

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2025] SGHC 135

Magistrate's Appeal No 9212 of 2023/01

Between

Ng En You Jeremiah (alias
Huang Enyou)

... Appellant

And

Public Prosecutor

... Respondent

GROUND'S OF DECISION

[Criminal Procedure and Sentencing — Sentencing — Sentencing framework — Dangerous driving causing death by a serious offender — Road Traffic Act — Sections 64(1), 64(2)(a), 64(2)(c) and 64(2D)(b)]
[Criminal Procedure and Sentencing — Sentencing — Sentencing framework — Drink driving causing personal injury and/or property damage — Road Traffic Act — Sections 67(1) and 67(2)(a)]
[Criminal Procedure and Sentencing — Sentencing — Sentencing Advisory Panel's Guidelines on Reduction in Sentences for Guilty Pleas — Application to specific offences under Road Traffic Act]

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Ng En You Jeremiah (alias Huang Enyou)

v

Public Prosecutor

[2025] SGHC 135

General Division of the High Court — Magistrate's Appeal No 9212 of 2023/01

Sundaresh Menon CJ, Tay Yong Kwang JCA and Vincent Hoong J
19 March 2025

14 July 2025

Vincent Hoong J (delivering the grounds of decision of the court):

Introduction

1 In a country where order and general public safety define daily life, the decision to drive under the influence stands out not just as a reckless act, but as a dangerous betrayal of public trust. Despite severe penalties, including hefty fines, driving disqualifications, and even jail time, some drivers continue to gamble with lives – both theirs and others. Drink driving is not just about broken laws or a mere lapse in judgment; it is about preventable tragedies and an act of seeming convenience with potentially disastrous consequences.

2 The present appeal concerned offences under the Road Traffic Act (Cap 276, 2004 Rev Ed) (“RTA”) arising from an incident of drink driving that resulted in the death of a road-user and serious personal injuries to six others, as well as substantial property damage. The appellant, Mr Jeremiah Ng En You

(Huang Enyou) (the “appellant”), had pleaded guilty to a charge of drink driving under s 67(1)(b) read with s 67(2)(a) of the RTA (the “Drink Driving Charge”) and a charge of dangerous driving causing death under s 64(1) punishable under s 64(2)(a) read with ss 64(2)(c) and 64(2D)(b) of the RTA (the “Dangerous Driving Causing Death Charge”). He was sentenced to (a) six months’ imprisonment and a disqualification from holding or obtaining all classes of driving licences for ten years from the date of his release for the Drink Driving Charge; and (b) seven years’ imprisonment and a similar disqualification for 12 years from the date of his release for the Dangerous Driving Causing Death Charge. The sentences were ordered to run concurrently. In arriving at these sentences, the District Judge (the “DJ”) had declined to apply the Sentencing Advisory Panel’s Guidelines on Reduction in Sentences for Guilty Pleas (the “PG Guidelines”).

3 The appellant appealed and took issue with the imposition of the sentence of seven years’ imprisonment for the Dangerous Driving Causing Death Charge and the sentencing framework relied on by the DJ in reaching that decision. He also contended that the DJ erred in finding that it would be contrary to the public interest for the PG Guidelines to apply.

4 In view of the amendments to the RTA passed by Parliament in 2019, this appeal presented an opportunity for us to consider and determine the applicable sentencing frameworks to be adopted for the offences disclosed in the two charges. For the offence disclosed in the Dangerous Driving Causing Death Charge, the change in the statutory architecture meant that this was the first time we considered the appropriate sentencing framework for that offence. As for the offence disclosed in the Drink Driving Charge, the increase in the maximum sentence after the amendments to the RTA called for the revision of the existing sentencing framework in *Stansilas Fabian Kester v Public*

Prosecutor [2017] 5 SLR 755 (“*Stansilas*”). Alongside these, we considered the application of the PG Guidelines – which came into effect on 1 October 2023 – to offences such as these.

5 We appointed Ms Chua Xyn Yee (“Ms Chua”) as young independent counsel (“YIC”) to assist us with the questions raised in this appeal. We directed her to consider and make submissions on the following questions:

(a) What is an appropriate sentencing framework for an offence of reckless/dangerous driving under s 64(1) of the RTA and punishable under s 64(2)(a) read with s 64(2)(c) of the RTA? Ms Chua was asked to specifically consider the sentencing approaches in *Wu Zhi Yong v Public Prosecutor* [2022] 4 SLR 587 (“*Wu Zhi Yong*”) and *Public Prosecutor v Sy Yong Da* [2021] SGDC 179 (“*Sy Yong Da*”).

(b) How might the sentencing framework in *Stansilas* be modified in light of the 2019 amendments to the RTA which increased the prescribed punishment for an offence under s 67(1)(b) of the RTA?

(c) Do the PG Guidelines provide for an appropriate framework to determine the extent to which a sentence might be reduced on account of an offender’s plea of guilt? After the Court of Appeal had issued its grounds of decision in *Iskandar bin Jinan v Public Prosecutor and another appeal* [2024] 2 SLR 673 (“*Iskandar*”) – in which the PG Guidelines were considered in depth – we invited Ms Chua (and the parties) to address us on whether the PG Guidelines applied in determining the appropriate sentence for the offences to which the appellant pleaded guilty and if so, how.

6 We heard the appeal on 19 March 2025. We thereafter dismissed the appeal, holding that the sentence of seven years' imprisonment was eminently correct – albeit for slightly different reasons as that of the DJ – given the egregious facts of this case. We set out our reasons below.

Background

Facts

7 In the court below, the appellant pleaded guilty to the Drink Driving Charge and the Dangerous Driving Causing Death Charge, and consented to having three other charges taken into consideration for sentencing:

- (a) A charge of dangerous driving causing grievous hurt under s 64(1) punishable under s 64(2A)(a) read with ss 64(2A)(c) and 64(2D)(e) of the RTA;
- (b) A charge of dangerous driving causing hurt under s 64(1) punishable under s 64(2B)(a) read with ss 64(2B)(c) and 64(2D)(g) of the RTA; and
- (c) A charge of dangerous driving (where no personal injury was caused) under s 64(1) punishable under s 64(2C)(a) read with ss 64(2C)(c) and 64(2D)(i) of the RTA.

8 The appellant admitted to the following facts as set out in the Statement of Facts prepared by the Prosecution dated 24 May 2023.

Events preceding the accident

9 On 23 December 2021, between 7pm to 10pm, the appellant consumed four cans of beer at his office, located at Tampines Street 93. He was having dinner and drinks at the office with his brother, Mr Joshua Ng En Yi

(“Mr Joshua Ng”) and two other friends. Thereafter, at about 11pm, the appellant left his office and drove a red Mercedes car with Mr Joshua Ng in the front passenger seat. The appellant had intended to drive back to his residence at 48 Jalan Lateh which is approximately 10km away from his office.¹

10 At about 11.10pm, the appellant was travelling along Tampines Avenue 1 which had a speed limit of 60km/h. He was initially travelling at a speed of between 157km/h and 169km/h. As he approached the junction of Tampines Avenue 1 and Tampines Avenue 10, where the accident subsequently occurred, he first reduced his speed to between 146km/h and 156km/h, and then to between 122km/h and 130km/h.²

11 Before the accident, several vehicles had formed up along Tampines Avenue 10 (in the direction of Pasir Ris Drive 12) at the junction of Tampines Avenue 1 because the traffic light in their direction had turned red. The vehicles, and their occupants, were as follows:³

(a) In the rightmost lane, closest to the road divider and closest to the intersection was a car driven by one Mr Ng Liang Hwi (“Mr Ng”).

(b) Behind Mr Ng’s car in the rightmost lane was a car driven by one Mr Kenn Wong Mun Soon (the “deceased”). The deceased was a private-hire driver for GoJek at the material time. One Mr Sim Hong Wee (“Mr Sim”) and one Mr Ng Zi Yuan Darren (“Mr Darren Ng”)

¹ Record of Appeal dated 15 December 2023 (“ROA”) at p 14; Statement of Facts dated 24 May 2023 (“SOF”) at para 26.

² ROA at p 13; SOF at para 17.

³ ROA at pp 9–20; SOF at paras 2–4, 6–10, 12–14.

were passengers in this car, sitting in the rear of the car at the left and right side respectively.

(c) In the middle lane, closest to the intersection and roughly abreast to Mr Ng’s car was a car driven by one Ms Chow Yan Ping Kimberly (“Ms Chow”).

(d) In the middle lane behind Ms Chow’s car sat a car driven by one Mr Troung Manh Quang (“Mr Truong”). Mr Troung’s wife and their two children (aged six and nine) were passengers in this car.

(e) In the middle lane behind Mr Troung’s car was a car being driven by one Muhammad Fariz Bin Sa’adon (“Mr Fariz”).

(f) In the leftmost lane, abreast to Mr Truong’s car was a taxi being driven by one Mr Kamsani bin Tarseelim (“Mr Kamsani”).

12 At around the same time, a motorcycle being ridden by one Mr Mahmud Azmani Fikri Mahmod Fuao (“Mr Fikri”) along Tampines Avenue 10 in the direction of Pasir Ris Drive 12 approached the same junction. The traffic light was still red in his direction and the other vehicles as described above stood waiting. Mr Fikri rode his motorcycle between the rightmost lane and the middle lane as he moved forwards towards the intersection.⁴

⁴ ROA at pp 9–10: SOF at paras 5, 15.

13 A visual representation of all of the vehicles along Tampines Avenue 10 (in the direction of Pasir Ris Drive 12) at the junction of Tampines Avenue 1, immediately before the accident occurred, is as follows:⁵

Lane 3	Lane 2	Lane 1 (rightmost lane)
Unknown grey car	Witness 2 Chow Yan Ping Kimberly SMM9202C (White car)	Witness 1 Ng Liang Hwi SJG8384J (White car)
Motorcycle (Unknown)		Deceased Kenn Wong Mun Soon (m/59) SNC3235M (White car)
V6 Kamsani Bin Tarseelim (m/42) SHA2661D (Blue taxi)	V4 Truong Manh Quang (m/39) SLP3037Z (Black car)	V1 – rear left passenger Sim Hong Wee (m/24) V2 – rear right passenger Ng Zi Yuan Darren (m/25)
	V3 Mahmud Azznani Fikri (m/25) FBK6562Z	
	V5 Muhammad Fariz (m/42) SMY3967E (White car)	

⁵ ROA at p 12; SOF at para 16.

Accident

14 The appellant, travelling on Tampines Avenue 1, approached the above-mentioned junction. As he was about to turn left onto Tampines Avenue 10 (in the direction of Bartley Road East) (*ie*, in the direction opposite of the vehicles described above) via a dedicated turning lane, he lost control of the car. At this point, the car was travelling at a speed of between 92km/h and 108km/h. Consequently, the appellant failed to properly execute the left turn and instead proceeded straight ahead. The car smashed through the centre divider along Tampines Avenue 10 and collided directly into the right side of the deceased's car.⁶

15 The impact of the collision pushed the deceased's car to the left and backwards. Consequently, the deceased's car collided into the right side of Mr Truong's car and into the front of Mr Fariz's car. As Mr Fikri's motorcycle was passing between the deceased's car and Mr Truong's car at this time, Mr Fikri was crushed between the two cars. The impact of the collision between the deceased's car and Mr Truong's car also pushed Mr Truong's car to the left, causing it to collide into the right side of Mr Kamsani's taxi.⁷

16 An officer from the Traffic Police arrived at the accident scene soon after. The appellant failed the breathalyzer test administered by the officer. He was arrested and escorted back to the Traffic Police Headquarters, where a Breath Evidential Analyser test was administered on him. The test produced a reading of 42µg of alcohol *per* 100ml of breath.⁸

⁶ ROA at p 13; SOF at para 18.

⁷ ROA at p 13; SOF at paras 19–21.

⁸ ROA at p 14; SOF at paras 25, 27–28.

