MERCURY DRUG CORPORATION AND ROLANDO J. DEL ROSARIO, PETITIONERS, VS. SPOUSES RICHARD HUANG AND CARMEN HUANG, AND STEPHEN HUANG, RESPONDENTS.

G.R. NO. 172122. June 22, 2007

Ponente: PUNO, C.J.

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PUNO, C.J.:

On appeal are the Decision[1] and Resolution[2] of the Court of Appeals in CA-G.R. CV No. 83981, dated February 16, 2006 and March 30, 2006, respectively which affirmed with modification the Decision[3] of the Regional Trial Court (RTC) of Makati City, dated September 29, 2004. The trial court found petitioners jointly and severally liable to pay respondents damages for the injuries sustained by respondent Stephen Huang, son of respondent spouses Richard and Carmen Huang.

First, the facts:

Petitioner Mercury Drug Corporation (Mercury Drug) is the registered owner of a six-wheeler 1990 Mitsubishi Truck with plate number PRE 641 (truck). It has in its employ petitioner Rolando J. del Rosario as driver. Respondent spouses Richard and Carmen Huang are the parents of respondent Stephen Huang and own the red 1991 Toyota Corolla GLI Sedan with plate number PTT 775 (car).

These two vehicles figured in a road accident on December 20, 1996 at around 10:30 p.m. within the municipality of Taguig, Metro Manila. Respondent Stephen Huang was driving the car, weighing 1,450 kg., while petitioner Del Rosario was driving the truck, weighing 14,058 kg. Both were traversing the C-5 Highway, north bound, coming from the general direction of Alabang going to Pasig City. The car was on the left innermost lane while the truck was on the next lane to its right, when the truck suddenly swerved to its left and slammed into the front right side of the car. The collision hurled the car over the island where it hit a lamppost, spun around and landed on the opposite lane. The truck also hit a lamppost, ran over the car and zigzagged towards, and finally stopped in front of Buellah Land Church.

At the time of the accident, petitioner Del Rosario only had a Traffic Violation Receipt (TVR). His driver's license had been confiscated because he had been previously apprehended for reckless driving.

The car, valued at P300,000.00, was a total wreck. Respondent Stephen Huang sustained massive injuries to his spinal cord, head, face, and lung. Despite a series of operations, respondent Stephen Huang is paralyzed for life from his chest down and requires continuous medical and rehabilitation treatment.

Respondents fault petitioner Del Rosario for committing gross negligence and reckless imprudence while driving, and petitioner Mercury Drug for failing to exercise the diligence of a good father of a family in the selection and supervision of its driver.

In contrast, petitioners allege that the immediate and proximate cause of the accident was respondent Stephen Huang's recklessness. According to petitioner Del Rosario, he was driving on the left innermost lane when the car

bumped the truck's front right tire. The truck then swerved to the left, smashed into an electric post, crossed the center island, and stopped on the other side of the highway. The car likewise crossed over the center island and landed on the same portion of C-5. Further, petitioner Mercury Drug claims that it exercised due diligence of a good father of a family in the selection and supervision of all its employees.

The trial court, in its Decision dated September 29, 2004, found petitioners Mercury Drug and Del Rosario jointly and severally liable to pay respondents actual, compensatory, moral and exemplary damages, attorney's fees, and litigation expenses. The dispositive portion reads:

> WHEREFORE, judgment is rendered finding defendants Mercury Drug Corporation, Inc. and Rolando del Rosario, jointly and severally liable to pay plaintiffs Spouses Richard Y. Huang and Carmen G. Huang, and Stephen Huang the following amounts:
>
> - Two Million Nine Hundred Seventy Three Thousand Pesos (P2,973,000.00) actual damages;
>
> - As compensatory damages:
>
> - Twenty Three Million Four Hundred Sixty One Thousand, and Sixty-Two Pesos (P23,461,062.00) for life care cost of Stephen;
>
> - Ten Million Pesos (P10,000,000.00) as and for lost or impaired earning capacity of Stephen;
>
> - Four Million Pesos (P4,000,000.00) as moral damages;
>
> - Two Million Pesos (P2,000,000.00) as exemplary damages; and
>
> - One Million Pesos (P1,000,000.00) as attorneys fees and litigation expense.[4]

On February 16, 2006, the Court of Appeals affirmed the decision of the trial court but reduced the award of moral damages to P1,000,000.00. The appellate court also denied the motion for reconsideration filed by petitioners.

