

IN THE HIGH COURT OF NEW ZEALAND
HAMILTON REGISTRY

M.118/83

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IN THE MATTER of Notice of General Appeal

BETWEEN: _____ : GREGAN
of R D 3, Cambridge,
School Bus Driver

Appellant

A N D: THE POLICE

Respondent

Hearing: 15 February 1984

Oral Judgment: 15 February 1984

Counsel: J J O'Shea for appellant, in support
C Q M Almao for respondent, to oppose

(ORAL) JUDGMENT OF BISSON, J.

This is a Motion by the appellant for leave to adduce further evidence on the hearing of her appeal. After a defended hearing, she was convicted of careless driving. The facts, briefly, are these: that she was the driver of a school-bus; after stopping to allow children to alight from the bus, she pulled out from the side of the road and a collision took place between the bus and the open door of a vehicle parked ahead of the bus on the roadway.

The further evidence which the appellant seeks to call has been put before the Court in affidavit form. One witness is a director of Te Awamutu Panelbeaters Limited which carried out repairs to the bus. But the affidavit refers to a Bedford bus of another registered number and so it appears, on the face of it, that the witness is referring to a different bus. If there is just a mistake in the number of the vehicle given in the affidavit,

his evidence does not carry the matter any further, certainly not to a significant degree because there is no dispute that the bus driven by the appellant did come into collision with the open door of a parked vehicle. The witness also sought to give evidence as to whether the utility had a locking device to its front door, but his evidence is far too indefinite to be of any assistance in that connection. Accordingly his evidence is not of assistance to the Court, and leave to call that witness on the appeal is refused.

Another deponent says that he saw the complainant's vehicle parked in a particular position on the roadway and it is alleged that there was some confusion as to whether it was, at the time of the collision, either at the bus-stop or further down the road. Mr O'Shea, for the appellant, says that this was material because if it was on the bus-stop, where the appellant says it was, she would have less room to pass it. But that would only mean that greater care would have to be taken to see that the bus did not strike an open door in respect of the complainant's vehicle. I do not feel that evidence is of assistance to the Court and leave to call that witness is likewise refused.

Mr O'Shea really sought an order for a re-hearing so that the whole matter could be gone over again, and these further witnesses called. I see no useful purpose in a re-hearing when, as I have said, the two further witnesses could not add anything useful to the evidence already before the Court and accordingly that application is likewise refused.

I reserve the question of costs
because the appeal will now proceed.

The appeal itself is adjourned for
hearing on the 26th March 1984.

G. Brown

Solicitors:

Judd Brown Kay Page & O'Shea, Te Awamutu, for appellant
Crown Solicitor, Hamilton, for respondent

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