

**IN THE MAGISTRATES' COURT**  
**AT BA**  
**CRIMINAL JURISDICTION**

**Traffic Case No. 7/2021**

**BETWEEN:**     **STATE**

**PROSECUTION**

**AND:**           **SANJAY KARAN**

**ACCUSED**

**Counsel:**                 Ms. S. Prakash for the State  
                                  Ms. S. Singh (LAC) for the Accused

**Date of Prosecution's Case:** 6-7 May 2024  
**Date of NCTA Ruling:** 4 October 2024  
**Date of Defence's Case:** 12 November 2024  
**Date of Judgment:** 27 June 2025  
**Date of Sentence:** 18 July 2025

**SENTENCE**

**Introduction**

1. Mr. Sanjay Karan, on 24 June 2025, the Court found you guilty for 2 counts of Dangerous Driving Occasioning Death and 5 counts of Dangerous Driving Occasioning Grievous Bodily Harm. The particulars of the offences are:

**Count 1**  
**Statement of Offence**

**Dangerous Driving Occasioning Death:** Contrary to Section 97(2)(b), 5(a), (8) and 114 of the Land Transport Act No. 35 of 1998.

**Particulars of Offence**

***Sanjay Karan, on the 2<sup>nd</sup> day of March, 2020 at Ba in the Western Division drove a motor vehicle registration number CG 059 on Moto Road, Ba in a speed dangerous to another person involved in an impact occasioning the death of Saleshni Narayan.***

**Count 2**  
**Statement of Offence**

**Dangerous Driving Occasioning Death:** Contrary to Section 97(2)(b), 5(a), (8) and 114 of the Land Transport Act No. 35 of 1998.

**Particulars of Offence**

***Sanjay Karan, on the 2<sup>nd</sup> day of March, 2020 at Ba in the Western Division drove a motor vehicle registration number CG 059 on Moto Road, Ba in a speed dangerous to another person involved in an impact occasioning the death of Disha Tarisha Naidu.***

**Count 3**  
**Statement of Offence**

**Occasioning Grievous Bodily Harm by Dangerous Driving:** Contrary to Section 97(4)(a), 5(a), (8) and 114 of the Land Transport Act No. 35 of 1998.

Particulars of Offence

**Sanjay Karan**, on the 2<sup>nd</sup> day of March, 2020 at Ba in the Western Division drove a motor vehicle registration number CG 059 on Moto Road, Ba in a speed dangerous to another person involved in an impact occasioning grievous bodily harm to **Ashwindra Narayan**.

Count 4

Statement of Offence

**Dangerous Driving Occasioning Grievous Bodily Harm:** Contrary to Section 97(4)(a), 5(a), (8) and 114 of the Land Transport Act No. 35 of 1998.

Particulars of Offence

**Sanjay Karan**, on the 2<sup>nd</sup> day of March, 2020 at Ba in the Western Division drove a motor vehicle registration number CG 059 on Moto Road, Ba in a speed dangerous to another person involved in an impact occasioning grievous bodily harm to **Meenal Monisha Naidu**.

Count 5

Statement of Offence

**Dangerous Driving Occasioning Grievous Bodily Harm:** Contrary to Section 97(4)(a), 5(a), (8) and 114 of the Land Transport Act No. 35 of 1998.

Particulars of Offence

**Sanjay Karan**, on the 2<sup>nd</sup> day of March, 2020 at Ba in the Western Division drove a motor vehicle registration number CG 059 on Moto Road, Ba in a speed dangerous to another person involved in an impact occasioning grievous bodily harm to **Ritesh Naidu**.

Count 6

Statement of Offence

**Dangerous Driving Occasioning Grievous Bodily Harm:** Contrary to Section 97(4)(a), 5(a), 8 and 114 of the Land Transport Act No. 35 of 1998.

Particulars of Offence

**Sanjay Karan**, on the 2<sup>nd</sup> day of March, 2020 at Ba in the Western Division drove a motor vehicle registration number CG 059 on Moto Road, Ba in a speed dangerous to another person involved in an impact occasioning grievous bodily harm to **Dishar Naidu**.

Count 7

Statement of Offence

**Occasioning Grievous Bodily Harm by Dangerous Driving:** Contrary to Section 97(4)(a), 5(a), 8 and 114 of the Land Transport Act No. 35 of 1998.

Particulars of Offence

**Sanjay Karan**, on the 2<sup>nd</sup> day of March, 2020 at Ba in the Western Division drove a motor vehicle registration number CG 059 on Moto Road, Ba in a speed dangerous to another person involved in an impact occasioning grievous bodily harm to **Rishhti Shanya Naidu**.

2. I now convict you for all counts and proceed to sentence you.

3. The brief facts are as follows:

- a. You had been driving motor vehicle CG 059 on 2 March 2020 along Moto Road, Ba.
- b. At the time of you driving your motor vehicle CG 059 downhill on Moto Road, you had been speeding which caused you to lose control of his vehicle causing it to go in a zigzag manner across the road which consequently caused the vehicle to tumble a few times before going off the road.
- c. Due to the vehicle tumbling a few times and going off the road, it resulted in the death of Shaleshni Narayan and Disha Tarisha Naidu and caused grievous bodily harm to Ashwindra Narayan, Meenal Monisha Naidu, Ritesh Naidu, Dishar Naidu and Rishi Shanya Achari. At the time, they had all been conveyed in the vehicle.
- d. You had contributed to causing this dangerous situation of the vehicle going in a zigzag manner and then tumbling when you were speeding and failed to negotiate your vehicle as you were coming downhill along Moto Road.

