

EDUARDO LOQUERO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

Ponente: INTING, J.

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INTING, J.:

Before Us is a Petition for Review[1] under Rule 42 of the Rules of Court from the Decision[2] dated April 26, 2012 issued by the Regional Trial Court, 12[th] Judicial Region, Branch 21, Kapatagan, Lanao del Norte in Crim. Case No. 21-2051 which affirmed with modification the Decision[3] dated September 30, 2011 of the Municipal Circuit Trial Court (MCTC) of Lala-Salvador, Lanao del Norte in Crim. Case No. 8417 entitled “People of the Philippines v. Euardo A. Loquero.” The dispositive portion[4] of which reads:

WHEREFORE, in the light of the foregoing consideration, the Court affirms the decision of the Court a quo convicting accused-appellant Eduardo A. Loquero, promulgated on September 30, 2011, and the award for damages, but with modification as to the nature of civil liability of Rural Transit of Mindanao, Inc. (RTMI), as employer of said accused-appellant, from primary and solidary to subsidiary, and to increase moral damages from P50,000.00 to P100,000.00. With costs to the proceedings against accused-appellant.

SO ORDERED.

The facts are as follows:

Petitioner was charged with Reckless Imprudence Resulting in Homicide and Damage to Property before the Municipal Circuit Trial Court (MCTC) of Lala-Salavador, Lanao del Norte. The accusatory portion of the Information reads:

“That on or about 11:30 in the morning of 9[th] day of July, 2009, at Lanipao, Lala, Lanao del Norte, Philippines, and within the jurisdiction of this Honorable Court, accused EDUARDO A. LOQUERO, being then the driver and the person in charge of a Rural Bus of Mindanao Incorporated [RTMI] with body number 1171 and bearing plate number KVVU-814, color red, and without taking the necessary precaution to avoid accident to person or damage to property, did then and there unlawfully and feloniously and in a reckless and imprudent manner while driving said bus along the National Highway of said municipality, causing by such carelessness, recklessness, imprudence and lack of precaution the said bus bumped, as in fact, it actually bumped EDGAR BAGALLOYOS and his driven motorcycle thereby causing damage to the said motorcycle and inflicting upon the latter mortal physical injuries which were the direct and immediate cause of his death soon thereafter, and failed to provide assistance or helping hand to his victim, as he proceeded to his destination.”

At the arraignment, the petitioner entered a plea of “not guilty”. After the pre-trial was closed and terminated, trial ensued.

During the trial, the prosecution presented the victim’s daughter Maria Glenda B. Villagonzalo, Raymund Alegrado and Police Officer Ananias Abrenilla as witnesses. On the other hand, the defense presented petitioner Eduardo Loquero, bus conductor Rolindo Basinillo and dispatcher Rene Lacida.

Maria Glenda B. Villagonzalo testified that before the death of her father Edgar Bagaloyos in a vehicular accident, the latter was employed as General Services Officer and Acting Municipal Administrator of Lala, Lanao del Norte receiving a monthly salary in the amount of Twenty Eight Thousand (P28,000.00) Pesos, representation allowance in the amount of Nine Thousand Nine Hundred (P9,900.00) Pesos and traveling allowance in the amount of Two Thousand (P2,000.00) Pesos. In the course of the trial, the witness presented receipts to prove the expenses they incurred for the wake of Edgar Bagaloyos that lasted for ten (10) days. They incurred expenses for the coffin, tomb, snacks and meals in the total amount of One Hundred Seventy Eight Thousand Nine Hundred Nine (P178, 909.60) Pesos.

Prosecution witness Raymund Alegrado testified and narrated that at around 11:30 o'clock in morning of July 9, 2009, he was at the Oto Restaurant situated along Lanipao National Highway in front of the Municipal Hall of Lala. When he was about to pay for his lunch, he saw the victim Edgar Bagaloyos driving a motorcycle, making a hand signal by extending his left hand, and reaching the center of the road. At that point, Raymund Alegrado saw a speeding Rural Transit bus bump the motorcycle driven by Edgar Bagaloyos. After the collision, the bus slowed down but did not stop. It proceeded to its direction.

