

PANTRANCO NORTH EXPRESS, INC., PETITIONER, VS. HONORABLE COURT OF APPEALS, HEIRS OF BENJAMIN TANDOC Y DELA CRUZ, DAISY TANDOC MAMENTA IN HER BEHALF AND IN BEHALF OF HER MINOR CH...*G.R. No. 105180. July 05, 1993*

Ponente: DAVIDE, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-105180/>**DAVIDE, JR., J.:**

On 23 April 1985 at about 3:00 p.m., a vehicular accident occurred along the MacArthur Highway at Barangay Bacag, Villasis, Pangasinan involving two buses owned and operated by the Pantranco North Express, Inc. (PNEI) and a Toyota Corona car owned by Vice-Mayor Benjamin Tandoc of Tayug, Pangasinan which was then being driven by his son-in-law, Patricio Mamenta. As a result of the three-vehicle collision, Patricio Mamenta and Samson de Vera, who was the driver of one of the PNEI buses, died, while Benjamin Tandoc, Jose Sison (an occupant of the Toyota car) and several passengers of the PNEI buses suffered physical injuries. The Toyota car was a total wreck.

On 23 July 1985, Benjamin Tandoc and the heirs of Patricio Mamenta, namely, his wife, Daisy Tandoc-Mamenta, and his minor children, Daphne and Patricia Dayan, filed a complaint for damages against PNEI and the Philippine National Bank (PNB) with the Regional Trial Court of Tayug, Pangasinan. The PNB was impleaded because it is allegedly the mortgagee, receiver, and/or owner of PNEI, hence an indispensable party. The complaint was docketed as Civil Case No. T-1721.[1] PNEI filed its Answer with Counterclaim on 22 August 1985.[2] PNB filed a motion to dismiss[3] and upon its denial[4] by the trial court, it filed its Answer with Counterclaim.[5]

On 17 June 1987, during the pendency of the case, Benjamin Tandoc died of a heart attack. He was substituted by his heirs.

On 15 December 1989, the trial court rendered a decision[6] dismissing the complaint against the PNB but holding the PNEI liable to the plaintiffs as follows:

"On the First Cause of Action

1. To pay the heirs of deceased Benjamin Tandoc the following sums of money:

a) Hospitalization and Medical

Expenses -----

P 17,211.55

b) Value of Car -----

100,000.00

c) Loss of Earning Capacity -----

300,000.00

d) Moral Damages -----

150,000.00

e) Exemplary Damages -----

30,000.00

f) Attorney's fees -----

80,000.00

TOTAL -----

P677,211.55

On the Second Cause of Action

2. To pay the heirs of deceased Patricio Mamenta the following sums of money:

a) Death indemnity -----

P 30,000.00

b) Funeral & related

Expenses -----

54,450.00

c) Loss of Earning Capacity -----

133,333.33

d) Moral Damages -----

50,000.00

e) Exemplary Damages -----

30,000.00

TOTAL -----

P297,783.33

Plus costs."

PNEI appealed the decision to the Court of Appeals which docketed the case as CA-G.R. CV No. 26220.

In a decision[7] promulgated on 31 March 1992, the Court of Appeals affirmed with modification the judgment of the trial court. The modification consists in the reduction of the awards for the value of the car and for funeral and related expenses to P80,000.00 and P8,000.00, respectively.

Still dissatisfied, PNEI came to this Court via this petition for review on certiorari under Rule 45 of the Rules of Court and alleges the following grounds in support thereof:

"1. THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN HOLDING THAT THE LOWER COURT DID NOT ERR IN ASSUMING JURISDICTION OVER THE CASE DESPITE NON-PAYMENT OF REQUIRED DOCKET FEES.

2. EVEN ASSUMING, WITHOUT ADMITTING, THAT THE LOWER COURT DID NOT ERR IN ASSUMING JURISDICTION (sic) OVER THE CASE, THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN UPHOLDING THE AWARD FOR LOSS OF EARNING CAPACITY OF BENJAMIN TANDOC.

3. THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN UPHOLDING THE LOWER COURT'S AWARD FOR ATTORNEY'S (sic) FEES.

4. THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN DISREGARDING THE RULE ON RES GESTAE.

5. THE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT IT WAS THE DRIVER OF PANTRANCO BUS NO. 1202 WHO WAS RESPONSIBLE FOR THE ACCIDENT."

The factual findings of the Court of Appeals are as follows:

"The plaintiffs and the defendant PNEI have conflicting versions of the incident that resulted in a mishap which killed not only Patricio Mamenta and caused physical injuries not only to Benjamin Tandoc but also to several others who were passengers of the two (2) Pantranco buses that figured in the accident.

According to the testimony of Benjamin Tandoc, in the afternoon of April 23, 1985, he was riding in his Toyota car at the backseat thereof with Jose Sison, while his son-in-law Patricio Mamenta was driving. They had come from Binalonan, Pangasinan and were cruising along the MacArthur Highway bound towards the south. While they were negotiating a sharp curve in Bacag, Villasis, Pangasinan where no overtaking was allowed, as shown by two (2) yellow parallel lines painted in the center of the highway, a Pantranco bus bound northward for Baguio City overtook several vehicles and was coming towards the Toyota car. Tandoc told Mamenta to go to the shoulder of the road, seeing that the Pantranco was running very fast and was about to collide with the car. However, before Mamenta could swerve towards the shoulder, the Pantranco bus bumped the left front side of the car, which was pushed up towards the shoulder. At that moment the car was also bumped from behind by another Pantranco bus which had been following it, thus causing the car to be sandwiched between the two (2) Pantranco buses.

As a result of the impact, Mamenta died. Tandoc lost consciousness, and when he regained it the following morning, he was already at the Urdaneta Sacred Heart Hospital. His left elbow was dislocated and he sustained lacerated wounds in his left eyebrow, left eyelids, and left upper lips.

Jose Sison corroborated the testimony of Tandoc on how the incident happened, maintaining that the Pantranco bus had overtaken several vehicles before its front left side hit the car at its left front portion. He too lost consciousness and regained it at the Urdaneta Emergency Hospital at about 6:00 P.M. He suffered two (2) broken ribs.

Upon the other hand, Pedro Duay, the driver of the Pantranco Bus No. 1122 which had been following the Toyota car of Tandoc, testified that while he was cruising the curved portion of MacArthur Highway at Bgy. Bacag, the Toyota car overtook and passed his bus to a distance of about five (5) meters and while the said car was still at the center lane of the highway going towards Manila, an oncoming Pantranco Bus No. 1202 bumped the car, causing it to be thrown towards the right side of the highway. After the impact, Duay said, the Pantranco Bus No. 1202 rammed his bus on the left front portion thereof. As a result of the incident he suffered

a fractured right leg and his left chin and jaw were also injured.

The conductor of bus No. 1122, Edgardo Cayanán, testified that when the incident took place, he had his back turned towards the driver and he was facing the rear part of the bus because he was then talking to two (2) women passengers regarding student tickets, hence he did not see what actually happened.

Another witness, however, testified for the defense. He was Leonardo Lopez, Jr., a member of the INP in Paniqui, Tarlac, who stated that at the time of the incident he and his family were riding in a Mazda mini-bus going home to Tarlac from a beach resort in La Union. He stated that the car tried to overtake but did not make it and it was hit by a Pantranco bus going to Baguio City, while another Pantranco bus also hit the car at its rear portion. He took shots of the incident and then gave them to an employee of the Pantranco.

Faced with these conflicting versions as to which vehicle actually overtook vehicles in a no overtaking-zone, the lower court gave credence to the version of the plaintiffs, which was supported by the findings of the policemen who conducted an on the spot investigation of the incident.

