

DAVAO HOLIDAY TRANSPORT SERVICES CORPORATION, PETITIONER, VS. SPOUSES EULOGIO AND CARMELITA EMPHASIS, RESPONDENTS.

G.R. No. 211424. November 26, 2014

Ponente: REYES, J.

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REYES, J.:

This resolves the Petition for Review[1] filed under Rule 45 of the Rules of Court by Davao Holiday Transport Services Corporation (petitioner) to assail the Decision[2] dated November 20, 2012 and Resolution[3] dated January 22, 2014 of the Court of Appeals (CA) in CA-G.R. CV No. 01632-MIN in favor of Spouses Eulogio and Carmelita Emphasis (spouses Emphasis).

The petitioner was the owner and operator of Holiday Taxi No. 177 bearing Plate No. LVX-171, which figured in an accident on October 18, 2003, at around 12:45 p.m., that caused the death of a 12-year-old boy, Christian Emphasis (Christian). The taxicab was then being driven by Orlando Tungal (Tungal) along Airport Road in Davao City when it bumped Christian, who was then riding a bicycle.

On October 23, 2003, an information for reckless imprudence resulting in homicide was filed against Tungal. Meanwhile, on March 1, 2004, the parents of Christian, the spouses Emphasis, filed a separate action for damages and attorney's fees arising from the vehicular accident against both petitioner and Tungal. Upon the parties' agreement, the two cases were jointly tried by the Regional Trial Court (RTC) of Davao City, Branch 12.

On June 17, 2008, the RTC rendered its Judgment/Decision.[4] In the criminal case, Tungal was found guilty beyond reasonable doubt of the crime of reckless imprudence resulting in homicide. He was then sentenced to suffer the indeterminate penalty of two (2) years and four (4) months of prision correccional in its minimum period as minimum, to four (4) years, nine (9) months and ten (10) days of prision correccional in its medium period as maximum. In the civil case, the petitioner and Tungal were ordered to pay the spouses Emphasis, jointly and severally, the following sums: (1) P75,000.00 as civil indemnity; (2) P800,000.00 as moral damages; (3) P550,000.00 as actual damages; (4) P150,000.00 as exemplary damages; (5) P50,000.00 as attorney's fees; (6) P33,455.00 as litigation expenses; and (7) interest on the foregoing amounts at the rate of 12% per annum counted from the date of the decision until full payment.

Feeling aggrieved by the RTC decision, the petitioner appealed the disposition of the civil case to the CA. It argued that it should be absolved of any liability for damages, as it exercised extraordinary diligence in the selection and supervision of its drivers, including Tungal.

On November 20, 2012, the CA rendered its Decision[5] affirming the RTC's ruling that the petitioner was liable for damages. It, however, modified the amounts of civil indemnity, moral damages and actual damages, resulting in the following monetary awards: (1) P50,000.00 as civil indemnity; (2) P200,000.00 as moral damages; (3) P365,696.02 as actual damages; (4) P150,000.00 as exemplary damages; (5) P50,000.00 as attorney's fees; and (6) P33,455.00 as litigation expenses. The reduction in the awards was deemed proper, in view of attending

circumstances and prevailing jurisprudence. The petitioner was also ordered to pay interest at the rate of six percent (6%) from the time of the offense's commission, then 12% from the date of finality of decision until full payment.

The CA explained that given Tungal's failure to appeal his conviction, the decision finding that he caused the accident had become final and executory. The petitioner was equally liable for damages given its failure to present sufficient evidence of Tungal's qualifications, experience, training and service records as a driver. The self-serving testimony in court of an employee of the petitioner failed to establish the company's due diligence in the selection and supervision of its employees.

The petitioner's motion for reconsideration was denied by the CA. Hence, this petition for review.

The Court finds the petition devoid of merit.

Article 2180 of the New Civil Code provides that an obligation for damages is demandable not only for one's own acts or omissions, but also for those of persons for whom he is responsible. Employers, in particular, shall be liable for the damages caused by their employees acting within the scope of their assigned tasks. The responsibility of employers shall only cease upon proof that they observed all the diligence of the good father of a family to prevent damage.

