

Tang Ling Lee v Public Prosecutor
[2018] SGHC 18

Case Number : Magistrate's Appeal No 9239 of 2017
Decision Date : 25 January 2018
Tribunal/Court : High Court
Coram : See Kee Oon J
Counsel Name(s) : Tan Wen Cheng Adrian and Janus Low (M/s August Law Corporation) for the appellant; Houston Johannus (Attorney-General's Chambers) for the respondent.
Parties : Tang Ling Lee — Public Prosecutor

Criminal Procedure and Sentencing – Sentencing – Benchmark sentences

25 January 2018

See Kee Oon J:

Introduction

1 This was an appeal against the sentence of imprisonment in respect of a charge of causing grievous hurt by a negligent act which endangered human life, an offence under s 338(b) of the Penal Code (Cap 224, 2008 Rev Ed). The charge read as follows:

You.....are charged that on 16 September 2016 at or about 9.06 p.m., at the signalized junction of Ang Mo Kio Avenue 8 and Ang Mo Kio Avenue 5, Singapore, being the driver of motor car SJM3906E, did cause grievous hurt to one Vikaramen S/O A Elangovan, a male Indian aged 27 years old ("Vikaramen"), who was the rider of motorcycle FBH4147T, by doing an act so negligent as to endanger human life, *to wit*, by failing to keep a proper look out while making a right turn at the signalized junction in the direction of Ang Mo Kio Ave 5, thereby colliding into the said motorcycle, which was travelling from your opposite direction along Ang Mo Kio Ave 8 towards Bishan Road, thereby causing grievous bodily injuries to Vikaramen such as multiple fractures, and you have thereby committed an offence punishable under section 338(b) of the Penal Code, Chapter 224.

2 The appellant pleaded guilty to the charge in the proceedings below and was sentenced to one week's imprisonment. She was also disqualified from driving or obtaining a licence to drive all classes of vehicles for two years with effect from 26 July 2017, the date of conviction. Dissatisfied, the appellant appealed against the sentence imposed. The appellant stated, however, that she was only appealing against the one-week imprisonment term imposed and not the disqualification order.

3 After hearing submissions from the parties, I dismissed the appeal. I delivered a brief oral judgment in doing so. These are the full grounds of my decision.

The facts

4 On 16 September 2016, the appellant was driving with her two young children in the car at about 9.06 pm. She had made a right turn while driving her vehicle along Ang Mo Kio Avenue 8 towards Ang Mo Kio Avenue 6. This was a major traffic junction. The weather and road conditions

were normal and traffic was light. The appellant's vehicle was on the second lane, which permitted vehicles to turn right into Ang Mo Kio Avenue 6 as well as head straight. The only vehicle approaching from the opposite side of the road at the time was the victim's motorcycle. He was riding straight along Ang Mo Kio Avenue 8 on the innermost left lane and the traffic lights were green in his favour.

5 Unfortunately, the appellant did not keep a proper lookout and made no effort to check for oncoming vehicles before executing the right turn. She did not stop at the right turning pocket to look out for oncoming traffic in the opposite direction. The green traffic signal for turning traffic at the junction had not lit up in her favour although the traffic lights were showing green for vehicles proceeding straight. As she executed the right turn, she collided into the victim who had the right of way. According to the Statement of Facts ("SOF"), the front right portion of her car collided into the front left portion of the victim's motorcycle. The victim's motorcycle skidded and the victim was thrown a short distance away and was injured as a result. The appellant stopped her car and rendered assistance to the victim.

6 The victim suffered serious injuries, including multiple fractures, and he had to undergo 12 surgeries in the span of two months. He was hospitalised for 69 days in all at Tan Tock Seng Hospital ("TTSH") after the accident. Upon his discharge from TTSH, he was given 180 days' hospitalisation leave. A medical report prepared by Dr Christopher Fang of the TTSH Department of Orthopaedic Surgery stated that the victim was found to have sustained the following injuries:

- (a) Right open calcaneal fracture with lacerated posterior tibial artery (*ie*, heel bone area);
- (b) Right 4th and 5th metatarsal fracture (*ie*, foot bones);
- (c) Left scaphoid fracture (*ie*, near the wrist bone);
- (d) C6 pedicle fracture (*ie*, along the cervical spine); and
- (e) Left little finger proximal interphalangeal joint fracture.