#### Objective Seriousness

4. Considering the prevalent nature of this offence especially on our roads in the country which undoubtedly affect families and communities, I find the objective seriousness of this crime is high.

#### Sentencing Purpose

5. Considering that the primary purpose of this sentence is founded on the principle of deterrence, it is the responsibility of the Court to deter others from committing such offences of the same or similar nature as well as to protect the community from those who commit such offences.
6. A deterrent sentence for such offences of this nature demonstrates the gravity of the offence and reflects the society's immediate denouncement of such crimes.

#### Sentencing Regime

7. The maximum penalty for the offence of Dangerous Driving Occasioning Death is \$10,000 or 10 years imprisonment and disqualification for any period up to life.
8. In **Kumar v State** [2014] FJHC 775; *Criminal Appeal 172.2014* (27 October 2014) His Lordship Justice Madigan referred to the following cases when determining the tariff for Dangerous Driving Occasioning Death was 2 to 4 years imprisonment:

*"The maximum penalty for this offence under the Land Transport Authority Act 1998 is ten years' imprisonment. This Act replaced the old Penal Code Offence for which the maximum penalty was only 5 years. The relevance of this increase in penalty by the legislature was addressed by Shameem J in **Sharma v. State** [2005] FJHC 464, a case referred to by the learned Magistrate in which the Honourable Judge said:*

*"In 1998 Parliament passed the Land Transport Authority Act and increased penalty for causing death by dangerous driving to 10 years' imprisonment. There can be no clearer parliamentary intention as to sufficiency of penalty. To reflect such parliamentary intention, I held in **lowane Waqairatavo** that the tariff for such offences must increase to 2 to 4 years imprisonment."*

*Once more in the case of **Benjamin Padarath** HAC 13 of 2004 Shameem J affirmed that the appropriate sentence for this offence be from 2 to 4 years."*

9. The maximum penalty for the offence of Dangerous Driving Occasioning Grievous Bodily harm is \$2,000 or 2 years imprisonment and disqualification for 12 months.
10. In the case of *Chand v State* [2015] FJHC 192; HAA11.2015 (18 March 2015), His Lordship Justice De Silvia held that the correct tariff for the offence of Dangerous Driving Occasioning Grievous Harm is a fine and suspended term to 12 months imprisonment.

#### Mitigating and Aggravating Factors

11. The Court notes the mitigation offered by your counsel on your behalf; however, personal circumstances and family background holds very low mitigatory value.
12. Further, the Court was informed that you are a first offender.
13. The aggravating factor is that you failed to take heed when you had been asked to slow down especially as there were children in the vehicle.

#### Sentence

14. Taking note of section 17 of the Sentencing and Penalties Act, I prefer to impose an aggregate sentence for all counts. Considering the objective seriousness and the sentencing purpose, I take a starting point of 34 months. I will then add 12 months for the aggravating factor making it a total of 46 months imprisonment.
15. For your mitigating circumstances being that you are 45 years with no prior convictions, I will deduct 12 months leaving you with a balance of 34 months imprisonment.
16. Section 18(1) of the Sentencing and Penalties Act states that the Court must fix a non-parole period if it sentences an offender to be imprisoned for life or for a term of 2 years or more. Thus, considering the seriousness of the crime, the purpose of this sentence and opportunities for rehabilitation, your non-parole period will be for a period of 20 months effective forthwith.
17. Further, the Court is mindful that you have been in custody from 27 June 2025 until the date of this Sentence which is 21 days.
18. Considering section 24 of the Sentencing and Penalties Act, 1 month will be considered as time served by you.
19. Thus, your actual sentence is now 33 months imprisonment with a non-parole period of 19 months.
20. Further, it is mandatory for the Court to disqualify you from driving or holding or obtaining a driving licence as prescribed in both offences. In the case of *State v Prasad* [2003] FJHC 146; HAA0038J.2003S (16 October 2003) Her Ladyship Justice Shameem (as she then was) highlighted the following factors that are to be considered when determining the length of disqualification:
  - i. The standard of driving shown in the offending.
  - ii. Any previous convictions for traffic offences.
  - iii. The need to protect the public from dangerous/careless/drunken drivers.
  - iv. Good character.
  - v. Serious hardships to the family.
  - vi. Driving providing the source of livelihood for the offender.

21. Considering the factors outlined in Prasad [supra] with the following facts in your matter:

- i. you have no previous convictions for traffic offences;
- ii. your earning ability is not tied to you holding a driving licence; and
- iii. you were speeding at the time which led to you failing to negotiate your vehicle as you were coming downhill of Moto road;

the Court finds that the appropriate length of your disqualification ought to be for a period of 18 months effective from the date of your release from Prison.

22. Any party aggrieved with this decision has 28 days to appeal to the High Court.



N. Mishra  
Resident Magistrate