Victims' injuries and property damage sustained

17 The deceased was brought to Changi General Hospital (“CGH”) after the accident. When he arrived, he was unresponsive and his cardiac electrical rhythm was in asystole. Eventually, cardiopulmonary resuscitation efforts were terminated, and the deceased was pronounced dead soon after.⁹ The deceased had sustained the following injuries: (a) right supraorbital deep laceration of about 4cm; (b) left anterior neck laceration; (c) right lateral chest wall laceration; (d) epigastric abrasion; (e) right knee superficial laceration; and (f) right shin abrasions and wounds.¹⁰ The deceased’s cause of death was a traumatic rupture of the descending thoracic aorta, which was consistent with being sustained from a road traffic accident.¹¹

18 Mr Sim, who was a passenger in the deceased’s car, was conveyed to CGH after the accident. He sustained (a) 3cm x 1.5cm laceration over the left mandible, (b) small subcentimetre lacerations medial to the left mandibular wound, (c) superficial abrasions over his right knee and (d) left medial aspect of the ankle. He was hospitalised for two days and given 11 days of hospitalisation leave.¹²

19 Mr Darren Ng, the other passenger in the deceased’s car, was also conveyed to CGH. He sustained the following injuries: (a) retrograde amnesia; (b) mild head injury; (c) neck strain; (d) right facial laceration with bruising; (e) right shin abrasion; (f) bilateral shoulder contusion or sprain; (g) right lateral canthus laceration; (h) left apical occult pneumothorax; and (i) superficial

⁹ ROA at p 14; SOF at para 30.

¹⁰ ROA at p 14; SOF at para 31.

¹¹ ROA at p 15; SOF at para 32.

¹² ROA at p 15; SOF at para 34.

abrasions over the right shin. He was hospitalised for two days and given nine days of hospitalisation leave.¹³

20 Likewise, Mr Fikri, the motorcyclist, was conveyed to CGH. He sustained the following injuries: (a) lacerations over the chin, anterior neck, right shoulder, and left anterolateral chest; (b) traumatic brain injury; (c) avulsion fracture of left occipital epicondyle; (d) C1-C2 injury; (e) anterior neck foreign bodies; (f) right femur distal shaft open fracture and right tibia and fibula midshaft open fractures; and (g) left ankle (open) and foot (calcaneal) fractures and comminuted left distal tibial fracture. Given the complexity of his injuries, Mr Fikri was likely to still experience stiffness in his right knee and left ankle as well as decreased endurance in performing strenuous lower limb activities. Mr Fikri was hospitalised for 66 days, and given 95 days of hospitalisation leave and 125 days of medical leave.¹⁴

21 Mr Truong was conveyed to CGH. He sustained contusions and was given three days of medical leave.¹⁵

22 After the accident, Mr Kamsani experienced pain in his right hand. He sought medical treatment the next day and received five days of medical leave.¹⁶

23 The following damages were noted on the appellant's car: (a) front windscreen cracked; (b) front bumper and front right portion of car were

¹³ ROA at p 15: SOF at paras 35–36.

¹⁴ ROA at pp 15–16: SOF at paras 37–39.

¹⁵ ROA at p 16: SOF at para 40.

¹⁶ ROA at p 16: SOF at para 41.

cracked and crumpled; (c) all four tires were punctured; and (d) two right wheel rims were twisted.¹⁷

24 The following damages were noted on the deceased's car: (a) bonnet, top of the car and rear bumper were crumpled; (b) front bumper and front right light ripped off; (c) front and rear windscreens, and two right windows were smashed; (d) right side of car was scratched and crumpled; (e) both right tires were punctured (twisted front right wheel rim); and (f) left side of the car was crumpled (left rear door was ripped off by the Singapore Civil Defence Force).¹⁸

25 The following damages were noted on Mr Fikri's motorcycle: (a) front fork, rear rim and axle were broken; (b) front centre portion and right rear panel of the motorcycle were ripped off; (c) front left portion of the motorcycle was crumpled; (d) right mirror was twisted; and (e) right exhaust pipe was torn off.¹⁹

26 The following damages were noted on Mr Truong's car: (a) right side of the car was crumpled; (b) front right window was smashed; (c) right side-view mirror and front-left light were ripped off; and (d) rear-left door was dented.²⁰

27 The following damages were noted on Mr Kamsani's taxi: (a) right side-view mirror was twisted; (b) front-right side of the car was crumpled; and (c) rear-right door was dented.²¹

¹⁷ ROA at p 16; SOF at para 42.

¹⁸ ROA at pp 16–17; SOF at para 44.

¹⁹ ROA at p 17; SOF at para 45.

²⁰ ROA at p 17; SOF at para 46.

²¹ ROA at p 17; SOF at para 48

28 As for Mr Fariz’s car, the right portion of the front bumper and the front-right side of the car were dented.²²

29 The costs of repairs were as follows: (a) \$1,672.65 for the centre divider along Tampines Avenue 10; (b) \$18,992.50 for Mr Truong’s car; (c) \$13,900 for Mr Fariz’s car; and (d) \$7,650.50 for Mr Kamsani’s taxi.²³ The deceased’s car (valued at \$58,715) and Mr Fikri’s motorcycle (valued at \$6,500) were scrapped as they were too damaged to be repaired.²⁴

Parties’ submissions below

30 Before the DJ, the Prosecution sought the following sentences:²⁵ (a) in respect of the Drink Driving Charge, at least six months’ imprisonment and at least ten years’ disqualification; and (b) in respect of the Dangerous Driving Causing Death Charge, between eight and ten years’ imprisonment and at least 12 years’ disqualification.

31 In respect of the Drink Driving Charge, the Prosecution applied the sentencing framework in *Stansilas*, and doubled the sentencing ranges given that the maximum penalties for drink driving had been doubled after the legislative amendments to the RTA.²⁶ The Prosecution contended that the appropriate starting point was between eight and 12 months’ imprisonment,

²² ROA at p 17; SOF at para 47.

²³ ROA at pp 17–18; SOF at para 49.

²⁴ ROA at p 18; SOF at paras 50–51.

²⁵ ROA at pp 242–244; Prosecution’s Skeletal Submissions on Sentence dated 24 May 2023 (“PP’s Submissions Below”) at paras 1, 8, 11.

²⁶ ROA at pp 242–243; PP’s Submissions Below at paras 2–5.

which was to be reduced to at least six months’ imprisonment on account of the appellant’s early plea of guilt.²⁷

32 As for the Dangerous Driving Causing Death Charge, the Prosecution submitted that a considerable uplift should be applied to the mandatory minimum three years’ imprisonment term because: (a) the degree of potential harm was high; (b) the appellant was highly culpable; and (c) the charges taken into consideration reflected the extent of the harm and property damage caused by the appellant’s dangerous driving.²⁸ The Prosecution argued against the application of the sentencing framework in *Sy Yong Da* as that framework did not specifically account for an offender’s alcohol level.²⁹

33 The appellant argued for the following sentences: (a) in respect of the Drink Driving Charge, no more than two months’ imprisonment;³⁰ and (b) in respect of the Dangerous Driving Causing Death Charge, between four and four and a half years’ imprisonment,³¹ with both sentences to run concurrently to arrive at a global sentence of between four and four and a half years’ imprisonment.³² The appellant did not make any submissions on the appropriate disqualification order and left it to the court.³³

²⁷ ROA at p 243: PP’s Submissions Below at para 8.

²⁸ ROA at pp 243–244: PP’s Submissions Below at para 10.

²⁹ ROA at p 246: Prosecution’s Reply Submissions on Sentence dated 29 June 2023 at para 6.

³⁰ ROA at p 260: Defence’s Revised Plea in Mitigation dated 25 October 2023 (“Appellant’s Submissions Below”) at para 28.

³¹ ROA at p 269: Appellant’s Submissions Below at para 62.

³² ROA at pp 269–270: Appellant’s Submissions Below at para 64, 67.

³³ ROA at pp 260, 269–670: Appellant’s Submissions Below at paras 28, 63, 67.

34 The appellant raised various mitigating factors, including the fact that he had made full restitution to the deceased and the other victims.³⁴ The appellant also contended that his culpability was on the lowest end of moderate culpability as (a) his alcohol level was only 42µg *per* 100ml of breath, which was only marginally above the legal limit and (b) it was not that he drove dangerously in a flagrant and brazen manner but that as he was negotiating the turn, his bulky safety boots slipped off the brake pedals and onto the accelerator, causing an abrupt acceleration leading him to lose control of the car.³⁵

35 In respect of the Drink Driving Charge, the appellant applied the sentencing framework in *Stansilas*, concluding that the harm fell within the “very serious” category and that his culpability fell within the lowest end of the “medium” category, such that an imprisonment sentence of no more than two months would be just and appropriate.³⁶

36 As for the Dangerous Driving Causing Death Charge, the appellant turned to the sentencing framework in *Sy Yong Da* and submitted that he fell at the highest end of the “low” culpability category.³⁷

Decision below

37 As stated above at [2], the DJ imposed the following sentences: (a) in respect of the Drink Driving Charge, six months’ imprisonment and a disqualification from holding or obtaining all classes of driving licences for ten years from the date of release; and (b) in respect of the Dangerous Driving

³⁴ ROA at pp 253–256: Appellant’s Submissions Below at paras 11–12.

³⁵ ROA at p 257: Appellant’s Submissions Below at paras 15–17.

³⁶ ROA at pp 258–260: Appellant’s Submissions Below at paras 22–28.

³⁷ ROA at pp 260–269: Appellant’s Submissions Below at paras 29–63.

Causing Death Charge, seven years' imprisonment and a similar disqualification but for 12 years. The sentences were ordered to run concurrently, yielding a global sentence of seven years' imprisonment and a 12-year disqualification. The DJ's reasons are found in *Public Prosecutor v Jeremiah Ng En You (Huang Enyou)* [2023] SGDC 274 (the "GD").

Sentence for the Drink Driving Charge

38 In determining the sentence for the Drink Driving Charge, the DJ considered the sentencing framework for first-time drink drivers in *Rafael Voltaire Alzate v Public Prosecutor* [2022] 3 SLR 993 ("Rafael") as providing neutral starting points based on the offenders' alcohol level (GD at [87]–[88]):

Band	Level of alcohol (µg per 100ml of breath)	Range of fines	Range of disqualification
1	36–54	\$2,000 to \$4,000	24 to 30 months
2	55–69	\$4,000 to \$6,000	30 to 36 months
3	70–89	\$6,000 to \$8,000	36 to 48 months
4	≥90	\$8,000 to \$10,000	48 to 60 months (or longer)

39 As the appellant had caused death, serious harm to several persons as well as property damage while driving a motorcar under the influence of alcohol, the starting point was a custodial sentence (GD at [90]). Further, given that the maximum penalties for drink driving had effectively been doubled since the sentencing framework in *Stansilas* was established, the DJ held that the necessary upward calibration should be made, to take into account the full range of punishment prescribed by Parliament (GD at [91]).

40 In the DJ's view, the harm caused by the appellant's drink driving was very serious. Not only had he caused the death of an innocent driver (which was the gravest harm possible), he also caused serious injuries to multiple other road

users (GD at [93]). The appellant's culpability rested at the threshold between moderate and high. Although his level of alcohol at 42µg was within Band 1 of the sentencing framework in *Rafael*, the appellant had been travelling at a very high speed all along Tampines Avenue 1 and had made an extremely dangerous manoeuvre by making a left turn at high speed while the roads along Tampines Avenue 1 and Tampines Avenue 10 were still relatively busy (GD at [94]).

41 As such, based on an upward calibration of the sentencing framework in *Stansilas*, the DJ held that the appropriate starting point would be between eight and 12 months' imprisonment. A sentencing discount should then be applied on account of the appellant's early plea of guilt. The DJ concluded that a sentence of six months' imprisonment and ten years' disqualification for the Drink Driving Charge was appropriate (GD at [95]). The DJ also noted that it would be contrary to the public interest for the PG Guidelines – particularly the maximum discount of 30% for a Stage 1 case – to apply given the very serious nature of the offence and the circumstances of the case (GD at [96]).

Sentence for the Dangerous Driving Causing Death Charge

42 In determining the appropriate sentence to be imposed in respect of a serious offender for a dangerous driving charge, the DJ declined to follow the sentencing framework in *Sy Yong Da*, finding that the framework did not account for how an offender's blood alcohol level factored into the equation (GD at [97]). Instead, the DJ was guided by the observations as well as the sentencing framework in *Wu Zhi Yong* for cases under s 64(1) of the RTA and punishable under s 64(2C)(a) read with s 64(2C)(c) of the RTA involving serious offenders for cases with no personal injury or potential harm (GD at [98]).

