

JUSTA AFABLE AND THE MINORS POTENCIANO MADLANGBAYAN AND ROSA MADLANGBAYAN, BY JUSTA AFABLE, AS GUARDIAN AD LITEM, PLAINTIFFS AND APPELLANTS, VS. SINGER SEWING MACHINE COMPANY, D...

G.R. No. 36858. March 06, 1933

Ponente: VICKERS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-36858/>

VICKERS, J.:

This is an appeal by the plaintiffs from a decision of Judge Pedro Concepcion of the Court of First Instance of Manila dismissing the complaint, without a special finding as to costs.

The appellants make the following assignments of error:

"I. El Juzgado a quo incurrio en error al considerar que los hechos probados por los demandantes caen fuera de las disposiciones del articulo 2 de dicha Ley No. 3428 tal como ha sido enmendada por la Ley No. 3812 de la Legislatura Filipina;

"II. Erro tambien al sobreseer de una manera definitiva la demanda;

"III. Incurrio finalmente en error al no conceder la compensacion reclamada en la demanda a que tienen derecho los demandantes, segun las disposiciones de dicha Ley."

It appears from the evidence that Leopoldo Madlangbayan was a collector for the Singer Sewing Machine Company in the district of San Francisco del Monte, outside of the limits of the City of Manila, and he was supposed to be residing in his district according to the records of the company. His compensation was a commission of eight per cent on all collections made by him. On the afternoon of Sunday, November 16, 1930, Leopoldo Madlangbayan while riding a bicycle was run over and fatally injured at the corner of O'Donnell and Zurbaran streets in the City of Manila by a truck driven by Vitaliano Sumoay. It appears that Madlangbayan had moved to Teodora Alonso Street in Manila without notifying the company, and that at the time of his death he was returning home after making some collections in San Francisco del Monte. According to the practice of the company, if collectors made collections on Sunday they were required to deliver the amount collected to the company the next morning.

On November 21, 1930, Vitaliano Sumoay, the driver of the truck which caused the death of Leopoldo Madlangbayan, was convicted for the crime of homicide through reckless negligence, and was sentenced to imprisonment for one year and one day, and to indemnify the heirs of Leopoldo Madlangbayan in the sum of P1,000.

On February 19, 1931, the widow and children of Leopoldo Madlangbayan brought the present action to recover from the defendant corporation under Act No. 3428, as amended by Act No. 3812, P100 for burial expenses and P1,745.12 for compensation. Plaintiffs' complaint was subsequently amended, and they sought to recover under sections 8 and 10 of Act No. 3428 fifty per cent of P16.78 for 208 weeks or P1,745.12, plus P100 for burial

expenses.

In its answer to the plaintiffs' last amended complaint, the defendant denied all the allegations thereof, and as special defenses alleged that prior to the filing¹ of this complaint the plaintiffs had obtained a judgment against Vitaliano Sumoay for the damages caused by him; that Leopoldo Madlangbayan at the time that he sustained the injuries resulting in his death was violating an ordinance of the City of Manila which prohibits work on Sunday; and that Act No. 3428, as amended, is unconstitutional and void because it denies the defendant the equal protection of the law, and impairs the obligation of the contract between the defendant and Leopoldo Madlangbayan, and deprives the Courts of First Instance of their probate jurisdiction over the estate of deceased persons and nullifies Chapters XXIX, XXX, XXXI, XXXII, XXXIII, and XXXIV of the Code of Civil Procedure and related articles of the Civil Code.

As the deceased Leopoldo Madlangbayan was killed on November 16, 1930, and Act No. 3812 was not approved until December 8, 1930, it is apparent that the law which is applicable is Act No. 3428, section 2 of which reads as follows:

"When any employee receives a personal injury from any accident due to and in the pursuance of the employment, or contracts any illness directly caused by such employment or the result of the nature of such employment, his employer shall pay compensation in the sums and to the persons hereinafter specified."

The accident which caused the death of the employee was not due to and in pursuance of his employment. At the time that he was run over by the truck Leopoldo Madlangbayan was not in the pursuance of his employment with the defendant corporation, but was on his way home after he had finished his work for the day and had left the territory where he was authorized to make collections for the defendant. The employer is not an insurer "against all accidental injuries which might happen to an employee while in the course of the employment", and as a general rule an employee is not entitled to recover from personal injuries resulting from an accident that befalls him while going to or returning from his place of employment, because such an accident does not arise out of and in the course of his employment.

The phrase "due to and in the pursuance of" used in section 2 of Act No. 3428 was changed in Act No. 3812 to "arising out of and in the course of". Discussing this phrase, the Supreme Court of Illinois in the case of *Mueller Construction Co. vs. Industrial Board* (283 Ill., 148; 118 N. E., 1028; 1 W. C. L., 943), said:

"The words 'arising out of' refer to the origin or cause of the accident, and are descriptive of its character, while the words 'in the course of' refer to the time, place, and circumstances under which the accident takes place. (*Fitzgerald vs. Clarke & Sons*, 1 B. W. C. C., 197; *Dietzen Co. vs. Industrial Board*, 279 Ill., 11; 116 N. E., 684.) By the use of these words it was not the intention of the legislature to make the employer an insurer against all accidental injuries which might happen to an employee while in the course of the employment, but only for such injuries arising from or growing out of the risks peculiar to the nature of the work in the scope of the workman's employment or incidental to such employment, and accidents in which it is possible to trace the injury to some risk or hazard to which the employee is exposed in a special degree by reason of such employment. Risks to which all persons similarly situated are equally exposed and not traceable in some special degree to the particular employment are excluded."

