

ORIX METRO LEASING AND FINANCE CORPORATION (FORMERLY CONSOLIDATED ORIX LEASING AND FINANCE CORPORATION), PETITIONER, VS. MINORS: DENNIS, MYLENE, MELANIE AND MARIKRIS, ALL SURNAM...

G.R. No. 174089. January 25, 2012

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The ones at fault are to answer for the effects of vehicular accidents.

A multiple-vehicle collision in North Luzon Expressway (NLEX) resulting in the death of all the passengers in one vehicle, including the parents and a sibling of the surviving orphaned minor heirs, compelled the latter to file an action for damages against the registered owners and drivers of the two 10-wheeler trucks that collided with their parents' Nissan Pathfinder (Pathfinder).

Assailed in these consolidated Petitions for Review on Certiorari[1] filed by Orix Metro Leasing and Finance Corporation (Orix)[2] and by Sonny Li (Sonny) and Antonio delos Santos (Antonio)[3] are the October 27, 2005 Decision[4] and August 17, 2006 Resolution[5] of the Court of Appeals (CA) in CA-G.R. CV No. 70530.

Factual Antecedents

On June 27, 1990, at about 11:15 p.m., three vehicles were traversing the two-lane northbound NLEX in the vicinity of Barangay Tibag, Pulilan, Bulacan. It was raining that night.

Anacleto Edurese, Jr. (Edurese) was driving a Pathfinder with plate number BBG-334. His Isabela-bound passengers were the owners of said vehicle, spouses Roberto and Josephine Mangalinao (Mangalinao spouses), their daughter Marriane, housemaid Rufina Andres and helper Armando Jebueza (Jebueza). Before them on the outer lane was a Pampanga-bound Fuso 10-wheeler truck (Fuso), with plate number PAE-160, driven by Loreto Lucilo (Loreto), who was with truck helper Charlie Palomar (Charlie). The Fuso was then already moving in an erratic and swerving motion.[6] Following behind the Pathfinder was another 10-wheeler truck, an Isuzu Cargo (Isuzu) with plate number PNS-768 driven by Antonio, who was then with helper Rodolfo Navia (Rodolfo).

Just when the Pathfinder was already cruising along the NLEX's fast lane and about to overtake the Fuso, the latter suddenly swerved to the left and cut into the Pathfinder's lane thereby blocking its way. As a result, the Pathfinder hit the Fuso's left door and left body.[7] The impact caused both vehicles to stop in the middle of the expressway. Almost instantly, the inevitable pileup happened. Although Antonio stepped on the brakes,[8] the Isuzu's front crashed[9] into the rear of the Pathfinder leaving it a total wreck.[10] Soon after, the Philippine National Construction Corporation (PNCC) patrol arrived at the scene of the accident and informed the Pulilan police about the vehicular mishap. Police Investigator SPO2 Emmanuel Banag responded at about 2:15-2:30 a.m. of June 28, 1990 and investigated the incident as gathered from the information and sketch[11] provided by the PNCC patrol as well as from the statements[12] provided by the truck helpers Charlie and Rodolfo.

In the meantime, the Mangalinao spouses, the driver Edurese, and the helper Jebueza were declared dead on the spot while 6-month old Marriane and the housemaid were declared dead on arrival at a nearby hospital.[13] The occupants of the trucks escaped serious injuries and death.

As their letters[14] to the registered owners of the trucks demanding compensation for the accident were ignored, the minor children of the Mangalinao spouses, Dennis, Mylene, Melanie and Marikris, through their legal guardian,[15] consequently filed on January 16, 1991 a Complaint[16] for damages based on quasi-delict, before the Regional Trial Court (RTC) of Makati which was docketed as Civil Case No. 91-123.[17] They impleaded the drivers Loreto and Antonio, as well as the registered owners of the Fuso and the Isuzu trucks, namely Orix and Sonny,[18] respectively. The children imputed recklessness, negligence, and imprudence on the truck drivers for the deaths of their sister and parents; while they hold Sonny and Orix equally liable for failing to exercise the diligence of a good father of a family in the selection and supervision of their respective drivers. The children demanded payment of more than P10.5 million representing damages and attorney's fees.