PO3 Ananias Abrenilla, a police investigator, also testified in court and narrated that a few minutes after the incident, he arrived at the scene of the vehicular incident and conducted an investigation. The persons who witnessed the incident informed him that it was the Rural Transit bus that bumped the driven motorcycle of Edgar Bagaloyos. The bus was not in the vicinity as it did not stop after the collision. What he saw at the scene was the damaged motorcycle driven by the victim. He further narrated that he prepared a sketch report of the incident. In the sketch report he stated that per his observation, the motorcycle driven by Edgar Bagaloyos was thrown thirty (30) meters away from the point of impact of the collision. As to the skid marks, he observed that "there was only one caused by a double tire from the left most portion of the right lane facing to Iligan City entering the left lane going to Iligan City until it stop with a length of 30 meters, more or less".[5]

For the defense, witness Rolindo Basinillo testified that it was noontime of July 9, 2009 when the Rural Transit Bus bus left Kapatagan, Lanao del Norte bound for Iligan City with eleven (11) passengers. He was sitting at the third seat from the driver. When the bus reached the bridge of Lanipao, he saw a motorcycle ahead of the bus. The driver (petitioner Loquero) of the bus blew his horn. Then he saw the driver (the deceased Edgar Bagaloyos) of the motorcycle execute a hand signal with his left hand as the motorcycle had no signal light, and make a left turn. However, the motorcycle suddenly returned to the center of the road. At that instance, the bus bumped the motorcycle. With the impact of the collision, the motorcycle driver was thrown away. The driver of the bus wanted to stop but the other passengers told him to proceed instead to Baroy. Upon reaching Baroy, the bus driver surrendered to the police authorities at the PNP, Baroy, Lanao del Norte.

Petitioner Eduardo Loquero, the driver of the Rural Transit bus testified and narrated that at around 11:30 o'clock in the morning, he was traversing the national highway of Lanipao, Lala, Lanao del Norte when he noticed a single motorcycle, which was thirty (30) meters, more or less, in front of his bus. He attempted to overtake the motorcycle by swerving to the left portion of the national highway. But while he was in the process of overtaking, he saw the driver of the single motorcycle extending his left hand – a signal that he would turn left. Seeing that situation, he blew his horn twice in order to alert him that he would overtake his driven motorcycle. At that time, he was about 15 meters away from the motorcycle running at the speed of sixty (60) kilometers per hour, more or less. He then immediately applied his brakes when he noticed that the motorcycle already reached the distance of three (3) meters from the center line.

Petitioner further narrated that after the motorcycle reached the distance of 3 meters from the center, it returned to its lane. It was at that instance that he bumped the motorcycle when it was at the left lane of the highway and

about one (1) meter from the center. The bumper of his truck hit the back portion of the motorcycle and the driver was thrown away at a distance of fifteen (15) meters. He did not stop his truck because he got afraid. Instead, he proceeded to Baroy, Lanao del Norte and surrendered to the police authorities there.

The last witness for the defense, Rene Lacida, the dispatcher assigned at Kapatagan Terminal of the Rural Transit Mindanao, Inc. testified that he knows petitioner Eduardo Loquero as the driver of Rural Transit bus 1171. He said that the bus driven by the petitioner arrived at 9: 45 in the morning of July 9, 2009 at Kapatagan, Lanao del Norte as its first trip from Iligan City. The bus left Kapatagan as its second trip on the same date at about 11: 05 in the morning bound for Cagayan de Oro City. The witness denied that the bus driven by the petitioner suffered mechanical trouble when it left Kapatagan.

On September 30, 2011, the Metropolitan Circuit Trial Court, (MCTC) Lala-Salvador, Lanao del Norte rendered a Decision.[6] The dispositive portion[7] of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused Edgardo (sic) A. Loquero, guilty beyond reasonable doubt of the crime of reckless imprudence resulting in homicide and damage to property and sentences him to suffer the penalty of imprisonment of arresto mayor in its maximum period, as minimum to prision correccional in its medium period, as maximum, which has the range of 6 months and 1 day, as minimum to 4 years and 2 months, as maximum.

