

**Claim No. SCCH 283833**

**Date: 20080307**

**IN THE SMALL CLAIMS COURT OF NOVA SCOTIA**

Cite as: Anjoul v. Maritime-Ontario Freight Lines Ltd., 2008 NSSM 52

BETWEEN:

**SAMIR ANJOUL**

Claimant

- and -

**MARITIME-ONTARIO FREIGHT LINES LIMITED and JOHN DELONG**

Defendant

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**ORDER**

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**Adjudicator: David T.R. Parker**

**Heard: February 5, 2008**

**Decision: March 7, 2008**

**Counsel:**

**Sara L. Scott and Articled Clerk B. Francis represented the Claimant.  
James D. McNeil represented the Defendant.**

**Facts**

This matter involved a motor vehicle accident on Hollis Street in the City of Halifax. The Defendant driver had parked a Freightliner truck on the left hand lane of Hollis Street beside an eatery where the driver wanted stop in and purchase a pie and coffee to take with him. The Claimant's vehicle driven by his son was travelling in the middle lane

along Hollis Street which street had three lanes and he was intending to move into the left lane and turn at the traffic lights in order to travel down Morris Street. The Defendant driver of the truck noticed cars in the centre lane but when he started to pull away from the curb where he was parked he felt something and stopped the truck. The Defendant driver said he only travelled about six inches after he let the clutch out and had turned on his signal light. Mrs. Anjoul, a passenger in the back seat of the Claimant's vehicle said she felt a grinding as the Claimant's vehicle was passing the truck and about to travel into the left lane. The front passenger side of the truck and the back door and quarter panel of the Claimant's vehicle were damaged.

### **Analysis**

The Defendant driver was aware that he was some 65 to 75 feet away from the traffic light. He saw vehicles in the middle lane and he started to turn to move forward as the light had just turned green. He said he had no idea there was another vehicle involved with his truck, he thought it was something that broke on his truck as he started to move. He said he "supposed the truck has a blind spot, I don't know." The driver of the truck is an experienced driver for both long-haul and short-haul trips and the latter being what is involved here. I find it difficult to believe he does not know there is a blind spot, particularly when he said earlier in his testimony he didn't see the vehicle. He also made a statement of what happened in his report to the company when he said, "I just started to move – car on right side made sudden lane change to left lane and struck truck." This is contrary to his evidence of not seeing the Claimant's vehicle. In my view the Defendant truck driver should have waited until the center lane was free of traffic and he was aware of cars in that lane, was free of traffic, The Defendant driver was aware of cars in that centre lane would pass him to turn on Morris Avenue.

The driver of the Claimant's vehicle had his signal light on to turn left and he should have waited until he was well past the truck before moving into the left lane. According to the driver's mother who was in the backseat of the Claimant's vehicle giving directions they were focusing on going to the very popular "Unicorn" clothing store at

Bishop's Landing, and they had to turn left in order to do so. The Claimant's driver should have paid more attention to a truck that was to his left and while it appeared parked he should have made sure he was able to pass it before starting to make his turn into the left-hand lane.

**Decision:**

While there is some contributory negligence of the Claimant the major responsibility rests with the truck driver. I have disregarded all the evidence of the Claimant driver swerving in and out of traffic as it is all hearsay. I would hold the truck driver 90% responsible and the Claimant driver 10% responsible for damage that occurred to the Claimant's vehicle.

**IT IS THEREFORE ORDERED** that the Defendant pay to the Claimant the following sums:

\$2,731.16	Representing 90% of total costs of repairs
162.24	Representing 90% of rental costs
<u>80.44</u>	Court costs
<b>\$2,973.84</b>	<b>Total</b>

Dated at Halifax, this 7 day of March, 2008.

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David T.R. Parker  
Small Claims Court Adjudicator