

LUZ PALANCA TAN, PETITIONER, VS. JAM TRANSIT, INC., RESPONDENT.

G.R. No. 183198. November 25, 2009

Ponente: NACHURA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-183198/>

NACHURA, J.:

This is a petition for review on certiorari[1] under Rule 45 of the Rules of Court, seeking the reversal of the Decision[2] dated June 2, 2008 of the Court of Appeals (CA) in CA-G.R. CV No. 89046 and the reinstatement of the Decision[3] dated December 20, 2006 of the Regional Trial Court (RTC), Branch 27, Santa Cruz, Laguna in Civil Case No. SC-3838.

The antecedents are as follows--

In her Complaint, petitioner Luz Palanca Tan (Tan) alleged that she was the owner of a passenger-type jitney with plate number DKF-168. On March 14, 1997, at around 5:00 a.m., the said jitney figured in an accident at an intersection along Maharlika Highway, Barangay Bangyas, Calauan, Laguna, as it collided with a JAM Transit passenger bus bound for Manila, bearing plate number DVG-557 and body number 8030. The bus was driven by Eddie Dimayuga (Dimayuga).

At the time of the collision, Tan's jitney was loaded with quail eggs and duck eggs (balot and salted eggs). It was driven by Alexander M. Ramirez (Ramirez). Tan alleged that Dimayuga was reckless, negligent, imprudent, and not observing traffic rules and regulations, causing the bus to collide with the jitney which was then, with care and proper light direction signals, about to negotiate a left turn towards the feeder or barangay road of Barangay Bangyas, Calauan, Laguna going to the Poblacion. The jitney turned turtle along the shoulder of the road and the cargo of eggs was destroyed. Ramirez and his helper were injured and hospitalized, incurring expenses for medical treatment at the Pagamutang Pangmasa in Bay, Laguna. Tan prayed for damages in the amount of P400,000.00 for the damaged jitney, P142,210.00 for the destroyed shipment, P20,000.00 for moral damages, attorney's fees of P20,000.00 plus P1,000.00 per court appearance of counsel, and other reliefs warranted under the premises.

In its Answer with Counterclaim, respondent JAM Transit, Inc. (JAM) admitted ownership of the subject passenger bus and that Dimayuga was under its employ. However, it denied the allegations in the Complaint, and claimed that the accident occurred due to the gross negligence of

Ramirez. As counterclaim, JAM sought payment of P100,000.00 for the damages sustained by the bus, P100,000.00 for loss of income, and P50,000.00 as attorney's fees plus P3,000.00 per court appearance of counsel.

After pretrial, trial on the merits ensued.

Tan proffered testimonial evidence, summarized by the RTC, and quoted by the CA, as follows:

LUZ PALANCA TAN, 47 years old, married, a resident of Sta. Cruz, Laguna and a businesswoman, testified to the facts stated in the complaint that: She is engaged in the business of nets and ropes, and egg dealership

based [in] Santa Cruz, Laguna. She supplies her products to her customers [in] San Pablo and Lucena. On March 14, 1997, while at home, she was informed by her husband that one of their jeepneys, which was loaded with eggs, was bumped by a JAM Transit bus when the latter overtook the jeepney. The vehicle was driven by one Alexander Ramirez, who has one "Monching" as a companion. As a result of the accident, she incurred damages in the amount of P650,000.00 based on the following computation: P400,000.00 as actual damage sustained by the jeepney, from an estimate (Exhibit "D") furnished by Plantilla Motors; P142,000.00 for the lost value of the egg shipment, based on a certification issued by the Calauan Police Station; and P15,000.00, for the hospitalization and treatment of the driver and his companion. The jeepney is duly registered as evidenced by its registration receipt (Exhibit "G"). On cross examination, she testified that Ramirez, the jeepney driver when the accident occurred, was under her employ since 1993 and is still working for her.

On redirect, the plaintiff testified that prior to March 13, 1997, the day the accident happened, Ramirez has not met any vehicular accident and that it was only in the aforesated date when he figured in one. On re-cross, she testified that she has no knowledge of Ramirez' prior experience as a driver. She did not ask Ramirez for his NBI or police clearance prior to her hiring the said driver. On additional redirect, the plaintiff testified that she is satisfied with the performance of Ramirez as a driver as he is kind.

