

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU
(Criminal Jurisdiction)

Criminal
Case No. 25/1863 SC/CRML

PUBLIC PROSECUTOR

v

MANUEL TIKLITANI

Dates of Trial: 22-23 October 2025 and 7 November 2025
Before: Justice V.M. Trief
In Attendance: Public Prosecutor – Mr T. Karae
Defendant – Mr D.K. Yawha
Date of Decision: 10 November 2025

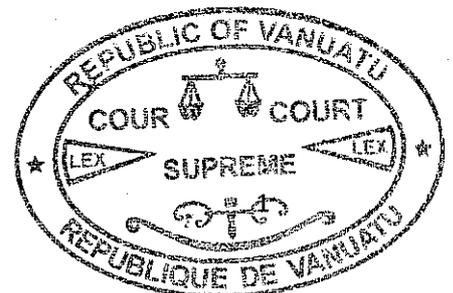
VERDICT

A. Introduction

1. In the morning of 4 April 2025, a black double cabin Toyota Hilux motor vehicle (the 'truck') hit a golf buggy on the Mele Golf road. Beverly Stafford was the only person in the golf buggy. Mrs Stafford died as a result of her injuries from the collision. She was pronounced dead when paramedics arrived at the scene.
2. The accused Manuel Tiklitani is charged with unintentional harm causing death contrary to section 108(c) of the *Penal Code* [CAP. 135]. It is alleged that he committed this offence through negligence while driving the Toyota Hilux vehicle.

B. Law

3. Section 108(c) of the *Penal Code* provides as follows:



108. *No person shall unintentionally cause damage to the body of another person, through recklessness or negligence, or failure to observe any law.*

Penalty: ...

(c) if the damage so caused results in death, imprisonment for 5 years.

4. The elements of unintentional harm causing death are:

- (i) Damage was caused to the body of another person resulting in death;
- (ii) The damage caused was unintentional; and
- (iii) The defendant caused the damage through negligence while driving a Toyota Hilux double cabin registration number 23780.

5. The Prosecution had the onus of proof and was required to establish the allegations beyond a reasonable doubt before a finding of guilt could be made in respect of the charge. Mr Tiklitani was not required to establish anything.

C. The Evidence

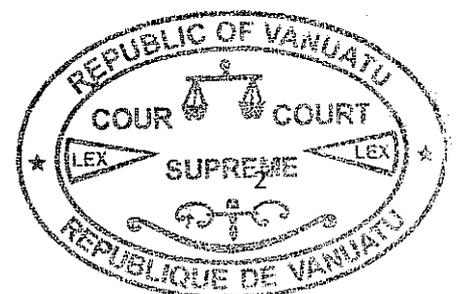
6. The Prosecution called one witness – Corporal Christophe Birikae of the Vanuatu Police Force.

7. Mr Tiklitani elected to remain silent. I did not draw an adverse inference from his election to remain silent.

8. The witness' demeanour was a small part of my assessment of the witness. I also looked for consistency within the witness' account; consistency when comparing the witness' account with relevant exhibits; and considered the inherent likelihood, or not, of the witness' account.

9. I reminded myself that if I were to draw inferences, they could not be guesses or speculation but had to be logical conclusions drawn from other properly established facts. Adverse inferences are to be drawn only if they are the only available inference to be drawn. Further, if more than one inference was available, the inference most favourable to the defence must be drawn.

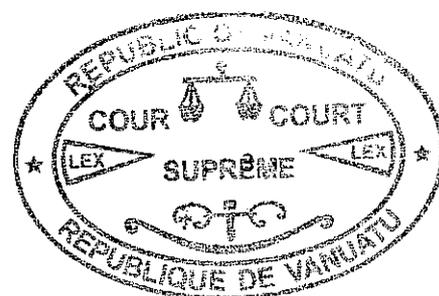
10. On 9 October 2025, counsel filed a Memorandum of Agreed Matters which both of them had signed containing the following **Agreed Facts**:



