

QUESTION 1

The synopsis of facts given hereafter is based on the case of *S v Humphreys* (424/12) [2013] ZASCA 20.

On 25 August 2010 the accused, Jacob Humphreys, a taxi driver, transported 14 school children to school. The accused had been transporting the children to and from the school for the past year and a half. He knew the children and they felt like his own children.

At a railroad crossing the warning light was on indicating that a train was oncoming and cars were stationary waiting for the train to pass. According to witnesses the accused bypassed the queue of stationary cars by entering the lane for oncoming traffic. He then, despite the boom gate being lowered and the warning light indicating an oncoming train, bypassed the boom gate and entered the train crossing.

It was allegedly not the first time the accused had acted in such a manner but in the past he had always succeeded in crossing the rail road successfully. However, on this fateful day, the taxi was hit by the train.

A witness stated that the warning light of the oncoming train is switched on as soon as the train has left the last station whereupon the boom gate closes which prohibits traffic from entering the railroad crossing until the train has passed. The train also has its main lights on and sounds a siren 400 metres from the crossing to warn traffic of the train.

As a consequence of the collision between the train and the taxi, 10 children died instantly and 4 children sustained serious internal as well as external injuries. The accused escaped the collision unscathed.

The accused was prosecuted in the Western Cape High Court, Cape Town. The state prosecuted the accused on 10 counts of murder, in the alternative, culpable homicide

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