

HEIRS OF ABELARDO BILLONES, NAMELY: ANA B. BILLONES, AIDA B. AMBROCIO, ALICE BILLONES, ARTURO BILLONES, ABE BILLONES, AMY B. ARCE & ANABEL BILLONES, PLAINTIFFS-APPELLEES, VS. FE...

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

Before Us is an Appeal[1] assailing the Judgment[2] dated January 31, 2011 granting plaintiffs-appellees' action for damages issued by the Hon. George C. Jabido, Presiding Judge of the Regional Trial Court, Branch 18, 12th Judicial Region, Midsayap, Cotabato in Civil Case No. 97-010 for Damages.

The Facts

Plaintiffs-appellees Ana Billones, Aida B. Ambrosio, Amy B. Arceo, Alice, Arturo, Abe, and Anabel, all surnamed Billones, are the surviving heirs of deceased Abelardo B. Billones (Abelardo for brevity) who died after being hit by defendants-appellants' bus along the national highway of Poblacion 2, Pigcawayan, Cotabato City on February 23, 1997.

Defendant-appellant Weena Express, Inc., formerly known as MINTRANCO, is a domestic corporation duly organized under Philippine laws with office address at Bug-ac, Maa, Davao City. It is primarily engaged in the business of public transportation offering its services for the carriage of passengers and goods to permitted routes. Defendant-appellant Felix M. Hermogenes is an employee of Weena Express, Inc. and was the one driving the bus that hit deceased Abelardo.

On June 2, 1997, plaintiffs-appellees heirs of Abelardo filed a complaint for damages against defendants-appellants Felix Hermogenes and Weena Express, Inc. /MINTRANCO for the death of Abelardo.

The complaint alleged that sometime on February 23, 1997, at around 12:50p.m., MINTRANCO Bus #875, with Plate No. MVE-382, registered in the name of Weena Express, Inc., while being driven by bus driver Felix Hermogenes on its way to Davao City and just before arriving at Poblacion, Pigcawayan, Cotabato City, was driven in a very fast and reckless manner that it bumped and hit the rear portion of the motorized service tricycab running ahead of the bus and driven by deceased Abelardo. Upon impact, the tricycab was further dragged by the bus 35 meters to the left side of the highway causing the instantaneous death of Abelardo and the complete damage to his tricycab.

In its answer, defendants-appellants denied liability for Abelardo's death and claimed that the accident happened due to the recklessness and negligence of Abelardo who, from his store located on the left shoulder of the highway, suddenly crossed towards the right lane heading to Poblacion Pigcawayan without giving regard to the immediately approaching Weena Bus. Consequently, the Weena Bus, despite efforts to steer clear of the intruding tricycab, accidentally hit its rear portion. Defendants-appellants also filed a counterclaim for damages.

Trial on the merits thereafter ensued. After trial, the court a quo in its Judgment dated January 31, 2010 granted

the complaint for damages, ruling in this wise:

WHEREFORE, premises considered, the Court hereby renders judgment against defendants Felix Hermogenes, as the driver, and likewise against the owners of the MINTRANCO Bus Numbered 875 bearing Plate No. MVE-382 with Motor Number EK-100-307486, Chassis No. RP-821-42064, registered under the ownership and in the name of WEENA EXPRESS, INC., and managed and operated by both WEENA EXPRESS, INC., AND MINTRANCO, pursuant to articles 2176 and 2180 of the Civil Code of the Philippines and said defendants WEENA EXPRESS, Inc./thru its Manager, Mr. Valdevieso are ordered to pay jointly and severally to the plaintiffs the following amount:

In favor of the heirs of Abelardo Billones represented by Ana B. Billones the surviving spouse, and with the living children namely Aida B. Ambrosio, Alice Billones, Arturo Billones, Abe Billones, Amy B. Arceo, and Anabel Billones, the death compensation of Fifty Thousand Pesos (P50,000.00), plus the:

- a) Funeral and burial expenses of Forty Thousand Pesos (P40,000.00);
- b) For the Damage of the motorized tricycab in the amount of (P15,000.00);
- c) Attorney's fees of Fifteen Thousand Pesos (P15,000);
- d) Costs of suit.

