

1926.

Present: Dalton J.

BRANCHTHA v. PERERA

457—P. C. Ratnapura, 32,337

Motor by-laws—Road declared suitable for lorries under modified conditions—Stated weight—Bus fully loaded and equipped—Vehicles Ordinance, No. 4 of 1896, by-law 35 (2).

Where motor by-laws permit lorries to be driven along certain roads under modified conditions as to weight, an offence is committed whenever a vehicle is used, which, when it is fully loaded and equipped, exceeds the stated weight.

A PPEAL from a conviction by the Police Magistrate of Ratnapura. The appellant was charged with driving his bus, which when fully loaded weighed 3 tons 3 cwt. and 3 qr., on the Ratnapura-Avissawella road, which it was alleged was closed to the use of buses and lorries weighing, when fully loaded, over 3 tons under the motor by-laws. It was established that on the occasion in question when the bus was on the road it carried only 14 passengers and that its total weight was only 2 tons 13 cwt. and 3 qr. It was contended that the by-law contemplated an offence being committed only when the actual weight of the vehicle and its load was greater than the stated weight.

H. V. Perera (with Rajakariar), for accused, appellant.

September 3, 1926. DALTON J.—

This appeal raises a question under the motor by-laws, the case being taken in the Police Court as a test case. Appellant was charged with driving his bus which, when fully loaded, weighed 3 tons 3 cwt. and 3 qr., on the Ratnapura-Avissawella road, which it was alleged was closed to the use of buses and lorries weighing, when fully loaded, over 3 tons.

By-law 35 (2) made under the provisions of section 22 of the Vehicles Ordinance, No. 4 of 1916, is in the following terms:—

“ In the event of a motor lorry being used on any road that has not been declared suitable for use by lorries, or on any road which has been declared suitable under modified conditions, when the total weight of the lorry and load is greater than such modified conditions specify, the driver shall be guilty of an offence under these by-laws.”

The road in question has been declared suitable for use by lorries under modified conditions. That appears from the notification

framed under the by-laws and published in the *Government Gazette* of January 29, 1926. The road in question is included amongst other roads under the following heading:—

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“ Roads on which there is no objection to motor lorries being run under modified conditions as to total weights stated (stated weights mean when vehicles are fully loaded and equipped).”

The total weight stated in the case of this particular road is 3 tons. It is enacted in the definition clause of the by-laws that the expression “ lorry ” includes any mechanically propelled vehicle more than 3 tons in weight when fully loaded and equipped, whether such vehicle is used principally for transporting goods or for carrying passengers. The bus in question had a carrying capacity of 24 passengers. The unladen weight of the bus was 1 ton 19 cwt. and 3 qr. Taking 24 passengers at 112 lb. or 1 cwt. each, this brings the weight of the fully loaded bus to well over 3 tons. The authority for thus putting the weight of each passenger at 112 lb. is stated to be in rule 4 of the by-laws of 1920 framed under the same Ordinance and the schedule thereto. These by-laws provide for the proper examination and licensing of mechanically propelled vehicles. Rule 4 deals with the application for a licence, whilst the schedule gives a form of application setting out the particulars required to be given. The tenth item of information required in that form is set out in the following words:—

“ 10. If car to be licensed to carry passengers, maximum number of passengers permissible, including driver and conductor, so that the vehicle when fully loaded and equipped, including weight of passengers, driver, and conductor, does not weigh more than 3 tons. Allow 8 stones or 1 cwt. as weight of each person.”

These by-laws would therefore appear to enact, and it has not been questioned on this appeal, that for the purpose of estimating the weight of a fully loaded passenger-carrying vehicle, each passenger is to be taken arbitrarily as weighing 112 lb.

It is established there that the total stated weight for a vehicle on this road is 3 tons. It is further established that the total weight when fully loaded of the vehicle in question is over 3 tons. On the occasion in question, however, when the vehicle was on the road it only had 14 passengers in it, the total weight at 112 lb. per passenger being then only 2 tons 13 cwt. and 3 qr. It has been argued for the appellant, the driver of the bus, that the by-law under which he has been charged merely refers to the total weight of the vehicle, and does not make use of the words “ when fully

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loaded and equipped." Hence it is argued that the by-law contemplates an offence being committed only when the actual weight of the vehicle and its load is greater than the stated weight. The by-law, however, makes use of the same words "total weight" as the notification which I have set out. The notification and the by-laws must clearly be read together. If actual weight was intended, it would have been very easy to say so. One must have reference to the aim, scope, and object of the by-laws and notices thereunder as a whole. Regard may be had to the practicability of a particular interpretation or the reasonableness of any provision in interpreting what the law making body has stated, it is obvious here that if effect be given to the argument advanced for appellant, apart from the inconvenience to which the Magistrate calls attention, the provision would be unworkable without a large body of traffic inspectors along the roads continually checking the number of passengers entering and leaving the vehicles. One is entitled to presume that the intention was not to enact what may under the circumstances be impracticable or unreasonable.

Apart, however, from this, as the Magistrate points out, the notification lays down the modified conditions referred to in the by-law (35 (2)) under which the charge was laid. In my opinion his conclusion that the words "total weight of the lorry" in section 35 (2) mean the total weight stated in the notification, when the vehicle is fully loaded and equipped, is correct, and that under the circumstances here the bus came within the term "lorry" as used in the by-law.

The conviction must therefore be affirmed, and the appeal dismissed.

Appeal dismissed.

