

Singh v Lopez

2016 NY Slip Op 32621(U)

December 7, 2016

Supreme Court, Bronx County

Docket Number: 23325/2015E

Judge: Julia I. Rodriguez

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SUPREME COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: Part IA 27

DEC 13 2016

Index No. 23325/2015E

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JOANNA J. SINGH and LEAH P. SINGH, an infant by her
Mother and Natural Guardian JOANNA J. SINGH, and
JOANNA J. SINGH, Individually,
Plaintiffs,

-against-

DECISION and ORDER

MAXIMO LOPEZ, GEORGINA CEPIN,
DUO COLONY FUEL OIL CO. and
SALVATORE MELI,

Defendants

Present:
Hon. Julia I. Rodriguez
Supreme Court Justice

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Recitation, as required by CPLR 2219 (a), of the papers considered in review of motion for summary judgment on liability by Defendants Lopez and Cepin:

<u>Papers</u>	<u>Numbered</u>
Notice of Motion, Affirmation & Exhibits	1
Affirmation in Opposition by Plaintiffs Johanna Singh and Leah Singh & Exhibits	2
Reply Affirmation by Lopez & Cepin	3

This action arises out of a multiple vehicle accident on September 29, 2012, resulting in different actions bearing different index numbers which have been consolidated for a joint trial [Referred to as the STEWART/COLLINS matter [Index 300156/2013] and the CONCEPCION matter [Index 304561/2013.]

Relevant to the instant motion, Defendants **Maximo Lopez** and **Georgina Cepin** move for summary judgment on liability on the ground that their vehicle was rear-ended by the vehicle operated by **Mathew Concepcion** [a defendant in Index 304561/2013] in which **Cindy Concepcion** was riding as a passenger [plaintiff in Index 304561/2013]. The Singh plaintiffs herein were passengers in movants' [Lopez & Cepin] vehicle.

The rule is that a rear-end collision creates a presumption of negligence by the operator of the offending vehicle unless the driver of the offending vehicle provides a non-negligent explanation for the collision. *Profita v. Diaz*, 100 A.D.3d 481, 954 N.Y.S.2d 40 (1st Dep't 2012); *Berger v. New York City Housing Authority*, 82 A.D.3d 531, 918 N.Y.S.2d 458 (1st Dep't 2011); *Agramonte v. City of New York*, 288 A.D.2d 75, 732 N.Y.S.2d 414 (1st Dep't 2001). Section 1129(a) of the Vehicle and Traffic Law requires that drivers "not

follow another driver more closely than is reasonable and prudent” having due regard for the speed of the other vehicles and the traffic conditions then existing.

At her deposition Defendant Georgina Cegin testified she was traveling in her lane of traffic and was hit in the rear by the Concepcion vehicle. Cegin testified she felt one impact in the rear and did not come in contact with the vehicle in front of her.

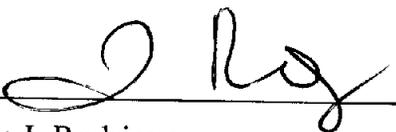
At his deposition Defendant Mathew Concepcion testified that the front of his vehicle came into contact with the rear of the vehicle in front of him. Matthew Concepcion testified that before impact he was traveling about 50 m.p.h, he was about three car lengths behind Cegin’s car when he saw Cegin’s brake lights but was not able to stop before impact; he did not feel any other impact other than the one he had with the car in front of his vehicle.

After consideration of the parties’ submission, the court finds that Defendants Maximo Lopez and Georgina Cegin established entitlement to summary judgment on liability as a matter of law. The court further finds that Plaintiffs’ opposition failed to raise an issue of fact precluding summary judgment in Lopez’s and Cegin’s favor.

For the foregoing reasons, motion by Defendants **Maximo Lopez** and **Georgina Cegin** seeking summary judgment on the issue of liability is **granted**, and therefore it is

ORDERED that the complaint is dismissed as to Defendants **Maximo Lopez** and **Georgina Cegin** and it is further ORDERED that all cross-claims and/or counter-claims are dismissed solely as to these defendants.

Dated: December 7, 2016



Hon. Julia I. Rodriguez

Supreme Court Justice