THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AUGUSTO F. GALLANOSA, JR., ACCUSED-APPELLANT.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/936bdbc29122/

GONZALES-SISON, M., J:

This is an appeal[1] from the decision of the Regional Trial Court of Irosin, Sorsogon, Branch 55 (trial court) dated 21 November 2011 in Criminal Case Nos. 1631-32, which found herein appellant Augusto F. Gallanosa, Jr., alias “Aday” (appellant) guilty beyond reasonable doubt for two (2) counts of murder.

Briefly, the facts of the case, are as follows:

On 12 March 2003, two (2) separate Informations for murder were filed by the Office of the Provincial Prosecutor of Sorsogon against appellant. The accusatory portions of the Informations read:

> Criminal Case No.1631
>
> “That on or about 6[th] day of November, 2002 at around 3:00 o'clock in the afternoon at Barangay Banogao, Municipality of Matnog, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and treachery and abuse of superior strength accused Augusto Gallanosa, Sr. armed with stones and accused Augusto Gallanosa, Jr. armed with a bladed weapon, conspiring, confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously attack, assault and stab one Nonilon Frencillo, Jr. hitting and inflicting upon the latter mortal wounds which directly caused his death, to the damage and prejudice of his legal heirs.
>
> CONTRARY TO LAW.”[2]
>
> Criminal Case No. 1632
>
> “That on or about 6[th] day of November, 2002 at around 3:00 o'clock in the afternoon at Barangay Banogao, Municipality of Matnog, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and treachery and abuse of superior strength; Accused Augusto Gallanosa, Sr., Nonito Gallanosa, Minda Gallanosa and Gina Gallanosa, all armed with stones and accused Augusto Gallanosa, Jr. armed with a bladed weapon, conspiring, confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously attack, assault and stab one Dante L. Frencillo, hitting and inflicting upon the latter mortal wounds which directly caused his death, to the damage and prejudice of his legal heirs.
>
> CONTRARY TO LAW.”[3]

Upon being arraigned, appellant assisted by his counsel, pleaded not guilty to the charges against him.[4]

Thereafter, trial on the merits ensued.

The evidence for the prosecution showed that, at about 3:00 p.m. on 6 November 2002 the victim, Dante Frencillo (Dante), together with his wife, Maricel Frencillo were on their way to a wedding when they passed by the house of appellant in Banogao, Matnog, Sorsogon. All of a sudden, Dante was stoned by the relatives of appellant namely; Luzviminda alias Minda, Augusto Sr., alias Onto, Nonito alias Larot and Gina, all surnamed Gallanosa.

After Dante was hit by the stones thrown to him, appellant appeared and stabbed Dante on the latter's left abdomen. Immediately, Dante fell on the ground and died on the spot.[5]

Thereafter, the second victim, Nonilon Frencillo (Nonilon) appeared to assist his brother, Dante, but was likewise stoned by Augusto Sr.. As a result, Nonilon ran but was chased by appellant who caught up with the former who slipped. Nonilon, in a kneeling position then raised his hands and uttered “I will not fight you”. Nonetheless, his hands were hacked by appellant which was followed with a stab on Nonilon's chest. Not yet done, appellant encircled Nonilon several times, each time stabbing the latter on his front.[6]

The defense recounted a different version of the facts.

On same date, Dante went to the house of Medel Gallanosa challenging the latter to come out of his house. At that time, however, Medel Gallanosa was not around and as such, Dante started throwing rocks at the house of the former. Medel Gallanosa's common-law-wife, Annie Grace Ramirez, out of fear, went outside of their house and ran towards the house of Augusto Gallanosa, Sr., Medel Gallanosa's uncle. After Augusto Gallanosa, Sr., opened the door of his house to let Annie Grace Ramirez in, Dante suddenly rushed towards Augusto Gallanosa, Sr..[7] Dante then tried to stab Augusto Gallanosa, Sr., but was unsuccessful. At that point, appellant appeared and was met by a lunging knife attack from Dante. Appellant, however, evaded the attack of Dante and was able to stab the latter with his own knife.[8]

