

ARNEL GABRIEL, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. No. 128474. October 06, 2004*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-128474/>**TINGA, J.:**

The automobile has probably, directly or indirectly, caused more litigation than any other material objective of human endeavor in a corresponding period of time and even more so since its invention.[1] This Court, on occasion, is constrained to determine how and why particular motor vehicle accidents happen and whether the persons responsible are criminally liable. The applicable standards for vehicular accident cases have long been settled by jurisprudence and the correct application of such standards invariably hinges on the particular facts involved.[2] The Court's review though should by no means be perfunctory as the liberty of the accused is at stake.

The case emanates from a three-way vehicular collision on the night of 19 April 1990 along Maharlika Highway in San Pablo City, Laguna. Three persons died as a result, and for their death, petitioner Arnel Gabriel (Gabriel) was found guilty of the crime of Reckless Imprudence Resulting to Double Homicide and Damage to Property by the Regional Trial Court (RTC) of San Pablo City.[3] Gabriel fruitlessly appealed to the Court of Appeals, which modified the RTC's decision by finding Gabriel liable instead for Reckless Imprudence Resulting to Multiple Homicide.[4]

The Information against Gabriel reads:

The undersigned Asst. City Prosecutor accuses ARNEL GABRIEL of the crime of RECKLESS IMPRUDENCE RESULTING TO MULTIPLE HOMICIDE, SERIOUS PHYSICAL INJURIES AND DAMAGE TO PROPERTY under Art. 365 of the Revised Penal Code, committed as follows:

That on or about April 19, 1990, in the City of San Pablo, Republic of the Philippines and within the jurisdiction of this Honorable Court, the accused above-named, being then the driver and person in charge of a passenger type jeep with Plate No. NCF-726, owned by Marcelino Gabriel and insured with Interworld Assurance Corporation, Legaspi Village, Makati, Metro Manila, did then and there recklessly, carelessly, imprudently and negligently manage and operate said vehicle along Brgy. San Vicente, this city and without due regard to traffic rules and regulation (sic) and imprudence hit the Volkswagen car with Plate No. DAU-203 driven by Fernando Pitargue and owned by Dr. Philip Plantilla, insured with Jon Doe Insurance, causing damage to said car in the amount of P50,000.00, Philippine Currency and inflicting mortal wounds to Fernando Pitargue and Carlos Asistido which caused their immediate death and injuries to Dr. Philip Plantilla which required medical attendance for a period of more than 30 days and incapacitated the said Dr. Philip Plantilla from performing his customary labor during the same period of time.

CONTRARY TO LAW.[5]

The three vehicles involved in the collision were a passenger type jeep (jeepney),[6] a Volkswagen Beetle car (Beetle),[7] and a six-wheeler Isuzu delivery truck (six-wheeler).[8] The Beetle carried three persons, including Dr. Philip Plantilla, director of the Nagcarlan District Hospital, who was injured in the accident. The other two

occupants of the Beetle died in the accident — the driver, Fernando Pitargue, Sr., and Carlos Asistido.[9] The third fatality, Isabela Banes, was one of the passengers of the jeepney driven by Gabriel.[10] On the other hand, the six-wheeler was driven by Romeo Macabuhay, who also appeared as the principal witness of the prosecution.[11]

The mishap occurred on the stretch of the Maharlika Highway located in Barangay San Vicente, San Pablo City. The highway is a two-lane, two-way road. The prosecution alleged that on the night of the accident, the Beetle and the six-wheeler were both traveling on the same lane of Maharlika Highway, proceeding towards the direction of San Pablo City. The six-wheeler was behind the Beetle. The jeepney, on the other hand, was travelling the opposite lane on the way to Atimonan, Quezon, purportedly at high speed. After negotiating a curve, the jeepney veered out of its lane, swerving into the lane occupied by the Beetle and the six-wheeler. The jeepney collided with the left side of the Beetle, forcing the latter out of the road and into the right shoulder of the highway. The collision with the Beetle also forced the jeepney to turn turtle and thereafter hit the front portion of the truck, which was then fifteen (15) meters behind the Beetle. The second impact forced the jeepney into the same right shoulder lane where the stricken Beetle had rested. The six-wheeler meanwhile moved into the opposite side of the road and parked on the left shoulder of the highway.

