

SPOUSES FRANCISCO M. HERNANDEZ AND ANICETA ABEL-HERNANDEZ AND JUAN GONZALES, PETITIONERS, VS. SPOUSES LORENZO DOLOR AND MARGARITA DOLOR, FRED PANOPIO, JOSEPH SANDOVAL, RENE CAST...

G.R. No. 160286. July 30, 2004

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is a petition for review under Rule 45 of the Rules of Court seeking the reversal of the decision[1] of the Court of Appeals, dated April 29, 2003, in CA-G.R. CV No. 60357, which affirmed with modification the amount of damages awarded in the November 24, 1997 decision[2] of the Regional Trial Court of Batangas City, Branch IV.

The undisputed facts are as follows:

At about 3:00 p.m. of December 19, 1986, Lorenzo Menard “Boyet” Dolor, Jr. was driving an owner-type jeepney with plate no. DEB 804 owned by her mother, Margarita, towards Anilao, Batangas. As he was traversing the road at Barangay Anilao East, Mabini, Batangas, his vehicle collided with a passenger jeepney bearing plate no. DEG 648, driven by petitioner Juan Gonzales and owned by his co-petitioner Francisco Hernandez, which was travelling towards Batangas City.

Boyet Dolor and his passenger, Oscar Valmocina, died as a result of the collision. Fred Panopio, Rene Castillo and Joseph Sandoval, who were also on board the owner-type jeep, which was totally wrecked, suffered physical injuries. The collision also damaged the passenger jeepney of Francisco Hernandez and caused physical injuries to its passengers, namely, Virgie Cadavida, Fiscal Artemio Reyes and Francisca Corona.[3]

Consequently, respondents commenced an action[4] for damages against petitioners before the Regional Trial Court of Batangas City, alleging that driver Juan Gonzales was guilty of negligence and lack of care and that the Hernandez spouses were guilty of negligence in the selection and supervision of their employees.[5]

Petitioners countered that the proximate cause of the death and injuries sustained by the passengers of both vehicles was the recklessness of Boyet Dolor, the driver of the owner-type jeepney, who was driving in a zigzagging manner under the influence of alcohol. Petitioners also alleged that Gonzales was not the driver-employee of the Hernandez spouses as the former only leased the passenger jeepney on a daily basis. The Hernandez spouses further claimed that even if an employer-employee relationship is found to exist between them, they cannot be held liable because as employers they exercised due care in the selection and supervision of their employee.

During the trial of the case, it was established that the drivers of the two vehicles were duly licensed to drive and that the road where the collision occurred was asphalted and in fairly good condition.[6] The owner-type jeep was travelling uphill while the passenger jeepney was going downhill. It was further established that the owner-type

jeep was moderately moving and had just passed a road bend when its passengers, private respondents Joseph Sandoval and Rene Castillo, saw the passenger jeepney at a distance of three meters away. The passenger jeepney was traveling fast when it bumped the owner type jeep.[7] Moreover, the evidence presented by respondents before the trial court showed that petitioner Juan Gonzales obtained his professional driver's license only on September 24, 1986, or three months before the accident. Prior to this, he was holder of a student driver's permit issued on April 10, 1986.[8]

On November 24, 1997, the trial court rendered a decision in favor of respondents, the dispositive portion of which states:

Premises duly considered and the plaintiffs having satisfactorily convincingly and credibly presented evidence clearly satisfying the requirements of preponderance of evidence to sustain the complaint, this Court hereby declares judgment in favor of the plaintiffs and against the defendants. Defendants-spouses Francisco Hernandez and Aniceta Abel Hernandez and Juan Gonzales are therefore directed to pay jointly and severally, the following:

- To spouses Lorenzo Dolor and Margarita Dolor:
- P50,000.00 – for the death of their son, Lorenzo Menard “Boyet” Dolor, Jr.;
- P142,000.00 – as actual and necessary funeral expenses;
- P50,000.00 – reasonable value of the totally wrecked owner-type jeep with plate no. DEB 804 Phil '85;
- P20,000.00 – as moral damages;
- P20,000.00 as reasonable litigation expenses and attorney's fees.
- To spouses Francisco Valmocina and Virginia Valmocina:
- P50,000.00 – for the death of their son, Oscar Balmocina (sic);
- P20,000.00 – as moral damages;
- P18,400.00 – for funeral expenses;
- P10,000.00 – for litigation expenses and attorney's fees.
- To spouses Victor Panopio and Martina Panopio:
- P10,450.00 – for the cost of the artificial leg and crutches being used by their son Fred Panopio;
- P25,000.00 – for hospitalization and medical expenses they incurred for the treatment of their son, Fred Panopio.
- To Fred Panopio:
- P25,000.00 – for the loss of his right leg;
- P10,000.00 – as moral damages.
- To Joseph Sandoval:
- P4,000.00 for medical treatment.

