

LA MALLORCA, PETITIONER, VS. HONORABLE COURT OF APPEALS, MARIANO BELTRAN, ET AL., RESPONDENTS.

G.R. No. L-20761. July 27, 1966

Ponente: BARRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/43a7dda4f624/>

BARRERA, J.:

La Mallorca seeks the review of the decision of the Court of Appeals in CA-G. R. No. 23267-R, holding it liable for quasi-delict and ordering it to pay to respondents Mariano Beltran, et al. P6,000.00 for the death of his minor daughter Raquel Beltran, plus P400.00 as actual damages.

The facts of the case, as found by the Court of Appeals, briefly are:

"On December 20, 1953, at about noontime, plaintiffs, husband and wife, together with their minor daughters, namely Milagros, 13 years old, Raquel, about 4-1/2 years old, and Fe, over 2 years old, boarded the Pambusco Bus No. 352, bearing plate TPU No. 757 (1953 Pampanga), owned and operated by the defendant, at San Fernando, Pampanga, bound for Anao, Mexico, Pampanga. At the time, they were carrying with them four pieces of baggages containing their personal belongings. The conductor of the bus who happened to be a half-brother of plaintiff Mariano Beltran, issued three tickets (Exhs. A, B, & C) covering the full fares of the plaintiff and their eldest child, Milagros. No fare was charged on Raquel and Fe, since both were below the height at which fare is charged in accordance with the appellant's rules and regulations.

"After about an hour's trip, the bus reached Anao, whereat it stopped to allow the passengers bound therefor, among whom were the plaintiffs and their children to get off. With respect to the group of the plaintiffs, Mariano Beltran, then carrying some of their baggages, was the first to get down the bus, followed by his wife and his children. Mariano led his companions to a shaded spot on the left pedestrians side of the road about four or five meters away from the vehicle. Afterwards, he returned to the bus in controversy to get his other bayong, which he had left behind, but in so doing, his daughter Raquel followed him unnoticed by her father. While said Mariano Beltran was on the running board of the bus waiting for the conductor to hand him his bayong which he left under one of its seats near the door, the bus, whose motor was not shut off while unloading, suddenly started moving forward, evidently to resume its trip, notwithstanding the fact that the conductor has not given the driver the customary signal to start, since said conductor was still attending to the baggage left behind by Mariano Beltran. Incidentally, when the bus was again placed into a complete stop, it had travelled about ten meters from the point where the plaintiffs had gotten off.

"Sensing that the bus was again in motion, Mariano Beltran immediately jumped from the running board without getting his bayong from the conductor. He landed on the side of the road almost in front of the shaded place where he left his wife and children. At that precise time, he saw people beginning to gather around the body of a child lying prostrate on the ground, her skull, crushed, and without life. The child was none other than his daughter Raquel, who was run over by the bus in which she rode earlier together with her parents.

"For the death of their said child, the plaintiffs commenced the present suit against the defendant seeking to recover from the latter an aggregate amount of P6,000 to cover moral damages and actual damages sustained as a result thereof and attorney's fees. After trial on the merits the court below rendered the judgment in

question."

On the basis of these facts, the trial court found defendant liable for breach of contract of carriage and sentenced it to pay P3,000.00 for the death of the child and P400.00 as compensatory damages representing burial expenses and costs.

On appeal to the Court of Appeals, La Mallorca claimed that there could not be a breach of contract in the case, for the reason that when the child met her death, she was no longer a passenger of the bus involved in the incident and, therefore, the contract of carriage had already terminated. Although the Court of Appeals sustained this theory, it nevertheless found the defendant-appellant guilty of quasi-delict and held the latter liable for damages, for the negligence of its driver, in accordance with Article 2180 of the Civil Code: And, the Court of Appeals did not only find the petitioner liable, but increased the damages awarded the plaintiffs-appellees to P6,000.00, instead of P3,000.00 granted by the trial court.

In its brief now before us, La Mallorca contends that the Court of Appeals erred (1) in holding it liable for quasi-delict, considering that respondents' complaint was one for breach of contract, and (2) in raising the award of damages from P3,000.00 to P6,000.00 although respondents did not appeal from the decision of the lower court.

Under the facts as found by the Court of Appeals we have to sustain the judgment holding petitioner liable for damages for the death of the child, Raquel Beltran. It may be pointed out that although it is true that respondent Mariano Beltran, his wife, and their children (including the deceased child) had alighted from the bus at a place designated for disembarking or unloading of passengers, it was also established that the father had to return to the vehicle (which was still at a stop) to get one of his bags or bayong that was left under one of the seats of the bus. There can be no controversy that as far as the father is concerned, when he returned to the bus for his bayong which was not unloaded, the relation of passenger and carrier between him and the petitioner remained subsisting. For, the relation of carrier and passenger does not necessarily cease where the latter, after alighting from the car, aids the carrier's servant or employee in removing his baggage from the car.[1] The issue to be determined here is whether as to the child, who was already led by the father to a place about 5 meters away from the bus, the liability of the carrier for her safety under the contract of carriage also persisted.

