

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION
CRIMINAL CASE NO. HAC 194 OF 2016S

STATE

VS

JOHN SUBRAMANI GOUNDER

Counsels : Mr. Y. Prasad and Mr. T. Tuenuku for State
Mr. T. Sharma and Ms. D. Sharma for Accused

Hearings : 22, 23 and 24 January, 2018

Summing Up : 26 January, 2018

Judgment : 26 January, 2018

JUDGEMENT

1. The two assessors had returned with a unanimous opinion finding the accused Guilty as charged on all counts.
2. Obviously, the assessors had accepted the prosecution's version of events. That also meant they have accepted the prosecution's witnesses' evidence and version of events.
3. By accepting the prosecution's version of events, it meant the assessors had also rejected the accused's sworn denials of the three counts.
4. I have reviewed the evidence called in the trial and I have directed myself in accordance with the summing up I gave the assessors today.

5. The assessors are there to assist the trial judge come to a conclusion on the guilt or otherwise of the accused. The assessors represent the view of the public and it must be taken seriously.
6. On the evidence and on the credibility of the witnesses, I accept the State's case against the accused. I accept the circumstantial evidence they presented to support the charge on count no. 1. The details of that circumstantial evidence are contained in my summing up. I also accept the prosecution's evidence on count no. 2 and 3.
7. Most of the material facts are not disputed by the parties, but for the accused's taxi bumping the deceased. In my view, given the circumstantial evidence, I find the accused bumped the deceased at the material time. This caused damages to his right front parking light and right front windscreen. I also find that as a result of the above, the deceased was thrown into the drain which was full of muddy water. I find that, while seriously injured in the muddy water, he tried to breath and inhaled a lot of mud. This denied the passage of oxygen into his body. In addition to this, he suffered serious injuries that lead to his death.
8. Given the above, I accept the two assessors' opinion and find the accused guilty as charged on all counts. I convict him accordingly on those counts.
9. Assessor thanked and released.




Salesi Temo
JUDGE

Solicitor for State : **Office of the Director of Public Prosecution, Nausori**
Solicitor for Accused : **Tirath Sharma Barrister and Solicitor, Nausori**