

GREGORIO PESTAÑO AND METRO CEBU AUTOBUS CORPORATION, PETITIONERS, VS. SPOUSES TEOTIMO SUMAYANG AND PAZ C. SUMAYANG, RESPONDENTS.

G.R. No. 139875. December 04, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Factual findings of the Court of Appeals, affirming those of the trial judge, are binding on this Court. In quasi-delicts, such findings are crucial because negligence is largely a matter of evidence. In computing an award for lost earning capacity, the life expectancy of the deceased, not that of the heir, is used as basis.

The Case

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the April 21, 1999 Decision and the August 6, 1999 Resolution of the Court of Appeals[1] (CA) in CA-GR CV No. 30289. The questioned Decision disposed as follows:

"WHEREFORE, premises considered, the instant appeal is hereby DENIED. The assailed Decision of the lower court is hereby AFFIRMED with the aforesaid modification regarding the award of death penalty."

The Resolution of August 6, 1999 denied reconsideration.[2]

The Facts

The events leading to this Petition were summarized by the Court of Appeals as follows:

"It appears from the records that at around 2:00 o'clock [o]n the afternoon of August 9, 1986, Ananias Sumayang was riding a motorcycle along the national highway in Ilihan, Tabagon, Cebu. Riding with him was his friend Manuel Romagos. As they came upon a junction where the highway connected with the road leading to Tabagon, they were hit by a passenger bus driven by [Petitioner] Gregorio Pestaño and owned by [Petitioner] Metro Cebu Autobus Corporation (Metro Cebu, for brevity), which had tried to overtake them, sending the motorcycle and its passengers hurtling upon the pavement. Both Ananias Sumayang and Manuel Romagos were rushed to the hospital in Sogod, where Sumayang was pronounced dead on arrival. Romagos was transferred to the Cebu Doctors' Hospital, but he succumbed to his injuries the day after.

"Apart from the institution of criminal charges against Gregorio Pestaño, [Respondents] Teotimo and Paz Sumayang, as heirs of Ananias Sumayang, filed this civil action for damages against Gregorio Pestaño, as driver of the passenger bus that rammed the deceased's motorcycle, Metro Cebu, as owner and operator of the said bus, and Perla Compania de Seguros, as insurer of Metro Cebu. The case was docketed as Civil Case No. CEB-6108.

"On November 9, 1987, upon motion of [Petitioner] Pestaño, Judge Pedro C. Son ordered the consolidation of the said case with Criminal Case No. 10624, pending in Branch 16 of the same Court, involving the criminal prosecution of Gregorio Pestaño for [d]ouble [h]omicide thru [r]eckless [i]mprudence. Joint trial of the two cases thereafter ensued, where the following assertions were made:

`[Respondents] rely mainly on the testimonies of Ignacio Neis, Pat. Aquilino Dinoy and Teotimo Sumayang, father of the deceased. Neis declared that he saw the incident while he was sitting on a bench beside the highway; that both vehicles c[a]me from the North; that as the motorcycle approached the junction to Tab[a]gon, the driver Ananias Sumayang signalled with his left arm to indicate that he was taking the Tab[a]gon Road; that the motorcycle did turn left but as it did so, it was bumped by an overspeeding bus; that the force of the impact threw Ananias Sumayang and his companion Manuel Romagos about 14 meters away. The motorcycle, Neis continued, was badly damaged as it was dragged by the bus.

`On the other hand, Pat. Dinoy testified that he was in the nearby house of Ruben Tiu [when] he heard the sound or noise caused by the collision; that he immediately went to the scene where he found Ananias Sumayang and Manuel Romagos lying on the road bleeding and badly injured; that he requested the driver of a PU vehicle to take them to a hospital; that he took note of the various distances which he included in his sketch (Exh. J) that the probable point of impact was at the left lane of the highway and right at the junction to Tab[a]gon (Exh J-11); that he based his conclusion on the `scratches' caused by the motorcycle's footrest on the asphalt pavement; that he described the damage caused to the motorcycle in his sketch (Exh J); that on the part of the bus, the right end of its front bumper was bent and the right portion of the radiator grill was dented. Pat. Dinoy acknowledged that he met at the scene Ignacio Neis who informed him that he saw the incident.

