

B.F. METAL (CORPORATION), PETITIONER, VS. SPS. ROLANDO M. LOMOTAN AND LINAFLOR LOMOTAN AND RICO UMUYON, RESPONDENTS.*G.R. No. 170813. April 16, 2008*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-170813/>**TINGA, J.:**

Before the Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, assailing the award of damages against petitioner in the Decision[1] and Resolution[2] of the Court of Appeals in CA-G.R. CV No. 58655. The Court of Appeals affirmed with modification the Decision of the Regional Trial Court (RTC), Branch 72, Antipolo, Rizal in Civil Case No. 1567-A, which found petitioner corporation and its driver, Onofre V. Rivera, solidarily liable to respondents for damages.

The following factual antecedents are not disputed.

In the morning of 03 May 1989, respondent Rico Umuyon ("Umuyon") was driving the owner-type jeep owned by respondents, Spouses Rolando and Linaflor Lomotan ("Spouses Lomotan"). The jeep was cruising along Felix Avenue in Cainta, Rizal at a moderate speed of 20 to 30 kilometers per hour. Suddenly, at the opposite lane, the speeding ten-wheeler truck driven by Onofre Rivera overtook a car by invading the lane being traversed by the jeep and rammed into the jeep. The jeep was a total wreck while Umuyon suffered "blunt thoracic injury with multiple rib fracture, fractured scapula (L), with pneumothorax," which entailed his hospitalization for 19 days. Also in view of the injuries he sustained, Umuyon could no longer drive, reducing his daily income from P150.00 to P100.00.

On 27 October 1989, respondents instituted a separate and independent civil action for damages against petitioner BF Metal Corporation ("petitioner") and Rivera before the Regional Trial Court (RTC) of Antipolo, Rizal. The complaint essentially alleged that defendant Rivera's gross negligence and recklessness was the immediate and proximate cause of the vehicular accident and that petitioner failed to exercise the required diligence in the selection and supervision of Rivera. The complaint prayed for the award of actual, exemplary and moral damages and attorney's fees in favor of respondents.

In the Answer, petitioner and Rivera denied the allegations in the complaint and averred that respondents were not the proper parties-in-interest to prosecute the action, not being the registered owner of the jeep; that the sole and proximate cause of the accident was the fault and negligence of Umuyon; and that petitioner exercised due diligence in the selection and supervision of its employees.

During the trial, respondents offered the testimonies of Umuyon, SPO1 Rico Canaria, SPO4 Theodore Cadaweg and Nicanor Fajardo, the auto-repair shop owner who gave a cost estimate for the repair of the wrecked jeep. Among the documentary evidence presented were the 1989 cost estimate of Pagawaan Motors, Inc.,[3] which pegged the repair cost of the jeep at P96,000.00, and the cost estimate of Fajardo Motor Works[4] done in 1993, which reflected an increased repair cost at P130,655.00. They also presented in evidence a copy of the Decision of the RTC, Assisting Branch 74, Cainta, Rizal in Criminal Case No. 4742, entitled *People of the Philippines v.*

Onofre V. Rivera, finding Rivera guilty of reckless imprudence resulting in damage to property with physical injuries.

For its part, petitioner presented at the hearing Rivera himself and Habner Revarez, petitioner's production control superintendent. Included in its documentary evidence were written guidelines in preventive maintenance of vehicles and safety driving rules for drivers.

On 21 April 1997, the trial court rendered its Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering defendants to pay jointly and severally to herein plaintiffs the following sums:

(a) Actual Damages i. P 96,700.00 for cost of the owner-type jeep

ii. P 15,000.00 medical expenses

iii. P 50,000.00 for loss of earnings

b) Moral Damages

P 100,000.00

(c) Exemplary Damages

P 100,000.00

(d) Attorney's Fees

P 25,000.00 plus P 1,000.00 for every Court appearance

Costs of Suit.

SO ORDERED.[5]

The trial court declared Rivera negligent when he failed to determine with certainty that the opposite lane was clear before overtaking the vehicle in front of the truck he was driving. It also found petitioner negligent in the selection and supervision of its employees when it failed to prove the proper dissemination of safety driving instructions to its drivers.

Petitioner and Rivera appealed the decision to the Court of Appeals.