The three fatalities died on the spot. Their bodies lay prostrate on the ground by the time the police arrived at the scene. The investigation at the scene was conducted by Patrolman Jerryson Laguras, who prepared a sketch showing the relative positions of the vehicles and other significant findings.[12] Laguras also prepared the police report. He testified as a prosecution witness. The prosecution also presented the truck driver, Macabuhay, who recounted the collisions he had witnessed. Dr. Plantilla likewise testified on the injuries he sustained and the expenses he incurred.[13]

Gabriel, in defense, admitted driving the jeepney on the night in question at the Maharlika Highway, on his way to Quezon. While negotiating a curve near the scene of the accident, Gabriel noticed the headlights of an oncoming vehicle focused towards his direction. He maneuvered his jeepney to the right of the road, and switched to low gear. Despite the defensive moves which had put the jeepney's right front and rear wheels on the road shoulder, according to Gabriel, his jeepney was bumped by the Beetle still. The left front wheel burst, causing the jeepney to swerve to the right, fall on its right side, and slide towards the center of the highway. At that point, the jeepney was placed on the other direction — towards San Pablo City. In that position, the jeepney was hit by the six-wheeler, causing some of the occupants of the jeepney to be thrown out. One of them, Menandro Marquez, testified for the defense. He claimed that he was seated at the front seat of the jeepney, adding that the jeepney, while on the extreme right of the Quezon-bound lane, was bumped by a brightly lighted vehicle.[14]

Another witness for the defense, Barangay Chairman Dominador Gonzales, Jr. of San Vicente, San Pablo City, corroborated Gabriel's version of the events. He claimed witnessing the collision, which occurred after the Beetle had tried to overtake the six-wheeler truck.[15] The Beetle's attempt to overtake led to its collision with the jeepney traveling on the opposite lane.[16]

In convicting Gabriel, the RTC found the prosecution's version of the facts to be more credible. The dispositive portion of the RTC decision reads, thus:

WHEREFORE, finding the accused Arnel Gabriel guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting to Double Homicide and Damage to Property, he is hereby sentenced to suffer an indeterminate penalty of imprisonment ranging from two (2) years and four (4) months of prision correccional as minimum to six (6) years also of prision correccional as maximum and to make the following indemnifications:

1. To Dr. Philip Plantilla:

a) For the expenses he incurred during his hospitalization at the Makati Medical Center

P181,613.00

b) For reimbursement of his gifts to the doctors and nurses who attended to him at the Makati Medical Center

10,000.00

c) For actual damages of his Volkswagen car which was a total wreck

50,000.00

2. To the heirs of the deceased Fernando Pitargue, Sr.:

a) For loss of life of the deceased Fernando, Sr.

P50,000.00

b) For transfer fee of the cadaver of Fernando Pitargue

15,000.00

c) As reimbursement for payment of the casket and funeral services

13,500.00

d) For the grave site

491.00

e) For the loss of earning

129,360.00

3. To the heirs of the deceased Carlos Asistido:

a) For the loss of the life of Carlos Asistido

P50,000.00

b) For the expenses during the wake

3,000.00

c) For the casket and funeral services

12,000.00

d) For loss of earnings

9,000.00

The Court of Appeals sustained the RTC except in two respects. The appellate court found that the RTC failed to consider that Gabriel was also liable for the death of Isabela Banes, and thus found Gabriel guilty of Reckless Imprudence Resulting in Multiple Homicide, instead of Double Homicide.[17] The Court of Appeals awarded Fifty Thousand Pesos (P50,000.00) to the heirs of Banes.[18] Finally, the appellate court found no basis for the lower court's award of Ten Thousand Pesos (P10,000.00) to Dr. Plantilla by way of reimbursement of his gifts to the medical staff who attended to him.[19]

His appeal having failed, Gabriel now resorts to the present petition in an attempt to free himself of liability. In his petition, Gabriel makes the broad claim that the RTC decision is not in accord with law, jurisprudence and the record of the case, with the Court of Appeals similarly in error with its departure from the generally accepted and usual course of judicial proceedings.[20] More particularly, he asserts that the RTC erred in finding that his negligence was the proximate cause of the collision; in giving full credence to the testimony of Macabuhay; in lending weight to the erroneous sketch prepared by Patrolman Laguras; and in failing to give credence to the testimonies of Marquez and Gonzales, particularly their assertions that the first collision took place on the Quezon-bound lane not the San Pablo-bound lane. Gabriel also raises questions on the damages awarded by the RTC and affirmed by the Court of Appeals. Finally, Gabriel asserts that the Court of Appeals should not have awarded damages for the death of Isabela Banes, considering that he was not charged in the Information with having caused her death.

