

MARCIAL T. CAEDO, JUANA SANGALANG CAEDO, AND THE MINORS, EPHRAIM CAEDO, EILEEN CAEDO, ROSE ELAINE CAEDO, SUING THROUGH THEIR FATHER, MARCIAL T. CAEDO, AS GUARDIAN AD LITEM, PLAINTIFFS, VS. YU KHE THAI AND RAFAEL BERNARDO, DEFENDANTS.

G.R. No. L-20392. December 18, 1968

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3147a1eb4ade/>

MAKALINTAL, J.:

As a result of a vehicular accident in which plaintiff Marcial Caedo and several members of his family were injured they filed this suit for recovery of damages from the defendants. The judgment, rendered by the Court of First Instance of Rizal on February 26, 1960 (Q-2952), contains the following disposition:

"IN VIEW OF THE FOREGOING, the court renders a judgment, one in favor of the plaintiffs and against the defendants, Yu Khe Thai and Rafael Bernardo, jointly and severally, to pay to plaintiffs Marcial Caedo et al., the sum of P1, 929. 70 for actual damages; P48, 000.00 for moral damages; P10, 000.00 for exemplary damages; and P5,000.00 for attorney's fees, with costs against the defendants. The counterclaim of the defendants against the plaintiffs is hereby ordered dismissed, for lack of merits."

On March 12, 1960 the judgment was amended so as to include an additional award of P3, 705.11 in favor of the plaintiffs for the damage sustained by their car in the accident.

Both parties appealed to the Court of Appeals, which certified the case to us in view of the total amount of the plaintiffs' claim.

There are two principal questions posed for resolution: (1) who was responsible for the accident? and (2) if it was defendant Rafael Bernardo, was his employer, defendant Yu Khe Thai, solidarily liable with him? On the first question the trial court found Rafael Bernardo negligent; and on the second, held his employer solidarily liable with him.

The mishap occurred at about 5:30 in the morning of March 24, 1958 on Highway 54 (now E. de los Santos Avenue) in the vicinity of San Lorenzo Village. Marcial was driving his Mercury car on his way from his home in Quezon City to the airport, where his son Ephraim was scheduled to take a plane for Mindoro. With them in the car were Mrs. Caedo and three daughters. Coming from the opposite direction was the Cadillac of Yu Khe Thai, with his driver Rafael Bernardo at the wheel, taking the owner from his Parañaque home to Wack Wack for his regular round of golf. The two cars were traveling at fairly moderate speeds, considering the condition of the road and the absence of traffic - the Mercury at 40 to 50 kilometers per hour, and the Cadillac at approximately 30 to 35 miles (48 to 56 kilometers). Their headlights were mutually noticeable from a distance. Ahead of the Cadillac, going in the same direction, was a carretela owned by a certain Pedro Bautista. The carretela was towing another horse by means of a short rope coiled around the rig's vertical post on the right side and held at the other end by Pedro's son, Julian Bautista.

Rafael Bernardo testified that he was almost upon the rig when he saw it in front of him, only eight meters away. This is the first clear indication of his negligence. The carretela was provided with two lights, one on each side, and they should have given him sufficient warning to take the necessary precautions. And even if he did not notice the lights, as he claimed later on at the trial, the carretela should anyway have been visible to him from afar if he had been careful, as it must have been in the beam of his headlights for a considerable while.

In the meantime the Mercury was coming on its own lane from the opposite direction. Bernardo, instead of slowing down or stopping altogether behind the carretela until that lane was clear, veered to the left in order to pass. As he did so the curved end of his car's right rear bumper caught the forward rim of the rig's left wheel, wrenching it off and carrying it along as the car skidded obliquely to the other lane, where it collided with the oncoming vehicle. On his part Caedo had seen the Cadillac on its own lane; he slackened his speed, judged the distances in relation to the carretela and concluded that the Cadillac would wait behind. Bernardo, however, decided to take a gamble - beat the Mercury to the point where it would be in line with the carretela, or else squeeze in between them in any case. It was a risky maneuver either way, and the risk should have been quite obvious. Or, since the car was moving at from 30 to 35 miles per hour (or 25 miles according to Yu Khe Thai) it was already too late to apply the brakes when Bernardo saw the carretela only eight meters in front of him, and so he had to swerve to the left in spite of the presence of the oncoming car on the opposite lane. As it was, the clearance Bernardo gave for his car's right side was insufficient. Its rear bumper, as already stated, caught the wheel of the carretela and wrenched it loose. Caedo, confronted with the unexpected situation, tried to avoid the collision at the last moment by going farther to the right, but was unsuccessful. The photographs taken at the scene show that the right wheels of his car were on the unpaved shoulder of the road at the moment of impact.