The defendants are further directed to pay the costs of this proceedings.

SO ORDERED.[9]

Petitioners appealed[10] the decision to the Court of Appeals, which affirmed the same with modifications as to the amount of damages, actual expenses and attorney's fees awarded to the private respondents. The decretal portion of the decision of the Court of Appeals reads:

WHEREFORE, the foregoing premises considered, the appealed decision is AFFIRMED. However, the award for damages, actual expenses and attorney's fees shall be MODIFIED as follows:

- To spouses Lorenzo Dolor and Margarita Dolor:
- P50,000.00 – civil indemnity for their son Lorenzo Menard Dolor, Jr.;
- P58,703.00 – as actual and necessary funeral expenses;
- P25,000.00 – as temperate damages;
- P100,000.00 – as moral damages;
- P20,000.00 – as reasonable litigation expenses and attorney's fees.
- To Spouses Francisco Valmocina and Virginia Valmocina:
- P50,000.00 – civil indemnity for the death of their son, Oscar Valmocina;
- P100,000.00 – as moral damages;
- P10,000.00 – as temperate damages;
- P10,000.00 – as reasonable litigation expenses and attorney's fees.
- To Spouses Victor Panopio and Martina Panopio:
- P10,352.59 – as actual hospitalization and medical expenses;
- P5,000.00 – as temperate damages.
- To Fred Panopio:
- P50,000.00 – as moral damages.
- To Joseph Sandoval:
- P3,000.00 as temperate damages.

SO ORDERED.[11]

Hence the present petition raising the following issues:

- Whether the Court of Appeals was correct when it pronounced the Hernandez spouses as solidarily liable with Juan Gonzales, although it is of record that they were not in the passenger jeepney driven by latter when the accident occurred;
- Whether the Court of Appeals was correct in awarding temperate damages to private respondents namely the Spouses Dolor, Spouses Valmocina and Spouses Panopio and to Joseph Sandoval, although the grant of temperate damages is not provided for in decision of the court a quo;
- Whether the Court of Appeals was correct in increasing the award of moral damages to respondents, Spouses Dolor, Spouses Valmocina and Fred Panopio;
- Whether the Court of Appeals was correct in affirming the grant of attorney's fees to Spouses Dolor and to

Spouses Valmocina although the lower court did not specify the fact and the law on which it is based.

Petitioners contend that the absence of the Hernandez spouses inside the passenger jeepney at the time of the collision militates against holding them solidarily liable with their co-petitioner, Juan Gonzales, invoking Article 2184 of the Civil Code, which provides:

ARTICLE 2184. In motor vehicle mishaps, the owner is solidarily liable with his driver, if the former, who was in the vehicle, could have, by the use of the due diligence, prevented the misfortune. It is disputably presumed that a driver was negligent, if he had been found guilty of reckless driving or violating traffic regulations at least twice within the next preceding two months.

If the owner was not in the motor vehicle, the provisions of article 2180 are applicable.

The Hernandez spouses argues that since they were not inside the jeepney at the time of the collision, the provisions of Article 2180 of the Civil Code, which does not provide for solidary liability between employers and employees, should be applied.

We are not persuaded.

Article 2180 provides:

ARTICLE 2180. The obligation imposed by article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

The father and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live in their company.

Guardians are liable for damages caused by the minors or incapacitated persons who are under their authority and live in their company.

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

The State is responsible in like manner when it acts through a special agent; but not when the damage has been caused by the official to whom the task done properly pertains, in which case what is provided in article 2176 shall be applicable.

Lastly, teachers or heads of establishments of arts and trades shall be liable for damages caused by their pupils and students or apprentices, so long as they remain in their custody.

