

BOHOL LAND TRANSPORTATION CO., RECURRENTE Y APELANTE, CONTRA FERMINA VIUDA DE MADANGUIT Y OTROS, RECURRIDOS Y APELADOS.

G.R. No. 47360, November 28, 1940

Ponente: HORRILLEN, J.

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HORRILLEN, J.:

Este es un recurso de certiorari promovido por la Bohol Land Transportation Co. contra Fermina Viuda de Madanguit, la recurrida, en el que pide se revoque la decisidn del Tribunal de Apelaciones, promulgada el 28 de febrero de 1940, la cual, copiada literalmente, dice asi:

"Driving the passenger truck No. 77 of the defendant transportation company, Ramon Madanguit left Tagbilaran, Bohol, on his regular trip to barrio Catigbian of another municipality in the afternoon of May 17, 1937. On the road he overtook and passed another truck of the defendant, and in doing so he fell but collided with Ciriaco Dalmao (then riding a bicycle in the opposite direction), practically ditching him. Dalmao immediately turned around and pursued Madanguit's truck, which a few minutes later had to park in front of the house of Attorney Celestino Gallares, because some pedestrians signaled to get aboard. Taking advantage of the stop, Madanguit went to the Lourdes Drug Store across the street to wash his hands which had become dirty when he cleaned the truck. In the meantime, Ciriaco Dalmao arrived, went into the drug store, and, without much ado, knifed Madanguit to death. Dalmao was prosecuted and having pleaded guilty, was sentenced accordingly.

"Subsequently, the heirs of Madanguit filed this action for compensation under Act No. 3428, as amended, in the Court of First Instance of Bohol, and obtained judgment for the total sum of P1,507.58, to be paid in the manner directed. The defendant appealed, questioning not the amount of compensation nor the manner of payment thereof, but the right of the plaintiffs to be compensated, and submitting the proposition: First, that the death did not arise out of Madanguit's employment and in the course thereof; and, second^ that compensation is not due because the death occurred on account of Madanguit's notorious negligence, or intention to inflict injury upon Dalmao.

"We are of the opinion that under the facts stated at the beginning of this decision, the death of Madanguit arose out, and in the course of his employment. It appears that because while driving the defendant's truck he offended Dalmao, the latter stabbed and killed him.

"But the defendant maintains that there is no competent proof regarding Dalmao's motive, maintaining that the declaration in open court of the widow of Madanguit, who merely repeated Dalmao's testimony in the criminal case against him for murder is hearsay and incompetent evidence. But hearsay evidence regarding the motive or intention of a person is admissible, as an exception to the hearsay rule. (See Wigmore on Evidence, par. 1729, et seq.; and also notes to its Supplement.) And in view of the fact that the declarations of Dalmao were made under the sanction of an oath, and the defendant itself presented Exhibit 9 (testimony of some witness in the criminal case against Dalmao), which corroborates the widow's testimony, we cannot say that there is not enough evidence about the motive impelling Dalmao's murderous hand. "At any rate, the declarations of the

widow at pages 22 to 25 of the transcript of the stenographic notes were not objected to as hearsay, and for all purposes are in the record entitled to some value. (Diaz vs. U. S., 223 U. S. 442.)

"Nevertheless, let us suppose that proof of Dalmao's resentment is insufficient. Then Madanguit's injury does not appear to have arisen out of his employment; yet it being undeniable that he was killed 'in the course of his employment' (see Jackson vs. Dairyman's Creamery, 162 S. E., 359; Oklahoma Gas and Electric Co. vs. Sartonio, 12 Pac. [2nd] 221), his family is entitled to compensation under the decision of the Supreme Court in Pollisco vs. Basilan Lumber Co., G. R. 39721, Oct. 23, 1933 (Philippine Cases on Workmen's Compensation by Butalid, p. 7).

"Referring to the second point, the accident did not arise out of his employment, which was that of operating the machine and fixing it when it was out of commission, inasmuch as said accident did not occur while he was engaged in said work and as a consequence thereof.

" 'But that the accident occurred in the course of his employment there can be no doubt, for the reason that, being an employee of the firm and while riding in the wagon furnished by the company to bring them home within the concession after their work, plaintiff was within the radius of action and under the control of the defendant company (Pollisco vs. Basilan Lumber Co., supra.)

"In Bellosillo vs. City of Manila (G. R. No. 34522, November 9, 1931, Butalid, supra, p. 16), a workman employed on a public street temporarily left his work and crossed the street, he was run over by an automobile and killed. The Supreme Court gave him compensation under Act 3428, holding that the injury was caused by an accident due to, and in pursuance of, his employment.