There is no doubt at all that the collision was directly traceable to Rafael Bernardo's negligence and that he must be held liable for the damages suffered by the plaintiffs. The next question is whether or not Yu Khe Thai, as owner of the Cadillac, is solidarily liable with the driver. The applicable law is Article 2184 of the Civil Code, which reads:

"ART. 2184. In motor vehicle mishaps, the owner is solidarily liable with his driver, if the former, who was in the vehicle, could have, by the use of due diligence, prevented the misfortune. It is disputably presumed that a driver was negligent, if he has been found guilty of reckless driving or violating traffic regulations at least twice within the next preceding two months."

Under the foregoing provision, if the causative factor was the driver's negligence, the owner of the vehicle who was present is likewise held liable if he could have prevented the mishap by the exercise of due diligence. The rule is not new, although formulated as law for the first time in the new Civil Code. It was expressed in *Chapman vs. Underwood* (1914) 27 Phil. 374, where this Court held:

"x x x The same rule applies where the owner is present, unless the negligent acts of the driver are continued for such a length of time as to give the owner a reasonable opportunity to observe them and to direct his driver to desist therefrom. An owner who sits in his automobile, or other vehicle, and permits his driver to continue in a violation of the law by the performance of negligent acts, after he has had a reasonable opportunity to observe them and to direct that the driver cease therefrom, becomes himself responsible for such acts. The owner of an automobile who permits his chauffeur to drive up the Escolta, for example, at a speed of 60 miles an hour, without any effort to stop him, although he has had a reasonable opportunity to do so, becomes himself responsible, both criminally and civilly, for the results produced by the acts of the chauffeur. On the other hand, if the driver, by a sudden act of negligence, and without the owner having a reasonable opportunity to prevent the act or its continuance, injures a person or violates the criminal law, the owner of the automobile, although present therein at the time the act was committed, is not responsible, either civilly or criminally, therefor. The act complained of must be continued in the presence of the owner for such a length of

time that the owner, by his acquiescence, makes his driver's act his own."

The basis of the master's liability in civil law is not respondeat superior but rather the relationship of pater familias. The theory is that ultimately the negligence of the servant, if known to the master and susceptible of timely correction by him, reflects his own negligence if he fails to correct it in order to prevent injury or damage.

In the present case the defendants' evidence is that Rafael Bernardo had been Yu Khe Thai's driver since 1937, and before that had been employed by Yutivo Sons Hardware Co. in the same capacity for over ten years. During that time he had no record of violation of traffic laws and regulations. No negligence for having employed him at all may be imputed to his master. Negligence on the part of the latter, if any, must be sought in the immediate setting and circumstances of the accident, that is, in his failure to detain the driver from pursuing a course which not only gave him clear notice of the danger but also sufficient time to act upon it. We do not see that such negligence may be imputed. The car, as has been stated, was not running at an unreasonable speed. The road was wide and open, and devoid of traffic that early morning. There was no reason for the car owner to be in any special state of alert. He had reason to rely on the skill and experience of his driver. He became aware of the presence of the carretela when his car was only twelve meters behind it, but then his failure to see it earlier did not constitute negligence, for he was not himself at the wheel. And even when he did see it at that distance, he could not have anticipated his driver's sudden decision to pass the carretela on its left side in spite of the fact that another car was approaching from the opposite direction. The time element was such that there was no reasonable opportunity for Yu Khe Thai to assess the risks involved and warn the driver accordingly. The thought that entered his mind, he said, was that if he sounded a sudden warning it might only make the other man nervous and make the situation worse. It was a thought that, wise or not, connotes no absence of that due diligence required by law to prevent the misfortune.