43 The DJ considered the following offence-specific factors:

(a) Serious potential harm (GD at [102]–[103]): At the material time, the traffic flow was heavy, the road surface was dry, and the weather was clear. Besides the victims that were injured, there were other road users present at the location, including the passengers in the damaged cars and those in the cluster of other vehicles in the immediate vicinity of the accident location. It was only fortuitous that no one else was hurt. In addition, the appellant had intended to travel a substantial distance of 10km to reach his residence at Jalan Lateh.

(b) Serious property damage (GD at [104]).

(c) Increased culpability (GD at [105]–[106]): The appellant was travelling at very high speeds which exceeded the prescribed speed limit, and he had made an extremely dangerous manoeuvre by making a left turn at a high speed. Driving at such an absurdly high speed while intoxicated not only made an accident a more likely event, it also exponentially increased the severity of any accident that occurred. The appellant’s culpability would be at the threshold between moderate and high range.

(d) Presence of the charges that were taken into consideration (GD at [107]): This reflected how the appellant’s dangerous driving caused extremely severe injuries to the motorcyclist, Mr Fikri, and injuries of varying degrees of severity to four other road users.

In view of the multiple offence-specific aggravating factors set out above, the indicative starting point of eight years’ imprisonment – which was at the higher end of the prescribed sentencing band – was appropriate (GD at [108]).

44 The DJ then considered the following offender-specific factors:

(a) The appellant pleaded guilty to the proceeded charges against him and was extremely remorseful for his actions. He checked on the victims and rendered assistance as much as he could until the ambulance arrived and provided his full cooperation to the authorities. He also made restitution to the various victims (GD at [111]).

(b) The appellant had a compounded speeding offence in 2016, which was a relevant antecedent for sentencing (GD at [112]).

45 The DJ thus calibrated the starting point of eight years’ imprisonment downwards, reducing the sentence to seven years’ imprisonment. The DJ held that it would be contrary to the public interest for the PG Guidelines – particularly the maximum discount of 30% for a Stage 1 case – to apply here as well given the very serious nature of the offence and the circumstances of this charge (GD at [113]). She found that the minimum prescribed disqualification period of 12 years was appropriate (GD at [114]).

Parties’ cases on appeal and YIC’s submissions

Appellant’s submissions

46 The appellant appealed only against the imprisonment sentence imposed in respect of the Dangerous Driving Causing Death Charge.³⁸ He submitted that the DJ erred in fact and in law by:³⁹

(a) finding that the case of *Sy Yong Da* was not applicable to the present case because it does not specifically account for an offender’s

³⁸ See ROA at pp 86–91: Petition of Appeal dated 13 December 2023; Appellant’s Written Submissions dated 26 July 2024 (“Appellant’s Submissions”) at para 8.

³⁹ Appellant’s Submissions at para 11.

blood alcohol level or a “serious offender”, despite similarly involving reckless or dangerous driving causing death under s 64(2) of the RTA;⁴⁰

(b) relying on the sentencing framework in *Wu Zhi Yong* which is confined to offences punishable under s 64(2C) of the RTA, *ie*, reckless or dangerous driving *simpliciter*, and thereafter finding that the appellant’s case fell within the highest band of *Wu Zhi Yong*;⁴¹

(c) failing to accord sufficient weight to the voluntary substantial restitution made by the appellant or to the appellant’s early plea of guilt, and relatedly, failing to accord *any* weight to the appellant’s undertaking to fulfil the outstanding claims by various victims and the costs of repair of railings to the Land Transport Authority;⁴² and

(d) finding that it would be contrary to the public interest for the PG Guidelines, particularly the maximum discount of 30% for a Stage 1 case, to apply.⁴³

47 Consequently, the appellant contended that the global sentence of seven years’ imprisonment was manifestly excessive and disproportionate.⁴⁴ Rather, a sentence of between five and six years’ imprisonment for the Dangerous Driving Causing Death Charge would have been just in these circumstances.⁴⁵

⁴⁰ See Appellant’s Submissions at paras 16–40.

⁴¹ See Appellant’s Submissions at paras 41–58.

⁴² See Appellant’s Submissions at paras 59–72.

⁴³ Appellant’s Further Submissions dated 26 February 2025 (“Appellant’s Further Submissions”) at paras 7–15.

⁴⁴ Appellant’s Submissions at para 12.

⁴⁵ Appellant’s Submissions at para 84.

48 On the PG Guidelines, the appellant submitted that the facts of the present case were not so egregious as to warrant the invocation of the public interest exception, which should be reserved for exceptional cases.⁴⁶ The maximum reduction of 30% should be applied as there were no serious aggravating factors or other compelling reasons to apply a lower sentencing reduction than the maximum 30%.⁴⁷

49 Assuming that the framework in *Wu Zhi Yong* applied, the appellant's counsel argued in oral submissions that the offence should fall within Band 2 of the framework. He emphasised (a) the relatively low alcohol level of the appellant; (b) the fact that the appellant remained at the scene of the accident, unlike the offenders in *Wu Zhi Yong* and *Sy Yong Da*; and (c) the significant early voluntary restitution made by the appellant. As such, the appropriate sentence should be between seven to eight years' imprisonment, subject to a further reduction of 30% on the application of the PG Guidelines. Even if the starting sentence was nine years as the Prosecution submitted, a 30% reduction on the application of the PG Guidelines would yield a sentence of just under six and a half years' imprisonment. There was a difference in this compared to the sentence of seven years' imprisonment imposed by the DJ.

Prosecution's submissions

50 The Prosecution submitted that the appeal was without merit and should be dismissed.⁴⁸ The Prosecution made the following key submissions on the law:

⁴⁶ Appellant's Further Submissions at paras 6–15.

⁴⁷ Appellant's Further Submissions at paras 16–24.

⁴⁸ Respondent's Submissions dated 26 July 2024 ("PP's Submissions") at para 6.

(a) The framework in *Sy Yong Da* should not have been applied as it was best suited for offences where a broad range of outcomes could arise under the specific axes of harm or culpability. For offences under s 64(2)(a) of the RTA, where death was caused, the nature of the harm ceased to be a relevant differentiating factor and one of the two axes had become irrelevant.⁴⁹ Further, the framework in *Sy Yong Da* did not specifically account for how an offender's alcohol level would move the offender upwards or downwards within the three culpability bands.⁵⁰

(b) Rather, the modified sentencing bands approach adopted in *Wu Zhi Yong* should apply to offences of dangerous driving causing death by a serious offender, after the necessary adjustments have been made to account for the different prescribed sentencing ranges.⁵¹ Charges taken into consideration ("TIC Charges") ought not to be considered at the first step of the analysis, when identifying the applicable sentencing band, but should only be considered at the second step as an offender-specific factor.⁵²

(c) In addition, there was no need to introduce a range of disqualification periods in the sentencing framework. A 12-year disqualification order should ordinarily be imposed on an offender convicted of dangerous driving causing death while under the influence of alcohol, regardless of which band the offender fell within.⁵³

⁴⁹ PP's Submissions at para 25.

⁵⁰ PP's Submissions at para 26.

⁵¹ PP's Submissions at para 30.

⁵² PP's Submissions at para 32.

⁵³ PP's Submissions at para 33.

(d) The modified sentencing bands approach in *Stansilas* remains well-suited for offences under s 67(1)(b) of the RTA and should continue to apply, so long as the sentencing ranges were re-calibrated to give effect to the higher penalties available under the amended RTA.⁵⁴ The determination of whether an offender's culpability was high should be made with reference to the framework set out in *Rafael*.⁵⁵ The appropriate disqualification periods for each of the sentencing bands should also be delineated, with an upper limit of ten years' disqualification for the most serious cases involving drink driving punishable under s 67(2) of the RTA.⁵⁶

(e) The PG Guidelines should ordinarily be applied by the courts when determining the reduction in sentence that ought to be granted when an accused person pleads guilty. The public interest exception should be construed narrowly and should not have applied; there were simply insufficient grounds to warrant its invocation in this particular case.⁵⁷ In relation to the offences in the present case, the PG Guidelines should have applied in an unattenuated fashion.⁵⁸

51 Turning to the case at hand, the Prosecution argued that the starting position for the Dangerous Driving Causing Death Charge ought to be nine years' imprisonment (accounting for the charges taken into consideration as an offender-specific aggravating factor at the second step of the framework) on the

⁵⁴ PP's Submissions at paras 46, 50.

⁵⁵ PP's Submissions at para 54.

⁵⁶ PP's Submissions at paras 50–52.

⁵⁷ Respondent's Further Submissions dated 26 February 2025 ("PP's Further Submissions") at paras 5–7, 15–18.

⁵⁸ PP's Further Submissions at paras 8–14.

basis that the appellant claimed trial.⁵⁹ As the appellant had instead indicated his intention to plead guilty at an early stage and shortly after the first mention of the case, this case fell to be considered as a Stage 1 case under the PG Guidelines, and the appellant should thus have been given around a 30% reduction in sentence.⁶⁰ This would have translated into a sentence of roughly six years' and four months' imprisonment. In comparison, the sentence imposed of seven years' imprisonment was not manifestly excessive.

YIC's Submissions

Sentencing framework for reckless or dangerous driving causing death by serious offender

52 Ms Chua submitted that an appropriate sentencing framework for an offence of reckless or dangerous driving causing death by a serious offender under s 64(1) punishable under s 64(2)(a) read with s 64(2)(c) of the RTA can be adapted from the two-step framework in *Wu Zhi Yong* (see [66]–[70] below). She proposed the following sentencing bands under Step 1 of the framework:⁶¹

Band	Description	Punishment	Disqualification period
1	Lower level of seriousness, with no offence-specific aggravating factors or only present to a limited extent, and offender's alcohol level is likely to be at Band 1 or 2 of the framework in <i>Rafael</i>	3 to 5 years' imprisonment	12 to 13 years

⁵⁹ PP's Submissions at para 90.

⁶⁰ PP's Submissions at paras 101–102; PP's Further Submissions at para 7.

⁶¹ Young Independent Counsel's Written Submissions dated 5 July 2025 ("YIC's Submissions") at para 30.

2	Higher level of seriousness, with usually two or more offence-specific aggravating factors, and offender's level of culpability and alcohol level will typically both be on the higher side (alcohol level in Band 3 or 4 of the framework in <i>Rafael</i>)	5 to 8 years' imprisonment	13 to 14 years
3	Most serious cases, with multiple aggravating factors suggesting higher levels of culpability and alcohol	8 to 10 years' imprisonment	14 to 15 years

53 Ms Chua submitted that an additional offence-specific aggravating factor of “other serious actual harm” should be expressly considered at Step 1.⁶² Further, she clarified that the range of disqualification periods proposed in each band was tentative, and the alternative would be to not provide the range of periods but to simply note the mandatory 12-year disqualification period.⁶³

54 Ms Chua contended that the framework in *Sy Yong Da* was not an appropriate sentencing framework for an offence punishable under s 64(2)(a) of the RTA. Since there was only a single eventuality of harm, leading the DJ to only deal with the degree of culpability, it may be unnecessarily misleading or confusing to lump *all* offence-specific aggravating factors under the heading of “culpability”. Further, the *Sy Yong Da* framework did not seem to adequately account for aggravating factors of “serious potential harm”, “serious property damage” and “other serious actual harm”.⁶⁴

⁶² YIC's Submissions at para 46.

⁶³ YIC's Submissions at paras 31, 67.

⁶⁴ YIC's Submissions at paras 42–43.

Sentencing framework for drink driving causing personal injury and/or property damage

55 Ms Chua submitted that in light of the doubling of the prescribed punishment for a first-time offender for a drink driving offence under s 67(1)(b) of the RTA as a result of the amendments introduced in 2019, the framework in *Stansilas* might be modified by doubling the imprisonment terms for each harm-culpability category.⁶⁵ Further, when considering an offender's alcohol level to assess his or her culpability in accordance with the framework in *Stansilas*, reference may be taken from the alcohol level bands set out in *Rafael*.⁶⁶ Additionally, regard should be had to precedent cases to decide the appropriate disqualification period to be imposed.⁶⁷

The applicability of the PG Guidelines

56 Ms Chua submitted that the PG Guidelines should have applied in determining the appropriate sentences for the offences to which the appellant had pleaded guilty and the public interest exception need not be invoked to exclude its application.⁶⁸ With respect to an offence of reckless or dangerous driving causing death by a serious offender, the maximum sentence reduction should be 20% at Stage 1 and 15% at Stage 2 (as opposed to 30% at Stage 1 and 20% at Stage 2 as set out in the PG Guidelines). This was to avoid the problem of sentences clustering at or near the mandatory minimum sentence of three years' imprisonment. With respect to an offence of drink driving causing

⁶⁵ YIC's Submissions at para 82.