The Rural Transit Bus of Mindanao, Incorporated (RTMI), is adjudged primarily and solidarily to pay the surviving heirs of the victim Edgar Bagaloyos, the amount of P50,000 representing the civil indemnity of the death of Edgar Bagaloyos; P50,000.00, representing moral damages, P178,909.06 representing the actual expenses incurred; P20,000.00, representing the damage incurred by the motorcycle; P704,327.00; representing the lost earning of the victim; and 30,000.00, representing exemplary damages and to pay to the court the docket fee of the total damages awarded to be computed by the Clerk of Court.

SO ORDERED.

Totally dissatisfied with the ruling of the MCTC, petitioner appealed the case before Branch 21, Regional Trial Court of Lanao del Norte. On April 26, 2012, the RTC rendered a Decision[8] affirming with modification the Decision of the MCTC. The dispositive portion[9] of which states:

WHEREFORE, in the light of the foregoing consideration, the Court affirms the decision of the Court a quo convicting accused-appellant Eduardo A. Loquero, promulgated on September 30, 2011, and the award for damages, but with modification as to the nature of civil liability of Rural Transit of Mindanao, Inc. (RTMI), as employer of said accused-appellant, from primary and solidary to subsidiary, and to increase moral damages from P50,000 to P100,000.00. With costs to the proceedings against accused-appellant.

SO ORDERED.

The petitioner filed a Motion for Reconsideration[10] but the RTC denied it in its Order[11] dated May 31, 2012.

Aggrieved, petitioner filed the present petition and raised the following assignment of errors[12]:

I. THE HONORABLE REGIONAL COURT A QUO SERIOUSLY ERRED IN HOLDING THAT HEREIN PETITIONER WAS NEGLIGENT DESPITE OF ITS FINDING THAT HEREIN PETITIONER WAS ALREADY IN THE PROCESS OF OVERTAKING WHEN THE DECEASED VEERED TO HIS LEFT.

II. THE HONORABLE REGIONAL TRIAL COURT A QUO SERIOUSLY ERRED IN AWARDING MORAL AND EXEMPLARY DAMAGES; WORST IN INCREASING THE AMOUNT OF MORAL DAMAGES FROM PHP50,000.00 TO PHP100,000.00.

III. THE HONORABLE REGIONAL TRIAL COURT A QUO SERIOUSLY ERRED IN AFFIRMING THE

EXCESSIVE DAMAGES AWARDED BY THE MCTC TO THE HEIRS OF THE DECEASED.

Our Ruling

The appeal is without merit.

At the outset, We observed that the RTC affirmed the decision of the MCTC convicting the petitioner based on Article 2176 of the Civil Code. The MCTC in its Decision, particularly in pages 6, 11 and 12 state:

Article 2176 of the Civil Code, provides, that “whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relations between the parties, is called a quasi-delict.” To sustain a claim based on quasi-delict, the following requisites must concur: (a) damage suffered by the plaintiff; (b) fault or negligence of the defendant; and (c) connection of cause and effect between the fault or negligence and the damage incurred by the plaintiff.

X X X X X X X X

Clearly, accused’s negligence is the proximate cause of the bumping which claimed the life of Edgar Bagaloyos. Proximate cause is that which, in the natural and continuous sequence, unbroken by any efficient, intervening cause, produces the injury and without which the result would not have occurred. The cause of the bumping which claimed the life of Bagaloyos is traceable to the negligent act of the accused driver for if accused was not over speeding and the brakes were not defective, the mishap in all probability would not have happened.

But as correctly pointed out by the Office of the Solicitor General, the instant case is a criminal case since the petitioner was charged in a Criminal Information with Reckless Imprudence Resulting in Homicide and Damage to Property. In so doing, the cause of action must be based on delict and not on quasi-delict. Thus, the applicable law in the present case is Article 365 of the Revised Penal Code and not Article 2176 of the Civil Code.

