PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. THADEOS ENGUITO, DEFENDANT-APPELLANT.

G.R. No. 128812. February 28, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

This case was certified for review pursuant to Section 13, Rule 124 of the Rules on Criminal Procedure by the Court of Appeals[1] which found accused-appellant Thadeos Enguito guilty beyond reasonable of the crime of murder with less serious physical injuries and sentenced him to suffer the penalty of reclusion perpetua.

Thadeos Enguito was charged with the crime of Murder with Multiple Less Serious Physical Injuries under the following Information:

> "That on September 22, 1991 at about 3:00 o'clock early dawn at Marcos Bridge, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and with treachery and with evident premeditation, did then and there wilfully, unlawfully, and feloniously chased, bumped and hit the motorela which Wilfredo S. Achumbre was riding with his Ceres Kia automobile bearing Plate No. 722 and as a consequence thereof, the motorela was dragged and fell on the road causing the driver (Felipe Requerme) and its passenger Rosita Requerme to sustain serious bodily injuries while the deceased Wilfredo S. Achumbre was able to run towards the railings at Marcos Bridge but accused with intent to kill him hit instantaneously immediately rammed and hit him with his driven vehicle cutting his right leg and thereafter ran over him thereby causing mortal harm on his body which was the direct and immediate cause of his instantaneous death.
>
> That the wrong done in the commission of the crime was deliberately augmented by causing other wrong not necessary for its commission.
>
> Contrary to Article 248 of the Revised Penal Code in relation to paragraphs 13 and 21 of Article 14 thereof."[2]

Upon arraignment, accused, assisted by counsel, pleaded not guilty to the crime charged.[3]

Trial ensued. The prosecution presented the following witnesses: Felipe Requerme, Rosita Requerme, PO3 Ricardo Catiil, SPO1 Albert Calingasan, PO3 Virgilio Maquiling, SPO1 Franklin Alamban, Sr., Georgita Achumbre, Dr. Sofronio Sescon and Dr. Apolinar Vacalares. The defense presented Alberto Chaves, Anita Enguito and the accused himself.

In his brief, accused-appellant states that he is in conformity with the findings of facts of the court a quo[4] which we quote hereunder:

"Prosecution's Evidence:

From the testimonies of prosecution witnesses Felipe Requerme, Rosita Requerme, PO3 Ricardo Catiil, SPO1 Albert Calingasan, PO3 Virgilio Maquiling, SPO1 Franklin Alamban, Sr., complainant Georgita Achumbre, wife

of the deceased, Dr. Sofronio Sescon and Dr. Apolinar Vacalares, it was established that at about 3:00 o'clock dawn of September 22, 1991, Felipe Requerme, a motorela driver who while driving his motorela with his wife on board, from Lapasan towards Poblacion, Cagayan de Oro City, picked up a passenger near the Nazareno church. The passenger was later identified as the deceased, Engr. Wilfredo Achumbre. Achumbre asked him to bring him across the Marcos bridge towards his home. After travelling a distance of 300 meters more or less and near the Sacred Heart of Jesus Montessori School, Requerme's motorela was bumped by a white motor vehicle. The vehicle kept pushing the motorela causing it to run very fast for the next 400 meters until it reached the area in front of Wheels Marketing. Because of the violent push the motorela turned around facing the direction from where it came from and fell on its right side.

Felipe Requerme screamed for help thinking that his wife was pinned underneath. A tamaraw pick-up stopped near them and he immediately informed that they were intentionally hit by the white vehicle. A short time later a police mobile patrol arrived and with the assistance of the people around, they pushed the motorela to return it to its natural position. Requerme and his wife were brought to the Operation Kahusay ug Kalinaw (OKK), a 24-hour police station where all victims of crimes report in Cagayan de Oro. At the OKK the driver of the white service pick-up who bumped his motorela arrived. Requerme identified the driver as Thadeos Enguito whom he pointed inside the courtroom. Later, Requerme and his wife were brought to the city hospital for medical check-up. They were also brought to the Northern Mindanao Regional Training Hospital to identify the deceased. The following day the Requerme spouses went to the police station and executed their affidavits which are attached to the record.