⁶⁶ YIC's Submissions at para 84.

⁶⁷ YIC's Submissions at paras 85, 95.

⁶⁸ YIC's Further Written Submissions dated 26 February 2025 ("YIC's Further Submissions") at paras 13–23.

personal injury and/or property damage, the PG Guidelines could apply without any further calibration.⁶⁹

Issues to be determined

57 As prefaced, the following issues arose for our determination:

- (a) What is the appropriate sentencing framework for an offence of dangerous driving causing death by a serious offender while under the influence of alcohol under s 64(1) punishable under s 64(2)(a) read with ss 64(2)(c) and 64(2D)(b) of the RTA?
- (b) What is the appropriate sentencing framework for an offence of drink driving resulting in personal injury and/or property damage under s 67(1)(b) punishable under s 67(1) read with s 67(2)(a) of the RTA?
- (c) Do the PG Guidelines provide for an appropriate framework to determine the extent to which a sentence for the above two offences might be reduced on account of an offender's plea of guilt?

58 Ultimately, we had to consider if the sentence of seven years' imprisonment for the Dangerous Driving Causing Death Charge was appropriate, in application of the relevant legal principles.

Appropriate sentencing framework for an offence of dangerous driving causing death by a serious offender while under the influence of alcohol under s 64(1) punishable under s 64(2)(a) read with ss 64(2)(c) and 64(2D)(b) of the RTA

59 We begin by setting out the relevant sub-sections of s 64 of the RTA as in force at the time of the appellant's offences:

⁶⁹ YIC's Further Submissions at paras 25–32.

Reckless or dangerous driving

64.—(1) If any person drives a motor vehicle on a road recklessly, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road, the person (called the offender) shall be guilty of an offence.

(2) If death is caused to another person by the driving of a motor vehicle by the offender, the offender shall be punished with the following on conviction of an offence under subsection (1):

(a) with imprisonment for a term of not less than 2 years and not more than 8 years;

...

(c) where the offender is a serious offender in relation to the driving, with imprisonment for a term of not less than one year and not more than 2 years, in addition to any punishment under paragraph (a) or (b);

...

(2D) A court convicting a person of an offence under subsection (1) in the following cases is to, unless the court for special reasons thinks fit to not order or to order otherwise, order that the person be disqualified from holding or obtaining a driving licence for a disqualification period of not less than the specified period corresponding to that case:

(a) for an offender or a repeat offender in subsection (2)(a) or (b) — 10 years;

(b) for a serious offender in subsection (2)(c) — 12 years;

(c) for a serious repeat offender in subsection (2)(d) who has been convicted (whether before, on or after 1 November 2019) on only one earlier occasion of any specified offence — 15 years;

...

(8) In this section and section 65 —

...

“serious offender” means an offender who is convicted of an offence under section 67 or 70(4) in relation to the

offender’s driving which is an offence under
subsection (1);

...

60 The above is the result of amendments to the RTA which came into effect on 1 November 2019 following the passage of s 13 of the Road Traffic (Amendment) Act 2019 (Act 19 of 2019) (the “Amendment Act”). The Amendment Act introduced a whole suite of amendments to the RTA, enhancing and fortifying the existing legislative infrastructure regulating road traffic in Singapore with the stated aim of making our roads safer (*Sue Chang v Public Prosecutor* [2023] 3 SLR 440 (“*Sue Chang*”) at [31]).

61 Two aspects of the amendments to s 64 of the RTA bear emphasis. First, the amendments “envisaged a new scheme of penalties for reckless or dangerous driving in a *tiered structure calibrated according to the degree of hurt caused* ... Specific ranges of punishments are prescribed for each category of harm; the more serious the harm caused, the harsher the penalties naturally are” [emphasis added] (*Wu Zhi Yong* at [15]). By tiering the punishment provisions to correspond with the type of harm suffered, Parliament has given clear expression to the need to give explicit consideration to the (different) *outcomes* that result from instances of dangerous driving, which is a stark departure from the structure of the pre-2019 RTA, where there was a single range of punishment with no differentiation based on the type and/or degree of harm caused (see *Sue Chang* at [39]). Second, the penalties for reckless or dangerous driving under s 64 of the RTA were “further enhanced where drink driving occurred in conjunction with reckless or dangerous driving, through the introduction of the ‘serious offender’ provisions” – see sub-s(c) of each of ss 64(2)–64(2C) read with s 64(8) of the RTA, which defines a serious offender as one who has also been convicted of certain other offences including drink driving under s 67 of the RTA (*Wu Zhi Yong* at [16]).

62 As the court held in *Chen Song v Public Prosecutor and other appeals* [2025] 3 SLR 509 (“*Chen Song*”) (at [47]), albeit in the context of careless driving offences under s 65 of the RTA, the formulation of a sentencing framework ought to be guided by the architecture of the relevant provisions of the RTA and the legislative intention behind it. With the above context in mind, we turn to the two competing sentencing frameworks that the parties proposed and that Ms Chua analysed, namely those in *Wu Zhi Yong* and *Sy Yong Da*.

Framework in Wu Zhi Yong

63 *Wu Zhi Yong* concerned a case of reckless driving under the influence of drink not involving death, grievous or other hurt. There, the offender was driving a car in the early hours of the morning. Upon noticing a police roadblock, he stopped his car about 50m before the “Police Stop” sign and made a three-point turn in an attempt to evade the roadblock. The offender then travelled against the flow of traffic for at least 140m. The police officers on duty gave chase and eventually caught up with him. The offender was apprehended and taken back to the Traffic Police Headquarters. He was found to have had 46µg of alcohol *per* 100ml of breath. The offender pleaded guilty to one count of drink driving under s 67(1)(b) read with s 67(2)(a) of the RTA, and one count of reckless driving under s 64(1) punishable under s 64(2C)(a) read with ss 64(2C)(c) and 64(2D)(i) of the RTA. A sentence of 17 days’ imprisonment and a disqualification order for a period of 42 months for each of the offences, with the sentences to run concurrently, was imposed by the first instance court and affirmed on appeal.

64 In that case, Sundaresh Menon CJ declined to apply the “sentencing matrix” approach and adopted the “sentencing bands” approach instead (at [23] and [29]).

(a) Under the “sentencing matrix” approach, the court first determines the severity of the offence on the basis of the principal factual elements of the case that are closely related to (i) the culpability of the offender in carrying out the offence and (ii) the harm resulting from the offender’s actions. This exercise expresses itself in a matrix comprising the axes of culpability and harm, and each cell within that matrix features a different indicative starting point and range of sentences. Thereafter, the sentencing court will have regard to the aggravating and mitigating factors other than the principal factual elements to determine the precise sentence (at [22]).

(b) In contrast, under the “sentencing bands” approach, the court first considers the offence-specific factors to determine the appropriate “band” in which the particular offence should be situated. Such factors include the manner and mode by which the offence was committed, and the harm caused to the victim. This sentencing band defines the range of sentences that may usually be imposed for offences that have the characteristics of the particular offence in question. Once such a band has been identified, the court identifies where precisely within the corresponding range the offence falls, in order to derive an “indicative starting point”. In the second step, the court then calibrates the sentence, having regard to the offender-specific factors (at [23]).

65 Menon CJ found that a “sentencing matrix” based on harm and culpability was not appropriate in light of the architecture of s 64 of the RTA, since the Amendment Act delineated the range of sentences applicable in relation to each type of harm (*eg*, death, grievous hurt, hurt or none of the aforementioned) (at [27]). A “sentencing matrix” framework would typically be appropriate where a broad range of outcomes can arise under the specific axes

of harm or culpability. This allows any case to be situated at an appropriate point within the matrix by calibrating across *both* axes (at [28]). However, under s 64 of the RTA, the factor of “harm” is, in large part, already reflected in the different penalty-prescribing provisions and in the choice between the different provisions, such that it is no longer significant enough to justify it as a principal sentencing element in a matrix for a specific provision (at [28]). In fact, Menon CJ also observed that where death is caused, the nature of the harm ceases to be a relevant differentiating factor for the purposes of sentencing offenders falling within the ambit of the dangerous driving causing death provision (at [27]). We return to this last observation later which we consider to be highly pertinent in the present appeal.

66 Instead, a modified “sentencing bands” approach would be more suitable (at [29]). At the first step, the court should identify the band applicable to the offence and the indicative starting point with reference to that band, having regard to the offence-specific factors present. These would encompass factors relating to the manner and mode by which the offence was committed, as well as the harm caused by the offender. At the second step, the court would have regard to the offender-specific factors, being the aggravating and mitigating factors that are personal to the offender (at [30]).

67 In relation to the “serious offender” provision and how that should factor into the sentencing framework, Menon CJ held that it would be contrary to Parliament’s intention to approach the additional penalty provision under s 64(2C)(c) of the RTA (which applies to “serious offenders”) by stacking a further penalty over and above that to be imposed under s 64(2C)(a) in a two-step process. Rather, the additional penalty provision serves to enhance the overall range of punishment prescribed under s 64(2C) (at [31]–[33]). Calibrating the punishment to be imposed under s 64 of the RTA as a whole

allows for a holistic assessment of all the factors that go toward the offender's culpability (including the conduct of drink driving), and in this way, the sentencing court would utilise the full sentencing range (at [34]).

68 Menon CJ provided a non-exhaustive list of offence-specific aggravating factors to be considered at the first step of the sentencing framework (at [36]):

(a) Serious potential harm: Apart from actual harm, regard should also be had to the potential harm that can result from the act of dangerous or reckless driving. The level of potential harm would be assessed against facts which would include the condition of the road, the volume of traffic or number of pedestrians actually on or which might reasonably be expected to be on the road at the relevant time, the speed and manner of driving, visibility at the relevant time, the type of vehicle, and any particular vulnerabilities (*eg*, a truck or car colliding into a motorcycle or pedestrian). Where an assessment of these facts reveals that the potential harm occasioned to road users would have been serious, this would be an aggravating factor.

(b) Serious property damage: As a general rule, the amount of any loss or damage may serve as a proxy indicator of harm.

(c) High alcohol level found in the accused person's blood or breath: A high level of alcohol that substantially exceeds the prescribed limit would be an aggravating factor. This determination of whether an offender's alcohol level is high can be made with reference to the sentencing framework for an offence under s 67 of the RTA, set out in *Rafael*, which is calibrated in accordance with the alcohol levels found in an offender's blood or breath. The level of alcohol found in an

offender's blood or breath would be a key factor in determining the sentencing band in which a case is situated, as the fact of drink driving has been legislatively highlighted as a significant factor in sentencing (at [37]).

(d) An offender's reason or motivation for driving: This could be an aggravating (or conceivably, in some circumstances, even a mitigating) factor in respect of an offence of drink driving. The gravity of an offender's conduct would be increased if he had, at that time, been driving a passenger for hire or reward.

(e) Increased culpability: Factors increasing an accused person's culpability for an offence of dangerous driving would include a particularly dangerous manner of driving. Examples include excessive speeding or deliberate dangerous driving, such as in "hell riding" cases.

(f) The offender's conduct following the offence or attempt to evade arrest: Conduct that is belligerent or violent upon arrest would constitute an aggravating factor. Likewise, the failure to stop in an attempt to evade arrest or to avoid apprehension should also weigh against an offender.