Thereafter, the siblings of Dante namely; Bigo and Nonilon appeared, the first one holding a bamboo stick. Nonilon then punched appellant who scampered away. At that instance, Nonilon Frencillo started throwing rocks at the fleeing appellant. Nonilon then ran after appellant and along the way the former was also able to pick up a piece of wood. When Nonilon caught up with appellant, the former tried to strike the latter with the piece of wood.[9] However, appellant was able to stab Nonilon first using his knife.[10] Subsequently, appellant surrendered to a barangay tanod, Emilio Castedades, who brought appellant to the barangay captain of Pawa where appellant was whisked away by the police.[11]

Finding then the pieces of evidence of the prosecution worthy of credence and weight as against the plea of self-defense invoked by appellant, the trial court, as alluded to earlier, convicted appellant for two (2) counts of murder and at the same time, acquitted fellow accused Luzviminda Gallanosa for lack of evidence. The fallo of the said decision reads:

> “WHEREFORE, the prosecution having established the guilt of the accused Augusto Gallanosa, Jr. beyond reasonable doubt in Crim. Case No. 1631 for the Murder of Nonilon Frencillo is hereby sentenced to suffer the penalty of Reclusion Perpetua. To pay the heirs of the victim(,) loss of earning capacity in the amount of P5,878,800.00, P51,000.00 as supported by receipts as actual compensatory damages, P75,000.00 as civil indemnity, P75,000.00 as moral damages, P25,000.00 as exemplary damages and to pay the costs.
>
> Likewise the accused Augusto Gallanosa, Jr. in Crim. Case no. 1632, is hereby sentenced to suffer the penalty of reclusion perpetua. To pay the heirs of Dante Frencillo the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages, P25,000.00 as exemplary damages and to pay the costs.
>
> The period of detention of Augusto Gallanosa, Jr. is credited in his favor in accordance with Article 29 of the Revised Penal Code.
>
> In Crim. Case No. 1632, Luzviminda Gallanosa is hereby ACQUITTED and the case against her is ordered DISMISSED.
>
> Issue a Warrant of Arrest for the other remaining accused who are still at large, namely Augusto Gallanosa, Sr. in Crim. Case No. 1631 and the other accused in Crim Case No. 1632, namely: Augusto Gallanosa, Sr. @ Onto; Nonito Gallanosa @ Larot and Gina Gallanosa.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> Considering that the accused Luzviminda Gallanosa is a detention prisoner, she is hereby ordered released from legal custody. The Provincial Warded of Sorsogon Provincial Jail is hereby ordered to release the person of the accused unless there is a case for which she may be further detained.
>
> SO ORDERED."[12]

With the denial of his motion for reconsideration of the above decision,[13] appellant now comes to this Court for relief and in support thereof assigns this lone error for consideration, viz.:

> THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF MURDER AND IN IMPOSING CIVIL LIABILITIES, DESPITE PROOF OF LEGITIMATE EXERCISE OF SELF-DEFENSE.

In essence, appellant argues that he was justified in the killing of Dante and Nonilon as they both tried to kill him first. According to appellant, the testimonies of the prosecution witnesses, namely: Lolita Frencillo Espinar and Medina Frencillo narrating how Dante was ambushed by appellant and appellant's relatives do not deserve credence as they contain inconsistencies and contrary to the medical certificates of the victims. On this score, appellant insists that there is no treachery involved as it was Dante who instigated the incident. Also, appellant claims that his voluntary surrender to the authorities should have been appreciated by the trial court in reducing his penalty. Lastly, appellant asserts that since no crime was committed, no civil liability should have been imposed upon him. At the very least, appellant points that even if he is civilly liable, the award given should have been supported by adequate documentary proof.

After sifting through the facts of case, as guided by the applicable laws and jurisprudence, this Court finds the instant appeal partially meritorious.

At the outset, a review of Article 248 of the Revised Penal Code, the law on murder, is in order, thus:

> "ART. 248. Murder. — Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death, if committed with any of the following attendant circumstances:
> 1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity;

xxxx."

