

[TRIANTAFYLLIDES, P., A. LOIZOU, MALACHTOS, JJ.]

GEORGHIOS KARAGEORGHIS,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 3610).

1975
Jan. 21

—
GEORGHIOS
KARAGEORGHIS

v.
THE POLICE

Criminal Law—Sentence—C£60 fine and disqualification for a year for careless driving—Appellant a first offender with a clean driving record of eight years—He needs his driving licence for purposes of his work—Circumstances of offence—Disqualification order set aside in view of the rather special circumstances of this case.

Road Traffic—Careless driving—Section 8 of the Motor Vehicles and Road Traffic Law, 1972 (Law 86 of 1972)—Sentence—Disqualification order—Set aside in view of the rather special circumstances of this case.

Disqualification Order—Driving offence causing death—Approach to the making of disqualification orders—Disqualification order set aside in view of the rather special circumstances of this case.

15 Whilst the appellant was driving his motor car he was involved in a collision with a motor-cyclist as a result of which the latter was fatally injured.

20 He was convicted of the offence of driving without due care and attention contrary to s. 8 of the Motor Vehicles and Road Traffic Law, 1972 and was sentenced to pay a fine of C£60 and was disqualified for a year from possessing or obtaining a driving licence.

25 In arguing the appeal against sentence counsel for the appellant submitted that in view of the acceptance by the trial Court of appellant's version as regards the fact that he acted on the basis of a wrong impression as to the path the motor-cyclist was about to follow, there ought to have been imposed only a small monetary

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sentence and that no disqualification order should have been made.

Counsel for the respondents very fairly conceded that the disqualification order rendered the punishment inflicted on the appellant a manifestly excessive one, in view especially of the length of the period of disqualification and the fact that the appellant was ordered to pay, too, a fine of C£60. 5

The appellant was a first offender who had a clean driving record of eight years; and he needed his driving licence for the purpose of his work. 10

Held, in the light of the above considerations we have reached the conclusion that the proper course for us is to allow the appeal in part by setting aside the disqualification order. 15

Appeal allowed.

Per curiam: We would like to stress, however, that we consider the present case as an exceptional one, in view of its rather special circumstances; and it should not be treated as altering, in any way, the approach to the making of disqualification orders in cases of driving offences causing death, which we have adopted in *Attorney-General v. Iacovides* (1973) 2 C.L.R. 344, by citing with approval the principles expounded in *Rex v. Guilfoyle* [1973] 2 All E.R. 844. 20 25

Cases referred to:

Attorney-General v. Iacovides (1973) 2 C.L.R. 344;

Rex v. Guilfoyle [1973] 2 All E.R. 844. 30

Appeal against sentence.

Appeal against sentence by Georghios Karageorghis who was convicted on the 23rd December, 1974 at the District Court of Nicosia (Criminal Case No. 14979/74) 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 sentenced by A. Ioannides, D.J. to pay a fine of £60.- with £6.500 mils costs and he was further disqualified 35

from holding or obtaining a driving licence for a period of one year.

L. Papaphilippou, for the appellant.

5 *N. Charalambous*, Counsel of the Republic,
for the respondents.

The facts sufficiently appear in the judgment of the Court which was delivered by:

10 TRIANTAFYLIDIS, P.: The appellant has appealed against the sentence of a fine of C£60 and disqualification for a year from possessing or obtaining a driving licence, which was imposed on him when he was found guilty by the trial court of the offence of driving without due care and attention, under section 8 of the Motor Vehicles and Road Traffic Law, 1972 (Law 86/72).

15 The circumstances in which the above offence was committed are that on November 5, 1973, while the appellant was driving his car along Kantara street, in Nicosia, with the intention of turning right into Strovolos avenue, he saw a motor-cyclist approaching along the
20 avenue from his right; the appellant formed the impression, due to the fact that the motor-cyclist leaned leftwards, that the motor-cyclist was about to turn into Kantara street; and, without waiting until he would be certain about the course to be followed by the motor-
25 cycle, he proceeded to enter himself Strovolos avenue, acting on the assumption that in doing so he would not be cutting across the path of the motor-cyclist. But the said impression of the appellant turned out to be a false one, because the motor-cyclist kept going straight on
30 along the avenue and, eventually, a collision took place between him and the appellant, as a result of which the motor-cyclist was fatally injured.

It was submitted on behalf of the appellant that this
35 is a case in which there ought to have been imposed only a small monetary sentence and that no disqualification order should have been made, because the trial judge accepted the version of the appellant as regards the fact that he acted on the basis of a wrong impression, as aforementioned.

40 Counsel for the respondents has very fairly conceded

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that the disqualification order rendered the punishment inflicted on the appellant a manifestly excessive one, in view especially of the length of the period of disqualification and of the fact that the appellant was ordered to pay, too, a fine of C£60.

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The appellant is a first offender, who has a clean driving record of eight years; and he needs his driving licence for the purposes of his work; also, there can be no doubt that in the present case the appellant came to behave negligently only because he hastened to act on the basis of what was a prematurely formed impression as regards the path to be followed by the motor-cycle.

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In the light of all the above considerations we have reached the conclusion that the proper course for us is to allow the appeal in part by setting aside the disqualification order.

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We would like to stress, however, that we consider the present case as an exceptional one, in view of its rather special circumstances; and it should not be treated as altering, in any way, the approach to the making of disqualification orders in cases of driving offences causing death, which we have adopted in *Attorney-General v. Iacovides* (1973) 2 C.L.R. 344, by citing with approval the principles expounded in *Rex v. Guilfoyle* [1973] 2 All E.R. 844.

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Appeal allowed in part.