Orix in its Motion to Dismiss[19] interposed that it is not the actual owner of the Fuso truck. As the trial court denied the motion,[20] it then filed its Answer with Compulsory Counterclaim and Cross-claim.[21] Orix reiterated that the children had no cause of action against it because on September 9, 1983, it already sold the Fuso truck to MMO Trucking owned by Manuel Ong (Manuel).[22] The latter being the alleged owner at the time of the collision, Orix filed a Third Party Complaint[23] against Manuel, a.k.a. Manuel Tan.

In their Answer with Compulsory Counterclaim and Cross-Claim,[24] Sonny and Antonio attributed fault for the accident solely on Loreto's reckless driving of his truck which suddenly stopped and slid across the highway. They claimed that Sonny had exercised the expected diligence required of an employer; that Antonio had been all along driving with care; and, that with the abrupt and unexpected collision of the vehicles before him and their precarious proximity, he had no way of preventing his truck from hitting the Pathfinder.

For failing to file any responsive pleading, both Manuel and Loreto were declared in default.[25]

Ruling of the Regional Trial Court

After trial, the court a quo issued a Decision[26] on February 9, 2001 finding Sonny, Antonio, Loreto and Orix liable for damages. It likewise ruled in favor of Orix anent its third party complaint, the latter having sufficiently proven that Manuel of MMO Trucking is the real owner of the Fuso.

The dispositive portion of the RTC Decision states:

Wherefore, premises considered, judgment is hereby rendered in favor of plaintiffs and against the defendants, ordering the latter to pay plaintiffs, jointly and severally, the following:

- (a) P3,077,000.00 as actual damages;
- (b) P2,000,000.00 as moral damages;
- (c) P1,000,000.00 as exemplary damages; and
- (d) P400,000.00 as and for reasonable attorney's fees
- (e) legal interest at six percent (6%) per annum on the above-stated amounts from the filing of the complaint on January 16, 1991 until fully paid; and
- (f) costs of suit and expenses of litigation.

Third party defendant Manuel M. Ong is ordered to indemnify third party plaintiff [Orix] for the amounts adjudged against the latter in this case.

SO ORDERED.[27]

Ratiocinating its finding of recklessness on both truck drivers, the RTC said:

The evidence leaves no doubt that both truck drivers were at fault and should be held liable. Lucilo, who was driving the Fuso truck, was reckless when he caused the swerving of his vehicle directly on the lane of the Pathfinder to his left. The Pathfinder had no way to avoid a collision because it was about to pass the truck when suddenly blocked. On the other hand, the Isuzu truck was practically tailgating the Pathfinder on the dark slippery highway such that when the Pathfinder collided with the Fuso truck, it became inevitable for the Isuzu truck to crash into the Pathfinder. So, de los Santos, the driver of the Isuzu truck was likewise reckless.[28]

In an attempt to exonerate itself, Orix appealed to the CA[29] followed by Sonny and Antonio.[30] All of them challenged the factual findings and conclusions of the court a quo with regard to their respective liabilities, each pinpointing to the negligence of the other and vice versa. All of them likewise assailed the amounts the RTC awarded to the minors for lack of basis.

Ruling of the Court of Appeals

On October 27, 2005, the CA rendered its Decision[31] affirming the factual findings of the trial court of reckless driving. It said:

It may be true that it was the Nissan Pathfinder which first hit and bumped and eventually crashed into the Fuso truck. However, this would not have happened if the truck did not swerve into the lane of the Nissan Pathfinder. As afore-mentioned [sic], the latter had no way then to avoid a collision because it was about to overtake the former.

As a motorist, Lucilo [Loreto] should have operated his truck with reasonable caution considering the width, traffic, grades, crossing, curvatures, visibility and other conditions of the highway and the conditions of the atmosphere and weather. He should have carefully and cautiously driven his vehicle so as not to have endangered the property or the safety or rights of other persons. By failing to drive with reasonable caution, Lucilo is, hence, liable for the resultant vehicle collision.

