

PHILIPPINE HAWK CORPORATION, PETITIONER, VS. VIVIAN TAN LEE, RESPONDENT.

G.R. No. 166869. February 16, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

This is a Petition for Review on Certiorari[1] of the Decision of the Court of Appeals in CA-G.R. CV No. 70860, promulgated on August 17, 2004, affirming with modification the Decision of the Regional Trial Court (RTC) of Quezon City, Branch 102, dated March 16, 2001, in Civil Case No. Q-91-9191, ordering petitioner Philippine Hawk Corporation and Margarito Avila to jointly and severally pay respondent Vivian Tan Lee damages as a result of a vehicular accident.

The facts are as follows:

On March 15, 2005, respondent Vivian Tan Lee filed before the RTC of Quezon City a Complaint[2] against petitioner Philippine Hawk Corporation and defendant Margarito Avila for damages based on quasi-delict, arising from a vehicular accident that occurred on March 17, 1991 in Barangay Buensoceso, Gumaca, Quezon. The accident resulted in the death of respondent's husband, Silvino Tan, and caused respondent physical injuries.

On June 18, 1992, respondent filed an Amended Complaint,[3] in her own behalf and in behalf of her children, in the civil case for damages against petitioner. Respondent sought the payment of indemnity for the death of Silvino Tan, moral and exemplary damages, funeral and interment expenses, medical and hospitalization expenses, the cost of the motorcycle's repair, attorney's fees, and other just and equitable reliefs.

The accident involved a motorcycle, a passenger jeep, and a bus with Body No. 119. The bus was owned by petitioner Philippine Hawk Corporation, and was then being driven by Margarito Avila.

In its Answer,[4] petitioner denied liability for the vehicular accident, alleging that the immediate and proximate cause of the accident was the recklessness or lack of caution of Silvino Tan. Petitioner asserted that it exercised the diligence of a good father of the family in the selection and supervision of its employees, including Margarito Avila.

On March 25, 1993, the trial court issued a Pre-trial Order[5] stating that the parties manifested that there was no possibility of amicable settlement between them. However, they agreed to stipulate on the following facts:

- On March 17, 1991, in Bgy. Buensoceso, Gumaca, Quezon, plaintiff Vivian Lee Tan and her husband Silvino Tan, while on board a motorcycle with [P]late No. DA-5480 driven by the latter, and a Metro Bus with [P]late No. NXR-262 driven by Margarito Avila, were involved in an accident;
- As a result of the accident, Silvino Tan died on the spot while plaintiff Vivian Lee Tan suffered physical injuries which necessitated medical attention and hospitalization;
- The deceased Silvino Tan is survived by his wife, plaintiff Vivian Lee Tan and four children, three of whom

are now residents of the United States; and

- Defendant Margarito Avila is an employee of defendant Philippine Hawk.[6]

The parties also agreed on the following issues:

- Whether or not the proximate cause of the accident causing physical injuries upon the plaintiff Vivian Lee Tan and resulting in the death of the latter's husband was the recklessness and negligence of Margarito Avila or the deceased Silvino Tan; and

- Whether or not defendant Philippine Hawk Transport Corporation exercised the diligence of a good father of the family in the selection and supervision of its driver Margarito Avila.[7]

Respondent testified that on March 17, 1991, she was riding on their motorcycle in tandem with her husband, who was on the wheel, at a place after a Caltex gasoline station in Barangay Buensoceso, Gumaca, Quezon on the way to Lopez, Quezon. They came from the Pasumbal Machine Shop, where they inquired about the repair of their tanker. They were on a stop position at the side of the highway; and when they were about to make a turn, she saw a bus running at fast speed coming toward them, and then the bus hit a jeep parked on the roadside, and their motorcycle as well. She lost consciousness and was brought to the hospital in Gumaca, Quezon, where she was confined for a week. She was later transferred to St. Luke's Hospital in Quezon City, Manila. She suffered a fracture on her left chest, her left arm became swollen, she felt pain in her bones, and had high blood pressure.[8]

Respondent's husband died due to the vehicular accident. The immediate cause of his death was massive cerebral hemorrhage.[9]

Respondent further testified that her husband was leasing[10] and operating a Caltex gasoline station in Gumaca, Quezon that yielded one million pesos a year in revenue. They also had a copra business, which gave them an income of P3,000.00 a month or P36,000.00 a year.[11]