69 Having found that the punishment to be imposed under s 64(2C)(a) read with s 64(2C)(c) of the RTA was to be calibrated as a whole, the applicable sentencing range is a fine of between \$2,000 and \$15,000 and/or an imprisonment term not exceeding 24 months, as well as a disqualification period of no less than two years (at [38]). Menon CJ arrived at the following bands (at [39]–[44]):

Band	Description	Punishment	Disqualification period
1	Lower level of seriousness, with no offence-specific aggravating factors present or where they are present only to a limited extent. The offender's blood alcohol level is also likely to be at Bands 1 or 2 of <i>Rafael</i> .	A fine of between \$2,000 and \$15,000 and/or up to 1 month's imprisonment	2 to 3 years
2	Higher level of seriousness and would usually contain two or more offence-specific aggravating factors. The level of culpability and the blood alcohol level will typically both be on the higher side, likely in Bands 3 and 4 of <i>Rafael</i> .	1 month's to 1 year's imprisonment	3 to 4 years
3	Most serious cases of reckless or dangerous driving whilst under the influence of drink, with multiple aggravating factors suggesting higher levels of culpability and higher alcohol levels.	1 to 2 years' imprisonment	4 to 5 years

Within the appropriate band and corresponding sentencing range, the court then arrives at an indicative starting point (at [49]).

70 At the second step of the framework, the court calibrates the sentence from that starting point by having regard to the offender-specific factors. Offender-specific aggravating factors include offences taken into consideration for the purposes of sentencing, relevant antecedents, and evidence showing a lack of remorse. Offender-specific mitigating factors include evidence of genuine remorse and an offender's youth (at [48]).

Framework in *Sy Yong Da*

71 *Sy Yong Da* is a District Court decision that concerned a case of dangerous driving causing death *without* the influence of alcohol punishable under s 64(2)(a) of the RTA. In that case, the offender was driving his motorcar in the early morning. He was speeding and had swerved abruptly from lane two to lane four of the road (*ie*, leftwards towards the streetside walkway for pedestrians, before losing control of the motorcar. The motorcar went off the road, mounted the left kerb and collided into a person who was walking along the sheltered pedestrian walkway. The offender then drove off immediately from the accident scene, leaving his victim there. He sent his motorcar to an automotive workshop for repairs. The victim eventually succumbed to her injuries (at [1]). The offender pleaded guilty to one charge of dangerous driving causing death under s 64(1) punishable under s 64(2)(a) read with s 64(2D)(a) of the RTA and two other charges, with two further charges taken into consideration for the purposes of sentencing (at [2]). The offender was sentenced to 68 months' imprisonment and ten years' disqualification for the offence of dangerous driving causing death (at [177]).

72 The court adopted the five-step approach as set out in *Logachev Vladislav v Public Prosecutor* [2018] 4 SLR 609 ("*Logachev*") at [75]–[84] (*Sy Yong Da* at [109]–[110]; see also *Public Prosecutor v Cullen Richard Alexander* [2020] SGDC 88 at [104]–[157]), which is as follows:

- (a) First step: Identify the level of harm and the level of culpability.
- (b) Second step: Identify the applicable indicative sentencing range. This is determined according to a harm-culpability sentencing matrix in which each permutation of harm and culpability corresponds to a specified sentencing range.

- (c) Third step: Identify the appropriate starting point within the indicative sentencing range.
- (d) Fourth step: Make adjustments to the starting point to take into account offender-specific factors.
- (e) Fifth step: Make further adjustments to take into account the totality principle.

73 As the only eventuality of the harm caused in fatal accidents is death, the court in *Sy Yong Da* was of the view that for the purpose of the sentencing framework under s 64(2)(a) of the RTA, only the degree of culpability of an accused is relevant in so far as the first step is concerned (at [114]). In assessing culpability, the court will consider the following factors: the manner of driving, the circumstances of driving, and the offender’s reasons for driving (*Sy Yong Da* at [122], following *Public Prosecutor v Aw Tai Hock* [2017] 5 SLR 1141 at [37]–[40]). The court set out a “working or functional definition” in relation to each level of culpability and a corresponding indicative sentencing range (at [129] and [131]). The court highlighted that drink driving or driving under the influence of drugs will be dealt with additionally under the “serious offender” provision (at [129]).

Appropriate sentencing framework for an offence of dangerous driving causing death by a serious offender

74 In our judgment, a modified “sentencing bands” framework akin to that in *Wu Zhi Yong* is most suited for dangerous driving offences causing death.

75 The “sentencing bands” approach adopted in *Wu Zhi Yong* is preferable over the “sentencing matrix” approach adopted in *Sy Yong Da* primarily because the nature of the harm ceases to be a relevant differentiating factor for the

purposes of sentencing offenders facing a charge of dangerous driving causing death, as Menon CJ astutely observed in *Wu Zhi Yong* (at [27]) (see [65] above). This is consistent with the remarks in *Chen Song* (at [120]) where this court observed that the sentencing bands approach adopted in *Wu Zhi Yong* would also be appropriate for careless or dangerous driving offences resulting in death, given that there is only one possible type of harm that can be occasioned in such cases. Unlike grievous hurt (or hurt) which can manifest itself in different graduations, death is monotypic. There is no need to inquire into the precise extent of harm and thereafter reflect this extent in the sentencing range to consider because death *is* that precise, singular extent which constitutes an essential element of the offence. It should not be considered again as an offence-specific factor that would affect the calibration of sentence since the primary consideration of harm within this relevant offence is the death caused, and this is already reflected in a correspondingly higher sentencing range under the legislative framework of the RTA.

76 For this reason, a “sentencing matrix” approach based on the axes of harm and culpability, which the court in *Sy Yong Da* adopted, would not be appropriate. In our view, that approach is best suited for offences where a broad range of outcomes can arise under the specific axes of harm and culpability (*Sue Chang* at [61] and [64]), which is not observable here. Notably, the court in *Sy Yong Da* also appears to have recognised the inherent difficulty in adopting the “sentencing matrix” approach, having acknowledged that since the only eventuality of the harm caused in fatal accidents is death, only the degree of culpability of an accused is relevant (*Sy Yong Da* at [114]).

77 The other benefit of adopting a framework based on “sentencing bands” is the consistency in sentencing approaches for offences under ss 64 and 65 of the RTA. As the court in *Chen Song* noted in the context of considering the

appropriate sentencing frameworks to be adopted for offences of careless driving causing grievous hurt and hurt simpliciter under ss 65(3)(a) and 65(4)(a) of the RTA respectively, “it would be desirable to maintain a consistent sentencing approach for all of the punishment provisions in ss 64 and 65 of the RTA, to ensure theoretical and practical coherence” (*Chen Song* at [120]).

78 More specifically, we regarded the particular modified sentencing bands approach in *Wu Zhi Yong* as appropriate as it accounts for the seriousness of the offence alongside the offender’s alcohol level. Indeed, the framework expressly references an offender’s alcohol level as one of the factors that presumptively places an offender within one of the three sentencing bands (see [69] above). It is crucial to ensure that due weight is accorded to the particular factor of the offender’s intoxication in the sentencing framework since the “serious offender” provision targets the specific, compounded mischief of dangerous driving while under the influence.

79 Therefore, as with *Wu Zhi Yong*, the sentencing framework to apply to an offence of dangerous driving causing death by a serious offender on account of drink driving comprises the same three broad sentencing bands at the first step, reflecting the varying degrees of seriousness of the offence and different levels of alcohol of the offender. This reflects the relevant offence-specific factors, such as those non-exhaustively set out by Menon CJ in *Wu Zhi Yong* (at [36]) (see [68] above). Thereafter, an assessment of the offender-specific factors is undertaken at the second step.

80 We make two further clarifications.

(a) First, apart from the offence-specific factors set out by Menon CJ in *Wu Zhi Yong* (at [36]), we agree with Ms Chua that it

would be necessary to also consider any serious harm *other than* the harm which is the subject of the charge. This is provided that such other harm is either actual harm directly the subject of a TIC Charge or harm which is intrinsically related to the charge such as the potential harm that could have been caused. With regard to the actual harm caused other than that of the charge, this would entail considering (i) the nature and location of the injuries (including the complexity, extent, number and treatment); (ii) the degree of permanence of the injuries; and (iii) the impact of the injuries (on quality of life) (see *Chen Song* at [124] and [127]).

(b) Second, and relatedly, there is no reason to account for the TIC Charges in a strict and rigid manner. While the Prosecution argued that the TIC Charges should only feature at the second step (see [50(b)] above), in our judgment, a sentencing court may consider the TIC Charges (and their contents) as an aggravating factor at the first *or* second step of the sentencing process, *ie*, as either an offence-specific *or* offender-specific factor. TIC Charges come in a variety of forms and can include charges arising out of and directly related to the same incident, or other charges that are less associated. In the former instance, it is sensible for these charges to be regarded as an offence-specific factor at the first step while in the latter instance, those charges ought to be considered under the second step of the framework as an offender-specific factor. For example, where there were separate injuries caused that were the subject of separate TIC Charges, it may be more appropriate to consider the fact of these injuries within the first step of the framework in ascertaining the seriousness of the offence. However, due caution has to be exercised to ensure that there is no double counting such that the TIC Charges are considered at *both* steps of the framework.

81 Turning to the range of sentences for each individual band, we first note that, for the offence of dangerous driving causing death by a serious offender punishable under s 64(2)(a) and s 64(2)(c) of the RTA, the full prescribed range of imprisonment is three to ten years. In dividing this range across the three bands, it is appropriate to allocate a slightly longer range and correspondingly more sentencing discretion to the middle band, *ie*, Band 2, to facilitate discriminating between the variety of offences with moderate to higher levels of seriousness. Conversely, Bands 1 and 3 which correspond to cases of the lowest and highest levels of seriousness respectively would not require such broad discretion since the appropriate sentences in those cases would generally approximate closer to the mandatory minimum or maximum sentences respectively. This division can be reflected as such:

Band	Range of imprisonment
1	3 to 5 years
2	5 to 8 years
3	8 to 10 years

82 Finally, we note that, pursuant to s 64(2D)(b) of the RTA, a mandatory 12-year disqualification period applies for a serious offender convicted of dangerous driving under s 64(1) of the RTA, “unless the court for special reasons thinks fit to not order or to order otherwise”. There is therefore no need to introduce a range of disqualification periods in the sentencing framework. It is settled that “special reasons” for departing from the statutorily prescribed disqualification period are exceptional. Such reasons will generally be found only if the court is satisfied that the offender drove in circumstances that reasonably suggest that (a) it was necessary to do so in order to avoid other likely and serious harm or danger; and (b) there was no reasonable alternative way to achieve this end (see *Chen Song* at [138], referring to *Lee Shin Nan v Public Prosecutor* [2024] 3 SLR 1730 at [79]). Hence, the 12-year

disqualification period should apply regardless of the band within which the offences falls.

Summary of the sentencing framework for an offence of dangerous driving causing death by a serious offender

83 The sentencing framework for an offence of dangerous driving causing death by a serious offender while under the influence of alcohol under s 64(1) punishable under s 64(2)(a) read with ss 64(2)(c) and 64(2D)(b) of the RTA may be summarised as a two-step process. At the first step, the court should identify the band applicable to the offence and the indicative starting point within that band, having regard to the offence-specific factors present. These include consideration of the following factors: serious potential harm; other serious harm; serious property damage; offender's alcohol level; offender's reason or motivation for driving; other factors indicating increased culpability such as specific manner of driving; and offender's conduct following the offence or attempt to evade arrest (see [68] and [80(a)] above).

84 The punishment to be imposed under s 64(2)(a) read with s 64(2)(c) of the RTA is to be calibrated as a whole with an applicable sentencing range of

between three and ten years' imprisonment. Accordingly, the sentencing bands and the respective ranges are as follows:

Band	Description	Range of imprisonment term
1	Lower level of seriousness, with no offence-specific aggravating factors present or where they are present only to a limited extent. The offender's alcohol level is also likely to be at the lowest or second lowest bands in the framework set out in <i>Rafael</i> .	3 to 5 years
2	Higher level of seriousness and would usually contain two or more offence-specific aggravating factors. In these cases, the level of culpability and the alcohol level will typically both be on the higher side. The offender's alcohol level is in the highest or second highest band of the framework in <i>Rafael</i> .	5 to 8 years
3	The most serious cases of reckless or dangerous driving whilst under the influence of drink. In these cases, there will be multiple aggravating factors suggesting higher levels of culpability and higher alcohol levels.	8 to 10 years

85 At the second step of the framework, the court calibrates the sentence from that starting point by having regard to the offender-specific factors. Offender-specific aggravating factors include offences taken into consideration for the purposes of sentencing (assuming not already considered), relevant antecedents, and evidence showing a lack of remorse. Offender-specific mitigating factors include evidence of genuine remorse and an offender's youth.