Hence, this appeal.

Petitioners cite the following grounds for their appeal:

> - That the subject Decision which dismissed the appeal of petitioners herein but AFFIRMED WITH MODIFICATION the decision of the Regional Trial Court, Branch 64, Makati City, in that the award of moral damages was reduced to P1,000,000.00 and its Resolution dated March 30, 2006, which dismissed outright the Motion for Reconsideration must be set aside because the Honorable Court of Appeals committed reversible error:
>
> - IN DENYING OUTRIGHTLY THE MOTION FOR RECONSIDERATION ON ALLEGEDLY BEING FILED OUT OF TIME FOR ONE DAY;
>
> - IN ACCORDING GREATER WEIGHT TO THE EVIDENCE ADDUCED BY THE RESPONDENTS HEREIN AND COMPLETELY DISREGARDING THE DEFENSE INTERPOSED BY THE PETITIONERS HEREIN;
>
> - IN DISREGARDING COMPLETELY ALL EVIDENCES PRESENTED BY THE PETITIONERS HEREIN AND PROCEEDED TO RENDER ITS DECISION BASED ON PRESUMPTIONS AND PERSONAL OPINIONS OF PEOPLE WHO ARE NOT WITNESSES TO THE ACCIDENT;
>
> - IN AWARDING DAMAGES IN FAVOR OF RESPONDENTS HEREIN;
>
> - IN FINDING THAT MERCURY DRUG CORPORATION FAILED TO EXERCISE THE DILIGENCE

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REQUIRED IN SUPERVISING ITS EMPLOYEES DESPITE OVERWHELMING EVIDENCE PRESENTED BY PETITIONER COMPANY;

- IN FINDING THAT PETITIONER ROLANDO DEL ROSARIO WAS NEGLIGENT IN DRIVING THE TRUCK AT THE TIME OF ACCIDENT AND TOTALLY DISREGARDING THE EVIDENCES PRESENTED DURING THE TRIAL OF THE CASE.

- IN PRESENTING ONLY IN THE DECISION TESTIMONIES FAVORABLE TO THE RESPONDENTS HEREIN AND COMPLETELY DISREGARDING THE EVIDENCES PRESENTED BY THE PETITIONERS HEREIN WHICH CONTRADICTED SUCH TESTIMONIES NOT ONLY THROUGH ORAL TESTIMONIES BUT AS WELL AS DOCUMENTARY EVIDENCES.[5]

We affirm the findings of the trial court and the appellate court that petitioner Del Rosario was negligent. The evidence does not support petitioners' claim that at the time of the accident, the truck was at the left inner lane and that it was respondent Stephen Huang's car, at its right, which bumped the right front side of the truck. Firstly, petitioner Del Rosario could not precisely tell which part of the truck was hit by the car,[6] despite the fact that the truck was snub-nosed and a lot higher than the car. Petitioner Del Rosario could not also explain why the car landed on the opposite lane of C-5 which was on its left side. He said that "the car did not pass in front of him after it hit him or under him or over him or behind him."[7] If the truck were really at the left lane and the car were at its right, and the car hit the truck at its front right side, the car would not have landed on the opposite side, but would have been thrown to the right side of the C-5 Highway. Noteworthy on this issue is the testimony of Dr. Marlon Rosendo H. Daza, an expert in the field of physics. He conducted a study based on the following assumptions provided by respondents:

- Two vehicles collided;

- One vehicle is ten times heavier, more massive than the other;

- Both vehicles were moving in the same direction and at the same speed of about 85 to 90 kilometers per hour;

- The heavier vehicle was driving at the innermost left lane, while the lighter vehicle was at its right.

Dr. Daza testified that given the foregoing assumptions, if the lighter vehicle hits the right front portion of the heavier vehicle, the general direction of the light vehicle after the impact would be to the right side of the heavy vehicle, not the other way around. The truck, he opined, is more difficult to move as it is heavier. It is the car, the lighter vehicle, which would move to the right of, and away from the truck. Thus, there is very little chance that the car will move towards the opposite side, i.e., to the left of the truck.

