

CORAM: HER HONOUR BERTHA ANIAGYEI (MS) SITTING AT  
THE CIRCUIT COURT 'B' OF GHANA HELD AT TEMA  
ON TUESDAY, 28<sup>TH</sup> FEBRUARY, 2023

SUIT NO. D18/15/22

THE REPUBLIC

VRS

ALFA KWASI

-----  
-----  
JUDGMENT  
-----

The accused person stands arraigned before this Court on two counts; dangerous driving contrary to *section 3 of the Road Traffic Offences Act, (ACT 683)* and negligently causing harm contrary to *section 72 of the Criminal Offences Act, 1960 (Act 29)*.

The particulars of offence for count are that on the 17<sup>th</sup> day of May 2020 at about 4:30 pm, along the harbour dual carriageway at community 7 near the Valco roundabout, in Tema metropolis and within jurisdiction of this court, then being the driver in charge Man Diesel Articulator truck with registration number AS 6341 C, accused drove the said truck dangerously when he knew all along that the said vehicle's braking system was defective but nonetheless, continued to use the vehicle to the neglect of the safety of other road users thereby veering over the central reserve pavement of the central carriageway and knocking down Daniel Amegbe aged 33, a pedestrian who had crossed from the opposite lane and waiting to cross the road half of the dual carriageway.

On count two, the particulars are that on the 17<sup>th</sup> day of May 2020 about 4:30 pm, along the harbour dual carriageway at community 7 near Valco roundabout, in the Tema

metropolis and within the jurisdiction of this court, then being the driver in charge of Man Diesel Articulator truck with registration number AS 6341-C, accused negligently caused harm to Amegbe Daniel aged 33, a pedestrian waiting on the central reserve pavement of the road to cross when accused dangerously drove and climbed the said pavement and knocked down the said pedestrian who sustained injury leading to his death.

The brief facts of the case according to prosecution is that on the 17<sup>th</sup> May 2020 at about 4:30 pm, driver Alfa Kwasi was Driving Man Diesel Articulator truck with registration number AS 6341 C drawing a 40-footer flat body trailer along the Tema harbor dual carriageway from the motorway intersection towards the Harbor. Accused person was in the outer lane.

At some distance before the Valco roundabout, the accused driver alleged that an unidentified vehicle obstructed his way at close range and in an attempt to avoid an eminent crash veered into the inner lane and subsequently climbed the central reserve pavement. In the process, he traveled about a distance of 36 meters and run over Daniel Amegbe aged 33, a pedestrian who was waiting on the said pavement to cross the road towards the nearside. The pedestrian sustained serious injury and died on the spot. Police received information and visited the scene.

The accident Man Diesel truck was found at its resultant position and the motionless body of the pedestrian was found lying in the inner lane of the dual carriageway when facing the motorway intersection direction.

The accused driver was also met at the scene. The pedestrian was carried to the Tema General Hospital where he was confirmed dead by a medical doctor. The accident vehicle was recovered to the police station.

A post-mortem examination was conducted at the hospital and the body was released to the family. Police revisited the accident scene with the accused driver and the deceased family, took measurements and drew a sketch. The accident vehicle was examined by a technical engineer of DVLA whose written report indicated that the braking system of the accused driver's vehicle was defective prior to the time of the accident.

After investigation, a duplicate case docket was prepared and forwarded to the Attorney General's office for advice. On receipt of the advice, the accused driver was charged with the offences before the court.

The accused person initially pleaded not guilty to the charge. However, in the course of proceedings and before the commencement of trial, he indicated to the Court through his counsel of his decision to change his plea.

Accused person's plea was thus retaken in his language of preference i.e twi and he pleaded guilty simpliciter to both count one and count two. In order to ensure that his plea of guilt was voluntary and that he understood the plea, I proceeded to ask him these questions;

*BY COURT: Accused person, did your lawyer explain to you the meaning of a plea of guilt?*

*Accused person: Yes, My Lord.*

*BY COURT: Did you plead guilty voluntarily?*

*Accused person: Yes, My Lord.*

Being convinced that the accused person understood the charge, was *compos mentis* and had pleaded guilty voluntarily, I proceeded to convict him on his own plea of guilt to count one and count two.

