

**Bossa v Uganda (Criminal
Appeal No. 056 of 2008) [2015]
UGHCCRD 35 (17 March 2015)**
[2015] UGHCCRD 35

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3. The learned Magistrate erred in law and fact by convicting the Appellant on insufficient evidence.

A look at the 3 grounds reveals that all three grounds are so similar as to be mere repetitions.

The Appellant in a nutshell faults the trial magistrate for having failed to rely on the evidence of the Traffic Police at the scene who should have established the point of impact. That the victim was hit in the middle of the road and not at the side. That he had suddenly rushed into the middle of the road and it was impossible to stop the vehicle suddenly.

Secondly, that the magistrate did not consider that the Appellant was driving at a reasonable speed of 40kmph and even stopped and took the victim for treatment.

Finally, he says the fine was excessive without giving any justification for so saying.

For the prosecution, it has been submitted that the trial magistrate properly evaluated the evidence on record as per pages 1, 2, 3 and 4 where the magistrate considered the evidence of PW1 and corroborated by that of PW2 who all confirmed that the complainant was knocked as he stood at the side of the road waiting for transport to Kampala.

The same evidence was not challenged by the accused during cross examination. He even confirmed that he knocked the complainant and even took him to Hospital.

The magistrate noted that if the Appellant had been driving at a reasonable speed, he would have been able to break and stop thus avoiding the complaint.

The magistrate in his Judgment cited the case of:

1. **MC Crone Vrs. Riding (1938)1 ALL ER, and**
2. **Taylor Vrs. Rogers (1960) Criminal LR 270 DC.**

He was satisfied that the Appellant did not exercise the degree of care and attention that a reasonable, competent and prudent driver would exercise.

The Appellant had no plausible defence apart from claiming he was driving at 40km p.h. which was reasonable. This is not borne out by any evidence.

Given the fact that he was overtaking, the speed could have been much higher than he claims.

This appeal has no merits. It is dismissed accordingly. The Judgment and sentence of the trial Court are upheld.

Godfrey Namundi

JUDGE

17/03/2015

17/03/2015:

Appellant absent (Has never been traced)

Nabagala for State

Court: Judgment read.

Godfrey Namundi

JUDGE

17/03/2015

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