

**TAURUS TAXI CO., INC., FELICITAS V. MONJE, ET AL.,
PLAINTIFFS-APPELLEES, VS. THE CAPITAL INSURANCE & SURETY CO., INC., DEFENDANT-APPELLANT.**

G.R. No. L-23491. July 31, 1968

Ponente: FERNANDO, J.

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FERNANDO, J.:

The principal legal question in this appeal from a lower court decision, ordering defendant-appellant The Capital Insurance & Surety Co, Inc. to pay the plaintiff-appellee Taurus Taxi Co., Inc. as well as plaintiffs-appellees, widow and children of the deceased Alfredo Monje, who, in his lifetime, was employed as a taxi driver of such plaintiff-appellee, "the sum of P5, 000.00 with interest thereon at the legal rate from the filing of the complaint until fully paid," with P500.00 as attorney's fees and the costs of the suit, is whether or not a provision in the insurance contract that defendant-appellant will indemnify any authorized driver provided that [he] is not entitled to any indemnity under any other policy, it being shown that the deceased was paid his workman's compensation from another insurance policy, should defeat such a right to recover under the insurance contract subject of this suit. The lower court answered in the negative. Its holding cannot be successfully impugned.

The appealed decision stated at the outset that the motion for judgment on the pleadings filed by the plaintiffs was granted, the defendant having no objection and the issue presented being capable of resolution without the need of presenting any evidence.

Then the decision continues: "Alfredo Monje, according to the complaint, was employed a taxi driver by the Plaintiff Taurus Taxi Co., Inc. On December 6, 1962, the taxi he was driving collided with a Transport taxicab at the intersection of Old Sta. Mesa, and V. Mapa streets, Manila resulting in his death. At the time of the accident, there was subsisting and in force Commercial Vehicle Comprehensive Policy No. 101,737 * * * issued by the defendant to the Taurus Taxi Co., Inc. The amount for which each passenger, including the driver, is insured is P5, 000. 00. After the issuance of policy No. 101, 737, the defendant issued the Taurus Taxi Co., inc. Indorsement No, 1 which forms part of the policy * * *,"[1] Reference was then made to plaintiff- appellee Felicitas Monje being the widow of the taxi driver, the other plaintiffs-appellees with the exception of the Taurus Taxi Co. Inc., being the children of the couple. After which it was noted that plaintiff Taurus Taxi Co., Inc. made representations "for the payment of the insurance of the insurance benefit corresponding to her and her children since it was issued in its name, benefit corresponding to her and her children, * * but despite demands * * * the defendant refused and still refuses to pay them." [2]

On the above facts, the liability apparently clear, the defenses interposed by defendant insurance company being in the opinion of the lower court without merit, the aforesaid judgment was rendered. This being a direct appeal to us on questions of law, the facts as found by the lower court cannot be controverted.

Defendant-appellant Capital Insurance & Surety Co., Inc. alleged as the first error of the lower court its failure to hold "that in view of the fact that the deceased Alfredo Monje was entitled to indemnity under another insurance

policy issued by Ed. A. Keller Co., Ltd., the heirs of the said deceased are not entitled to indemnity under the insurance policy issued by appellant for the reason that the latter policy contains a stipulation that 'the company will indemnify any authorized driver provided that such authorized driver is not entitled to indemnity under any other policy.'"[3] In the discussion of the above error, defendant-appellant stated the following: "The, facts show that at the time of his death, the deceased Alfredo Monje, as authorized driver and employees of plaintiff Taurus Taxi Co., was entitled to indemnity under another insurance policy, then subsisting, which was Policy No. 50PH-1605 issued by Ed. A. Keller Co., Ltd. To plaintiff Taurus Taxi Co., Inc. As a matter of fact, the indemnity to which the deceased Alfredo Monje was entitled under the said Policy No. 50PH-1605 was paid by Ed A. Keller Co. Ltd. to the heirs of Alfredo Monje on December 28, 1962, as evidenced by the records of W. C. C. Case No. A-88637 entitled Felicitas V. Monje, et al. vs. Taurus Taxi Co., Inc., Regional Office No. 4, Department of Labor, Manila * * *." [4]

The, above defense, based on a fact which was not disputed, was raised and rightfully rejected by the lower court. From its own version, defendant-appellant would seek to escape liability on the plea that the workman's compensation to which the deceased driver was rightfully entitled was settled by the employer through a policy issued by another insurance firm. What was paid therefore was not indemnity but compensation.

Since what is prohibited by the insurance policy in question is that any "authorized driver of plaintiff Taurus Taxi Co., Inc." should not be "entitled to any indemnity under any policy", it would appear indisputable that the obligation of defendant-appellant under the policy had not in any wise been extinguished. It is too well-settled to need the citation of authorities that what the law requires enters into and forms part of every contract, The Work-men's Compensation Act explicitly requires that an employee suffering any injury or death arising out of or in the course of employment be compensated. The fulfillment of such statutory obligation cannot be the basis for evading the clear, explicit and mandatory terms of a policy.