86 A mandatory 12-year disqualification period would generally be imposed for a serious offender convicted of dangerous driving under s 64(1) of the RTA, unless there are special reasons not to order so or to order otherwise.

Appropriate sentencing framework for an offence of drink driving that results in personal injury and/or property damage under s 67(1)(b) punishable under s 67(1) read with s 67(2)(a) of the RTA

87 We turn to address the appropriate sentencing framework for an offence of drink driving resulting in personal injury and/or property damage under the amended provisions of the RTA. While the appellant did not take issue with the sentence imposed (and therefore the sentencing approach taken) by the DJ in respect of the Drink Driving Charge, we take the opportunity to clarify and update the relevant sentencing framework.

88 We set out the relevant statutory provisions as in force at the time of the appellant's offences:

Driving while under influence of drink, etc.

67.—(1) Any person who, when driving or attempting to drive a motor vehicle on a road or other public place —

(a) is unfit to drive in that he or she is under the influence of drink, a drug, a psychoactive substance or an intoxicating substance to such an extent as to be incapable of having proper control of the vehicle; or

(b) has so much alcohol in his or her body that the proportion of it in his or her breath or blood exceeds the prescribed limit,

shall be guilty of an offence and shall be liable on conviction to a fine of not less than \$2,000 and not more than \$10,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a second or subsequent conviction, to a fine of not less than \$5,000 and not more than \$20,000 and to imprisonment for a term not exceeding 2 years.

(2) Subject to sections 64(2D) and (2E) and 65(6) and (7), a court convicting a person for an offence under this section in the following cases is to, unless the court for special reasons thinks fit to not order or to order otherwise, order that the person be disqualified from holding or obtaining a driving licence for a period of not less than the specified period corresponding to that case, starting on the date of the person's conviction or, where the person is sentenced to imprisonment, on the date of the person's release from prison:

(a) for a first offender — 2 years;

...

89 As alluded to, the Amendment Act doubled the prescribed punishments for an offence of drink driving under s 67 of the RTA so that “offenders driving under influence [would] face stiffer penalties to signal the aggravated seriousness of their actions” (Singapore Parl Debates; Vol 94, Sitting No 106 [8 July 2019] (Josephine Teo, Second Minister for Home Affairs)). Prior to the amendment, s 67(1) of the RTA provided that a first offender would be liable on conviction to a fine of not less than \$1,000 and not more than \$5,000 or to imprisonment for a term not exceeding six months, while s 67(2) of the RTA also provided for a disqualification period of not less than 12 months. After the amendments in 2019, s 67(1) of the RTA provided that a first offender would be liable on conviction to a fine of not less than \$2,000 and not more than \$10,000 or to imprisonment for a term not exceeding 12 months or to both, while s 67(2) of the RTA provided for a minimum disqualification period of two years.

Framework in Stansilas

90 As stated, *Stansilas* set out a sentencing framework for an offence of drink driving where physical injury and/or property damage has been caused under the *pre-amendment* s 67(1)(b) of the RTA. In *Stansilas*, the offender was driving home after consuming beer. As he was heading towards a signalised cross junction, he noticed that the traffic light controlling his line of travel had turned amber. Instead of slowing down with a view to stopping, he accelerated, hoping to get through the junction. By the time he reached the junction, the traffic signal had turned red. As he entered the junction, his car brushed against a female pedestrian and collided into a motorcyclist who was travelling perpendicularly to the offender’s line of travel. The motorcyclist was flung off

his motorcycle and hit the road, which caused him to lose consciousness momentarily. The offender was subsequently found to have 43µg of alcohol in every 100ml of breath. The pedestrian suffered a crush injury of the right foot and the motorcyclist experienced retrograde and anterograde amnesia. The offender pleaded guilty to the offence of drink driving under s 67(1)(b) of the RTA (as in force at that material time) and a second charge for driving in a manner which was dangerous to the public was taken into consideration for the purpose of sentencing. The offender was sentenced to two weeks' imprisonment at the first instance, and his sentence was reduced to one week's imprisonment on appeal.

91 There, Menon CJ held that in assessing the overall gravity of the offence, it is relevant to consider, first, the degree of harm caused; and second, the culpability of the offender. In relation to the latter, this will entail considering the extent to which the offender's alcohol level exceeds the prescribed limit as well as the manner of the offender's driving (at [74]). In relation to cases where physical injury and/or property damage has been caused, the two factors of harm and culpability can be calibrated as follows (at [75]):

Harm	Culpability
<u>Slight</u> – slight or moderate property damage and/or slight physical injury characterised by no hospitalisation or medical leave	<u>Low</u> – low alcohol level <i>and</i> no evidence of dangerous driving behaviour
<u>Moderate</u> – serious property damage and/or moderate personal injury characterised by hospitalisation or medical leave but no fractures or permanent injuries	<u>Medium</u> – moderate to high alcohol level <i>or</i> dangerous driving behaviour
<u>Serious</u> – serious personal injury usually involving fractures, including injuries which are permanent in nature and/or which necessitate significant surgical procedures	<u>High</u> – high alcohol level <i>and</i> dangerous driving behaviour

Very serious – loss of limb, sight or hearing or life; or paralysis	
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92 Save in a case involving slight injury and low culpability, where physical injury and/or property damage has been caused, the *prima facie* position is that the custodial threshold has been crossed and unless this is displaced by reason of sufficiently strong mitigating factors, the court will then have to determine the length of the custodial sentence to impose on the offender (at [77]). In the exercise of its sentencing discretion, the court should assess the relevant interaction of harm and culpability having regard to what has been set out below (at [78]):

Harm	Slight	Moderate	Serious	Very serious
Culpability				
Low	Fine	Up to 1 month's imprisonment	Up to 1 month's imprisonment	Up to 2 months' imprisonment
Medium	Up to 1 month's imprisonment	Up to 1 month's imprisonment	Up to 2 months' imprisonment	2 to 4 months' imprisonment
High	Up to 2 months' imprisonment	Up to 2 months' imprisonment	2 to 4 months' imprisonment	4 to 6 months' imprisonment

Appropriate sentencing framework for the offence of drink driving that results in personal injury and/or property damage

93 In our judgment, the framework in *Stansilas* should be recalibrated by doubling the imprisonment terms for each harm-culpability permutation in light of the Amendment Act, which doubled the punishments imposed under s 67 of the RTA. The framework in *Stansilas* should also be refined with reference to the alcohol level bands in the framework in *Rafael* (see [38] above).

Doubling of imprisonment terms for each harm-culpability permutation

94 The recalibration of the framework to double the ranges of the imprisonment terms for each permutation in the harm-culpability matrix is uncontroversial; both Ms Chua and the Prosecution proposed the same in their submissions. In our view, increasing the ranges in this manner would certainly allow the court to utilise the full spectrum of the punishment prescribed by law, and, at the same time, consider the full extent of any aggravating and mitigating factors that may be present (see *Niranjan s/o Muthupalani v Public Prosecutor* [2024] 3 SLR 834 (“*Niranjan*”) at [60]).

95 The arithmetic doubling of the ranges is also consistent with the approach taken in other cases where legislative amendments have operated to modify the sentencing range for a particular offence, eg, *Rafael* and the revision of the sentencing framework in *Edwin s/o Suse Nathen v Public Prosecutor* [2013] 4 SLR 1139, or *Niranjan* and the revision of the sentencing framework in *Low Song Chye v Public Prosecutor and another appeal* [2019] 5 SLR 526. In those cases, the new sentencing range was arrived at by similarly extrapolating the pre-amendment positions in a proportionate and linear fashion.

Offender’s alcohol level and the framework in Rafael

96 As set out at [91] above, the offender’s culpability is to be assessed against, *inter alia*, his or her alcohol level. This is because an offender’s alcohol level is an indicator of his or her inability or unfitness to drive due to his or her alcohol intake. Heavier punishment should therefore be imposed on drivers with higher alcohol levels (*Stansilas* at [37]).

97 In our judgment, consistent with the approach taken by Menon CJ in *Wu Zhi Yong* (at [36(c)]), the determination of whether an offender’s alcohol level

is high can be made with reference to the sentencing framework for an offence under s 67 as set out in *Rafael* at [31], which is calibrated in accordance with the alcohol levels found in an offender's blood or breath. As such, the three levels of culpability in the framework can be restated in the following manner:

Culpability	Description
Low	Alcohol level typically falling within Band 1 of <i>Rafael</i> and no evidence of dangerous driving behaviour
Medium	Alcohol level typically falling within Bands 2 and 3 of <i>Rafael</i> or dangerous driving behaviour
High	Alcohol level typically falling within Band 4 of <i>Rafael</i> and dangerous driving behaviour

Disqualification period

98 While submissions were made on how disqualification periods should feature in the sentencing framework, we decline to lay down on this occasion more precise ranges of disqualification periods to fit within the respective bands in the revised sentencing framework. It is strictly not necessary to determine this in the present appeal, which does not call for a review of the disqualification period imposed for the Drink Driving Charge specifically, much less a framework for the disqualification period generally.

99 In any event, we do not regard the present case as an appropriate instance to undertake such a review on our own motion and to concurrently provide for a framework for the disqualification period. This is because the appellant was separately charged under the “serious offender” provision in s 64(2C)(c) of the RTA. In such circumstances, as a general rule, the sentences under ss 64 and 67 of the RTA should run concurrently in so far as any term of imprisonment or disqualification order is concerned so as to avoid doubling the punitive effect for the same act (*Wu Zhi Yong* at [56]–[64]). This being the case, the disqualification period imposed for the Dangerous Driving Causing Death

Charge in the present case would essentially eclipse any disqualification period imposed for the Drink Driving Charge. Specifically, the imposition of a ten-year disqualification order for the Drink Driving Charge is overshadowed by the 12-year disqualification period for the Dangerous Driving Causing Death Charge. We expect this to be the case generally: where there are concurrent charges for drink driving under s 67 of the RTA and for dangerous and/or careless driving by a “serious offender” under ss 64 and 65 of the RTA, the disqualification period imposed for the drink driving charge will likely be only notional in its effect. We therefore leave this question to be answered at a more suitable future occasion, particularly where the offence of drink driving that results in personal injury and/or property damage under s 67(1) of the RTA is prosecuted on its own or at least where the sentence imposed is not moot in its practical effect.

100 Finally, we observe a trend in the lower courts whereby the disqualification period for offences of drink driving causing personal injury and/or property damage is arrived at by reference to the disqualification periods prescribed in *Rafael* (see *Public Prosecutor v Lim Lee Choon Alex* [2023] SLR(StC) 444, *Public Prosecutor v Osman Budak* [2024] SGDC 91, *Public Prosecutor v Mo Weiliang* [2023] SLR(StC) 315 (“*Mo Weiliang*”), *Public Prosecutor v Jamie Maxx Han* [2024] SGDC 112 and *Public Prosecutor v Yeong Wei Xiong, Lionel (Yang Weixiong)* [2024] SGDC 103). In our view, blind adherence to the ranges of disqualification periods as set out in *Rafael* when determining a disqualification period for the offence at hand is improper and should be avoided. The *Rafael* framework was conceptualised as a neutral starting point for offences of drink driving where *no* personal injury or property damage is caused. Menon CJ also caveated that regard should still be had to any aggravating or mitigating circumstances (*Rafael* at [32]–[33]). Each disqualification order should be calibrated in a reasoned manner with the objectives of such orders in mind and in consideration of the relevant and

material factors. The length of the disqualification period must reflect the seriousness of the offence where physical injury and/or property damage was caused, and so, a strict adherence to the disqualification periods in *Rafael* without any subsequent calibration should be eschewed. That said, the ranges of disqualification periods as set out in *Rafael* may still be relied on *provided that* adjustments are made to reflect the greater harm caused. This is similar to the approach taken in *Mo Weiliang*, where the appropriate disqualification period was determined after taking into account the range within the relevant band in *Rafael* of 48–60 months *as well as* the circumstances of the commission of the offence and the offender’s continued ability to drive and attitude towards other road users (*Mo Weiliang* at [57]–[58]).