The elements of murder that the prosecution must establish are (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code (RPC); and (4) that the killing is not parricide or infanticide.[14]

Without question the first element is present as both victims were shown to have been killed by stab wounds. The medico-legal certificate of Dante reveals that he received a stab wound in his chest and that the probable cause of his death was "Hypovolemic Shock from Cardiac Tamponade secondary to Stab Wound on Left Chest Wall".[15] The medico-legal certificate of Nonilon Frencillo, on the other hand, manifests that he received four (4) stab wounds in his chest and one (1) hacking wound on his left forearm and that the probable cause of his death was "Hypovolemic shock from Massive Hemorrhage secondary to Multiple Stab Wounds".[16]

The second element likewise is not in dispute considering that appellant invokes self-defense in the case at bar. It is a settled rule that when an accused claims the justifying circumstance of self-defense, the accused admits the commission of the act of killing.[17]

According then to Article 11 of the Revised Penal Code, "any person who acts in defense of his person or rights"

do not incur any criminal liability provided that the following requisites concur: (1) unlawful aggression; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person defending himself. Conversely, the appellant must be able to establish that all three circumstances concur in order for the appellant's act to be justified under the law.[18]

It is then incumbent upon the appellant to rely on the strength of his own evidence and not on the weakness of the evidence of the prosecution, for even if the latter was weak, it could not be disbelieved after he had admitted the killing.[19]

However, it is clear from the records of the case that appellant, right off the bat, failed to prove that there was unlawful aggression on the part of the victims to justify his acquittal. Worthy to note that unlawful aggression is an actual physical assault, or at least a threat to inflict real imminent injury, upon a person.[20] Consequently, unlawful aggression is a condition sine qua non for self-defense to be appreciated. Without unlawful aggression, the appellant has nothing to prevent or repel, and there is then no basis for appreciating the other two requisites.[21]

As between the testimonies of the prosecution witnesses that Dante suffered an ambuscade and the testimonies of the defense witnesses that Dante attacked first, the former should be given more credit. Notably, the testimonies of the defense witnesses including that of appellant's are full of glaring improbabilities and gaping loopholes that create a serious of cloud of doubt as to the merit of the defense's position.

First, we find it highly unbelievable the testimony of appellant that Dante Frencillo at the time of his death was carrying a knife used in butchering a pig for a wedding celebration.[22] It is well to point that the wedding celebration occurred at 11:00 a.m.[23] and the pig has already been butchered before that time.[24] Certainly, there was no more need for Dante Frencillo to be carrying a knife at 3:00 p.m. when the incident occurred.

Second, appellant claimed that the knife used by Dante Frencillo was recovered by a certain Junior Garduque.[25] However, said bare claim is betrayed by the failure of appellant to subpoena said Junior Garduque to testify on this case despite knowledge of the latter's address.

Third, appellant attested that when he first heard someone yelling for help, he thought that his mother fell unconscious as the latter already suffered a stroke before.[26] However, we find it highly illogical that appellant would rush outside of his house carrying with him a bolo knife if his first instinct was to assist his mother considering that the bolo knife would further impede his mobility.

Fourth, defense witness, Annie Grace Ramirez, testified that Nonilon, before he got stabbed by appellant, tried to hit the latter with a piece of wood which he picked up while going after appellant, thus:

> “Atty Loilo:
>
> xxxx.
>
> q –
>
> At the time Noni Frencillo stoned Aday Gallanosa, what happened next?
>
> a-
>
> When Noni Frencillo passed by the side of the school, he also picked up a piece of wood.
>
> q –
>
> When this event was happening Madam witness, where were you?

a –

In front of the day care center.

q –

How were you able to see that incident when Noni Frencillo pick up a wood?

a –

The day care center where I was standing was at the side of the school where Noni Frencillo passed by it is open so I could clearly see.

q –

So after Noni Frencillo run after Aday Gallanosa, what happened next?

a-

When they came upon each other near the school before Noni Frencillo strike Aday, Aday was able to stab him first.

q –

Noni Frencillo tried to strike Aday Gallanosa with a piece of wood that he was holding?

a –

Yes."[27] (underscoring supplied)

Appellant, on the other hand, asserted that Nonilon was holding a knife which he tried to thrust upon appellant, hence:

"Pros. Villaroya:

xxxx.

q –

At what point did Nonilon chase your brother?

a –

After the incident when he saw his brother already dead that was the time he chased my brother because he wanted to retaliate.

q –

He has no bladed instrument at that time.

a –

A knife.

q –

He was holding a knife?

a –

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Yes, Sir.

q –

Including the stones?

a –

Yes, Sir.