The test of imputed negligence under Article 2184 of the Civil Code is, to a great degree, necessarily subjective. Car owners are not held to a uniform and inflexible standard of diligence as are professional drivers. In many cases they refrain from driving their own cars and instead hire other persons to drive for them precisely because they are not trained or endowed with sufficient discernment to know the rules of traffic or to appreciate the relative dangers posed by the different situations that are continually encountered on the road. What would be a negligent omission under the aforesaid Article on the part of a car owner who is in the prime of age and knows how to handle a motor vehicle is not necessarily so on the part, say, of an old and infirm person who is not similarly equipped.

The law does not require that a person must possess a certain measure of skill or proficiency either in the mechanics of driving or in the observance of traffic rules before he may own a motor vehicle. The test of his negligence, within the meaning of Article 2184, is his omission to do that which the evidence of his own senses tells him he should do in order to avoid the accident. And as far as perception is concerned, absent a minimum level imposed by law, a maneuver that appears to be fraught with danger to one passenger may appear to be entirely safe and commonplace to another. Were the law to require a uniform standard of perceptiveness, employment of professional drivers by car owners who, by their very inadequacies, have real need of drivers' services, would be effectively proscribed.

We hold that the imputation of liability to Yu Khe Thai, solidarity with Rafael Bernardo, is an error. The next question refers to the sums adjudged by the trial court as damages. The award of P48, 000 by way of moral damages is itemized as follows:

1. Marcial Caedo
2. Juana S. Caedo

3. Ephraim Caedo
4. Eileen Caedo
5. Rose Elaine Caedo
6. Marilyn Caedo

P20,000.00

15,000.00

3,000.00

4,000.00

3,000.00

3,000.00

Plaintiffs appealed from the award, claiming that the Court should have granted them also actual or compensatory damages, aggregating P225,000, for the injuries they sustained. Defendants, on the other hand, maintain that the amounts awarded as moral damages are excessive and should be reduced. We find no justification for either side. The amount of actual damages suffered by the individual plaintiffs by reason of their injuries, other than expenses for medical treatment, has not been shown by the evidence. Actual damages, to be compensable, must be proven. Pain and suffering are not capable of pecuniary estimation, and constitute a proper ground for granting moral, not actual, damages, as provided in Article 2217 of the Civil Code.

The injuries sustained by plaintiffs are the following:

"MARCIAL T. CAEDO:

A. Contusion, with hematoma, scalp, frontal left; abrasions, chest wall, anterior;

B. Multiple fractures, ribs, right, 1st to 5th inclusive. Third rib has a double fracture; Subparieto-pleural hematoma; Basal disc atelectasis, lung, right lower lobe, secondary;

C. Pseudotosis, left, secondary to probable basal fracture, skull.

JUANA SANGALANG CAEDO:

A. Abrasions, multiple:

(1) frontal region, left; (2) apex of nose; (3) upper eyelid, left; (4) knees.

B. Wound, lacerated, irregular, deep, frontal;

C. Fracture, simple, 2nd rib posterior, left with displacement.

D. Fracture, simple, base, proximal phalanx, right big toe.

E. Fracture, simple, base, metatarsals, III and V right.

F. Concussion, cerebral.

EPHRAIM CAEDO:

A. Abrasions, multiple:

(1) left temporal area; (2) left frontal; (3) left supraorbital

EILEEN CAEDO:

A. Lacerated wound (V-shaped), base, 5th finger, right, lateral aspect.

B. Abrasions, multiple:

(1) dorsum, proximal phalanx, middle finger; (2) Knee, anterior, bilateral; (3) shin, lower 1/3.

ROSE ELAINE CAEDO:

A. Abrasions, multiple:

(1) upper and lower lids; (2) left temporal; (3) nasobial region; (4) leg, lower third, anterior.

MARILYN CAEDO:

A. Abrasions, multiple:

(1) shin, lower 1/3 right;

(2) arm, lower third

B. Contusion with hematoma, shin, lower 1/3, anterior aspect, right. (See Exhibits D, D-1, D-2, D-3, D-4 and D-5)"

It is our opinion that, considering the nature and extent of the above-mentioned injuries, the amounts of moral damages granted by the trial court are not excessive.

WHEREFORE, the judgment appealed from is modified in the sense of declaring defendant-appellant Yu Khe Thai free from liability, and is otherwise affirmed with respect to defendant Rafael Bernardo, with costs against the latter.

Concepcion, C.J., Reyes, Dizon, Zaldivar, Sanchez, Castro, and Capistrano, JJ., concur.
Fernando, J., did not take part.

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.