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ORIGINAL
IN THE HIGH COURT OF AUSTRALIA

McLAUGHLAN

V.

D'AMBROSIO

ORIGINAL

REASONS FOR JUDGMENT

Sydney
10 November 1961

McLAUGHLAN v. D'AMBROSIO

JUDGMENT
(ORAL)

JUDGMENT OF THE COURT
DELIVERED BY TAYLOR J.

CORAM: TAYLOR J.
MENZIES J.
OWEN J.

McLAUGHLAN v. D'AMBROSIO

Mr. Hiatt has said all that can be said in support of this appeal but I am satisfied that it ought to be dismissed.

Unfortunately, the learned trial judge did not see fit to publish his reasons for dismissing the appellant's action, but it is beyond doubt, I should think, that he must have accepted the evidence on the material matters of the respondent, and at least his first witness, in preference to that of the plaintiff.

After considering the transcript, I can see no reason why we should take any other view. Indeed, the appellant's evidence standing alone presents itself to me as testimony of not much weight. Mr. Hiatt has, however, pressed on us that he is entitled to succeed upon the respondent's evidence standing by itself but I am satisfied that this submission cannot be maintained.

I think the proper conclusion on the evidence is that the appellant's injuries resulted from his own negligence, in proceeding on his bicycle on to the roadway, as he did, in front of the respondent's oncoming car. That being so, I am of the opinion that the appeal should be dismissed. Mr. Langsworth, that is with costs.

MENZIES, J.:

I agree.

OWEN, J.:

I agree