`On the contrary, Pestaño blamed Sumayang for the accident. He testified that when he first blew the horn the motorcycle which was about 15 or 20 meters ahead went to the right side of the highway that he again blew the horn and accelerated in order to overtake the motorcycle; that when he was just one meter behind, the motorcycle suddenly turned left towards the Tab[a]gon [R]oad and was bumped by his bus; that he was able to apply his break only after the impact. Pestaño's testimony was corroborated by Ireneo Casilia who declared that he was one of the passengers of the bus; that the motorcycle suddenly turned left towards Tab[a]gon [R]oad without giving any signal to indicate its maneuver; that the bus was going at 40 kph when the accident occurred.

`To substantiate its defense of bonos pater familias [petitioner] [c]orporation recalled to the witness box Gregorio Pestaño who explained how his driving experience and ability were tested by the company before he was hired. He further declared that the management gave regular lectures to drivers and conductors touching on various topics like speeding, parking, loading and treatment of passengers, and that before he took to the road at 2:30 AM of that day he checked together with the mechanic the tires, brake, signal lights as well as the tools to be brought along. He did the same thing before commencing his return trip from Hagnaya, San Remegio later in the day.

`The corporation also presented its maintenance supervisor, Agustin Pugeda, Jr., and its manager, Alfonso Corominas, Jr. who corroborated Pestaño's testimony that his driving ability was thoroughly tested, and that all drivers underwent periodic lecture on various aspects of safety driving including pertinent traffic regulations. They also confirmed the thorough checkup of every vehicle before it would depart and that the performance of the drivers was being monitored by several inspectors posted at random places along the route.'

"In judgment, the lower court found [petitioners] liable to the [respondents], in the amounts of P30,000.00 for death indemnity, P829,079 for loss of earning capacity of the deceased Ananias Sumayang, and P36,000.00 for necessary interment expenses. The liability of defendant Perla Compania de Seguros, Inc., however, was limited only to the amount stipulated in the insurance policy, which [was] P12,000 for death indemnity and P4,500.00 for burial expenses.

"In so ruling, the lower court found [Petitioner] Pestaño to have been negligent in driving the passenger bus that hit the deceased. It was shown that Pestaño negligently attempted to overtake the motorcycle at a dangerous speed as they were coming upon a junction in the road, and as the motorcycle was about to turn left towards Tabagon. The court likewise found Metro Cebu directly and primarily liable, along with Pestaño, the latter's employer under

Article 2180 of the Civil Code, as [Petitioner] Metro Cebu failed to present evidence to prove that it had observed x x x [the] diligence of a good father of a family to prevent damage. Nor has Metro Cebu proven that it had exercised due diligence in the supervision of its employees and in the maintenance of vehicles."[3]

Ruling of the Court of Appeals

The CA affirmed respondent's liability for the accident and for Sumayang's death. Pestaño was negligent when he tried to overtake the victim's motorcycle at the Tabagon junction. As a professional driver operating a public transport vehicle, he should have taken extra precaution to avoid accidents, knowing that it was perilous to overtake at a junction, where adjoining roads had brought about merging and diverging traffic.

The appellate court opined that Metro Cebu had shown laxity in the conduct of its operations and in the supervision of its employees. By allowing the bus to ply its route despite the defective speedometer, said petitioner showed its indifference towards the proper maintenance of its vehicles. Having failed to observe the extraordinary diligence required of public transportation companies, it was held vicariously liable to the victims of the vehicular accident.

In accordance with prevailing jurisprudence, the CA raised to P50,000 the granted indemnity for the death of the victim. It also affirmed the award of loss of earning capacity based on his life expectancy. Such liability was assessed, not as a pension for the claiming heirs, but as a penalty and an indemnity for the driver's negligent act.