q –

He was not able to throw the knife because he might know it is stones?

a –

When we met each other at that time I accidentally stab him because he was about to stab me."[28] (underscoring supplied)

Last, Annie Grace Ramirez testified that after Dante Frencillo was stabbed, she saw the latter's two siblings, Nonilon and Bigo Frencillo, the latter holding a bamboo stick. Immediately, Nonilon approached appellant and boxed the latter, thus:

"Atty. Loilo:

q-

Were you able to go near Luzviminda Gallanosa?

a-

No.

q-

Why?

a-

Because I saw the two other siblings of Dante Frencillo.

q-

What did these two siblings of Dante Frencillo do?

a-

Bigo Frencillo is holding a bamboo stick (pamalo) and Noni.

q-

You said you saw Bigo Frencillo holding a bamboo, would you describe the bamboo Mr.(sic) witness?

a-

More or less one meter (buo) the whole bamboo.

q-

You said Madam witness the siblings of Dante Frencillo(,) Bigo Frencillo and Noni Frencillo arrived, what happened next?

a-

Noni Prencillo(sic) came immediately near Aday and then he boxed Aday."[29]

In appellant's version of facts, however, there was no mention of Bigo Frencillo or any bamboo stick and that Nonilon first ran after appellant's brother, Nonito Gallanosa, before turning his attention to appellant.[30]

All told, material inconsistencies and implausibilities in the testimonies of the defense witnesses convinced us that they were merely concocted to justify the killing of the victims.

At the other side of the coin, the testimonies of the prosecution witnesses were in unison in stating that Dante was merely on his way to the wedding celebration when he was attacked by appellant and the latter's family. The sudden and unexpected attack on Dante likewise proves that it was deliberately done to insure its success as Dante did not have time to offer an effective defense. The relevant portion of the testimony of Lolita Erencillo Espinar reads:

"PROS. DIAZ:

xxxx.

q-

My brother was on his way to the wedding celebration to get some things when he was waylaid by the accused.

q-

To whom are you referring to?

a-

Onto, Minda, Gina and Larot.

q-

When you say the accused waylaid Dante Frencillo, could you describe how this way laiding happened?

a-

He was going to the wedding celebration at Brgy. Bariis, when he was waylaid and stoned by these persons.

q-

Who were these persons who stoned Dante Frencillo?

a-

Gina, Minda, Onto Gallanosa, Sr., and Larot.

xxxx.

q-

You stated that these four people namely: Augusto, Jr., Onto, Nonito alias Larot, Luzviminda and Gina stoned Dante Frencillo, what happened after that?

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

a-

He fell down and then a person ran and stabbed him.

q-

To whom are you referring to?

a-

Dante.

q-

And who was that person who stabbed Dante?

a-

Augusto Gallanosa, Jr."[31] (underscoring supplied)

The relevant portion of the testimony of Maricel Frencillo, meanwhile states:

"DIRECT EXAMINATION BY PROS. DIAZ:

Q-

Madam witness you are the surviving spouse of the late Dante Frencillo?

a-

Yes, sir.

xxxx.

q-

Now on that date you have just mentioned November 6, 2002 at about 3:00 o'clock in the afternoon, do you still recall where you were?

a-

I was in Banugao.

q-

And what were you doing there?

a-

We were going to the wedding when we passed by the house of Aday they stoned my husband.

q-

When you said we were going to the wedding, who was then your companion in going to that wedding that you mentioned?

a-

The two of us my husband and me.

q-

So you are referring to your dead husband Dante Frencillo?

a-

Yes sir.

q-

You said a while ago that while you were passing the house of Aday, your husband was stoned?

a-

Yes, sir.

q-

And this Aday you are referring to who?

a-

Augusto Gallanosa, Jr.

xxxx.

q-

These names that you have just mentioned Minda, Gina, Larot and Ontoc, do you know the family name of these persons?

a-

Gallanosa,

q-

And these were the persons that stone your husband?

a-

Yes, sir.

q-

What is now the relation of these persons to one of the accused in this case Augusto Gallanosa, Jr.?

a-

Brother, husband, and father-in-law.

q-

Now Madam witness, what happened next when those persons you have just mentioned Minda, Ontoc, Larot and Gina all surnamed Gallanosa, what happened to your husband when he was stoned by these persons you mentioned?

a-

He was hit.

q-

What particular part of the body of your husband that were hit?

a-

All the parts of his body because they helped in stoning my husband.

q-

So your husband was hit by the stone thrown by these people, is that correct?

a-

Yes, sir.

q-

And what happened when your husband was hit by the stone?

a-

After he was hit Aday suddenly arrive and stabbed my husband.

q-

So you are referring to Augusto Gallanosa, Jr.?

a-

Yes, sir.

xxxx.

