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BETWEEN

KING

Appellant

A N D NEW ZEALAND POLICE

Respondent

Hearing: 1 February 1984

Counsel: K.J. Grave for Appellant
N.W. Williamson for Respondent

Judgment: 1 February 1984

ORAL JUDGMENT OF HOLLAND, J.

The appellant was convicted in the District Court at Christchurch on a charge of careless use of a motor vehicle causing bodily injury. He was fined \$400 and ordered to pay Court costs of \$20 and disqualified from driving for 18 months.

The facts of the accident had no special bad features attached to them. There was no element of drink. There was no element of speed. There was simply a failure to keep a proper lookout. The appellant was a first offender and his counsel advises that he was not only concerned with the accident but made enquiries as to the welfare of the unfortunate victim.

It is submitted that the fine is excessive considering the fact that he is a student and is with a very limited income. I am not willing to accept that submission. If students are to have motor cars they cannot then come along and say that although they can afford to run them they cannot afford to take the consequences that apply usually to those who drive motor vehicles. A motor vehicle is not essential to this student, although I have no doubt it is a matter of considerable convenience. Further submissions were made that the fine is out of line with a number of other fines

imposed. It is notorious that circumstances differ and fines will differ and it is very rare that much help can be gained by comparing the fine imposed on one offender with another. But there is a general range. Those ranges tend to vary from district to district. The comparative fines that were referred to were ones that had been imposed in Dunedin. I am quite satisfied that if an examination is made of comparative fines imposed in Christchurch this fine is in line and well within the appropriate range and no grounds exist for interfering with it. I am satisfied, however, that in the circumstances it was not necessary to disqualify this appellant from driving for the period of 18 months. It was an unfortunate accident which could have occurred to any driver whose attention had been temporarily distracted. He is a first offender and I am satisfied that the period of disqualification was too great.

The appeal will be allowed. The fine is confirmed and the order for costs, but in lieu of the period of disqualification of 18 months he is disqualified for a period of six months which is to commence from today. I mention that because his disqualification has been suspended pending the hearing of this appeal.

A. D. Halliday