

1957
March 20

HUSSEIN
MOUSTAFA
v.
REGISTRAR
OF
MOTOR CARS.

[VASSILIADES P.D.C.]

HUSSEIN MOUSTAFA,

Appellant,

v.

REGISTRAR OF MOTOR CARS,

Respondent.

(*District Court of Famagusta—
Application No. 16/57).*)

Road traffic—One-armed driver—Driving licence cancelled by Registrar of Motor Cars—Motor Vehicles Regulations, 1951 to 1955—Regulations 30 and 40.

The appellant, whose right arm was amputated, had been a licensed driver before the amputation of his arm. He had been driving his bus with one arm for a period of over two years when he was subjected to a test as to his fitness to drive. In consequence of that test the Registrar of Motor Cars was satisfied that appellant's physical disability constituted sufficient reason for the cancellation of his driving licence which was thereupon cancelled by the Registrar.

Upon appeal to the President of the District Court of Famagusta,

Held : that the Registrar of Motor Cars had exercised his discretion properly.

Decision of Registrar of Motor Cars affirmed.

(*Editor's Note* : On the question of the exercise of the Registrar's discretion to cancel a driving licence under Regulation 40 of the Motor Vehicles Regulations, 1951 to 1955, reference should also be made to the decision in *Panayiotis Georghiou v. The Registrar of Motor Vehicles* (1955) 21 C.L.R. 1, where it was held that the mere fact that a person was one-eyed could not, of itself, constitute a good ground for cancelling his driving licence).

APPEAL from the decision of the Registrar of Motor Cars cancelling the appellant's driving licence. The facts appear in the judgment of Vassiliades, P.D.C.

A. *Chifchioglou* for the appellant.

The Deputy Registrar of Motor Cars for the respondent.

VASSILIADES, P.D.C. : This is an appeal under subsection (3) of Regulation 40 of the Motor Vehicles Regulations, against the decision of the Registrar of Motor Cars, cancelling the driving licence of the appellant.

The ground on which the Registrar cancelled the licence, is that appellant's right arm is amputated and the Registrar took the view that a driver without his right arm, is unsafe.

Against this decision, appellant has appealed on the ground that he (appellant) can drive safely with one arm only.

It should be quite clear to the appellant that his disability can only be considered in this case, in connection with his driving. Everybody concerned with his case is, no doubt, very sorry that appellant has lost his arm. I am sure that one of the persons most sorry for appellant's misfortune was the doctor who amputated his arm. But the doctor must have found that for appellant's own safety it was unavoidable for him to do so.

Coming now to this case, I am equally certain that the Registrar was very sorry to have to cancel appellant's licence, on the ground that the man had lost his arm. But in exercising his discretion under these Regulations, the Registrar had to take other matters into account, besides the loss of the driver's arm. He has to take into account, for instance, the provisions in Regulation 30, which, as pointed out by the Deputy Registrar, require him to be satisfied that the person who uses a motor vehicle is fit. Then he has to take into consideration the fact that motor vehicles are obviously mechanisms designed for use by persons who have two arms and two legs ; and so on, the Registrar has to take into consideration all relevant circumstances which enable him to discharge his responsibility in issuing driving licences.

Appellant himself knows, as well as every other driver on the road does, that there are too often occasions when a driver must make the best possible use of both arms and both legs ; and he knows only too well that he has been greatly handicapped by the loss of his right arm.

Appellant's case is that he can drive equally well with one arm only. I am sure he realises that this is a physical impossibility. He, then, falls back into another submission : He can't drive as well, but he can drive safely enough, he says ; and in support of this contention, he puts forward the fact that for over two years he has been driving his bus with one arm, and that during this period he met with no accident.

Is it not better that he is able to say that he drove for about two years without any mishap and stop at that, than come to the day when he may have to add that in the end he had a bad accident where one or more persons got killed or seriously injured ? And that is exactly what the Registrar had in mind when, exercising his discretion, he cancelled appellant's licence. He just wanted to stop a potential danger to appellant himself and to other users of the road.

Counsel on his behalf, quite rightly in my opinion, did not suggest that there were any motives behind the Registrar's decision other than his sense of responsibility to public safety.

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The way in which he handled the matter is also before the Court. The Registrar, before taking his decision to cancel the licence, had appellant up for a test; and he was then satisfied that appellant's physical disability constituted sufficient reason for the cancellation of the licence.

I think that would be sufficient to bring this appeal to a conclusion. But it may perhaps help the appellant if I add that, in my opinion, the Registrar exercised his discretion properly, and took his decision on good grounds. As far as appellant's driving licence is concerned, that is the end of it.

Having to stop from earning his living as a bus driver, I do realise that appellant has to face perhaps some serious problems. It is not part of my work to enter into those problems. I merely mention them, to make appellant feel quite certain that I do not overlook them.

But I have no doubt that the community or the State may perhaps come to his help, if he applies to the proper authority. And the first thing in that direction which I can do, is to ask the Deputy Registrar to-day, not to apply for costs. If necessary, I can make an order for his costs by the Crown, but I do not see how this is really necessary. The appeal must fail; and it is dismissed without any order for costs.

Appeal dismissed.