ALEXANDER RAMIREZ, 35 years old, married, resident of Sta. Cruz, Laguna, and a driver testified that: He knows the plaintiff Luz Palanca Tan because she is his manager. He worked for her as a driver sometime in 1993. He sometimes drove a jeepney or a truck.

On March 13, 1997, at around 4:00 o'clock in the morning, he reported for work at his employer's warehouse located [in] Pagsawitan, Sta. Cruz. He got the passenger jeep loaded with salted eggs, "balot" and quail eggs for delivery to Lucena City upon instruction of Tan. In going to Lucena City, he chose to drive on the Maharlika Road at San Isidro, Brgy. Bangyas, Calauan, Laguna because it is better than the road along Brgy. Dayap of the same municipality. However, while at the Maharlika Road, he met an accident at around 5:00 a.m. The jitney turned turtle.

PO3 DANIEL C. ESCARES, 37 years old, married, resident of Calauan, Laguna, and a member of PNP-Calauan, Laguna, testified that: He was on police duty as of March 14, 1997. On that day, he issued a certification (Exhibit "B") pertaining to a vehicular accident which occurred earlier. He came to know of the accident as relayed to their office by a concerned citizen. He proceeded to the place of the accident, which was at Maharlika Highway, in an intersection at Brgy. Bangyas, Calauan, Laguna for an investigation. Upon reaching the place, as a rule followed by police officers, he inquired from some of the residents about the incident. As relayed to him, the jeepney with Plate No. 168 was going towards the direction of San Isidro, followed by another jeepney, a truck and then by a JAM Transit bus. The bus overtook the jeepney it was following then side swept the jeepney (which figured in the accident) dragging it along ("nakaladkad") towards the sampaguita gardens. [NOTE: The testimony of the witness regarding the information gathered was ordered by the Court to be deleted.] Then, he went personally to the place where the incident happened.

He stated it was cloudy that day. He described the highway where the incident happened as having a double straight yellow line which prohibits overtaking on both sides of the road. The said place is near the intersection of Maharlika Highway and the barangay road leading to Brgy. San Isidro.

On cross examination, he stated he cannot remember if he was with other police officers during the investigation of the incident but he can recall having interviewed a certain Mercy Ponteiros and one Rodel, who are both residents of the place.

On redirect, he stated that the witness Mercy Ponteiros is still residing at Brgy. Bangyas[.]

On additional direct examination, he stated that the accident site is still fresh in his mind and he drew a sketch (Exhibit "F" to "F-7") of the said place. He identified in the sketch the direction of the highway which leads to Manila and to Sta. Cruz, Laguna. The road, per his approximation, was about 10 meters wide, with the

shoulder about 5 meters except that it was diminished to about 2 meters on account of some encroachment. The highway has a painted crosswalk. It also has a yellow line without any cut which means no vehicle could overtake from both sides of the road. He showed in the sketch the spot where the jitney and the bus were at the time of the incident. Shown the photographs (Exhibits "E" to "E-6"), he stated that they are truly reflective of the scene of the incident, the damages in both the jeepney and the bus, as of March 13, 1997.

On cross, he stated that what he saw was the situation after the incident. He came to learn of the accident at around 5:10 in the morning from a report received by their office, as relayed by a concerned citizen. He remembers that SPO4 Rogelio Medina, now retired, as one of his companions at the accident site. The site is about a kilometer away from their police station. He can recall the scene of the incident because of the photographs. The persons he investigated were the jitney driver, his "pahinante" (helper) and some people in the vicinity. He could not remember the names of those persons but they were listed in the police blotter.

RODRIGO CONDINO, 38 years old, married, resident of Victoria, Laguna and a mechanic, testified that: He is a mechanic of Plantilla Motors at Bubucal, Sta. Cruz, Laguna. He knows the plaintiff Luz Tan as he and his chief (mechanic) repaired the jeepney owned by the latter after it figured in an accident on March 13, 1997. He came to know of the accident when the said vehicle was brought to their motor shop. They made an estimate (Exhibit "D") of the damage sustained by the said vehicle, which amounted to P450,000.00.[4]

Tan also formally offered as exhibits the following documents:

Exhibit "A" - Articles of Incorporation of JAM Transit, Inc.;
Exhibit "B" - Certification issued by the Calauan Municipal Police Station regarding the vehicular accident;
Exhibit "C" - PNP-Calauan Police Report regarding the jitney shipment;
Exhibit "D" - Estimate of damages sustained by the jitney, from A. Plantilla Motors Repair Shop;
Exhibit "E" - Six (6) photographs depicting the site of the vehicular accident;
Exhibit "F" - Four (4) pages of receipts representing hospital and medical expenses paid by the plaintiff for injuries sustained by her driver and helper in the accident;
Exhibit "G" - Certificate of Registration of plaintiff's jitney;
Exhibit "H" - Driver's license of Eddie Dimayuga, defendant's bus driver;
Exhibit "I" - Sketch of the site where the vehicular accident occurred.[5]

On the other hand, JAM offered the following testimonial evidence -

EDGARDO DIMAYUGA, 49 years old, married, resident of Sta. Cruz, Laguna and bus driver of JAM Transit Inc., testified that: He has been a passenger bus driver since 1983. He was previously employed with the Batangas Laguna Tayabas Bus Company (BLTB). He was employed with JAM Transit since 1992. He has a professional driver's license, D-12-78-008462562.

On March 14, 1997, he reported for work. He met an accident while driving a bus. The other vehicle involved, a jitney, belongs to Luz Palanca Tan and driven by Alexander Ramirez. The accident happened along the intersection of Maharlika Highway, Brgy. Bangyas at around 5:00 o'clock in the morning. He was driving the bus with a speed of 40 km/h when suddenly, a vehicle overtook the bus from the right side going to Calauan. He was not able to evade the vehicle as there was no way for him to do so. The front portion of the bus and the mirror were destroyed.

On cross examination, he stated that his route as of March 14, 1997 was Sta. Cruz-Lawton. He cannot recall the bus conductor who was on Bangyas, Calauan. He stated he was not able to evade the jitney as there was no way for him to avoid the situation, causing the jitney to be dragged to the side. Nothing else happened after the bus hit the jeepney. He and other persons took the driver from the jeepney and brought him to a hospital.

On redirect, he stated that bus conductors change duties every two or three days.[6]

JAM did not offer any documentary counter-evidence.

Applying the doctrine of *res ipsa loquitur*, the RTC found the JAM passenger bus driver at fault as he was then violating a traffic regulation when the collision took place. Thus, the RTC ruled in favor of Tan and disposed as follows--

WHEREFORE, judgment is hereby rendered against the defendants who are hereby adjudged to pay the plaintiff jointly and solidarily, the following:

- actual damages of P142,210.00 for the lost and damaged cargoes; P400,000.00 for the destroyed jitney; P1,327.00 medical expenses of the jitney driver and his companion, for a total amount of [P543,537.00];
- P10,000.00 as moral damages;
- P10,000.00 as attorney's fees[;]
- Costs of suit[.]

SO ORDERED.[7]

Aggrieved, JAM appealed to the CA. The CA granted the appeal and dismissed the complaint on the ground that there was nothing on record that supported the RTC's finding that the JAM passenger bus was overtaking Tan's jitney. The CA noted that Ramirez only testified that, on March 14, 1997, he met an accident at around 5:00 a.m., while transporting eggs along Maharlika Road in San Isidro, Barangay Bangyas, Calauan, Laguna, causing the jitney he was driving to turn turtle. The CA also observed that the Certification (Exhibit "B") made no mention that the JAM passenger bus was overspeeding or that it was overtaking the jitney; and, thus, there was no evidence as to who between Ramirez and Dimayuga was negligent in connection with the vehicular accident. The CA held that the doctrine of *res ipsa loquitur* can only be invoked when direct evidence is nonexistent or not accessible. It further said that Tan had access to direct evidence as to the precise cause of the mishap, such that the circumstances of the vehicular accident or the specific act constituting the supposed negligence of Dimayuga could have been testified to by Ramirez or by the latter's companion. The CA concluded that *res ipsa loquitur* could not apply in this case because the doctrine does not dispense with the requirement of establishing proof of negligence.

Hence, this petition, with petitioner positing that the doctrine of *res ipsa loquitur* is applicable given the circumstances of the case.

