

**IN THE MAGISTRATE'S COURT AT LABASA**  
**CRIMINAL JURISDICTION**

*Traffic Case No. 704 of 2008*

DPP

v

**SABIR HUSSEIN**

For the Prosecution : **Ms Vavadukua. A**  
For the Accused : **In Person**  
Sentence : **25 August 2017**

**SENTENCE**

1. The Accused, *Sabir Hussein* you stand before the court today to be sentenced for one count of *Dangerous Driving Occasioning Grievous Bodily Harm*, contrary to section 97(4)(c) and 114 of the *Land Transport Act 1998*.
2. The Accused was found guilty after trial in a court judgment of 7 February 2017 and was convicted as charged.
3. The brief summary of facts are;-  
*"The accused, Sabir Hussein on 18 November 2007, along the Labasa Seaqaqa highway at Tabia drove a bus with registration number BO 653 in a dangerous manner resulted in the collision with another bus. Zahid Afwaz was a passenger in the accused bus at the time of the collision where he received an injury from the accident. The injury resulted in the amputation of Zahid Afwaz legs."*
4. The Accused tender his written mitigation on 20 June 2017. The prosecution filed her sentencing submission on 21 June 2017.

5. The maximum sentence for *Dangerous Driving Occasioning Grievous Bodily harm* is 2 years imprisonment or fine of \$2,000.00 and disqualification from driving for 12 months. The tariff is fine or suspended sentence to 12 months imprisonment.

3. The aggravating factors are;-

- a. *You were speeding and playing games when you driving on that day.*
- b. *With your reckless and dangerous driving Zahid Afwaz has lost his two legs that will deprived him from some activities that he used to do and enjoyed before the accident.*
- c. *You disregard the safety of your passenger as you were driving a bus (a public service vehicle) where the passengers were students and teachers and they paid for their fares to travel in your bus.*
- d. *You breach the passengers trust on you that you will drive them safely.*

The mitigating factors are;-

- a. *You are 40 years old and a first offender which shows your previous good character.*
- b. *Remorseful.*
- c. *Sole bread winner as taxi driver where you earned \$200.00 per week*

In your sentence, I pick 6 months as my starting point. I add 18 months for the aggravating factors and that increase your sentence to 2 years imprisonment. I reduce 9 months for your mitigation and that reduce year sentence to 1 year and 3 months imprisonment.

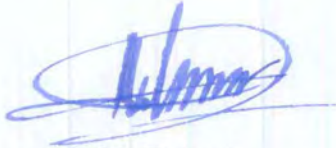
In light of ***State v Voate Vatuniloma HAC 080 of 2017***, I give special discount for this case which has been hanging over your head for almost 10 years now. I therefore, deduct 8 months from your sentence and that reduce your sentence to 7 months imprisonment.

0. Your final sentence is 7 months imprisonment.

1. I find your case to be on a higher scale of the offence where the legs of the victim has been amputated. Considering the high number of road accident resulting from the recklessness and carelessness of the driver, I believe imprisonment term should be issued in this case as a deterrent.
2. Considering *section 4 of the Sentence and Penalties Act*, and the principle of the rehabilitation, this sentence is grounded on the principle of deterrence.
3. Sabir Hussein, I now sentence you to 7 months imprisonment and you are to serve your sentence with immediate effect.

**28 days to appeal**



  
C. M. Tuberi  
RESIDENT MAGISTRATE