Ernest Ovia, the driver of the passenger jeep involved in the accident, testified that in the afternoon of March 17, 1991, his jeep was parked on the left side of the highway near the Pasumbal Machine Shop. He did not notice the motorcycle before the accident. But he saw the bus dragging the motorcycle along the highway, and then the bus bumped his jeep and sped away.[12]

For the defense, Margarito Avila, the driver of petitioner's bus, testified that on March 17, 1999, at about 4:30 p.m., he was driving his bus at 60 kilometers per hour on the Maharlika Highway. When they were at Barangay Buensoceso, Gumaca, Quezon, a motorcycle ran from his left side of the highway, and as the bus came near, the motorcycle crossed the path of the bus, and so he turned the bus to the right. He heard a loud banging sound. From his side mirror, he saw that the motorcycle turned turtle ("bumaliktad"). He did not stop to help out of fear for his life, but drove on and surrendered to the police. He denied that he bumped the motorcycle.[13]

Avila further testified that he had previously been involved in sideswiping incidents, but he forgot how many times.[14]

Rodolfo Ilagan, the bus conductor, testified that the motorcycle bumped the left side of the bus that was running at 40 kilometers per hour.[15]

Domingo S. Sisperes, operations officer of petitioner, testified that, like their other drivers, Avila was subjected to and passed the following requirements:

- (1) Submission of NBI clearance;
- (2) Certification from his previous employer that he had no bad record;
- (3) Physical examination to determine his fitness to drive;

- (4) Test of his driving ability, particularly his defensive skill; and
- (5) Review of his driving skill every six months.[16]

Efren Delantar, a Barangay Kagawad in Buensoceso, Gumaca, Quezon, testified that the bus was running on the highway on a straight path when a motorcycle, with a woman behind its driver, suddenly emerged from the left side of the road from a machine shop. The motorcycle crossed the highway in a zigzag manner and bumped the side of the bus.[17]

In its Decision dated March 16, 2001, the trial court rendered judgment against petitioner and defendant Margarito Avila, the dispositive portion of which reads:

ACCORDINGLY, MARGARITO AVILA is adjudged guilty of simple negligence, and judgment is hereby rendered in favor of the plaintiff Vivian Lee Tan and h[er] husband's heirs ordering the defendants Philippine Hawk Corporation and Margarito Avila to pay them jointly and solidarily the sum of P745,575.00 representing loss of earnings and actual damages plus P50,000.00 as moral damages.[18]

The trial court found that before the collision, the motorcycle was on the left side of the road, just as the passenger jeep was. Prior to the accident, the motorcycle was in a running position moving toward the right side of the highway. The trial court agreed with the bus driver that the motorcycle was moving ahead of the bus from the left side of the road toward the right side of the road, but disagreed that the motorcycle crossed the path of the bus while the bus was running on the right side of the road.[19]

The trial court held that if the bus were on the right side of the highway, and Margarito Avila turned his bus to the right in an attempt to avoid hitting the motorcycle, then the bus would not have hit the passenger jeep, which was then parked on the left side of the road. The fact that the bus also hit the passenger jeep showed that the bus must have been running from the right lane to the left lane of the highway, which caused the collision with the motorcycle and the passenger jeep parked on the left side of the road. The trial court stated that since Avila saw the motorcycle before the collision, he should have stepped on the brakes and slowed down, but he just maintained his speed and veered to the left.[20] The trial court found Margarito Avila guilty of simple negligence.

The trial court held petitioner bus company liable for failing to exercise the diligence of a good father of the family in the selection and supervision of Avila, having failed to sufficiently inculcate in him discipline and correct behavior on the road.[21]

On appeal, the Court of Appeals affirmed the decision of the trial court with modification in the award of damages. The dispositive portion of the decision reads:

WHEREFORE, foregoing premises considered, the appeal is DENIED. The assailed decision dated March 16, 2001 is hereby AFFIRMED with MODIFICATION. Appellants Philippine Hawk and Avila are hereby ordered to pay jointly and severally appellee the following amount: (a) P168,019.55 as actual damages; (b) P10,000.00 as temperate damages; (c) P100,000.00 as moral damages; (d) P590,000.00 as unearned income; and (e) P50,000.00 as civil indemnity.[22]

Petitioner filed this petition, raising the following issues:

1)

The Court of Appeals committed grave abuse of discretion amounting to lack of jurisdiction in passing upon an issue, which had not been raised on appeal, and which had, therefore, attained finality, in total disregard of the doctrine laid down by this Court in *Abubakar v. Abubakar*, G.R. No. 134622, October 22, 1999.

