

CAMILO CASCOLAN, JR., PLAINTIFF-APPELLEE, VS. R & E TRANSPORT, INC. AND MAGNOLITO TAJONERA, DEFENDANTS-APPELLANTS.

Ponente: MENDOZA, J.

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MENDOZA, J.:

At bar is an appeal from the October 6, 2000 Decision[1] of the Regional Trial Court, Branch 224, Quezon City, awarding damages in favor of the plaintiff-appellee, Camilo Cascolan, Jr. (Cascolan), whose car was bumped by the taxi of defendant-appellant R & E Transport, Inc. (R & E Transport), a company engaged in the taxi business, then driven by co-defendant-appellant Magnolito Tajonera (Tajonera).

The facts follow.

On December 23, 1997, Cascolan filed a Complaint for Damages against R & E Transport and Magnolito Tajonera for damages arising from a vehicular accident on October 2, 1997 involving their respective vehicles. In his Complaint,[2] Cascolan alleged:

“2. That plaintiff is the owner of a 1997 NISSAN SENTRA car with Plate No. PJA-362 which he purchased from the previous owner, Melanie Susan J. Quinto, as evidenced by a Deed of Sale of Motor Vehicle, dated April 14, 1995, duly executed by them, xerox copy of which is attached hereto as part hereof as Annex ‘A’;

3. That defendant R & E Transport, Inc. is engaged in the taxicab business, transporting passengers in Metro-Manila, and is the registered owner of the R & E Taxicab, a Daewoo Racer car, with Plate No. PWK-662, as evidenced by LTO Certificate of Registration No. 66827531, dated February 28, 1997, xerox copies of which are attached hereto as parts hereof as Annexes ‘B’ and ‘B-1.’ Defendant Magnolito Tajonera was the driver of the said R & E Taxicab at the time of the vehicular accident, subject of this complaint.

4. That on October 2, 1997, at about 12:20 o’clock in the morning, plaintiff was carefully and prudently driving his said car along Quezon Avenue Extension coming from Epifanio delos Santos Avenue (EDSA), Quezon City. When plaintiff’s car was about to enter the elliptical road with the intention to turn right at the inner lane of the Elliptical Circle, he saw one vehicle coming, running along the elliptical road going in the direction of the Quezon City Hall, and so, plaintiff slowed down his car and let said vehicle pass, after which he slowly drove his car straight, blowing his car’s horn several times and turning his car’s front lights in full brightness, as a signal in order to turn right at the inner lane. While plaintiff was slowly and carefully driving his car straight towards the inner lane, three (3) vehicles running along the elliptical road stopped to let plaintiff’s car pass. However, before plaintiff’s car could reach the center island separating the outer and inner lanes, the R & E Taxicab with Plate No. PWK-662 being driven by defendant Magnolito Tajonera, which was running fast, did not stop and, all of a sudden bumped plaintiff’s car which, as a consequence of the impact, turned around about ninety (90) degrees from its original position before the impact.

5. That as a result of such bumping, plaintiff’s left face hit the left front window glass, causing plaintiff to feel dizzy as well as pain on his left face;

6. That furthermore, as a consequence of such bumping, plaintiff’s aforesaid car suffered enormous damage,

which required major repair at the cost P73,992.42, as evidenced by the Sales Invoices of Nissan Quezon Avenue, Inc. and their attachments, xerox copies of which are attached hereto as parts hereof as Annexes 'C', 'C-1' and 'D.' Additionally, the rim of one of the tires of plaintiff's car was damaged and it will cost P1,500.00 to replace it.

7. That plaintiff was likewise deprived of the use of his said car, forcing him to use taxicabs as a means of transportation, for a period of fourteen (14) days while his said car was undergoing repairs, thereby putting him to a daily transportation expense of P300.00, for a total of P4,200.00 x x x"[3]

In their Answer,[4] R & E Transport and Magnolito Tajonera vehemently denied that they are liable for the accident as it was caused by the fault or negligence of Cascolan. R & E Transport added that, as a taxi company, it had exercised the due diligence of a good father of a family in the selection and supervision of its employees like Tajonera.

On October 6, 2000, after the trial on the merits, the trial court handed down a decision in favor of Cascolan, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and as against defendants, ordering the latter:

- to pay plaintiff jointly and severally the following:
- actual damages in the amount of P79,692.42 plus 12% interest until fully paid;
- P100,000.00 as moral damages;
- P50,000.00 as exemplary damages;
- P30,000.00 as attorney's fees;
- Costs of the suit.