The factual findings of the RTC and the Court of Appeals are congruent. Such concurrence is highly persuasive on the Court, especially in a case such as this, where the determinative issues are essentially factual. Still, a review is due on whether the conclusion of guilt is so supported by the evidence at hand that reasonable doubt could be eliminated.

We cannot overemphasize the primacy in probative value of physical evidence, that mute but eloquent manifestation of the truth.[21] An examination of the wreck of the Beetle, as shown by photographic evidence, clearly reveals that the vehicle was struck on its left side in the area where the hinges of the left door would have been. The point of impact was so severe that it obliterated much of the side of the Beetle. The photographs of the damage support the prosecution's version that the Beetle was hit from the left side by the jeepney, which veered from its proper lane. The photographs also belie Gabriel and Marquez's claim that it was the Beetle which struck the jeepney, as they depict that the Beetle was clearly bumped from the side and not from the front. Their version would have had credence if the Beetle were moving laterally, which of course is an implausible sequence.

Just as the claims of Gabriel and Marquez on the point of impact are devoid of credence, the damage sustained by the Beetle is not necessarily inconsistent with the defense's position that the accident occurred on the Quezon-bound lane and not on the San Pablo-bound lane. Assuming the Beetle had veered the San Pablo-bound lane while overtaking, it could have very well been struck on the side by the incoming jeepney. Indeed, the question on which lane the first collision occurred is the most crucial at hand, as it determines which vehicle was on the wrong side of the road. Both the RTC and the Court of Appeals concluded that the collision occurred on the San Pablo-bound lane and that it was the jeepney which veered to the wrong side. Such findings are supported by clear and convincing evidence.

The RTC and the Court of Appeals gave full credence to the testimony of the truck driver Macabuhay who witnessed the first collision. Gabriel disputes the RTC's characterization of Macabuhay as a "disinterested witness," asserting that the latter, as a participant in the second collision, had every reason to proffer a biased testimony to avoid his own liability.

This disputation is quite strained. There is no serious allegation that Macabuhay was in any way responsible for the first collision. It did not matter to him, or it would not affect his possible liability, whether it was the jeepney or the Beetle which was at fault in the first collision. His testimony on the first collision may thus be deemed as neutral and unbiased. Neither was there any evidence presented by Gabriel that would dispute Macabuhay's credibility or impartiality. Thus, Macabuhay's testimony that the first collision took place on the San Pablo-bound lane was given proper credence by the RTC.

On the other hand, the testimonies of defense witnesses Marquez and Gonzales on the location of the first collision do not deserve credence. By his own admission, Marquez was sleepy at the time of the accident.[22] He lost consciousness as a result of being flung out of the jeepney because of the collision, regaining it only after he was admitted in a hospital in Manila.[23] Moreover, Marquez was a friend of Gabriel's and, according to the latter, it was at his urging that they went on that fateful trip to Atimonan in the first place.[24] It is not hard to doubt that Marquez is a biased witness. Although biased witnesses may be honest, they cannot— as long as human nature remains unchanged— overcome the tendency to distort, magnify or even minimize, as their interest persuades, the incidents which they relate.[25]

The testimony of Gonzales, which conveniently corroborates Gabriel on all material points, is even more incredulous, notwithstanding Gonzales's being the Barangay Captain then of San Vicente, where the accident occurred. As noted by the RTC, Gonzales declared that he was on the shoulder of the road, beside the truck, when the first collision took place.[26] From his vantage point, his view was obstructed by the truck.[27] He claimed to have first heard the collision. He immediately took five big steps onto the highway, and then saw the Beetle and the jeepney colliding.[28] In short, the sound of the collision took place before the actual collision itself. If true, this would rate as one of the greatest scientific revelations of all time. But since courts are obliged to take judicial notice of the laws of nature,[29] this Court prefers to side with prudence.[30]

The RTC also correctly pointed out that the natural tendency in such case would be for Gonzales to have taken caution and avoid exposure to danger.[31] Instead, Gonzales, who was already on the shoulder of the road, stepped into the highway and along the possible course of the collision he claimed to have heard occurring. The human mind may be less predictable than the physical laws, but the conjunction of two unnatural occurrences at once is just too much for this Court to believe but more than enough to taint the credibility of Gonzales.