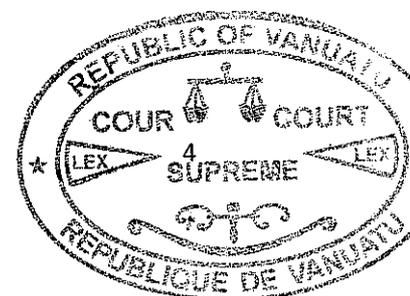
- a) On 3 April 2025, Mr Tiklitani drove the black double cabin Toyota Hilux vehicle registration number 23780 (the 'truck'), which was registered to Isabelle Tiklitani, with 8 other people to Tara Beach at Bukura area. They went there to decorate the venue for a wedding that would take place there on 4 April 2025.
- b) Mr Tiklitani and the others spent the night at Tara Beach.
- c) On 4 April 2025, Mrs Stafford (the 'deceased') went to work at the Mele Golf Club. Around 10.49am, she took the keys for the golf buggy from the receptionist as she wanted to go out and check the golf course because it was waterlogged.
- d) On 4 April 2025, Mr Tiklitani was driving the truck from Tara Beach and along the stretch on the Mele Golf road, driving towards Port Vila.
- e) After crossing the Mele bridge, Mr Tiklitani overtook a white minivan.
- f) The deceased was pronounced dead when paramedics and Police traffic officers arrived at the scene.
- g) Upon arrival by Police officers at the scene, they saw the truck driven by Mr Tiklitani and the golf buggy which had been driven by the deceased.
- h) Both vehicles had been in an accident.

11. The following exhibits were tendered by consent:

- a) **Exhibit P1** was the Police record of interview of Mr Tiklitani dated 5 April 2025.
- b) **Exhibit P2** were the motor vehicle registration documents. The truck is owned by Isabelle Tiklitani.
- c) **Exhibit P3** was Mr Tiklitani's driving licence.
- d) **Exhibit P4** was the ProMedical report by the attending paramedic. It recorded that the deceased was in a golf buggy which was struck by a ute. She was thrown several metres, landing on the road. She sustained multi-system trauma and was dead on arrival. They transported her to the morgue.
- e) **Exhibit P5** was the Police Forensics Unit crime scene report and photographs taken at the scene of the accident.



- f) The Police witness statements of Monica Jack, an employee of the Mele Golf Club [Exhibit P6], Police Constable Murphy Lunabek [Exhibit P7] and Mark Stafford, husband of the deceased [Exhibit P8].
12. I heard evidence from the sole Prosecution witness **Christophe Birikae** who is a Corporal in the Vanuatu Police Force. He has served for 6 years now in the Police Traffic Unit. He gave evidence of attending at the scene of the accident and seeing the truck and the golf buggy on the road. The truck was stationery and its manual shift was still in gear 5, with the air bags deployed during the crash. He saw the body of the deceased, which the paramedics had already moved to the side of the road. He saw Mr Tiklitani who told him that he was the driver of the truck and had crashed into the deceased after overtaking a minivan. He arrested Mr Tiklitani and placed him in the Police truck. Then he (Corp. Birikae) drew a sketch of the accident scene, titled "Accident Diagram" in relation to the accident which had occurred at 11am on 4 April 2025. He drew the sketch at 11.30am on 4 April 2025 [Exhibit P9].
13. Corporal Birikae also stated that he observed a skid mark 36.5 metres along the left side of the road, facing towards Port Vila. The skid mark was from the truck that Mr Tiklitani was driving; it had been driving from Mele, towards Port Vila. Corporal Birikae drew the skid mark and the direction that the truck had been travelling in in his sketch, as well as what he estimated to be the point of impact ("POI"). The buggy was on the left side of the road and had almost reached the gate in the golf course fence which the buggy had been heading for when Mr Tiklitani hit it. He also drew the positions in which he found the truck and the buggy, both stationery post-accident. The buggy had spun around completely and was facing back in the direction of the gate that it had come out from before embarking on its road crossing. He also drew in the sketch the golf course fences on both sides of the road as well as the road/grass boundary on both sides of the road.
14. In cross-examination, Corp. Birikae was questioned about investigating the point on the road at which Mr Tiklitani had overtaken the minivan. He replied that the witnesses told him about the truck overtaking the minivan and he tried to find the minivan but could not find it. He agreed that the Mele Golf road is a long stretch of road. He was questioned about the location of the skid mark on the road. He agreed that the skid mark angled across the left side of the road, and that he had not drawn it that way in the sketch but that he noted its length of 36.5 metres. He stated that there is no speed limit sign on that road but that it is a driver's responsibility to drive safely for other road users and the driver himself. He stated that Mr Tiklitani told him where the point of impact with the buggy was and that was what he drew in **Exhibit P9**.
15. There was no re-examination.