Felipe Requerme presented a medical certificate issued by the examining physician to establish the injuries he suffered (Exh. "A"). Likewise, he presented prescription for medicines and he said that he spent a total amount of P1,000.00 (Exhs. "B", "B-1", "B-2", "B-3").

Rosita Requerme was riding along with her husband and she noticed that when they were near the Sacred Heart of Jesus Montessori School their motorela was bumped by a white motor vehicle. She observed that the face of the driver of the vehicle bumping them was bloody. Mrs. Requerme shouted and waved her hand signalling the driver to stop but the driver kept pushing the motorela violently. The push was so fast and strong that the motorela was already uncontrolled and running very fast. Their passenger jumped out when they were already at the Marcos bridge near the Wheels Marketing. Then the motorela made a 180 degrees turn facing the direction where they came from and fell on its right side. Struggling out of the motorela she noticed that the white vehicle went up the elevated catwalk or pathway pursuing Achumbre who was hit when he was already at the railing (barandilla). Then she observed that the white vehicle drove across the bridge towards Iligan City. At the OKK she saw the accused brought by policemen and she asked him why he bumped them and the accused answered "I have to do it Manang because look at me now" (TSN, Dec. 16, 1991). She also observed that the face of the accused was bleeding. She identified the accused in court, as the same person she saw at the OKK. She was treated at the hospital and was issued a medical certificate (Exh. "C"). Together with her husband, they spent P1,000.00 for medicines.

PO3 Ricardo Catiil was assigned as driver of the mobile division patrol no. 07 on September 22, 1991 together with SPO1 Albert Calingasan and Armando Mana. They parked the mobile car at the other end of the Marcos bridge along C. M. Recto Avenue at about 2:30 in the morning. Shortly thereafter, he saw a car coming from Cagayan de Oro poblacion crossing the bridge running fast with a damage on its right portion. He estimated the speed at 80 kph. Observing something unusual they pursued the vehicle, switched on their siren and caught up with the vehicle at Km. 3, 2.6 kilometers from the place of incident. Catiil and the other two policemen alighted from the car and accosted the driver and brought him to the OKK. He noticed that the face of the driver was

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bleeding which he believed may have been caused by the splintered windshield. Examining the vehicle, they noticed that in addition to the broken windshield, the right portion of the signal light and the head light were also damaged. The right front tire was flat. When asked, the driver admitted that he bumped someone at the Marcos bridge.

SPO1 Albert Calingasan, supporting the testimony of Ricardo Catiil who was the driver of the mobile patrol car 07, declared that they were at the middle of the Marcos bridge when they saw a Ceres Kia car running fast and they pursued it until it stopped at Km. 3. After delivering the accused at the OKK, Calingasan together with his two companions drove back to the place of incident. They saw blood on the street. There were also bits of human flesh found on the cemented road and the right leg was completely severed. Calingasan explained that when they followed at the hospital and viewed the body of the victim, they saw that the right leg was severed from the body.

PO3 Virgilio Maquiling was assigned with mobile patrol 05 of the Cagayan de Oro Police Station at about 2:00 o'clock dawn of September 22, 1991. They were on patrol near the Golez residence almost near the foot of the Marcos bridge facing Iligan City. Maquiling and his companions saw a Ceres Kia coming from Liceo de Cagayan and turned right at the bridge and went towards the place where the incident occurred. Maquiling observed that the way the vehicle was driven, the driver may have been drunk. Twenty minutes later, the same vehicle came back with its right portion damaged. Suspecting that something untoward may have occurred, he called mobile patrol 101 to intercept the vehicle. Not long after a PU driver informed Maquiling and his companions that a motorela was involved in a traffic accident at the other end of the bridge near Licoan Bakery and Restaurant. Proceeding to the place of incident, he saw a body of a person at Abellanosa Street which is located immediately below the bridge about 10 feet high. He also saw that the right leg of the person was hanging at the Marcos bridge railing about seven meters away from the body. Maquiling, using his radio, called the paramedic. They immediately brought the body of the victim to the NMRTH. Maquiling inspected the crime scene and he observed that the latex paint of the railing was scraped and the trailing was dented.