Neither do [we] find credence in delos Santos' claim that he is without liability for the vehicular collision. We cannot overemphasize the primacy in probative value of physical evidence, that mute but eloquent manifestation of the truth. An examination of the destroyed front part of the Isuzu truck, as shown by photographic evidence, clearly indicates strong bumping of the rear of the Pathfinder. The photographs belie delos Santos' claim that he was driving at a safe speed and even slowed down when he noticed the [erratic] traveling of the Fuso truck. In fact, by his own admission, it was a matter of seconds before his Isuzu truck hit the Nissan Pathfinder - a clear indication that he did not actually [slow] down considering the weather and road condition at that time. Had he been actually prudent in driving, the impact on the Nissan Pathfinder would not have been that great or he might have even taken evasive action to avoid hitting it. Sadly, that was not the case as shown by the evidence on record.[32]

The CA also ruled that Orix, as the registered owner of the Fuso, is considered in the eyes of the law and of third persons responsible for the deaths of the passengers of the Pathfinder, regardless of the lack of an employer-employee relationship between it and the driver Loreto.

The CA modified the award of damages as follows:

- (a) P150,000.00 as indemnity for the death of Spouses Roberto and Josephine Mangalinao and their daughter Marianne Mangalinao;
- (b) P2,000,000.00 for loss of earning capacity;
- (c) P64,200.00 for funeral expenses;
- (d) P1,000,000.00 as moral damages;
- (e) P1,000,000.00 as exemplary damages;
- (f) P400,000.00 as attorney's fees.

If the amounts adjudged remain unpaid upon the finality of this decision, the interest rate shall be twelve percent (12%) per annum computed from the time the judgment became final and executory until fully satisfied.

The six percent (6%) interest per annum from the filing of the complaint indicated in the assailed decision is DELETED.

SO ORDERED.[33]

Orix and Sonny joined by Antonio, filed their separate Motions for Reconsideration[34] but same were denied in a Resolution[35] dated August 17, 2006.

Hence, these consolidated petitions.

Petitioners' Respective Arguments

Orix's contentions in its petition may be summarized as follows:

- (a) It is not the owner and operator of the Fuso at the time of the collision and should not be held responsible for compensating the minor children of the Mangalinaos;
- (b) The Fuso's swerving towards the inner lane where the Pathfinder is cruising is attributable not to the alleged negligence of Loreto but to adverse driving conditions, i.e., the stormy weather and slippery road;
- (c) The CA has no reliable evidentiary basis for computing loss of earning capacity as the Balance Sheet and Income Statement of Roberto Mangalinao, as certified by accountant Wilfredo de Jesus for the year 1989, is hearsay evidence; and
- (e) The award of attorney's fees sustained by the CA is not justified and is exorbitant.

On the other hand, Sonny and Antonio argue in their petition that:

- (a) the CA erred in affirming the trial court's erroneous finding that the Isuzu was tailgating, which is contradicted by the material evidence on record;
- (b) the proximate cause of the death of the victims is Loreto's gross negligence. Antonio should have been accorded the benefit of the 'emergency rule' wherein he was immediately confronted with a sudden danger and had no time to think of how to avoid it;
- (c) the CA should not have awarded damages and attorney's fees because of the total absence of evidence to substantiate them.

In short, petitioners want us to review the finding of negligence by the CA of both truck drivers, the solidary liability of Orix as the registered owner of the Fuso, and the propriety of the damages the CA awarded in favor of the Mangalinao children.

Our Ruling

The finding of negligence of petitioners as found by the lower courts is binding

Negligence and proximate cause are factual issues.[36] Settled is the rule that this Court is not a trier of facts, and the concurrence of the findings of fact of the courts below are conclusive. "A petition for review on certiorari under Rule 45 of the Rules of Court should include only questions of law - questions of fact are not reviewable"[37] save for several exceptions,[38] two of which petitioners invoke, i.e., that 'the finding is grounded on speculations, surmises, and conjectures,' and that 'the judgment is based on a misapprehension of

facts.’

There is no compelling reason to disturb the lower courts’ factual conclusions.