The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage. (Underscoring supplied)

On the other hand, Article 2176 provides –

Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.

While the above provisions of law do not expressly provide for solidary liability, the same can be inferred from the wordings of the first paragraph of Article 2180 which states that the obligation imposed by article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

Moreover, Article 2180 should be read with Article 2194 of the same Code, which categorically states that the responsibility of two or more persons who are liable for quasi-delict is solidary. In other words, the liability of joint tortfeasors is solidary.[12] Verily, under Article 2180 of the Civil Code, an employer may be held solidarily liable for the negligent act of his employee.[13]

The solidary liability of employers with their employees for quasi-delicts having been established, the next question is whether Julian Gonzales is an employee of the Hernandez spouses. An affirmative answer will put to rest any issue on the solidary liability of the Hernandez spouses for the acts of Julian Gonzales. The Hernandez spouses maintained that Julian Gonzales is not their employee since their relationship relative to the use of the jeepney is that of a lessor and a lessee. They argue that Julian Gonzales pays them a daily rental of P150.00 for the use of the jeepney.[14] In essence, petitioners are practicing the “boundary system” of jeepney operation albeit disguised as a lease agreement between them for the use of the jeepney.

We hold that an employer-employee relationship exists between the Hernandez spouses and Julian Gonzales.

Indeed to exempt from liability the owner of a public vehicle who operates it under the “boundary system” on the ground that he is a mere lessor would be not only to abet flagrant violations of the Public Service Law, but also to place the riding public at the mercy of reckless and irresponsible drivers — reckless because the measure of their earnings depends largely upon the number of trips they make and, hence, the speed at which they drive; and irresponsible because most if not all of them are in no position to pay the damages they might cause.[15]

Anent the award of temperate damages to the private respondents, we hold that the appellate court committed no reversible error in awarding the same to the respondents.

Temperate or moderate damages are damages which are more than nominal but less than compensatory which may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty.[16] Temperate damages are awarded for those cases where, from the nature of the case, definite proof of pecuniary loss cannot be offered, although the court is convinced that there has been such loss. A judge should be empowered to calculate moderate damages in such cases, rather than the plaintiff should suffer, without redress, from the defendant’s wrongful act.[17] The assessment of temperate damages is left to the sound discretion of the court provided that such an award is reasonable under the circumstances.[18]

We have gone through the records of this case and we find that, indeed, respondents suffered losses which cannot be quantified in monetary terms. These losses came in the form of the damage sustained by the owner type jeep of the Dolor spouses; the internment and burial of Oscar Valmocina; the hospitalization of Joseph Sandoval on account of the injuries he sustained from the collision and the artificial leg and crutches that respondent Fred Panopio had to use because of the amputation of his right leg. Further, we find that the amount of temperate damages awarded to the respondents were reasonable under the circumstances.

As to the amount of moral damages which was awarded to respondents, a review of the records of this case shows that there exists no cogent reason to overturn the action of the appellate court on this aspect.

Under Article 2206, the “spouse, legitimate and illegitimate descendants and ascendants of the deceased may demand moral damages for mental anguish for the death of the deceased.” The reason for the grant of moral damages has been explained, thus:

. . . the award of moral damages is aimed at a restoration, within the limits possible, of the spiritual status quo ante; and therefore, it must be proportionate to the suffering inflicted. The intensity of the pain experienced by the relatives of the victim is proportionate to the intensity of affection for him and bears no relation whatsoever

with the wealth or means of the offender.[19]

Moral damages are emphatically not intended to enrich a plaintiff at the expense of the defendant. They are awarded to allow the former to obtain means, diversion or amusements that will serve to alleviate the moral suffering he has undergone due to the defendant's culpable action and must, perforce, be proportional to the suffering inflicted.[20]

Truly, the pain of the sudden loss of one's offspring, especially of a son who was in the prime of his youth, and who holds so much promise waiting to be fulfilled is indeed a wellspring of intense pain which no parent should be made to suffer. While it is true that there can be no exact or uniform rule for measuring the value of a human life and the measure of damages cannot be arrived at by a precise mathematical calculation,[21] we hold that the Court of Appeals' award of moral damages of P100,000.00 each to the Spouses Dolor and Spouses Valmocina for the death of their respective sons, Boyet Dolor and Oscar Valmocina, is in full accord with prevailing jurisprudence.[22]

With respect to the award of attorney's fees to respondents, no sufficient basis was established for the grant thereof.