Dr. Daza also gave a further study on the basis of the same assumptions except that the car is on the left side of the truck, in accordance with the testimony of respondent Stephen Huang. Dr. Daza concluded that the general direction of the car after impact would be to the left of the truck. In this situation, the middle island against which the car was pinned would slow down the car, and enable the truck to catch up and hit the car again, before running over it.[8]

To support their thesis, petitioners tried to show the damages that the truck sustained at its front right side. The attempt does not impress. The photographs presented were taken a month after the accident, and Rogelio Pantua, the automechanic who repaired the truck and authenticated the photographs, admitted that there were damages also on the left side of the truck.[9]

Worse still, petitioner Del Rosario further admitted that after the impact, he lost control of the truck and failed to apply his brakes. Considering that the car was smaller and lighter than the six-wheeler truck, the impact allegedly caused by the car when it hit the truck could not possibly be so great to cause petitioner to lose all control that he

failed to even step on the brakes. He testified, as follows:

> ATTY. DIAZ:
>
> May I proceed, Your Honor. You were able to apply the brakes, were you sir?
>
> WITNESS:
>
> No more, sir, because I went over the island.
>
> ATTY. DIAZ:
>
> Because as you said you lost control, correct sir?
>
> WITNESS:
>
> Yes, sir.
>
> ATTY. DIAZ:
>
> In other words, sir from the time your truck was hit according to you up to the time you rested on the shoulder, you traveled fifty meters?
>
> WITNESS:
>
> Yes, sir, about that distance.
>
> ATTY. DIAZ:
>
> And this was despite the fact that you were only traveling at the speed of seventy five kilometers per hour, jumped over the island, hit the lamppost, and traveled the three lanes of the opposite lane of C-5 highway, is that what you want to impress upon this court?
>
> WITNESS:
>
> Yes, sir.[10]

We therefore find no cogent reason to disturb the findings of the RTC and the Court of Appeals. The evidence proves petitioner Del Rosario's negligence as the direct and proximate cause of the injuries suffered by respondent Stephen Huang. Petitioner Del Rosario failed to do what a reasonable and prudent man would have done under the circumstances.

We now come to the liability of petitioner Mercury Drug as employer of Del Rosario. Articles 2176 and 2180 of the Civil Code provide:

> Art. 2176. 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.
>
> Art. 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.
>
> x x x
>
> 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.

x x x

The liability of the employer under Art. 2180 of the Civil Code is direct or immediate. It is not conditioned on a prior recourse against the negligent employee, or a prior showing of insolvency of such employee. It is also joint and solidary with the employee.[11]

To be relieved of liability, petitioner Mercury Drug should show that it exercised the diligence of a good father of a family, both in the selection of the employee and in the supervision of the performance of his duties. Thus, in the selection of its prospective employees, the employer is required to examine them as to their qualifications, experience, and service records.[12] With respect to the supervision of its employees, the employer should formulate standard operating procedures, monitor their implementation, and impose disciplinary measures for their breach. To establish compliance with these requirements, employers must submit concrete proof, including documentary evidence.[13]

In the instant case, petitioner Mercury Drug presented testimonial evidence on its hiring procedure. According to Mrs. Merlie Caamic, the Recruitment and Training Manager of petitioner Mercury Drug, applicants are required to take theoretical and actual driving tests, and psychological examination. In the case of petitioner Del Rosario, however, Mrs. Caamic admitted that he took the driving tests and psychological examination when he applied for the position of Delivery Man, but not when he applied for the position of Truck Man. Mrs. Caamic also admitted that petitioner Del Rosario used a Galant which is a light vehicle, instead of a truck during the driving tests. Further, no tests were conducted on the motor skills development, perceptual speed, visual attention, depth visualization, eye and hand coordination and steadiness of petitioner Del Rosario. No NBI and police clearances were also presented. Lastly, petitioner Del Rosario attended only three driving seminars – on June 30, 2001, February 5, 2000 and July 7, 1984. In effect, the only seminar he attended before the accident which occurred in 1996 was held twelve years ago in 1984.

It also appears that petitioner Mercury Drug does not provide for a back-up driver for long trips. At the time of the accident, petitioner Del Rosario has been out on the road for more than thirteen hours, without any alternate. Mrs. Caamic testified that she does not know of any company policy requiring back-up drivers for long trips.[14]

Petitioner Mercury Drug likewise failed to show that it exercised due diligence on the supervision and discipline over its employees. In fact, on the day of the accident, petitioner Del Rosario was driving without a license. He was holding a TVR for reckless driving. He testified that he reported the incident to his superior, but nothing was done about it. He was not suspended or reprimanded.[15] No disciplinary action whatsoever was taken against petitioner Del Rosario. We therefore affirm the finding that petitioner Mercury Drug has failed to discharge its burden of proving that it exercised due diligence in the selection and supervision of its employee, petitioner Del Rosario.