Dr. Sofronio Sescon identified the medical certificate and he described his findings as follows:

> "October 19, 1991
>
> MEDICAL CERTIFICATE
>
> TO WHOM IT MAY CONCERN:
>
> THIS IS TO CERTIFY that MR. FELIPE REQU(I)ERME, 42 years old, of Consolacion, Cagayan de Oro City was examined by the undersigned in this hospital on September 22, 1991 at about 3:12 A.M. for:
>
> "Abrasions, about 2 x 4 cm. and 0.5 x 2 cm., with hematoma, Right lumbar area."
>
> =
>
> Healing Period: Two (2) weeks barring complications.
>
> This certificate is issued for whatever purpose it may serve.
>
> (SGD.) SOFRONIO C. SESCON, M.D.
> Medical Officer"

Dr. Rogelio Gannaban examined Rosita Requerme at about 3:00 o'clock dawn of Sept. 22, 1991 and he issued a medical certificate (Exh. "C") indicating the following injuries:

> "October 19, 1991
>
> MEDICAL CERTIFICATE

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TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that MRS. ROSITA REQU(I) ERME, 41 years old, of Consolacion, Cagayan de Oro City was examined by the undersigned in this hospital on September 22, 1991 at about 3:12 a.m. for:

- Contusion 2.0 x 6.0 cm. Right arm, M/3, medial;

- Contusion 3.0 x 4.0 cm. Right leg, P/3, anterior

= =

HEALING PERIOD: Three to Five (3-5) days barring complications.

This certificate is issued for whatever purpose it may serve.

(SGD.) ROGELIO R. GANNABAN, M. D.
Medical Officer IV"

Dr. Apolinar Vacalares, chief of the Pathology Department of the NMRTH identified the death certificate of Wilfredo Achumbre (Exh. "D", "D-1"). He conducted an autopsy on the cadaver of Wilfredo Achumbre and the following are his external findings:

"x x x

Prosecutor Gamotin:

Q:

Now, you made mention that you were the one who conducted on the cause of death of the victim on this particular case - will you please tell the honorable court what was your findings on the victim?

A:

On the autopsy table the external findings are - 1) There was a laceration of the forehead and contusions on the left forehead, and 2) Multiple injuries on the head and right extremity, traumatic." (TSN, Dec. 19, 1991, p.9)

x x x"

He also presented an autopsy table showing a diagram of the human body showing therein the injuries suffered by the victim (Exh. "E", "E-1", "E-2"). In examining the body he saw that the right leg was cut at the upper third just below the knee. In the diagram of the human body he identified the injuries on the brain (Exh. "E-5", "E-6, "E-7", "E-8"). The complete findings of Dr. Vacalares are as follow:

"x x x

Prosecutor Gamotin:

Q:

Now, what was your findings on the brain of the victim in this case?

A:

In opening the brain or the skull, there were blood clots on the external portion of the covering portion and below the distal portion or surface, again there was a blood clot and then the thin membrane that covers the brain is also covered with blood.

Q:

> You mean to tell this honorable court hemorrhage on the brain?
>
> A:
>
> There was a massive hemorrhage." (TSN, Dec. 19, 1991, p. 12)

When asked by the defense counsel regarding a fall from a certain height which would result to a damage of the brain, Dr. Vacalares answered:

> "x x x
>
> A: With this drawing with multiple injuries on the leg, it could have fall from a certain height fifty feet or twenty feet but not from five feet height or even ten feet height." (TSN, Dec. 19, 1991, p. 21)

Dr. Vacalares declared that the victim suffered massive hemorrhage and, in fact, it was impossible for the victim to survive even with the most modern medical attendance. There was massive accumulation of clot and no amount of surgery could have saved the victim. Death was almost instantaneous.

Georgita Achumbre, wife of the deceased, declared that her husband used to receive P5,000.00 monthly salary and with other incentives, giving him a total income of P10,000.00 a month. They have 5 children namely: Charles Ian (9 yrs. old.), Lou Aiza (6 yrs. old), Charmie Aimee (3 yrs. old), Charlene Irene (1 yr. and 10 mos. old), and Christine Ivy Lou (6 mos. old).