It is well settled that attorney's fees should not be awarded in the absence of stipulation except under the instances enumerated in Article 2208 of the Civil Code. As we have held in *Rizal Surety and Insurance Company v. Court of Appeals*:[23]

Article 2208 of the Civil Code allows attorney's fees to be awarded by a court when its claimant is compelled to litigate with third persons or to incur expenses to protect his interest by reason of an unjustified act or omission of the party from whom it is sought. While judicial discretion is here extant, an award thereof demands, nevertheless, a factual, legal or equitable justification. The matter cannot and should not be left to speculation and conjecture (*Mirasol vs. De la Cruz*, 84 SCRA 337; *Stronghold Insurance Company, Inc. vs. Court of Appeals*, 173 SCRA 619).

In the case at bench, the records do not show enough basis for sustaining the award for attorney's fees and to adjudge its payment by petitioner. x x x.

Likewise, this Court held in *Stronghold Insurance Company, Inc. vs. Court of Appeals* that: "In *Abrogar v. Intermediate Appellate Court* [G.R. No. 67970, January 15, 1988, 157 SCRA 57], the Court had occasion to state that '[t]he reason for the award of attorney's fees must be stated in the text of the court's decision, otherwise, if it is stated only in the dispositive portion of the decision, the same must be disallowed on appeal.' x x x." [24]

WHEREFORE, the petition is DENIED. The assailed decision of the Court of Appeals is AFFIRMED with the MODIFICATION that the grant of attorney's fees is DELETED for lack of basis.

Costs against petitioners.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Carpio, and Azcuna, JJ., concur.

[1] Penned by Justice Juan Q. Enriquez Jr. and concurred in by Associate Justices Rodrigo V. Cosico and Hakim S. Abdulwahid. Rollo, pp. 33-45.

[2] Decision penned by Judge Conrado R. Antona, Rollo, pp. 46-55.

- [3] Id., pp. 49-50.
- [4] Docketed as Civil Case No. 2790 and raffled to Branch IV of the Regional Trial Court of Batangas City.
- [5] Id., p. 35.
- [6] Testimony of Cpl. Juanito Caringal, TSN, August 29, 1990, p. 3.
- [7] Testimony of Rene Castillo, TSN, August 8, 1990, pp. 7-10. Testimony of Joseph Sandoval, TSN, May 16, 1990, pp. 8-9.
- [8] Testimony of Petronio Ilagan of the Batangas City office of the Land Transportation Office, TSN, October 22, 1991, p. 4.
- [9] Id., pp. 54-55.
- [10] Id., pp. 35-108.
- [11] Supra, note 1, pp. 42-43.
- [12] Worcester v. Ocampo, 22 Phil. 42 (1912); cited in Paras, Civil Code of the Philippines Annotated, Book V, 13th Edition.
- [13] Delsan Transport Lines, Inc. v. C & A Construction, Inc., G.R. No. 156034, 1 October 2003.
- [14] Rollo, p. 14.
- [15] Erez v. Jepte, 102 Phil. 103 (1957).
- [16] Article 2224, New Civil Code
- [17] Tolentino, Civil Code of the Philippines, Volume V, p. 622, citing the Civil Code Commission Report, p. 75.
- [18] Id. See also Article 2225 of the New Civil Code.
- [19] Cesar Sangco, Torts and Damages, 1994 edition, p. 986.
- [20] Philtranco Service Enterprises v. Court of Appeals, et al., G.R. No. 120553, 17 June 1997, 273 SCRA 562
- [21] Supra, note 18, p. 646.
- [22] Fortune Express, Inc. v. Court of Appeals, G.R. No. 119756, 18 March 1999, 305 SCRA 14; citing Negros Navigation Co., Inc. v. Court of Appeals, G.R. No. 110398, 7 November 1997, 281 SCRA 534.
- [23] G.R. No. 96727, 28 August 1996, 261 SCRA 69, 88-89.
- [24] See also Arwood Industries, Inc. v. D.M. Consunji, Inc., G.R. No. 142277, 11 December 2002, 394 SCRA 11.

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