"q-

Inasmuch as there was no prior incident involving your husband and the accused, you don't know of any reason why they would just stoned your husband?

a-

None sir.

q-

You said you were 15 meters away from your husband as he was being stoned and he was not able to stone back, did you not run to help your husband?

a-

No, sir because I was afraid because they were many.

q-

You were afraid that is why you run away from the scene, is that correct?

xxxx.

a-

I did not run away, I just stood up there.

q-

You just stood up you did not do anything?

a-

I am shouting.

q-

How far were these people stoned your husband from your husband when they were as you said stoning your husband?

a-

They were just near my husband.

q-

Your husband did not attempt to get near these people who were stoning him?

a-

He was picking up stone but he was not able to throw it because they were many.

q-

And you said this Augusto Gallanosa, Jr. suddenly arrived, is that correct?

a-

Yes.

q-

From where did he come from?

a-

I don't know where he came from

q-

And without your husband doing anything this Augusto Gallanosa, Jr. stabbed him, is that correct?

a-

Yes."[32] (underscoring supplied)

As to the death of Nonilon, though he was aware that he would be plunging himself into harm's way by rushing towards the aid of his brother, Dante, the manner by which Nonilon was killed nonetheless, shows that it happened in a treacherous manner.

As testified to by the prosecution witnesses Nonilon was already on his knees, arms raised up and pleading to appellant that he would no longer fight him, yet his entreaty was only met by a merciless swish of appellant's bolo knife, hitting Nonilon's arms. Unsatisfied, appellant jabbed Nonilon's chest several times more with same bolo

knife, resulting into a total of four (4) stab wounds. The relevant testimony of Lolita Frencillo Espinar describes Nonilon's grisly death as follows:

> "PROS DIAZ:
>
> q-
>
> From that point where you were witnessing the incident to the place of the incident itself, were there any obstructions that would block your view?
>
> a-
>
> There was a santol tree, but you could still see clearly the incident.
>
> xxxx.
>
> q-
>
> So after the stabbing what happened next?
>
> a-
>
> Immediately after, my brother Nonilon Frencillo was about to help by brother Dante, but Augusto Gallanosa, Sr., saw him, and stoned my brother at his back.
>
> q-
>
> So it was Augusto Gallanosa, Sr., alias Onto, who again stoned Nonilon Frencillo, is that correct?
>
> a-
>
> Yes, sir.
>
> q-
>
> So what happened when Augusto Gallanosa, Sr., stoned Nonito(sic) Frencillo?
>
> a-
>
> My brother ran, but was chased by Augusto Gallanosa, Jr..
>
> q-
>
> What happened next?
>
> a-
>
> He slipped and was caught up by this person.
>
> q-
>
> What happened after being caught by Augusto, Jr.?
>
> a-
>
> My brother was raising his hands and saying, "I will not fight you," but his hands were hacked.
>
> q-

You mean to say Nonilon, Frencillo, Jr., was raising his hands and despite that, he was still hacked by Augusto, Jr., was he hit?

a-

He was in a kneeling position and his hands were raised.

q-

When Augusto, Jr., hacked his hands, what happened after that?

a-

Nonilon was stabbed here (witness pointing at the upper chest) after stabbing my brother he went around him again and stabbed him again.

q-

So, how many times was your brother stabbed by Augusto, Jr., alias Aday?

a-

Maybe five times, sir, all in front.

q-

It was at the time when Nonilon Frencillo was kneeling and raising his hands, is that correct?

a-

Yes, sir, he was still kneeling when he died."[33] (underscoring supplied)

It has been held that treachery may still be appreciated even when the victim was forewarned of the danger to his person. What is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate.[34] Thus, it has been ruled that treachery is present where the victim was shot while his hands were raised pleading for his life as the victim poses no risk to the assailant.[35] In another case, the victim had his hands up, either to show that he would not fight, in fright, or to try toward off the shots that were to come. Consequently, the ruling was that there was treachery as the victim was in a defenseless position when shot.[36]