Georgita Achumbre knows the accused because he used to come to their house and he and her husband were both employed with G & P Builders and they used to play basketball together. At 5:00 o'clock in the morning of September 22, 1991 she received news of her husband's death. Together with her brother-in-law she proceeded to the NMRTH and saw the body of her husband lying on a table and covered with white cloth. She was informed that her husband was dead on arrival. From the hospital she went to the police station to retrieve the wallet of her husband which contained P3,000.00. When she confronted the accused at the police station why he killed her husband, Thadeos Enguito answered that he was mauled by her husband and it was an act of revenge. The accused explained that the victim became angry when he was made to pay the bills of Enguito's friend who was seated on the other table.

Expenses she incurred as a result of her husband's death are the following:

1) P 7,000.00 for the Greenhills Funeral Homes;
2) P 9,000.00 for Divine Shepherd Memorial Park;
3) P 5,000.00 for vigil and prayers for 10 days;
4) P 2,000.00 for the 40th day prayer; and
5) P20,000.00 attorney's fees.

She leaves to the discretion of the Court the moral and exemplary damages.

Defendant's Evidence:

Maintaining that the death of the victim was purely an accident, accused Thadeos Enguito, a co-employee of the victim, declared that he and the deceased Wilfredo Achumbre were close friends and they used to play basketball together. He is also acquainted with the wife of the victim because he used to go to their residence. Enguito maintained that on September 22 at about 3:00 o'clock in the morning he was about to bring Achumbre to his house located at Kauswagan near Kong Hua School. Enguito was driving a Ceres Kia pick-up owned by G & P Builders Construction. At the crossroad going to the house of Achumbre, he (Achumbre) refused to step down,

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compelling Enguito to go back to where they came from at Divisoria. Enguito observed that Achumbre was already drunk. Achumbre invited Enguito to eat bulalo but the latter refused and because Achumbre still refused to alight from the pick-up, Enguito decided to go home to his residence at Gaabucayan-Osmeña Extension passing by the Coca-Cola plant. Nearing the house of Enguito, Achumbre suddenly stepped on the brakes and attempted to take over the vehicle. The Ceres Kia stopped and Enguito quickly jumped out and ran towards his house with Achumbre pursuing him. After a short while Achumbre was able to catch up with Enguito and he (Achumbre) said, "You are a braggart" (TSN, May 18, 1992, p. 17) and mauled him. Enguito failed to put up a fight because Achumbre was very much bigger having a height of approximately 5'11". Achumbre's blows resulted to Enguito's dizziness and when his mind was cleared, he noticed that Achumbre already left. The Ceres Kia pick-up which Achumbre wanted to take away from him was left parked near Enguito.

Accused Enguito drove back the Ceres Kia in order to report the incident to the police authorities. Turning towards Recto Avenue he saw a motorela which had Achumbre as passenger cruising along Recto Avenue a little beyond the Nazareno Church. Enguito followed the motorela with intentions of compelling Achumbre to surrender to the police having observed earlier that a police mobile patrol was parked at the other end of the Marcos bridge. Still very closely following the motorela, Achumbre suddenly jumped towards the right of the Ceres Kia and when he attempted to cross the road towards Wheels Marketing he was hit (TSN, May 18, 1992, p. 23-24). Enguito attempted to apply the brakes but it was so sudden and Achumbre was too near. Without verifying what happened to Achumbre, Enguito drove on across the bridge passing by a patrol car and stopping near the Km. 3 at a distance of 1.7 kilometers beyond the mobile patrol parked at the foot of the other side of the bridge towards Iligan City.

In trying to avoid hitting Achumbre, the Ceres Kia hit the railings damaging the windshield, the right front headlight and the right siding of the vehicle. Noticing the police car pursuing him, Enguito stopped his vehicle and approached the policemen. He was brought to the OKK where he was informed that Achumbre was killed. On September 23 at the police station during the confrontation, Mrs. Achumbre asked Enguito why he killed her husband and he explained that it was not intentional (TSN, May 18, 19, p. 26-27).

On Cross examination the accused claimed that the bumper of the Ceres Kia hit the back portion of the motorela. He also maintained that other than the driver there was a woman passenger together with Achumbre. He affirmed that Achumbre having mauled him and bloodied his face he was very angry with the latter.