On 13 April 2005, the Court of Appeals rendered the assailed Decision. It affirmed the trial court's finding that Rivera's negligence was the proximate cause of the accident and that petitioner was liable under Article 2180[6] of the Civil Code for its negligence in the selection and supervision of its employees. However, the appellate court modified the amount of damages awarded to respondents. The dispositive portion of the Decision reads:

WHEREFORE, the decision appealed from is AFFIRMED with MODIFICATION to read as follows:

"WHEREFORE, premises considered, judgment is hereby rendered ordering defendants to pay jointly and severally to herein plaintiffs the following sums:

(a) Actual Damages i. P 130,655.00, for cost of repairing the owner-type jeep.

ii. P 10,167.99 in medical expenses.

iii. P 2,850.00 for lost earnings during medical treatment.

b) Moral Damages

P 100,000.00

(c) Exemplary Damages
P 100,000.00

(d) Attorney's Fees
P 25,000.00 plus P 1,000.00 for every Court appearance

Costs of Suit.

SO ORDERED.[7]

On 12 December 2005, the Court of Appeals denied the motion for reconsideration of its Decision. Only petitioner filed the instant petition, expressly stating that it is assailing only the damages awarded by the appellate court.

The instant petition raises the following issues: (1) whether the amount of actual damages based only on a job estimate should be lowered; (2) whether Spouses Lomotan are also entitled to moral damages; and (3) whether the award of exemplary damages and attorneys is warranted. For their part, respondents contend that the aforementioned issues are factual in nature and therefore beyond the province of a petitioner for review under Rule 45.

This is not the first instance where the Court has given due course to a Rule 45 petition seeking solely the review of the award of damages.[8] A party's entitlement to damages is ultimately a question of law because not only must it be proved factually but also its legal justification must be shown. In any case, the trial court and the appellate court have different findings as to the amount of damages to which respondents are entitled. When the factual findings of the trial and appellate courts are conflicting, the Court is constrained to look into the evidence presented before the trial court so as to resolve the herein appeal.[9]

The trial court split the award of actual damages into three items, namely, the cost of the wrecked jeep, the medical expenses incurred by respondent Umuyon and the monetary value of his earning capacity. On appeal, the Court of Appeals reduced the amount of medical expenses and loss of earning capacity to which respondent Umuyon is entitled but increased from P96,700.00 to P130,655.00 the award in favor of Spouses Lomotan for the cost of repairing the wrecked jeep.

The instant petition assails only the modified valuation of the wrecked jeep. Petitioner points out that the alleged cost of repairing the jeep pegged at P130,655.00 has not been incurred but is only a job estimate or a sum total of the expenses yet to be incurred for its repair. It argues that the best evidence obtainable to prove with a reasonable degree of certainty the value of the jeep is the acquisition cost or the purchase price of the jeep minus depreciation for one year of use equivalent to 10% of the purchase price.

Petitioner's argument is partly meritorious.

Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.[10] Actual damages are such compensation or damages for an injury that will put the injured party in the position in which he had been before he was injured. They pertain to such injuries or losses that are actually sustained and susceptible of measurement. To justify an award of actual damages, there must be competent proof of the actual amount of loss. Credence can be given only to claims which are duly supported by receipts.[11]

In *People v. Gopio*, [12] the Court allowed the reimbursement of only the laboratory fee that was duly receipted as "the rest of the documents, which the prosecution presented to prove the actual expenses incurred by the victim, were merely a doctor's prescription and a handwritten list of food expenses." [13] In *Viron Transportation Co., Inc.*

v. Delos Santos,[14] the Court particularly disallowed the award of actual damages, considering that the actual damages suffered by private respondents therein were based only on a job estimate and a photo showing the damage to the truck and no competent proof on the specific amounts of actual damages suffered was presented.

In the instant case, no evidence was submitted to show the amount actually spent for the repair or replacement of the wrecked jeep. Spouses Lomotan presented two different cost estimates to prove the alleged actual damage of the wrecked jeep. Exhibit "B," is a job estimate by Pagawaan Motors, Inc., which pegged the repair cost of the jeep at P96,000.00, while Exhibit "M," estimated the cost of repair at P130,655.00. Following Viron, neither estimate is competent to prove actual damages. Courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages.[15]

As correctly pointed out by petitioner, the best evidence to prove the value of the wrecked jeep is reflected in Exhibit "I," the Deed of Sale showing the jeep's acquisition cost at P72,000.00. However, the depreciation value of equivalent to 10% of the acquisition cost cannot be deducted from it in the absence of proof in support thereof.