2)

The Court of Appeals committed reversible error in its finding that the petitioner's bus driver saw the motorcycle of private respondent executing a U-turn on the highway "about fifteen (15) meters away" and thereafter held that the Doctrine of Last Clear was applicable to the instant case. This was a palpable error for the simple reason that the aforesaid distance was the distance of the witness to the bus and not the distance of the bus to the respondent's motorcycle, as clearly borne out by the records.

3)

The Court of Appeals committed reversible error in awarding damages in total disregard of the established doctrine laid down in *Danao v. Court of Appeals*, 154 SCRA 447 and *Viron Transportation Co., Inc. v. Delos Santos*, G.R. No. 138296, November 22, 2000.[23]

In short, the issues raised by petitioner are: (1) whether or not negligence may be attributed to petitioner's driver, and whether negligence on his part was the proximate cause of the accident, resulting in the death of Silvino Tan and causing physical injuries to respondent; (2) whether or not petitioner is liable to respondent for damages; and (3) whether or not the damages awarded by respondent Court of Appeals are proper.

Petitioner seeks a review of the factual findings of the trial court, which were sustained by the Court of Appeals, that petitioner's driver was negligent in driving the bus, which caused physical injuries to respondent and the death of respondent's husband.

The rule is settled that the findings of the trial court, especially when affirmed by the Court of Appeals, are conclusive on this Court when supported by the evidence on record.[24] The Court has carefully reviewed the records of this case, and found no cogent reason to disturb the findings of the trial court, thus:

The Court agree[s] with the bus driver Margarito that the motorcycle was moving ahead of the bus towards the right side from the left side of the road, but disagrees with him that it crossed the path of the bus while the bus was running on the right side of the highway.

If the bus were on the right side of the highway and Margarito turned his bus to the right in an attempt to avoid hitting it, then the bus would not have hit the passenger jeep vehicle which was then parked on the left side of the road. The fact that the bus hit the jeep too, shows that the bus must have been running to the left lane of the highway from right to the left, that the collision between it and the parked jeep and the moving rightways cycle became inevitable. Besides, Margarito said he saw the motorcycle before the collision ahead of the bus; that being so, an extra-cautious public utility driver should have stepped on his brakes and slowed down. Here, the bus never slowed down, it simply maintained its highway speed and veered to the left. This is negligence indeed.[25]

Petitioner contends that the Court of Appeals was mistaken in stating that the bus driver saw respondent's motorcycle "about 15 meters away" before the collision, because the said distance, as testified to by its witness Efren Delantar Ong, was Ong's distance from the bus, and not the distance of the bus from the motorcycle. Petitioner asserts that this mistaken assumption of the Court of Appeals made it conclude that the bus driver, Margarito Avila, had the last clear chance to avoid the accident, which was the basis for the conclusion that Avila was guilty of simple negligence.

A review of the records showed that it was petitioner's witness, Efren Delantar Ong, who was about 15 meters away from the bus when he saw the vehicular accident.[26] Nevertheless, this fact does not affect the finding of the trial court that petitioner's bus driver, Margarito Avila, was guilty of simple negligence as affirmed by the appellate court. Foreseeability is the fundamental test of negligence.[27] To be negligent, a defendant must have acted or failed to act in such a way that an ordinary reasonable man would have realized that certain interests of certain persons were unreasonably subjected to a general but definite class of risks.[28]

In this case, the bus driver, who was driving on the right side of the road, already saw the motorcycle on the left side of the road before the collision. However, he did not take the necessary precaution to slow down, but drove on and bumped the motorcycle, and also the passenger jeep parked on the left side of the road, showing that the bus was negligent in veering to the left lane, causing it to hit the motorcycle and the passenger jeep.

