

MARINDUQUE IRON MINES AGENTS, INC., PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION, THE HEIRS OF PEDRO MAMADOR AND GERONIMO MA. COLL, RESPONDENTS.

G.R. No. L-8110. June 30, 1956

Ponente: BENGZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2f1c97e2d27d/>

BENGZON, J.:

The Marinduque Iron Mines Agents Inc. questions by certiorari the order of the Workmen's Compensation Commissioner confirming the referee's award of compensation to the heirs of Pedro Mamador for his accidental death. Only the right to compensation is disputed; not the amount.

"It appears," says the award, "that on August 23, 1951, at 6:00 a.m. in Bo. Sumangga, Mogpog, Marinduque, the deceased Mamador together with other laborers of the respondent-corporation, (Marinduque Iron Mines Agents Inc.) boarded a truck belonging to the latter, which was then driven by one Procopio Macunat, also employed by the corporation, and on its way to their place of work at the mine camp at Talantunan, while trying to overtake another truck on the company road, it turned over and hit a coconut tree, resulting in the death of said Mamador and injury to the others."

Procopio Macunat was prosecuted, convicted and sentenced to indemnify the heirs of the deceased. (Criminal Case No. 1491). He has paid nothing however, to the latter.

In his first proposition petitioner challenges the validity of the proceedings before the Commission, asserting it had not been given the opportunity to cross-examine the opposing witnesses. According to respondents,

"The records show that pursuant to a request made by this Commission on March 28, 1953 to investigate the above entitled case, the Public Defender of fiaoac, Marinduque, notified respondent Geronimo Ma. Coll and the general manager of the respondent company, Mr. Eric Lenze, to appear before him in an investigation, first on May 12, 1953, when neither of them appeared, and the second on May 29, 1953, when only Mr. Geronimo Ma. Coll appeared. The sworn testimony of Mr. Ma. Coll was then taken down in a question and answer method. On August 18, 1953, thru Referee Ramon Villaflor, this Commission wrote the respondent company to comment on the enclosed copy of the sworn declaration of Ma. Coll. The respondent company, thru its Vice President, denied its liability under the Workmen's Compensation Act, as amended. In an investigation conducted on February 8, 1954 by the undersigned referee, the respondent company thru Mr. Lenze who was assisted by counsel, was allowed to examine the records of the case including the sworn declaration of Ma. Coll and was given all the opportunity to rebut the same by additional evidence."

In our opinion, petitioner's grievance does not rest on any sound basis, because it was given notice, and therefore had the chance, to examine (and cross-examine) the witnesses against it. The statute even permits the Commissioner (or his referee) to take testimony without notice (section 48 Act 3428 as amended) provided of course such ex parte evidence is reduced to writing, and the adverse party is afforded opportunity to examine and rebut the same which was done in this instance.

Anyway we are not shown how its failure to cross-examine the witnesses prejudiced the petitioner's position.

In its second proposition, petitioner maintains that this claim is barred by section 6 of the Workmen's Compensation Law, because (a) Macunat was prosecuted and required to indemnify the heirs of the deceased and (b) an amicable settlement was concluded between "said heirs and Macunat.

Section 6 provides as follows:

"Sec: 6. Liability of third parties.—In case an employee suffers an injury for which compensation is due under this Act by any other person besides his employer, it shall be optional with such injured employee either to claim compensation from his employer, under this Act, or sue such other person for damages, in accordance with law; and in case compensation is claimed and allowed in accordance with this Act, the employer who paid such compensation or was found liable to pay the same, shall succeed the injured employee to the right of recovering from such person what he paid: Provided, That in case the employer recovers from such third person damages in excess of those paid or allowed under this Act, such excess shall be delivered to the injured employee or any other person entitled thereto, after deduction of the expenses of the employer and the costs of the proceedings. The sum paid by the employer for compensation or the amount of compensation to which the employee or his dependents are entitled, shall not be admissible as evidence in any damage suit or action."

It is the petitioner's contention that Criminal Case No.

1491 and its outcome constituted an election by the employee (or his heirs) to sue the third person, such election having the effect of releasing the employer. However, Criminal Case No. 1491 was not a suit for damages against the third person, it being alleged, without contradiction that the heirs did not intervene therein and have not so far received the indemnity ordered by the court. At any rate, we have already decided in *Nava vs. Inchausti Co.*[1] that the indemnity granted the heirs in a criminal prosecution of the "other person" does not affect the liability of the employer to pay compensation.[2]

As to the alleged "amicable settlement," it consists of an affidavit wherein, for the sum of 150 pesos, Mamador's widow promised "to forgive Macunat for the wrong committed and not to bring him before the authorities for prosecution." Upon making such promise—petitioner argues—she elected one of the remedies, (against the third person) and is barred from the other remedy (against the employer). The contention may not be sustained, inasmuch as all the widow promised was to forego the offender's criminal prosecution. She did not promise to waive the civil action for damages. Note further that a question may be raised whether she could bind the other heirs of the deceased.

The most important aspect of this appeal, is the effect of the deceased's having violated the employer's prohibition against laborers riding the haulage trucks. Petitioner claims such violation was the laborer's "notorious negligence" which, under the law, precludes recovery. The Commission has not declared that the prohibition was known to Mamador. Yet the employer does not point out in the record evidence to that effect. Supposing Mamador knew the prohibition, said the referee, "can we truthfully say that he boarded the fatal truck with full apprehension of the existence of the danger, if any at all, that an ordinary prudent man would try to avoid? I do not believe so, and even in the presence of doubt, the same must be resolved in his favor. Unless of course, we can attribute to him a desire to end his life. Nowhere in the records of this case can we find the slightest insinuation of that desire."

There is no doubt that mere riding on a haulage truck or stealing a ride thereon is not negligence, ordinarily. It couldn't be, because transportation by truck is not dangerous per se. It is argued that there was notorious negligence in this particular instance because there was the employer's prohibition. Does violation of this order constitute negligence? Many courts hold that violation of a statute or ordinance constitutes negligence per se.

Others consider the circumstances.

However there is practical unanimity in *the proposition that violation of a rule promulgated by a Commission or board is not negligence per se; but it may be evidence of negligence. (C. J. S., Vol. 65, p. 427.)

This order of the employer (prohibition rather) couldn't be of a greater obligation than the rule of a Commission or board. And the referee correctly considered this violation as possible evidence of negligence; but it declared that under the circumstances, the laborer could not be declared to have acted with negligence. Correctly, it is believed, since the prohibition had nothing to do with personal safety of the riders.

Such finding is virtually a finding of fact which we may not overrule in this certiorari proceeding.

Nevertheless, even granting there was negligence, it surely was not "notorious" negligence, which we have interpreted to mean the same thing as "gross" negligence[3] —implying "conscious indifference to consequences" "pursuing a course of conduct which would naturally and probably result in injury" "utter disregard of consequences." (38 Am. Jur., 691.) Getting or accepting a free ride on the company's haulage truck couldn't be gross negligence, because as the referee found, "no danger or risk was apparent."

There being no other material point raised in the petition for review, the award of compensation is hereby affirmed, with costs against petitioner.

Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.
Reyes, A., J., concurs in the result.

[1] 57 Phil., 751.

[2] See Balajadia vs. Province of Iloilo, G. E. No. 41979 October 1934.

[3] To Justice Malcolm "notorious" negligence is stronger in significance than "gross" negligence. (56 Phil., 547.)

MONTEMAYOR, J.;

I concur in the result. I believe that the injury suffered herein was not in the course of the employments, neither did it arise out of it, but this question does not seem to have been raised below or in the appeal.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.