

**IN THE HIGH COURT OF FIJI**  
**AT LABASA**  
**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO.: HAC 42 OF 2019**

**BETWEEN** : STATE

**AND** : VILIAME RATUBUKETE

**Counsel** : Ms D Rao for the State  
Ms S Devi and Ms M Tuiloma for the Accused

**Dates of Hearing** : 13 – 14, 17 – 20 and 24 - 25 August 2020

**Date of Summing Up:** 27 August 2020

**Date of Judgment** : 27 August 2020

**Date of Sentence** : 28 August 2020

**SENTENCE**

[1] Sanjesh Kumar (the victim) was a grandson, son, brother, husband and father of three young children. One of his children has special needs. He was a decent person who earned a living by driving taxi to support his family. He was 33 years old. His spouse was a stay home mum, looking after the family. The family was financially depended on the victim.

[2] On 28 July 2019, the victim's lifeless body was found near a farmhouse at Seniwaloa, Labasa. When the police attended to the scene, they saw the victim lying motionless covered with blood and visible head and facial injuries. According to the medical evidence the victim died of brain injuries as a result of blunt force trauma to the head using extreme force. The victim was struck with an off cut timber on the head and then stomped and kicked on the face, neck and head with a safety boot. He would have succumbed to the injuries within an hour from the time of assault. According to the medical evidence the victim suffered a painful death.

- [3] The offender, Viliame Ratubukete was found guilty of murder after trial. The offender is 26 years old and worked as a labourer in the sugar cane farms in Seniwaloa. On the night before the incident, he accompanied his friends to Labasa town and drank alcohol at different locations. At around 4 am the following morning he hired the victim's taxi from the Y-Corner junction and directed him to the scene of the crime. He told the police that his friends got off the taxi a bit far down from the place where the incident occurred. When he arrived at his destination he violently attacked the victim and left the scene on the victim's taxi. He went on a shopping and driving spree around Labasa until he ditched the vehicle in a drain. He stole the victim's mobile phone and wallet containing some cash and assorted cards.
- [4] The only mitigating factor is that the offender is a first time offender. He was in a de-facto relationship and had one child from that relationship. He was raised by his maternal grandfather as he was born out of wedlock until his grandfather passed away when he was still young and his relatives raised him. His level of education is class 7. He made contact with his biological father when he turned adult.
- [5] Murder is punishable by mandatory life imprisonment with a judicial discretion to set a minimum term to be served before pardon may be considered by the President on the recommendation of the Prerogative Mercy Commission.
- [6] Theft is punishable by 10 years imprisonment. The offender pleaded guilty to the charge of theft before the commencement of trial, but his guilty is not evidence that he is contrite. The offender pleaded guilty to theft because he knew he was facing a strong prosecution case in respect to that charge.
- [7] Counsel for the offender has referred to various cases where minimum terms of 16 years to 20 years have been set for murder of taxi drivers in the course of their employment. I take the view that each case must be considered on its own facts and the punishment should fit the crime having regard to both mitigating and aggravating factors.
- [8] The aggravating factors are that the victim was killed in the course of his employment. Taxi drivers provide vital public service and the courts duty is to protect

them from violence and theft. The killing was senseless and brutal using timber and safety boots as weapons. The impact of the crime on the immediate family members of the victim is significant. The offender has caused permanent heartache to the victim's family by taking away his life. The killing must be denounced.

[9] The offender had been in custody on remand since his arrest on 28 July 2019.

[10] After taking all these factors into account, the offender is sentenced to 12 months imprisonment for theft and life imprisonment for the murder of Sanjesh Kumar with a minimum term of 25 years to serve before pardon may be considered. The sentences are to be served concurrently.



A handwritten signature in blue ink, consisting of a stylized initial 'D' followed by a long horizontal stroke.

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**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

Office of the Director of Public Prosecutions for State  
Office of the Legal Aid Commission for Accused