

Aisah

... Plaintiff

AND

Haji Mohamad Bayzuie bin Haji Abd Razak Sidi

... Defendant

**(High Court of Brunei Darussalam)
(Civil Suit No. 3 of 2024)**

Muhammed Faisal Bin PDJLD Kol(B) DSP Haji Kefli, J.C.

Date of Ruling: 21st April, 2026.

Headnote - Civil Procedure — Order 18 rule 18 — Striking Out — Pleadings — Distinction between material facts and evidence — Alleged failure to maintain vehicle — No specific defect pleaded — Whether claim is plainly unsustainable — Triable issues present

Mr Matthiew Chiew Siew Koun (M/S MCSK Advocates & Solicitors) for the Plaintiff.

Lt Col. (Rtd) Hj Harif bin Hj Ibrahim (M/S Lt Col (Rtd.) Harif Ibrahim Advocates and Solicitors) for the Defendant.

Statute:

Order 18 rule 18(1)

RULING

Muhammed Faisal, J.C.:

I Introduction and Background

1. This is an appeal by the Defendant against the decision of Senior Registrar Kamaliah Fadhilah Ibrahim delivered on 8 November 2025, whereby the Defendant's application to strike out the Plaintiff's claim pursuant to Order 18 rule 18 of the Rules of the Supreme Court¹ was dismissed.
2. The application before her was brought on the grounds that the Plaintiff's Statement of Claim discloses no reasonable cause of action, and/or that it is

¹ **O.18 r.18.(1)** "The Court may at any stage of the proceedings order to be struck out or amended any pleading or the indorsement of any writ in the action, or anything in any pleading or in the indorsement, on the ground that —
(a) it discloses no reasonable cause of action or defence...
(b) it is scandalous, frivolous or vexatious; or
(c) ... or
(d) it is otherwise an abuse of the process of the Court..."

scandalous, frivolous or vexatious, and/or otherwise an abuse of the process of the Court. The Senior Registrar, having considered the pleadings and submissions of the parties, declined to strike out the claim and ordered that the matter proceed to trial.

3. The Defendant now appeals to this Court by way of rehearing.

II Factual Background

4. The Plaintiff's claim arises out of a motor accident which occurred on 5 June 2021 at approximately 10.30 pm. At the material time, the Plaintiff was driving a motor vehicle bearing registration number BAM 6944. It is not disputed that the Defendant is the registered owner of the said vehicle.

5. The Plaintiff alleges that while approaching a roundabout and attempting to manoeuvre through a pool of water on the road, she lost control of the vehicle, which subsequently collided with a lamp post, causing her to suffer personal injuries and loss.

6. The Plaintiff's case, as pleaded, is that the Defendant had consented to her use of the vehicle, and that as the owner, the Defendant owed her a duty of care to ensure that the vehicle was in a safe and roadworthy condition. It is further alleged that the accident was caused and/or contributed to by the Defendant's negligence, in particular by failing to maintain or inspect the vehicle, failing to provide a safe vehicle, and failing to warn of any unsafe condition.

7. The Defendant denies liability. In his Defence, the Defendant contends that the Plaintiff was driving the vehicle without his knowledge or consent, and that the vehicle had in fact been in the possession and use of a third party. The Defendant further asserts that the accident was caused solely by the Plaintiff's own manner of driving, including her speed and failure to exercise due care in adverse weather conditions.

III The Application to Strike Out

8. On 27 February 2024, the Defendant filed a Summons in Chambers seeking to strike out the Plaintiff's claim under Order 18 rule 182. The principal basis of the application was that the Plaintiff's pleadings fail to disclose a reasonable cause of action in negligence, in particular for want of any properly pleaded causation. It was contended that the Plaintiff had merely advanced general and unsupported allegations of negligence without identifying any specific defect or malfunction in the vehicle which could have caused the accident.

² Ibid

9. The Plaintiff resisted the application, maintaining that the Statement of Claim sufficiently sets out the material facts necessary to establish a claim in negligence, and that the issues raised are fact-sensitive and ought properly to be determined at trial.
10. After hearing the parties, the Senior Registrar dismissed the Defendant's application. In doing so, she held, in essence, that the Plaintiff's pleadings disclose an arguable cause of action, and that the issues raised—particularly those relating to consent, the condition of the vehicle, and causation—are matters requiring evidence and are therefore unsuitable for determination at the interlocutory stage.

