

BETWEEN: Public Prosecutor

AND: George Tavo Iarispis

Coram: *Justice Aru*
Counsel: *Mr. C. Shem for the Public Prosecutor*
Mr. H. Rantes for the Defendant

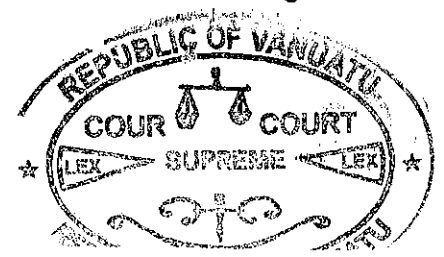
SENTENCE

Introduction

1. The defendant pleaded guilty to one count of causing death by reckless driving (count 1) and one count of unintentional harm causing death (count 2). He is now appearing for sentencing.

Facts

2. The deceased is a person with special needs. The incident occurred on 2 October 2022 when the defendant was driving a white and grey striped lorry which was loaded with 2 tonnes of cement. The defendant was travelling from Bethel village towards Lenakel town. The deceased was going to church and was waiting to cross the road at the cross road at Konamas area. She was intending to cross the street to JB store.
3. The defendant was travelling on the right side of the road coming from Bethel village and the deceased was on the same side of the road. The defendant was travelling at high speed when the right mirror of his vehicle hit the deceased and she fell on the tar sealed road. The front right tyre of the defendant's vehicle was driven over her body trapping her body under the truck. The victim's body was dragged by the defendant's vehicle for some distance before it stopped.
4. Her medical report revealed that there was no sign of life when the victim's body was taken to the hospital. She suffered full scalp laceration, skull exposure and bleeding, minor laceration to her face, teeth bleeding with gums exposed, abdomen had massive burn marks, head scar and skin peel 10 to 15 cm below umbilicus, left hand with large



open cut with at wrist with exposed veins, both knees and elbows with abrasions and toes bleeding from nails.

5. A death certificate was issued showing her death on 2 October 2022 was caused by a motor vehicle accident.
6. The defendant upon being cautioned and interviewed by the Police said he will only talk in Court.

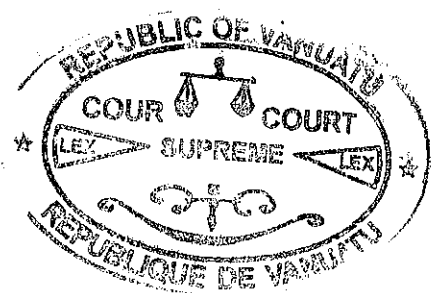
Sentence start point

7. Causing death by reckless driving is punishable by a maximum sentence of a fine not exceeding VT 500,000 or a imprisonment for a term not exceeding 5 years or to both. Unintentional harm where damage caused results in death also carries a maximum sentence of 5 years imprisonment. The offending is aggravated by the following factors. The defendant was incapable of controlling the vehicle, he was reckless, he was driving too fast and the victim was pinned down under the vehicle and dragged some distance before it stopped.
8. There are no mitigating factors of the offending.
9. I adopt a global sentence start point of 24 months imprisonment.

Mitigation

10. The Same Day report gives the following personal factors about the defendant. He is a first-time offender and is 58 years old and married. He has 5 children 3 from his previous marriage. He is a business man by trade here on Tanna and operates two retail shops, one hardware, one vehicle wash station, a butchery and two lorries and two Toyota hilux trucks and has 35 employees. He earns his living through his businesses to support his family and also his community.
11. Taking these personal factors into account I reduce the sentence start point by 7 months.
12. A custom reconciliation was also performed by his family on his behalf and the following items were given to the deceased's family.

- A cow
- A pig
- VT300,000 cash
- Some local food crops
- 4 25kg bag of rice
- Some mats and some calico



13. The items were accepted by the victim's family. The sentence start point is further reduced by 3 months for the custom reconciliation.
14. The defendant pleaded guilty to the charges as a sign of remorse. Given the strength of the prosecution case against him, the sentence start point is discounted by 20% for the guilty plea.

End sentence

15. The defendant is therefore sentenced to an end sentence rounded of to 11 months imprisonment suspended for a period of 2 years. In addition, the defendant is disqualified from driving any motor vehicle for a period of 2 years.
16. I also make an order for a payment of compensation to the victim's mother. In making this order, I take into account the fact that a custom reconciliation has already been performed by the defendant which included a cash component. I order that the sum of VT700, 000 be paid as compensation for the benefit of the victim's mother who has been caring for the victim as a person with special needs.
17. The amount shall be payable in instalments of VT20,000 per month or VT10,000 each fortnight beginning 1 August 2023. In the event of non-payment, this compensation order shall be enforceable by an enforcement warrant under the Civil Procedure Rules.
18. The defendant has 14 days to appeal if he is not satisfied with the decision.

DATED at Isangel, Tanna this 14th day of July, 2023

BY THE COURT

[Handwritten Signature]
.....
D. Aru
Judge