Enguito saw the woman waiving at him to stop but he still continued to very closely follow even hitting the motorela. The accused did not apply the brake because he was afraid that his vehicle might turn turtle. Asked why he did not stop his vehicle after hitting the deceased he explained that there were people gathered from the distance and he was afraid that he might be harmed by them. When again asked why he did not stop at the middle of the bridge, he said that he already saw the mobile patrol and he directly went to them.

As character witness the accused presented Alberto Chaves, 76 years old, former mayor of Kalilangan, Bukidnon where the accused grew up. Mr. Chaves was former superintendent of the defunct NARRA and in 1964 he was municipal mayor of Pangantucan, an adjoining municipality of Kalilangan. He was also elected municipal mayor of Kalilangan in 1968 up to 1986. He knew very well the accused Thadeos Enguito as a young boy. The father of the accused was a construction foreman in the municipal government where he was mayor and the wife was employed with the NARRA assigned under the health services. During all the years when the accused was residing in Kalilangan, Bukidnon he was never involved in any crime. As far as he knows, he is a good boy and this charge against him (Enguito) is a complete surprise to him.

Anita Enguito, wife of the accused, testified that they have been married for nine years and they have four

children, the eldest being 9 years old and the youngest 3 years old. As far as she can remember the deceased Wilfredo Achumbra and her husband were good friends and she did not know of any quarrel that transpired between them."[5]

After trial, the court a quo rendered judgment on October 5, 1992 finding accused guilty beyond reasonable doubt of the crime of Homicide with Less Serious Physical Injuries. The dispositive portion[6] of which reads:

> "IN VIEW OF THE FOREGOING, the Court is of the considered opinion and so holds that the prosecution clearly established beyond reasonable doubt that the crime of homicide with less serious physical injuries was committed by the accused Thadeos Enguito with the aggravating circumstance of the use of motor vehicle (Art. 14, par. 20, RPC) without any mitigating circumstance and hereby sentences him to an indeterminate sentence ranging from TWELVE (12) YEARS of prision correccional as minimum to TWENTY (20) YEARS of reclusion temporal as maximum penalty.
>
> On the civil liability, the accused is hereby ordered to pay the following:
>
> 1) P 50,000.00 representing death compensation;
> 2) P 23,000.00 representing funeral expenses;
> 3) P200,000.00 representing moral and exemplary damages;
> 4) P 20,000.00 attorney's fee.
>
> The accused is likewise ordered to pay spouses Felipe and Rosita Requerme the following:
>
> 1) P 1,000.00 representing medical expenses;
> 2) P30,000.00 representing moral and exemplary damages."

On appeal, the Court of Appeals found that since the prosecution's evidence showed that accused killed the victim by means of motor vehicle, he should be guilty of the crime of murder and not of homicide. The dispositive portion[7] of the Decision dated October 17, 1996 reads:

> "WHEREFORE, the appealed decision is hereby AFFIRMED with the following modification: appellant Thadeos Enguito is hereby found guilty beyond reasonable doubt of the crime of MURDER WITH LESS SERIOUS PHYSICAL INJURIES and is sentenced to suffer the penalty of Reclusion Perpetua. Pursuant to Section 13 (par. 2) of Rule 124 of the Revised Rules on Criminal Procedure, let this case be certified and the entire records thereof be elevated to the Supreme Court for review. Costs against the appellant."

Accused-appellant filed his brief raising the following assignment of errors:

> "1. The Honorable Third Division of the Court of Appeals committed error in finding that accused is guilty of less serious physical injuries suffered by Felipe Requerme.
>
> "2. The Honorable Third Division of the Court of Appeals committed grave abuse of discretion in affirming the conviction of accused for the Crime of Murder with the use of motor vehicle."

In the first assigned error, accused-appellant avers that no evidence was presented by the prosecution to show that the motorela driven by Felipe Requerme suffered any damage as a result of the alleged bumping. Appellant argues that the motorela turned on its left side in a reverse direction because of the act of Felipe who was not able to balance the motorela when the deceased Achumbre jumped out from the rear. Appellant contends that he could not be guilty of any physical injuries suffered by the spouses Requerme because the direct cause of the motorela turning on its left side was the act of Felipe in guiding the vehicle while the proximate cause is the thrust which resulted when Achumbre suddenly jumped out of the motorela.

