

IN THE SUPREME COURT OF FIJI
Appellate Jurisdiction
Criminal Appeal No. 27 of 1980

WAYNE GORDON CULPAN Appellant

v.

REGHAM Respondent

Mr. A.S. Singh and Mr. H. Patel
for the Appellant
Mr. M. Raza for the Respondent

JUDGMENT

The appellant was convicted by the Magistrate's Court Suva of dangerous driving contrary to section 38(1) of the Traffic Ordinance and fined \$75. He was also disqualified from holding or obtaining a driving licence for a period of twelve months.

He appeals against his conviction and sentence.

The appellant had also been charged with driving under the influence of liquor but was acquitted on that count.

The accident in question occurred near Suvavou Village. A car travelling towards Suva stopped at the village to drop a passenger and made a U turn to go back in the direction of the Tradewinds Hotel. Someone called out and, instead of driving away, it stopped. The appellant's car travelling from Suva collided with its rear.

The appellant's evidence was that the other car stopped suddenly and he, the appellant, was unable, because of the wet surface of the road, to stop in time. The driver of the other car said that he had been stationary for about a minute when the collision took place.

The learned Magistrate accepted the prosecution version and found that, in view of the treacherous condition of the road, the appellant failed to exercise the degree of care required of him. He held that the driving, under the circumstances, was dangerous.

I see nothing in the arguments pressed on behalf of the appellant which would justify disturbing this finding of fact by the learned Magistrate. The appeal against conviction is, therefore, dismissed.

I must, however, accept the submission of the learned counsel for the appellant that, if this was dangerous driving, it certainly was not a serious case of such driving. The appellant had been driving for eighteen years and had a completely clean record.

Under the circumstances the period of disqualification would appear to be a little too long. The order of disqualification is, therefore, set aside and in its place is substituted an order disqualifying the appellant from holding or obtaining a driving licence for a period of six months.

The fine will remain unaltered.

G. Mishra
 (G. Mishra)
JUDGE

Suva,

11 July 1980