

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

JACK MARCHESE,
Plaintiff
vs.

: NO. 13 – 02,298

:

:

: CIVIL ACTION

:

MISTY JACOBS and CARL JACOBS,
Defendants

:

: Motion for Summary Judgment

OPINION AND ORDER

Before the court is Defendants’ Motion for Summary Judgment, filed March 12, 2014. Argument on the motion was heard April 30, 2014.

This matter arises from an automobile accident that occurred on October 9, 2011, on State Route 118. Plaintiff was riding a motorcycle, traveling with three other motorcycles, and was following Defendants’ vehicle. Defendants’ vehicle came to a stop (the vehicle in front of her had stopped and was waiting to turn left) and Plaintiff collided with Defendants’ vehicle.¹

In the instant motion, Defendants contend the accident was caused solely by Plaintiff’s negligence in failing to keep an assured clear distance between his vehicle and Defendants’ vehicle, and that Defendants did not violate any duty to Plaintiff by stopping in the roadway. Plaintiff argues that Defendants’ vehicle came to a sudden stop and it was the sudden stop that caused the accident, necessarily arguing that Defendants had a duty to not come to a sudden stop. Plaintiff contends that the matter falls within the sudden emergency doctrine.

While there may be a factual dispute as to whether Defendants’ vehicle stopped gradually or suddenly, for purposes of the instant motion, the court must assume that the vehicle stopped suddenly. Such is not a basis on which to find liability, however, as the appellate courts have found sudden braking on a highway to be a “foreseeable occurrence.” See Carpinet v. Mitchell, 853 A.2d 366, 374 (Pa. Super. 2004); see also Commonwealth v. Matroni, 923 A.2d 444, 453 (Pa. Super. 2007)(“sudden braking has been held not to constitute

¹ The other three motorcycles managed to avoid the collision, although some if not all of them had to maneuver around Defendant’s vehicle to do so. The four motorcycles were traveling in a staggered formation, two in the left portion of the lane and two in the right portion.

a sudden emergency”). Thus, the matter comes within the assured clear distance ahead rule, rather than the sudden emergency doctrine. As was explained in Cunningham v. Byers, 732 A.2d 655, 657-58 (Pa. Super. 1999)(emphasis added) :

The assured clear distance ahead rule is codified in the Vehicle Code at 75 Pa.C.S.A. § 3361, and requires that no person shall drive any vehicle at a speed greater than will permit him to bring his vehicle to a stop within the assured clear distance ahead. This rule has been held to require a motorist to be capable of stopping within the distance that he or she can clearly see. Lockhart v. List, 542 Pa. 141, 148, 665 A.2d 1176, 1179 (1995). Therefore, it requires that such control be maintained as will enable a driver to stop and avoid obstructions that fall within his vision. Anderson v. Moore, 437 Pa. Super. 642, 650 A.2d 1090, 1092 (Pa. Super. 1994).

The sudden emergency doctrine provides a defense in a negligence action to a driver of a motor vehicle who suddenly and unexpectedly finds himself confronted with a perilous situation that permits no opportunity to assess the danger and respond appropriately. Elder v. Orluck, 334 Pa. Super. 329, 483 A.2d 474, 487 (Pa. Super. 1984), affirmed, 511 Pa. 402, 515 A.2d 517 (1986). Situations which may constitute a sudden emergency include a dust cloud, a moving object, a sudden blocking of the road, the sudden swerving of another vehicle, blinding lights and a dense patch of fog. Dickens, at 517; Levey v. DeNardo, 555 Pa. 514, 725 A.2d 733, 1999 Pa. LEXIS 486. (Pa. 1999) Our Supreme Court recently reiterated the purpose of this doctrine stating:

[A] person confronted with a sudden and unforeseeable occurrence, because of the shortness of time to react, should not be held to the same standard of care as someone confronted with a foreseeable occurrence. It is important to recognize, however, that a person cannot avail himself of the protection of this doctrine if that person was himself driving carelessly or recklessly. Levey, 555 Pa. at 519, 1999 Pa. LEXIS 486, at 7 (citing Lockhart, supra.).

Generally a jury should not be instructed on both the assured clear distance ahead rule and the sudden emergency doctrine since the two are mutually exclusive. This is based on the rationale that the assured clear distance ahead rule applies to essentially static or static objects *including vehicles moving in the same direction*, while the sudden emergency doctrine applies only to moving instrumentalities thrust into a driver's path of travel.

Here, there is no evidence that Defendants' vehicle was “thrust into” Plaintiff's path of travel and therefore the sudden emergency doctrine does not apply. As the Court found in Carpinet, “any sudden or unexpected peril in this matter was created in part by [the plaintiff's] own

actions in apparently following too closely behind [the defendant]”. Carpinet, *supra* at 374. Plaintiff is therefore unable to rely on the sudden stopping of Defendants’ vehicle as a basis for liability. No other evidence of Defendants’ negligence has been produced.² Defendants are therefore entitled to summary judgment.

ORDER

AND NOW, this 1st day of May 2014, for the foregoing reasons, Defendants’ Motion for Summary Judgment is hereby GRANTED. Judgment is hereby entered against Plaintiff and in favor of Defendants.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Jamie Anzalone, Esq., Anzalone Law Offices
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Gary Weber, Esq.
Hon. Dudley Anderson

² While Plaintiff claims that he will produce evidence that he was not following too closely, that does not impute negligence to Defendants.