

**IN THE CENTRAL MAGISTRATES' COURT
OF SOLOMON ISLANDS**

CRIMINAL JURISDICTION

CMC-CRC No. 801 of 2019

REGINA

V

MCPHERSON KALAKAU



Date of Sentencing submission: February, 19 2020

Date of Sentence Judgement: February, 20 2020

Staff Sergeant Teula for Prosecution

Mr Bosa for the Defence

JUDGEMENT

1. Mr Macpherson Kalakau, the Offender, was convicted of inconsiderate or careless driving contrary to section 40 of the *Road Transport Act*.
2. The maximum penalty of the offence is five thousand dollars or imprisonment for six months, or, both imprisonment and fine.
3. The facts of the case was that on 27th July 2019, the Offender was driving an Isuzu Truck with registration number of MB8062 (hereinafter known as "Truck"). He was driving the Truck along the outer lane on the Kukum Highway road at the Fishing Village. As he was passing the village, he saw Ms Rose Masiala, the Victim ahead. She was crossing from the island to the Ministry of Fisheries Office. The Offender was traveling at a speed of 65 km/hr. The Victim is an old woman of about 70 years old and she was walking slowly. The Offender did not slow down but maintained its speed until he was very close to the Victim that he stepped on the brake. The Truck slid until it was very close to the Victim and it stopped. The Victim was dumbfounded of the approaching Truck and fell down to break her right arm. The Accused then assisted with \$50 to pay for a taxi fare to transport the Victim to the Hospital and drove off. The Offender never reported the matter to the Police until he was taken by Police in the investigation of the matter.
4. It aggravates the case that the Victim broke her arm. An arm cannot be replaced. Nor is there any compensation that can replace the usefulness or its state before being broken. A compensation can only be used to appease the Victim.

5. The mitigation factors are that this is the first time for the Offender to be convicted. He has children and grandchildren who depend on him for their welfare and wellbeing.
6. I have considered the sentencing tariff offered by the Defence. I thank him for that.
7. This is a prevalent offence in Honiara. Drivers ought to be given notice that the people through the courts do not tolerate careless drivers. Although at times it is unavoidable, this case is where the accident is avoidable if the Offender takes steps to mitigate the accident. Deterrence must be factored. Both for the Offender and generally.
8. Not only punishment is necessary but Offenders must be accounted for the wrong they have done to others. In this case, the victim is an old lady who is now suffering from a weak hand, the result of the careless driving.
9. After considering the aggravating factor and matter has gone through trial, I take a starting point of \$3,000 fine. I reduce it by the mitigating factors of \$1,000. The resulting sentence is \$2,000.
10. I order that Royal Solomon Island Police Force arrange for the Victim to be brought to court on 24th March 2020 at 9 am for a reconciliation compensation of \$1,500 to be paid to the victim by the Offender and to be officiated by the court.
11. \$500 to be paid by the Offender to the Court by 5th March 2020 as fine. In default, 20 days imprisonment.
12. 14 days available for appeal should any party wish to. Order Accordingly.


THE COURT
Ishmael Kekou – Magistrate First Class