Res ipsa loquitur is a Latin phrase that literally means "the thing or the transaction speaks for itself." It is a maxim for the rule that the fact of the occurrence of an injury, taken with the surrounding circumstances, may permit an inference or raise a presumption of negligence, or make out a plaintiff's *prima facie* case, and present a question of fact for defendant to meet with an explanation. Where the thing that caused the injury complained of is shown to be under the management of the defendant or his servants; and the accident, in the ordinary course of things, would not happen if those who had management or control used proper care, it affords reasonable evidence -- in the absence of a sufficient, reasonable and logical explanation by defendant -- that the accident arose from or was caused by the defendant's want of care. This rule is grounded on the superior logic of ordinary human experience, and it is on the basis of such experience or common knowledge that negligence may be deduced from the mere occurrence of the accident itself. Hence, the rule is applied in conjunction with the doctrine of common knowledge.[8]

However, *res ipsa loquitur* is not a rule of substantive law and does not constitute an independent or separate ground for liability. Instead, it is considered as merely evidentiary, a mode of proof, or a mere procedural convenience, since it furnishes a substitute for, and relieves a plaintiff of, the burden of producing a specific proof of negligence. In other words, mere invocation and application of the doctrine do not dispense with the

requirement of proof of negligence. It is simply a step in the process of such proof, permitting plaintiff to present, along with the proof of the accident, enough of the attending circumstances to invoke the doctrine, creating an inference or presumption of negligence, and thereby placing on defendant the burden of going forward with the proof.[9] Still, before resort to the doctrine may be allowed, the following requisites must be satisfactorily shown:

- The accident is of a kind which ordinarily does not occur in the absence of someone's negligence;
- It is caused by an instrumentality within the exclusive control of the defendant or defendants; and
- The possibility of contributing conduct which would make the plaintiff responsible is eliminated.[10]

Was petitioner able to establish the above requisites? We answer in the affirmative. We do not subscribe to the finding of the CA that petitioner had direct access to the evidence surrounding the accident, but since she failed to present it, the doctrine would not operate to apply. While Ramirez took the witness stand, he was only able to testify that he drove along Maharlika Highway in San Isidro, Barangay Bangyas, Calauan, Laguna, Tan's passenger jitney loaded with salted eggs, balot and quail eggs for delivery at around 5:00 a.m. when he met an accident, causing the vehicle to turn turtle. Obviously, Ramirez had no vivid recollection of how the passenger jitney was actually hit by the JAM passenger bus. Further, for some unknown reasons, the other possible eyewitnesses to the mishap were not available to testify. With the dearth of testimonial or direct evidence, should petitioner now be left without remedy? The answer is NO.

We cannot agree with the CA when it said that how the incident happened could not be established, neither from the photographs offered in evidence in favor of petitioner, nor from the Certification[11] that quoted an excerpt from the records on the Police Blotter of the Calauan Municipal Police Station. The CA, likewise, discounted the probative value of the Police Blotter because, although prepared in the regular performance of official duty, it was not conclusive proof of the truth of its entries, since police blotters are usually incomplete and inaccurate; and sometimes based on partial suggestion, inaccurate reporting and hearsay.[12]

It is worth noting, however, that photographs are in the nature of physical evidence[13] -- a mute but eloquent manifestation of truth ranking high in the hierarchy of trustworthy evidence.[14] When duly verified and shown by extrinsic evidence to be faithful representations of the subject as of the time in question, they are, in the discretion of the trial court, admissible in evidence as aids in arriving at an understanding of the evidence, the situation or condition of objects or premises, or the circumstances of an accident.[15]

The photographs[16] proffered by petitioner indeed depicted the relative positions of her jitney and of the JAM passenger bus immediately after the accident took place. An examination of the photographs would readily show that the highway where the accident occurred was marked by two yellow continuous parallel lines at the center, separating the right lane from the left. Based on evidence, the JAM passenger bus was moving along the highway towards Manila, and the jitney was going along the same route, until it was about to turn left to the barangay road towards the Poblacion. After the incident, the photographs would show that both vehicles were found on the opposite lane of the highway. The front right portion of the bus was shown to have collided with or hit the left portion of the jitney with such an impact, causing the latter to turn turtle with extensive damage, injuring its driver and his companion, and completely destroying its cargo.[17]

