

ALFREDO COPIACO ET AL., PLAINTIFFS AND APPELLEES, VS. LUZON BROKERAGE CO., INC., DEFENDANT AND APPELLANT.*G.R. No. 46135. September 19, 1938*

Ponente: IMPERIAL, J.

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In criminal case No. 49898 of the Court of First Instance of Manila, Pedro Morales was accused of quadruple homicide through reckless imprudence. It was alleged in the amended information filed by the assistant fiscal that: "The undersigned accuses Pedro Morales of the crime of multiple homicide thru reckless imprudence, committed as follows: That on or about the 24th day of April, 1935, in the City of Manila, Philippine Islands, the said accused being then the chauffeur and person in charge of truck No. T-1179, did then and there willfully, unlawfully and imprudently drive and manage the same along Rizal Avenue Extension in said city, in a careless, reckless and imprudent manner by then and there driving it at a speed greater than was reasonable and proper without taking the necessary precautions to avoid accident to persons and damage to property, thereby causing by such carelessness, recklessness and imprudence the said truck so operated and managed by him to strike and bump, as in effect it struck and bumped against a carretela, as a result of which Fidel Copiaco, Delfin Copiaco, Leonardo Reyes and Juan Reyes, the passengers of the said carretela, were thrown violently to the ground and sustained serious physical injuries which were the direct and immediate cause of their deaths. Contrary to law." After trial, the court found him guilty of a violation of section 67 (d) of the Revised Motor Vehicle Law, No. 3992, and sentenced him to the indeterminate penalty of from three to six years of imprisonment, to indemnify the family of each of the deceased in the sum of P500, and to pay the costs. The dispositive part of the judgment reads as follows: "In view of what has been said, the defendant is found guilty of the offense with which he is charged and, in conformity with section 67 of the Revised Motor Vehicle Law, No. 3992, he is sentenced to suffer the indeterminate penalty of imprisonment ranging from the minimum of three years to the maximum of six years, to indemnify each family of the deceased Juan Reyes, Leonardo Reyes, Delfin Copiaco and Fidel Copiaco in the sum of P500, and to pay the costs of trial. No award is made as to the damages caused to the rig and the horse because no evidence was submitted with respect to their value. So ordered."

There being no appeal, the condemnatory judgment became final. The same was executed and the convict began to serve the sentence. When the judgment as regard the civil liability was to be executed, it turned out that the convict was insolvent and the sheriff returned the writ unsatisfied.

As the convict was insolvent and the indemnities allowed in the condemnatory judgment were not paid, the heirs of the four deceased instituted civil actions against Luzon Brokerage Co., Inc., as the corporation or company which employed the accused Morales and as owner of truck No. T-1179 which caused the accident and was driven by said accused. Alfredo Copiaco and Nieves Alarcon, plaintiffs-appellees in case G. R. No. 46135, filed an action against Luzon Brokerage Co., Inc., the defendant-appellant in the municipal court of Manila, and in their complaint they alleged that they were, as the legitimate parents of the deceased Fidel Copiaco, the latter's only legitimate heirs, and prayed that said defendant be sentenced to pay the sum of P500, the indemnity awarded in

