

1963
June 14

[WILSON, P., ZEKIA, VASSILIADES AND JOSEPHIDES, JJ.]

KYPROS
ANTONIOU
KYRIAKIDES
v.
THE POLICE

KYPROS ANTONIOU KYRIAKIDES,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 2645*)

Road Traffic—Insurance in respect of third party risks—Permitting to drive or use a motor vehicle on a road without having in force a policy in respect of third party risks contrary to section 3 of the Motor Vehicles (Third Party Insurance) Law, Cap. 333 as amended by Law 7 of 1960—Monetary penalty and disqualification—This is a serious offence and one with which the public is concerned.

Appeal against sentence.

The appellant was convicted on the 27th April, 1963, at the District Court of Nicosia (Cr. Case No. 24376/62) on two counts of the offences of: 1. Permitting a person to drive his motor vehicle without a licence to drive, contrary to s. 27 (1) and 66 of the Motor Vehicles Regulations, 1959, and 2. Permitting a person to use his motor vehicle without having in force a policy in respect of Third Party Risks contrary to s. 3 of the Motor Vehicles (Third Party Insurance) Law Cap. 333 as amended by s. 2 of Law 7/60 and was sentenced by Demetriades D.J. to pay £8 fine on count 1 and £12 fine on count 2 and he was further disqualified from holding or obtaining a driving licence for a period of six months.

Appeal partly allowed.

G. Platritis for the appellant.

S. A. Georghiades for the respondents.

The judgment of the Court was delivered by :

WILSON, P. : This is an appeal from the sentence imposed by the District Court of Nicosia upon the owner of a fleet of motor buses on April 27, 1963. After a trial in which the appellant contested the charges preferred against him, he was convicted on count 3 of permitting a person to drive his motor vehicle without a licence to

drive contrary to regulation 27 (1) and 66 of the Motor Vehicles Regulations, 1959 and on count 4 of permitting a person to use his motor vehicle without having in force a policy in respect of third party risks contrary to section 3 of the Motor Vehicles (Third-Party Insurance) Law, Cap. 333, as amended by section 2 of Law 7 of 1960. There was no appeal against conviction.

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In respect of the conviction on count 3, the appellant was fined £8 and in respect of count 4, £12 and disqualified from driving a motor vehicle for 6 months.

It is agreed that this is a serious offence and one which, in a particular way, the public is concerned. If buses transporting passengers are not covered by the third party risk insurance, there may be serious loss.

After hearing the arguments of counsel in this case we are of the opinion that there are no particular principles involved with respect to punishment, that is to say, questions of hardship. It is we think proper to express our opinion as to what is the proper punishment in cases of this kind. There is evidence on behalf of the appellant which indicates that as a businessman he made some efforts as a reasonable person to satisfy himself that while his driver did not have a licence he had taken the proper steps to have his licence renewed. However, as the facts have been ascertained after investigation, it is doubtful that the driver ever did have a licence to drive. It is also a fair deduction from the evidence that the appellant ought to have been more careful in examining the licence which his driver produced to him, and which was said to have expired. It is entirely possible in this case that if he had carried out such an examination that the licence produced might have turned out to be not that of the driver at all. However, this is a matter of surmise but it does indicate the necessity of employers of drivers to take a particular care to satisfy themselves, that is the employers, that the drivers are properly licensed.

On the facts of this case we are of the opinion that the monetary penalty should be sufficient to impress upon the employer that the risk of punishment in this respect is not worthwhile. In addition, as the circumstances justify it, there should also be imposed a suspension of the driving licence for a proper period of time. But we respectfully take a different view from the learned trial Judge in this case as to the amounts of the monetary penalties and the length of suspension of the right to drive. We

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set aside the fine on count 3 and for it to substitute a fine of £20. We also set aside the penalty on count 4 and in place of it impose a fine of £30. In addition the accused will be disqualified from holding a driving licence for a period of 3 months from the date of conviction—April 27, 1963.

The penalty will be amended accordingly.

We hope that the reasons for judgment in this case will be widely known to the employers of drivers and they will take heed that they must be more careful in satisfying themselves that the law is observed.

Appeal partly allowed.