Pat. Renario B. Acosta of the Integrated National Police of Villasis, Pangasinan, a police investigator since 1972, and the OIC of the Investigation Section of the Villasis Police Station conducted an investigation of the incident. We quote pertinent portions of the written report he submitted:

'2. Detailed investigations revealed that the above-mentioned PANTRANCO with Body No. 1202 was then in the process of overtaking within the prohibitive zone, as shown by the double yellow line in the center of the road, and without taking the necessary precaution to avoid damage to and loss of lives and properties, and considering the several vehicles ahead proceeding north direction and while in the process of overtaking by taking the western lane of the Macarthur Highway, bumped and sideswiped the oncoming Toyota Car hereto above mentioned. After the impact, the said car turned on its side and finally rested on the western side of the shoulder of the road facing East direction. The said PANTRANCO bus with Body No. 1202 went further along the same lane intended for oncoming vehicles coming from the North, again collided and bumped head-on another PANTRANCO passenger bus with Body No. 1122 coming from the North proceeding southward direction. After the impact, both PANTRANCO buses finally rested on the western shoulder of the highway, wherein the rear portion of Bus No. 1122 was facing Northeast direction, while the rear portion of Bus No. 1202 was facing Southeast direction both buses were occupying the western portion of the Macarthur Highway.

3. That the probable impact between the PANTRANCO Bus with Body No. 1202 and the Toyota Car took place near the western edge of the asphalt pavement of the highway as evidenced by the scattered pieces of glasses and other objects found on the surface of the road; while the point of impact between the two buses was likewise indicated on the attached sketch taken and prepared by Pat. Ruben V. Pituc of this unit. In both cases, the impact took place at the lane intended for vehicles coming from the north proceeding south direction.'

Another policeman, Pat. Ruben Pituc, prepared a sketch at the scene of the incident.

The defense had tried to discredit the investigation report of Pat. Acosta by presenting Police Major Romeo Bascos, then Station Commander of the INP in Villasis. Major Bascos testified that upon knowing that a vehicular accident happened in Barangay Bacag, he went to the scene where he saw Patrolmen Acosta and Pituc still conducting their investigation. He made a Spot Report to the effect that:

'Investigation conducted disclosed that both buses were bound Manila and Baguio City, when the above-mentioned car tried to overtake bus bound Manila. At this juncture, Pantraco (sic) bus bound Baguio City, while on its full speed, bumped said car which resulted to their instant death and simultaneously collided with the Manila bound bus which caused damages on both vehicle.'

Major Bascos claimed that he based this report on the investigation conducted by Pat. Abrenica and the

information given by the residents of the place. He stated that Pat. Acosta was not in charge of investigation while Pat. Pituc only prepared a sketch but was not an investigator. He informed the court that his own investigation prevails over that of the others when there is a discrepancy. He, however, confirmed that he agreed with the sketch prepared by Pat. Pituc.

We agree with the trial court when it gave more weight to the findings of Pat. Acosta, 'it possessing the earmarks of truth and credibility insofar as it stated how the incident actually happened'. The court took note of the fact that Pat. Acosta had been a police investigator for thirteen (13) years and was the chief investigator of their police station; that his report was based on interviews with plaintiff Tandoc, from residents near the place of the incident, especially one Arcadio Menor, who was in his store some 40 to 50 meters away from the scene; and more importantly, his own visual inspection of the damages sustained by the three (3) vehicles involved in the incident.

On the other hand, Maj. Bascos relied heavily for his Spot Report on the version of a certain Pat. Jose Abrenica who was supposedly at the scene at the time of the incident. However, as the trial court stated, Pat. Abrenica was not presented as a witness and it is doubted whether he was actually at the scene, since his name was never mentioned in the testimonies of Patrolmen Acosta or Pituc or of the other defense witnesses. Furthermore, there is no showing that Major Bascos is qualified as a traffic accident investigator. The mere fact that he is a superior officer of Pat. Acosta does not make his report more credible. Moreover, there is no explanation for the fact that Major Bascos had to prepare his own separate report when, as he admitted, he saw Patrolmen Acosta and Pituc already in the scene conducting their on-the-spot investigation.