The proceedings below

7 The appellant was subsequently charged for an offence under s 338(b) of the Penal Code and pleaded guilty in the court below. As I noted above, the District Judge sentenced the appellant to a one-week imprisonment term and a two-year disqualification order. The District Judge's grounds of decision is reported at *Public Prosecutor v Tang Ling Lee* [2017] SGDC 216 ("the GD").

8 In setting out his grounds, the District Judge began by observing that, even though there might be indications of a shift in the sentencing trend towards more custodial sentences being meted out for s 338(b) offences, the default position was not necessarily a jail term. The appropriate sentence had to be assessed based on the circumstances of each case.

9 In arriving at the eventual sentence imposed, the District Judge considered the appellant's culpability and harm caused to the victim to be aggravating factors. The District Judge held that the appellant's culpability was high even though she was not speeding. He observed that, in terms of the oncoming traffic, the victim's motorcycle was the only vehicle travelling towards her and it had its headlight on. Visibility was fair. While the traffic light was green in the appellant's favour when she approached the signalised junction, the right-turn green arrow was not lit. It was clear to the District Judge that the collision would not have occurred had the appellant not been negligent in her driving. Furthermore, the appellant's choice to proceed with a right turn despite the knowledge of something

coming her way “bordered on rashness” (at [14] of the GD). The District Judge considered also that the harm caused was serious in the light of the victim’s severe injuries, the number of surgeries the victim had to undergo, the duration of his hospital stay and the length of his medical leave.

10 The District Judge noted further a number of mitigating factors in the appellant’s favour:

- (a) The appellant’s clean driving record for over 20 years;
- (b) The fact that the incident was a one-off aberration on the appellant’s part;
- (c) The fact that the appellant was not speeding at the time of the offence; and
- (d) The appellant’s remorse, her timely plea of guilt and her concern over the victim’s condition after the accident.

11 In the premises, the District Judge considered that a sentence of a one-week imprisonment term and a two-year disqualification order was appropriate in all the circumstances.

The appeal

12 On appeal, the only issue was whether or not the sentence of one week’s imprisonment was manifestly excessive.

13 The appellant argued that a fine was appropriate on the facts of this case. The primary submission on behalf of the appellant was that she had suffered a momentary and unfortunate lapse of attention and thus her culpability was diminished. She had mistaken the motorcyclist’s headlight for a street light. She was not rash but merely negligent and would not have consciously put herself and her two children who were with her in the car at risk of danger. The contention that the appellant was not rash but merely negligent appears to have been made in response to the District Judge’s observation that her conduct “bordered on rashness” (at [14] of the GD, cited above at [9]). This is a point which deserves some attention, and which I will return to in a later part of this grounds of decision (at [40]–[41] below).

14 The respondent in turn defended the sentence of one week’s imprisonment imposed below. The respondent’s primary contention was that the appellant’s culpability was high as she had completely failed to notice the victim approaching, and the considerable injuries sustained by the victim signalled that substantial harm was caused as a result.

My decision

The sentencing precedents

15 A survey of the sentencing precedents cited by counsel for the appellant showed that fines had previously been imposed for a number of s 338(b) offences involving road traffic cases. I shall highlight some of these cases.

16 One of the cases cited was my decision in *Lee-Teh Har Eng v Public Prosecutor* (Magistrate’s Appeal 9099 of 2016) (“*Lee-Teh Har Eng*”). In that case, the appellant had made a right turn without stopping her vehicle at the white line and when the green arrow light at the traffic-controlled junction had not lit up in her favour. As a result, she collided into an oncoming motorcyclist who had the right of way. The motorcyclist sustained an open fracture of the tibia and fibula of the right leg, as well as a left distal radius fracture. He was given seven months and nine days’ medical leave as a result of

the accident. The appellant was sentenced to one week's imprisonment and three years' disqualification at first instance. On appeal, I held that the one-week custodial term was not warranted on the facts of that case and substituted it with a sentence of one day's imprisonment and the maximum fine of \$5,000.

17 Similarly, in the case of *Public Prosecutor v Ong Poh Chuan* (Magistrate's Arrest Case No 906872 of 2015), the accused had approached a non-signalised junction, slowed down but did not stop at the stop line. He proceeded to drive across the junction and failed to notice the victim's car. Their vehicles collided and the victim's car veered to the right, mounted the centre divider and collided into a tree. As a result of the injuries suffered by the victim, he was unconscious for six days and was subsequently given 131 days of medical leave after his discharge. The sentence in that case was a fine of \$3,500 and a 12-month disqualification.