The CA correctly held that the petitioner, being Tungal's employer, was presumed liable to the heirs of Christian after a finding that it was Tungal who should be faulted for the accident that caused the death of the child. In *Cang v. Cullen*,^[6] the Court emphasized that when an employee causes damage due to his own negligence while performing his own duties, there arises the *juris tantum* presumption that his employer is negligent, rebuttable only by proof of observance of the diligence of a good father of a family. In the selection of prospective employees, employers are required to examine them as to their qualifications, experience and service records. With respect to the supervision of employees, employers must formulate standard operating procedures, monitor their implementation and impose disciplinary measures for breaches thereof. These facts must be shown by concrete proof, including documentary evidence.^[7]

The petitioner failed in this aspect. There then appears no cogent reason for the Court to depart from the RTC's and CA's observation that the petitioner failed to establish the modes and measures it adopted to ensure the proper selection and supervision of Tungal. This makes proper the order upon the petitioner to compensate the spouses Emphasis for damages. As the CA pointed out:

In the instant case, save for the self-serving testimony of witness Romero, Holiday did not present documentary proof of Tungal's qualification, experience and service records. Even the result of the actual driving tests was not presented to be examined by the court *a quo*. The claim of trainings and constant monitoring of all their drivers including Tungal are unsubstantiated.

In addition, Holiday presented no record of Tungal attending those trainings. There was also no record of their so-called constant monitoring of their drivers. They claimed having installed radios on every cab they operate for the purpose of reminding their drivers to drive safely but, no recordings were ever made to prove such call every now and then. Holiday also failed to establish that they also monitor speed of its taxi during its daily trips, considering that it is engaged in transportation business, particularly delivering people to and from places. For these, We uphold the court *a quo*'s finding that Holiday had been negligent in the selection and supervision of its driver Tungal.^[8]

In light of prevailing rules and jurisprudence, the reckoning date of the 6% per annum interest on the monetary awards must, however, be modified. It bears emphasis that the damages imposed upon the petitioner, as Tungal's employer, were the result of a separate complaint for damages based on a quasi-delict under Article 2176, in

relation to Article 2180, of the New Civil Code. Consistent with pertinent jurisprudence, the interest on these awards must be computed from the date when the RTC rendered its decision in the civil case, or on June 17, 2008, as it was at this time that a quantification of the damages may be deemed to have been reasonably ascertained.[9] The CA's increase of the rate of interest to 12% per annum from the date of finality of judgment must also be rectified. Under Circular No. 799 issued by the Bangko Sentral ng Pilipinas on June 21, 2013, "[t]he rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of an express contract as to such rate of interest, shall be six percent (6%) per annum." From the finality of a judgment awarding a sum of money until it is satisfied, the award shall be considered a forbearance of credit, regardless of whether the award in fact pertained to one.[10] To be consistent with the foregoing, the interest on the monetary awards shall then be fixed at 6% per annum, until the damages are fully paid.

WHEREFORE, the petition is DENIED. The Decision dated November 20, 2012 and Resolution dated January 22, 2014 of the Court of Appeals in CA-G.R. CV No. 01632-MIN are AFFIRMED with MODIFICATION in that petitioner Davao Holiday Transport Services Corporation is ordered to pay interest on the monetary awards in favor of the respondents, Spouses Eulogio and Carmelita Emphasis, at the rate of 6% per annum, to be computed from June 17, 2008 until full satisfaction.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Villarama, Jr., and Jardeleza, JJ., concur.

January 30, 2015

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ___November 26, 2014___ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on January 30, 2015 at 2:10 p.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[1] Rollo, pp. 10-28.

[2] Penned by Associate Justice Renato C. Francisco, with Associate Justices Edgardo A. Camello and Oscar V. Badelles, concurring; id. at 32-48.

[3] Id. at 50-51.

[4] Issued by Judge Pelagio S. Paguican; id. at 115-193.

[5] Id. at 32-48.

[6] G.R. No. 163078, November 25, 2009, 605 SCRA 391.

[7] Id. at 406-407.

[8] Rollo, p. 45.

[9] Philtranco Service Enterprises, Inc. v. Paras, G.R. No. 161909, April 25, 2012, 671 SCRA 24; Tan v. OMC Carriers, Inc., G.R. No. 190521, January 12, 2011, 639 SCRA 471.

[10] S.C. Megaworld Construction and Development Corporation v. Parada, G.R. No. 183804, September 11, 2013, 705 SCRA 584, 609.

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