Although the person who took the pictures was not able to testify because he predeceased the trial, Senior Police Officer II Daniel Escares (Escares) was recalled to the witness stand to authenticate the said pictures. He testified that the pictures were faithful representations of the circumstances immediately after the accident.[18] Escares also made an appropriately labeled sketch[19] of the situation after the collision, and testified as to the physical circumstances thereof, including the width of the road and the road shoulder, especially the double yellow lines at the center of the highway.[20]

As regards police blotters, it should be remembered that although they are of little probative value, they are nevertheless admitted and considered in the absence of competent evidence to refute the facts stated therein. Entries in police records made by a police officer in the performance of a duty especially enjoined by law are prima facie evidence of the facts therein stated, and their probative value may be either substantiated or nullified by other competent evidence.[21] In this case, the Certification,[22] whose entries were adopted from the police blotter of the Calauan Municipal Police Station, the sketch[23] prepared by Escares, and the photographs, taken together would prove that the jitney and the bus were going along the same way; that the jitney was about to negotiate the intersection going to the left towards the feeder road in the direction of the Poblacion; and that the bus hit the left-turning jitney causing the smaller vehicle to turn turtle.

Indeed, no two motor vehicles traversing the same lane of a highway with double yellow center lines will collide as a matter of course, both ending up on the opposite lane, unless someone is negligent. Dimayuga was driving the JAM passenger bus which, from the evidence adduced, appears to have precipitated the collision with petitioner's jitney. Driving the bus gave Dimayuga exclusive management and control over it. Despite the claim of JAM to the contrary, no contributory negligence could be attributed to Ramirez relative to the incident on the basis of the available evidence. Inevitably, the requisites being present, the doctrine of *res ipsa loquitur* applies.

We, thus, quote with concurrence the findings of the RTC--

As both parties are asserting claim for the damages each has respectively sustained from the subject collision, the negligence of either driver of the bus or of the jitney must be shown, and the burden to prove the negligence, by preponderance of evidence, lies upon both who are alleging the other's negligence. Preponderance of evidence is "evidence as a whole which is superior to that of the defendant {or the other}" [Pacific Banking Employees Organization vs. CA, 286 SCRA 495].

To prove negligence of the bus driver, plaintiff relies heavily upon the testimony of PO3 DANIEL C. ESCARES, who identified the police report of the incident [Exhibit "B"] as well as the sketch of the site [Exhibit "I"] and the pictures taken as reflective of the scene of the incident [Exhibits "E" with sub-markings], invoking [in plaintiff's memorandum] the application of the doctrine of "*res ipsa loquitur*."

From the said exhibits, the plaintiff postulates that her jitney then being driven by Alexander Ramirez, as well as the bus driven by defendant Dimayuga were heading the same direction towards Manila, but when the jitney was about to negotiate the left side road intersection towards the feeder/Barangay road of Brgy. Bangyas, Calauan, Laguna, it was bumped by the oncoming/overtaking bus driven by Dimayuga, that caused the jitney to turn turtle at the road shoulder causing damages on the jitney, the cargoes and injuries to the jitney driver and his companion. It was allegedly improper for the bus to overtake as the road bears a double yellow line at the middle which prohibits overtaking.

On the other hand, the bus driver who is the lone witness/evidence for the defendant testified he was driving at the Maharlika Highway at 40 km/hr when the jitney "overtook" from the right and that there was no way for him to evade the latter so it was dragged to the side [TSN, May 18, 2006, p. 13]. In its memorandum, defendants postulate that it was the jitney driver who was negligent as it overtook the bus from the right which is not proper. Plaintiff allegedly could not claim damages for its failure to prove the bus driver's negligence, and it was the jitney's own negligence that is the proximate cause of his injury.

No direct evidence was presented with respect to the exact road position of the bus and the jitney at the time of the collision such that the same can only be inferred from the pictures of the colliding vehicles taken immediately after the incident [Exhibits "E"].

At this juncture, it was established from exhibits "E-5" and "E-6" that the jitney's left side portion was directly hit by the front-right portion of the bus. This is consistent with the plaintiff's theory that the jitney was then negotiating the left portion of the road when it was hit by the oncoming bus causing the jitney to have a

90-degree turn around. The bus and the jitney were almost perpendicular to each other when the collision took place, with the bus directly hitting the jitney head on.