## **PRE SENTENCING**

According to prosecution, the convict is not known. Counsel for the convict in mitigation submitted to the court that:

"My Lord, the convict is a married man, aged 46 years with 5 children. The last one is very young just 7 months old. To make matters worse for the convict is the fact that in terms of what is likely to happen, his wife is not gainfully employed. This makes him the sole breadwinner. Convict although his vehicle was insured, contributed a sum of eight thousand Ghana cedis (GHs 8,000) to the family of the deceased during the funeral.

The money went to the surviving parent of the deceased as the deceased had no wife or children. Convict has also put in the necessary processes and informed the insurance company to make way for any claim likely to be put up by the dependants of the deceased family to be easily processed. My Lord, although, we agree that the brakes were defective, My Lord, they were not wholly inoperative.

Again, My Lord would realize that it must have taken an occurrence for a vehicle driving in a straight line to veer off. The vehicle veered off and drove unto the central reserve because a vehicle crossed the convict and he had to go off to prevent an accident. My Lord, in view of the circumstances, I pray that the court exercises leniency on the convict and deals with him very leniently. I pray accordingly".

I sentenced the convict to a three (3) year term of imprisonment on count one and a six (6) month term of imprisonment on count two. The terms are to run concurrently. Full reasons for my sentence were deferred to today.

On count on, section 1 of Act 683 provides that;

### **Section 1 – Dangerous Driving**

(1) A person who drives a motor vehicle dangerously on a road commits an offence and is liable on summary conviction

(c) where death occurs, to imprisonment for a term of not less than 3 years;

As there was a death due directly to the accident caused by the convict, it stands to reason that the minimum punishment the court can impose is a three (3) year term of imprisonment.

On count two, the offence of negligently causing harm is a misdemeanor and per *section 296 of the Criminal and other Offences Procedure Act, 1960 (Act 30)* is a term of imprisonment not exceeding three years.

*Kpegah J.* (as he then was) in the case of *Impraim v. The Republic [1991] 2 GLR 39-47* stated that in considering the sentence to be given to an accused either upon first trial or during appeal, the courts had to take into consideration ‘the gravity of the offence taking into account all the circumstances of the offence. In this wise, regard must be had to such matters as the age of the offender, his health, his circumstances in life, the prevalence of the offence, the manner or mode of commission of the offence – whether deliberately planned and executed – and other like matters.’

In mitigation I find that the convict is a first time offender. Although the dead cannot be raised into life again no matter one's actions, he has tried to make some restitution to the family of the deceased and to reduce their grief and burden in a small way.

He also pleaded guilty before the commencement of trial thereby saving the state from going through a trial and also preventing the family of the deceased from having to go through the rigours of testifying and having to relive their sorrow.

Learned counsel for the convict has also impressed upon this court to peculiar circumstances of the convict and the fact that he is a sole breadwinner to a wife and five children one of whom is less than a year old.

In aggravation however, the rate of motor accidents in the country keep escalating rather than reducing. The Motor Traffic and Transport Department of the Ghana Police Service confirmed in its annual official release statistics, that in the year 2021, 2, 924 deaths were lost through road accidents. According to the report, that represented a 12.94% rise in the figures for 2019. The same report also noted that 15,680 people were injured through road accidents and are battling with various degrees of injury. This represented a 1.05% rise to the 2020 injury figure of 15,517.

The peculiar circumstances of the convict call for the court to exercise some leniency towards him particularly so as he has made attempts at some form of restitution to the family of the deceased. Upon these considerations, convict was sentenced to a minimum term of three (3) years imprisonment on count one and six (6) months imprisonment on count two. Both are to run concurrently.

**H/H BERTHA ANIAGYEI (MS)**  
**(CIRCUIT COURT JUDGE)**

**A.SP. STELLA ODAME FOR THE REPUBLIC**

**EDWARD METTLE NUNOO FOR THE CONVICT**