

GREGORIO GENOBIAGON, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-40452. October 12, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This is a petition for review of the Court of Appeals' decision in CA-G.R. No. 09949-CR, dated October 10, 1974, affirming the conviction of the petitioner of the crime of homicide thru reckless imprudence.

As found by the Court of Appeals, the facts of this case are:

On December 31, 1959, at about 7:30 o'clock in the evening, a rig driven by appellant bumped an old woman who was crossing T. Padilla St., Cebu City, at the right side of T. Padilla Market. The appellant's rig was following another at a distance of two meters. The old woman started to cross when the first rig was approaching her, but as appellant's vehicle was going so fast not only because of the steep down-grade of the road, but also because he was trying to overtake the rig ahead of him, the appellant's rig bumped the old woman, who as a consequence fell at the middle of the road. The appellant continued to drive on, but a by-stander, one Vicente Nangyao, who had just closed his store in the market in order to celebrate the coming of the New Year, and who saw the incident right before him, shouted at the appellant to stop. He ran after appellant when the latter refused to stop. Overtaking the appellant, Nangyao asked him why he bumped the old woman and his answer was, 'it was the old woman that bumped him.' The appellant went back to the place where the old woman was struck by his rig. The old woman was unconscious, and the food and viands she was carrying were scattered on her body. The victim was then loaded in a jeep and brought to the hospital where she died three hours later (Exh. C). The findings after an autopsy are as follows:

'Contusion with Hematoma Left, Frontal and Occipito - Parietal Regionas Fracture Occipito - Parietal Bone Cerebral Hemorrhage.'

"The deceased was an eighty-one-year old woman named Rita B. Cabrera." (pp. 31-32, Rollo.)

Petitioner was charged with homicide thru reckless imprudence in the Court of First Instance of Cebu (Crim. Case No. V-7855). The trial court found petitioner guilty of the felony charged and sentenced him to "suffer an indeterminate penalty of three (3) months of arresto mayor as minimum to one (1) year, one (1) month and eleven (11) days of prision correccional as maximum, to indemnify the heirs of Rita Banzon Cabrera the sum of P6,000 with subsidiary imprisonment in case of insolvency, not to exceed 1/3 of the principal penalty and to pay the costs" (p. 3, Appellant's Brief, p. 56, Rollo).

The petitioner appealed to the Court of Appeals (CA-G.R. 09949-CR) which, on October 10, 1974, affirmed the conviction of the accused but increased his civil liability to P12,000. The dispositive portion of its decision reads:

"WHEREFORE, finding no error in the judgment appealed from except in the amount of indemnity to be paid to the heirs of the deceased, Rita B. Cabrera, which is the sum of P6,000.00 with subsidiary imprisonment in case of insolvency, which should be raised to P12,000.00 (People vs. Pantoja, G.R. No. L-18793, October 11,

1968, 25 SCRA 468) but without subsidiary imprisonment in case of insolvency, the same should be, as it is hereby affirmed in all other respects with costs." (p. 37, Rollo.)

After his motion for reconsideration of the Court of Appeals' decision was denied, he filed a petition for review in this Court, alleging that the Court of Appeals erred:

1. in not finding that the reckless negligence of the victim was the proximate cause of the accident which led to her death;
2. in not acquitting the petitioner on the ground of reasonable doubt; and
3. in unjustly increasing the civil liability of the petitioner from P6,000.00 to P12,000.00, although the circumstances of the victim and the accused (petitioner) do not warrant such increase.

It is quite evident that all the issues raised in the petition for review are factual. Well-entrenched in our jurisprudence is the rule that findings of fact of the trial court and the Court of Appeals are binding upon us (Bernardo vs. Bernardo, 101 SCRA 351; Vda. De Roxas vs. IAC, 143 SCRA 77; Republic vs. IAC, 144 SCRA 705).

The alleged contributory negligence of the victim, if any, does not exonerate the accused. "The defense of contributory negligence does not apply in criminal cases committed through reckless imprudence, since one cannot allege the negligence of another to evade the effects of his own negligence (People vs. Orbeta, CA-G.R. No. 321, March 29, 1947)." (People vs. Quiñones, 44 O.G. 1520).

The petitioner's contention that the Court of Appeals unjustly increased his civil liability to P12,000, is devoid of merit. The prevailing jurisprudence in fact provides that indemnity for death in homicide or murder is P30,000 (People vs. De la Fuente, [1983] 126 SCRA 518; People vs. Centeno 130 SCRA 198). Accordingly, the civil liability of the petitioner is increased to P30,000.

WHEREFORE, the appealed decision is affirmed with modification as to the civil liability of the petitioner which is hereby increased to P30,000. Costs against petitioner.

SO ORDERED.

Narvasa, (Chairman), Cruz, and Medialdea, JJ., concur.

Gancayco, J., no part, took part in Court of Appeals.

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