The statement of the bus driver that the jitney "overtook" from the right only presumes that at the point of collision, the bus was at the left lane of the road overtaking the vehicle/s at the right. This scenario, in fact, was affirmed by the police report of the incident [Exhibit "B"]. It is not quite logical that the jitney, in allegedly overtaking the bus from the right came from the right shoulder of the road, a rough road merely 5 meters in width [Exhibit "F"] and even diminished by two (2) meters because of the encroachment at the sides [TSN, 11-6-02]. No evidence was shown that the jitney came from the right shoulder. The jitney then loaded with eggs for delivery, was about to negotiate the left lane towards the feeder/barangay road intersection, and it would be illogical in such a situation that the jitney driver would take the right shoulder. The foregoing suggest the fact that the bus overtook the passing vehicles at the right lane and in the course thereof, the jitney in front that was about to negotiate the left lane, was hit.[24]

Verily, although there was no direct evidence that the JAM passenger bus was overtaking the vehicles running along the right lane of the highway from the left lane, the available evidence readily points to such fact. There were two continuous yellow lines at the center of the highway, which meant that no vehicle in the said area should overtake another on either side of the road. The "double yellow center lines" regulation, which this Court takes judicial notice of as an internationally recognized pavement regulation, was precisely intended to avoid accidents along highways, such as what happened in this case. This prohibition finds support in Republic Act (R.A.) No. 4136 (Land Transportation and Traffic Code), Section 41(e).[25] Furthermore, it is observed that the area of collision was an intersection. Section 41(c)[26] of R.A. No. 4136, likewise, prohibits overtaking or passing any other vehicle proceeding in the same direction at any intersection of highways, among others. Thus, by overtaking on the left lane, Dimayuga was not only violating the "double yellow center lines" regulation, but also the prohibition on overtaking at highway intersections. Consequently, negligence can be attributed only to him, which negligence was the proximate cause of the injury sustained by petitioner. This prima facie finding of negligence was not sufficiently rebutted or contradicted by Dimayuga. Therefore, a finding that he is liable for damages to petitioner is warranted.

The liability of Dimayuga is solidary with JAM, pursuant to Article 2176, in relation to Article 2180 of the Civil Code of the Philippines, which provides--

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 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.

Whenever an employee's negligence causes damage or injury to another, there instantly arises a presumption juris tantum that the employer failed to exercise diligentissimi patris families in the section (culpa in eligiendo) or supervision (culpa in vigilando) of its employees.[27] To avoid liability for a quasi-delict committed by its

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.[28]

In this case, aside from the testimony of Dimayuga, JAM did not present any other evidence, whether documentary or testimonial, in its favor. Inevitably, the presumption of its negligence as Dimayuga's employer stands and it is, thus, solidarily liable for the damages sustained by petitioner.

As regards the award for actual damages, we, however, concur with respondent that the award of P400,000.00 for the damage to the jitney is not warranted, considering that the evidence submitted to support this claim was merely an estimate made by A. Plantilla Motors. The same reason holds true with respect to the amount of damages for the destroyed cargo of eggs, considering that the document submitted by petitioner to support the claim of P142,210.00 was merely a Certification,[29] as the information found thereon was supplied by petitioner herself per the number of pieces of the different eggs and the corresponding price per piece.

To warrant an award of actual or compensatory damages for repair to damage sustained, the best evidence should be the receipts or other documentary proofs of the actual amount expended.[30] However, considering that it was duly proven that the jitney was damaged and had to be repaired, as it was repaired, and that the cargo of eggs was indeed destroyed, but the actual amounts expended or lost were not proven, we deem it appropriate to award P250,000.00 by way of temperate damages. Under Article 2224 of the Civil Code, temperate damages may be recovered when pecuniary loss has been suffered but its amount cannot be proved with certainty.[31] We, however, sustain the trial court's award of P1,327.00 as regards the medical expenses incurred by petitioner, the same being duly supported by receipts.[32]

The award of P10,000.00 as moral damages, P10,000.00 as attorney's fees, and the costs of suit are sustained, the same being in order and authorized by law. Although the basis for the award of attorney's fees was not indicated in the trial court's Decision, we deem it justified as petitioner was compelled to litigate before the courts and incur expenses in order to vindicate her rights under the premises.[33]

WHEREFORE, the petition is GRANTED. The Decision dated June 2, 2008 of the Court of Appeals in CA-G.R. CV No. 89046 is REVERSED and SET ASIDE. The Decision dated December 20, 2006 of the Regional Trial Court, Branch 27, Sta. Cruz, Laguna in Civil Case No. SC-3838 is REINSTATED with the MODIFICATION that the award of actual damages is reduced to P1,327.00, and, in lieu of actual damages with respect to the damage or loss sustained with respect to the passenger jitney and the cargo of eggs, the amount of P250,000.00 is awarded by way of temperate damages.