We now consider the damages which respondents should recover from the petitioners.

The trial court awarded the following amounts:

- Two Million Nine Hundred Seventy-Three Thousand Pesos (P2,973,000.00) actual damages;

- As compensatory damages:

- Twenty-Three Million Four Hundred Sixty One Thousand, and Sixty-Two Pesos (P23,461,062.00) for life care cost of Stephen;

- Ten Million Pesos (P10,000,000.00) as and for lost or impaired earning capacity of Stephen;

- Four Million Pesos (P4,000,000.00) as moral damages;

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- Two Million Pesos (P2,000,000.00) as exemplary damages; and

- One Million Pesos (P1,000,000.00) as attorney's fees and litigation expense.

The Court of Appeals affirmed the decision of the trial court but reduced the award of moral damages to P1,000,000.00.

With regard to actual damages, Art. 2199 of the Civil Code provides that "[E]xcept 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 x x x." In the instant case, we uphold the finding that the actual damages claimed by respondents were supported by receipts. The amount of P2,973,000.00 represented cost of hospital expenses, medicines, medical services and supplies, and nursing care services provided respondent Stephen from December 20, 1996, the day of the accident, until December 1998.

Petitioners are also liable for all damages which are the natural and probable consequences of the act or omission complained of.[16] The doctors who attended to respondent Stephen are one in their prognosis that his chances of walking again and performing basic body functions are nil. For the rest of his life, he will need continuous rehabilitation and therapy to prevent further complications such as pneumonia, bladder and rectum infection, renal failure, sepsis and severe bed sores, osteoporosis and fractures, and other spinal cord injury-related conditions. He will be completely dependent on the care and support of his family. We thus affirm the award of P23,461,062.00 for the life care cost of respondent Stephen Huang, based on his average monthly expense and the actuarial computation of the remaining years that he is expected to live; and the conservative amount of P10,000,000.00, as reduced by the trial court, for the loss or impairment of his earning capacity,[17] considering his age, probable life expectancy, the state of his health, and his mental and physical condition before the accident. He was only seventeen years old, nearly six feet tall and weighed 175 pounds. He was in fourth year high school, and a member of the school varsity basketball team. He was also class president and editor-in-chief of the school annual. He had shown very good leadership qualities. He was looking forward to his college life, having just passed the entrance examinations of the University of the Philippines, De La Salle University, and the University of Asia and the Pacific. The University of Sto. Tomas even offered him a chance to obtain an athletic scholarship, but the accident prevented him from attending the basketball try-outs. Without doubt, he was an exceptional student. He excelled both in his academics and extracurricular undertakings. He is intelligent and motivated, a go-getter, as testified by Francisco Lopez, respondent Stephen Huang's godfather and a bank executive.[18] Had the accident not happened, he had a rosy future ahead of him. He wanted to embark on a banking career, get married and raise children. Taking into account his outstanding abilities, he would have enjoyed a successful professional career in banking. But, as Mr. Lopez stated, it is highly unlikely for someone like respondent to ever secure a job in a bank. To his knowledge, no bank has ever hired a person suffering with the kind of disability as Stephen Huang's.[19]

We likewise uphold the award of moral and exemplary damages and attorney's fees.

"The award of moral damages is aimed at a restoration, within the limits of the possible, of the spiritual status quo ante."[20] Moral damages are designed to compensate and alleviate in some way the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury unjustly caused a person. Although incapable of pecuniary computation, they must be proportionate to the suffering inflicted.[21] The amount of the award bears no relation whatsoever with the wealth or means of the offender.

In the instant case, respondent Stephen Huang and respondent spouses Richard and Carmen Huang testified to the intense suffering they continue to experience as a result of the accident. Stephen recounted the nightmares and

traumas he suffers almost every night when he relives the accident. He also gets depression when he thinks of his bleak future. He feels frustration and embarrassment in needing to be helped with almost everything and in his inability to do simple things he used to do. Similarly, respondent spouses and the rest of the family undergo their own private suffering. They live with the day-to-day uncertainty of respondent Stephen Huang's condition. They know that the chance of full recovery is nil. Moreover, respondent Stephen Huang's paralysis has made him prone to many other illnesses. His family, especially respondent spouses, have to make themselves available for Stephen twenty-four hours a day. They have patterned their daily life around taking care of him, ministering to his daily needs, altering the lifestyle to which they had been accustomed.