Clearly then, based on his own admissions, Gonzales could not have possibly seen the first collision. The rest of his tale is dubious as well, and the RTC drew up a damning charge sheet against Gonzales. He claimed witnessing the accident at 8:30 p.m., and remaining at the scene up to 1:00 a.m., conversing with at least one of the police officers on the scene. Yet nothing on the record establishes this claim, certainly not any of the police reports which would have ordinarily noted such fact if true.[32] Gonzales also admitted that while he witnessed the accident, he did not mention the circumstance to the police, despite the fact that the accident occurred within his jurisdiction. Instead, Gonzales waited for more than a month before traveling all the way to Manila to execute his affidavit. It was only then that he publicly stated that he actually saw the accident happen.

An examination of Gonzales's affidavit reveals a curious passage, wherein he averred that he did not notice the presence of a certain Felixberto Ulan in the premises of the incident whom he knew to be an employee of the six-wheeler's owner. Furthermore, Gonzales asserts that the story about this non-witness Ulan as a biased person is incredible and unworthy of belief.

This startling declaration is apparently indicative of nothing. Felixberto Ulan, whoever he may be, was not a witness of the prosecution, nor does he appear to have any relation to the case. It was markedly odd for Gonzales to have made such an avowal at all, considering that he was ostensibly an accidental witness, seemingly

disinterested in the case, and outwardly reliable for neutral information. Instead, his recitals regarding Ulan further revealed his partiality as a witness, as they smacked of a pre-emptive strike designed to challenge a possible or expected countervailing account. It is not hard to believe that Gonzales was in cahoots with the defense, and his testimony especially tailored to contradict the prosecution's version and not to manifest what actually happened.

The spectacle of biased witnesses posing as neutral observers is not unusual, especially in criminal cases wherein a defendant's liberty is at stake. Many times, their testimony falls down to ruin on the witness stand. Even the most professional actor will find it more difficult to memorize the most carefully constructed scripts than for an ordinary person to correctly narrate events that he truly witnessed or experienced through his own senses. Not even the public office held by Gonzales could redeem the credibility of his flawed, inconsistent, and farfetched testimony.

The lack of credibility of Gonzales as a witness is especially fatal for Gabriel since reliance was reposed on Gonzales on another crucial factual issue. The police sketch of the accident scene, prepared by Patrolman Laguras, illustrates the debris field as confined to a spot within the San Pablo-bound lane, with minimal debris on the Quezon-bound lane. If accurate, the location of the debris field strongly strengthens the prosecution's claim that the first collision occurred on the San Pablo-bound lane, with the jeepney on the wrong side of the road. Evidence tending to show the position of the vehicles immediately after the accident tends to throw light on the issue of speed and direction of the vehicle's movements prior to, and at the time of, the accident.[33] Gabriel disputes the accuracy of the sketch, asserting that the Quezon-bound lane was likewise littered with debris, and that the sketch was prepared only after the debris had been swept to clear the road of obstructions. However, the police sketch was disputed only through Gonzales, whose testimony has been shown to be not credible. Hence, Gabriel can hardly argue that the presumption of regularity in the discharge of official duty has been overcome. Indeed, the Court of Appeals correctly appreciated the presumption.

Consequently, two confirmed findings of fact militate against Gabriel's defense. First, it was the Beetle which was struck by the jeepney. Second, this collision occurred on the San Pablo-bound lane, thus showing that it was the jeepney which veered from the correct lane. Gabriel, who was not attempting to overtake any vehicle, had no reason to veer to the other lane. Moreover, as Macabuhay testified, the jeepney was travelling fast as it negotiated a curve, causing it to swerve and hit the Beetle. The very fact of speeding is indicative of imprudent behavior, as a motorist must exercise ordinary care and drive at a reasonable rate of speed commensurate with the conditions encountered, which will enable him or her to keep the vehicle under control and avoid injury to others using the highway.[34] It is elementary in traffic school that a driver slows down before negotiating a curve.[35] The motorist, in approaching or rounding a curve, must reasonably anticipate that another vehicle may appear from the opposite direction at any moment.[36] Excessive speed, combined with other circumstances such as the occurrence of the accident on or near a curve may constitute negligence.[37] By failing to slow down, Gabriel acted recklessly and imprudently. His behavior was the proximate cause of the fatal accident.[38] The common finding of guilt by the RTC and the Court of Appeals was correctly arrived at.