We find no reason to disagree with the conclusion of the trial court that it was in fact the driver of the Pantranco bus No. 1202 who was responsible for the accident. Thus it is, that the defendant PNEI is liable for the damages caused by its said employee by virtue of the provisions of the Civil Code.”[9]

The errors assigned by the petitioner are not strictly errors of law. The fourth and fifth assigned errors even raise purely factual issues notwithstanding the claim in the fourth that the public respondent "abused its discretion in disregarding the rule on *res gestae*." Said fourth assigned error merely involves the question as to whose testimony and spot report -- whether that of Patrolman Acosta or that of Major Basco --- should be given full faith and credit.

We shall first dispose of these factual issues.

Well-entrenched is the general rule that the jurisdiction of this Court in cases brought before it from the Court of Appeals is limited to reviewing or revising errors of law; findings of fact of the latter are conclusive[10] for it is not the function of this Court to analyze or weigh such evidence all over again. It is only in exceptional cases where this Court may review findings of fact of the Court of Appeals.[11] In the instant case, both the trial court and the public respondent found that it was the driver of the petitioner's bus no. 1202 who was responsible for the accident and that Patrolman Acosta is more credible than Major Basco. Petitioner has not shown to us that such findings and conclusions fall within any of the exceptions to this rule. As regards the so-called spot report of Major Basco which the petitioner describes to be part of the *res gestae*, the petitioner has a misconception of what *res gestae* is, which, as it should have known, relates to the admissibility of evidence and not to its weight and sufficiency. In the instant case, there was no evidence which was offered as part of the *res gestae*, hence, none could have been denied admission by the trial court and the public respondent. In any event, if there was one, the petitioner miserably failed to show or prove the presence of the requisites of *res gestae*, viz.: (1) that the principal act be a startling occurrence, (2) that the statements were made before the declarant had time to contrive or devise, and (3) that the statements must concern the occurrence in question and its immediately attending circumstances.[12]

We shall now resolve the questions of law which are raised in the first to the third assigned errors: whether or not

the public respondent gravely abused its discretion (a) in holding that the lower court did not err in assuming jurisdiction over the case despite the non-payment of the required docket fees, (b) in sustaining the award of P300,000.00 for the loss of earning capacity of Benjamin Tandoc, and (c) in upholding the trial court's award of P80,000.00 for attorney's fees. As to the first, it is not altogether correct to say that the required docket fees were not paid. There was only a deficiency payment of such. The public respondent ruled as follows:

"The records show that the plaintiffs paid a filing fee of P600.00 and a legal research fee of P30.00, as evidenced by O.R. No 3711618 and O.R. No. 6035087, respectively. The defendant-appellant never raised the issue of inadequate filing fees in the court below. It now invokes the ruling in *Manchester Development Corporation vs. Court of Appeals*, 149 SCRA 562 where the Supreme Court held that all complaints, petitions, answers and other similar pleadings should specify the amount of damages being prayed for, not only in the body of the pleading but also in the prayer, and said damages shall be considered in the assessment of filing fees in any case, and that any pleading that fails to comply with this requirement shall not be accepted or admitted, or shall otherwise be expunged from the records; and that the court acquires jurisdiction over any case only upon payment of the prescribed docket fee.

In the case of *Sun Insurance Office, Ltd. (SIOL) vs. Asuncion*, 170 SCRA 274, however, the High Court made a more liberal interpretation of the rules, considering that the private respondent therein demonstrated his willingness to abide by the said rules by paying the additional docket fees required. When the petitioner in the said case contended that the fee paid by the respondent was still insufficient, the Supreme Court stated that the clerk of court and/or his duly authorized docket clerk or clerk in charge should determine if any amount is due and, thereafter, require the private respondent to pay the same.