16. Corporal Birikae maintained his account in cross-examination. He readily conceded matters when required. I accepted Corp. Birikae as a witness of truth and accepted his evidence.

D. Discussion

17. The elements of unintentional harm causing death that the Prosecution needed to prove are as follows:

- (i) Damage was caused to the body of another person resulting in death;
- (ii) The damage caused was unintentional; and
- (iii) The defendant caused the damage through negligence while driving a Toyota Hilux double cabin registration number 23780.

18. By Mr Tiklitani's own admission in his record of interview, the truck that he was driving hit the front of the buggy that Mrs Stafford was driving, and she was flung out of the buggy onto the road [**Exhibit P1**]. The ProMedical report in **Exhibit P4** recorded that the deceased was in a golf buggy which was struck by a ute. It also recorded that she was thrown several metres, landing on the road. Finally, that she sustained multi-system trauma and was dead on their arrival at the scene as a result of the injuries that she sustained. None of this evidence has been contradicted.

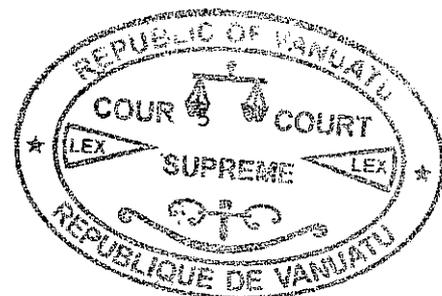
19. Accordingly, I am satisfied that the Prosecution has proved the first 2 elements of the charge beyond a reasonable doubt. That is, that unintentional damage was caused to the body of Mrs Stafford, resulting in her death.

20. As to the third element of the charge, the Prosecution case is that Mr Tiklitani caused the damage to the deceased through negligence by failing to ensure that it was safe for other road users on the road ahead of him and for himself before overtaking the minivan in front of him. In failing to do so, he failed to exercise the care, skill and foresight that a driver in his situation should have and failed to prevent harm occurring to the deceased.

21. Subsection 6(4) of the *Penal Code* provides as follows:

6. ...

- (4) A person shall not be guilty of a criminal offence if he is merely negligent, unless the crime consists of an omission. A person is negligent if he fails to exercise such care, skill or foresight as a reasonable man in his situation should exercise.



[emphasis added]

22. Motor vehicle drivers owe a duty of care to other road users and to themselves.
23. Mr Tiklitani will have breached his duty of care hence caused the damage to the deceased's body through negligence if he failed to exercise the care, skill or foresight that a reasonable man in his situation should have exercised to prevent causing that damage: subs. 6(4) and 108(c) of the *Penal Code*.

24. Section 4 of the *Road Traffic (Control) Act* [CAP. 29] provides as follows:

4. (1) *Every driver must at all times keep his vehicle to the right hand side of the road (particularly so when another road user arrives from the opposite direction or is ready to overtake). Overtaking will take place on the left. At cross roads, intersections of roads and forked roads, the driver of any vehicle shall give way to another coming on his right:*
Provided that the driver of a vehicle on a road which has been designated a "major" road by Order of the Minister shall have the right of way, and the driver of a vehicle on a road on which a "STOP" or "GIVE WAY" sign has been placed, shall stop and shall yield the right of way.
- (2) *When a road is divided by a continuous white line every driver must drive to the right of this line.*

25. Every driver must at all times keep his vehicle to the right hand side of the road pursuant to s. 4 of the *Road Traffic (Control) Act*.

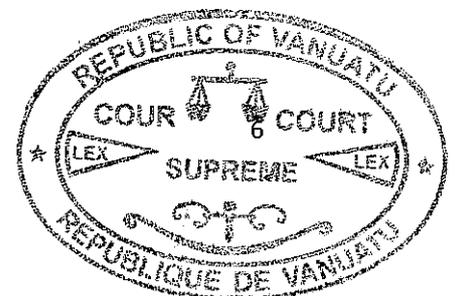
26. Any overtaking of another vehicle travelling in the same direction is to take place on the left hand side of the road: s. 4, *Road Traffic (Control) Act*.