With regard to the Fuso, we note the statement given by the helper Charlie before the Pulilan police immediately after the incident:

T:

Pakisalaysay mo nga ang mga pangyayari?

S:

Nuon nga pong oras at petsang nabanggit habang ako ay sakay ng isang truck patungo Pampanga at sa lugar ng pinangyarihan ay namireno ang aking driver dahil sa madulas at nagawi kami sa gawing kaliwa (inner lane) na isang mabilis na pajero (Nissan 4x4) ang bumangga sa gawing unahan hanggang sa tagiliran gawing kaliwa, na ang nasabing pajero ay papalusot (overtake) na pagkatapos nuon ay may isa (1) pang truck na bumangga sa hulihan.[39]

Based on the helper’s statement, the Fuso had lost control, skidded to the left and blocked the way of the Pathfinder, which was about to overtake. The Pathfinder had absolutely no chance to avoid the truck. Instead of slowing down and moving towards the shoulder in the highway if it really needed to stop, it was very negligent of Loreto to abruptly hit the brake in a major highway wherein vehicles are highly likely to be at his rear. He opened himself up to a major danger and naturally, a collision was imminent.

On the other hand, the parties for the Isuzu contend that the CA erred in ruling that the truck was moving at a fast speed and was tailgating. They assert that they be absolved because the fault lay entirely on the Fuso, which had been zigzagging along the highway. They aver that when the Fuso and the Pathfinder collided in the middle of the highway with the Fuso blocking both lanes of the northbound stretch, there was no room left for driver Antonio to maneuver to avoid them, and that the Pathfinder was hit as a natural consequence.

The Isuzu’s driver, Antonio, claims that he and the two vehicles before him were travelling at the right lane of the highway, and on his part, he was travelling at a speed of 50-60 kph and that he was three cars away from the Pathfinder. When the Pathfinder hit the left side of the Fuso, he stepped on the brake but still struck the Pathfinder.[40] He further narrated:

CROSS-EXAMINATION BY ATTY. DOMINGO:

Q

And what was this if you noticed anything before the incident happened?

A

The Fu[s]o Cargo Truck was swerving from left to right, Sir.

Q

How long before this collision did you notice this kind of travelling on the part of the Fu[s]o Cargo Truck?

A

About 15 to 20 minutes, Sir.

Q

When you noticed this, what if anything, did you do?

A

I slow[ed] down, Sir.

Q

When you said you slow[ed] down, at what speed do you mean you were travelling?

A

More or less 50 kph., Sir.

Q

So prior to that, you were travelling faster than 50 to 60 kph. Is that correct?

A

Yes, Sir.

Q

And [in spite] of that, you testified that you hit the Nissan Pathfinder after it hit the Fu[s]o Cargo Truck?

A

Despite the fact that it slow[ed] down, I also hit the Nissan Pathfinder when I skidded because of the slippery condition of the road at that time.

Q

And it was precisely this slippery condition of the road that you are talking about that caused you to hit the Nissan Pathfinder?

A

Yes, Sir.[41]

x x x x

Q

I will just go back to the incident on the collision. At what particular point in the vehicle you were driving hit the Nissan Pathfinder? At what portion of the Nissan Pathfinder was it hit by the vehicle that you were driving?

A

At the rear portion of the Nissan Pathfinder, Sir.

Q

What portion, the right o[r] the left portion of the rear?

A

I hit the right side of the rear portion of the Nissan Pathfinder, Sir.

Q

And what happened to the Nissan Pathfinder after you hit it on the right rear portion?

A

The back portion of the Nissan Pathfinder was damaged, Sir.

Q

And what was the extent of the [damage] on the back portion?

A

The rear portion was extensively damaged, Sir.

Q

After you hit the rear portion of the Nissan Pathfinder, did your vehicle hit any other portion of that Nissan Pathfinder?

A

None, Sir.

Q

After you hit the Nissan Pathfinder at the rear, in what manner did it move, if it moved?

A

After I hit the rear portion of the Nissan Pathfinder, it did not move anymore, but I also hit the right side of the Fu[s]o Cargo Truck, Sir.