Whenever an employee's negligence causes damage or injury to another, there instantly arises a presumption that the employer failed to exercise the due diligence of a good father of the family in the selection or supervision of its employees.[29] To avoid liability for a quasi-delict committed by his employee, an employer must overcome the presumption by presenting convincing proof that he exercised the care and diligence of a good father of a family in the selection and supervision of his employee.[30]

The Court upholds the finding of the trial court and the Court of Appeals that petitioner is liable to respondent, since it failed to exercise the diligence of a good father of the family in the selection and supervision of its bus driver, Margarito Avila, for having failed to sufficiently inculcate in him discipline and correct behavior on the road. Indeed, petitioner's tests were concentrated on the ability to drive and physical fitness to do so. It also did not know that Avila had been previously involved in sideswiping incidents.

As regards the issue on the damages awarded, petitioner contends that it was the only one that appealed the decision of the trial court with respect to the award of actual and moral damages; hence, the Court of Appeals erred in awarding other kinds of damages in favor of respondent, who did not appeal from the trial court's decision.

Petitioner's contention is unmeritorious.

Section 8, Rule 51 of the 1997 Rules of Civil Procedure provides:

SEC. 8. Questions that may be decided. -- No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court pass upon plain errors and clerical errors.

Philippine National Bank v. Rabat[31] cited the book[32] of Justice Florenz D. Regalado to explain the section above, thus:

In his book, Mr. Justice Florenz D. Regalado commented on this section, thus:

- Sec. 8, which is an amendment of the former Sec. 7 of this Rule, now includes some substantial changes in the rules on assignment of errors. The basic procedural rule is that only errors claimed and assigned by a party will be considered by the court, except errors affecting its jurisdiction over the subject matter. To this exception has now been added errors affecting the validity of the judgment appealed from or the proceedings therein.

Also, even if the error complained of by a party is not expressly stated in his assignment of errors but the same is closely related to or dependent on an assigned error and properly argued in his brief, such error may now be considered by the court. These changes are of jurisprudential origin.

- The procedure in the Supreme Court being generally the same as that in the Court of Appeals, unless otherwise indicated (see Secs. 2 and 4, Rule 56), it has been held that the latter is clothed with ample authority to review matters, even if they are not assigned as errors on appeal, if it finds that their consideration is necessary in arriving at a just decision of the case. Also, an unassigned error closely related to an error properly assigned (PCIB vs. CA, et al., L-34931, Mar. 18, 1988), or upon which the determination of the question raised by error properly assigned is dependent, will be considered by the appellate court notwithstanding the failure to assign it as error (Ortigas, Jr. vs. Lufthansa German Airlines, L-28773, June 30,

1975; Soco vs. Militante, et al., G.R. No. 58961, June 28, 1983).

It may also be observed that under Sec. 8 of this Rule, the appellate court is authorized to consider a plain error, although it was not specifically assigned by the appellant (*Dilag vs. Heirs of Resurreccion*, 76 Phil. 649), otherwise it would be sacrificing substance for technicalities.[33]

In this case for damages based on quasi-delict, the trial court awarded respondent the sum of P745,575.00, representing loss of earning capacity (P590,000.00) and actual damages (P155,575.00 for funeral expenses), plus P50,000.00 as moral damages. On appeal to the Court of Appeals, petitioner assigned as error the award of damages by the trial court on the ground that it was based merely on suppositions and surmises, not the admissions made by respondent during the trial.

In its Decision, the Court of Appeals sustained the award by the trial court for loss of earning capacity of the deceased Silvino Tan, moral damages for his death, and actual damages, although the amount of the latter award was modified.

The indemnity for loss of earning capacity of the deceased is provided for by Article 2206 of the Civil Code.[34] Compensation of this nature is awarded not for loss of earnings, but for loss of capacity to earn money.[35]

As a rule, documentary evidence should be presented to substantiate the claim for damages for loss of earning capacity.[36] By way of exception, damages for loss of earning capacity may be awarded despite the absence of documentary evidence when: (1) the deceased is self-employed and earning less than the minimum wage under current labor laws, in which case, judicial notice may be taken of the fact that in the deceased's line of work no documentary evidence is available; or (2) the deceased is employed as a daily wage worker earning less than the minimum wage under current labor laws.[37]

In this case, the records show that respondent's husband was leasing and operating a Caltex gasoline station in Gumaca, Quezon. Respondent testified that her husband earned an annual income of one million pesos. Respondent presented in evidence a Certificate of Creditable Income Tax Withheld at Source for the Year 1990,[38] which showed that respondent's husband earned a gross income of P950,988.43 in 1990. It is reasonable to use the Certificate and respondent's testimony as bases for fixing the gross annual income of the deceased at one million pesos before respondent's husband died on March 17, 1999. However, no documentary evidence was presented regarding the income derived from their copra business; hence, the testimony of respondent as regards such income cannot be considered.