27. Section 5 of the *Road Traffic (Control) Act* provides as follows:

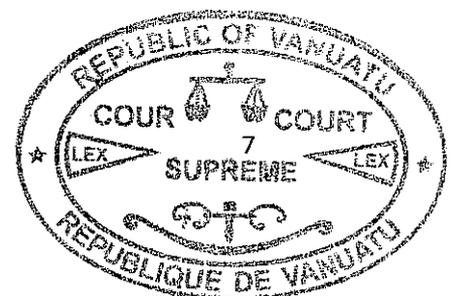
5. *Every driver wishing to draw away from the curb, to overtake a vehicle travelling in the same direction, to stop or to change direction must indicate his intention clearly by hand or light signal. The signals used shall be in accordance with Schedule 6. Every driver wishing to overtake another vehicle shall if necessary sound his horn. A driver shall satisfy himself that no danger exists to other road users or himself before carrying out the above operations.*

[emphasis added]

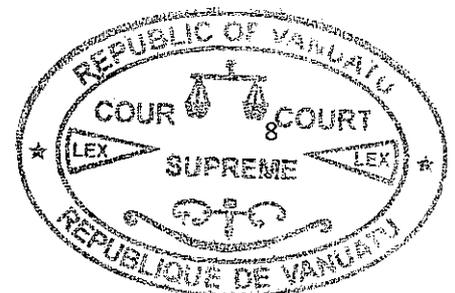
28. Every driver wishing to overtake a vehicle travelling in the same direction is to indicate his intention clearly by hand or light signal, or by sounding his horn. In addition, the driver shall satisfy himself that no danger exists to other road users or himself before carrying out the above operations pursuant to s. 5 of the *Road Traffic (Control) Act*.



29. The foregoing provisions inform the standard of care that Mr Tiklitani should exercise whilst driving the truck.
30. Has the Prosecution proved beyond reasonable doubt that Mr Tiklitani caused the damage to the deceased by failing to ensure that it was safe for other road users on the road ahead of him and for himself before overtaking the minivan in front of him?
31. Mr Yawha submitted that the Prosecution should have led evidence from eyewitnesses to prove its case. However, there is no requirement in law that the Prosecution can only prove its case through eyewitnesses. Mr Tiklitani was an eyewitness to the accident. His record of interview was in evidence [**Exhibit P1**].
32. It is an agreed fact that Mr Tiklitani was driving the truck from Tara Beach to Port Vila. Accordingly, Mr Tiklitani's duty of care involved driving on the right hand side of the road heading towards Port Vila: s. 4 of the *Road Traffic (Control) Act*.
33. It is also an agreed fact that after crossing the Mele bridge, Mr Tiklitani overtook a white minivan.
34. In cross-examination, it was put to Corp. Birikae that he had not stated anywhere in his own Police witness statement that Mr Tiklitani overtook a minivan before hitting the buggy. Corporal Birikae responded that that is what Mr Tiklitani and other witnesses told him at the scene of the accident.
35. This aspect of the cross-examination was irrelevant and unhelpful as counsel was seeking to put a contention to Corp. Birikae which directly contradicted a fact which had been agreed.
36. Corp. Birikae stated that Mr Tiklitani told him that after he overtook the minivan, he thought that the buggy would stop but it did not, so he tried to avoid hitting it ("*hemi traem blo trikim*") but could not, and his truck hit the buggy. Corp. Birikae maintained his account in cross-examination.
37. By Mr Tiklitani's own admission in his record of interview [**Exhibit P1**], after he passed the turn-off to the Beach Bar, the road condition improved so he drove in gears 4 and 5. He stated that as they were approaching Mele Golf, he saw the buggy entering onto the road in front of him from the right hand side of the road (his right) ("*... taem mi stap ron from mele golf mi ron long 4 to 5 kia and mifala stap ron l kam long mele golf mi luk foret blong buggy l pushout right long road blong kam long colta...*").

