

Musa Bin Haji Mahmud

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 39 of 2020)**

Steven Chong, CJ
25 November 2020

Criminal law – Driving a car without insurance coverage – Inconvenience not a “special reason” for not ordering disqualification – Ss 3(1) and 3(2) of the Motor Vehicles (Third Party Risks) Act.

Appellant unrepresented.

PO Hajah Siti Mu'izzah Binti Haji Sabli for the Public Prosecutor/Respondent.

Cases cited:

Mokhtar Bin Jamaha v Public Prosecutor [Criminal Appeal No. 36 of 2020]

Public Prosecutor v Lim Jin Lee and Salina Binti Mohd Saleh [2000] 2 JCBD 217

Steven Chong, CJ:

On 28 September 2020 in the Magistrate's Court the appellant pleaded guilty to driving a car when he was not insured against third party risks contrary to section 3(1) of the Motor Vehicles Insurance (Third Party Risks) Act.

Magistrate Kamaliah Fadhilah Binti Ibrahim imposed a fine of \$750 and ordered the appellant to be disqualified from driving for 12 months.

This is the second case this month where the appellant appeals against the disqualification order on the ground of inconvenience. As in the case of *Mokhtar Bin Jamaha v Public Prosecutor* [Criminal Appeal No. 36 of 2020], the appellant complains that it is troublesome not being permitted to drive to work and take his children to school.

Shortly stated the facts were that on the morning of 28 January 2020 the appellant was driving his car along Jalan Maulana in Kuala Belait when he was stopped by the traffic police. It was discovered by the police that the insurance policy of the car had expired on 31 October 2016.

On conviction for driving when uninsured it is mandatory pursuant to section 3(2) of the Motor Vehicles Insurance (Third Party Risks) Act that the offender be disqualified from driving for 12 months or longer, unless there are “*special reasons*”.

It is settled law that “*special reasons*” must relate to the offence itself and not to the offender: *Public Prosecutor v Lim Jin Lee and Salina Binti Mohd Saleh* [2000] 2 JCBD 217.

Inconvenience to the offender of not being permitted to drive cannot constitute a “*special reasons*” for not disqualifying him as it is personal to him and not connected to the offence itself.

The appellant knowingly drove when uninsured for over three years putting other road users, in the event of an accident resulting in injury or death, at risk of not receiving any compensation. This kind of irresponsible behaviour must be strongly discouraged.

Disqualification was rightly ordered by the Magistrate and the appeal is dismissed.

DATO SERI PADUKA STEVEN CHONG
Chief Justice