In the computation of loss of earning capacity, only net earnings, not gross earnings, are to be considered; that is, the total of the earnings less expenses necessary for the creation of such earnings or income, less living and other incidental expenses.[39] In the absence of documentary evidence, it is reasonable to peg necessary expenses for the lease and operation of the gasoline station at 80 percent of the gross income, and peg living expenses at 50 percent of the net income (gross income less necessary expenses).

In this case, the computation for loss of earning capacity is as follows:

Net Earning
Capacity

=

Life Expectancy
[2/3 (80-age at the
time of death)]

x

Gross Annual Income
(GAI)

- Reasonable and
Necessary
Expenses
(80% of GAI)

X

=

[2/3 (80-65)]

x

P1,000,000.00

- P800,000.00

X

=

2/3 (15)

x

P200,000.00

-P100,000.00 (Living Expenses)

X

=

30/3

x

P100,000.00

X

=

10

x

P100,000.00

X

=

P1,000,000.00

The Court of Appeals also awarded actual damages for the expenses incurred in connection with the death, wake,

and interment of respondent's husband in the amount of P154,575.30, and the medical expenses of respondent in the amount of P168,019.55.

Actual damages must be substantiated by documentary evidence, such as receipts, in order to prove expenses incurred as a result of the death of the victim[40] or the physical injuries sustained by the victim. A review of the valid receipts submitted in evidence showed that the funeral and related expenses amounted only to P114,948.60, while the medical expenses of respondent amounted only to P12,244.25, yielding a total of P127,192.85 in actual damages.

Moreover, the Court of Appeals correctly sustained the award of moral damages in the amount of P50,000.00 for the death of respondent's husband. Moral damages are not intended to enrich a plaintiff at the expense of the defendant.[41] They are awarded to allow the plaintiff to obtain means, diversions or amusements that will serve to alleviate the moral suffering he/she has undergone due to the defendant's culpable action and must, perforce, be proportional to the suffering inflicted.[42]

In addition, the Court of Appeals correctly awarded temperate damages in the amount of P10,000.00 for the damage caused on respondent's motorcycle. Under Art. 2224 of the Civil Code, temperate damages "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." The cost of the repair of the motorcycle was prayed for by respondent in her Complaint. However, the evidence presented was merely a job estimate[43] of the cost of the motorcycle's repair amounting to P17, 829.00. The Court of Appeals aptly held that there was no doubt that the damage caused on the motorcycle was due to the negligence of petitioner's driver. In the absence of competent proof of the actual damage caused on the motorcycle or the actual cost of its repair, the award of temperate damages by the appellate court in the amount of P10,000.00 was reasonable under the circumstances.[44]

The Court of Appeals also correctly awarded respondent moral damages for the physical injuries she sustained due to the vehicular accident. Under Art. 2219 of the Civil Code,[45] moral damages may be recovered in quasi-delicts causing physical injuries. However, the award of P50,000.00 should be reduced to P30,000.00 in accordance with prevailing jurisprudence.[46]

Further, the Court of Appeals correctly awarded respondent civil indemnity for the death of her husband, which has been fixed by current jurisprudence at P50,000.00.[47] The award is proper under Art. 2206 of the Civil Code.[48]

In fine, the Court of Appeals correctly awarded civil indemnity for the death of respondent's husband, temperate damages, and moral damages for the physical injuries sustained by respondent in addition to the damages granted by the trial court to respondent. The trial court overlooked awarding the additional damages, which were prayed for by respondent in her Amended Complaint. The appellate court is clothed with ample authority to review matters, even if they are not assigned as errors in the appeal, if it finds that their consideration is necessary in arriving at a just decision of the case.[49]

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated August 17, 2004 in CA-G.R. CV No. 70860 is hereby AFFIRMED with MODIFICATION. Petitioner Philippine Hawk Corporation and Margarito Avila are hereby ordered to pay jointly and severally respondent Vivian Lee Tan: (a) civil indemnity in the amount of Fifty Thousand Pesos (P50,000.00); (b) actual damages in the amount of One Hundred Twenty-Seven Thousand One Hundred Ninety-Two Pesos and Eighty-Five Centavos (P127,192.85); (c) moral damages in the amount of Eighty Thousand Pesos (P80,000.00); (d) indemnity for loss of earning capacity in the amount of One Million Pesos (P1,000,000.00); and (e) temperate damages in the amount of Ten Thousand Pesos (P10,000.00).