The argument is devoid of merit. The defense disregards the basic rule in criminal law that a person is responsible for all the consequences of his unlawful or wrongful act although such consequences were different from those

which he originally intended.[8] Even if it be assumed that the real intention of accused-appellant was to surrender the victim to the police for mauling him, his act of pursuing the victim, who was a passenger of the motorela, resulted in the injuries of the driver and the other passenger of the motorela. Appellant himself testified[9] that when he followed the motorela, he was "very near"[10] and that he saw the deceased Achumbre jump out on the right side of the motorela but he went ahead; he allegedly "tried to evade, but he was so near."[11] Upon seeing that Achumbre was trying to jump out of the motorela, accused-appellant should have known that by closely following, pushing and bumping the motorela, he could injure the passengers, which is what happened in this case. Moreover, accused-appellant ignored the pleas of Rosita Requerme, the other passenger and wife of the driver of the motorela, for him to stop bumping and pushing the motorela.[12] Instead, he persisted resulting in the motorela turning on its side and in the opposite direction. Verily, the act of accused-appellant in relentlessly pursuing the motorela is a manifestation of his intention to perpetrate the crime.

Appellant further contends that he did not intentionally choose the motor vehicle he was driving as a means of committing the offense, and that at most, the vehicle was the only available means to stop the deceased from escaping. He argues that it was his intention to apprehend and surrender the deceased to the police for his previous act of mauling him but in the process, he killed the deceased.

The indictment against accused-appellant is murder attended by the use of motor vehicle. The use of a motor vehicle qualifies the killing to murder if the same was perpetrated by means thereof.[13] Appellant's claim that he merely used the motor vehicle, Kia Ceres van, to stop the victim from escaping is belied by his actuations. By his own admission, he testified that there was a police mobile patrol near the crossing.[14] Accused-appellant could have easily sought the assistance of the police instead of taking the law into his own hands. Moreover, accused-appellant already noticed the deceased trying to jump out of the motorela[15] but he still continued his pursuit. He did not stop the vehicle after hitting the deceased[16] who was hit when he (Achumbre) was at the railing of the Marcos bridge.[17] Accused-appellant further used the vehicle in his attempt to escape. He was already more than one (1) kilometer away from the place of the incident that he stopped his vehicle upon seeing the police mobile patrol which was following him.[18]

Appellant contends that he should have been convicted of the crime of homicide with two (2) mitigating circumstances of acting in passion and voluntary surrender; and had the charge been homicide he could have pleaded guilty. We find that these mitigating circumstances cannot be appreciated in his favor. Accused-appellant was allegedly "still very angry"[19] while he was following, bumping and pushing the motorela which was in front of him. He was previously mauled by the deceased and he was allegedly rendered unconscious by the blows inflicted on him. When he regained consciousness, he claims that he wanted to look for a policeman to report that he was mauled.[20] Clearly, accused-appellant's state of mind after he was mauled and before he crushed Achumbre to death was such that he was still able to act reasonably. In fact, he admitted having seen a police mobile patrol nearby but instead, he chose to resort to the dastardly act which resulted in the death of Achumbre and in the injuries of the spouses Requerme. For passion to be considered as a mitigating circumstance, facts must be proved to show causes sufficient to produce loss of self-control and to overcome reason.[21] The turmoil and unreason which naturally result from a quarrel or fight should not be confused with the sentiment or excitement in the mind of a person injured or offended to such a degree as to deprive him of his sanity and self-control.[22]

The mitigating circumstance of voluntary surrender cannot be appreciated. Evidence shows that accused-appellant was further pursued by the police. Appellant himself testified that he stopped his vehicle just after the police mobile stopped but admitted having "stopped farther than the police mobile".[23] SPO3 Catiil further testified that appellant did not surrender but only stopped his vehicle when its right tire was already flat.[24] His testimony was corroborated by PO3 Makiling who was patrolling the portion of Marcos Bridge. He testified that he saw the

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vehicle being driven by accused-appellant already destroyed and the right portion of the vehicle a little bit lower as it was running flat.[25] Clearly, accused-appellant could have eluded arrest but his situation became futile when his vehicle suffered a flat tire.

