

The Citizen, Traffic Accidents, and the Law

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Part 1

In this issue we are starting to serialise excerpts from a lecture delivered by Dr. Joseph Galea Debono, B.A., LL.D. in April, 1980, at the University of Malta, in the course of a series of lectures given to the general public under the auspices of the Extension Studies Board of the University. The series of lectures was intended for the layman interested in various aspects of the Law.

To an ever increasing number of us, this subject is all too often introduced abruptly by a loud screeching of brakes, and the sound of rending metal.

These unpleasant sounds usually herald a long chain of events which, if one is fairly lucky, are concluded, months if not years later, when one finally receives a cheque from an Insurance firm or a lawyer, which is hardly ever completely adequate to heal the financial, psychological and sometimes physical scars the victim of a traffic accident has suffered.

It is exactly this long and tortuous process from the moment of damage or injury till that of redress or lack of it, that I propose to trace in this article.

As, very often, everything hinges on what has happened in those, all too brief, seconds prior to an accident and the short span of time that follows, when the shocked citizen is only vaguely aware that some sort of investigation is taking place around him. It is important first to outline briefly what I shall call "The Mechanics" of a number of typical traffic accidents and the kind of "Tell Tale Evidence" on the scene of the accident that one should pay particular attention to.

I have chosen a few typical accident cases with which our Law Courts are very often called to deal; I shall mention the guiding principles Judges and lawyers fall upon in trying to unravel cases arising therefrom.

A common, if not indeed the most common, accident is that shown in Figure 1 between two vehicles meeting at a crossroads formed of two roads of equal importance, of which these islands seem to be full, in particular, in the grid iron urban developments of Valletta, Floriana, Sliema and other modern suburbia.

In these cases where no STOP signs exist to establish right of way, our Motor Vehicles Regula-

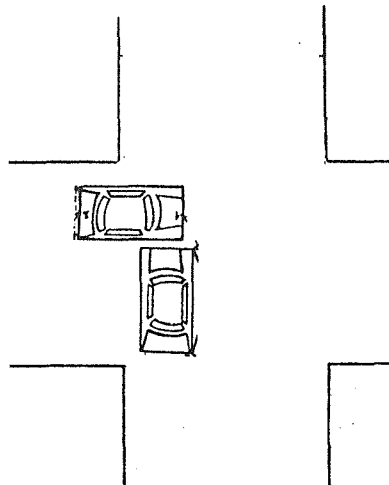
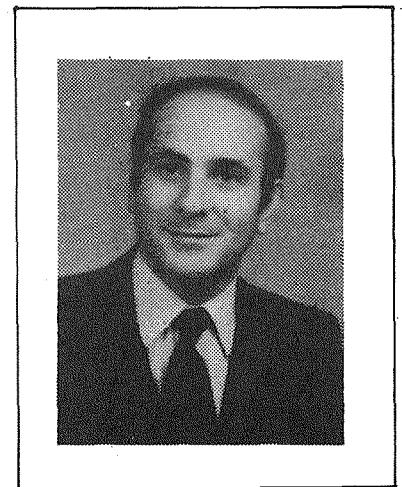


Fig. 1

tions come to our assistance rather enigmatically stating that traffic proceeding from the left, has or should have the right of way.

I say enigmatically, because it is obvious in these cases, which normally happen at street corners where till the very last moment none of the drivers can guess from which direction another vehicle might be approaching, that such a right of way is very relative and that it can only be safely put into application, when and if the drivers have had time to discover the direction of each other's approach.

In other words, as a car entering a crossroad from one direction might have the right of way on a car coming from the right, in its turn it might have to give right of way if a vehicle happens to be approaching from its left. Our judgments or case law have therefore had to depart from the all too simple answer given by the Motor Vehicles Regulations and to resort to a more realistic approach by insisting that in such cases it is the duty of both drivers not to assume that they enjoy right of way and to inch out onto such crossroads at such speed and



keeping the look-out that they will enable them to stop and give way on seeing a vehicle approaching from their left.

If both drivers, as is usually the case in such collisions, have not taken this precaution of inching out, they will most likely be held to be both to blame for the ensuing collision. The driver emerging from the right usually being saddled with a higher degree of responsibility than the one, in this case being relatively lucky, to have emerged from the left.

Figure 2 shows us another typical collision at an intersection of a major with a minor or side road which may or may not be marked by an appropriate stop sign. Again, here, in the absence of a stop sign, the Regulations

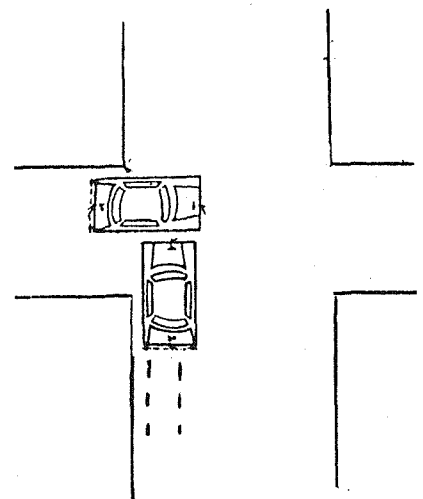


Fig. 2

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are not very helpful in providing us with a satisfactory definition of a major and minor road. Regulation 64 begs the entire question.

'Major road is one where all traffic going over it has the right of way and traffic on all other roads converging into it shall give right of way to that on the road referred to above'.

Accordingly one has to look at various factors such as:

1. Frequency and intensity of the Traffic Flow
2. Comparative width of roads
3. Kind of road surface
4. Whether one of the roads is a Bus route

and similar indicators, before deciding which of the two thoroughfares is a major road.