Costs against petitioner.

SO ORDERED.

Corona, (Chairperson), Velasco, Jr., Nachura, and Mendoza, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Records, p. 1.

[3] Id. at 38.

[4] Id. at 54.

[5] Id. at 80.

[6] Supra note 2, at 80.

[7] Id.

[8] TSN, April 26, 1994, pp. 6-7, 14 and 22; May 11, 1994, pp. 14-15.

[9] Death Certificate, Exhibit "B," folder of exhibits, p. 3.

[10] Annex "C," folder of exhibits, p.11.

[11] TSN, April 26, 1994, pp. 12-13.

[12] TSN, March 16, 1995, pp. 4-6.

[13] TSN, February 13, 1996, pp. 5-11, 18-19 and 23; September 10, 1996, pp. 7, 10, 12 and 14.

[14] TSN, September 10, 1996, pp. 3-4.

[15] TSN, October 22, 1996, p. 5.

[16] TSN, January 14, 1997, pp. 5-18.

[17] TSN, July 8, 1997, p. 5.

[18] Record, p. 209.

[19] Supra note 18, at 208.

[20] Id.

[21] Id.

[22] Rollo p. 32.

[23] Id. at 8-9.

[24] Viron Transportation Co., Inc. v. Delos Santos, G.R. No. 138296, November 22, 2000, 345 SCRA 509.

[25] Supra note 18, at 208.

[26] TSN, July 8, 1997, p. 27.

[27] Achevara v. Ramos, G.R. No. 175172, September 29, 2009.

[28] Id.

[29] Macalinao v. Ong, G.R. No. 146635, December 14, 2005, 477 SCRA 740.

[30] Id.

[31] G.R. No. 134406, November 15, 2000, 344 SCRA 706.

[32] Remedial Law Compendium, Vol. I, 582-583 (Sixth Revised Edition, 1997).

[33] Supra note 31, at 715.

[34] Civil Code, Art. 2206. xxxx

(1) The defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to the heirs of the latter; such indemnity shall in every case be assessed and awarded by the court, unless the deceased on account of permanent physical disability not caused by the defendant, had no earning capacity at the time of his death;

xxxx

[35] Heirs of George Y. Poe v. Malayan Insurance Co., Inc., G.R. No. 156302, April 7, 2009, 584 SCRA 178.

[36] People v. Garchitorena, G.R. No. 175605, August 28, 2009.

[37] Supra note 36.

[38] Exhibit "J," folder of exhibits, p. 20.

[39] Smith Bell Dodwell Shipping Agency Corporation v. Borja, G.R. No. 143008, June 10, 2002, 383 SCRA 341, 351.

[40] People v. Ibañez, G.R. Nos. 133923-24, July 30, 2003, 407 SCRA 406.

[41] Hernandez v. Dolor, G.R. No. 160286, July 30, 2004, 435 SCRA 668.

[42] Id.

[43] Exhibit "M," folder of exhibits, p. 47.

[44] See Viron Transportation Co., Inc. v. Delos Santos, supra note 24.

[45] Art. 2219. Moral damages may be recovered in the following and analogous cases:

xxxx

(2) Quasi-delicts causing physical injuries;

xxxx

[46] Guillang v. Bedania, G.R. No. 162987, May 21, 2009, 588 SCRA 73.

[47] Id.; Philtranco Service Enterprises v. Court of Appeals, G.R. No. 120553, June 17, 1997, 273 SCRA 562.

[48] Art. 2206. The amount of damages for death caused by a crime or quasi-delict shall be at least three thousand pesos, even though there may have been mitigating circumstances. xxxx

[49] Korean Airlines Co., Ltd. v. Court of Appeals, G.R. No. 114061, August 3, 1994, 234 SCRA 717.

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