18 In another case, *Public Prosecutor v Chua Che Beng* (Magistrate's Arrest Case No 902750 of 2015), the accused made a right turn and collided into the victim, who was walking across the pedestrian crossing. As a result of the accident, the victim sustained bleeding in the brain with a likely skull base fracture and a fracture on her right clavicle. She was warded for 142 days. The sentence in that case was a fine of \$5,000 and a four-year disqualification.

19 On the other hand, it is also possible to locate other recent (*ie*, post-2014) s 338(b) case precedents from the Sentencing Information & Research Repository where short custodial sentences of one to two weeks' imprisonment were imposed. These cases were however not cited in the course of the hearing before me. In *Public Prosecutor v Han Peck Hoe* [2014] SGDC 58, for example, the accused made an unauthorised U-turn and collided into two victims, both of whom were crossing the road. One of them was knocked onto the road while the other was caught under the accused's vehicle. Both victims sustained fractures as a result of the accident, and one of whom was warded for 56 days. In that case, the accused was sentenced to a one-week imprisonment term and a three-year disqualification order.

20 In another case, *Public Prosecutor v Ishak Bin Ismail* (Magistrate's Arrest Case No 901086 of 2015), the accused failed to keep a proper lookout while negotiating a right turn and collided into a motorcycle which was travelling straight across the traffic junction. The motorcyclist and his pillion sustained multiple fractures and had to undergo a number of surgeries as a result of the accident. One of the victims had to have his right leg amputated below the knee. The sentence in that case was a two-week imprisonment term and a three-year disqualification.

21 Similarly, in *Public Prosecutor v Tan Cheng Lee* (Magistrate's Arrest Case No 908397 of 2014), the accused while driving collided into the rear of a motorcycle which was waiting to turn right at a traffic junction, causing the victim to sustain serious injuries and be warded for 12 days. The accused was sentenced to a 10-day imprisonment term and a three-year disqualification.

22 The sentencing precedents therefore suggest that the same offence with ostensibly fairly similar or even less aggravating facts had attracted a fine in some instances but a custodial sentence in others. I noted the absence of written grounds of decision for most of the precedents set out above. This was because these decisions were not appealed against and thus only case summaries were available for reference. While case summaries can be helpful in sketching a broad view of relevant sentencing trends, they are of less assistance where the sentencing trend does not appear to be consistent, as the summaries would not fully disclose details of the facts and relevant aggravating and mitigating circumstances of each case with sufficient clarity to enable meaningful comparisons or distinctions to be drawn. The primary inference would simply appear to be that the sentencing practice for road traffic cases in which the offender was charged under s 338(b) of the

Penal Code lacked sufficient coherence and consistency. This appeared to be so even where only the more recent precedents were taken into account. In the premises, I did not feel constrained to adhere to any one among the various precedents.

23 Since there were no High Court sentencing precedents on road traffic cases for which the offender was convicted under s 338(b) of the Penal Code (or at any rate, no fully reasoned judgments were cited to me, leaving aside *Lee-Teh Har Eng*), it would be useful to provide some guidance in the form of a basic analytical framework outlining presumptive sentencing ranges for such offences, which might help foster more consistency and predictability in this area of sentencing practice.

The applicable sentencing framework for road traffic cases under s 338(b) of the Penal Code

24 Due to the potentially wide variety of circumstances which may disclose an offence under s 338(b) of the Penal Code, I emphasise that the suggested sentencing framework set out in this judgment is intended to apply only to *road traffic* cases. It is not intended to cover cases of grievous hurt arising from negligent acts in other contexts. For instance, s 338(b) may be used to deal with cases involving “killer litter”, and the starting point in sentencing for such cases where grievous hurt is caused by negligence ought to be a substantial custodial term given the degree of culpability and harm occasioned.

Assessing harm and culpability

25 The suggested sentencing framework comprises three broad sentencing bands, within which the severity of an offence and hence the appropriate sentence to be imposed may be determined on the basis of (a) the *harm* caused by the offence and (b) the *culpability* of the offender. In the context of s 338(b) offences, the degree of harm caused would generally refer to the nature and degree of the grievous bodily injury caused to the victim(s). The degree of culpability would generally refer to the degree of relative blameworthiness disclosed by an offender’s actions, and is measured chiefly in relation to the extent and manner of the offender’s involvement in the criminal act (*ie*, the manner of driving).