COURT:

For a while, what part of the Fu[s]o Cargo Truck did you hit?

WITNESS:

A

I hit the sidings of the Fu[s]o Cargo Truck, Your Honor.[42]

x x x x

CROSS-EXAMINATION BY ATTY. GUERRERO:

Q

When the Pathfinder hit the Fu[s]o Truck, were you still behind the Pathfinder?

A

Yes, Sir.

Q

[Were you] still in the same lane that you were travelling 30 minutes before the impact?

A

Yes, Sir.

Q

You did not move from your lane [in spite] of the collision between the Pathfinder and the Fu[s]o Truck?

A

No, Sir. I did not move. I stayed on my lane.[43]

x x x x

REDIRECT EXAMINATION BY ATTY. NATIVIDAD:

Q

You stated a while ago, during the cross-examination by counsel that the moment you saw the Nissan Pathfinder [smash] against the side of the Fu[s]o, you did not move your Truck anymore. Why did you not swerve to the left or to the right?

A

Because there was an [oncoming] bus signalling [sic] to me, Sir.

Q

How about to the right, why did you not abruptly maneuver your truck to the right to avoid hitting the Nissan Pathfinder?

A

I cannot move my truck to the right side because my truck will not pass thorough [sic] the lane because it is very narrow and if I will do that, I might fall on the other side of the highway where houses were standing.

Q

You said that you were unable to pass through the right side of the road. Why [were you] not able to pass [through] to the right side[?] You said it was too narrow. Why is it too narrow?

A

Because the Fu[s]o Truck cut across the highway and my truck cannot pass through that space. It is only in the fast lane where I can pass through, Sir.

Q

All the while this bumping or the impact between the Nissan Pathfinder and the Fu[s]o Truck and your bumping against the Nissan Pathfinder happened in a few seconds only. Is that correct?

A

Yes, Sir.[44]

The exact positions of the vehicles upon a perusal of the sketch[45] (drawn only after the Fuso was moved to the shoulder to decongest traffic) would show that both the Pathfinder and the Isuzu rested on the highway diagonally. The left part of the former occupied the right portion of the inner lane while the rest of its body was already on the outer lane, indicating that it was about to change lane, i.e., to the inner lane to overtake. Meanwhile, the point of collision between the Pathfinder and the Isuzu occurred on the right portion of the outer lane, with the Isuzu's front part ramming the Pathfinder's rear, while the rest of the 10-wheeler's body lay on the shoulder of the road.

We are not convinced that the Isuzu is without fault. As correctly found by the CA, the smashed front of the Isuzu strongly indicates the strong impact of the ramming of the rear of the Pathfinder that pinned its passengers. Furthermore, Antonio admitted that despite stepping on the brakes, the Isuzu still suddenly smashed into the rear of the Pathfinder causing extensive damage to it, as well as hitting the right side of the Fuso. These militate against Antonio's claim that he was driving at a safe speed, that he had slowed down, and that he was three cars away. Clearly, the Isuzu was not within the safe stopping distance to avoid the Pathfinder in case of emergency. Thus, the 'Emergency Rule' invoked by petitioners will not apply. Such principle states:

[O]ne who suddenly finds himself in a place of danger, and is required to act without time to consider the best means that may be adopted to avoid the impending danger, is not guilty of negligence, if he fails to adopt what subsequently and upon reflection may appear to have been a better method, unless the emergency in which he finds himself is brought about by his own negligence.[46]

Considering the wet and slippery condition of the road that night, Antonio should have been prudent to reduce his speed and increase his distance from the Pathfinder. Had he done so, it would be improbable for him to have hit the vehicle in front of him or if he really could not avoid hitting it, prevent such extensive wreck to the vehicle in front. With the glaring evidence, he obviously failed to exercise proper care in his driving.