While We are aware that this is not one of the issues or assigned errors raised by the petitioner in this appeal, We can still rule upon it, in consonance with the Supreme Court’s pronouncement in *People v. Rondero*,^[13] which provides that when an accused appeals from the judgment of his conviction, he waives his constitutional guarantee against double jeopardy and throws the entire case open for appellate review. Corollarily, the Court is called upon to render such judgment as law and justice dictate in the exercise of its concomitant authority to review and sift through the whole case to correct any error, even if unassigned.

We find that the court a quo failed to consider the application of Article 365 of the Revised Penal Code in the conviction of the accused-petitioner.

Article 365 of the Revised Penal Code expressly provides for the definition of reckless imprudence –

Reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place.

The elements of reckless imprudence are: (1) that the offender does or fails to do an act; (2) that the doing or the failure to do that act is voluntary; (3) that it be without malice; (4) that material damage results from the reckless imprudence; and (5) that there is inexcusable lack of precaution on the part of the offender, taking into consideration his employment or occupation, degree of intelligence, physical condition, and other circumstances regarding persons, time and place.

Judging from the foregoing standard, We find that the petitioner is guilty of reckless imprudence. As aptly found by the MCTC which was sustained by the RTC:

x x x x x x x x

The accused driver admitted that he noticed a single motorcycle 30 meters ahead of his driven bus. He swerved to the left to overtake the motorcycle notwithstanding the fact that the driver thereof made a hand signal indicating that he was swerving to the left and according to the accused he was running a speed of 60 kilometers per hour and he applied his brake. In this situation, accused should have taken extra ordinary diligence, be more cautious especially that few meters way is a crossing leading to the municipal hall of Lala, Lanao del Norte and give the victim the opportunity to completely crossed the left lane. From the evidence adduced the court finds that the driver of the motorcycle had already executed the left turn because the same was hit on its rear by the middle portion of the rural transit bus. Had it been true that the victim returned to the middle of the highway after swerving to the left lane, there is absolutely no reason for the accused to continue overtaking the motorcycle to completely return to the right lane. One thing if accused was driving his bus at a speed of 60 kilometers per hour, he could have easily put his driven bus to a full or complete stop without being turtle or to avoid or prevent the incident. But he was not, accused was over speeding, which is violation of a traffic regulation. The accused driver was aware that he was approaching a crossing leading to the Municipal Hall of Lala, so he was bound to move with the utmost caution until it is determinable that he can proceed safely and at the lowest speed possible, so that the vehicle could be stopped within the distance the driver can see ahead.[14]

x x x. According to the accused he cannot swerve back to the right because the truck would turtle and the brake would slide. Of course, the truck would turtle and the brake would slide because the bus was running so fast as shown by skid mark on the road when accused stepped on the brakes to avoid the collision, although there was one (1) skid mark only in the right tires that was reflected on the sketch of the accident report and as pinpointed and admitted by the accused but the latter denied the brake is defective. During cross examination accused testified, this way, when asked by Pros. Diosdado Cabrera:

Q: After the incident, did you know that there was one set of skid mark left in the cemented highway?

A: Yes, sir.

Q: And it indicates that the brake of the other side of the tires did not function?

A: That was the one functioning sir. The other side did not function.

Q: That is your opinion?

A: Yes, sir.

Q: So the tires where the brakes were malfunction did not create or leave skid mark in the highway?

A: If there is a malfunction of the brake, we cannot see the skid marks.

Q: It is not that there are brakes on both side of the tires?

A: All tires sir.

Q: But during the incident, only one set of the tire that had a functional brake?

A: Yes, sir.

Q: The other one is malfunction?