The Supreme Court then said:

'3. Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently the judgment awards a claim not specified in the pleading, or if specified the same has been left for determination by the court, the additional filing fee therefore shall constitute a lien on the judgment. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to enforce said lien and assess and collect the additional fee.'

In the case now before us, we do not find the plaintiffs had the intention of evading the payment of the required docket fees and, applying the rule in the case hereinabove cited, we hold that the lower court did not err when it assumed jurisdiction over the case."^[13]

The guiding rules laid down by this Court in *Sun Insurance Office, Ltd., (SIOL) vs. Asuncion*^[14] are as follows:

"1. It is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the prescribed docket fee, that vests a trial court with jurisdiction over the subject-matter or nature of the action. Where a filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.

2. The same rule applies to permissive counterclaims, third-party claims and similar pleadings, which shall not be considered filed until and unless the filing fee prescribed therefor is paid. The court may also allow the payment of said fee within a reasonable time but also in no case beyond its applicable prescriptive or reglementary period.

3. Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently, the judgment awards a claim not specified in the pleading, or if specified the same has been left for determination by the court, the additional filing fee therefor shall constitute a lien on the judgment. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to

enforce said lien and assess and collect the additional fee."

We further clarified the rules in *Tacay vs. Regional Trial Court of Tagum, Davao del Norte*:^[15]

"Now, under the Rules of Court, docket and filing fees are assessed on the basis of the 'sum claimed,' on the one hand, or the 'value of the property in litigation or the value of the estate,' on the other. There are, in other words, as already above intimated, actions or proceedings involving real property, in which the value of the property is immaterial to the court's jurisdiction, account thereof being taken merely for assessment of the legal fees; and there are actions or proceedings, involving personal property or the recovery of money and/or damages, in which the value of the property or the amount of the demand is decisive of the trial court's competence (aside from being the basis for fixing the corresponding docket fees).

Where the action is purely for the recovery of money or damages, the docket fees are assessed on the basis of the aggregate amount claimed, exclusive only of interests and costs. In this case, the complaint or similar pleading should, according to Circular No. 7 of this Court, 'specify the amount of damages being prayed for not only in the body of the pleading but also in the prayer, and said damages shall be considered in the assessment of the filing fees in any case.'

Two situations may arise. One is where the complaint or similar pleading sets out a claim purely for money or damages and there is no precise statement of the amounts being claimed. In this event the rule is that the pleading will 'not be accepted nor admitted, or shall otherwise be expunged from the record.' In other words, the complaint or pleading may be dismissed, or the claims as to which the amounts are unspecified may be expunged, although as aforesaid the Court may, on motion, permit amendment of the complaint and payment of the fees provided the claim has not in the meantime become time-barred. The other is where the pleading does specify the amount of every claim, but the fees paid are insufficient; and here again, the rule now is that the court may allow a reasonable time for the payment of the prescribed fees, or the balance thereof, and upon such payment, the defect is cured and the court may properly take cognizance of the action, unless in the meantime prescription has set in and consequently barred the right of action.

Where the action involves real property and a related claim for damages as well, the legal fees shall be assessed on the basis of both (a) the value of the property and (b) the total amount of the related damages sought. The Court acquires jurisdiction over the action if the filing of the initiatory pleading is accompanied by the payment of the requisite fees, or, if the fees are not paid at the time of the filing of the pleading, as of the time of full payment of the fees within such reasonable time as the court may grant, unless, of course, prescription has set in in the meantime. But where -- as in the case at bar -- the fees prescribed for an action involving real property have been paid, but the amounts of certain of the related damages (actual, moral and nominal) being demanded are unspecified, the action may not be dismissed. The Court undeniably has jurisdiction over the action involving real property, acquiring it upon the filing of the complaint or similar pleading and payment of the prescribed fee. And it is not divested of that authority by the circumstance that it may not have acquired jurisdiction over the accompanying claims for damages because of lack of specification thereof. What should be done is simply to expunge those claims for damages as to which no amounts are stated, which is what the respondent Court did, or allow, on motion, a reasonable time for the amendment of the complaints so as to allege the precise amount of each item of damages and accept payment of the requisite fees therefor within the relevant prescriptive period."