However, the Court of Appeals erred in ruling that Gabriel was guilty of Reckless Imprudence Resulting to Multiple Homicide, and not Double Homicide. This erroneous finding follows the appellate court's observation that the RTC omitted in its findings the fact that the death of jeepney passenger Banes was likewise brought about by the collision. Yet, the charges in the Information only seek to hold Gabriel liable for the deaths of Pitargue and Asistido. No mention at all was made of Banes in the Information. The Office of the Solicitor General insists that the Court of Appeals acted correctly, arguing that the offense designated in the Information was "Reckless Imprudence Resulting in Multiple Homicide." Still, it is settled that the real nature of the criminal charge is

determined, not from the caption or preamble of the information nor from the specification of the law alleged to have been violated—these being conclusions of law—but by the actual recital of facts in the complaint or information.[39] Thus, the original designation of the offense as made by the RTC is correct. Accordingly, the indemnification award made by the Court of Appeals of Fifty Thousand Pesos (P50,000.00) to the heirs of Banes is likewise improper under the circumstances.

A review of the other awards for damages is warranted. The Court of Appeals correctly deleted the award of Ten Thousand Pesos (P10,000.00) to Dr. Plantilla. There is no basis for the award other than the lone testimony of Dr. Plantilla, and as ruled by the Court of Appeals, the testimony was not corroborated by reliable evidence.[40]

Gabriel correctly points out that the award of Fifty Thousand Pesos (P50,000.00) to Dr. Plantilla for actual damages to his Beetle was supported only by an estimate of the cost of repairs, and not by any proof of the actual amount paid or assessed for the repairs. To recover actual damages, the amount of loss must be proven with competent proof or the best evidence obtainable,[41] and an indefinite cost-estimate cannot suffice. However, that pecuniary loss was suffered by Dr. Plantilla by reason of damage to his Beetle is indubitable, and since the amount can no longer be established with certainty, temperate damages may be awarded in the amount of Forty Thousand Pesos (P40,000.00).

However, we cannot sustain a similar argument raised by Gabriel regarding the actual damages awarded to Dr. Plantilla for his hospitalization expenses. Dr. Plantilla testified on the amount he paid for hospitalization expenses, and this was duly supported by the Summary of Charges presented in evidence. The Summary of Charges clearly indicates the amount owed by Dr. Plantilla for his hospitalization expenses, and even notes the partial payments already made therefor. Moreover, the RTC and the defense had the opportunity to examine the actual hospital receipts which were made available at one point during the trial by the Government Services Insurance System which had custody of them. The RTC and the Court of Appeals duly appreciated the evidence and adjudged the proper award of indemnity for the hospitalization expenses of Dr. Plantilla.

Gabriel likewise challenges the award of actual damages to the heirs of Pitargue and Asistido due to loss of earnings. He poses the bizarre argument that the seminal case of *Villa Rey Transit v. Court of Appeals*[42] does not apply, as the ruling therein applied only in cases of breach of contract of carriage. There is nothing in *Villa Rey Transit* that qualifies the application of the formula adopted therein only to breaches of the contract of carriage. *Villa Rey Transit* applies to all cases of wrongful death for the purpose of ascertaining the appropriate amount of actual damages due the heirs, based on life expectancy and the rate at which losses sustained should be fixed. However, the RTC did not apply the proper formula consistently adopted by this Court in computing the damages for loss of earning capacity.[43] The correct award for loss of earning capacity to the heirs of Pitargue is Eighty-Six Thousand Two Hundred Six Pesos (P86,206.00),[44] while that owing to the heirs of Asistido is Sixty-Two Thousand Three Hundred Eighty-Eight Pesos (P62,388.00).[45] These awards are apart from the standard death indemnities and funeral expenses correctly evaluated by the RTC.

