

ANDREAS PITSILLIDES,

Appellant,

ANDREAS
PITSILLIDES

v.

v.

THE POLICE,

THE POLICE

Respondents.

(Criminal Appeal No. 3633).

5 *Road Traffic—Careless driving—Section 8 of the Motor Vehicles and Road Traffic Law, 1972 (Law 86/72)—Running down case—Pedestrian knocked down when he suddenly stepped backwards whilst standing near parked car and whilst driver was driving past at a distance of about two metres from said car—Driver stopping and shouting as soon as he saw pedestrian coming towards him—Driver’s conduct not inconsistent with that of a prudent driver—Failure to sound his horn did not suffice in order to say that it was proved that he was*

10 *driving without due care and attention.*

15 Whilst the appellant was driving his car he noticed a car parked to his left side and a man talking to its driver. As the appellant was driving past, at a distance of about two metres from the parked car, the said man stepped suddenly backwards and collided with the left side of the vehicle of the appellant.

20 *Held*, taking into account that the appellant had no indication that the complainant was about to step backwards and that the appellant drove past the stationary car and the complainant leaving the sufficient clearance of about two metres, as well as that he stopped and shouted as soon as he saw the complainant coming towards him, we are of the view that the appellant’s

25 *conduct was not inconsistent with that of a prudent driver (see Simpson v. Peat [1952] 1 All E.R. 447 at p. 449) and that his failure to sound his horn did not suffice in order to say that it was proved that he was driving without due care and attention.*

Appeal allowed.

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Cases referred to :

Simpson v. Peat [1952] 1 All E.R. 447, at p. 449,
per Lord Goddard, C.J.

Appeal against conviction.

Appeal against conviction by Andreas Pitsillides who 5
was convicted on the 9th June, 1975 at the District
Court of Nicosia (Criminal Case No. 23048/74) on one
count of the offence of driving without due care and
attention contrary to section 8 of the Motor Vehicles
and Road Traffic Law, 1972 (Law 86/72) and was 10
bound over, by A. Ioannides, D.J., in the sum of £50.-
for one year to keep the Traffic Laws and Regulations
and he was further ordered to pay £9.- costs.

St. Erotocritou (Mrs.), for the appellant.

Gl. Michaelides, for the respondents. 15

The judgment of the Court was delivered by :-

TRIANTAFYLLIDES, P. : The appellant was convicted of
the offence of driving a motor vehicle without due care
and attention, contrary to section 8 of the Motor Vehicles
and Road Traffic Law, 1972 (Law 86/72). 20

The facts of the case are that on the 27th June, 1974,
as the appellant was driving a pick-up, No. HB 813,
in a street in Nicosia, he noticed a car parked to his
left side and a man talking to its driver. As the appel-
lant was driving past, at a distance of about two metres 25
from the parked car, the said man stepped suddenly back-
wards and collided with the left side of the vehicle of
the appellant.

There is no suggestion, nor was it so found by the
trial judge, that the appellant had had any prior indica- 30
tion, by any behaviour on the part of the complainant or
otherwise, that he was about to step backwards; also,
the trial judge accepted the version of the appellant that
as soon as he saw the complainant coming towards his
car he called out to him and stopped; but, nevertheless, 35
the collision was not averted.

The trial judge found, however, the appellant guilty
of the offence in question because he did not sound his

horn before driving past the complainant or when he saw him stepping backwards.

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In *Simpson v. Peat* [1952] 1 All E.R. 447, 449, Lord Goddard C.J. said: "If, on the other hand, the circumstances show that his conduct was not inconsistent with that of a reasonably prudent driver, the case has not been proved"; and, taking into account that the appellant had no indication that the complainant was about to step backwards and that the appellant drove past the stationary car and the complainant leaving the sufficient clearance of about two metres, as well as that he stopped and shouted as soon as he saw the complainant coming towards him, we are of the view that the appellant's conduct was not inconsistent with that of a prudent driver and that his failure to sound his horn did not suffice in order to say that it was proved that he was driving without due care and attention.

This appeal is, therefore, allowed and the conviction of the appellant is set aside.

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Appeal allowed.