SO ORDERED.[3]

Hence, this appeal interposed by the defendants-appellants raising the following errors, to wit:

I

THE LOWER COURT ERRED IN RULING THAT THE PROXIMATE CAUSE OF THE DEATH OF ABELARDO BILLONES AND DAMAGES TO THE MOTORIZED TRICYCAB WAS THE FAST SPEED RUNNING OF THE WEENA BUS; AND

II

THE LOWER COURT ERRED IN RULING THAT DEFENDANT WEENA EXPRESS, INC. IS SOLIDARILY LIABLE WITH FELIX M. [H]ERMOGENES, FOR THE PAYMENT OF DEATH COMPENSATION, DEATH AND BURIAL EXPENSES, DAMAGES AND ATTORNEY'S FEES TO PLAINTIFFS AS A RESULT OF THE VEHICULAR COLLISION.[4]

Our Ruling

The appeal is bereft of merit.

Essentially, the issues for resolution may be restated as follows: (1) whether or not negligence may be attributed to bus driver Hermogenes, and whether his negligence was the proximate cause of the accident, resulting in the death of Abelardo and damages to his tricycab; (2) whether or not defendants-appellants are liable to plaintiffs-appellees for damages; and (3) whether or not the damages awarded by the court a quo are proper.

Defendants-appellants claim that the court a quo erred in failing to consider that Abelardo's sudden and reckless execution of a left turn which caused the collision was the sole proximate cause of the accident. Were it not for deceased Abelardo's negligence in suddenly making a left turn towards the direct path of the immediately approaching Weena Bus, the accident would not have happened. Abelardo's sudden left turn, triggered a series of events that led to the collision and, ultimately, to Abelardo's death and damages to the tricycab.

The court a quo, on the other hand, gave more credence to the testimony of plaintiffs-appellees' witnesses and

found that it was the negligent driving of defendant-appellant Hermogenes that was the proximate cause of the accident that led to the death of Abelardo and damages to his tricycab. Hence, the court a quo held the defendants-appellants jointly and severally liable for damages arising from quasi-delict in favor of the plaintiffs-appellees, heirs of deceased Abelardo Billones.

We agree with the court a quo.

We scrutinized the transcript of stenographic notes and found that contrary to the defendants-appellants' claim, the tricycab was already traversing the right side of the national highway when it was hit by the Weena Bus; and that the Weena Bus was actually overspeeding when it hit the tricycab from behind that it further dragged the tricycab 35 meters away from the point of first impact.

During the trial, eyewitness Leonardo Dechusa, a farmer who was a mere 35 meters away from, and facing, Abelardo when the bumping incident occurred, testified that he did not see other vehicles immediately following the tricycab when he saw Abelardo cross the national highway. He also testified that he saw Abelardo already traversing the right lane of the national highway towards Poblacion, Pigcawayan when the bus hit it from behind, thus:

Q:

Now while you were on your way towards Buluan facing Cotabato City along the road did you see the victim Abelardo Bill[ones]?

xxx

A: He was riding on his tricycab leading [to] Pigcawayan.

Q: From where did he come from?

A: From his store.

xxx

Q:

Now since you were facing Cotabato then that time and you saw Abelardo Bill[ones] travelling riding on his tricycab towards Pigcawayan now did you see the other vehicle following Abelardo Bill[ones]?

A: None, maam

Q:

Now at the time you saw Abelardo Bill[ones] riding on his tricycab and travelling towards Pigcawayan, how far were you from Abelardo Bill[ones]?

A: I was 35 meters.

xxx

Q:

Now how far were you when you saw the Weena Bus bumped first Abelardo Bill[ones]?

A: 40 meters, ma'am.

xxx

Q:

Now what part of the tricycab of Abelardo Bill[ones] was hit by the Weena Bus?

A: The rear portion was bumped by the Weena bus ma'am.

xxx

Q: Which part of the Weena Bus that hit Abelardo Bill[ones] and his tricycab?

A:

If I were to determine the portion of the Weena Bus that hit the tricycab of Abelardo Bill[ones], it was the left side of the [d]river.

Q: Do you mean the front of the Weena Bus?

A: Yes, ma'am.[5]

Upon cross-examination, Dechusa was consistent in his testimony that when he saw Abelardo cross the national highway from his store located at the left shoulder of the road adjacent to Buluan Bridge, the Weena Bus had not yet crossed Buluan Bridge and was still a good 200 meters away from the said bridge; and that Abelardo had already traveled 15 meters away from Buluan Bridge traversing the right lane when the bus hit it from behind, thus:

Q: Where was the bumping actually took place?