Finally, Gabriel's argument that there is no proof on the monthly income of Asistido for the purpose of computing loss of earning capacity deserves short shrift. It is settled that the absence of documentary evidence to support a claim for damages for loss of earning capacity of the deceased does not preclude recovery of said damages.[46] Asistido earned his income by working as a carpenter. His son testified in court that Asistido earned at least One Thousand Five Hundred Pesos ((P1,5000.00) a month.[47] The testimony is sufficient basis for determining compensatory damages for loss of earnings as a result of Asistido's wrongful death.

WHEREFORE, the Petition is DENIED. The Decision of the Regional Trial Court dated 3 October 1991 is affirmed, subject to the following modifications: (1) the earlier finding that accused Arnel Gabriel is guilty

beyond reasonable doubt of the crime of Reckless Imprudence Resulting to Double Homicide and Damage to Property is REINSTATED; (2) the award of actual damages to Dr. Philip Plantilla for the damage to his Volkswagen car is DELETED, and in lieu thereof, an award for temperate damages for the property damage to the Volkswagen car in the amount of Forty Thousand Pesos (P40,000.00) is AWARDED; (3) the award for the loss of earnings to the heirs of Fernando Pitargue Sr. is hereby reduced to Eighty-Six Thousand Two Hundred Six Pesos ((P86,206.00); and (4) the award for the loss of earnings to the heirs of Carlos Asistido is hereby reduced to Sixty-Two Thousand Three Hundred Eighty Eight Pesos (P62,388.00). The deletion ordered by the Court of Appeals of the award of Ten Thousand Pesos (P10,000.00) to Dr. Philip Plantilla for reimbursement of his gifts to the medical staff who attended to him is SUSTAINED. Costs against petitioner.

SO ORDERED.

Puno, (Chairman), and Austria-Martinez, JJ., concur.
Callejo, Sr., and Chico-Nazario, JJ., on leave.

[1] See Blashfield, De Witt C., *Cyclopedia of Automobile Law and Practice*, 1948 ed., p. vii, Vernon Law Book Company and West Publishing Co.

[2] “It has been said that the “law of the road” is the custom or practice that has become crystallized into an accepted system of rules regulating travel on highways.” 7A Am Jur 2d §244; citing *Short v. Robinson*, 280 Ky. 707, 134 S.W.2d 594 (1939).

[3] In a Decision dated 3 October 1991 penned by Judge B. V. Reyes of Branch 29, Regional Trial Court of San Pablo City.

[4] In a Decision dated 28 February 1997 penned by Justice R. Galvez, concurred in by Justices P. Ramirez and B.A. Adefuin-de la Cruz.

[5] RTC Records, p. 1.

[6] With plate number NCF-726. Rollo, p. 37.

[7] With plate number DAU-203. *Ibid*.

[8] With plate number DBT-997. *Ibid*.

[9] Pitarque was a driver employed by the Nagcarlan District Hospital. See prosecution Exhibit “G.” On the other hand, Carlos was a barangay captain from the town of Nagcarlan, Laguna. See prosecution Exhibit “P.”

[10] The other passengers of the jeepney were Naldy Marquez, Ramoncito Montes and Era Namon, all of whom were injured. See prosecution Exhibit “I.” The jeepney itself was owned by Gabriel’s father, Marcelino.

[11] Macabuhay was apparently accompanied in the six-wheeler by a certain “Jessie.” See prosecution Exhibit “E.”

[12] Prosecution Exhibit “C.”

[13] Two other witnesses for the prosecution, Fernando Pitargue, Jr., and Teody Asistido, testified on the expenses incurred by reason of the death of and the earning capacities of their fathers. RTC Records, p. 99.

[14] TSN dated 3 July 1991, p. 4.

[15] TSN dated 28 June 1991, pp. 6-8.

[16] *Id.* at 8.

[17] *Rollo*, p. 45.

[18] *Ibid.*

[19] *Id.* at 44.

[20] *Id.* at 16.

[21] See, e.g., *Li v. People*, G.R. No. 127692, 14 April 2004; *People v. Roche*, G.R. No. 115182, 6 April 2000, 330 SCRA 93, citing *Jose v. Court of Appeals*, G.R. Nos. 118441-42, 18 January 2000, 322 SCRA 25.