SO ORDERED.

Corona, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

[1] Rollo, pp. 8-14.

[2] Penned by Associate Justice Celia C. Librea-Leagogo, with Associate Justices Regalado E. Maambong and Agustin S. Dizon, concurring.

[3] Rollo, pp. 17-24.

[4] Id. at 19-21.

[5] Id. at 18-19.

[6] Id. at 21.

[7] Id. at 24.

[8] Ramos v. Court of Appeals, G.R. No. 124354, December 29, 1999, 321 SCRA 584.

[9] Id.

[10] Macalinao v. Ong, G.R. No. 146635, December 14, 2005, 477 SCRA 740, 755.

[11] Exhibit "B."

[12] CA Decision, pp. 15-16.

[13] Jose v. Court of Appeals, 379 Phil. 30 (2000).

[14] See Aradillos v. Court of Appeals, G.R. No. 135619, January 15, 2004, 419 SCRA 514; People v. Bonifacio, 426 Phil. 511 (2002); People v. Marquina, 426 Phil. 46 (2002); Tangan v. Court of Appeals, 424 Phil. 139 (2002); People v. Whisenhunt, 420 Phil. 677 (2001); People v. Ubaldo, 419 Phil. 718 (2001); People v. Palijon, 397 Phil. 545 (2000); People v. Carillo, 388 Phil. 1010 (2000); People v. Roche, 386 Phil. 287 (2000); id.

[15] VICENTE J. FRANCISCO, THE REVISED RULES OF COURT IN THE PHILIPPINES, Vol. VII, citing Aldanese v. Salutillo, 47 Phil 548 (1925).

[16] Exhibits "E," and "E-1 to E-6."

[17] Exhibits "E-2," "E-3," "E-5," and "E-6."

[18] TSN, April 2, 2004; rollo, pp. 167-168.

[19] Exhibit "F"; id. at 53.

[20] Id. at 161-166.

[21] Macalinao v. Ong, supra note 10.

[22] Exhibit "B."

[23] Exhibit "F."

[24] Rollo, pp. 22-23.

[25] Section 41. Restriction on overtaking and passing.--

x x x x

(e) The driver of a vehicle shall not overtake or pass, or attempt to overtake or pass, any other vehicle proceeding in the same direction in any "no passing or overtaking zone." x x x.

[26] (c) The driver of a vehicle shall not overtake or pass any other vehicle proceeding in the same direction, at any railway grade crossing, not at any intersection of highways unless such intersection or crossing is controlled by traffic signal, or unless permitted to do so by a watchman or a peace officer, except on a highway having two or more lanes for movement of traffic in one direction where the driver of a vehicle may overtake or pass another vehicle on the right. Nothing in this section shall be constrained to prohibit a driver overtaking or passing upon the right another vehicle which is making or about to make a left turn. (Emphasis and underscoring supplied.)

[27] Delsan Transport Lines, Inc. v. C & A Construction, Inc., G.R. No. 156034, October 1, 2003, 412 SCRA 524.

[28] Light Rail Transit Authority v. Navidad, 445 Phil. 31 (2003); Metro Manila Transit Corp. v. Court of Appeals, 435 Phil. 129 (2002).

[29] Exhibit "C."

[30] G.Q. Garments, Inc. v. Miranda, G.R. No. 161722, July 20, 2006, 495 SCRA 741.

[31] People of the Philippines v. Anselmo Berondo, Jr. y Pateres, G.R. No. 177827, March 30, 2009; Republic v. Tuvera, G.R. No. 148246, February 16, 2007, 516 SCRA 113.

[32] Exhibit "F."

[33] CIVIL CODE, Art. 2208(2).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.