

Appellate Jurisdiction  
Criminal Appeal No. 107 of 1980

000114

VICTOR RAJENDRA WILSON s/o  
CHARLES WILSON

and

REGINAM

Mr. K. Chauhan for the Appellant  
Mr. R. Lindsay for the Respondent

JUDGMENT

On 26th August 1980 the appellant was convicted after trial by the Suva Magistrate's Court of careless driving in that on 14th March 1980 at Suva appellant drove his motor vehicle on Renwick Road without due care and attention. Upon his conviction appellant was fined \$50 and disqualified from holding a driving licence for two months.

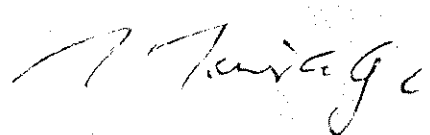
The appeal is against sentence only which is claimed to be harsh and excessive having regard to all the circumstances.

The facts show that on 14th March, 1980 the appellant driving a white Holden taxi Reg. No. Y431 was among a line of cars travelling down Renwick Road towards Victoria Parade. The road was fairly busy and the cars were forced to move more or less slowly in what was described as "stop and start" maneuver. Because of momentary inattention appellant failed to stop in time to avoid bumping into another taxi Reg. No. AR566 in front of him which in turn bumped a private car Reg. No. A0987. The two cars sustained some damage.

The main bone of contention in this appeal is that the learned Magistrate when sentencing the appellant should not have taken into account a "previous" conviction for an offence (careless driving among others) which was committed on

a date later in point of time to the offence under review in this appeal. The case referred to is Suva Criminal Case No. 6481/80 in which the offence was on 22nd April 1980. There are ample authorities supporting counsel's contention. I need not go into them as I think the matter is clear enough. In this case appellant was unnecessarily prejudiced in that his record had been wrongly represented. It may well be that the order of disqualification from driving for two months would not have been imposed on appellant if the offences of 22nd April had been disregarded for the purpose of sentencing appellant on the March conviction.

In these circumstances I think the appeal should be allowed to the extent only of quashing the order of disqualification which was imposed on appellant in the court below. It is ordered accordingly.

  
(T.U. Tuivaga)  
Chief Justice

Suva,  
23rd January, 1981.