

Present: Lyall Grant J.

1930

HERAT v. PEIRIS.

762—P. C. Panadura, 45.

*Reckless driving—Dangerous manner regardless of consequences—
Distinguished from negligent driving.*

Reckless driving means driving in a dangerous manner regardless of consequences.

The difference between reckless and negligent driving indicated:

A PPEAL from a conviction by the Police Magistrate of Panadure.

Weerasooriya, for accused, appellant.

February 7, 1930. LYALL GRANT J.—

This is an appeal from a conviction for reckless driving of a motor car. The alleged recklessness consists in driving from a side road into the main road on the wrong side—what is called “cutting a corner.”

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The sentence imposed was a fine of Rs. 50, and in default a month's rigorous imprisonment. The accused's certificate was suspended for a month.

On the evidence I think the learned Magistrate was entitled to hold that the accused drove on the wrong side of the road in taking the corner and that this conduct contributed to the accident which occurred.

The evidence I think points rather to negligence than to recklessness on the part of the accused. The point is of some importance as the Ordinance regards reckless driving as a more serious offence than negligent driving.

Criminal rashness according to *Gour* (section 3,242) is—hazarding a dangerous or wanton act with the knowledge that it is so and that it may cause injury, but without intention to cause injury or knowing that it will probably be caused. The criminality lies in running the risk of doing such an act with recklessness or indifference as to the consequences. Criminal negligence is the gross and culpable neglect or failure to exercise that reasonable and proper care and precaution to guard against injury either to the public generally or to an individual in particular, which having regard to all the circumstances, out of which the charge has arisen, it was the imperative duty of the accused person to have adopted.

There can be no doubt that the accused was negligent. Everything being considered, that negligence was sufficiently grave to render him criminally liable.

I do not think, however, that it has been proved beyond doubt that he was reckless in the sense that he was indifferent to the consequences.

As the fine imposed by the Magistrate is within the amount which can be imposed for negligent driving, the point would be academic in the present case but for the fact that the conviction will be recorded against the accused and, in the event of his committing another offence, may be taken into account.

I would therefore alter the conviction to one of "negligent" instead of "reckless" driving.

On the sentence the only question arising is whether the accused's certificate of competence should be suspended for a month.

From personal observation I am aware that the dangerous practice of cutting corners is very prevalent in Ceylon, and though this accused has perhaps done no more than many drivers do every day, it seems desirable that drivers should be made aware that the practice exposes them to the liability of suspension of their certificates.

In view of possible civil proceedings between the parties concerned, I would guard myself against being taken to agree with the remarks of the learned Magistrate on the conduct of the driver of the other car.

The appeal is dismissed.

Appeal dismissed.

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