Orix as the operator on record of the
Fuso truck is liable to the heirs of the victims of the mishap

Orix cannot point fingers at the alleged real owner to exculpate itself from vicarious liability under Article 2180[47] of the Civil Code. Regardless of whoever Orix claims to be the actual owner of the Fuso by reason of a contract of sale, it is nevertheless primarily liable for the damages or injury the truck registered under it have caused. It has already been explained:

Were a registered owner allowed to evade responsibility by proving who the supposed transferee or owner is, it would be easy for him, by collusion with others or otherwise, to escape said responsibility and transfer the same to an indefinite person, or to one who possesses no property with which to respond financially for the damage or injury done. A victim of recklessness on the public highways is usually without means to discover or identify the person actually causing the injury or damage. He has no means other than by a recourse to the registration in the Motor Vehicles Office to determine who is the owner. The protection that the law aims to extend to him would become illusory were the registered owner given the opportunity to escape liability by disproving his ownership. x x x[48]

Besides, the registered owners have a right to be indemnified by the real or actual owner of the amount that they may be required to pay as damage for the injury caused to the plaintiff,[49] which Orix rightfully acknowledged by filing a third-party complaint against the owner of the Fuso, Manuel.

The heirs deserve to receive the damages awarded by the CA, with modifications as to their amounts

With regard to actual damages, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved.[50] Anent the funeral and burial expenses, the receipts issued by San Roque Funeral Homes[51] in the amount of P57,000.00 and by St. Peter Memorial Homes[52] in the amount of P50,000.00, as supported by the testimonies of the witnesses who secured these documents, prove payment by the respondent heirs of the funeral costs not only of their deceased relatives but of the latter's helpers as well, and thus we find it proper to award the total amount of P107,000.00.

In addition to P150,000.00 indemnity for the death of the spouses Mangalinao and their daughter Marianne as a result of quasi-delict, actual damages shall likewise include the loss of the earning capacity of the deceased.[53] In this case, the CA awarded P2,000,000.00, which it found reasonable after considering the income statement of

Roberto Mangalinao as of the year 1989.[54] Petitioners challenge this for lack of basis, arguing that the CA failed to consider the formula provided by this Court,[55] and that the income statement was not even testified to by the accountant who prepared such document.

In its Decision, the CA, while recognizing that there is a formula provided for computing the loss of the earning capacity of the victims, itself acknowledged that such formula cannot be used to arrive at the net earning capacity using the 1989 income statement alone, more so when such was not authenticated by the proper party. If the net income stated therein was used in the formula, the CA would have awarded the Mangalinao heirs more than P18,000,000.00. It did not, however, use the income statement as its sole gauge.

While the net income had not been sufficiently established, the Court recognizes the fact that the Mangalinao heirs had suffered loss deserving of compensation. What the CA awarded is in actuality a form of temperate damages. Such form of damages under Article 2224[56] of the Civil Code is given in the absence of competent proof on the actual damages suffered.[57] “In the past, we awarded temperate damages in lieu of actual damages for loss of earning capacity where earning capacity is plainly established but no evidence was presented to support the allegation of the injured party’s actual income.”[58] In this case, Roberto Mangalinao, the breadwinner of the family, was a businessman engaged in buying and selling palay and agricultural supplies that required high capital in its operations and was only 37 at the time of his death. Moreover, the Pathfinder which the Mangalinaos own, became a total wreck. Under the circumstances, we find the award of P500,000.00 as temperate damages as reasonable.[59]

Moral damages,[60] it must be stressed, are not intended to enrich plaintiff at the expense of the defendant. They are awarded to enable the injured party to obtain means, diversions, or amusements that will serve to alleviate the moral suffering he/she had undergone due to the other party’s culpable action and must, perforce, be proportional to the suffering inflicted.[61] While the children did not testify before the court, undoubtedly, they suffered the pain and ordeal of losing both their parents and sibling and hence, the award of moral damages is justified. However, the amount must be reduced to P500,000.00.[62]

“In quasi-delicts, exemplary damages may be granted if the defendant acted with gross negligence.”[63] It is given by way of example or correction for the public good.[64] Before the court may consider such award, the plaintiff must show his entitlement first to moral, temperate, or compensatory damages,[65] which the respondents have. In the case at bench, the reckless driving of the two trucks involved caused the death of the victims. However, we shall reduce the amount of exemplary damages to P200,000.00.[66]

Lastly, because exemplary damages are awarded and that we find it equitable that expenses of litigation should be recovered,[67] we find it sufficient and reasonable enough to grant attorney’s fees of P50,000.00.[68]

Parenthetically, the Manifestation and Motion with notice of change of address by counsel for respondents; and the transmittal of CA’s rollo consisting of 256 pages with two attached Supreme Court petitions, one folder of original records and one folder of transcript of stenographic notes, by the Judicial Records Division, CA, are noted.