A: Yes, sir. (tsn, page 132, dated January 11, 2011)

Had the brake system of the left rear tires of the said bus was functioning, it could have produced a skid mark when accused applied the brakes and being as such, it would have put the bus into a full stop and have avoided the victim and his single motorcycle.[15]

x x x x x x x x

Worst, after bumping the motorcycle and seeing the seriousness of the situation, accused did not stop but instead abandoned his victim. His explanation why he did not stop after bumping the motorcycle is too shallow which cannot be considered by the court. Under Article 2185 of the Civil Code, unless there is proof to the contrary, a person driving a vehicle is presumed negligent if at the time of mishap, he was violating any traffic regulation. In abandoning the victim accused has violated another traffic regulation and the presumption arises that accused was negligent at the time of the mishap.[16]

x x x x x x x x

Undisputedly, petitioner was over-speeding in driving the bus despite of his knowledge that the brake system of one of the vehicle's tire was malfunctioning. It clearly indicates reckless and imprudent behavior on the part of the petitioner which resulted to the victim's tragic death and damage to the latter's motorcycle. The omissions on the part of the bus driver, the petitioner in this case, constitute negligence[17] which, according to *Layugan v. Intermediate Appellate Court*,[18] is the omissions to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs, would do,[19] or the doing of something which a prudent and reasonable man would not do. As Judge Cooley defines it, the failure to observe for the protection of the interests of another person, that degree of care, precaution, and vigilance which the circumstances justly demand, whereby such other person suffers injury.[20]

Petitioner, as a public utility driver, must observe diligence and exercise caution for the safety of his passengers and the other road users. But by his omissions, he had shown an inexcusable lack of care and caution which an ordinary prudent person would have observed under the same situation. The Supreme Court in the landmark case of *Picart v. Smith*,[21] emphatically provides:

A man must use common sense, and exercise due reflection in all his acts; it is his duty to be cautious, careful and prudent, if not from instinct, then through fear of recurring punishment. He is responsible for such results as anyone might foresee and for acts which no one would have performed except through culpable abandon. Otherwise, his own person, rights and property, and those of his fellow beings, would ever be exposed to all manner of danger and injury.

Parenthetically, this Court finds no reason to deviate from the factual findings of the MCTC and the RTC. It is a settled rule that factual findings of the trial courts, including their assessment of the witnesses' credibility, are entitled to great weight and respect by this Court, particularly when the appellate court affirm the findings. Trial courts are in the best position to assess the witnesses' credibility and to appreciate their truthfulness, honesty and candor.[22]

Anent the application of penalty, the penalty to be imposed under Article 365 (2) of the Revised Penal Code for homicide resulting from reckless imprudence in the use of the motor vehicle is prision correccional in its medium and maximum period. It must also be stressed that the last paragraph of Article 365 states that: "The penalty next higher in degree to those provided for in this article shall be imposed upon the offender who fails to lend on the spot to the injured parties such help as may be in his hands to give." It is clear that petitioner did not stop his bus to help the victim. Instead, he proceeded to Baroy, Lanao del Norte and surrendered to the police authorities there. Thus, the penalty next higher in degree of prision correccional in its medium and maximum period should be imposed upon the petitioner. The next higher in degree is prision mayor in its minimum and medium periods, which ranges from 6 years and 1 day to 10 years. Since he surrendered to the police authorities, this fact should be given in his favor and will thus affect the applicable period of the penalty, which should be the minimum period in a given degree.

Applying the provisions of the Indeterminate Sentence Law, the petitioner is thus entitled to a minimum term to be taken from the penalty next lower in degree of prision mayor in its minimum and medium periods, which is prision correccional in its medium and maximum periods. The minimum period of each degree shall then be applied in consideration of his voluntary surrender. Accordingly, petitioner should suffer the penalty of 3 years, 6 months and 20 days of prision correccional, as minimum, to 7 years and 4 months of prision mayor, as maximum.

With respect to damages, jurisprudence[23] on the matter dictates that when death occurs due to a crime, the following damages may be recovered: (1) a civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5) attorney's fees and expenses of litigation, and (6) interest, in proper cases.

Pursuant to the prevailing jurisprudence, civil indemnity ex delicto in the amount of Fifty Thousand (P50,000.00) Pesos, moral damages[24] of One Hundred Thousand (P100,000.00) Pesos and exemplary damages of Twenty Five (P25,000.00) Pesos must be awarded to the heirs of the victim.

