

BATANGAS TRANSPORTATION COMPANY, PETITIONER, VS. GALICANO A. RIVERA AND THE WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. L-14427. August 29, 1960

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

The Batangas Transportation Co. appeals by certiorari from the decision of the Workmen's Compensation Commission dated June 27, 1953, holding said company liable For compensation to its employee Galicano Rivera for the loss of his left leg; and from the resolution of said Commission en banc, dated August 8, 1958, denying its motion for reconsideration.

As gleaned from his petition and his brief, petitioner predicates his appeal on the following:

- (1) that the injury suffered by respondent Rivera did not arise put of his employment;
- (2) that the injury was due to Rivera's own "notorious negligence";
- (3) that the Workmen's Compensation Commission made conclusions which find "absolutely no support in the evidence on record";
- (4) that petitioner is not liable under the law;
- (5) that the Commission committed grave abuse of discretion in holding it liable.

Petitioner disputes the findings of fact made by the Workmen's Compensation Commission, that on March 13, 1956, the appellant's bus No. 502 was running from Batangas to Anilao, via Mabini at a moderate speed of about 20 kms. per hour following behind a jeepney; that when the bus driven by Rivera was about 4 meters from said jeepney, the latter suddenly stopped, without any warning, as it had no stoplight, and, as an act of emergency, to avoid hitting it, Rivera applied his brakes and swerved his bus to the left side of the road, in the process of which, his bus fell into a canal and turned turtle with its wheels in the air; that the curve where the accident occurred was not sharp, and could have been hardly noticed by Rivera from his running vehicle; that the testimony of Felipe Balita and Felisa Buenviaje, petitioner's witnesses, are unreliable, for the reasons stated in the decision of the Hearing Examiner, affirmed by the Commissioner.

Petitioner claims that contrary to the above findings, Rivera had decided to overtake the jeepney when still several meters away from the place of the accident, and that while the jeepney was still 20 meters away from where it stopped, he was already trying to overtake it; that the bus driven by Rivera was running at about 50 kms. per hour immediately prior to and at the time he was overtaking the jeepney; that despite entreaties of passengers for him to slow down, Rivera persisted in trying to overtake the jeepney; that Rivera tried to overtake the jeepney at a sharp curve, where a vehicle coming from the opposite direction cannot be seen until near the curve itself; that petitioner's witnesses, particularly Felipe Balita and Felisa Buenviaje, are reliable, and the reasons given by the

Commission in discrediting their testimony are erroneous, arbitrary, and without basis.

From the above factual premises averred by petitioner, it is asserted that the injury sustained by respondent Rivera did not arise "out of" his employment; that it was due to his own "notorious negligence"; and that, therefore, petitioner is not liable under the law.

Under Section 46 of Act 3428, as amended, commonly known as the Workmen's Compensation Act, appeals from the rulings of the Compensation Commission are governed by the rules on appeals from decisions of the Court of Industrial Relations. As a general rule, findings of fact by the Industrial Court or the Workmen's Compensation Commission are final and conclusive (*Madrigal Shipping Co., Inc. vs. Nieves Baens Del Rosario, et al.*, L-13130, Oct. 31, 1959; *St. Thomas Aquinas Academy vs. WCC, et al.*, L-12297, April 22, 1959; *NLU VS. Sta. Ana*, 102 Phil., 302; 54 Off. Gaz. [8] 2529), unless the lower court acted with grave abuse of discretion, or said findings find absolutely no support in the evidence on record, or are unsupported by substantial or credible evidence (*PAL vs. PAL Employees Association*, L-8197, Oct. 31, 1958; *Donate vs. Phil. Marine Officers' Association*, L-12506, May 18, 1959 ; 15¢ and *UP Employees Association vs. Dept. and Bazaar Free Workers' Union*, L-9168, Oct. 18, 1956; *NLU vs. Dinglasan*, 98 Phil., 649; 52 Off. Gaz. [4] 1933).

In the case at bar, from excerpts of the transcript reproduced in the pleadings, Galicano Rivera and Silvestre Arguelles testified that, more or less, the speed of the bus immediately before the accident was 20 kms. per hour; that the jeepney ahead suddenly stopped without warning when the bus was about 4 meters behind, forcing Rivera to swerve to the left of the road, resulting in the accident. On the other hand, witnesses for petitioner Felipe Balita, conductor of the aforesaid motor bus, and Felisa Buenviaje gave testimonies directly opposed to the version of Rivera.

It can thus be seen that the issue really is centered largely upon matters of credibility and appreciation of the weight of testimony given by witnesses, for, unquestionably, the facts found by the Workmen's Compensation Commission find support in the evidence on record. In matters of this nature, findings of the lower court are given much weight and should not be disturbed unless on a clear showing of failure to consider evidence on record, or failure to consider fundamental and patent logical relationships in the evidence, amounting to a clear travesty of justice or grave abuse of discretion.

This Court is not inclined to make such a conclusion on the basis of the record available. There is sufficient basis in the evidence to support the findings made. Apart from oral testimonies, it is improbable that the bus, on a very bumpy road ("rugged and stony" according to the Commission) such as the one on which it was traveling at the time of the accident, could be running at a speed of 50 kms. per hour. Petitioner's argument that the inverted position of the bus after the accident could only mean that it was traveling at a fast speed, is far too speculative, for, it could as well be argued that this was due to the depth of the canal (about knee-deep) in which it fell, which was enough to put the bus off balance, even if it was not overspeeding.

As to the testimony of Felipe Balita, the conductor of the bus, there is nothing in his testimony as reproduced by petitioner which should radically change the perspective of the case, although it was really error for the Commission to say that his testimony as to the speed should not be accepted just because he could not state the exact speed and is merely based on calculation or observation. Necessarily, one cannot be expected to give with certainty the exact speed of a moving vehicle without the aid of a mechanical measuring device (such as a speedometer), and the fact alone that testimony on such matter is based on calculation does not suffice to discredit it. However, in refusing to give credence to his testimony, the Commission also took into consideration an alleged bias of this witness in favor of the Company, and this finding, involving as it does a factual inquiry, based to a large extent on the demeanor of the witness during the proceedings, should not be disturbed.

As to Felisa Buenviaje, it would really seem that her testimony should be viewed with caution. She executed an affidavit, Exhibit "2", to the effect that Rivera was driving very fast at the time of the accident. Later, for purposes of obtaining monetary settlement from the Batangas Transportation Co., she executed Exhibit "C" (Annex 2 of Answer), to the effect that Rivera was not overspeeding when the accident took place. Still later, in open court, she repudiated Exhibit "C" and admitted that she signed it knowing its contents to be false.

At any rate, assessing the credibility of witnesses is a task more properly vested in the lower courts, and findings thereon should not be easily disturbed. Moreover, since the injury was received while the claimant was driving the bus; i. e., while performing the very duty he was employed to perform, the injury clearly arose "out of and in the course" of employment and is compensable. As to the affirmative defense of "notorious negligence", petitioner had the burden to establish by substantial evidence the facts constituting such kind of negligence, a task in which the record shows he failed, since even the alleged excessive speed at which claimant allegedly drove the bus is not proved. For this reason, *De la Cruz vs. Hijos de I. de la Rama*, 62 Phil., 653, is not applicable, the circumstances being different. This Court finds no sufficient justification for reversing the findings of fact made by the Workmen's Compensation Commission.

Wherefore, the decision appealed from is affirmed. Costs against petitioner.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.

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