the judgment rendered in the criminal case, with legal interest, and the costs, on the ground that it was the employer of the accused Morales and that by reason of the latter's insolvency said indemnity had not been collected. The municipal court rendered judgment sentencing Luzon Brokerage Co., Inc., to pay the plaintiffs the sum of P500, with legal interest from July 31, 1935 until full payment, and the costs. This judgment was appealed by the defendant to the Court of First Instance of the City of Manila. The same Copiaco spouses, plaintiffs-appellees in case G. R. No. 46136, filed a complaint in the Court of First Instance of Manila against the same defendant-appellant Luzon Brokerage Co., Inc., and, alleging the same facts and that, as legitimate parents of Delfin Copiaco, they are the latter's sole legitimate heirs, they prayed for the first cause of action that the defendant be sentenced to pay the sum of P500, the indemnity awarded in the judgment rendered in the criminal case, with legal interest, and the costs. For the second cause of action, they also prayed that the same defendant be sentenced to pay the sum of P8,000 as indemnity for the damages caused by the death of their children Fidel Copiaco and Delfin Copiaco. The spouses Jesus Reyes and Victoria Reyes, plaintiffs-appellees in case G. R. No. 46137, instituted an action in the municipal court of Manila against the defendant-appellant Luzon Brokerage Co., Inc., and in their complaint they alleged that they are the sole legitimate heirs of Leonardo Reyes, another deceased, as the latter's legitimate parents, and prayed that said defendant be sentenced to pay the sum of P500, the indemnity awarded in the judgment rendered in the criminal case, on the ground that it was the employer of the accused Morales who turned out to be insolvent. The municipal court sentenced the defendant to pay P500, with legal interest from October 26, 1935, and the costs. From this judgment the defendant appealed to the Court of First Instance of Manila. Benita Pelagio, Juliana Reyes, Victoria Reyes, Flora Reyes and Asuncion Reyes, plaintiffs-appellees in case G. R. No. 46138, likewise instituted an action in the municipal court of the City of Manila against the defendant-appellant Luzon Brokerage Co., Inc., and, alleging that they are the sole legitimate heirs of Juan Reyes, the last of the four deceased persons, for the reason that they are respectively his widow and his children, prayed that said defendant be sentenced to pay the sum of P500, the indemnity awarded in the judgment rendered in the criminal case, plus legal interest and costs, on the ground that it was the employer of the accused Morales who was insolvent; The municipal court rendered judgment against the defendant which was sentenced to pay the sum, of P500, with legal interest from October 26, 1935, and the costs, from which judgment the said defendant appealed to the Court of First Instance of the City of Manila. The four civil actions thus filed against Luzon Brokerage Co., Inc., were jointly tried in the Court of First Instance of Manila which, in one decision, sentenced said defendant to pay the plaintiffs in each case the sum of P500, with legal interest and the costs. From the latter judgment Luzon Brokerage Co., Inc., appealed.

- The court sentenced the defendant-appellant to pay the indemnities awarded in the condemnatory judgment rendered in the criminal case, because it was held subsidiarily liable therefor in accordance with the provisions of articles 10 and 103 of the Revised Penal Code which read as follows:

"Art. 10. Offenses not subject to the provisions of this Code.—Offenses which are or in the future may be punishable under special laws are not subject to the provisions of this Code. This Code shall be supplementary to such laws, unless the latter should specially provide the contrary."

"Art. 103. Subsidiary civil liability of other persons. — The subsidiary liability established in the next preceding article shall also apply to employers, teachers, persons, and corporations engaged in any kind of industry for felonies committed by their servants, pupils, workmen, apprentices, or employees in the discharge of their duties."

It is admitted that the indemnities awarded in the judgment rendered in the criminal case had not been paid because of the insolvency of the accused; that the defendant-appellant was the owner of the truck driven by the accused Morales, was the one who employed him as chauffeur, and is a corporation at the time engaged in the business of land transportation; and that Morales, upon the occurrence of the accident, was an employee or

chauffeur of the defendant. Upon these facts, the court held the defendant-appellant subsidiarily liable for said indemnities. In its first assignment of error the defendant-appellant maintains that the court erred in making these conclusions. It contends that it is not civilly and subsidiarily liable; first, because article 103 of the Revised Penal Code is not applicable, as the Revised Motor Vehicle Law is not a special law within the meaning of article 10 of the aforesaid Code; and, secondly, because Morales was convicted, not under the Revised Penal Code, but under the Revised Motor Vehicle Law, section 67 (d) of which does not authorize the allowance of indemnity as an accessory penalty.