IT IS SO ORDERED."[5]

Not in conformity with the trial court's ruling, R & E Transport and Tajonera interposed this appeal assailing the decision and praying for its reversal anchored on the following

"ASSIGNMENT OF ERRORS

- The Regional Trial Court has committed error when it failed to appreciate the defendant-appellant's evidence that the defendant R & E Transport, Inc., has exercised the due diligence in the supervision of its employees. Consequently, the order in the decision to pay plaintiff jointly and severally on damages, attorney's fees and the cost of the suit against the defendant R & E Transport, Inc. is improper.
- The Regional Trial Court has committed grave error when it awarded the plaintiff the moral and exemplary damages when the same is improper and were not proven by the plaintiff."[6]

R & E Transport points out that it has "always exercised the due diligence in the supervision of its employees, and more particularly defendant Magnolito Tajonera."[7] In fact, they caused the "installation of two-way radios to the taxi units, and to the units used by the inspectors in order to monitor and supervise the activities of the drivers. Installation of two-way radios is not even done in other big taxi companies. The inspectors working in the field who monitored the activities of the drivers, as they have designated places, could immediately report to the office and/or directly to the personnel manager on whatever violations committed by erring drivers, who did not comply with the rules and regulations of the company and/or traffic rules and regulations. As has been stated, the erring drivers have also to attend the seminar that is conducted once in every three months, and if the said erring driver

failed to attend the seminar, he could not drive a taxi of the defendant company.”[8]

On quasi-delict, Article 2176 of the New Civil Code states:

“Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damages done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.”

In connection therewith, Article 2180 provides for the solidary liability of an employer for the quasi-delict committed by an employee. The responsibility of employers for the negligence of their employees in the performance of their duties is primary and, therefore, the injured party may recover from the employers directly, regardless of the solvency of their employees. *Victory Liner, Inc. vs. Heirs of Andres Malecdan*[9] explains the rationale for the rule on vicarious liability and the proof necessary to exempt the employer from such liability:

“What has emerged as the modern justification for vicarious liability is a rule of policy, a deliberate allocation of a risk. The losses caused by the torts of employees, which as a practical matter are sure to occur in the conduct of the employer's enterprise, are placed upon that enterprise itself, as a required cost of doing business. They are placed upon the employer because, having engaged in an enterprise, which will on the basis of all past experience involve harm to others through the tort of employees, and sought to profit by it, it is just that he, rather than the innocent injured plaintiff, should bear them; and because he is better able to absorb them and to distribute them, through prices, rates or liability insurance, to the public, and so to shift them to society, to the community at large. Added to this is the makeweight argument that an employer who is held strictly liable is under the greatest incentive to be careful in the selection, instruction and supervision of his servants, and to take every precaution to see that the enterprise is conducted safely.

Employers may be relieved of responsibility for the negligent acts of their employees acting within the scope of their assigned task only if they can show that ‘they observed all the diligence of a good father of a family to prevent damage.’ For this purpose, they have the burden of proving that they have and in the supervision of the performance of his duties.

In the selection of prospective employees, employers are required to examine them as to their qualifications, experience and service records. With respect to the supervision of employees, employers must formulate standard operating procedures, monitor their implementation and impose disciplinary measures for breaches thereof. These facts must be shown by concrete proof, including documentary evidence.”

Consequently, when an injury is caused by the negligence of an employee, there instantly arises a presumption that the employer has been negligent either in the selection of his employees or in the supervision over their acts. However, this is only a disputable presumption, which could be overcome by proof of due diligence of a good father of a family.

In the case at bar, the thrust of plaintiff Cascolan’s evidence is that while he was driving his car straight towards the inner lane, after three (3) vehicles running along the elliptical road stopped to let him pass, the R & E Taxi driven by Tajonera, which was running fast, did not stop until it crashed into his car. The ramming caused his car to turn around about ninety (90) degrees from its original position and sustain damages and causing him to sustain injuries including a bruised face.[10] Giving credence to this, the trial court found Tajonera negligent and ordered him and his employer to pay, jointly and severally, damages to Cascolan.