Having established this point, the scales will then weigh very heavily against the side road user involved in the accident and it is likely that he will end up by bearing a high proportion of, if not all, the blame. But all is not lost yet for the side road user. Indeed in civil proceedings he can still prove that the main road user might have contributed to the accident. In this case, the latter might have to bear part of the blame, though usually a smaller part. A case in point often occurs when, though it results that the side road user has failed to stop, explore and give way to major road traffic, it also results that the major road user was driving at an excessive speed which prevented him from stopping short of the point of impact. This happens when it results that he had seen the other car cross his path from a distance which was sufficiently long to enable him to stop, had he been driving at a speed below the limit.

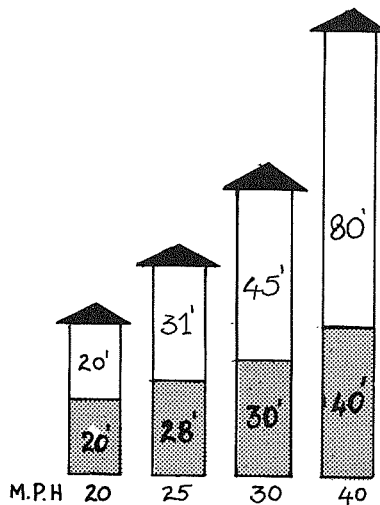
Braking Distances and Brake Marks

But some may ask 'How can one be sure of that?'. Fortunately for the investigator, legal referee or judge, the tell tale evidence available on the scene of the accident often comes to his assistance.

One very important source of evidence is furnished by the length, direction and shape of tyre marks left on the road surface by the tyre scrubbing also

popularly known as brake marks. These are marks left on the road surface when tyres lock following the application of brakes or when a vehicle is forced to move in a plane or direction different from that in which its wheels are meant to roll freely. The latter are also known as push marks.

In the case of brakemarks, we know scientifically that their length is related very closely to the vehicle's speed and is the product of the formulae in physics regarding 'retardation'. To give you an idea, a car travelling at the following speeds is likely to have the following braking distances on a dry, plane and normal road surface.



You will note that the distance taken by a vehicle to stop with its tyres locked as a result of vigorous braking is inevitably preceded by the time lag (usually reckoned at about $\frac{3}{4}$ of a second in a normal driver) that passes between when the driver perceives the obstacle necessitating the abrupt braking and when his reflexes react fully enabling his right foot to slam on the brake pedal and lock the wheels. Even here, thinking distance, or reaction time, is closely related to speed and experimentation provides us with a fairly workable scale of thinking distances for relative speeds.

Armed with such data, it is not unduly difficult to assess car speeds and thinking distances from the length of brakemarks and, working back, the point at which a driver must have seen the obstacle.

If it results that such a point is farther from the thinking and braking distance (i.e. overall

stopping distance of a vehicle) of a vehicle travelling within the speed limit, it will naturally follow that, had the driver been driving within such a limit, he would have pulled up in time even short of impact. Hence, his excessive speed would, in this case, be mathematically proven to have contributed to the accident. In such event our main road user or rather abuser, would as I stated earlier, have to bear a share of the blame depending on the degree of his excess in speed.

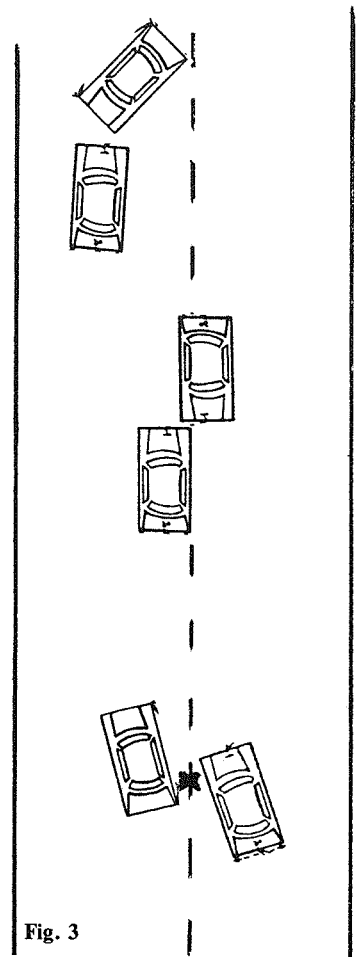


Fig. 3

Figure 3 shows us one of the most potentially dangerous accidents, i.e. the head on or near end collision between two cars proceeding in an opposite direction. Here, the cardinal principle is that, if the road is wide enough for both vehicles to pass each other safely, and a collision occurs nonetheless, then the driver (or drivers) who is/are on the wrong side of the road is/are normally to blame for the collision and ensuing damages. This may seem and is in fact very obvious in theory. In practice, however,

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these accidents are often bedevilled by a nagging issue, usually the result of a shoddy investigation on the spot as to where exactly the collision occurred. It is not uncommon that after impact one vehicle pushes the other backwards or sideways, both ending at a point remote from their actual first point of impact. It might also happen that the cars might have been moved out of the way before investigators arrive on the scene. Even here, the tell tale evidence in the shape of collision debris might prove very helpful. This is usually composed of oil, rusty radiator water, broken glass, mudguard dust and the like and, in running down cases, blood and loose items of clothing. These traces, unless disturbed by passing traffic or bystanders crowding the scene of the accident, are likely to provide

a fairly accurate indication of where exactly both vehicles first came into contact or where a pedestrian was hit. In the second example in Figure 3 it might well result that both drivers were straddling the crown of the road before impact. (Lower example Fig. 3). In spite of the end position of both cars after the collision, in such cases it is not uncommon that both drivers are condemned to share the blame equally on a 50:50 basis. The cumulative speeds and diametrically opposing forces involved in similar collisions are very often the source of considerable damage to vehicles and, worse still, of serious personal injuries and even fatalities, unfortunately.

(To be continued)