The question whether Act No. 3992, known as the Revised Motor Vehicle Law, is a special law under article 10 of the Revised Penal Code, has already been decided in the affirmative by this court in the case of *People vs. Moreno* (60 Phil., 712). In that case the same point was raised and, after careful consideration, resolved in the manner indicated. Therefore, if the provisions of article 103 of the Revised Penal Code have application in the case at bar by virtue of its article 10 which provides that the provisions of said Code are supplementary to the special laws penal in nature, unless the latter specially provide the contrary, it is obvious that the defendant-appellant is civilly and subsidiarily liable for the indemnities which the accused Pedro Morales was sentenced in the criminal case to pay, because the evidence shows that it had employed the said accused as chauffeur, that the latter was acting in such capacity when the accident took place, and that the indemnities were not paid because of his insolvency.

Under the second argument, it is contended that the defendant-appellant should not be held subsidiarily liable for the indemnities on the ground that the accused Morales was convicted under the Revised Motor Vehicle Law and not under the Revised Penal Code. Section 67 (d) of Act No. 3992, under which the accused was convicted, reads as follows:

"Sec. 67. Violation and penalties. —The following penalties shall be imposed for violations of this Act.

"(d) If, as the result of negligence or reckless or unreasonably fast driving any accident occurs resulting in death or serious bodily injury to any person, the motor vehicle driver or operator at fault shall, upon conviction, be punished by imprisonment for not less than fifteen days nor more than six years in the discretion of the court."

It is clear that this section does not authorize the allowance of indemnity as a penalty accessory or additional to imprisonment; but the provisions of the Revised Penal Code being supplementarily applicable, the contention becomes untenable since, according to article 100 of said Code, every person criminally liable for a felony is also civilly liable and, under article 104, every person convicted of a felony, misdemeanor or offense should also be sentenced to pay indemnity. Furthermore, the argument would have force if the actions instituted by the herein plaintiffs-appellees were exclusively founded on the judgment rendered in the criminal case which awarded the indemnities. According to the allegations of the complaints filed, the actions were based by the plaintiffs-appellees both upon the judgment rendered in the criminal case and upon article 1092 of the Civil Code which provides that "civil obligations arising from crimes or misdemeanors shall be governed by the provisions of the Penal Code." There can be no doubt that the actions filed by the plaintiffs-appellees were designed to obtain the fulfillment of civil obligations arising from the offense committed by Morales. It results that, even supposing the allowance of the indemnities in the judgment in the criminal case to be invalid because it is not authorized by Act No. 3992, the actions brought by the plaintiffs-appellees can still prosper under article 1092 of the Civil Code, and the indemnities should be awarded in conformity with the provisions of article 103 of the Revised Penal Code. No specific proof was adduced with reference to the amount of damages caused to the heirs of the victim, but in this jurisdiction the rule already laid down by many decisions is to award by way of damages, in criminal

cases, the sum of from P500 to P1,000 for the death of a person. The amounts fixed by the court are within the limits of this rule.

- The appealed judgment sentences the defendant-appellant to pay P500 for the death of each of the victims, or a total of P2,000, plus legal interest. In its second assignment of error the defendant contends that, at the most, it should have been sentenced to pay the total sum of P1,500, at the rate of P500 for each family of the deceased. The argument is based upon the language of the judgment rendered in the criminal case wherein the court sentenced the accused to pay, by way of indemnity, P500 to each family of the victims. It is true that there are only three families, because the deceased Delfin Copiaco and Fidel Copiaco are both children of the spouses Alfredo Copiaco and Nieves Alarcon. However, we do not believe that the court committed the error assigned. Article 107 of the Revised Penal Code provides that the indemnization for damages includes not only those caused the injured party but also those suffered by his family or by a third person. In the present case it is undoubted that the family or the heirs of the deceased Delfin Copiaco and Fidel Copiaco have suffered double damage by reason of the death of their two children, with the consequence that it is just to indemnify them in the same measure for the death of each of the two members of the family.

- We find no merit in the third and last assignment of error under which the defendant-appellant alleges that the court erred in denying its motion for new trial. Conformably to the conclusions set forth by us, it is civilly and subsidiarily liable for the indemnities to which the plaintiffs-appellees are entitled.

For the reasons expressed herein, the appealed judgment is affirmed, with costs of this instance against the defendant-appellant. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Diaz, Laurel, and Concepcion, JJ., concur.

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