

Between:

BASWA NAND s/o NAND KUMAR

and

REGINAM

Appellant in Person
Mr. V. Maharaj for Respondent

JUDGMENT

On 15th April 1980 the appellant was on his own plea convicted in the Tailevu Magistrate's Court on two counts, firstly of driving a motor vehicle on Kings Road without being the holder of a licence with respect thereto and was fined \$20 or one month's imprisonment and secondly of driving the said motor vehicle without third party risks insurance with respect thereto and was fined \$30 or six weeks' imprisonment and was disqualified from holding or obtaining a driving licence for the statutory period of twelve months.

The appeal is against the fines imposed upon appellant and the order of disqualification.

Under section 4 subsection (1) and subsection (2) of the Motor Vehicles (Third Party Insurance) Act a mandatory disqualification from holding or obtaining a driving licence for at least a period of twelve months must be imposed for any offence under this section unless there were special reasons to do otherwise.

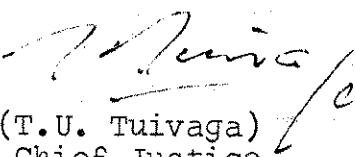
Special reasons claimed on oath by the appellant are set out briefly in the record from which I quote hereunder:

"My mother was sick and I came to town to get a taxi. My boss had telephone. He tried to ring. My mother was at home - a mile away from Fulton College. She had diabetes and pressure. I didn't find taxi. Didn't take her to hospital. I came three miles to town to get taxi."

In a short judgment learned Magistrate held that there were no special reasons for not disqualifying the appellant and accordingly proceeded to make the order complained of. The learned Magistrate did not say how he reached that conclusion and this made his judgment on the issue somewhat unsatisfactory.

From the facts sworn by appellant as special reasons for his commission of the offences for which he was convicted it is clear that those reasons were special to the facts of the case and not to the offender and accordingly constitute special reasons for the purpose of the section under consideration (see Whittall v. Kirby (1946) 2 All E.R. 552).

In the result I allow this appeal. The order of disqualification made against appellant is quashed and because of the particular circumstances of this case the fine on the first count ought to be altered to \$10 or 7 days' imprisonment and the fine on the second count is likewise altered to \$10 or 7 days' imprisonment, \$20 in all.


(T.U. Tuivaga)
Chief Justice

Suva,
3rd October 1980.