Although some courts have held otherwise, we think the better rule is as we have stated it. We do not of course mean to imply that an employee can never recover for injuries suffered while on his way to or from work. That depends on the nature of his employment. In the case at bar, if the deceased had been killed while going from house to house in San Francisco del Monte in the pursuance of his employment, the plaintiffs would undoubtedly have the right, *prima facie*, to recover.

The appellants cite the syllabus in Stacy's case (225 Mass., 174), in support of their contention, but an examination of that case shows that it differs materially from the case at bar. Stacy was drowned by reason of breaking through the ice of Colburn's Pond while on his way home from work. Up to the time of his death he had been employed in the ice-house, in the work of storing ice which was cut from the pond. The ice-house was situated at the southerly end of the pond and the deceased lived directly north from the ice-house, across the pond. He followed the reasonable and customary way of leaving his employer's premises. The path around the pond was not used in winter. He was on his employer's premises when he met his death and was leaving those premises by a reasonable way. There was no other convenient way of going home. The pond was the premises of his employer, under his employer's control. It was as a result of the working operations of his employer that he met his death. The court said. "The finding that the pond was in the control of the employer and that crossing over it upon the ice was the 'reasonable and customary way' for the deceased to reach his home, and that he and other employees who lived in the same direction 'crossed by this way regularly', warranted the further finding that the injury occurred in the course of the employment." The court added: "It also could have been found that the death of the employee was due to his employment as a contributing proximate cause, incidental to the nature of the work in which he was engaged. There was evidence from which the board could have found that Stacy's death occurred by reason of the special hazard incident to the work which it was his duty to perform." The court said that Stacy's case was clearly distinguishable from Fumiciello's case (219 Mass., 488):

Fumiciello was employed by Lathrop & Shea, who were doing some contract work for the Boston & Albany Railroad Company near Middlefield. He lived about one mile west where he was employed, and it was necessary for him to pass over the tracks of the Boston & Albany Railroad Company to go from his work to his home. While returning home at the close of the day's work, Fumiciello entered upon the railroad track where he was struck by a train and killed. The question for decision was whether the injury arose out of and in the course of his employment. The court said: "It is plain that if, as the record states, it was necessary for him to pass over the railroad location, it formed no part of the employers' plant; nor was it in any way connected therewith or in their control as was the common stairway used by employees in Sundine's Case, 218 Mass., 1. The contract of employment did not provide for transportation or that the employee should be paid for the time taken in going and returning to his place of employment, and when the day's work had ended the employee was free to do as he pleased. If he had chosen to use the public ways and had been injured by a defect or passing vehicle the administrator could not recover against the employer because there would be no causal connection between the conditions of employment and the injuries suffered."

This subject is considered at length in Workmen's Compensation Law by Schneider, Second Edition, pp. 745 et seq.

In the case at bar the deceased was going from work in his own conveyance.

"An employee quit work, mounted his motorcycle and started for home. When riding down the street he collided with an automobile driven by another employee. He sustained injuries which resulted in his death. In holding that the accident did not arise out of or in the course of the employment, the court said: "To come within the term "injury received in the course of employment" it must be shown that the injury originated in the work, and, further, that it was received by the employee while engaged in or about the furtherance of the affairs of the employer. If it be conceded that the injury originated in the work, it would still be necessary, in our opinion, to show that the employee was engaged in the furtherance of his employer's business.' (Indemnity Co. vs. Dinkins [Tex. Civ. App.], 211 S. W., 949 [1919]; 18 N. C. C. A., 1034; 4 W. C. L. J., 294; In re Peter S. Winchester, 2nd A. R. U. S. C. C., 262; In re Julius Rosenberg, 2nd A. R. U. S. C. C., 263; Kirby Lumber Co. vs. Scurlock, Tex. Civ. App-[1921], 229 S. W., 975.)"

"An employee who was paid by the hour was furnished a bicycle for his work, and while riding home one

evening on. the main road he was run into and killed by a motor lorry. It was held that, since it was no part of his duty to ride home on the bicycle the accident did not arise in the course of his employment. (Edwards vs. Wingham Agriculture & Imp. Co. [1913], W. C. & Ins. Rep., 642; 109 L. T. Rep., 50; 82 L. J. K. B., 998; 6 B. W. C. C, 511; 4 N. C. C. A., 115; Cook vs. Owners of 'Montreal,' 108 L. T. Rep., 164; 29 T. L. Rep., 233; 6 B. W. C. C., 220 [1913], 4 N. C. C. A., 115.)"

"An employee had quit work and left the premises. He was sitting in his buggy waiting for his son, when the horse took fright and ran away. It was held that the injury sustained in the runaway did not arise out of or in the course of the employment. (In re McCall, Ohio I. C. No. 121401, Nov. 4, 1915; Hilding vs. Dept. of Labor & Ind. [Wash.], 298 Pac, 321 [1931].)"

Furthermore, it appears that the deceased had never notified the defendant corporation of his removal from San Francisco del Monte to Manila, and that the company did not know that he was living in Manila on the day of the accident; that the defendant company did not require its employees to work on Sunday, or furnish or require its agents to use bicycles. These are additional reasons for holding that the accident was not due to and in pursuance of the employment of the deceased. If the deceased saw fit to change his residence from San Francisco del Monte to Manila and to make use of a bicycle in going back and forth, he did so at his own risk, as the defendant company did not furnish him a bicycle or require him to use one; and if he made collections on Sunday, he did not do so in pursuance of his employment, and his employer is not liable for any injury sustained by him.

For the foregoing reasons, the decision appealed from is affirmed, with the costs against the appellants.

Villamor, Villa-Real, Hull, and Imperial, JJ., concur.

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.