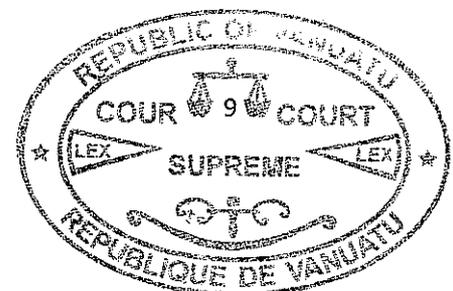


38. He stated that he thought that the driver of the buggy saw his truck but when the buggy got to the middle of the road, he saw that the buggy driver was a man or woman but the buggy driver did not turn their head left or right but just continued crossing straight across the Mele Golf road ("*... and mi ting se hemi luk mi from buggy taem hemi kamaot be wan man I drivem be mi luk save se man or woman team buggy hemi ron kam long medel blong road be driver blong hemi no lukluk left or right blem, hem hemi just ron stret nomo krosem road...*").
39. Next, Mr Tiklitani stated that as when he got closer to the buggy, he wanted to brake hard but was worried that his passengers on the back of the truck would be flung off the truck if he braked hard due to his speed ("*... and team mi ron I kam closap long buggy mi wantem break strong be mi tingbaot ol boy we oli staon behind long gut blong truck from lukaot oli flae out long truck spos mi break strong from speed...*").
40. Mr Tiklitani then stated that the buggy was crossing the road and he was now even nearer to it and it was already on his right hand side, and he thought that if the buggy driver saw the truck braking so close to the buggy, that he would not hit the buggy ("*... and buggy ia hemi crosem road we mi stap closap hem finis and hemi long right blong mi finis and mi thing spos hemi luk mi break we mi closap finis bae mi no save kasem hem...*").
41. Mr Tiklitani stated that he turned the truck onto the grass and there was space for the truck to drive on if the buggy braked but the buggy driver did not even turn their head to check either side of the road. He tried to avoid to avoid the buggy by driving onto the grass on the side of the road but the buggy kept on approaching and he hit the front of the buggy and the buggy drive was flung out of the buggy onto the road ("*... mi tanem truck I go grass and igat space we mi save ron long long hem yet spos I buggy I break or luk luk mi be hemi no even muvum head blong hem blong I luk tugeta side blong road. Mi traem blo trikim hem mi ron long side blong road long grass, buggy hemi ron I kam nao mi hitim foret blong hem afta buggy I sakem driver blong hem I foltaon long colta road.*") He said that he stopped the truck, put on the double signal and then saw that the buggy driver was an expatriate woman. He called his big sister who called ProMedical and his wife called the Police.
42. I consider that Corp. Birikae's account is consistent with Mr Tiklitani's record of interview **[Exhibit P1]**.
43. In Mr Tiklitani's own words, he was driving in gears 4 and 5. Corporal Birikae's evidence was that when he arrived at the accident scene, he saw that the truck was stationery and that its manual shift was still in gear 5. I infer and find that at the time of

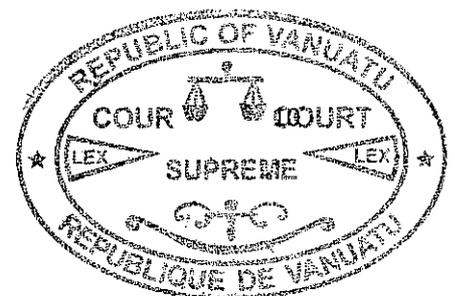


the accident, Mr Tiklitani was driving in gear 5 therefore at a high speed along the Mele Golf road.

44. Also, in Mr Tiklitani's own words, as he was driving along the Mele Golf road, he saw the buggy enter onto the road from the right hand side of the road ("*... mifala stap ron l kam long mele golf mi luk foret blong buggy l pushout right long road blong kam long colta...*"). He saw the buggy reach the middle of the road. When he got even closer to the buggy, it was now on his right therefore he turned the truck left onto the grass on the side of the road but hit the front of the buggy.
45. Mr Yawha submitted that the Prosecution had not proved at what point on the road that Mr Tiklitani overtook the white minivan ahead of him, and where the point of impact with the buggy was. He submitted that because that had not been proved, that the Court should infer that at all times, Mr Tiklitani was driving on the right hand side of the road, then veered to the left hand side of the road to avoid hitting the buggy which had entered onto the road ahead of him suddenly and unexpectedly.
46. On the other hand, Mr Karae submitted that in Mr Tiklitani's own words, at all times he saw the buggy and that it had a driver in it therefore he was close enough to the buggy to see it and its driver.
47. Mr Karae also submitted that if Mr Tiklitani was driving the whole time on the right hand side of the road and saw the buggy not only commence its crossing, but that it had reached the middle of the road and continued crossing without the buggy driver turning their head left or right to check for oncoming traffic, that if Mr Tiklitani had stayed on the right hand side of the road, that he would have safely driven past the back of the buggy and would not have hit the buggy at all. He submitted that therefore the inferences that Mr Yawha had invited the Court to draw were not appropriate to draw. I agree hence decline to draw the inferences that Mr Yawha invited the Court to.
48. Corporal Birikae's evidence was that he saw the skid mark from the truck's tyres on the road and drew the location of the skid mark and its 36.5 metre length in his drawing of the accident scene [**Exhibit P9**]. On the drawing, the skid mark is wholly placed on the left hand side of the road. Corporal Birikae was also shown photographs from **Exhibit P5** and confirmed that the photographs showed the same skid mark that he drew the location of in his drawing [**Exhibit P9**]. In cross-examination, Corp. Birikae accepted that the skid mark was angled towards the left side of the road.
49. By Mr Tiklitani's own admission, he saw the buggy in front of him and began braking. His applying of the brakes of the truck left a 36.5 metre-long skid mark on the road.