WHEREFORE, the instant petitions are **PARTIALLY GRANTED**. The Decision of the Court of Appeals in CA-G.R. CV No. 70530 is **AFFIRMED** with **MODIFICATIONS**. The award of actual damages is hereby **INCREASED** to P107,000.00. The award of moral damages is **REDUCED** to P500,000.00, the award of temperate damages for loss of earning capacity is likewise **REDUCED** to P500,000.00, and the award of exemplary damages and of attorney’s fees are **REDUCED** to P200,000.00 and P50,000.00, respectively. All other awards of the Court of Appeals are **AFFIRMED**.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Peralta,[*] and Bersamin, JJ., concur.

[*] Per raffle dated January 10, 2012.

[1] Consolidated pursuant to our Resolution dated October 4, 2006, rollo (G.R. No. 174266 p. 31 and G.R. No. 174089, p. 133).

[2] Docketed as G.R. No. 174089. Orix is formerly known as the Consolidated Orix Leasing and Finance Corporation. See Manifestation and Motion, records, pp. 533-536.

[3] Docketed as G.R. No. 174266.

[4] CA rollo, pp. 164-181; penned by Associate Justice Aurora Santiago-Lagman and concurred in by Associate Justices Ruben T. Reyes and Rebecca de Guia-Salvador.

[5] Id. at 202-203.

[6] Records, pp. 401-402; TSN-SPO2 Emmanuel Banag, p. 35, February 1, 1996; TSN-Antonio delos Santos, May 16, 1997, pp. 11, 25-26.

[7] Exhibit “S-3,” records, p. 411; Exhibit “7,” id. at 446.

[8] TSN-Antonio delos Santos, March 18, 1997, p. 8.

[9] Exhibit “S-4,” records, p. 411; Exhibit “6,” id. at 446.

[10] Exhibits “S-1” and “S-2,” id. at 411.

[11] Id. at 403.

[12] Id. at 392-393.

[13] Id. at 395-400, 401-402, 419-421.

[14] Id. at 409-410.

[15] N.B. Pedro Dizon was then the legal guardian at the time the damages suit was filed. He was replaced by the children’s grandfather, Raymundo Mangalinao, id. at 386 and 388. Upon Raymundo Mangalinao’ death, the children’s aunt, Zenaida Mercado, was appointed to replace him, id. at 351-352.

[16] Id. at 1-6.

[17] Raffled to Branch 133.

[18] Id. at 408.

[19] Id. at 12-17.

[20] Id. at 99.

[21] Id. at 143-152.

[22] Id. at 463-472.

[23] Id. at 115-124.

[24] Id. at 61-65.

[25] Id. at 243 and 289.

[26] Id. at 526-529; penned by Judge Napoleon E. Inoturan.

[27] Id. at 529.

[28] Id. at 528.

[29] See Notice of Appeal, id. at 530-531.

[30] See Notice of Appeal, id. at 539-540.

[31] Supra note 4.

[32] CA rollo, pp. 174-175.

[33] Id. at 180-181.

[34] See Orix's Motion for Reconsideration, id. at 182-193, and Sonny and Antonio's Motion for Reconsideration, id. at 227-237.

[35] Supra note 5.

[36] Kierulf v. Court of Appeals, 336 Phil. 414, 423 (1997).

[37] OMC Carriers, Inc. v. Nabua, G.R. No. 148974, July 2, 2010, 622 SCRA 624, 631.