A: After the bridge about 15 meters away from the bridge, sir.

Q:

You are telling that the Weena Bus has already crossed the bridge when it hit the tricycle driven by Abelardo Bill[ones]?

xxx

A:

When the Weena Bus bump[ed] the tricycle, the Weena bus has already pass[ed] the bridge, sir.

Q:

Can you estimate the distance from the bridge up to the point where Abelardo Bill[ones] was hit by the Weena Bus?

A: About 15 meters, sir.

Q:

When you saw the Weena Bus first hit Abelardo Bill[ones] how far were you to the point when Abelardo Bill[ones] was first hit by the said bus?

A: 35 meters, sir.

Q: Mr. Dechosa, you said that the Weena Bus crossed the bridge, did you see the Weena Bus cross the bridge?

xxx

A: I saw, sir.

Q: There are houses near the bridge, Mr. Witness?

A: There are house[s] near the bridge, sir.

Q: And there is a school near the bridge?

A: None, sir.

xxx

Q:

That tricycad driven by Abelardo Bill[ones] was r[u]nning on the right lane of the road going to the Poblacion of Pigcawayan?

A: Yes, sir.

Q:

Abelardo Bill[ones] came from his store which according to you located at the shoulder of the right lane of the road going to Cotabato City?

A: Yes, sir.

Q:

So, you are telling us that Abelardo Bill[ones] from his store cross the street because he is going to the Poblacion going to the right lane?

A: Yes, sir.

Q:

Did you notice that there was a passenger jeepney running to the road going to Cotabato City before Abelardo Bill[ones] cross the road?

A: None, sir.

Q:

You said that you notice Abelardo Bill[ones] cross the national highway from his store. When you noticed him crossing the road, the Weena Bus has already crossed the bridge?

A: Not yet.

Q: The Weena Bus was very near already at the bridge?

A: About 200 meters from the bridge when Abelardo Bill[ones] crossed the national highway going to the Poblacion of Pigcawayan.

Q: You are very accurate on the distance. Do you know the length of one meter?

xxx

A: I know.[6]

Second eyewitness Roger Bolangis, a tricycle driver who was a mere 60 meters away from, and facing, Abelardo when the latter was hit by the bus, corroborated Dechuso's testimony and testified thus:

Q:

You said Abelardo Bill[ones] was bumped by a Mintranco Bus, where was Abelardo Bill[ones] then when he was bumped by a Mintranco Bus?

A: He passed the national highway towards Pigcawayan ma'am.

Q: From where did he come from?

A: Crossing Buluan, ma'am.

xxx

Q: Now in what lane of the road was Abelardo Bill[ones] driving the triscad when he was bumped by the Mintranco Bus?

A: In the right lane towards Davao, sir.

xxx

Q:

Now in terms of meters how far was the Mintranco Bus from Abelardo Bill[ones] when you first saw them?

A: Around 500 meters, ma'am.

xxx

Q:

Now when Abelardo Bill[ones] and his trisicad was bumped, what part of the trisicad was hit by the Mintranco Bus?

A: The rear part of the trisicad, ma'am.[7]

Upon cross-examination, Roger Bolangis affirmed that indeed, he saw Billones drive his tricycle from the left shoulder towards the right lane of the national highway heading to Poblacion Pigcawayan while the bus was still 500 meters away, thus:

Q: When you first saw the trisicad, where was the trisicad?

A: At his store, sir.

Q: On the road side?

A: Yes, sir.

Q: And from his store, he has to do left turn or you did not see the trisicad?

A: I saw the trisicad made a left turn towards the direction of Davao City, sir.

Q: And according to you the bus was coming from Cotabato City bound for Davao City?

A: Yes, sir.

Q: In other words, the bus was following the trisicad of Abelardo Bill[ones]?

A: Yes, sir.

Q:

And according to you the first time you saw the bus, the bus was far away according to you?

A: The bus was very far when Abelardo Bill[ones] cross[ed] the highway, sir.

Q:

Can you estimate about 500 meters from the store of Abelardo Billones when Abelardo Bill[ones] cross[ed] the highway?

A: Yes, sir.

xxx

Q: Where was the bus when Abelardo Bill[ones] cross[ed] the road?

A: Still at the second bridge, sir.

