

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Traffic Case No. 699 of 2016

STATE

v

RAKESH ROSHAN

Counsels : **Mrs Rao. D** for the prosecution
Mr Kohli. A for the accused

Sentence : **12 February 2020**

SENTENCE

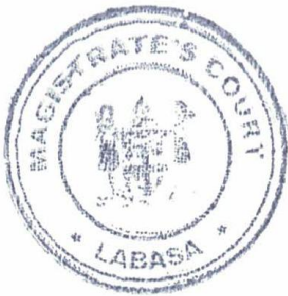
1. *Rakesh Roshan*, today is for sentencing for one count of *Dangerous Driving Occasioning Death*, where you contravened section 97(2)(c) and 114 of the *Land Transport Act*.
2. You were found guilty after trial and convicted as charged.
3. The brief facts of the case are that on 31 August 2015, at the Labasa Bus stand you were driving the bus registration number PEL 111 where you caused the said bus to roll back and collided with the Dalip bus that was parked at the back of your bus. In that process, Vivek Narayan who was crossing at the back of your bus was smashed in between your bus and the Dalip bus. As a result the victim was taken to hospital and died few hours later.

4. Your mitigation submission was filed by your counsel on 8 January 2020.
5. The maximum sentence for *Dangerous Driving Occasioning Death* is 10 years imprisonment or fine of \$10,000.00, and disqualification for any period up to life. The tariff is from 2 to 4 years imprisonment.
6. There is no aggravating factor. The compelling mitigating factors are;-
 - a. *First offender,*
 - b. *Seek the court forgiveness,*
 - c. *Learnt your lesson and promise not to re-offend,*
 - d. *Sole bread winner.*
7. For your sentence, I pick 3 years as my starting point. I reduce 1 year for your mitigation and that reduce your sentence to 2 years imprisonment.
8. Your final sentence is 2 years imprisonment.
9. In ***State v Sakiusa Bulivoro***, Criminal Appeal No. HAA 11 of 2014 (18 December 2014), at paragraph 18, the High Court stated;-

"..... irresponsible and dangerous driving that causes loss of life should no longer receive lenient sentences no matter who the accused is or what his status in the community might be. There is no room for suspended sentence for this offence."
10. I have considered section 4 of the *Sentence and Penalties Act*. I also considered the principle of rehabilitation and deterrent. In light of ***Sakiusa Bulivoro's*** case (*supra*) it is clear that suspended sentence is not an option for this offence and this court is bound by that decision.

11. *Rakesh Roshan*, after considering all the circumstances of this case, I now sentence you to 2 years imprisonment with non-parole period of 18 months. You are also disqualified from holding and obtaining a driving licence for a period of 6 months from the date you are released from prison.

28 days to appeal.



A handwritten signature in blue ink, appearing to read "C. M. Tuberi", written over a horizontal line.

C. M. Tuberi
RESIDENT MAGISTRATE