Respondent Carmen Huang's brother testified on the insensitivity of petitioner Mercury Drug towards the plight of respondent. Stephen, viz.:

> Maybe words cannot describe the anger that we feel towards the defendants. All the time that we were going through the crisis, there was none (sic) a single sign of nor offer of help, any consolation or anything whatsoever. It is funny because, you know, I have many colleagues, business associates, people even as far as United States, Japan, that I probably met only once, when they found out, they make a call, they sent card, they write small notes, but from the defendant, absolute silence. They didn't care, and worst, you know, this is a company that have (sic) all the resources to help us. They were (sic) on our part, it was doubly painful because we have no choice but to go back to them and buy the medicines that we need for Stephen. So, I don't know how someone will really have no sense of decency at all to at least find out what happened to my son, what is his condition, or if there is anything that they can do to help us.[22]

On the matter of exemplary damages, Art. 2231 of the Civil Code provides that in cases of quasi-delicts, exemplary damages may be granted if the defendant acted with gross negligence. The records show that at the time of the accident, petitioner Del Rosario was driving without a license because he was previously ticketed for reckless driving. The evidence also shows that he failed to step on his brakes immediately after the impact. Had petitioner Del Rosario done so, the injuries which respondent Stephen sustained could have been greatly reduced. Wanton acts such as that committed by petitioner Del Rosario need be suppressed; and employers like petitioner Mercury Drug should be more circumspect in the observance of due diligence in the selection and supervision of their employees. The award of exemplary damages in favor of the respondents is therefore justified.

With the award of exemplary damages, we also affirm the grant of attorney's fees to respondents.[23] In addition, attorney's fees may be granted when a party is compelled to litigate or incur expenses to protect his interest by reason of an unjustified act of the other party.[24]

Cost against petitioners.

IN VIEW THEREOF, the petition is DENIED. The Decision and Resolution of the Court of Appeals dated February 16, 2006 and March 30, 2006, respectively, in CA-G.R. CV No. 83981, are AFFIRMED.

SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna, and Garcia, JJ., concur.

[1] Rollo, pp. 9-72.

[2] Id. at 74-75.

[3] Id. at 523-564.

[4] Id. at 563-564.

[5] Id. at 90-92.

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[6] TSN, March 27, 2000, p. 16.

[7] TSN, April 12, 2000, pp. 53-58.

[8] TSN, March 23, 2003, pp. 5-29.

[9] TSN, June 14, 2000, pp. 10-11.

[10] TSN, April 12, 2000, pp. 27-29.

[11] Art. 2194, Civil Code. The responsibility of two or more persons who are liable for a quasi-delict is solidary.

[12] Estacion v. Bernardo, G.R. No. 144723, February 27, 2006, 483 SCRA 222; Campo v. Camarote, 100 Phil. 459, 463 (1956).

[13] Victory Liner, Inc. v. Heirs of Andres Malecdan, G.R. No. 154278, December 27, 2002, 394 SCRA 520.

[14] TSN, January 2002, pp. 39-42.

[15] TSN, April 2000, pp. 11-16; TSN, November 28, 2001, pp. 35-37.

[16] Art. 2202, Civil Code. In crimes and quasi-delicts, the defendant shall be liable for all damages which are the natural and probable consequences of the act or omission complained of. It is not necessary that such damages have been foreseen or could have reasonably been foreseen by the defendant.

[17] Art. 2205, Civil Code. Damages may be recovered:
(1) For loss or impairment of earning capacity in cases of temporary or permanent personal injury;

x x x

[18] TSN, September 24, 1999, pp. 28-29.

[19] TSN, September 24, 1999, pp. 30-31.

[20] Cesar Sangco, Torts and Damages 986 (Rev. ed., 1994), cited in Roque v. Torres, G.R. 157632, December 6, 2006.

[21] Philippine National Railways v. Brunty, G.R. No. 169891, November 2, 2006.

[22] TSN, January 11, 1999, pp. 23-24.

[23] Art. 2208 (1), Civil Code.

[24] Art. 2208 (2), Civil Code.

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