26 A key ingredient of a s 338(b) offence is that the negligent act must have endangered human life or personal safety. The fact that grievous bodily injury has been caused is itself indicative that the harm occasioned to the victim is not slight or minor. In this regard, the period of hospitalisation leave or medical leave would be a relevant consideration insofar as it represents a medical professional’s opinion as to the length of time required for treatment of the injuries and for the victim to resume his daily activities. Nevertheless, the period of hospitalisation or medical leave is a rough-and-ready proxy for the severity of the victim’s injuries at best, as the assessment of time required for treatment and subsequent recovery may vary from case to case and may also depend on an interplay of various other circumstances, including the opinion of the medical professional as well as the personal characteristics of the victim.

27 In *Public Prosecutor v Aw Tai Hock* [2017] 5 SLR 1141, the High Court stated (at [37]–[40]) that the factors that affect culpability for dangerous driving offences under s 64(1) of the Road Traffic Act (Cap 276, 2004 Rev Ed) would generally include:

- (a) The manner of driving *ie*, how dangerous the driving was and the extent of danger to road users posed by the offender’s conduct;
- (b) The circumstances of driving which might have increased the danger to road users during the incident; and

(c) The offender's reasons for driving.

28 I consider that the first two factors in particular are also relevant to s 338(b) offences. In relation to the manner of driving, some examples of situations where culpability would be increased include speeding, drink-driving, sleepy driving, driving while under the influence of drugs, driving while using a mobile phone, flouting traffic rules, driving against the flow of traffic or off the road, involvement in a car chase or a racing competition, or exhibiting poor control of his vehicle. These examples are largely drawn from cases such as *Edwin s/o Suse Nathen v Public Prosecutor* [2013] 4 SLR 1139 ("*Suse Nathen*") (at [27]); *Public Prosecutor v Hue An Li* [2014] 4 SLR 661 ("*Hue An Li*") (at [82]–[92]); *Public Prosecutor v Koh Thiam Huat* [2017] 4 SLR 1099 (at [41]); and *Stansilas Fabian Kester v Public Prosecutor* [2017] 5 SLR 755 (at [56]). These circumstances in relation to the offender's manner of driving are aggravating due to the increased danger to road users posed by such conduct.

29 Second, the circumstances surrounding the incident should also be taken into account. This would include instances where the offender drives without a licence or while under disqualification. In *Suse Nathen* (at [28]), it was considered that there may be increased risk where the offender drives: (a) during rush hours when the volume of traffic is heavy; (b) within a residential or school zone; (c) a heavy vehicle that is more difficult to control and requires a quicker reaction time; or (d) where he intends to travel a substantial distance to reach his destination. These circumstances may heighten the danger posed to road users.

30 Where some of the culpability-increasing factors arise, it is of course entirely possible and indeed likely that additional charges may be preferred and proceeded with. In such circumstances, the respective sentences upon conviction ought to be calibrated as appropriate, avoiding loading or double-counting of the culpability-increasing factors.

31 Bearing the above considerations in mind, the following presumptive sentencing ranges apply where the accused *claims trial*:

Category	Circumstances	Presumptive Sentencing Range
1	Lesser harm and lower culpability	Fines
2	Greater harm and lower culpability Or Lesser harm and higher culpability	One to two weeks' imprisonment
3	Greater harm and higher culpability	More than two weeks' imprisonment

32 In sentencing an offender for a road traffic case under s 338(b) of the Penal Code, therefore, the court should undertake a two-step inquiry:

(a) First, the court should identify the sentencing band within which the offence in question falls, and also where the particular case falls within the applicable presumptive sentencing range, having regard to the twin considerations of harm and culpability, in order to derive the starting point sentence.

(b) Second, further adjustments should then be made to take into account the relevant

mitigating and aggravating factors, which may take the eventual sentence out of the applicable presumptive sentencing range.

Examples of relevant mitigating factors may include an offender's timely plea of guilt, stopping to render assistance to the victim(s), a good driving record, and evidence of remorse. Relevant aggravating factors, on the other hand, may include efforts to avoid detection or apprehension and the existence of similar antecedents, which are indicative of persistent or prolonged bad driving.

33 As I had observed in *Public Prosecutor v Ganesan Sivasankar* [2017] 5 SLR 681 (at [57]), presumptive sentencing ranges are merely starting points which seek to guide the exercise of sentencing discretion, and are not rigid or immutable anchors. In the final analysis, the appropriate sentence to be imposed will be the product of a fact-sensitive exercise of discretion, taking into account all the circumstances of the case. For avoidance of doubt, an appropriate period of disqualification should also be ordered.

