

IN THE PROVINCIAL COURT (CRIMINAL DIVISION)

HER MAJESTY THE QUEEN

AGAINST

JOHN SZEPIECWICZ

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BEFORE HIS HONOUR JUDGE J. A. CLIMANS, on
December 20, 1984, AT TORONTO.

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CHARGE: Fail to wear seat belt

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APPEARANCES:

Counsel for the Crown
Counsel for the accused

S. Manraj
Not represented

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MR. MANRAJ: Now, Your Honour, we go back to number one.

THE COURT: You are Mr. John Szepiecawicz, okay.
Failure to wear complete seat belt.

THE ACCUSED: Your Honour, this is in a taxi cab and they wanted to see my trip sheet for the discrepancy of times between fares between 46 and 47. There is--included with the tin there is -

MR. MANRAJ: Did you show this at the previous trial?

THE ACCUSED: No, they asked for it at the previous trial and I didn't have this trip sheet with me.

THE COURT: You didn't have it at the previous trial? Are you satisfied?

MR. MANRAJ: I can't understand, Your Honour, why in September 1984 he requested a trial date and he knew the trial was to take place on the 23rd of October, 1984, and he went to court on the 23rd of October '84, one would have thought he would have brought all the--this is a simple charge of failing to wear a seat belt--one would have thought that with his defence--look, I was actually having, I had a fare in the cab, and therefore I am exempt while I have a fare in the cab.

THE ACCUSED: Your Honour, that wasn't quite the case. I didn't have a fare at the time, but the thing is I am a cab driver and I was in and out of the vehicle constantly at that time.

THE COURT: Aren't cab driver's exempt?

MR. MANRAJ: Oh, Your Honour, that makes it worse. If there is a fare there is a regulation, Your Honour, which exempts them if they have a fare in the cab. If they don't have a fare in the cab, then, Your Honour, they are--I have it somewhere around here, Your Honour, I'll find it. Exemption for a taxi cab driver.

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is regulation 485. Yes, Your Honour, it says here, "Taxi cabs--
this is our regulation 485, Your Honour--"Taxi cabs are exempt from
the requirement that (a) upper torso restraint for a driver's
seating position and (b) seat belt assembly...

"The driver of a taxi cab while transporting for
hire a passenger, is exempt from Section 90 (3)."

10 He has to have a passenger, Your Honour. If he
doesn't have a passenger, no exemption is given to him. The reason
for that is, Your Honour, the exemption was put in this amendment
because there was a lot of attacks at one time, the state of attacks
on taxi drivers by passengers -

THE COURT: What was the section?

MR. MANRAJ: Your Honour, this is regulation 485.

THE COURT: 485.

15 MR. MANRAJ: Page 267, in February 1982's edition.

Regulation -

THE COURT: Here it is.

MR. MANRAJ: Section 5 (3), Your Honour.

20 THE COURT: I don't understand regulation, Section
2, "Taxi cabs are exempt from the requirement that upper torso
restraints for driver's seating positions and the seat belt assembly
in the centre front seating positions not be removed, rendered
partially or wholly inoperable or modified so as to reduce their
effectiveness." In other words, it says that taxi cabs can have
that removed. What's the point? I don't understand that regulation.

25 MR. MANRAJ: Your Honour, regulation 5--in this
regulation defined, "What is a taxi cab?" there are two. Taxi cabs
are exempt from the requirement, and this is the exemption, "That
upper torso restraints and seat belt assembly in the centre front
position."

30 THE COURT: So they don't need an upper torso and
they don't need seat belt assemblies in the centre front seat?

MR. MANRAJ: That's right, Your Honour.

THE COURT: So those cannot be removed or rendered inoperative.

MR. MANRAJ: In other words, they must not remove them. They must be there, but then they are exempt from wearing them if they have a passenger in the car, a fare in the car. You see, "Not be removed -

THE COURT: It says those are exempt, those positions, from not being removed, which means you can remove them. If you are exempting them from not removing them, surely you can remove them, counsel.

MR. MANRAJ: It's very poorly worded.

THE COURT: It sure is. In any event, he's here. The charge was wearing a complete seat belt, but he doesn't need a complete seat belt assembly according to this.

MR. MANRAJ: The rule applies to him, Your Honour, as a driver of a taxi cab while transporting for hire. In this case he wasn't transporting for hire.

THE COURT: If we are going by (2), the upper torso restraints aren't necessary, and he is being charged with failing to wear a complete seat belt, or something, pursuant to Section 93, and if I read the exemption, it seems to be rather convoluted.

MR. MANRAJ: Your Honour, actually, when one reads that exemption--let me see if there is any amendment.

THE COURT: See if there is any amendment, counsel, because it certainly doesn't agree to it.

MR. MANRAJ: "Taxi cabs are exempt from the requirement that upper torso restraints for driver's seating position and seat belt assemblies in the centre front seating positions not be removed, rendered partly or wholly inoperable or modified so as to reduce their effectiveness."

THE COURT: Do you agree with me, Mr. Manraj?

MR. MANRAJ: Your Honour, that is double-dutch.

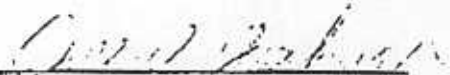
THE COURT: It sure is. In any event, the charge is on a taxi driver in any event, failing to wear a complete seat-belt assembly doesn't apply. No, I'm going to allow your appeal, sir. It seems to be rather convoluted, but I'm going to allow your appeal and dismiss the charge.

MR. MANRAJ: Conviction set aside.

THE COURT: You'll get your fine back through the mail.

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This is to certify that the foregoing is a true and accurate transcript of my recordings to the best of my skill and ability.


JILL A. GRAHAM
OFFICIAL COURT REPORTER