In this appeal, R & E Transport insists that it had exercised the due diligence of a good father of a family in the selection and supervision of its employees including Tajonera. To prove that it did, R & E Transport presented, as its witness, Romulo Basinal, its OIC, Personnel and Liaison Officer, who testified that before an applicant is considered for employment, he is required to give a bio-data, NBI Clearance, SSS number, three guarantors, ID pictures, and a Barangay Clearance. After that, the applicant is given a road test, an orientation and

trouble-shooting test.[11] Based on the records of the case, Tajonera complied with all the requirements of the company and passed the test. In evidence, it submitted (1) the company's Rules and Regulations dubbed as "Mga Alituntunin ng Kompanyang R & E Transport, Inc. Bago Tanggapin ang isang Aplikante at ang mga Dapat Sundin ng Driver o Empleyado,"[12] (2) Tajonera's Personal Data Sheet,[13] (3) his NBI Clearance,[14] (4) his Barangay Clearance,[15] (5) his SSS Identification Card,[16] (6) his Driver's License,[17] (7) his Employee's Record,[18] and (8) his Application Sheet.[19]

Nevertheless, even if Tajonera was properly selected by R & E Transport, it must still exercise the same degree of due diligence in the supervision of its employees. The Court is of the considered view that it failed in this aspect.

Although Basinal testified that they give regular seminars to their drivers every three months,[20] they did not present proof that Tajonera was present in any of those seminars considering that he had been with the company for almost two years.[21] It even appears from his testimony that Tajonera was only compelled to attend the company seminar after the incident.[22]

R & E Transport also manifested that they have around 10 to 20 inspectors assigned in specific areas to monitor the movements of their units but, as correctly stated by the trial court, the said number was not sufficient enough to monitor and supervise their more than 500 taxi units plying their routes daily. They have not satisfactorily explained how they assign their inspectors to cover and check all the units crisscrossing the Metro-Manila roads.

Furthermore, when asked how their two-way radios helped in monitoring the activities of their drivers, Mr. Basinal answered vaguely as can be gleaned from the stenographic notes, to wit:

"ATTY. FAJARDO

Q. You mentioned, Mr. Witness, that the Company provided a two-way radio to each taxi unit, is that correct?

MR. BASINAL

A. Yes, sir.

Q. Will you explain to this Honorable Court in what manner that the said two-way radio could help monitor or supervise the activities of the driver in the field?

A. To report it immediately, sir.

Q. Who will report Mr. Witness?

A. Sometimes the driver is doing the reporting, however, it is really the inspector who should report to our office. Sometimes, they report to me directly."[23]

In the supervision of employees, employers must formulate standard operating procedures, closely monitor their implementation, and impose disciplinary measures for breaches thereof. These facts must be shown by concrete proof, including documentary evidence. The company must not only enumerate the measures they are taking to effectively supervise their employees but, more important, it must be able to explain how such measures are being implemented and followed to the letter by their employees. Evidently, R & E Transport failed to overcome the presumption of negligence on its part.

As to the award of moral damages, in order that it may be awarded, there must be pleading and proof of moral suffering, mental anguish, fright, and the like. In this case, Cascolan had satisfactorily shown the moral suffering he experienced as a result of the accident, his third.[24] We, however, deem it proper to reduce the award of moral damages to P30,000.00 in keeping with the standing rule that the award of moral damages must be proportionate to the suffering inflicted.

Similarly, the award of exemplary damages should also be reduced to the same amount. Exemplary damages are imposed not to enrich one party or impoverish another but to serve as a deterrent against or as a negative incentive to curb socially deleterious actions.[25] Tajonera did not observe proper road courtesy to Cascolan which resulted in the unfortunate incident. Public utilities should instill among its taxi drivers that public safety is paramount in their line of business.

WHEREFORE, the October 6, 2000 Decision of the Regional Trial Court, Branch 224, Quezon City, is hereby AFFIRMED except that as to the award of moral damages which is hereby reduced to P30,000.00 and that of exemplary damages which is reduced to P30,000.00.

SO ORDERED.

Asuncion, (Chairman) and Tayag, JJ., concur.

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- [1] Records, pp. 165-174.
[2] Records, pp. 1-6.
[3] Records, pp. 1-3.
[4] Records, pp. 18-22.
[5] Records, pp. 173-174.
[6] Rollo, p. 13.
[7] Rollo, p. 15.
[8] Rollo, p. 23.
[9] G.R. No. 154278, December 27, 2002, 394 SCRA 520.
[10] TSN, August 26, 1998, pp. 16-20.
[11] TSN, April 14, 1999, pp. 11-12.
[12] Records, pp. 109-112.
[13] Records, p. 113.
[14] Records, p. 114.
[15] Records, p. 115.
[16] Records, p. 116.
[17] Records, p. 117.
[18] Records, p. 118.
[19] Records, p. 119.
[20] TSN, April 14, 1999, pp. 15-16.
[21] Records, p. 118.
[22] TSN, May 13, 1999, p. 38.

[23] TSN, April 14, 1999, pp. 21-22.

[24] TSN, August 26, 1998, p. 30

[25] Macenas vs. Court of Appeals, 180 SCRA 83.

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