

JULIAN DEL ROSARIO, PLAINTIFF AND APPELLANT, VS. MANILA ELECTRIC COMPANY, DEFENDANT AND APPELLEE.*G. R. No. 35283. November 05, 1932*

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-35283/>**STREET, J.:**

This action was instituted by Julian del Rosario for the purpose of recovering damages from the Manila Electric Company for the death of his son, Alberto del Rosario, resulting from a shock from a wire used by the defendant for the transmission of electricity. The accident occurred on Dimas-Alang Street, in the municipality of Caloocan, Province of Rizal. Damages are claimed in the complaint in the amount of P30,000. Upon hearing the cause the trial court absolved the defendant, and the plaintiff appealed.

Shortly after 2 o'clock on the afternoon of August 4, 1930, trouble developed in a wire used by the defendant on Dimas-Alang Street for the purpose of conducting electricity used in lighting the City of Manila and its suburbs. Jose Noguera, who had charge of a tienda nearby, first noticed that the wire was burning and its connections smoking. In a short while the wire parted and one of the ends of the wire fell to the ground among some shrubbery close to the way. As soon as Noguera took cognizance of the trouble, he stepped into a garage which was located nearby and asked Jose Soco, the timekeeper, to telephone the Malabon station of the Manila Electric Company that an electrical wire was burning at that place. Soco transmitted the message at 2.25 p. m. and received answer from the station to the effect that they would send an inspector. From the testimony of the two witnesses mentioned we are justified in the conclusion that information to the effect that the electric wire at the point mentioned had developed trouble was received by the company's servant at the time stated. At the time that message was sent the wire had not yet parted, but from the testimony of Demetrio Bingao, one of the witnesses for the defense, it is clear that the end of the wire was on the ground shortly after 3 p. m.

At 4 p. m. the neighborhood school was dismissed and the children went home. Among these was Alberto del Rosario, of the age of 9 years, who was a few paces ahead of two other boys, all members of the second grade in the public school. These other two boys were Jose Salvador, of the age of 8, and Saturnino Endrina, of the age of 10. As the three neared the place where the wire was down, Saturnino made a motion as if to touch it. His companion, Jose Salvador, happened to be the son of an electrician and his father had cautioned him never to touch a broken electrical wire, as it might have a current. Jose therefore stopped Saturnino, telling him that the wire might be charged. Saturnino yielded to this admonition and desisted from his design, but Alberto del Rosario, who was somewhat ahead, said, I have for some time been in the habit of touching wires ("Yo desde hace tiempo cojo alambres"). Jose Salvador rejoined that he should not touch wires as they carry a current, but Alberto, no doubt feeling that he was challenged in the matter, put out his index finger and touch the wire. He immediately fell face downwards, exclaiming "Ay! madre". The end of the wire remained in contact with his body which fell near the post. A crowd soon collected, and some one cut the wire and disengaged the body. Upon being taken to St. Luke's Hospital the child was pronounced dead.

The wire was an ordinary number 6 triple braid weather proof wire, such as is commonly used by the defendant

company for the purpose of conducting electricity for lighting. The wire was cased in the usual covering, but this had been burned off for some distance from the point where the wire parted. The engineer of the company says that it was customary for the company to make a special inspection of these wires at least once in six months, and that all of the company's inspectors were required in their daily rounds to keep a lookout for trouble of this kind. There is nothing in the record indicating any particular cause for the parting of the wire.

We are of the opinion that the presumption of negligence on the part of the company from the breakage of this wire has not been overcome, and the defendant is in our opinion responsible for the accident. Furthermore, when notice was received at the Malabon station at 2.25 p. m., somebody should have been dispatched to the scene of the trouble at once, or other measures taken to guard the point of danger; but more than an hour and a half passed before anyone representing the company appeared on the scene, and in the meantime this child had been claimed as a victim.

It is doubtful whether contributory negligence can properly be imputed to the deceased, owing to his immature years and the natural curiosity which a child would feel to do something out of the ordinary, and the mere fact that the deceased ignored the caution of a companion of the age of 8 years does not, in our opinion, alter the case. But even supposing that contributory negligence could in some measure be properly imputed to the deceased,—a proposition upon which the members of the court do not all agree,—yet such negligence would not be wholly fatal to the right of action in this case, not having been the determining cause of the accident. (*Rakes vs. Atlantic, Gulf and Pacific Co.*, 7 Phil., 359.)

With respect to the amount of damages recoverable the majority of the members of this court are of the opinion that the plaintiff is entitled to recover P250 for expenses incurred in connection with the death and burial of the boy. For the rest, in accordance with the precedents cited in *Astudillo vs. Manila Electric Company* (55 Phil., 427), the majority of the court are of the opinion that the plaintiff should recover the sum of P1,000 as general damages for loss of service.

The judgment appealed from is therefore reversed and the plaintiff will recover of the defendant the sum of P1,250, with costs of both instances. So ordered.

Avanceña, C. J., Malcolm, Ostrand, Villa-Real, Vickers, Imperial, and Butte, JJ., concur.

CONCURRING IN PART AND DISSENTING IN PART

ABAD SANTOS, J. :

I concur in so far as the defendant company is held liable for the death of the plaintiff's son, but I dissent in so far as the decision allows the plaintiff to recover of the defendant the sum of P1,250 only.

It is well settled in this jurisdiction that an action will lie to recover damages for death caused by wrongful act. (*Manzanares vs. Moreta*, 38 Phil., 821.) The question, however, arises as to the amount of damages recoverable in this case. In criminal cases, this court has adopted the rule of allowing, as a matter of course, the sum of P1,000 as indemnity to the heirs of the deceased. Following that rule, the court has allowed the plaintiff in this case to recover the sum of P1,000 as general damages for loss of service. Whatever may be the reasons for the rule followed in criminal cases, I am of the opinion that those reasons do not obtain in fixing the amount of the damages recoverable in the present case. The indemnity allowed in a criminal case is merely incidental to the main object sought, which is the punishment of the guilty party. In a civil action, the principal object is the recovery of damages for wrongful death; and where, as in this case, the defendant is a corporation, not subject to criminal prosecution for the act complained of, the question assumes a vastly different aspect. Both in reason and

in justice, there should be a distinction between the civil liability of an ordinary person who, by wrongful act, has caused the death of another; and the civil liability of a corporation, organized primarily for profit, which has caused the death of a person by failure to exercise due care in the prosecution of its business. The liability of such a corporation for damage must be regarded as a part of the risks which it assume when it undertakes to promote its own business; and just as it is entitled to earn adequate profits from its business, so it should be made adequately to compensate those who have suffered damage by its negligence.

Considering the circumstances of this case, I am of the opinion that the plaintiff should recover the sum of P2,250; as damages.

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.