

Before I. S. Tiwana, J.

COURT ON ITS OWN MOTION,—Petitioner.

versus

GANDA SINGH,—Respondent.

Criminal Misc. No. 5900-M of 1982.

May 26, 1983.

Indian Penal Code (Act 45 of 1860)—Section 304-A—Motor Vehicles Act (4 of 1939)—Section 17—Erring bus driver convicted under section 304-A of Penal Code—Driving licence of such driver—Whether ought to be suspended under provisions of section 17 of the Motor Vehicles Act.

Held, that it is almost a matter of common knowledge that Indian transport is acquiring a menacing reputation which makes travel a tryst with death. It looks as if traffic regulations are virtually dead and police checking mostly absent. Rashness and negligence are of course relative concepts, not absolute abstractions, but in the given facts and circumstances of a case, the rashness on the part of the driver calls for a deterrent punishment and the substantial power vested in the Court under section 17(1) of the Motor Vehicles Act 1939 to disqualify an erring driver who earns his livelihood by driving motor vehicles and in the same process causes distress and misery to the dependants of the innocent victims should be exercised and it is just and proper that such a dangerous driver should be kept off the road for sometime. As such a driver convicted under section 304-A of the Indian Penal Code, 1860 can be disqualified to hold a licence to drive a heavy motor vehicle for a certain period.

(Para 4)

Proceedings taken by this court on its own motion,—vide order dated 20th October, 1982 passed by Hon'ble Mr. Justice I. S. Tiwana in Criminal Revision No. 1528 of 1982 directing Shri Ganda Singh as to why his Driving Licence should not be cancelled for five years.

T. S. Sangha, Advocate, for the State.

R. S. Palta, Advocate, for the Respondent.

JUDGMENT

(1) It is apt to sum up the content and conclusion of this case in the following words of Justice Krishna Iyer in *Rattan Singh v. State of Punjab*, (1).

“This is a case which is more a portent than an event and is symbolic of the callous yet tragic traffic chaos and

(1) A.I.R. 1980 S.C. 84.

treacherous unsafety of public transportation—the besetting sin of our highways which are more like fatal facilities than means of mobility.”

The respondent is a bus driver whose lethal hands at the wheel of a heavy automobile have taken the life of a scooterist—a deadly spectacle becoming so common these days in our towns and cities. He has been concurrently convicted and sentenced by the trial Court as well as the appellate Court under section 304A, I.P.C. to one year's rigorous imprisonment and a fine of Rs. 200 for causing the death of Sunil Kumar, scooter driver and to three months rigorous imprisonment under section 337, I.P.C., for causing simple injuries to Mulkh Raj who was riding on the pillion of the said scooter. His revision petition against this conviction and sentence was dismissed by me at the motion stage on October 20, 1982. Keeping in view the facts and circumstances of the case I, however, issued a notice to him as to why his driving licence should not be cancelled for a period of five years under section 17 of the Motor Vehicles Act, 1939. It is in response to that notice that he is before me today.

(2) The facts that have been found established against him are that on February 27, 1980 at about 12 noon, while driving bus No. PUM 5305 belonging to the Ludhiana Municipal Corporation in a rash and negligent manner from Jagraon over-bridge (Ucha Pul) towards Clock Tower—one of the busiest roads of Ludhiana Town, he not only hit the scooter of the deceased Sunil Kumar from behind but also dragged it for about 20 feet, and crushed him under the wheels of the bus. Mulkh Raj, the pillion rider having fallen on the left side of the road just escaped death. The sole defence pleaded by him at the trial was of false implication. The appellate Court, after reappraising the evidence on record, has recorded the following conclusion:—

“In fact, the bus driven by the appellant struck against the scooter at its back side with the result that Mulkh Raj P.W. 3 was thrown away and the scooter driven by Sunil Kumar got entangled in the wheels of the bus which continued to drag it upto the distance of 20' and the scooter was found entangled in the front right wheel of the bus when the appellant brought the bus to a halt after having crushed the body of Sunil Kumar and left it behind as shown in photographs Exhibit P. 9 to Exhibit P. 16.”