50. Accordingly, I find that Mr Tiklitani applied the brakes of the truck, leaving a visible skid mark on the road that was 36.5 metres long along the length of the road, on the left-hand side of the road. I find that it was on the left-hand side of the road from Corp. Birikae's evidence and **Exhibits P5 and P9**.
51. I accept and find that the skid mark was angled across the road. This is consistent with both Corp. Birikae and Mr Tiklitani's accounts that he turned the truck to the left and onto the grass at the side of the road to try to avoid hitting the buggy.
52. It is an agreed fact that Mr Tiklitani overtook a minivan. I infer and find that Mr Tiklitani was carrying out this overtaking of the minivan which explains why he was driving on the left-side of the road, on which he did not have the right of way, and applied the brakes, leaving a 36.5 metre-long skid mark on that side of the road.
53. The inevitable finding on the evidence is that Mr Tiklitani had already seen the buggy commence its crossing of the road in front of him and yet he chose to overtake the minivan ahead of him, even though he had seen the buggy and that it had entered onto the road and had begun to cross the road. I so find.
54. I also find that whilst still on the left-side of the road, Mr Tiklitani began applying the brakes of the truck to avoid the buggy. By his own admission, he saw that the buggy had already reached the middle of the road, so he began applying force to the brakes of the truck. He also stated that he was worried that if he braked harder, that that would cause his passengers on the back of the truck to be flung off. Therefore, he did not apply more force to the brakes.
55. Mr Tiklitani's own evidence is that he thought that the buggy would speed up or stop when the buggy driver heard the truck braking but the buggy driver never looked to the left or right to check for oncoming traffic. He stated that he thought he had room on the side of the road to drive onto and avoid the buggy, and that he drove to the side of the road but could not avoid the buggy and hit the front of the buggy [**Exhibit P1**].
56. I therefore reject the defence submissions that Mr Tiklitani drove responsibly but that the collision occurred as a result of the sudden and unexpected entry of the buggy onto the road. On the contrary, Mr Tiklitani saw the buggy enter onto the road ahead of him, saw it when it reached the middle of the road and saw it nearly reach the left hand edge of the road where he hit it.
57. I have already found that the manual gear shift of the truck was in gear 5 when it came to a stop.



58. I conclude from the evidence that Mr Tiklitani was driving at such speed that he began applying the brakes over 36 metres away from the buggy but could not stop the truck. He also decided not to apply more force to the brakes to avoid hitting the buggy in case his own passengers were flung out from the back of the truck. It follows that Mr Tiklitani was driving at a speed that was too high to bring the truck to a stop in time, and in the distance which lay between the truck and the buggy.
59. For the foregoing reasons, I accept and find that the Prosecution has proved beyond reasonable doubt Mr Tiklitani caused the damage to the deceased by failing to ensure that it was safe for other road users on the road ahead of him, specifically the deceased in the buggy crossing the road ahead of him, and for himself, before overtaking the minivan in front of him.
60. He did not satisfy himself that no danger exists to other road users or himself before overtaking the minivan: s. 5 of the *Road Traffic (Control) Act*.
61. It follows and I find that in failing to do so, that Mr Tiklitani failed to exercise the care, skill and foresight that a driver in his situation should have and thus failed to prevent harm occurring to the deceased.
62. Accordingly, I am satisfied that the Prosecution has proved the third and last element of the charge beyond a reasonable doubt.

E. Result

63. For the reasons given, I return a verdict of guilty of the charge of unintentional harm causing death. Mr Tiklitani is convicted of the charge.

**DATED at Port Vila this 10th day of November, 2025
BY THE COURT**


Justice Viran Molisa Trief