As to the actual damages, We find that the RTC correctly affirmed the grant of One Hundred Seventy Eight Thousand and Nine Hundred Nine and Six (P178,909.06) Centavos for burial expenses as it is supported by receipts. The Twenty Thousand (P20,000.00) award for the damage of the motorcycle is also correct.

However, We are constrained to modify the award of damages for loss of earning capacity. The award of damages for loss of earning capacity is concerned with the determination of losses or damages sustained by the survivors of the victim, as dependents and intestate heirs of the deceased. This consists not of the full amount of the earnings of the deceased victim, but of the support which the survivors received or would have received from him had he not died as a consequence of the negligent act. Thus, the amount recoverable is not the loss of the victim's entire earnings, but rather the loss of that portion of the earnings which the beneficiary would have received.[25]

Indemnity for loss of earning capacity is determined by computing the net earning capacity of the victim.[26] The formula for determining the loss of earning capacity is:

$$\text{Net Earning Capacity} = \text{life expectancy} \times (\text{gross annual income} - \text{reasonable and necessary living expenses})$$

Life expectancy shall be computed by applying the formula $(2/3 \times [80 - \text{age at death}])$ adopted from the American Expectancy Table of Mortality or the Actuarial of Combined Experience Table of Mortality.[27] Hence, the MCTC erred in modifying the formula and using the victim's compulsory retirement age of sixty five (65) instead of eighty (80). It also failed to deduct the reasonable and necessary living expenses of the victim from his gross monthly income.

In this case, the victim was already sixty three years (63) old when he died and as supported by evidence he was earning Forty One Thousand and Four Hundred Thirty One (P41,431.00) Pesos as gross income per month. Thus, his gross annual income is Four Hundred Ninety Seven Thousand One Hundred Seventy Two (P497,172.00) Pesos. His necessary living expenses must be pegged at fifty percent (50%) of his gross income in the absence of proof as regards his actual living expenses in consonance with the Supreme Court's ruling in *Tamayo v. Senora*[28] or Two Hundred Forty Eight Thousand Five Hundred Eighty Six (P248,586.00) Pesos.

Applying the foregoing formula:

$$\text{Life expectancy} = 2/3 (80-63)$$

$$= .67 (17)$$

$$= 11.39$$

$$\text{Net Earning Capacity} = \text{life expectancy} \times (\text{gross annual income} - \text{reasonable and necessary living expenses})$$

$$= 11.39 \times (P497,172.00 - P248,586.00)$$

$$= P2,831,394.50$$

Thus, the amount of damages for loss of earning capacity that must be awarded to the survivors of the victim is Two Million Eight Hundred Thirty One Thousand Three Hundred Ninety Four and Fifty (P2,831,394.50) Centavos.

We likewise adopt the pronouncement of the RTC regarding the subsidiary liability of petitioner's employer, Rural Transit Bus of Mindanao, Incorporated (RTMI), under Article 103 of the Revised Penal Code. An employer may be subsidiarily liable for the employee's civil liability in the criminal action if it can be shown that: (1) the employer is engaged in any kind of industry; (2) the employee committed the offense in the discharge of his duties and (3) the accused is insolvent.[29] However, subject to prevailing jurisprudence,[30] the subsidiary liability may be enforced only upon a motion for subsidiary writ of execution against RTMI and upon proof that petitioner is insolvent.

Finally, it is significant to note that the right of a person using public streets and highways for travel in relation to other motorists is mutual, coordinate and reciprocal.[31] He is bound to anticipate the presence of other persons whose rights on the street or highway are equal to his own.[32] Although he is not an insurer against injury to persons or property, it is nevertheless his duty to operate his motor vehicle with due and reasonable care and caution under the circumstances for the safety of others as well as for his own.[33]

WHEREFORE, the decision appealed from is AFFIRMED with MODIFICATIONS as follows:

- Eduardo Loquero is guilty beyond reasonable doubt for the crime of Reckless Imprudence Resulting to

Homicide and Damage to Property and shall suffer an indeterminate sentence of 3 years, 6 months and 20 days of prison correccional, as Minimum, to 7 years and 4 months of prison mayor, as Maximum.;

- Eduardo Loquero shall pay the heirs of Edgar Bagaloyos the following amounts:

- (a) 50,000.00 as civil indemnity ex delicto;
- (b) 100,000.00 as moral damages;
- (c) 25,000.00 as exemplary damages;
- (d) 2,831,394.50 as loss of earning capacity;
- (e) 178,909.06 for burial expenses; and
- (f) 20,000.00 for the damage to the motorcycle.