The foregoing notwithstanding, the existence or non-existence of a mitigating circumstance in the case at bar will not affect the penalty to be imposed pursuant to Article 63 of the Revised Penal Code. The crime committed by accused-appellant is the complex crime of murder with less serious physical injuries. Under Article 48 of the Revised Penal Code, the penalty for a complex crime shall be the maximum period of the penalty for the most serious crime. The crime was committed in 1992 where the penalty for the crime of murder, which is the most serious crime, was reclusion temporal in its maximum period to death under Article 248 of the Revised Penal Code. The death penalty being the maximum period of the penalty for murder should be imposed for the complex crime of murder with less serious physical injuries considering that under Article 63, an indivisible penalty cannot be affected by the presence of any mitigating or aggravating circumstance.[26] And, consonant with the ruling in People vs. Muñoz[27] that Article III, Section 19 (1) of the 1987 Constitution[28] did not change the period of the penalty for murder except only insofar as it prohibits the imposition of the death penalty and reduces it to reclusion perpetua, the Court of Appeals was correct in imposing the penalty of reclusion perpetua.

There is a need to modify the award of damages to the heirs of the victim Achumbre. We affirm the award of P50,000.00 as civil indemnity for death to the heirs of the deceased Achumbre. There is, however, no justification for the award of exemplary damages there being no aggravating circumstance;[29] hence, the same should be deleted.

Anent the award of moral damages, his widow testified that she was sad and worried for the children and their future and that there were nights that she cannot sleep.[30] The award of moral damages in favor of the heirs of the deceased Achumbre is in order, however, the amount should be reduced to P50,000.00 in light of the purpose for making such award, which is to compensate the heirs for injuries to their feelings and not to enrich them.[31]

As to the award of actual damages, the same cannot be based on the allegation of a witness without any competent document to support such claim.[32] Proof is required to be adequately supported by receipts.[33] The amount of P23,000.00 awarded by the trial court as funeral expenses should be reduced. Georgita Achumbre, widow of the deceased-victim, testified that she spent P7,000.00 for embalming and funeral cortege as evidenced by a receipt issued by the Green Hills Memorial Homes which is marked as Exhibit "H"[34] and another P9,300.00 as internment fee as shown in the receipt issued by the Divine Shepherd Memorial Gardens, Inc. which is marked as Exhibit "I".[35] She also spent "about P5,000.00 or more" for a one (1) week vigil, but no receipt was presented;[36] hence, the same cannot be included in the award for actual damages.[37] A party is entitled to compensation only for such pecuniary loss suffered by him as he has duly proved.[38] The amount of "not less than P2,000.00" allegedly spent during the 40th day[39] cannot likewise be considered as the same was incurred after a considerable lapse of time from the burial of the victim.[40] Hence, only the total amount of P16,300.00 as actual damages should be awarded to the heirs of the deceased.

The lower courts failed to consider the fact that under Article 2206 of the Civil Code, in addition to civil indemnity of P50,000.00 for the death of the victim, the accused-appellant is liable for the loss of earning capacity of the deceased and such indemnity should be paid to the heirs of the latter. The widow of deceased Achumbre testified that before her husband died, he was working with G & P Builders as a licensed civil engineer receiving salary and other incentives in the amount of "more or less, a total of P10,000.00 a month" or a gross annual income of P120,000.00. They had five (5) children.[41] At the time Achumbre died, he was 38 years old.[42] The deceased's loss of earning capacity is computed as follows:

net earning capacity = life expectancy x gross annual income (GAI) less living expenses (50% of GAI)

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capacity (x)

X = 2 (80 - age at time of death) x (GAI - 50% of GAI)

3

= 2 (80 - 38) x (P 120,000.00 - P 60,000.00)

3

= 28 x P 60,000.00

= P 1,680,000.00

Pursuant to Article 2202 of the Civil Code, accused-appellant is liable for all damages which are the natural and probable consequences of the act or omission complained of. Moral damages are recoverable since the criminal offense resulted in physical injuries[43] of the spouses Requerme. The total amount of P20,000.00 as moral damages in favor of the spouses Requerme is believed to be reasonable.

