

IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

NO. M.54/84

610

BETWEEN B _____ TINKER
Appellant

A N D MINISTRY OF TRANSPORT
Respondent

Hearing: 16 May 1984
Counsel: M.J. Glue for Appellant
 G.K. Panckhurst for Respondent

(ORAL) JUDGMENT OF ONGLEY J.

B TINKER appeals against the sentence imposed upon his conviction on a charge of careless use of a motor vehicle, on a plea of guilty, in the District Court, Christchurch, on the 1st of February 1984. He was fined the sum of \$250 and ordered to pay costs.

The circumstances of the offence were that the appellant was driving a van of his employer's business, intending to go to the business place of another firm, when he overshot the mark and decided to make a U turn. He pulled to the left slightly to give more clearance for the turn and although he looked in his rear vision mirror, he failed to see the motor cycle travelling fairly closely behind him. In the result, there was a collision between the two vehicles. The appellant reported the accident to the proper authorities and, in due course, he was charged with the offence arising out of that incident. There was no injury to the motor cyclist

and there was very little damage to either vehicle.

The appellant is years of age. He is employed as an apprentice fitter/turner and receives \$116 a week as a wage in that employment. He has a clear driving record, presumably he has been driving for 2 or 3 years, and has not incurred any other fines or been involved in any other accident, so far as I am aware, during that time.

There is no record of the remarks of the learned District Court Judge on sentence and I take it that, in his view, there being no aggravating circumstances in this case, that a fine of \$250 plus costs was about the amount of the fine usually imposed in such circumstances. To me, it seems that it is somewhat higher than would usually be imposed, having regard to the modest earnings of the appellant and his previous good record as a driver. In my view, an appropriate penalty would have been a fine of \$125 plus the costs awarded against him and I say that, recognising that there was no interference with the appellant's licence. In my view, no period of disqualification was warranted. The appeal will therefore be allowed and the fine of \$125 substituted for the fine imposed in the District Court.

J. C. O'Keefe J.

Solicitors:

M.J. Glue, Christchurch, for Appellant

Crown Solicitor's Office, Christchurch, for Respondent.