As to the alleged inconsistencies in the testimonies of the prosecution witnesses, the same are superficial to overturn appellant's conviction. Suffice to state, whether Dante was killed in front of appellant's house or Augusto Gallanosa Sr.'s house is not significant considering that their respective houses are just four (4) to six (6) meters away.[37]

At any rate, well-entrenched in our jurisprudence is the doctrine that the assessment of the credibility of witnesses lies within the province and competence of trial courts. This doctrine is based on the time-honored rule that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge who, unlike appellate magistrates, can weigh the testimony in the light of the declarant's demeanor, conduct and attitude at the trial and is thereby placed in a more competent position to discriminate between truth and falsehood.[38] The findings of the trial court on such matters then are binding and conclusive on the appellate court unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted, which is not true in the present case.[39]

As to the averred absence of injury resulting from stoning, the same should have been properly threshed out when the medico-legal officer, Dr. Rossana Galeria, testified. Unfortunately, none of the parties inquired about the

stoning injuries nor asked whether the medico-legal certificates issued were comprehensive or restricted only as to the knife wounds. It is also possible that there were no stone injuries because they were not thrown with sufficient force or that the stones are not hard enough to cause any noticeable damage. Nonetheless, what is significant in this case is that it was proven that when appellant entered the scene he swiftly plunged his bolo to Dante's chest without any warning.

As to the last element of murder, it is beyond dubiety that the victims were not in any way related to appellant.

Anent the penalty imposed, the trial court should have appreciated the mitigating circumstance of voluntary surrender as appellant immediately surrendered to a barangay tanod, Emilio Castedades on the same date of the incident.[40] However, there would be no change in the penalty considering that murder prescribes two (2) indivisible penalties[41] and the lesser penalty would be imposed if there exists a mitigating circumstance.[42] In this case, the lesser penalty is still reclusion perpetua for each count, the same penalty imposed by the trial court.

We now focus on the award of civil indemnity and other damages in favor of the heirs of Dante and Nonilon. We sustain the award of P75,000.00 as civil indemnity for the death of each of the victims which is mandatory and is granted without need of evidence other than the commission of the crime which caused the victims' death. As to moral damages, the same should be decreased to P50,000.00 in keeping with the latest jurisprudence. This amount is awarded despite the absence of proof of mental and emotional suffering of the victims' heirs as a violent death necessarily brings about emotional pain and anguish on the part of the victims' family. As to exemplary damages, it should be increased to P30,000.00 per victim.[43]

Referring now to funeral and burial expenses amounting to P51,000.00 for Nonilon, the same were adequately proven by the receipts[44] offered by the prosecution which were not objected to by the defense.[45] The rule is that evidence not objected to is deemed admitted and may be validly considered by the court in arriving at its judgment.[46]

With respect to the award of loss of earning capacity of Nonilon, who was a seaman, it is axiomatic that there must be unbiased proof of his average income.[47] However, the prosecution only submitted allotment slips pertaining to the period of March-June 2009 which amounts range from as low as P10,800.00 to as high as P29,720.00.[48] Moreover, the said allotment slips are clearly outdated as these were issued almost three (3) years prior to Nonilon's death. On this score, there was no basis for the trial court to peg the annual salary at P360,000.00 in computing this award, hence must be deleted. In its stead, we award a temperate damage amounting to P500,000.00. It is given that temperate damages maybe awarded in lieu of actual damages for loss of earning capacity where the earning capacity is plainly established but no evidence was presented to support the allegation of the injured party’s actual income.[49]

Finally, and in conformity with current policy, we also impose on all the monetary awards for damages an interest at the legal rate of 6% per annum from date of finality of this decision until fully paid.[50]

WHEREFORE, premises considered, the instant appeal is PARTIALLY GRANTED, such that the decision of the Regional Trial Court of Irosin, Sorsogon, Branch 55 dated 21 November 2011 is AFFIRMED with MODIFICATIONS. As modified, appellant Augusto Gallanosa, Jr., is ORDERED to pay the heirs of the victims as follows:

Criminal Case No. 1631

1. loss of earning capacity in the amount of P500,000.00;

2. actual compensatory damages in the amount of P51,000.00;

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

3. civil indemnity in the amount of P75,000.00;

4. moral damages in the amount of P50,000.00;

5. exemplary damages in the amount of P30,000.00;

6. to pay the cost; and

7. interest at the rate of 6 per annum on the amounts awarded shall be imposed, computed from the time of finality of this decision until full payment thereof.