Hence, this Petition.[4]

Issues

Petitioners submit the following issues[5] for our consideration:

- "1. The Court of Appeals misapplied facts of weight and substance affecting the result of the case.
- "2. The Court of Appeals misapplied R.A. 4136 as regards the behavior of the deceased at the time of the accident.
- "3. The Court of Appeals erred in ruling that the award of damages representing income that deceased could have earned be considered a penalty.
- "4. The Court of Appeals, contrary to Article 2204, Civil Code, raised the award of P30,000.00 damages representing indemnity for death to P50,000.00.
- "5. The Court of Appeals used as basis for the loss of earning capacity, the life expectancy of the [d]eceased instead of that of the respondents which was shorter."[6]

In short, they raise these questions: whether the CA erred (1) in applying Section 45 of RA 4136 when it ruled that negligence in driving was the proximate cause of the accident; (2) in increasing the civil indemnity from P30,000 to P50,000; and (3) in using the life expectancy of the deceased instead of the life expectancies of respondents.

The Court's Ruling

The Petition has no merit.

First Issue: Negligence

Petitioners contend that Pestaño was not under any obligation to slow down when he overtook the motorcycle, because the deceased had given way to him upon hearing the bus horn. Seeing that the left side of the road was clearly visible and free of oncoming traffic, Pestaño accelerated his speed to pass the motorcycle. Having given

way to the bus, the motorcycle driver should have slowed down until he had been overtaken.

They further contend that the motorcycle was not in the middle of the road nearest to the junction as found by the trial and the appellate courts, but was on the inner lane. This explains why the damage on the bus were all on the right side - the right end of the bumper and the right portion of the radiator grill were bent and dented. Hence, they insist that it was the victim who was negligent.

We disagree. Petitioners are raising a question of fact based on Pestaño's testimony contradicting that of Eyewitness Ignacio Neis and on the location of the dents on the bumper and the grill. Neis testified that as the two vehicles approached the junction, the victim raised his left arm to signal that he was turning left to Tabagon, but that the latter and his companion were thrown off the motorcycle after it was bumped by the overspeeding bus.

These contentions have already been passed upon by the trial and the appellate courts. We find no cogent reason to reverse or modify their factual findings. The CA agreed with the trial court that the vehicular collision was caused by Pestaño's negligence when he attempted to overtake the motorcycle. As a professional driver operating a public transport bus, he should have anticipated that overtaking at a junction was a perilous maneuver and should thus have exercised extreme caution.

Factual findings of the CA affirming those of the trial court are conclusive and binding on this Court. Petitioners failed to demonstrate that this case falls under any of the recognized exceptions to this rule.[7] Indeed, the issue of negligence is basically factual and, in quasi-delicts, crucial in the award of damages.

Petitioners aver that the CA was wrong in attributing the accident to a faulty speedometer and in implying that the accident could have been avoided had this instrument been properly functioning.

This contention has no factual basis. Under Articles 2180 and 2176 of the Civil Code, owners and managers are responsible for damages caused by their employees. When an injury is caused by the negligence of a servant or an employee, the master or employer is presumed to be negligent either in the selection or in the supervision of that employee. This presumption may be overcome only by satisfactorily showing that the employer exercised the care and the diligence of a good father of a family in the selection and the supervision of its employee.[8]

The CA said that allowing Pestaño to ply his route with a defective speedometer showed laxity on the part of Metro Cebu in the operation of its business and in the supervision of its employees. The negligence alluded to here is in its supervision over its driver, not in that which directly caused the accident. The fact that Pestaño was able to use a bus with a faulty speedometer shows that Metro Cebu was remiss in the supervision of its employees and in the proper care of its vehicles. It had thus failed to conduct its business with the diligence required by law.

Second Issue: Life Indemnity

Petitioners aver that the CA erred in increasing the award for life indemnity from P30,000 to P50,000, without specifying any aggravating circumstance to justify the increment as provided in the Civil Code.[9]

This contention is untenable. The indemnity for death caused by a quasi-delict used to be pegged at P3,000, based on Article 2206 of the Civil Code. However, the amount has been gradually increased through the years because of the declining value of our currency. At present, prevailing jurisprudence fixes the amount at P50,000.[10]

Third Issue: Loss of Earning Capacity

Petitioners cite *Villa Rey Transit, Inc. v. Court of Appeals*,[11] which held:

"The determination of the indemnity to be awarded to the heirs of a deceased person has therefore no fixed basis. x x x The life expectancy of the deceased or of the beneficiary, whichever is shorter, is an important

factor. x x x."