Summary of the framework for the offence of drink driving causing personal injury and/or property damage

101 The sentencing framework for the offence of drink driving under s 67(1)(b) punishable under s 67(1) of the RTA, where personal injury and/or property damage is caused (and where it is the offender’s first conviction for drink driving), may be summarised as follows. Save in a case involving slight injury and low culpability, the custodial threshold is, *prima facie*, crossed. The length of the custodial sentence will be determined in consideration of the harm and culpability, in accordance with the following matrix:

Harm				
Culpability	Slight	Moderate	Serious	Very serious
Low	Fine of \$2000 to \$10,000	Up to 2 months’ imprisonment	Up to 2 months’ imprisonment	2 to 4 months’ imprisonment
Medium	Up to 2 month’s imprisonment	Up to 2 months’ imprisonment	2 to 4 months’ imprisonment	4 to 8 months’ imprisonment

High	2 to 4 months' imprisonment	2 to 4 months' imprisonment	4 to 8 months' imprisonment	8 to 12 months' imprisonment
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102 Harm and culpability are calibrated in the following manner:

Harm	Culpability
<u>Slight</u> – slight or moderate property damage and/or slight physical injury characterised by no hospitalisation or medical leave	<u>Low</u> – Alcohol level typically falling within Band 1 of <i>Rafael</i> and no evidence of dangerous driving behaviour
<u>Moderate</u> – serious property damage and/or moderate personal injury characterised by hospitalisation or medical leave but no fractures or permanent injuries	<u>Medium</u> – Alcohol level typically falling within Bands 2 and 3 of <i>Rafael</i> level or dangerous driving behaviour
<u>Serious</u> – serious personal injury usually involving fractures, including injuries which are permanent in nature and/or which necessitate significant surgical procedures	<u>High</u> – Alcohol level typically falling within Band 4 of <i>Rafael</i> and dangerous driving behaviour
<u>Very serious</u> – loss of limb, sight or hearing or life; or paralysis	

103 As for the disqualification period to be ordered, the ranges prescribed in *Rafael* should not be applied without considering the need for any further adjustment to reflect the seriousness of the offence in each case. The circumstances of the commission of the offence are, amongst others, a relevant and material factor to be taken into account. This includes considering the extent of harm caused as well as the potential harm that could have resulted from the act constituting the driving offence in question.

Application of the PG Guidelines to the two offences in question

104 The central issue in relation to the PG Guidelines in the context of the present appeal was whether they should be applied, and if so, how they should be applied and whether any calibration was necessary.

105 In our judgment, the PG Guidelines is an appropriate framework to account for the mitigatory weight of a plea of guilt, and in turn to ascertain the extent to which a sentence might be reduced, for offences under the RTA generally and offences in this case specifically. Additionally, we did not find any further calibration necessary; the stipulated maximum reductions in the PG Guidelines should generally apply in an unattenuated fashion to both offences of dangerous driving under s 64 and drink driving under s 67(1)(b) of the RTA.

PG Guidelines

106 It is apposite to first set out the PG Guidelines as conceptualised. The PG Guidelines prescribe a three-step approach for determining a sentence where an accused person pleads guilty (PG Guidelines at para 8):

- (a) Step 1: The court first determines the sentence that it would have imposed if the accused person had been convicted after trial, for every charge. If the accused person has demonstrated remorse in other ways, apart from pleading guilty, the court may consider this as a mitigating factor in Step 1, if appropriate. Factors which relate to the plea of guilt should *not* be considered at Step 1.
- (b) Step 2: The court determines the applicable stage of proceedings, as set out in the table below (PG Guidelines at para 9).
- (c) Step 3: The court applies an appropriate reduction to the sentence that was determined in Step 1, for each charge, which should generally not exceed the maximum reduction for the applicable Stage. Where there are multiple charges, the total sentence is then determined based on prevailing sentencing principles. The sentence *cannot* be reduced below any mandatory minimum sentence.

Stage	Description	Reduction in sentence
1	From the first mention until 12 weeks after the hearing when the Prosecution informs the court and the accused person that the case is ready for the plea to be taken.	Up to 30%
2	After Stage 1 until either of the following: - For cases subject to Criminal Case Disclosure (“CCD”) procedures, when the court first gives directions for the filing of the Case for the Prosecution in relation to the charge. - For cases not subject to CCD procedures, when the court first fixes trial dates for the charge.	Up to 20%
3	After Stage 2, until before the first day of the trial.	Up to 10%
4	On or after the first day of the trial.	Up to 5%

107 The PG Guidelines provide two important caveats. First, where the final sentence after the reduction is applied is at variance with existing judicial guidelines or precedents for the offence in question, the court should apply its mind as to whether to adopt the existing judicial guidelines or precedents or to give full effect to the relevant reductions in sentence (PG Guidelines at para 10). Second, there are exceptions to which the maximum reductions in sentence in the above table do not apply. This includes the situation where the court is of the view that it would be contrary to the public interest for the PG Guidelines to be applied, given the circumstances of the specific case. In such a situation, the court may apply a reduction in sentence which is just and proportionate without reference to the PG Guidelines (PG Guidelines at para 13(b)).

108 These qualifications are consistent with the general principle that sentencing is within the exclusive remit of the courts (see *Praveen s/o Krishnan v Public Prosecutor* [2018] 3 SLR 1300 at [67]), and similarly recognises that the PG Guidelines are *not* statutory in nature and may be derogated from in the appropriate case. To this end, it must be borne in mind that the key function of

the Sentencing Advisory Panel is to issue non-binding sentencing guidelines (*Iskandar* at [53] and [72]; see also PG Guidelines at paras 1–2).

109 This key function dovetails with the stated objective of the PG Guidelines, namely to “to encourage accused persons who are going to plead guilty to do so as early in the court process as possible, and to promote consistency in sentencing” (PG Guidelines at para 3). This is because, as the PG Guidelines recognise, an early plea of guilt can have clear benefits in terms of: (a) mitigating the impact on victims and witnesses; and (b) saving public resources (PG Guidelines at para 4). For these reasons, the PG Guidelines are said to be expressly driven by the utilitarian justifications in giving mitigatory weight to a plea of guilt (*Iskandar* at [66]).

Appropriateness of applying the PG Guidelines

110 The parties and Ms Chua all take the position that the PG Guidelines should apply to the offences at hand. We agree. In our judgment, the PG Guidelines are an appropriate framework for determining the mitigatory weight of a plea of guilt in the context of the road traffic offences at hand as it gives due recognition of the utilitarian benefits of a plea of guilt at least, and perhaps also of the accused person’s remorse.

111 The PG Guidelines give effect to the utilitarian value of a plea of guilt in the context of the present offences in two ways, as identified in the PG Guidelines (see [109] above) and in *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 (“*Terence Ng*”) (at [66]). First, it spares the victim(s) and/or witness(es) the ordeal of having to testify, thereby saving them from the horror of having to re-live the incident as well as the time and effort to prepare for a trial and testify in court. At least in respect of some road traffic offences, and certainly in the present case, avoiding a trial may mean avoiding the need to

recount a traumatic and harrowing experience. Second, an early plea of guilt saves the state's resources which would otherwise have been expended if there were a trial. This second justification is of a more general nature and we foresee it applying to virtually all offences.

112 The determination of the mitigatory weight to be accorded for an accused person's remorse as expressed through their plea of guilt is less straightforward and depends on the circumstances in which the relevant offence comes to light. This issue is best encapsulated by the Court of Appeal's recognition in *Iskandar* (at [65]) that it is generally difficult for the court to discern whether an accused person is genuinely remorseful *merely* from a plea of guilt since those accused persons choose to enter a guilty plea for a multitude of reasons. That is irrefutable and we agree. Those remarks, however, do not go so far to suggest that an offender's remorse cannot ever be reflected in his or her plea of guilt, alongside other manifestations of remorse. Instead, as the Court of Appeal in *Terence Ng* (at [66]) recognised, the plea of guilt can be a subjective expression of genuine remorse and contrition which serves as one of three justifications for reducing a sentence on account of that plea of guilt.

113 In the context of dangerous driving and/or drink driving offences, accused persons are generally caught because of the near indisputable evidence against them, such as when they have been observed and video-recorded by a member of the public or fellow road user to have been driving dangerously, when they have been fortuitously stopped by the authorities themselves during a routine patrol or check, or when they have been involved in an accident as a result of their dangerous and/or drink driving (as is the case here). This would be a compelling basis to mount the same argument identified in *Iskandar* (at [62]) about the difficulty of ascertaining the accused person's remorse in such circumstances: if the Prosecution's evidence against the accused person is very

strong such that a conviction is virtually certain had the accused person's case proceeded to trial, a fair inference to be made is that the accused person had pleaded guilty only because he had no other better choice, and not because he was genuinely remorseful for committing the offence.

114 The Court of Appeal in *Iskandar* recognised as much in the context of drug trafficking and importation offences, where accused persons are often caught red-handed with the drugs. Remorse outside of a guilty plea does not typically feature in those crimes save for exceptional circumstances since those are offences where there is no identifiable victim (*Iskandar* at [67]).

115 This can be contrasted with the context of road traffic offences where remorse can and does manifest in other ways such as by making voluntary restitution or compensation to the victim, or even a genuine apology. These other manifestations, when considered alongside a plea of guilt, may – but not necessarily – demonstrate that the accused person's remorse was a motivation for pleading guilty. Ultimately, whether a plea of guilt is a reflection of an accused person's remorse should be ascertained holistically, alongside any other actions or inactions on their part. In so far as there is *any* remorse that may be reflected in his or her guilty plea, the reduction in sentence offered by the PG Guidelines also accounts for this, as suggested at Step 1 of the approach.

116 In addition, the PG Guidelines tie sentencing reductions to the timeliness of the plea of guilt: the earlier in the process the accused person indicates his or her intention to plead guilty, the greater the sentencing reduction he or she should be accorded. In our judgment, this structure is appropriate when assessing the extent of the reduction in sentence due to the above justifications. The utilitarian value of the plea of guilt is correlated to the timeliness of that plea (*Iskandar* at [69]). The same can be said for the extent of the accused

person's remorse: the sooner this is expressed, the greater the effect of that expression of remorse and similarly, the stronger the inference of the genuineness and sincerity of the accused person.

117 Therefore, in our judgment, the PG Guidelines are an appropriate framework for determining the mitigatory weight of a plea of guilt in the road traffic offences at hand.

Calibration of the maximum sentence reductions

118 Beyond the applicability of the PG Guidelines, it was necessary to consider *how* they should be applied and whether the maximum sentence reductions should be calibrated in the context of the present offences. We ultimately held that no further calibration was required. We address this issue with respect to each offence separately.

119 The parties and Ms Chua took the position that the PG Guidelines should be applied as conceptualised without any further calibration to offences of drink driving under s 67(1)(b) punishable under s 67(1) read with s 67(2)(a) of the RTA. We agree. We saw no reason to tinker with the maximum reductions for each stage of the PG Guidelines which fittingly and reasonably gave due credit to the timeliness of an early plea of guilt.

120 The parties took the same position in respect of offences of dangerous driving causing death by a serious offender under s 64(1) punishable under s 64(2)(a) read with s 64(2)(c) of the RTA and regarded the maximum reductions at each stage of the PG Guidelines, as promulgated, appropriate. This meant that an offender would, ordinarily, be entitled to a sentence reduction of up to 30% if he or she indicated an intention to enter a plea of guilt at a time that fell within Stage 1. Ms Chua, however, proposed that the PG Guidelines

should be calibrated for this offence and suggested that the maximum sentence reductions should be reduced from 30% to 20% for Stage 1 and 20% to 15% for Stage 2, with the maximum sentence reductions for Stages 3 and 4 being the same as set out in the PG Guidelines.

