

IN THE DISTRICT COURT OF MAURU

Criminal Jurisdiction

Criminal Case No. 917 of 1976

THE REPUBLIC

vs.

TELPHIA BOP

CHARGE:

1. Driving a motor vehicle upon a public highway, negligently: C/S. 19(1) of the Motor Traffic Act 1937-1973.

JUDGMENT:

The accused in this case and the accused Gioura in Criminal Case No. 923 of 1976 are both charged with having driven their vehicles in a negligent manner on the 22nd of August, 1976. On an application made by the prosecution to which accused Gioura had no objection, both cases were taken together.

The evidence discloses that the accused Bop was driving her car in the company of Messena Nam and Tulsita Bop heading northwards and when they were in Uaboe District whilst turning towards the bush their vehicle was hit from behind by another car driven by the accused Gioura.

The prosecution has led the evidence of two passengers in accused Bop's car namely, Messena and Tulsita. According to witness Messena, they were half way through the turn and at an angle when they were hit. At that time they were travelling at about 10 miles per hour. According to her accused Bop signalled that she was going to turn. On this point, however, witness Tulsita has stated that she did not know whether accused Bop gave any signals. She was seated by the side of the driver and she did not hear anything before the impact. Witness Messena stated that she heard the screech of brakes before their car was hit and she saw a vehicle coming from behind at a fast speed. This bit of evidence I am not inclined to accept for more than one reason namely, that it is most unnatural for the witness not to have told the driver of the car in which they were travelling knowing fully well that they were about to turn to the right, that a car was coming at a fast speed. This is going on the assumption that she did see a car from behind

travelling at a fast speed. She has not given any reason as to what made her look behind. Witness Tulsita does not corroborate her on these points.

The fact that the car which the accused Bop was driving was about half-way turning to the right is not disputed. Accused Bop has given evidence stating that she drove slowly and before turning she gave a signal and expected the other car to obey her signal and she had admitted that she has failed in her obligation as a driver in not looking back.

The prosecution has tendered Ex. "A", a statement made by accused Gioura in which he has stated that he noticed the car in front making a right turn and it suddenly stopped about half-way through the turn. He immediately applied his brakes and swerved his steering to the left-hand side but his front off-side fender came in contact with a right-side rear fender of the Toyota Sedan, that is the car driven by the accused Bop.

Taking into consideration the two versions of the incident, I am more inclined to accept the version of the incident by accused Gioura which is corroborated by the prosecution witnesses themselves. Witness Messena has stated that she heard the screech of brakes. Therefore, it could well be that accused Gioura suddenly found himself in a position when he had to apply his brakes because the car in front took a sudden turn to the right. Whether the car had come to a complete halt or moving very slowly, in my opinion, is not very material. But if accused Gioura was driving behind the car in front keeping a safe distance and travelling at a speed at which he could have brought his car to a complete halt without colliding with the car in front, this accident would not have occurred. I am, therefore, of the opinion that the accused Bop, in not looking back to ascertain whether there were any cars behind, was not keeping a proper lookout and, therefore, was negligent and accused Gioura, in colliding with the car in front, was also negligent to a lesser degree. This accident could have been averted if the accused Bop kept a proper lookout as to whether any vehicle was coming from behind and if accused Gioura drove at a safe distance and at a speed which could have enabled him to control his car and bring it to a halt before the collision occurred.

Accused Gioura is also charged for not having reported this accident. Accused Gioura has submitted that under section 25 of the Motor Traffic Act, failing to report an accident is not

an offence. I am unable to agree to this submission. Section 25 of the Motor Traffic Act is very clear and failing to report an accident is an offence. I, therefore, hold that the prosecution has proved beyond all reasonable doubt its case against both the accused and I find the accused Bop guilty of negligent driving and the accused Gioura guilty of negligent driving and failing to report an accident.

13th October, 1976

R. L. DE SILVA  
Resident Magistrate