Q: Second [bridge] from the store of Abelardo Bill[ones]?

A: Yes, sir.

xxx

Q: And according to you from the store of Abelardo Bill[ones], the bus was around 500 meters, which according to you is in the second bridge, on the second bridge or before the second bridge?

A: After the second bridge, sir.

Q:

And because of the fact that the bus was still far when Abelardo Bill[ones] cross[ed] the road, he was bumped by the bus?

A: Yes, sir because the Mintranco bus [was] running fast, sir.[8]

It is clear from the aforequoted testimonies of both eyewitnesses Dechuso and Bolangis that the Weena Bus was, at the very least, 200 meters away when the tricycab crossed the national highway; that it had already moved 15 meters away from the Buluan Bridge traversing the right lane of the national highway heading to Poblacion Pigcawayan when the Weena Bus hit it from behind, effectively belying defendants-appellants' contention that it was Abelardo's sudden left turn to the right lane and abruptly crossing the path of the immediately approaching Weena Bus that was the proximate cause of the accident.

Based on the foregoing, it is clear that the Weena Bus had seen the tricycab crossed the national highway and had ample opportunity and the last clear chance to avoid a collision with the tricycab. That the Weena Bus, despite such ample opportunity to avoid a collision, did not do so clearly establishes its negligence.

Further, if it were true that the tricycab suddenly and out of the blue crossed the path of the immediately approaching Weena Bus, the tricycab should have been hit ordinarily on its right side and not on its rear. Here, evidence shows that the tricycab was hit from behind and not on its right side which only lends credence to plaintiffs-appellees' claim that the tricycab was indeed already traversing, and not just crossing, the national highway as claimed by the defendants-appellants, when it was hit from behind. The fact that the tricycab was hit from behind and not on its right side was not even refuted nor denied by the defendants-appellants.

Defendants-appellants would like this Court to believe and give credence to the testimony of their witness Isidro Dante, a passenger of the Weena Bus at the time of the accident, who testified that immediately after a jeep overtook the tricycab, the tricycab suddenly made a U-turn and encroached on the path of the incoming Weena Bus. Despite applying the brakes, defendant-appellant Hermogenes failed to avoid a collision with the intruding tricycab due to the proximity of distance thus, the accident.

After a careful reading of the TSN, however, We note that Isidro Dante's testimony is heavily riddled with factual uncertainties, contrary to the normal human tendency to remember facts relating to a startling or shocking experience one may witness. First, he testified that he purportedly saw a jeep overtook the tricycab. When asked of the color of the jeep, however, he could not remember.[9] Second, Dante could not remember seeing the position of Abelardo and the tricycab after the collision because several people accordingly began to swarm the

area where Abelardo and the tricycab were thrown.[10] His testimony fails to convince. If at all, it only establishes the fact of bumping of the tricycab by the Weena Bus.

Defendants-appellants further contend that no lack of care or negligence could be imputed to them as the bus was not even running fast as it just crossed the Buluan Bridge with a speed of only 60-65 kilometer per hour.

This argument is unsupported by evidence.

As discussed above, the tricycab had already moved a good 15 meters away from the 2-lane Buluan Bridge when the Weena Bus hit it from the rear. That the point of first impact was 15 meters away from Buluan Bridge effectively belies defendants-appellants' claim that the Weena Bus could not have been unreasonably speeding as it had just crossed Buluan Bridge. Further, it was established during the trial that the tricycab, upon impact, was further dragged by the Weena Bus' underchassis 35 meters away from the point of first impact towards the left lane. That the tricycab was further dragged by the Weena Bus 35 meters away was neither denied nor refuted by the defendants-appellants. This established fact clearly demonstrates that the Weena Bus was indeed negligent. Otherwise, the tricycab would not have been unnecessarily dragged 35 meters away upon impact.

Defendants-appellants further asseverate that its contention that Abelardo's negligence is the proximate cause of the accident is corroborated by the Traffic Accident Investigation Report executed by Police Officer SPO4 Reynold Dequit who investigated the accident immediately after its occurrence.

While it is true that indeed the said traffic report contains the entry "bad turning" on the part of the tricycab, it was established during the trial, however, that such entry was made by said Police Officer Dequit, who arrived at the scene of the accident 30 minutes after, based on his own conclusion and not on eyewitnesses' account. Police Officer SPO4 Reynold Dequit testified, thus:

Q:

You said Mr. Patrolman Dequit that you noted in your traffic investigation report you stated there bad turning?