As already pointed out, with the dismissal of his petition on October 20, 1982, the above noted finding stands affirmed and is no

Court on its own motion v. Ganda Singh (I. S. Tiwana, J.)

more in dispute. Again, the power of this Court under section 17 of the Act to disqualify the respondent who is convicted of an offence in the commission of which a motor vehicle has been used, is not disputed by Mr. Palta, learned counsel for the respondent. His sole submission is that the sentence awarded to his client is fully commensurate with the facts and circumstances of the case or the guilt that has been proved against him. For this he seeks reliance on certain judgments of this Court as well as some others wherein for an offence under section 304A, I.P.C., either a lesser sentence has been awarded to the convict or he has even been released on probation. He urges that with the cancellation of the driving licence of the respondent he is likely to be rendered unemployed which in turn would cause untold misery to his family and dependants. He also highlights that during his ten years career as a bus driver, this was the first offence committed by him. I, however, see no merit in any of these submissions.

(3) So far as the judgments on which the learned counsel has sought reliance are concerned, I find that the observations made therein are entirely dependant on the facts and circumstances of those cases. Further I am of the considered view that whatever has been said in those judgments for awarding a lesser sentence or for releasing of the convict on probation on account of the fact that his being confined to jail custody would deprive him of his professional career as a driver or would cause misery to his family members is of no weight and meaning in view of the strong observations of the final Court in *Rattan Singh's* case (supra). This is how the Court has dealt with this aspect of the matter:—

“Counsel for the petitioner has contended that a sentence of 2 years’ R.I. is excessive, especially having regard to the fact that the petitioner has a large family to maintain and the proprietor of the truck has left his family in the cold. When a life has been lost and the circumstances of driving are harsh, no compassion can be shown. We do not interfere with the sentence, although the owner is often not morally innocent.”

(4) It is almost a matter of common knowledge that Indian transport is acquiring a menacing reputation which makes travel a tryst with death. It looks as if traffic regulations are virtually dead and police checking mostly absent. By these processes of lawlessness, public roads are now virtually lurking death traps. Rashness

and negligence are of course relative concept, not absolute abstractions, but in the given facts and circumstances of this case as noticed above, the rashness on the part of the respondent does call for a deterrent punishment. To my mind, it is a fit case in which the substantial power vested in this Court under section 17(1) of the Act to disqualify an erring driver who earns his livelihood by driving motor vehicles and in the same process causes distress and misery to the dependants of the innocent victim, should be exercised. To me it appears just and proper that such a dangerous driver should be kept off the road at least for some time, I, therefore, declare that in addition to the sentence that has already been passed against the respondent, he is disqualified to hold a licence to drive a heavy motor vehicle, such as, a truck or a bus, for a period of five years from today. A copy of this order be also sent to the Licencing or Renewing Authority concerned.

H.S.B.

Before P. C. Jain, J.

FAQIR CHAND AND OTHERS,—*Appellants.*

versus

MUNICIPAL COMMITTEE, SULTANPUR LODHI AND
OTHERS,—*Respondents.*

Regular Second Appeal No. 286 of 1975.

June 2, 1983.

Punjab Municipal Act (III of 1911)—Section 81—Recovery of arrears of tax by a Municipal Committee barred by time—Such arrears—Whether could be recovered under section 81.

Held, that section 81 of the Punjab Municipal Act, 1911 provides a summary procedure for the recovery of any tax, water-rate (rent) fee or any other money claimable by a Committee under the Act. On an application made by the Committee, a Magistrate having jurisdiction may recover the arrears claimable by a Committee by the distress and sale of any moveable property belonging to the defaulter. Under this section a summary procedure is provided for the recovery of certain categories of dues with the object of avoiding all complications involved in litigation. The provisions of this section cannot be construed to mean that even though the Municipal Committee had lost the remedy to recover the amount in a court