"It should be noted in this connection that in construing this specific provision of the workmen's compensation law, the tendency is towards liberality in favor of the employee. And perhaps it is not error to say that whenever an employee suffers injury in the course of his employment, a reasonable factual presumption is that the hurt arose out of the employment.

"The defendant attempted to establish the fact that Madanguit owed Dalmao about P3.50; that on May 17, just a few minutes before the killing, Dalmao stopped Madanguit and asked for payment, that Madanguit paid no attention to Dalmao, whereupon the latter became enraged, followed Madanguit and killed him. The theory is not plausible for it is unlikely that for a small indebtedness Dalmao should take away the life of an individual. It is also incredible that he should stop a truck to demand payment. But this alleged debt of Madanguit lends color to the plaintiff's version, because his rudeness in crowding Dalmao out of the street was resented by the latter, who, as a creditor of Madanguit, evidently expected better treatment.

"The other defense that the killing was caused by Madanguit's intention to inflict injuries upon Dalmao, or to his notorious negligence, is concededly premised on the assumption that the decision in criminal case No. 4180, Exhibit E, is admissible (appellant's brief, p. 34). As we agree with the defendant that said exhibit, for the purpose of showing the facts recited therein, is not admissible, we do not have to go into this defense, specially because we are not convinced there was notorious negligence or wilful misconduct on the part of Madanguit.

"The net result is that plaintiffs are entitled to compensation. And as the defendant has assigned no error as to the rate or amount of the award, the judgment appealed from will be affirmed, with costs against the appellant."

La recurrente, como fundamento de su recurso, alega:

"1. The Second Division of said Court of Appeals completely disregarded the fact that the death of Ramon O. Madanguit was not an accident at all and erroneously held that, because Ramon O. Madanguit was murdered by Ciriaco Dalmao in the Lourdes Drug Store, the said death arose in the course of his employment or as a result of said employment, it having been found by said Second Division of the Court of Appeals that the death

of the deceased arose from the following facts:

"* * *. 'On the road he overtook and passed another truck of the defendant, and in doing so he fell but collided Ciriaco Dalmao (then riding a bicycle in the opposite direction), practically ditching him, Dalmao immediately turned around and pursued Madanguit's truck which a few minutes after had to park in front of the house of Attorney Celestino Gallares, because some pedestrians signaled to get aboard. Taking advantage of the stop, Madanguit went to the Lourdes Drug Store across the street to wash his hands which had become dirty when he cleaned the truck. In the meantime, Ciriaco Dalmao arrived, went into the drug store and, without much ado, knifed Madanguit to death. Dalmao was prosecuted, and having pleaded guilty, was sentenced accordingly.'

"2. The Second Division of the Court of Appeals committed an error in holding that the deceased was not notoriously negligent when,—

"(a) The deceased violated and disregarded the rules and regulations of petitioner by starting late from petitioner's garage which fact accounted for deceased going to the Lourdes Drug Store to wash his hands and comb his hair; and

"(b) The deceased disregarded the right of Ciriaco Dalmao, his assailant, by almost colliding with, and ditching him, said deceased knowing full well that there was not enough space for his truck to go through without causing injury or damage to the travelling public.

"3. The Second Division of the Court of Appeals also committed an error of law in impliedly holding that petitioner is an insurer against all accidental injuries which might happen to its employees while in the course of their employment and holding that, because the deceased was murdered on account of his carelessness and derelictions of duty, the said deceased Ramon O. Madanguit died in the course of his employment. (See par. 2, p. 2, of decision, Appendix A.)

"4. The Second Division of the Court of Appeals again committed an error of law by concluding that petitioner is answerable for the death of deceased when it itself finds that 'It appears that because while driving the defendant's truck he (the deceased) offended Dalmao. the latter stabbed and killed him and * * *

"5. Finally, the decision of the Second Division of the Court of Appeals is against the applicable decisions of this Honorable Court in that it applied without exception and limitation, the provisions of the Workmen's Compensation Law in holding that 'the tendency is towards liberality in favor of the employee. And perhaps it is not error to say that whenever an employee suffers injuries in the course of his employment, a reasonable factual presumption is that the hurt arose out of the employment' when according to the case of Vergara vs. Pampanga Bus Co., G. R. No. 44149, January 9, 1936; Vol. V, Lawyers' Journal, p. 372, this Honorable Court says:

" 'We have heretofore given repeated evidence of our desire to see a spirit of liberality characterize the construction of the Workmen's Compensation Act. We have endeavored to interpret the Act to promote its purpose. We have even gone so far as to interpret it fairly in favor of the employee. But we cannot construct the Act to fit particular cases, and in this particular case neither the facts nor the law are demonstrative of a meritorious claim on the part of the employee coming within the purview of the Workmen's Compensation Act.'"