Anent the amount of P1,000.00 representing medical expenses awarded to the spouses Felipe and Rosita Requerme, the prosecution presented the doctor's prescription marked as Exhibits "B" to "B-3"[44] but no receipts were presented. Medical expenses are in the nature of actual damages which should be duly proved and the award for actual damages cannot be made on the basis of the doctor's prescriptions alone. There must be evidence of the actual amount thereof. Likewise the award of exemplary damages to the spouses Requerme should be deleted for lack of basis.

WHEREFORE, the decision convicting accused-appellant Thadeos Enguito of the complex crime of Murder with Less Serious Physical Injuries and sentencing him to the penalty of reclusion perpetua is hereby AFFIRMED with the MODIFICATION that accused-appellant is ordered to pay the heirs of deceased Wilfredo Achumbre the amount of P50,000.00 as civil indemnity; P1,680,000.00 for loss of earning capacity; P 16,300.00 as actual damages; P 50,000.00 as moral damages; and to further pay the spouses Felipe and Rosita Requerme the amount of P20,000.00 as moral damages.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

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[1] Composed of Justices Arturo B. Buena (now Associate Justice of the Supreme Court), Angelina Sandoval Gutierrez (ponente) and Conrado M. Vasquez, Jr.

[2] p. 3, Records of Criminal Case No. 91-1090.

[3] Order dated November 8, 1991, p. 33, ibid.

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[4] p. 1, Appellant's Brief, p. 8, Rollo.

[5] pp. 2-14, RTC-Decision, pp. 161-173, Record of Criminal Case No. 91-1090.

[6] pp. 21-22, thereof, pp. 180-181, ibid.

[7] p. 12 thereof, Rollo of Criminal Case No. 14057.

[8] Article 4, Revised Penal Code; People vs. Cruza, 237 SCRA410.

[9] pp. 22, TSN, May 18, 1992.

[10] pp. 22 & 39, TSN, May 18, 1992.

[11] p. 24, ibid.

[12] pp. 25-26, TSN, December 16, 1991; pp. 10-11, TSN, December 17, 1991; pp. 40-41, TSN, May 18, 1992.

[13] People vs. Soriano, 134 SCRA 542.

[14] pp. 22, 39 & 42, TSN, May 18, 1992.

[15] p. 42, TSN, May 18, 1992.

[16] p. 48, ibid.

[17] pp. 7-8, TSN, December 17, 1991.

[18] p. 53, TSN, May 18, 1992.

[19] p. 40, ibid.

[20] p. 35, ibid.

[21] People vs. Mojica, 70 SCRA 502.

[22] People vs. Bautista, 254 SCRA 621.

[23] p. 25, ibid.

[24] p. 20, TSN, December 18, 1991.

[25] pp. 6 & 11, TSN, January 9, 1992.

[26] People vs. Madali, 188 SCRA 69.

[27] 170 SCRA 107.

[28] Sec. 19. (1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to reclusion perpetua.

[29] Article 2230, Civil Code.

[30] pp. 28 & 38, TSN, January 9, 1992.

[31] People vs. Gutierrez, Jr., 302 SCRA 643; People vs. Sanchez, et al., G.R. No. 118423, June 16, 1999; People vs. Silvestre, G.R. No. 127573, May 17, 1999.

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[32] People vs. Sanchez, et al., supra.

[33] People vs. Quilang, G.R. No. 12365-66, August 12, 1999.

[34] p. 36, TSN, January 9, 1992; p. 89, Record.

[35] p. 90, Record.

[36] p. 37, TSN, January 9, 1992.

[37] People vs. Naguita, G.R. No. 130091, August 30, 1999.

[38] Article 2219, Civil Code.

[39] p. 37, TSN, January 9, 1992.

[40] People vs. Mangahas, G.R. No. 118777, July 28, 1999.

[41] p. 25, TSN, January 9, 1992.

[42] Exhibit "D", p. 82, Record.

[43] Article 2219, Civil Code.

[44] pp. 77- 80, Record.

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