Category 1

34 Category 1, which prescribes fines as the presumptive sentence, would cover cases where both the harm and the accused's culpability are at the lower end of the spectrum. In these instances, culpability-increasing factors would either be absent altogether or present only to a very limited extent, thus suggesting negligence to be at the lowest end of the spectrum. The harm occasioned to the victim(s) would generally be characterised by the lack of very serious or permanent injuries. This is often reflected in the victim having undergone a relatively brief duration of hospitalisation and medical leave (or none at all) and minimal surgical procedures (if any).

Category 2

35 Category 2 comprises offences of a higher level of seriousness. These are usually cases where (a) the harm is at the lower end of the spectrum but the culpability of the offender is moderate to high; or (b) the harm is serious but the culpability of the offender remains low. The presumptive sentencing range for cases falling under this category is one to two weeks' imprisonment. Where there are two or more culpability-increasing factors *or* injuries of a more serious or permanent nature and/or which necessitate significant surgical procedures, the offence would generally fall into Category 2.

Category 3

36 Category 3 would cover the most serious road traffic cases that give rise to offences under s 338(b) of the Penal Code, where there are both serious injuries and a moderate to high degree of culpability. A case falling within the Category 3 sentencing band would usually feature at least two culpability-increasing factors *and* injuries of a very serious or permanent nature and/or which necessitate significant surgical procedures. In this connection, serious long-term injuries occasioned to the victim, such as loss of limb, sight or hearing or paralysis in particular, would generally attract the sentencing band in Category 3.

Application to the facts

37 In the light of the sentencing framework above, I turn to explain my decision to affirm the sentence of one week's imprisonment which was imposed by the District Judge below.

38 In my judgment, this case turned heavily on how the facts were perceived and understood.

This cannot be a wholly subjective exercise and I was assisted considerably by the footage captured in the video recording ("the video") from the appellant's in-vehicle camera. The video allowed for objective confirmation of various crucial points. First, the appellant was not driving at a fast speed when executing the right turn. Second, the victim was evidently not speeding either as he headed towards her. He made a belated attempt to avoid a collision with the appellant's vehicle when it became apparent that she was going to collide into him.

39 The appellant claimed in her written mitigation that she mistook the motorcycle's headlight for a street light "due to the lighting condition". The District Judge dismissed her claim as being illogical and "highly improbable". Like the District Judge, I was unable to accept that she could have been confused in this manner. I should add that the video is not a reliable reference for this aspect. It was evident that the intensity of the glare from the victim's oncoming headlight and even the colours of the traffic, street and vehicle lights were visibly distorted in the recording, which was captured off what appeared to be a computer monitor.

40 The District Judge stated further that the appellant's conduct "bordered on rashness" and her culpability was high even though she was not speeding. This observation, however, appeared to have conflated the distinction between "rashness" and "negligence". In *Hue An Li*, the three-Judge panel of the High Court had clarified that these are dichotomous concepts (at [40]). As opposed to the non-dichotomous interpretation under which the concepts of "negligence" and "rashness" merely represent different levels of culpability on a single continuum, under the dichotomous interpretation, "negligence" and "rashness" demarcate separate offences with different starting points for sentencing. This would mean that a conviction under the "rash" limb might, in some situations, carry a more lenient sentence than a conviction under the "negligent" limb. In giving effect to the dichotomous interpretation of the two concepts as elucidated in *Hue An Li*, courts should therefore be careful to avoid terminology such as "negligence bordering on rashness", which appear to be derived from older cases such as *PP v Poh Teck Huat* [2003] 2 SLR(R) 299 that, at least at the sentencing stage, subscribed to the non-dichotomous interpretation.

41 In the instant case, it was clear from the District Judge's GD that his observation that the appellant's conduct "bordered on rashness" was meant simply to convey his view of the moderate to high level of culpability on her part. It would be prudent to assess the appellant's culpability solely on the negligence scale, which, after all, reflected the charge as framed against her. In this connection, I noted that the appellant had not stopped at the junction at all but had chosen to proceed with the turn without any apparent regard for traffic that might reasonably be expected to be travelling on that same road. The video showed that the appellant, while not driving fast, had swerved fairly abruptly from her turning lane into the outer turning pocket as she proceeded to move across the junction, barely seconds before the motorcyclist was about to cross the junction as well. She had completely failed to keep a proper lookout, and thus failed to notice him approaching the junction. Her culpability would thus be properly assessed as having made the decision to proceed with the right turn without paying heed at all to possible oncoming traffic that had the right of way.