It has been recognized as a rule that the relation of carrier and passenger does not cease at the moment the passenger alights from the carrier's vehicle at a place selected by the carrier at the point of destination, but continues until the passenger has had a reasonable time or a reasonable opportunity to leave the carrier's premises. And, what is a reasonable time or a reasonable delay within this rule is to be determined from all the circumstances. Thus, a person who, after alighting from a train, walks along the station platform is considered still a passenger.[2] So also, where a passenger has alighted at his destination and is proceeding by the usual way to leave the company's premises, but before actually doing so is halted by the report that his brother, a fellow passenger, has been shot, and he in good faith and without intent of engaging in the difficulty, returns to relieve his brother, he is deemed reasonably and necessarily delayed and thus continues to be a passenger entitled as such to the protection of the railroad and company and its agents.[3]

In the present case, the father returned to the bus to get one of his baggages which was not unloaded when they alighted from the bus. Raquel, the child that she was, must have followed the father. However, although the father was still on the running board of the bus awaiting for the conductor to hand him the bag or bayong, the bus started to run, so that even he (the father) had to jump down from the moving vehicle. It was at this instance that the child, who must be near the bus, was run over and killed. In the circumstances, it cannot be claimed that the carrier's agent had exercised the "utmost diligence" of a "very cautious person" required by Article 1755 of the

Civil Code to be observed by a common carrier in the discharge of its obligation to transport safely its passengers. In the first place, the driver, although stopping the bus, nevertheless did not put off the engine. Secondly, he started to run the bus even before the bus conductor gave him the signal to go and while the latter was still unloading part of the baggages of the passengers Mariano Beltran and family. The presence of said passengers near the bus was not unreasonable and they are, therefore, to be considered still as passengers of the carrier, entitled to the protection under their contract of carriage.

But even assuming *arguendo* that the contract of carriage has already terminated, herein petitioner can be held liable for the negligence of its driver, as ruled by the Court of Appeals, pursuant to Article 2180 of the Civil Code. Paragraph 7 of the complaint, which reads—

"That aside from the aforesaid breach of contract, the death of Raquel Beltran, plaintiff's daughter, was caused by the negligence and want of exercise of the utmost diligence of a very cautious person on the part of the defendants and their agent, necessary to transport plaintiffs and their daughter safely as far as human and care and foresight can provide in the operation of their vehicle."

is clearly an allegation for *quási-delict*. The inclusion of averment for *quasi-delict*, while incompatible with the other claim under the contract of carriage, is permissible under Section 2 of Rule 8 of the New Rules of Court, which allows a plaintiff to allege causes of action in the alternative, be they compatible with each other or not, to the end that the real matter in controversy may be resolved and determined.[4]

The plaintiffs sufficiently pleaded the culpa or negligence upon which the claim was predicated when it was alleged in the complaint that "the death of Raquel Beltran, plaintiffs' daughter, was caused by the negligence and want of exercise of the utmost diligence of a very cautious person on the part of the defendants and their agent." This allegation was also proved when it was established during the trial that the driver, even before receiving the proper signal from the conductor, and while there were still persons on the running board of the bus and near it, started to run off the vehicle. The presentation of proof of the negligence of its employee gave rise to the presumption that the defendant employer did not exercise the diligence of a good father of the family in the selection and supervision of its employees. And this presumption, as the Court of Appeals found, petitioner had failed to overcome. Consequently, petitioner must be adjudged pecuniarily liable for the death of the child Raquel Beltran.

The increase of the award of damages from P3,000.00 to P6,000.00 by the Court of Appeals, however, cannot be sustained. Generally, the appellate court can only pass upon and consider questions or issues raised and argued in appellant's brief. Plaintiffs did not appeal from that portion of the judgment of the trial court awarding them only P3,000.00 damages for the death of their daughter. Neither does it appear that, as appellees in the Court of Appeals, plaintiffs have pointed out in their brief the inadequacy of the award, or that the inclusion of the figure P3,000.00 was merely a clerical error, in order that the matter may be treated as an exception to the general rule.[5] Herein petitioner's contention, therefore, that the Court of Appeals committed error in raising the amount of the award for damages is, evidently, meritorious.

Wherefore, the decision of the Court of Appeals is hereby modified by sentencing the petitioner to pay to the respondents Mariano Beltran, et al., the sum of P3,000.00 for the death of the child, Raquel Beltran, and the amount of P400.00 as actual damages. No costs in this instance.

So ordered.

Concepción, C. J., Reyes, J. B. L., Dizon, Regala, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Makalintal, J., concurs in the result.

Decision modified.

[1] Ormond vs. Hayer, 60 Tex. 180, cited in 10 C.J. 626.

[2] Keefe vs. Boston, etc., R. Co., 142 Mass. 251, 7 NE 874.

[3] Layne vs. Chesapeake, etc., R. Co., 68 W Va. 213, 69 SE 700, 31 LRANS 414.

[4] Nelayan, et al. vs. Nelayan, et al., 109 Phil. 183.

[5] Sec. 7, Rule 51, New Rules of Court.

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.