

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**

**Crim. Case No: HAC 298 of 2019**

**BETWEEN:** STATE

**PROSECUTION**

**A N D:** SEMI TUKAWAKAWA TABUA

**ACCUSED PERSON**

**Counsel** : Mr. Z. Zunaid for the State  
: Accused In Person

**Date of Sentence** : 01<sup>st</sup> October 2019

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**SENTENCE**

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1. Mr. Semi Tukawakawa Tabua, you are being charged with one count of Aggravated Robbery, contrary Section 311 (1) (a) of the Crimes Act, which carries a maximum sentence of twenty (20) years imprisonment. The particulars of the offence are that:

***FIRST COUNT***

*Statement of Offence*

**AGGRAVATED ROBBERY:** *Contrary to Section 311 (1) (a) of the Crimes Act 2009.*

*Particulars of Offence*

***SEMI TUKAWAKAWA TABUA*** with others on the 9<sup>th</sup> day of August, 2019 at Newtown, in the Central Division, in the company of each other robbed ***SANJESH DASS*** of \$195.00 cash and 1 x Samsung J2 Prime mobile-phone, the properties of ***SANJESH DASS***.

2. You pleaded guilty to the offence on the 23rd of September 2019. Satisfied by the fact that you have fully comprehended the legal effect of your plea and your plea was voluntary and free from influence, I now convict you to this offence of Aggravated Robbery.
3. According to the summary of facts, which you admitted in court, you and two other accomplices have got into the taxi driven by the complainant on the 9th of August 2019 at the Praveen's Kava, Valelevu. You have seated on the back passenger seat with one of the accomplices who sat just behind the driver's seat. Other accomplice was seated on the front passenger seat. Once you have reached to Newtown, the person who seated on the front passenger seat got off to go to his wife in order to get the taxi fare, while you and other accomplice remained inside the taxi. Once that person returned, other accomplice who was sitting behind the driver, got hold of the hands of the driver. You then got the coins from the coins tray. The person who got off initially, had stolen the wallet of the complainant, containing \$160 and a Samsung J2 Prime Mobile Phone of the complainant.
4. This is a case of robbing of a taxi driver, using violence force, while he was providing his services to the public. Violent robberies of taxi drivers are considered as serious crimes. The taxi drivers provide a vital service to the public. The nature of their service exposes them to violent robbers. Therefore, it is a duty of the sentencing court to take violent offences committed against the taxi drivers, when they are providing their services to the public, very seriously in sentencing.
5. Having taken into consideration the seriousness of this offence, it is my opinion that such offenders must be dealt with severe and harsh punishment. Therefore, the purpose of this sentence is founded on the principle of deterrence and protection of community.

6. Justice Aluthge in State v Matagasau - Sentence [2019] FJHC 633; HAC17.2019 (28 June 2019) held that:

*The tariff depends on the nature and circumstances of the robbery. The tariffs are as follows:*

- i) Street mugging: 18 months to 5 years' imprisonment (Raqauqau v State [2008] FJCA 34; AAU0100.2007 (4 August 2008).*
- ii) Home invasion: 8–16 years' imprisonment (Wise v State [2015] FJSC 7; CAV0004.2015 (24 April 2015).*
- iii) A spate of robberies: 10–16 years' imprisonment (Nawalu v State [2013] FJSC 11; CAV0012.12 (28 August 2013)*
- iv) Robbery of a taxi driver : 4-10 years ( State v Tamani [2011] FJHC 725);*

7. Justice Perera in State v Bulavou - Sentence [2019] FJHC 877; HAC28.2018 (10 September 2019) found that tariff for the “street or less sophisticated robberies” should be between 5 to 13 years imprisonment.
8. You and your two accomplices acted in company with each other in order to commit this crime on the complainant. It is a pre-planned robbery as you have taken the complainant to a location where he was not in a position to retaliate or escape. Three of you have used substantial amount of force on the complainant. In view of these facts, I find that the level of culpability and harm is substantially high in this offending.
9. Having taken into consideration the seriousness of the offence and the level of harm and culpability, I select seven (7) years as the starting point.
10. The complainant is a vulnerable person due to the nature of the service he provides as a taxi driver. You and your accomplices manipulatively took an advantage of his vulnerable position in order to commit this crime on him. By committing this crime, you not only stole

his hard earned proceeds of his professions, but also stole his labour and sweat which he shed in order to earn those money. I find these factors as aggravating circumstance of this crime.

11. You submitted your family and personal background in your mitigation, which I do not find much mitigatory value.
12. You have been adversely recorded with four previous convictions. I am mindful of the fact that all of those four previous convictions have recorded during the period between 1998 and 2001. There is no evidence or information before this court to consider your general reputation in the society and also no information about any significant contribution that you have made to the community. Therefore, you are not entitled for any discount for your previous character.
13. You pleaded guilty to this offence at the first available opportunity. In doing that you have expressed and shown your remorse and repent in committing this crime. Therefore, you are entitled for a substantial discount for your early plea of guilty.
14. In view of the reasons discussed above, I increase further two (2) year for the aggravating factor to reach nine (9) years. I reduce three (3) years for your early plea of guilty, reaching six (6) years as your final sentence.
15. Having considered the seriousness of this crime, the purpose of this sentence, your personal and family circumstances and the level of harm and culpability in this offending, I find four (4) years of non-parole period would serve the purpose of this sentence. Hence, you are not eligible for any parole for a period of four (4) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

### **Head Sentence**


16. Accordingly, Mr. Semi Tukawakawa Tabua, I sentence you for a period of **six (6) years** imprisonment to the offence of Aggravated Robbery, contrary to Section 311 (1) (a) of the

Crimes Act. Moreover, you are not entitled to any parole for a period of **four (4) years** pursuant to Section 18 (1) of the Sentencing and Penalties Act.

**Actual Period of the Sentence**

17. You have been in remand in custody for this case for a period of forty five (45) days before the sentence. In pursuant of Section 24 of the Sentencing and Penalties Act, I consider the period of two (2) months as a period of imprisonment that have already been served by you.
18. Accordingly, the actual sentencing period is five **(5) years** and **ten (10) months** imprisonment with non-parole period of **three (3) years** and **ten (10) months**.
19. Thirty (30) days to appeal to the Fiji Court of Appeal.



  
R.D.R.I. Rajasinghe  
Judge

**At Suva**

01<sup>st</sup> October 2019

**Solicitors**

Office of the Director of Public Prosecutions for the State.  
Accused In Person.