.(Orally):

[1] This is an appeal and cross-appeal from an apportionment of liability made by Justice David MacAdam after an eight-day trial. Wanda and Shannon MacLellan were killed and Lawrence Pattingale was severely injured as a result of a motor vehicle/pedestrian accident on October 25, 1990. In a decision reported at (1998) 173 N.S.R. (2d) 315, the trial judge apportioned liability 50% to the pedestrians, 20% to the appellant Trudy Pattingale and 30% to the cross-appellant Stephen Camus.

[2] The issue, simply put, is whether the trial judge erred in finding Ms. Pattingale and Mr. Camus were negligent.

[3] It is not our role to retry the case but rather to review the evidence to determine whether it supports the conclusions of the trial judge. We will only interfere if the trial judge has erred in law, made a manifest error, has ignored conclusive or relevant evidence, has misunderstood the evidence, or has drawn erroneous conclusions from it: **Toneguzzo-Norvel (Guardian ad litem of) v. Burnaby Hospital**, [1994] 1 S.C.R. 114 at 121.

[4] Having reviewed the extensive record and considering the written and oral argument of counsel it is our unanimous opinion that there was sufficient evidence before the trial judge to support all of the findings of fact he made, and

the conclusions he reached. We have not been persuaded that he made any error in law in the interpretation and application of the relevant provisions of the **Motor Vehicle Act**, the determinations of causation and liability, or the division of fault. Nor are we satisfied that the trial judge proceeded upon any wrong or mistaken principles or committed manifest error. We find no cause to intervene.

[5] Accordingly we dismiss both the appeal and the cross-appeal. Since each is dismissed, there will be no award of costs as between the appellant and the cross-appellant but they shall jointly pay the costs of the respondents Lawrence Pattingale and Woodrow Oldford, each taxed at \$2500 plus disbursements.

Roscoe, J.A.

Concurred in:

Hallett, J.A.

Cromwell, J.A.