

R. v. Simoneau

[1952] C.C.S. NO. 330

CCH DRS 1952-1953 P15-978

(1952) 102 C.C.C. 282

Ontario District Court

[1952]

Criminal law -- Motor vehicles -- Careless driving -- Bus driving into rear of car ahead -- Brakes not functioning -- Driver without knowledge of subnormal effectiveness of brakes -- Lack of negligence -- Highway Traffic Act, R.S.O. 1950, c. 167, s. 29.

The accused, a bus driver, appealed from his conviction of careless driving under s. 29. He was driving the loaded bus in a procession of motor vehicles, when the driver ahead of him suddenly stopped. The accused applied the brakes, but they did not function, and the bus ran into the car ahead of it. The accused testified that he had been driving for 8 years with a clear accident record, that prior to the accident he did stop the bus a few times without noticing anything unusual about its braking power and that he had no previous warning of this condition. A subsequent test of the empty bus by a police officer showed the brakes to be satisfactory.

Held: That the appeal is allowed and the conviction quashed. The evidence satisfies the court that the accused had no actual knowledge of the subnormal effectiveness of the brakes until he applied them immediately prior to the accident. He had every reason to assume that the bus was in proper condition when the dispatcher assigned the same to him. The bare fact that the equipment on a public carrier might be improved does not in itself constitute negligence; it must be shown that the equipment is defective. On the evidence there is no negligence proved against the accused. It is not the law that in all cases where a motor vehicle runs into the rear of another that the driver of the rear vehicle is guilty of careless driving.

s/niz