In *Central Bank of the Philippines vs. Court of Appeals*,^[16] we held that the prescriptive period mentioned in the *Sun Insurance* case:

"refers to the period in which a specific action must be filed. It means that in every case, the docket fee must be paid before the lapse of the prescriptive period. Chapter 3, Title V, Book III of the Civil Code is the principal law governing prescription of actions."

Ideally then, the private respondents should have specified the amount of their claims for moral and exemplary

damages and for loss of earning capacity so that the clerk of court of the trial court may be able to compute the requisite docket fees. However, considering the attendant circumstances in this case, the pronouncement of the public respondent on the issue of jurisdiction should be sustained. For one, the complaint in this case was filed on 28 July 1985 or one (1) year, nine (9) months and fourteen (14) days before the promulgation of the decision in *Manchester Development Corporation vs. Court of Appeals*.^[17] While it is true that in *Sun Insurance* we declared that the *Manchester* ruling applies retrospectively, the fact remains that in the instant case, the last witness for the plaintiff's evidence in chief testified on 20 August 1986,^[18] or long before the *Manchester* decision was promulgated, and although the trial court decided this case on 15 December 1989, the petitioner never raised the issue of jurisdiction arising from the insufficiency of the docket fees paid either in its answer or in any subsequent pleading. On the contrary, it not only resisted the claims of the plaintiffs but even invoked the jurisdiction of the trial court in its counterclaims wherein it prayed for judgment ordering the plaintiffs solidarily:

"a) To reimburse to PNEI the amount of P753,548.00 representing advances made by it as alleged in paragraph 8 of the counterclaim with interest thereon at the rate of 16% p.a. from the date the amounts were advanced until the same is fully reimbursed;

b) To reimburse to PNEI any amounts which may be advanced in future dates to the other injured passengers with interest thereon;

c) To pay to PNEI the amount of P101,781.47 representing actual expenses for the repairs of Bus No. 1122 and Bus No. 1202 and to pay the unearned revenue during the period when the said busses were under repair;

d) To pay to PNEI attorney's fees of P50,000.00 plus appearance and expenses of litigation in the amount of P500.00 per hearing."^[19]

The petitioner raised the issue regarding jurisdiction for the first time in its Brief filed with the public respondent in CA-G.R. CV No. 26220 on 2 February 1991.^[20] After vigorously participating in all stages of the case before the trial court and even invoking the trial court's authority in order to ask for affirmative relief, the petitioner is effectively barred by estoppel from challenging the trial court's jurisdiction. Although the issue of jurisdiction may be raised at any stage of the proceedings as the same is conferred by law, it is nonetheless settled that a party may be barred from raising it on ground of laches or estoppel.^[21] The deficiency in the payment of the docket fees must, however, be considered a lien on the judgment which must be remitted to the clerk of court of the court a quo upon the execution of the judgment.

Petitioner's contention that the Court of Appeals erred in upholding the award of damages for loss of earning capacity of Benjamin Tandoc in the amount of P300,000.00 is meritorious. The only possible basis for such an award is the public respondent's statement, culled from the decision of the trial court, that, per Tandoc's testimony, he used to earn P3 million annually and that at the time of the accident, he was about to negotiate a P1.5 million contract with Minister Hipolito which he was unable to get because he was by then already disabled.^[22] However, Tandoc testified that his business resumed operations after stopping for only about a month.^[23] As to the alleged contract he was about to negotiate with Minister Hipolito, there is no showing that the same has been awarded to him. If Tandoc was about to negotiate a contract with Minister Hipolito, there was no assurance that the former would get it or that the latter would award the contract to him since there was the requisite public bidding. The claimed loss of profit arising out of that alleged contract which was still to be negotiated is a mere expectancy. Tandoc's claim that he could have earned P2 million in profits is highly speculative, and no concrete evidence was presented to prove the same. The only unearned income to which Tandoc is entitled to from the evidence presented is that for the one-month period during which his business was interrupted, which is P6,125.00, considering that his annual net income was P73,500.00.^[24]

