

DEMASI v. FRASER

Supreme Court: Hogarth J.

Sep. 28, 29, 30; Oct. 15, 1965.

Evidence — Expert witness — Qualifications — Police officer called as expert in the study of the behaviour of motor vehicles after collision — Admissibility of evidence.

In an action for damages for injuries sustained in a collision between two motor vehicles, one party tendered evidence by a detective sergeant, who was called as an expert in the study of the behaviour of motor vehicles after collision. The detective sergeant was the officer in charge of the Accident Investigation Squad attached to the Traffic Division of the South Australian Police Force. He had had many years' experience in investigating road accidents. He had also visited both the United Kingdom and the United States of America and there made a special study of police methods of investigation of road accidents, and had attended a course of lectures at the British Road Research Laboratories in England.

Held, that the detective sergeant had been shown to be qualified as an expert upon the subject of the behaviour of motor vehicles after collision; and that his evidence upon that subject was admissible.

Clark v. Ryan (1960) 103 C.L.R. 486; Austn. Digest (1960) 244, distinguished.

ACTION.

This was an action in which the plaintiff Demasi claimed damages for injuries suffered in a collision between two motor vehicles.

This report deals only with a question which arose as to the admissibility of the evidence of a witness tendered as an expert witness upon the subject of the behaviour of motor vehicles after collision.

V. C. Matison and D. R. Stevenson, for the plaintiff.

J. H. Muirhead, for the defendant.

Cur. adv. vult.

Oct. 15.

HOGARTH J.:—[After stating the nature of the proceedings, and dealing with the evidence as to the events which led to a collision between the motor vehicles, his Honour continued:—]

Considerable importance attaches to the evidence of Detective Sergeant Swaine, who was called by the defendant as an expert in the study of the behaviour of vehicles after collisions. Detective Sergeant Swaine is the Officer-in-Charge of the Accident Investigation Squad attached to the Traffic Division of the South Australian Police Force at Adelaide. He says that he has been a member of the Police Force for twenty-four years, and that his work has involved the investigation of serious road accidents since 1946. He has been the Officer-in-Charge of Accident Investigation Squad since 1957. Some two or three years ago he went overseas to the United Kingdom and the United States, studying police methods of investigation of road accidents. At this time he attended a course of lectures at the British Road Research Laboratories in England, which deals in such problems of the behaviour of vehicles after impact in road collisions. He has also studied films made at the University of California in which motor cars are subjected to head-on collision, and are shown in great detail in slow motion, with a spoken commentary. He has studied a text book, published by the North Western Traffic University in the United States. In the course of his investigation of accidents in South Australia, he has tested the findings of the experts in Britain and America, against his own observations, assisted in some cases by statements or evidence of eye witnesses.

Counsel for the plaintiff objected that Detective Sergeant Swaine was not qualified to give evidence of the behaviour of vehicles after impact as an expert; but after hearing evidence on the *voir dire*, and argument by both counsel, I came to the conclusion that the evidence should be admitted. It seems to me that the behaviour of vehicles after impact should be regarded as an "organised branch of knowledge", of which the witness had made a special study. I do not regard it as necessary that he should have attended a formal course of study at some Uni-

versity or other academic institution, or that he should have obtained any degree or diploma. The fact that he has not done so goes to the weight of his evidence, but, in my view, not to its admissibility. On the view I take, Detective Sergeant Swaine has made a special study of an organised branch of knowledge, and stands in a very different position from the alleged expert in *Clark v. Ryan*⁽¹⁾. I therefore ruled, during the course of the trial, that the evidence sought to be led from him as to the probable behaviour of the vehicles after the impact was admissible, based upon the admitted weights and dimensions of the vehicles, the observations made by Stringer, and the photograph exhibits.

[His Honour then considered the evidence given by Detective Sergeant Swaine, which he found to be "convincing". His Honour found that both parties had been negligent, and that the plaintiff's damages, which he assessed at £4,830 3s. 6d., should be reduced by three-fifths. He accordingly gave judgment for the plaintiff for £1,932 3s. 5d.]

Judgment for plaintiff for £1,932 3s. 5d.

Solicitor for plaintiff: *V. C. Matison.*

Solicitors for defendant: *Thomson, Muirhead, Ross & McCarthy.*

(1) (1960) 103 C.L.R. 486; Austn. Digest (1960) 244.