Petitioner also questions the award of moral and exemplary damages in favor of Spouses Lomotan. It argues that the award of moral damages was premised on the resulting physical injuries arising from the quasi-delict; since only respondent Umuyon suffered physical injuries, the award should pertain solely to him. Correspondingly, the award of exemplary damages should pertain only to respondent Umuyon since only the latter is entitled to moral damages, petitioner adds.

In the case of moral damages, recovery is more an exception rather than the rule. Moral damages are not punitive in nature but are designed to compensate and alleviate the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar harm unjustly caused to a person. In order that an award of moral damages can be aptly justified, the claimant must be able to satisfactorily prove that he has suffered such damages and that the injury causing it has sprung from any of the cases listed in Articles 2219[16] and 2220[17] of the Civil Code. Then, too, the damages must be shown to be the proximate result of a wrongful act or omission. The claimant must establish the factual basis of the damages and its causal tie with the acts of the defendant. In fine, an award of moral damages would require, firstly, evidence of besmirched reputation or physical, mental or psychological suffering sustained by the claimant; secondly, a culpable act or omission factually established; thirdly, proof that the wrongful act or omission of the defendant is the proximate cause of the damages sustained by the claimant; and fourthly, that the case is predicated on any of the instances expressed or envisioned by Article 2219 and Article 2220 of the Civil Code.[18]

In culpa aquiliana, or quasi-delict, (a) when an act or omission causes physical injuries, or (b) where the defendant is guilty of intentional tort, moral damages may aptly be recovered. This rule also applies, as aforesaid, to breaches of contract where the defendant acted fraudulently or in bad faith. In culpa criminal, moral damages could be lawfully due when the accused is found guilty of physical injuries, lascivious acts, adultery or concubinage, illegal or arbitrary detention, illegal arrest, illegal search, or defamation.[19]

Undoubtedly, petitioner is liable for the moral damages suffered by respondent Umuyon. Its liability is based on a quasi-delict or on its negligence in the supervision and selection of its driver, causing the vehicular accident and physical injuries to respondent Umuyon. Rivera is also liable for moral damages to respondent Umuyon based on either culpa criminal or quasi-delict. Since the decision in the criminal case, which found Rivera guilty of criminal negligence, did not award moral damages, the same may be awarded in the instant civil action for damages.

Jurisprudence show that in criminal offenses resulting to the death of the victim, an award within the range of P50,000.00 to P100,000.00 as moral damages has become the trend.[20] Under the circumstances, because respondent Umuyon did not die but had become permanently incapacitated to drive as a result of the accident, the

award of P30,000.00 for moral damages in his favor is justified.[21]

However, there is no legal basis in awarding moral damages to Spouses Lomotan whether arising from the criminal negligence committed by Rivera or based on the negligence of petitioner under Article 2180.[22] Article 2219[23] speaks of recovery of moral damages in case of a criminal offense resulting in physical injuries or quasi-delicts causing physical injuries, the two instances where Rivera and petitioner are liable for moral damages to respondent Umuyon. Article 2220[24] does speak of awarding moral damages where there is injury to property, but the injury must be willful and the circumstances show that such damages are justly due. There being no proof that the accident was willful, Article 2220 does not apply.

Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to moral, temperate, liquidated or compensatory damages.[25] Exemplary damages cannot be recovered as a matter of right; the court will decide whether or not they should be adjudicated.[26] In quasi-delicts, exemplary damages may be granted if the defendant acted with gross negligence.[27] While the amount of the exemplary damages need not be proved, the plaintiff must show that he is entitled to moral, temperate or compensatory damages before the court may consider the question of whether or not exemplary damages should be awarded.[28]

As correctly pointed out by the Court of Appeals, Spouses Lomotan have shown that they are entitled to compensatory damages while respondent Umuyon can recover both compensatory and moral damages. To serve as an example for the public good, the Court affirms the award of exemplary damages in the amount of P100,000.00 to respondents. Because exemplary damages are awarded, attorney's fees may also be awarded in consonance with Article 2208 (1).[29] The Court affirms the appellate court's award of attorney's fees in the amount of P25,000.00.