[38] "The exceptions are when: (1) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) the CA went beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellees; (7) the findings of fact of the CA are contrary to those of the trial court; (8) said findings of fact are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) the findings of fact of the CA are premised on the supposed absence of evidence and contradicted by the evidence on record." Seaload Shipping Corporation v. Grand Cement Manufacturing Corporation, G.R. Nos. 167363 & 177466, December 15, 2010, 638 SCRA 488, 510 citing Spouses Rosario v. PCI Leasing and Finance, Inc., 511 Phil. 115, 123-124 (2005).

[39] Records, p. 392.

[40] TSN-Antonio delos Santos, March 18, 1997, pp. 6-9.

[41] TSN-Antonio delos Santos, May 16, 1997, pp. 11-12.

[42] Id. at 15-16.

[43] Id. at 19.

[44] Id. at 26-27.

[45] Supra note 11.

[46] Gan v. Court of Appeals, 247-A Phil. 460, 465 (1988).

[47] 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.

x x x x

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.

x x x x

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.

[48] Ereso v. Jepte, 102 Phil. 103, 109 (1957) as reiterated in PCI Leasing and Finance, Inc. v. UCPB General Insurance Co., Inc., G.R. No. 162267, July 4, 2008, 557 SCRA 141, 147 and Cadiente v. Macas, G.R. No. 161946, November 14, 2008, 571 SCRA 105, 111.

[49] Ereso v. Jepte, id. at 110.

[50] Civil Code, Article 2199.

[51] Records, p. 414, Exhibit "X". While there is another receipt issued by San Roque dated June 28, 1990, id. at 413, Exhibit "X" certifies that P57,000.00 have been paid by the Mangalinos all in all for the services the funeral homes rendered in 1990.

[52] Id. at 412.

[53] Article 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. In addition:

(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; x x x x

[54] Records, pp. 415-417. The net income of Roberto was computed at P1,300,634.47.

[55] Under established jurisprudence, the formula for net earning capacity is computed at:

Net Earning Capacity = $\frac{2}{3} \times (80 \text{ less the age of the victim at the time of death}) \times (\text{Gross Annual Income less the Reasonable and Necessary Living Expenses, e.g. 50\% of the Gross Annual Income})$.

[56] Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount can not, from the nature of the case, be provided with certainty.

[57] Viron Transportation Co., Inc. v. Delos Santos, 399 Phil. 243, 255 (2000).

[58] Tan v. OMC Carriers, Inc., G.R. No. 190521, January 12, 2011, 639 SCRA 471, 484.

[59] Id., citing Victory Liner, Inc. v. Gammad, 486 Phil. 574, 591, 596 (2004).

[60] Predicated on Articles 2217 and 2219 of the Civil Code which provide:

Article 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or

omission.

Article 2219. Moral damages may be recovered in the following and analogous cases:

- A criminal offense resulting in physical injuries;
- Quasi-delicts causing physical injuries;
- Seduction, abduction, rape, or other lascivious acts;
- Adultery or concubinage;
- Illegal or arbitrary detention or arrest;
- Illegal search;
- Libel, slander or any other form of defamation;
- Malicious prosecution;
- Acts mentioned in Article 309;
- 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.

[61] OMC Carriers, Inc., v. Nabua, supra note 37 at 639, citing Spouses Hernandez v. Spouses Dolor, 479 Phil. 593, 605 (2004).

[62] Tan v. OMC Carriers, Inc., supra note 58 at 488; Heirs of Redentor Completo v. Albayda, Jr., G.R. No. 172200, July 6, 2010, 624 SCRA 97, 115.

[63] Civil Code, Article 2231.

[64] Civil Code, Article 2229.

[65] Civil Code, Article 2234.

[66] Tan v. OMC Carriers, Inc., supra note 58 at 488; Go v. Cordero, G.R. Nos. 164703 and 164747, May 4, 2010, 620 SCRA 1, 32.

[67] Civil Code, Article 2208(1) and (11).

[68] Government Service Insurance System v. Pacific Airways Corp., G.R. Nos. 170414, 170418 and 170460, August 25, 2010, 629 SCRA 219, 237; Philippine National Railways v. Brunty, G.R. No. 169891, November 2, 2006, 506 SCRA 685, 704.

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