A:

Yes, ma'am.

Q:

Now that was your conclusion?

A:

Yes.

Q: That was not relayed to you by the witness?

xxx

Q: That was your conclusion?

A: Yes, ma'am.

Q: That was not told to you by the eyewitness?

A: No.

Q:

In fact you did not try to verify from the eye witnesses the distance of the Weena Bus from the motorized tricycab when it crossed the highway?

A: I did not.

Q:

Per your investigation the vehicle 1 which is the motorized tricycab was hit at the rear portion?

A: Yes, ma'am.

Q: By the front portion of the Weena Bus?

A: Yes, ma'am.

Q:

Since it was hit at the rear portion that would mean that the tricycab was already running towards Poblacion Pigcawayan?

A: Yes.

xxx

Q:

Now you have noted in your Traffic Investigation Report that the Vehicle 1 which is the motorized tricycab was already on the right lane of the road towards Pigcawayan when it was bumped?

A:

Yes.

Q:

Since it was bumped at the rear portion where was the Mintranco Bus then? Which vehicle [was] coming ahead?

A: The motorized tricycab, ma'am.

Q:

Did you also try to find out in your investigation at what point of the right lane did the impact bumping occurred?

A: At the right lane of the national highway.

Q: Which portion of the right lane, middle....

A: Near the middle at the right lane, ma'am.[11]

It can be gleaned from the foregoing that the tricycab was hit while traversing the middle portion of the right lane, and neither before nor just after reaching the right lane, further belying defendants-appellants' claim of sudden left turn or bad turning by Abelardo. Despite moving on the proper lane with due diligence, the tricycab was bumped and dragged from behind by the overspeeding Weena Bus which demonstrates negligence on the part of the

defendants-appellants.

Defendants-appellants further argue that Abelardo was already committing a violation when it crossed the national highway because of Ordinance No.6 of the Municipality of Pigcawayan, Cotabato which prohibits trisikad from running along the national highway. Thus, Abelardo's negligence was also established by his violation of a traffic regulation in accordance with Article 185 of the Civil Code. Plaintiffs-appellees, however, assert that the tricycab was not covered by the said Ordinance considering that it was not used for public transportation but merely for personal service.

We rule for the plaintiffs-appellees.

Absent proof that indeed, Abelardo's tricycab was covered by the said Ordinance and was indeed committing a violation when the accident occurred, this argument of defendants-appellants is untenable.

Having established negligence on the part of driver Hermogenes, and that such negligence was the proximate cause of the accident resulting to the death of Abelardo and damages to the tricycab, We now examine whether or not Weena Express, Inc., as employer of Hermogenes, is jointly and severally liable with Hermogenes to plaintiffs-appellees for damages.

We rule in the affirmative.

The rule is whenever an employee's negligence causes damage or injury to another, there instantly arises a presumption that the employer failed to exercise the due diligence of a good father of the family in the selection or supervision of its employees.[12] To avoid liability for a quasi-delict committed by his employee, an employer must overcome the presumption by presenting convincing proof that he exercised the care and diligence of a good father of a family in the selection and supervision of his employee.[13]

In the instant case, a review of the records reveals that defendant-appellant Weena Express, Inc. failed to adduce sufficient proof that, indeed, it exercised due diligence of a good father of the family in the selection or supervision of its bus driver Hermogenes in inculcating in him discipline and correct behavior on the road. Thus, We uphold the court a quo's ruling that defendant-appellant Weena Express, Inc. is jointly and severally liable to plaintiffs-appellees since it failed to exercise the diligence of a good father of the family in the selection and supervision of its bus driver Hermogenes in accordance with Articles 2176 and 2180 of the Civil Code. The Supreme Court, in the case of *Maniago v. Court of Appeals*,^[14] instructs:

Here, the liability of the employer for the negligent conduct of the subordinate is direct and primary, subject to the defense of due diligence in the selection and supervision of the employee. The enforcement of the judgment against the employer in an action based on Article 2176 does not require the employee to be insolvent since the nature of the liability of the employer with that of the employee, the two being statutorily considered joint tortfeasors, is solidary. (emphasis supplied)

As to whether or not the damages awarded by the court a quo are proper, plaintiffs-appellees claim that the court a quo erred in failing to award loss of income, moral, and exemplary damages.