There is, however, no merit in the petitioner's claim with respect to attorney's fees. While attorney's fees and expenses of litigation are not recoverable as a matter of right if not stipulated upon, Article 2208 of the Civil Code allows their recovery in specific instances, among which are:

x x x

"(1) When exemplary damages are awarded;

(2) When the defendant's act or omission has compelled the plaintiff to x x x incur expenses to protect his interest;

x x x

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered."

x x x

In the instant case, exemplary damages were awarded by the trial court which the public respondent sustained. There can as well be no doubt that because of the tortious act of the petitioner, the private respondents were compelled to incur expenses to protect their interest. Finally, considering the attendant circumstances in this case, we are of the opinion that justice and equity warrant the recovery of attorney's fees. However, as directed by the last paragraph of the said Article 2208, "[i]n all cases, the attorney's fees and expenses of litigation must be reasonable." The award of P80,000.00 as attorney's fees in the first cause of action (re claim of Benjamin Tandoc) and none in the second cause of action (re death of Patricio Mamenta) breaches the parameters of reasonableness. It should be reduced to P25,000.00.

Finally, in accordance with prevailing jurisprudence, the death indemnity of P30,000.00 is increased to P50,000.00.

WHEREFORE, the instant petition is partly GRANTED and the challenged decision of the Court of Appeals in CA-G.R. CV No. 26220 is hereby MODIFIED by: (a) reducing the award of damages for loss of earning capacity of Benjamin Tandoc from P300,000.00 to P6,125.00, (b) reducing the award for attorney's fees from P80,000.00 to P25,000.00, and (c) increasing the death indemnity to P50,000.00. In all other respects, the decision is AFFIRMED.

The deficiency in the payment of the docket fees, to be computed by the clerk of court of the trial court, shall constitute a lien on the judgment.

No pronouncement as to costs.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Original Records (OR), 1-14; Rollo, 32-42.

[2] Id., 42-49; Id., 44-50.

[3] OR, 52-59.

[4] Id., 132.

[5] Id., 158-168.

[6] Id., 694-720; Rollo, 52-77. Per judge Pedro C. Cacho.

[7] Rollo, 97-107. Per Associate Justice Salome A. Montoya, concurred in by Associate Justices Reynato S. Puno and Celso L. Magsino.

[8] Rollo, 14-45.

[9] Rollo, 99-103.

[10] Chan vs. Court of Appeals, 33 SCRA 737 [1970], citing numerous cases.

[11] Remalante vs. Tibe, 158 SCRA 138 [1988]; Medina vs. Asistio, 191 SCRA 218 [1990]; Banaag vs. Bartolome, 204 SCRA 924 [1991].

[12] People vs. Sanchez, 213 SCRA 70 [1992].

[13] Rollo, 104-105.

[14] 170 SCRA 274 [1989].

[15] 180 SCRA 433, 442-443 [1989], footnotes omitted. See also, Country Bankers Insurance Corp. vs. Court of Appeals, 201 SCRA 458 [1991] and Original Development and Construction Corporation vs. Court of Appeals, 202 SCRA 753 [1991].

[16] 208 SCRA 652, 683 [1992].

[17] 149 SCRA 562. Promulgated on 7 May 1987.

[18] Decision of trial court, 7; Rollo, 58.

[19] Rollo, 49-50.

[20] Annex "D" of Petition; Id., 78-96.

[21] Gulang vs. Nadayag, 214 SCRA 355, 362 [1992], and the cases enumerated therein at footnote nos. 9 and 10. See also, Aquino vs. Court of Appeals, 204 SCRA 240 [1991].

[22] Rollo, 105.

[23] TSN, 18 July 1986, 5; TSN, 22 July 1986, 14.

[24] Exhibit "Z."

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