They contend that the CA used the wrong basis for its computation of earning capacity.

We disagree. The Court has consistently computed the loss of earning capacity based on the life expectancy of the deceased,[12] and not on that of the heir.[13] Even Villa Rey Transit did likewise.

The award for loss of earning capacity is based on two factors: (1) the number of years on which the computation of damages is based and (2) the rate at which the loss sustained by the heirs is fixed.[14] The first factor refers to the life expectancy, which takes into consideration the nature of the victim's work, lifestyle, age and state of health prior to the accident. The second refers to the victim's earning capacity minus the necessary living expenses. Stated otherwise, the amount recoverable is that portion of the earnings of the deceased which the beneficiary would have received -- the net earnings of the deceased.[15]

WHEREFORE, the Petition is DENIED and the assailed Decision and Resolution AFFIRMED. Cost against petitioners.

SO ORDERED.

Melo, (Chairman), Vitug, and Gonzaga-Reyes, JJ., concur.

[1] Penned by Justice Rodrigo V. Cosico with the concurrence of Justices Artemon D. Luna, Division chairman; and Delilah Vidallon-Magtolis, member.

[2] Rollo, p. 38.

[3] Rollo, pp. 29-32.

[4] This case was deemed submitted for resolution on April 13, 2000 upon receipt by this Court of respondent's Memorandum, signed by Atty. Paterno S. Comprá.

[5] Rollo, p. 72. The Memorandum for Petitioners was signed by Atty. Expedito P. Bugarin Sr.

[6] Rollo, p. 72.

[7] Coca-Cola Bottlers Philippines, Inc. v. Court of Appeals, 229 SCRA 533, Civil Aeronautics Administration v. Court of Appeals, 167 SCRA 28, 38, November 8, 1988; Cheesman v. Intermediate Appellate Court, 198 SCRA 93, 101, January 21, 1991; Philippine National Railroad v. Intermediate Appellate Court, 217 SCRA 401, 416, January 22, 1993; Cebu Shipyard Engineering Works, Inc. v. William Lines, Inc., 306 SCRA 762, 775, May 5, 1999; and Rafael Reyes Trucking Corp v. People, GR No. 129029, April 3, 2000.

[8] Baliwag Transit, Inc. v. Court of Appeals, 262 SCRA 230, 234, September 20, 1996; and Metro Manila Transit Corp. v. Court of Appeals, 298 SCRA 495, 502-504, November 16, 1998.

[9] "Art. 2204. In crimes, the damages to be adjudicated may be respectively increased or lessened according to the aggravating or mitigating circumstances."

[10] Metro Manila Transit Corporation v. CA, 298 SCRA 495, November 16, 1998.

[11] 31 SCRA 511, 515-516, February 18, 1970, per Concepcion, CJ.

[12] Sanitary Steam Laundry, Inc. v. Court of Appeals, 300 SCRA 20, 35-36, December 10, 1998; Metro Manila Transit Corp. v. CA, supra, pp. 510-514; Negros Navigation Co., Inc. v. Court of Appeals, 281 SCRA 534,

546-548, November 7, 1997; Villa-Rey Transit, Inc. v. Court of Appeals, 31 SCRA 511, 516, February 18, 1970.

[13] People v. Teehankee Jr., 249 SCRA 54, 121, October 6, 1995; Philippine Airlines, Inc. v. Court of Appeals, 185 SCRA 110, 122, May 8, 1990; Davila v. Philippine Airlines, 49 SCRA 497, 504-505, February 28, 1973.

[14] Baliwag Transit, Inc. v. CA, supra, p. 235; Bachelor Express Incorporated v. Court of Appeals, 188 SCRA 216, 227, July 31, 1990; Villa Rey Transit v. CA, supra, p. 514.

[15] Davila v. PAL, supra, p. 505; Bachelor Express Inc. v. CA, ibid.

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