IV The Present Appeal

11. Before this Court, the Defendant renews his contention that the Plaintiff's claim is fundamentally defective and should have been struck out. The appeal centres on whether the Statement of Claim discloses a reasonable cause of action in negligence, and in particular whether the Plaintiff has sufficiently pleaded the element of causation.
12. The Plaintiff, on the other hand, supports the decision of the Senior Registrar and submits that the claim raises triable issues of fact which ought to be determined at a full trial.
13. I now turn to consider the issues arising in this appeal.

V Issues

14. The central complaint advanced by the Defendant in this appeal is that the Plaintiff's Statement of Claim fails to disclose a reasonable cause of action in negligence, in particular for want of a properly pleaded causal link between the alleged breach and the accident. The Defendant submits that the Plaintiff has merely advanced bare assertions of negligence, without identifying any specific defect or malfunction in the vehicle said to have caused the loss of control.
15. In elaboration of this submission during oral argument, Mr. Chiew, counsel for the Defendant took a firm position that, in the context of a motor accident of this nature, it is incumbent upon the Plaintiff to plead the precise mechanical defect or failure which caused the accident. When pressed by the Court, counsel accepted that he was unable to point to any specific authority mandating such a level of particularity at the pleading stage, but maintained that, as a matter of logic and necessity, "*loss of control*" must be explained by reference to an identifiable cause, failing which no causation is disclosed at all. Mr. Chiew went so far as to submit that, absent such pleading, there is "no causal link whatsoever" between the Defendant's alleged negligence and the accident.

16. The Plaintiff, for her part, resists that characterisation. It is submitted that the Statement of Claim sets out all the essential elements of a cause of action in negligence, namely: ownership of the vehicle by the Defendant, consent for the Plaintiff to drive it, a duty on the Defendant to ensure that the vehicle was safe and roadworthy, a breach of that duty by failure to maintain or inspect the vehicle, and the occurrence of an accident resulting in injury. It was emphasised during pleadings, that the Plaintiff is required only to plead material facts and not the evidence by which those facts are to be proved. The precise nature of any defect in the vehicle, it is said, is a matter for discovery and expert evidence at trial.

VI The Applicable Principles

17. There is no dispute as to the governing principles. The jurisdiction to strike out a pleading under Order 18 rule 183 is a draconian one and is to be exercised only in plain and obvious cases, where the claim discloses no reasonable cause of action or is otherwise clearly unsustainable. The Court must proceed on the assumption that the pleaded facts are true and should not engage in a minute or protracted examination of the evidence. If the pleading discloses some question fit to be tried, the matter ought to proceed to trial, even if the case appears weak.

18. It is also well-established that a pleading must set out material facts, but not the evidence by which those facts are to be proved. The line between the two is sometimes fine, but it remains an important one.

VII Whether Causation is Disclosed

19. The Defendant's case ultimately turns on the proposition that, in the absence of a specifically pleaded defect or malfunction, the Plaintiff has failed to plead causation at all. With respect, I am unable to accept that proposition.

20. The Plaintiff has pleaded, in substance, that the Defendant failed to maintain and/or inspect the vehicle, that the vehicle was thereby unsafe or unroadworthy, and that as a result the Plaintiff lost control of the vehicle and suffered injury. While these allegations are general and not elaborated by reference to any specific mechanical defect, they do set out a causal sequence which, if proven, is capable of giving rise to liability in negligence.

21. The Defendant's submission, as developed during oral argument, would require a plaintiff in such circumstances to identify, at the pleading stage, the precise mechanical failure—whether in the braking system, steering, tyres or otherwise—which caused the accident. In my opinion, that imposes too high a burden at this stage of the proceedings. It effectively requires the Plaintiff to plead evidential particulars, and possibly expert conclusions, before the benefit of discovery and expert investigation.

³ Supra at n.1

22. This concern is not merely theoretical. As was pointed out by Mr. Harif Ibrahim, counsel for the Plaintiff, there are practical constraints in obtaining technical and investigative materials at an early stage, including the need to obtain official reports through appropriate channels. Whether or not such materials ultimately support the Plaintiff's case is a matter for trial. Their current absence does not, in my view, render the claim devoid of any cause of action.

