

**IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
(CRIMINAL DIVISION)**

CR NO. 485/2024

POLICE

v

GIOVANNI PAOLO FRENDESCO FANTONI

Date: 21 March 2024
Appearances: Snr Sergeant F Tararo for Police
Ms M Tangimama for Defendant
Sentence: 21 March 2024

SENTENCING NOTES OF KEANE, CJ

[10:08:41]

[1] Giovanni Fantoni, you have pleaded guilty to driving carelessly and causing injury on 17 March 2024. You seek a discharge without conviction on the basis that you pay restitution, and that is not opposed by the Police.

[2] On Sunday, 17 March 2024, at about 2.37 pm, you were driving a Mazda car from town towards Arorangi. You missed your turn right at the Sunset Resort. You decided to turn right opposite Alberto's Restaurant.

[3] You slowed and indicated your turn, you checked for oncoming traffic and saw one car approaching. You checked your rear view and saw a few vehicles lined up behind.

[4] You made a turn but, as it happened, without fully ascertaining whether the way was clear; and you failed to avoid your victim who was travelling in the opposite lane. He had no chance to stop, and collided with you.

[5] Your victim received moderate damage to his bike, and sustained minor injuries according to the Police statement; but reparation is sought on a larger scale, \$9,309.00 altogether.

[6] \$3,750 is claimed for damage to the bike. A difficulty with that is there is no independent assessment. However, you are not pressing the point and will pay that aspect of the claim. \$589.00 is claimed for the victim's broken JBL speaker, \$20.00 for his medical report, and \$2,970.00 for his lost wages over six weeks. He has been assessed to be incapable of work for that period.

[7] In addition, his mother is taking time off work and an additional \$2,000.00 is sought in respect of her wages. Again, a figure you do not dispute.

[8] Accidents of this kind in the Cook Islands are quite common. There are many motorcycles and scooters on the road. The possibility of an accident is very real. This was one of those occasions. Your inattention was brief, but unfortunate. There was no great driving fault. Although the reparation is significant, it appears that your victim was not too compromised, fortunately.

[9] In cases of this kind, discharges without conviction can be given and on this occasion will be. A discharge without conviction is given where the punishment of a conviction is disproportionate to the offence.

[10] In your case, given your brief moment of inattention and your willingness to make large reparation, I will grant you that discharge. At the same time, I make an order of restitution under the heads of damage that I have already indicted to you, in the global amount of \$9,309.00.

[11] You have a surety with you in Court today, from Maritime Cook Islands. I will not make any formal order in that respect, but leave it on the footing that the order I have made will be honoured.

A handwritten signature in blue ink, appearing to read "P J Keane CJ", written in a cursive style.

P J Keane, CJ