

1957

Present ; T. S. Fernando, J.

**B. PAUL PERERA, Appellant, and A. D. PURASINGHE (S. I. Police),
Respondent**

S. C. 640—M. M. C. Colombo, 38,661

Motor Traffic (Use of Vehicles) Regulations, 1951—Regulations 2 and 3—Applicability to spare tyres—Motor Traffic Act, No. 14 of 1951, ss. 216, 226.

Carrying in a lorry a spare tyre which is worn down to such an extent as to expose a part of its outermost canvas constitutes a breach of Regulations 2 (2) and 3 of the Motor Traffic (Use of Vehicles) Regulations, 1951.

¹ (1946) 47 N. L. R. 499.

² (1940) 47 N. L. R. 136.

APPEAL from a judgment of the Municipal Magistrate's Court, Colombo.

J. A. L. Cooray, with F. X. J. Rasanayagam, for the accused appellants.

A. C. de Zoysa, Crown Counsel, for the Attorney-General.

Cur. adv. vult.

November 4, 1957. T. S. FERNANDO, J.—

This appeal raises the question of the interpretation of Regulations 2 and 3 of the Motor Traffic (Use of Vehicles) Regulations, 1951, made under sections 192 and 239 of the Motor Traffic Act, No. 14 of 1951, published in Gazette Extraordinary No. 10,360 dated February 27, 1952.

Regulation 2 (1) of these regulations requires that all tyres fitted to a motor vehicle shall at all times, while the vehicle is used on the highway, be maintained in such condition as to be free from any defect which is likely . . . to be dangerous to persons travelling in such vehicle or to persons using the highway.

Regulation 2 (2) requires that all the tyres of a lorry . . . fitted with pneumatic tyres shall at all times, while such lorry . . . is used on a highway, be in such condition that no portion of any tyre is worn down to such an extent as to expose any part of the outermost canvas.

Regulation 3 requires that every lorry . . . fitted with pneumatic tyres shall, while the lorry . . . is used on a highway, carry at least one spare inflated tyre affixed to a rim, spare wheel or other device so that it is capable of being fitted quickly to a wheel or axle, as the case may be.

A Police Sergeant on traffic duty stopped the appellant while he was driving on the highway a lorry of which he is the registered owner. The spare tyre of the lorry was found to be worn down to its outermost canvas. The appellant was charged before the Magistrate's Court with committing a breach of Regulations 2 (2) and 3 reproduced above, an offence punishable under section 216 read with section 226 of the Motor Traffic Act. He was convicted in the Magistrate's Court, but he has appealed to this Court and it has been urged on his behalf that he is not guilty of the breach of the regulations complained of inasmuch as the regulations do not require that the *spare tyre* carried in a vehicle of the description specified in regulation 3 should be in such condition that no portion of it is worn down to the extent indicated in regulation 2 (2). The argument, shortly put, is that while the tyres *fitted* to the vehicle must be free from defect, that requirement is not expected of the spare tyre that must be *carried* in the vehicle. While I agree that the spare tyre referred to in regulation 3 and which is required to be *carried* in the vehicle cannot

be said to be *fitted* to the vehicle, it seems to me that if the argument indicated above prevails regulation 3 will be deprived of any sensible meaning.

It is conceded that a spare inflated tyre must be carried in the vehicle, It is also conceded that this spare inflated tyre must be affixed to a rim, spare wheel or other device so that it is capable of being fitted quickly to (a wheel or axle of) the vehicle. It is nevertheless contended that this spare inflated tyre which is required by law to be carried in the vehicle so that it is capable of being fitted quickly thereto need not be free from defects, or that, at any rate, it does not matter if it is so worn down as to expose a part of its outermost canvas. Regulation 2 (2) presupposes at the least that a vehicle cannot be lawfully used on a highway if a tyre fitted to it is worn down to the extent indicated therein. If this supposition be correct, the vehicle cannot lawfully be used on a highway if occasion has arisen to requisition the spare tyre and the spare tyre is worn down to its outermost canvas. If a vehicle cannot lawfully be used on a highway because the spare tyre which has been fitted thereto is not in the condition specified in regulation 2 (2), then the purpose of carrying such a spare tyre in the vehicle becomes quite meaningless, if not absurd.

Learned Crown Counsel has contended that the expression "all the tyres" in regulation 2 (2) means all the tyres fitted to the vehicle and the spare tyre carried therein, while learned counsel for the appellant seeks to exclude from its embrace the spare tyre. It is an accepted rule of interpretation of statutes that if the language employed admits of two constructions and according to one of them the enactment would be absurd and according to the other it would be reasonable, the Courts should assume that the legislature intended the latter construction.

As I have indicated already, the requirement relating to the carrying of a spare inflated tyre becomes meaningless and absurd if that tyre can be in such condition that driving the vehicle after that tyre is fitted to it renders the driver guilty of an offence under the Act. In this view of the matter, I am of opinion that "all the tyres" in regulation 2 (2) includes the spare tyre referred to in regulation 3. It follows, therefore, that the learned Magistrate has rightly convicted the appellant, and I would dismiss this appeal.

I may add that counsel for the appellant also referred to the decision of this Court in the case of *Thomas Singho v. S. I. Police, Gampaha*¹, and claimed that here too there was no user of a motor vehicle in contravention of the regulations. In view of the later decision in the case of *Fernando v. Amarasekere*², I do not think it is necessary to enter upon a consideration of this claim.

Appeal dismissed.

¹ (1954) 55 N. L. R. 395.

² (1956) 57 N. L. R. 503.