Criminal Case No. 1632

8. civil indemnity in the amount of P75,000.00;

9. moral damages in the amount of P50,000.00;

10. exemplary damages in the amount of P30,000.00; and

11. to pay the cost; and

12. interest at the rate of 6 per annum on the amounts awarded shall be imposed, computed from the time of finality of this decision until full payment thereof.

The rest of the decision are AFFIRMED.

SO ORDERED.

Carandang, and Sorongon, JJ., concur.

---

[1] Notice of Appeal, Records, Vol. 1, pp. 387-388.

[2] Records, Vol. 1, p. 1.

[3] Records, Vol. 2, p. 1.

[4] Certificate of Arraignment, Records, Vol. I, p. 33.

[5] TSN, 11 July 2007, pp. 3-5.

[6] TSN, 4 May 2005, pp. 7-9.

[7] TSN, 14 January 2009, pp. 4-10.

[8] TSN,1 March 2011, p. 6.

[9] TSN, 19 August 2009, pp. 6-7.

[10] TSN, 1 March 2011, p.7.

[11] TSN, 16 June 2010, pp. 3-5.

[12] Records, Vol. 1, pp. 369-370.

[13] Order dated 9 March 2012, Records, Vol. 1, p. 386.

[14] People v. Lagman, G.R. No. 197807, 16 April 2012.

[15] Exhibit “1”, Records, Vol. 2, p. 10.

[16] Exhibit “B”, Records, Vol. 1, p. 10.

[17] People v. Maningding, G.R. No. 195665, 14 September 2011.

[18] Ibid.

[19] People v. Damitan, G.R. No. 140544, 7 December 2001.

[20] People v. Catbagan, G.R. No. 149430-32, 23 February 2004.

[21] Sombol v. People, G.R. No. 194564, 10 April 2013.

[22] TSN 1 March 2011, p. 13.

[23] TSN, 1 September 2010, p. 11.

[24] TSN, 1 March 2011, p. 14.

[25] Ibid.

[26] TSN, 1 March 2011, pp. 4-5.

[27] TSN, 19 August 2009, pp. 6-7.

[28] TSN, 1 March 2011, pp. 15-17.

[29] TSN, 19 August 2009, p. 6.

[30] TSN, 1 March 2011, p. 8.

[31] TSN, 4 May 2005, pp. 4-6.

[32] TSN, 11 July 2007, pp. 2-4, 14-15.

[33] TSN, 4 May 2005, pp. 8-9.

[34] People v. Tanoy, G.R. No. 115692, 12 May 2000.

[35] People v. Jutie, G.R. No. 72975, 31 March 1989.

[36] People v. Castro, G.R. Nos. L-20555 and L-21449, 30 June 1969.

[37] TSN, 1 March 2011, pp. 5-6.

[38] People v. Soriano, G.R. No. 171085, 17 March 2009.

[39] Sumbillo v. People of the Philippines, G.R. No. 167464, 21 January 2010.

[40] TSN, 16 June 2010, p. 4.

[41] Reclusion Perpetua to Death.

[42] Article 63, par. 3 of the Revised Penal Code.

[43] People v. Villarmea, G.R. No. 200029, 13 November 2013.

[44] Exhibits “D-D4”, Records, Vol. 1, pp. 190-191.

[45] No Comment to the Formal Offer of Evidence was filed by the defense despite the Order of the trial court

dated 23 July 2008.

[46] People v. Lopez, G.R. No. 188902, 16 February 2011.

[47] People v. Ibanez, G.R. No. 197813, 25 September 2013.

[48] Exhibits “E-E4”, Records, Vol. 1, pp. 192-196.

[49] Tan v. OMC Carriers, Inc., G.R. No. 190521, 12 January 2011.

[50] People v. Vergara, G.R. No. 177763, 3 July 2013.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

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.