No se discuten por la recurrente, ni puede discutirlos en esta instancia, los hechos declarados probados por el Tribunal de Apelación en su decisión objeto del presente recurso, a saber:

"Driving the passenger truck No. 77 of the defendant transportation company, Ramon Madanguit left Tagbilaran, Bohol, on his regular trip to barrio Catigbian of another municipality in the afternoon of May 17, 1938. On the road he overtook and passed another truck of the defendant, and in doing so he fell but collided with Ciriaco Dalmao (the riding a bicycle in the opposite direction), practically ditching him. Dalmao

immediately turned around and pursued Madanguit's truck, which a few minutes later had to park in front of the house of Attorney Celestino Gallares, because some pedestrians signaled to get aboard. Taking advantage of the stop, Madanguit went to the Lourdes Drug Store across the street to wash his hands which had become dirty when he cleaned the truck. In the meantime, Ciriaco Dalmao arrived, went into the drug store, and without much ado, knifed Madanguit to death. Dalmao was prosecuted, and having pleaded guilty, was sentenced accordingly.

Subsequently, the heirs of Madanguit filed this action for compensation under Act 3428, as amended, in the Court of First Instance of Bohol, and obtained judgment for the total sum of P1,507.58, to be paid in the manner directed. The defendant appealed, questioning not the amount of compensation nor the manner of payment thereof, but the right of the plaintiffs to be compensated, and submitting the proposition: First, that the death did not arise out of Madanguit's employment and in the course thereof; and, second, that compensation is not due because the death occurred on account of Madanguit's notorious negligence, or intention to inflict injury upon Dalmao."

La unica cuestion, por consiguiente, que se plantea ante Nos es la de si, en vista de tales hechos, procede o no otorgar a la recurrida los beneficios de la Ley de Compensacion de Obreros No. 3428, segun ha sido enmendada por la Ley No. 3812. Dicha ley, tal como ha sido enmendada, dispone en su articulo 2, lo siguiente:

"ART. 2. Motivos para una compensacion.—Cuando un empleado sufre una lesion personal por accidente proveniente de, y en el curso de su empleo, o contrajere una enfermedad causada directamente por el empleo o como resultado de la naturaleza de dicho empleo, su patrono le pagara una compensacion en las cantidades y a las personas que se especifican mas adelante."

En Pollisco vs. Basilan Lumber Co., R. G. No. 39721, este Tribunal, entre otras cosas, declaro que Pollisco tenia derecho a la compensacion no obstante haber ocurrido el accidente despues de su trabajo y mientras volvia ya a su casa. El caso de autos es, a nuestro juicio, mas fuerte y meritorio todavia que el citado de Pollisco. Como se desprende de los hechos probados segun el Tribunal de Apelacion, Madanguit, el difunto, era el chofer de uno de los buses de la recurrente, Bohol Land Transportation Co., y mientras guiaba el coche, este choco contra la bicicleta que montaba Ciriaco Dalmao; que momentos despues, casi inmediatamente, Madanguit paro su coche frente a la casa del abogado Celestino Gallares, por haber recibido senas de algunos peatones que querian coger el camion y, aprovechando esta oportunidad, bajo de el y se dirigió al Lourdes Drug Store con el objeto de lavarse las manos que se habian ensuciado al limpiar su coche. Entretanto, Ciriaco Dalmao llego y entro en la botica y, sin mas ni mas, apunalo a Madanguit que murio en el acto.

En otro asunto, Bellosillo vs. City of Manila, R. G. No. 34522, decidido por este Tribunal, se declaro que un obrero de la Ciudad de Manila, que trabajaba en las calles publicas, tenia derecho a la compensacion bajo la ley, a pesar de haber dejado temporalmente su trabajo y cruzado la calle, momento en que fue atropellado por un automovil que le dejo muerto en el acto. En Corpus Juris, pag. 673, tomo 71, hallamos lo siguiente:

"* * * where the employee is injured while seeking toilet facilities or going to or from a toilet, the injury arises out of the employment and in the course of it" * * *

El Tribunal de Apelaciones, por tanto, no incurrio en error alguno al decidir este asunto, confirmando en todas sus partes el fallo del tribunal a quo a favor de Fermina Vda. de Madanguit, la recurrida. En su consecuencia, procede, y asi lo declaramos, confirmar en todas sus partes la decision objeto del recurso, con las costas en ambas instancias a cargo de la recurrente. Asi se ordena.

Avanceña, Pres., Imperial, Diaz, y Laurel, MM., estan conformes.

Se canfirma la sentenda.

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