

Death by careless driving

There is no dispute that on **, D** was driving a mechanically propelled vehicle on a road. It is also agreed that V** died as a result of D**'s driving.

So, the only issue for you to decide is whether D** was driving carelessly. That involves driving without due care and attention. A driver is to be regarded as driving without due care and attention if (and only if) the way in which he drives falls below what would be expected of a competent and careful driver. You should take into account all the circumstances – not just those of which he would be expected to be aware, but also any within his knowledge.

If a driver is not exercising due care and attention, he is guilty whether or not there is an error of judgment. Examples of careless driving may include ***** not paying attention to the road in front, not taking account of other vehicles, driving too close to another vehicle, allowing oneself to be distracted and driving too fast for the conditions. What amounts to a lack of due care and attention is essentially a question of fact for you to decide, having regard to all the evidence you have heard.

It is not disputed that at the time of the collision, D*** was exceeding the speed limit. That is one factor which you must take into account. However, the fact that someone is exceeding the speed limit does not automatically mean that he is driving carelessly. It may be that a driver is driving a little over the speed limit, but is not driving carelessly. However, evidence that a driver was breaking the speed limit may be an indication that he was travelling too fast for the conditions and that his choice of speed was careless. D**'s speed is one factor for you to consider. You should also consider whether or not he was tired, whether or not he was looking at X** rather than the road ahead, whether or not he misjudged the speed of Y**'s vehicle and whether or not the lay out of the A** is dangerous.

The key question for you to answer, having regard to all the evidence and the directions which I give you is this

Immediately before the collision, was the defendant driving in a way which fell below what would be expected of a competent and careful driver?

If you are sure that the answer is “yes”, he is guilty. If the answer may be no, he is not guilty.