42 Indeed, by the appellant's own admission, she had failed to notice the victim's oncoming motorcycle even though its headlight was on. She did not offer any plausible explanation for her failure beyond her claim that she had mistaken the motorcycle's headlight for the street light. Objectively, it was quite inconceivable that a motorist in the appellant's position could have failed to see the motorcycle if he or she had kept a proper lookout. It was equally inconceivable that she had mistaken the motorcycle headlight for a street light and had been confused.

43 The inescapable inference in my view, therefore, was that the appellant had paid absolutely no attention to whether there was any oncoming traffic before executing the right turn. In all likelihood,

either her attention was diverted elsewhere or she had exercised appallingly poor judgment. The former explanation was more likely; her inattention would explain why her manner of driving in executing the right turn appeared to be unhurried and almost leisurely. She did not bother to stop or even slow down at the junction to check if it was safe to proceed with the turn. Moreover, she did not seem to have found it necessary to take evasive action of any sort until far too late, when the motorcyclist was barely metres away.

44 All these observations, taken together with the appellant's admitted failure to notice the victim, led me to agree with the District Judge's assessment. She had simply not bothered to look out for oncoming traffic. Consequently, she was wholly oblivious to the victim's presence on the road, until it was too late for her to react appropriately. It would appear that if she had exercised better judgment, she could still have applied emergency brake in the circumstances, but she somehow chose to instead proceed ahead without paying any attention to the traffic conditions.

45 In my judgment, her culpability that was reflected in her manner of driving was properly assessed to be on the moderate to high side. Taking into account the substantial injuries occasioned to the victim, I considered this case to fall in the lower end of the Category 3 sentencing band.

46 With respect, the appellant's attempt to rely on my decision in *Lee-Teh Har Eng* was wholly misconceived. I had made it quite clear when delivering my oral judgment that my decision in that case turned on its very unique and exceptional facts. I accepted that the appellant in that case was genuinely confused, distracted and disoriented while driving in an unfamiliar set of road conditions and facing an unusual traffic signal setting, where the signalised junction was not programmed to show any red or amber traffic light signals. In that instance, taking into account the culpability of the appellant as I described, together with the harm occasioned to the victim (see above at [16]), a fine was appropriate in all the circumstances. In the present case, by contrast, the accident occurred at a major traffic junction in Ang Mo Kio with no peculiarities whatsoever in the traffic signal settings. The appellant was apparently also not unfamiliar with the route, as she was driving home to Sengkang from her mother's place of residence in Ang Mo Kio Ave 3. Moreover, no other vehicle was coming her way apart from the victim's motorcycle.

47 I hasten to reiterate what may be a fairly obvious point: every instance of negligent driving will almost invariably involve a momentary and unfortunate lapse of attention. In *Lee-Teh Har Eng*, I found that the nature of the lapse had to be properly situated within the exceptional factual context of that case. Thus the decision (and my observation) was always intended to be confined to its facts. By no means did it purport to lay down a prescriptive statement of general principle that would justify a more lenient approach towards every case of negligent driving. The appropriate outcome remains fact-specific.

48 It was also somewhat troubling that the appellant appeared to have sought to strenuously downplay her culpability in her appeal through her Member of Parliament ("MP"). The MP's appeal letter dated 18 April 2017 was sent on her behalf to the State Courts, and it records that she had only "accidentally brushed a motorcyclist resulting in the motorcyclist sustaining some injuries". These statements are regrettably misleading if they correctly reflect what she had conveyed to the MP. They are also not consistent with the SOF that she had admitted to. It would appear that they sought to unfairly trivialise the accident and diminish the true extent of the victim's substantial injuries.

49 Finally, I accepted that the appellant had pleaded guilty and shown remorse, and had also had an unblemished driving record for over 20 years. She had stopped to render assistance to the victim. These mitigating factors warranted a lower sentence than an imprisonment term of above two weeks

as suggested in the Category 3 sentencing band. However, they did not outweigh the need for a custodial sentence given the considerable extent of harm occasioned and her level of culpability, which was at least within the moderate to high range. On my assessment of the present case and the circumstances as a whole, I saw no reason to differ from the District Judge's views as to the appropriate sentence.

Conclusion

50 In conclusion, I agreed with the District Judge that a term of one week's imprisonment was warranted on the facts. I therefore dismissed the appeal against sentence. The disqualification order of two years covering all classes of vehicles was also to remain.

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