121 Ms Chua was specifically concerned about a clustering effect of sentences near the mandatory minimum imprisonment term of three years for this offence. In her view, applying a lower maximum reduction of 20% would obviate this, and the sentences would be sufficiently differentiated based on the seriousness of the offence while still conferring a fairly significant reduction in sentence. This is best illustrated in the following table which sets out the range of sentences for each sentencing band in the framework for this offence summarised at [84] above, alongside the resulting range of sentences after applying a maximum sentence reduction for Stage 1 of 30% (as set out in the PG Guidelines) and of 20% (as proposed by Ms Chua):

Band	Range of Punishment	With maximum sentence reduction of 30%	With maximum sentence reduction of 20%
1	3 to 5 years' imprisonment	3 to 3.5 years' imprisonment	3 to 4 years' imprisonment
2	5 to 8 years' imprisonment	3.5 to 5.6 years' imprisonment	4 to 6.4 years' imprisonment
3	8 to 10 years' imprisonment	5.6 to 7 years' imprisonment	6.4 to 8 years' imprisonment

122 Ms Chua's concern can be articulated in two further ways. First, applying a maximum sentence reduction of 30% would mean that the effective sentencing range of imprisonment was three to *seven* years as compared to the original range of three to ten years. Applying a maximum sentence reduction of 20% would broaden the effective range to three to *eight* years' imprisonment. Second, because of the mandatory minimum imprisonment sentence of three

years, applying a sentence reduction of 30% would lead to all sentences of up to 4.3 years arrived at in Step 1 to be reduced to three years in Step 3 such that there was no longer any differentiation between offences that attracted such sentences. This could be mitigated by applying a maximum sentence reduction of 20% only, which would lead to only sentences of up to 3.75 years arrived at in Step 1 to be reduced to the mandatory minimum of three years in Step 3.

123 Ms Chua’s concern should also be appreciated in the context of the decision in *Iskandar*. There, the Court of Appeal considered how the PG Guidelines should be calibrated to apply to drug trafficking and drug importation offences. We make two points specific to those offences. First, the applicable sentencing frameworks for those offences place significant weight on the quantity of drugs involved such that the sentences to be imposed correlate to – and are structured in several bands based on – the quantity of drugs involved (*Iskandar* at [80]–[82] and [88]–[89]). Second, there are different prescribed sentencing ranges based on the weight of the drugs involved, under s 33(1) read with the Second Schedule of the Misuse of Drugs Act 1973 (2020 Rev Ed) (“MDA”). For example, trafficking in not more than 10g of diamorphine attracts an imprisonment sentence of five to 20 years, while trafficking in not less than 10g and not more than 15g of diamorphine attracts an imprisonment sentence of 20 to 30 years.

124 In this context, the court found that there were problems with applying a maximum reduction of up to 30%. Doing so would “do violence to the existing precedents and sentencing benchmarks” (*Iskandar* at [90]). In addition, applying a maximum reduction of 30% would lead to the absurd result of a clustering of sentences at or near the mandatory minimum irrespective of the actual quantity of drugs involved. For example, in respect of first-time or repeat trafficking and importation offences involving not less than 10g to not more

than 15g of diamorphine, all of the sentences (including sentences for offences involving 14.99g of diamorphine which was just below the threshold for capital punishment) will be at or near the mandatory minimum imprisonment term of 20 years if the full 30% discount is applied (*Iskandar* at [91]). This meant that an offence that would have ordinarily attracted the highest sentence in the range would end up attracting one much closer to the lowest sentence of the range. An associated problem was that the sentencing range for such an offence was effectively reduced to between 20 and 21 years' imprisonment. Both of these effects were contrary to the applicable sentencing principles, including the need for proportionality between the potential harm to society and the sentence imposed and the duty of the court to consider the full spectrum of sentences in determining the appropriate sentence (*Iskandar* at [92]). The court also noted a "cliff effect" between sentences for offences where the weight of the drugs involved is 9.99g of diamorphine and 10g of diamorphine due to the different prescribed sentencing ranges: in the context of a first time offence, applying the maximum 30% reduction would result in an imprisonment sentence of around 10.5 years for the former and the minimum 20 years for the latter (*Iskandar* at [99]).

125 While Ms Chua's concern about the potential clustering is valid, we did not think that it mandated a calibration of the PG Guidelines to lower the maximum sentence reduction to be awarded at Stage 1. *Any* offence with a mandatory minimum imprisonment sentence will experience some degree of clustering since there is a statutory "floor" to how much the sentence can be reduced. Even on Ms Chua's own proposal of a maximum 20% reduction, there would be an observable clustering of sentences of three to 3.75 years' imprisonment at the mandatory minimum of three years. In our judgment, the concern should not be about whether there is *any* clustering, but about the *extent* and *degree* of clustering. The clustering effect in the context of the present

offence pales in comparison to that in the context of the offences considered in *Iskandar*. It is much more limited in its effect, impacting only a smaller pre-reduction sentencing range and retaining much of the total sentencing range. Moreover, there is no relevant body of precedents and sentencing benchmarks that would be jettisoned by the application of the maximum reduction of 30%, unlike that identified in *Iskandar*. Similarly, the “cliff effect” as considered in *Iskandar* is clearly not applicable in the present case as there is no further gradation of mandatory minima according to the severity of the offence, unlike in the Second Schedule of the MDA (see [123] above). In short, applying the maximum reductions as stipulated in the PG Guidelines did not result in the same kind of disfigurement of the sentencing practice of the present offence like that of the offences considered in *Iskandar*.

126 In sum, there was no compelling reason to adjust the maximum sentence reductions in respect of either the offences of dangerous driving causing death by a serious offender or of drink driving causing personal injury and/or property damage. The PG Guidelines should apply as promulgated.

Application to the facts of the appeal

127 To recapitulate, the dispositive question in this appeal concerned the sentence of seven years’ imprisonment for the Dangerous Driving Causing Death Charge. In applying the sentencing framework set out at [83]–[85] above, we found no merit in the appeal against the sentence as we would have come to the same sentence that the DJ arrived at, albeit for different reasons.

128 In our judgment, at the first step of the framework, the offence fell within Band 3 with a starting point at the *highest* end of that range of ten years’ imprisonment. This properly reflected the seriousness of the offence. We

considered this to be one of the most serious cases of dangerous driving whilst under the influence of drink for several reasons.

129 First, the appellant was driving in an incredibly dangerous manner at extremely high speeds immediately prior to the accident. He was initially travelling at a speed of between 157km/h and 169km/h. Even though he reduced his speed as he approached the junction, his speed was still more than double the speed limit of that road of 60km/h. When he was negotiating the turn, his speed was still alarmingly high, at between 92km/h and 108km/h (see [10] and [14] above). As the Prosecution noted, these speeds would constitute speeding on even expressways in Singapore. It is plainly foolish and hazardous to drive in this manner on any occasion. Our public roads are not a racetrack.

130 Second, apart from the death caused to the deceased, there were other serious harms occasioned by the accident that were the subject of the charges taken into consideration. This included various injuries suffered by the two passengers in the deceased's car (Mr Sim and Mr Darren Ng) who were both conveyed to the hospital and admitted (see [18]–[19] above) and the drivers of the other cars at the junction of the accident (Mr Truong and Mr Kamsani) (see [21]–[22] above). Most significant were the injuries suffered by Mr Fikri, the motorcyclist who was crushed between two cars. His period of hospitalisation and medical leave spanned over nine months. He suffered serious injuries, including multiple fractures and traumatic brain injury. These injuries left him with long term disabilities (see [20] above). We regarded the harm caused to the other victims, which was not the subject of the Dangerous Driving Causing Death Charge, to be especially substantial that made this a particularly intolerable and abhorrent case of dangerous driving while intoxicated. To capture the overall criminality of the appellant, it was necessary to place greater emphasis on this factor.

131 Third, there was serious property damage as well. The deceased's car and Mr Fikri's motorcycle were scrapped as they were too damaged to be repaired. The other cars involved were also damaged significantly. Additionally, there was damage to public property (see [23]–[29] above).

132 Fourth, there was significant potential harm that could have been caused. Apart from the victims identified above, there were other road users immediately surrounding the accident scene (see [13] above), as well as the road users in general at the same junction that could have been involved in the accident. In addition, the speed at which the appellant was driving along Tampines Avenue 1 could have resulted in a separate accident that was equally, if not more, disastrous. The potential harm is also exacerbated by the fact that the appellant had intended to drive back to his residence, approximately 10km away, which is certainly not an insignificant distance or time on the road.

133 We noted the appellant's submission that his alcohol reading – of 42µg of alcohol *per* 100ml of breath, which would place him in Band 1 of the *Rafael* framework (see [38] above) – would be considered relatively low. However, it is not open to an offender to isolate one factor which may, on its own, indicate a lower level of culpability and thereafter argue that the offence should fall within a lower band. Instead, the court must look at the offence as a whole, taking into account all of the aggravating factors of the offence, in determining which is the most appropriate band and starting point within that band. As such, the appellant's alcohol level was relevant but ultimately not determinative on its own.

134 The combination of factors discussed above puts this case firmly within Band 3 of the framework and called for the highest sentence in that band of ten years' imprisonment.

135 At the second step, we did not find there to be sufficient mitigating reasons to reduce the sentence to below ten years' imprisonment. We noted the appellant's voluntary compensation of around \$457,000. While we regarded this as honourable and remorseful, such efforts were outweighed by the harm caused by the accident, namely one death, many injuries and significant property damage. In our view, these efforts did not displace the grave harm caused due to the exceedingly dangerous manner of driving. We therefore did not see fit to depart from the starting point of ten years' imprisonment.

136 Finally, we applied a reduction of 30% to the starting sentence of ten years' imprisonment, to arrive at seven years' imprisonment which was the same as the imprisonment term imposed by the DJ. We saw no reason not to grant the maximum sentence reduction of 30% to the appellant, which the parties agreed was appropriate. As the Court of Appeal in *Iskandar* (at [112]) observed, generally, there is good reason to apply a reduction nearer to the maximum in that it "allows for greater transparency and certainty, and thus encourages accused persons who are going to plead guilty to do so as early in the court process as possible" although this is not a given.

137 It was not disputed that this case fell within Stage 1 of the PG Guidelines. The appellant conceded he was culpable at a very early stage. The only gloss to this was his claim in his written plea in mitigation that he attempted to slow down before negotiating the turn which resulted in the accident (see [14] above), but failed to do so due to the bulky safety boots he was wearing, which had "slipped off the brake pedals and onto the accelerator and caused an abrupt acceleration" and became "partially lodged under the brake pedal" (GD at [57]) (see [34] above). This was rejected by the DJ (GD at [106]). In any event, this was not a sufficient reason to consider a reduction other than the maximum 30%. The Prosecution did not suggest as much either.

138 For completeness, we did not find it necessary to invoke the public interest exception as expressed in the PG Guidelines (see [107] above). The threshold for invoking the public interest exception is high, and it would generally take an exceptional case – like one involving egregious facts – for the exception to be invoked (*Iskandar* at [115]). While the offences at hand were extremely serious, the present case was not *so* egregious taking into account the appellant’s lack of antecedents (save for the one compounded speeding offence in 2016). In addition, the fact that the appellant would have faced the highest possible sentence for the Dangerous Driving Causing Death Charge does not, by itself, call for the public interest exception to be invoked. As cautioned by the Court of Appeal in *Iskandar* at [116], it is wrong in principle for the public interest exception to be applied in a categorical manner – in this case, to any offence falling at the highest end of the prescribed sentencing range – as the exception is not meant to be wielded as a blunt tool to exclude the application of the PG Guidelines. To do so could disincentivise accused persons that have committed extremely serious offences from entering a plea of guilt.

139 We were also mindful of the need to consider if the sentence arrived at after the reduction was proportionate to the overall criminality of the case, and whether there was a need to apply a smaller reduction at our discretion (see *Iskandar* at [118]–[120]). To that end, we undertook a broad-brush “last look” at all the facts and circumstances of the case to ensure that the final sentence of seven years’ imprisonment was one that fit both the offences at hand and the appellant. In our judgment, this was so for the above reasons.

Conclusion

140 For the reasons above, we dismissed the appeal and upheld the DJ’s sentence of seven years’ imprisonment. As we indicated to the appellant at the

hearing, the heaviest punishment for him will be the lifelong burden of knowing that his irresponsible and selfish action of drink driving claimed an innocent life.

141 In closing, we record our gratitude and appreciation to Ms Chua for her assistance in her thorough and comprehensive submissions.

Sundaresh Menon
Chief Justice

Tay Yong Kwang
Justice of the Court of Appeal

Vincent Hoong
Judge of the High Court

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