[22] TSN dated 3 July 1991, p. 5.

[23] *Id.* at 6-7.

[24] TSN dated 13 June 1991, p. 6. Marquez, a choreographer-dancer, wanted to go to Atimonan to talk to the parents of a girl who was one of his talents.

[25] *People v. Coderes*, 191 Phil. 568.

[26] RTC Records, p. 104.

[27] See TSN dated 28 June 1991, p. 24.

[28] RTC Records, p. 104.

[29] See Section 1, Rule 129, Rules of Court.

[30] “It has been said that so frequently do unlooked-for results attend the meeting of interacting forces that courts should not indulge in arbitrary deductions from physical law and fact except when they appear to be so clear and irrefutable that no room is left for the entertainment by reasonable minds of any other.” 57A Am Jur 23 §499; citing *Philips v. Stockman* (Mo App) 351 SW2d 464.

[31] RTC Records, p. 104.

[32] In fact, investigating policeman Patrolman Laguras mentioned that he talked to a Barangay Councilman, Nelson Avanzado, but no mention of Gonzales. The RTC found it incredible that the police would have mentioned the presence of a barangay official of lesser rank, but not of the chairman himself. Records, p. 103.

[33] 8 Am Jur 2d §1277; citing *People v. Benson*, 321 Ill. 605, 152 N.E. 514, 46 A.L.R. 1056 (1926); *West v. Jaloff*, 113 Or. 184, 232 P. 642, 36 A.L.R. 1391 (1925).

[34] 8 Am Jur 2d §845 (citations omitted): “The operator of a vehicle must regulate his speed so as to conform to traffic conditions, having the car under such control as will enable him to stop when necessary and avoid collision, within a reasonable distance, with another driver or pedestrian exercising due care.” C. Babbitt, *The Law Applied to Motor Vehicles* (4th ed., 1933), pp. 559-560.

[35] “The speed [in approaching curves] should be limited, warnings of approach given, and skill and care in its management so exercised as to anticipate such collisions as the nature of the machine and the locality might suggest as liable to occur in the absence of such precautions.” Babbitt, *supra* note 32, at 576. “A speed which places the car beyond the control of its driver when passing a visible obstruction or rounding a curve is excessive.” *Id.* at 560.

[36] 8 Am Jur 2d §816.

[37] See 8 Am Jur 2d §845.

[38] “The cause, which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred.” See *Vda. de Bataclan v. Medina*, 102 Phil. 181, 186 (1957).

[39] *People v. Ralph Velez Diaz*, 377 Phil. 997; *People v. Reyseyaga*, G.R. No. L-49536, 30 March 1988, 159 SCRA 426, 430-431; *People v. Maravilla*, G.R. No. L-47646, 19 September 1988, 165 SCRA 392, 399.

[40] *Rollo*, p. 44.

[41] *People v. Leal*, 411 Phil. 465; citing cases.

[42] G.R. No. L-25499, 18 February 1970, 31 SCRA 511.

[43] “[N]et earning capacity (x) = life expectancy x gross annual income; less living expenses (50% of gross annual income). See *People v. Gutierrez, Jr.*, 362 Phil. 259; citing *Sanitary Steam Laundry, Inc. v. Court of Appeals*, G.R. No. 119092, 10 December 1998; *MMTC v. Court of Appeals*, G.R. Nos. 116617 and 126395, 16 November 1998; *Negros Navigation Co., Inc. v. Court of Appeals*, G.R. No. 110398, November 7, 1997, 281 SCRA 534 (1997), and *Villa-Rey Transit, Inc. v. Court of Appeals*, No. L-25499, February 18, 1970, 31 SCRA 511 (1970).

[44] *Pitargue* having died at 55 years of age, earning Two Thousand One Hundred Fifty Six Pesos (P2,156.00) a month. *RTC Records*, p. 105.

[45] *Asistido* having died at 54 years of age, earning One Thousand Five Hundred Pesos a month. *Id.*

[46] *People v. Dubria*, G.R. No. 138887, 26 September 2000, 341 SCRA 134, 148; citing *People v. Dizon*, G.R. No. 129893, 10 December 1999, 320 SCRA 513.

[47] *TSN* dated 4 June 1991, p. 20.

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