WHEREFORE, the instant petition for certiorari is **PARTIALLY GRANTED**. The Decision of the Court of Appeals in CA-G.R. CV No. 58655 is **AFFIRMED** with **MODIFICATION**. The award of actual damages for the cost of repairing the owner-type jeep is hereby **REDUCED** to P72,000.00 while the moral damages of P30,000.00 is awarded solely to respondent Umuyon. All other awards of the Court of Appeals are **AFFIRMED**. Following jurisprudence,[30] petitioner is ordered to **PAY** legal interest of 6% per annum from the date of promulgation of the Decision dated 21 April 1997 of the Regional Trial Court, Branch 72, Antipolo, Rizal and 12% per annum from the time the Decision of this Court attains finality, on all sums awarded until their full satisfaction.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Velasco, Jr., and Brion, JJ., concur.

[1] Dated 13 April 2005 and penned by J. Santiago Javier Ranada and concurred in by JJ. Marina L. Buzon, Chairman of the Tenth Division, and Mario L. Guariña III; rollo, p. 27.

[2] Dated 12 December 2005; id. at 46.[3] Exhibit "B," RTC records (Vol. II), p. 2.

[4] Exhibit "M," id. at 51.

[5] Rollo, p. 52.[6] Civil Code, Article 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those persons for whom one is responsible. xxxEmployers 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. xxxThe responsibility treated of in this article shall cease when the persons herein mentioned proved that they observed all the diligence of a good father of a family to prevent damage.

[7] Rollo, p. 35-36.[8] See *Filinvest Land, Inc. v. Court of Appeals*, G.R. No. 138980, 20 September 2005, 470 SCRA 260; *Almeda v. Cariño*, G.R. No. 152143, 13 January 2003, 395 SCRA 144.[9] *China Airlines, Ltd. v. Court of Appeals*, G.R. No. 129988, 14 July 2003, 406 SCRA 113, 126.[10] Civil Code, Art. 2199.

[11] *People v. Olermo*, G.R. No. 127848, 17 July 2003, 406 SCRA 412, 430.

[12] *People v. Gopio*, G.R. No. 133925, 29 November 2000, 346 SCRA 408.[13] *Id.* at 431.

[14] G.R. No. 138296, 22 November 2000, 345 SCRA 509.[15] *Id.* at 519.

[16] Civil Code, Article 2219. Moral damages may be recovered in the following and analogous cases:

(1) A criminal offense resulting in physical injuries;(2) Quasi-delicts causing physical injuries;(3) Seduction, abduction, rape or other lascivious acts;(4) Adultery or concubinage;(5) Illegal or arbitrary detention or arrest;(6) Illegal search;(7) Libel, slander or any other form of defamation;(8) Malicious prosecution;(9) Acts mentioned in article 309;(10) Acts and actions referred to in articles 21, 26, 27, 28, 29, 30, 32, 34, and 35. The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages. The spouse, descendants, ascendants, and brothers and sisters may bring the action mentioned in No. 9 of this article, in the order named.

[17] Civil Code, Article 2220. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. The same rule applies to breaches of contract where the defendant acted fraudulently and in bad faith.

[18] *Philippine Telegraph & Telephone Corporation v. Court of Appeals*, G.R. No. 139268, 3 September 2002, 388 SCRA 270, 276.

[19] *Expert Travel & Tours, Inc. v. Court of Appeals*, G.R. No. 130030, 25 June 1999, 309 SCRA 141, 146.[20] See *Victory Liner, Inc. v. Heirs of Malecdan*, G.R. No. 154278, 27 December 27, 2002, 394 SCRA 520; *People v. Ortiz*, G.R. No. 133814, 17 July 2001, 361 SCRA 274; *People v. Cortez*, G.R. No. 131924, 26 December 2000, 348 SCRA 663; *People v. Tambis*, G.R. No. 124452, 28 July 1999, 311 SCRA 430.[21] See *People v. Tambis*, G.R. No. 124452, 28 July 1999, 311 SCRA 430.[22] *Supra* note 6 at 4.[23] *Supra* note 16 at 9.

[24] *Supra* note 17 at 4.

[25] Civil Code, Art. 2229.

[26] Civil Code, Art. 2233.

[27] Civil Code, Art. 2232.[28] Civil Code, Art. 2234.[29] Civil Code, Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered except:(1) When exemplary damages are awarded. xxx[30] *Eastern Shipping Lines, Inc. v. Court of Appeals*, G.R. No. 97412, 12 July 1994, 234 SCRA 78.

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