In the same way as was held in *Benguet Consolidated, Inc., v., Social Security System*, [5] sickness benefits under the Social Security Act may be recovered simultaneously with disability benefits under the Workmen's Compensation Act, the previous payment made of the compensation under such legislation is no obstacle by virtue of a clause like that invoked by defendant-appellant to the payment of indemnity under the insurance policy.

Assuming however that there is a doubt concerning the liability of defendant-appellant insurance firm, nonetheless, it should be resolved against its pretense and in favor of the insured. It was the holding in *Eagle Star Insurance, Ltd. v. Chia Yu* [6] that courts are to regard "with extreme jealousy" limitations of liability found in insurance policies and to construe them in such a way as to preclude the insurer from non-compliance with his obligation.

In other words, to quote a noted authority on the subject, "a contract of insurance couched in language chosen, by the insurer is, if open to the construction contended for by the insured, to be construed most strongly, or strictly, against the insurer and liberally in favor of the contention of the insured, which means in accordance with the rule *contra proferentem*." [7] Enough has been said there-fore to dispose of the first assigned error.

The point is made in the second alleged error that the lower court ought to have held "that by joining the heirs of Alfredo Monje as a party plaintiff, plaintiff Taurus Taxi Co., Inc. committed a breach of policy condition and thus forfeited what ever benefits, if any, to which it might be entitled under appellant's policy." [8] The basis for such an allegation is one of the conditions set forth in the policy. Thus: "5. No admission, offer, promise or pay-ment shall be made by or on behalf of the insured without the written consent of the Company which shall be entitled if it so desires to take over and conduct in his name the defense or settlement of any claim or to prosecute in his

name for its own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim and the Insured shall give all such information and assistance as the Company may require * * *." [9]

Such a plea is even less persuasive. It is understandable then why the lower court refused to be swayed by it. The plaintiff Taurus Taxi Co., Inc. had to join the suit on, behalf of the real beneficiaries, the heirs of the deceased driver, who are the other plaintiffs as it was a party to the policy.

Moreover, as noted in the decision appealed from: "The institution of the action cannot possibly be construed as an admission, offer, promise, or payment by the company, for it merely seeks to enforce, by court action, the only legal remedy available to it, its rights under the contract of insurance to which it is a party. To consider, furthermore, the commencement of an action by the insured, alone or with others, as a breach of the policy, resulting In forfeiture of the benefits thereunder, to place in the hands of the insurer the power to nullify at will the whole contract of insurance by the simple expedient of refusing to make payment and compelling the insured to bring a suit to enforce the policy.[10]

To so construe the policy to yield a contrary result is to put a premium on technicality. If such a defense is not frowned upon and rejected, the time will come when the confidence on the part of the public in the good faith of insurance firms would be minimized, if not altogether lost. Such a deplorable consequence ought to be avoided and a construction of any stipulation that would be fraught with such a risk repudiated. What the lower court did then cannot be characterized as error.

The third error assigned, namely, that the lower court should have considered the filing of the complaint against defendant-appellant as unjust and unwarranted, is, in the light of the above, clearly without merit.

WHEREFORE, the appealed decision of the lower court ordering defendant-appellant "to pay the plaintiffs the sum of P5, 000. 00 with interest thereon at the legal rate from the filing of the complaint until fully paid, P500.00 as attorney's fees," [11] with costs is affirmed. Costs against defendant-appellant.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, and Angeles, JJ., concur.
Ruiz Castro, J. did not take part.

[1] Decision of the lower court of July 20, 1964, Record on. Appeal, pp. 100-101.

[2] Ibid, p. 101.

[3] Brief for Appellant, p. 11.

[4] Ibid, p. 13.

[5] L-19254, March 31, 1964, affirmed in Rural Transit Employees Asso. v. Bachrach Transportation Co., L-21441, Dec. 15, 1967.

[6] 96 Phil. 696 (1955).

[7] Couch on Insurance, Vol. I, pp. 393-400 (1929). See also Couch on Insurance, Vol. 1, 2nd ed., p. 777 (1959). Ogilvie v. Aetna Life Insurance Co., 26 ALR 116, 189 Cal. 406, 209 P. 26 (1922); Ocean Accident & Guarantee Corp., Ltd. v. Industrial Accident Commission, 228 P. 1 (1924); Siskin v. Alliance Ins. Co. v. Netherlands Fire & Life Ins. Co., 251 P. 922 (1926); Ogburn v. Travelers' Ins. Co., 207 Cal. 50, 276 P. 1004 (1929); First National Trust & Savings Bank of San Diego v. Industrial Accident Commission, 2 P2d 347 (1931) and New York Life Insurance Co. v. Hollender, 237 P2d 510 (1951).

[8] Brief for Appellant, p. 22.

[9] Ibid, pp. 22-23.

[10] Decision of the lower court, Record on Appeal, pp. 103-104.

[11] Ibid, p. 104.

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