The indemnity for loss of earning capacity of the deceased is provided for by Article 2206 of the Civil Code.^[15] Compensation of this nature is awarded not for loss of earnings, but for loss of capacity to earn money.^[16] As a rule, documentary evidence should be presented to substantiate the claim for damages for loss of earning capacity.^[17] By way of exception, damages for loss of earning capacity may be awarded despite the absence of documentary evidence when: (1) the deceased is self-employed and earning less than the minimum wage under current labor laws, in which case, judicial notice may be taken of the fact that in the deceased's line of work no documentary evidence is available; or (2) the deceased is employed as a daily wage worker earning less than the

minimum wage under current labor laws.[18]

In the case at bench, considering that Abelardo was engaged in business earning more than the current minimum wage, documentary evidences showing such income must have been submitted. As no documentary evidence was presented regarding the income derived by Abelardo from his sari-sari store and farming business, the testimony of surviving spouse Ana Billones as regards such incomes of P200.00 a day from his sari-sari store and P50,000 a year from his farming business cannot be considered.

However, considering that Abelardo died as a consequence of the accident, We hold that the award of moral damages in the amount of P50,000.00 for the death of Abelardo is proper. Moral damages are not intended to enrich a plaintiff at the expense of the defendant.[19] They are awarded to allow the plaintiff to obtain means, diversions or amusements that will serve to alleviate the moral suffering he/she has undergone due to the defendant's culpable action and must, perforce, be proportional to the suffering inflicted.[20]

Lastly, as regards exemplary damages, the rule is in quasi-delicts, such damages are granted if the defendant is shown to have been so guilty of gross negligence as to approximate malice.[21]

In the instant case, there is no showing that the Weena Bus was acting so wantonly and in a malicious manner as to recklessly and almost deliberately hit the tricycab driven by Abelardo. Hence, We hold that exemplary damages cannot be properly awarded. Consequently, the award of attorney's fees by the court a quo is not warranted.

WHEREFORE, in view of the foregoing, the instant APPEAL is DISMISSED and the court a quo's Judgment dated January 31, 2011 is hereby AFFIRMED with modification that in addition to the court a quo's awards to plaintiffs-appellees of death compensation in the amount of P50,000.00, funeral and burial expenses of P40,000.00, damage to the tricycab for P15,000.00, and costs of suit, defendants-appellants are also hereby ordered to pay, jointly and severally, to plaintiffs-appellees, moral damages in the amount of P50,000. The court a quo's award of attorney's fees in the amount of P15,000.00 is deleted.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Borja, J., and Badelles, JJ., concur.

[1] Rollo, p. 26.

[2] Rollo, p. 44.

[3] Rollo, p. 52.

[4] Rollo, pp. 32-33.

[5] TSN dated October 30, 1998, pp. 7-11.

[6] TSN dated February 10, 2000, pp. 5-8.

[7] TSN dated July 19, 1999, pp. 6-8.

[8] TSN dated July 19, 1999, pp. 13-16.

[9] TSN dated August 6, 2003, p. 29.

[10] TSN dated August 6, 2003, pp. 31-35.

[11] TSN dated September 13, 1999, pp. 53-56.

[12] *Macalinao v. Ong*, G.R. No. 146635, December 14, 2005, 477 SCRA 740.

[13] *Ibid.*

[14]253 SCRA 674, 681 (1996).

[15] Civil Code, Art. 2206. XXXX

(1) The defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to the heirs of the latter; such indemnity shall in every case be assessed and awarded by the court, unless the deceased on account of permanent physical disability not caused by the defendant, had no earning capacity at the time of his death;

XXXX

[16] *Heirs of George Y. Poe v. Malayan Insurance Co., Inc.*, G.R. No. 156302, April 7, 2009, 584 SCRA 178.

[17] *People v. Garchitorena*, G.R. No. 175605, August 28, 2009.

[18] *Ibid.*

[19] *Hernandez v. Dolor*, G.R. No. 160286, July 30, 2004, 435 SCRA 668.

[20] *Ibid.*

[21] See Art. 2231, Civil Code; *CLLC E.G. Gochangco Workers Union v. NLRC*, 161 SCRA 655; *Globe Mackay Cable and Radio Corp. v. CA*, 176 SCRA 778.

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