

## Sample Civil Case Note

### *Grace v Fraser [1982] VR*

**Facts** - A driver parked a motor car on the highway. In her absence, the vehicle caused damage to another motor car (which was also parked on the highway) by rolling into it. She was convicted of a breach of s. 80 (1) (e) (ii) of the *Motor Car Act 1958* for failing to report full particulars of the accident to the police station nearest to the scene on the basis that she was “the person driving the motor car”. She was convicted in the Magistrates Court and appealed to the Supreme Court.

**Issues** – The issue to be decided on appeal was whether the words “the person driving the motor car” should be interpreted narrowly so as to impose obligations only upon a person who was actually driving a car on a highway at the time the accident occurred.

**Decision** – The appeal was upheld and the driver’s conviction quashed. (The Victorian Parliament later amended the legislation to make the person “responsible” for the motor car liable in such circumstances.)

**Significance** – This case can be used as an example of a criminal matter heard in the Magistrates Court; as an example of an appeal on a point of law from the Magistrates’ Court to the Supreme Court; and as an example of the relationship between courts and parliament.

**Fairness** – The appeal was conducted before an impartial judge and jury. Evidence was given on oath or affirmation. The outcome was binding on the parties. The court functions in accordance with the principles of natural justice. The court requires parties to abide by the rules of evidence and procedure. Parties have the right to appeal judgment on questions of fact or law. The appeal was conducted in a timely manner.

**Equality** – Both parties were represented by expert counsel. Each party was entitled to call witnesses and present evidence.

**Access** – Courts exist to resolve such disputes. Both parties were capable of funding the action. Both parties had the right to appeal.

## Template for Case Notes

**CASE CITATION:**

**FACTS:**

**ISSUES:**

**DECISION:**

**ASSESSMENT CRITERIA:**

1. **Fairness**
2. **Equality**
3. **Access**