- The damages awarded shall earn an interest of 12% per annum from finality of this decision until full satisfaction thereof;

- Rural Transit Bus of Mindanao, Incorporated (RTMI) is subsidiarily liable to the civil indemnities awarded, as employer of Eduardo Loquero;

- Costs against petitioner.

SO ORDERED.

Camello (Chairperson) and Lopez, JJ., concur.

[1] Rollo, pp. 12-40.

[2] Ibid., pp. 44 - 50, penned by Hon. Alan L. Flores.

[3] Ibid., pp. 52-67, penned by Hon. Bernarda Bantiles-Villanueva.

[4] Ibid., pp. 49-50.

[5] Rollo, p. 54. p. 54 of MCTC Decision dated September 30, 2011.

[6] Ibid., pp. 52 – 67.

[7] Ibid., pp. 66 - 67.

[8] Ibid., pp. 44-50.

[9] Ibid., pp. 49 - 50.

[10] Ibid., pp. 68-71.

[11] Ibid., p. 72.

[12] Ibid., p. 23.

[13] 373 Phil. 123, 143 (1999).

[14] Rollo, p. 60.

[15] Ibid., pp. 7-8.

- [16] Ibid., p. 11.
- [17] Yamada v. Manila Railroad Co., No. 10073, 33 Phil. 8, 11 (1915).
- [18] G.R. No. L-73998, November 14, 1988.
- [19] G.R. No. L-73998, November 14, 1988.
- [20] Citing Cooley on Torts, Fourth Edition, Volume 3, p. 265.
- [21] 37 Phil. 809 (1918).
- [22] Sim, Jr. v. Court of Appeals, G.R. No. 159280, 18 May 2004.
- [23] Nueva Espana v. People, G.R. No. 163351, June 21, 2005.
- [24] Fortune Express, Inc. v. Court of Appeals, G.R. No. 119756, March 18, 1999.
- [25] Candano Shipping Lines, Inc. v. Sugata-on, G.R. No. 163212, March 13, 2007
- [26] People v. Garcia, G.R. No. 174479, June 17, 2008.
- [27] Candano Shipping Lines, Inc. v. Sugata-on, G.R. No. 163212, March 13, 2007, citing Lambert v. Heirs of Ray Castillon, 492 Phil. 384, 393 (2005).
- [28] G.R. No. 176946, November 15, 2010.
- [29] Carpio v. Doroja, G.R. No. 84516, 5 December 1989.
- [30] Basilio v. Court of Appeals, 385 Phil. 21 (2000).
- [31] Caminos, Jr. v. People, G.R. No. 147437, May 8, 2009, citing Richards v. Begenstos, 21 N.W.2d 23, Hodges v. Smith, 298 S.W. 1023, and Lawson v. Fordyce, 12 N.W.2d 301.
- [32] Caminos, Jr. v. People, G.R. No. 147437, May 8, 2009, citing Magnolia Petroleum Co. v. Owen, 101 S.W.2d 354.
- [33] Caminos, Jr. v. People, G.R. No. 147437, May 8, 2009, citing Atlantic Greyhound Corp. v. Lyon, 107 F.2d 157, Oklahoma Natural Gas Co. v. McKee, 121 F.2d 583, Burdick v. Powell Bros. Truck Lines, 124 F.2d 694, Dixie Motor Coach Corp. v. Lane, 116 F.2d 264, Shipley v. Komer, 154 F.2d 861, and Magnolia Petroleum Co. v. Owen, 101 S.W.2d 354.

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