VIII Material Facts vs Evidential Particulars

23. The distinction between material facts and evidence is central to this appeal. The Defendant's complaint is, in essence, that the Plaintiff has not gone far enough in particularising how the alleged failure to maintain or inspect the vehicle caused the accident. That may well be so. However, the absence of such detail does not necessarily mean that no cause of action is disclosed.

24. In the present case, the Plaintiff has pleaded the existence of a duty, its breach by reference to failure to maintain or inspect, and a resulting accident. These are material facts. The precise mechanism by which the alleged breach led to the accident—whether through a specific defect or otherwise—is a matter of evidence.

25. It is also significant that, when pressed during the hearing, Mr. Chiew, was unable to cite any authority requiring that a specific defect must be pleaded in order to sustain a negligence claim of this nature. The argument advanced is therefore one of principle rather than settled law, and in my judgment, it does not justify striking out the claim at this interlocutory stage.

IX Triable Issues

26. Quite apart from the question of pleading sufficiency, it is apparent that the case raises several issues which are plainly unsuitable for determination on affidavits alone.

27. First, there is a direct dispute as to whether the Defendant consented to the Plaintiff's use of the vehicle. That issue bears directly on the existence and scope of any duty of care.

28. Secondly, there is a dispute as to the condition of the vehicle and whether it was in fact unsafe or defective. Resolution of that issue would likely require technical or expert evidence.

29. Thirdly, there is the competing contention that the accident was caused by the Plaintiff's own manner of driving, including the speed at which she approached a

roundabout in wet conditions. That raises issues of primary liability and, potentially, contributory negligence.

30. These are classic questions of fact, and in some instances mixed fact and law, which are properly the realm of the trial court; after hearing oral evidence and, where appropriate, expert testimony.

X *Res Ipsa Loquitur*

31. The Plaintiff also sought to rely, at least in part, on the doctrine of *res ipsa loquitur*. I note that the application of that doctrine in the present context is not straightforward, particularly given that the Plaintiff was in control of the vehicle at the material time. However, it is not necessary for me to reach any concluded view on its applicability at this stage. Whether the circumstances of the accident are such as to give rise to any inference of negligence is itself a matter better considered at trial on a full evidential record.

XI **Whether This is a Plain and Obvious Case**

32. Ultimately, the question is whether this is one of those plain and obvious cases in which the Plaintiff's claim is so clearly untenable that it ought to be struck out.

33. Having considered both the written and oral submissions, I am unable to so conclude.

34. The Defendant's arguments highlight potential weaknesses in the Plaintiff's case, particularly in relation to the absence of specificity as to the alleged defect and the current lack of supporting expert evidence. Those are matters which may well assume significance at a later stage of the proceedings. However, they do not, in my opinion, render the claim hopeless or unsustainable on its face.

35. As I put to counsel during the hearing, the case can, at its core, be distilled into a contest between two competing explanations: the Plaintiff's case that the vehicle was unsafe due to the Defendant's negligence, and the Defendant's case that the accident was caused by the Plaintiff's own driving. That is, in substance, a classic dispute of fact which calls for determination at trial.

XII **Conclusion on the Appeal**

36. In the circumstances, I am satisfied that the Senior Registrar correctly directed herself as to the applicable principles and properly exercised her discretion in declining to strike out the Plaintiff's claim. The Statement of Claim, though not elaborate, discloses an arguable cause of action and raises issues which are fit for trial.

37. There is therefore no basis for appellate interference.

XIII Order

38. For the reasons set out above, I find no merit in the Defendant's appeal.

39. The decision of the Senior Registrar in refusing to strike out the Plaintiff's claim is affirmed. The Plaintiff's Statement of Claim discloses an arguable cause of action in negligence and raises triable issues which ought properly to be determined at trial.

40. Accordingly, the Defendant's appeal is dismissed.

41. The matter is to proceed to trial in the usual course.

42. As to costs, I order that the Defendant shall pay the Plaintiff the costs of this appeal, to be taxed if not agreed.

MUHAMMED FAISAL BIN PDJLD DSP KOL(B) HJ KEFLI
Judicial Commissioner