

ROLANDO CORONA, PETITIONER, VS. HONORABLE COURT OF APPEALS, DIOSDADO POPIOCO AND JAIME ONG, RESPONDENTS.

G.R. No. 62482. April 28, 1983

Ponente: RELOVA, J.

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RELOVA, J.:

Review by certiorari of a decision of respondent Court of Appeals which adjudged petitioner liable, thereby reversing the judgment of the Court of First Instance of Negros Occidental (Branch I, Silay City) in Civil Case No. 418.

We resolved to give limited due course insofar as the award of moral damages is concerned.

The antecedents of the case are as follows: About ten o'clock in the morning of March 9, 1969, private respondent Diosdado Popioco was driving a jeep bearing Plate No. J-64745 and owned by private respondent Jaime Ong along the national highway between the town of Manapla and the municipality of Victorias, both of Negros Occidental. In the opposite direction, a pick-up truck with Plate No. S-10393 and owned by herein petitioner Rolando Corona was coming, driven by Roberto Pineda. When the two vehicles met almost at the top of the elevated road, they collided and private respondent Diosdado Popioco suffered various injuries for which he underwent medical attendance and hospitalization. Likewise, the jeep of Jaime Ong sustained damages which cost the latter expenses for repair amounting to P4,271.15.

The trial court found for herein petitioner.

On appeal, respondent Court of Appeals reversed the decision and rendered another ordering herein petitioner, Rolando Corona, the owner of the pick-up truck, and Rolbac, Inc. to pay jointly and severally -

- 1) The plaintiff Diosdado Popioco the sum of P4,559.00 as actual damages; the sum of P50,000.00 as moral damages; and P1,000.00 as attorney's fees;
- 2) The plaintiff Jaime Ong, the sum of P4,271.15 as damages for the repair of his jeep; the sum of P1,000.00 as attorney's fees; and
- 3) the costs of suit.

In finding for the private respondents, the appellate court said:

"The relative positions of the two vehicles, when the police arrived, as shown in the photograph taken of them, Exhibit 5, shows that it was the pick-up truck that hit the jeep, not the latter the former. The front portion of the truck hit the left side towards the front portion of the jeep. The front portion of the jeep did not hit any part of the body of the truck at all. The evidence further shows that at the time of collision, the pick-up truck was found across and almost obstructing the street, while the jeep was on its proper lane parallel to the road. These facts belie defendants' contention that before the impact the jeep was on the wrong lane and attempted to occupy the correct lane only immediately before the impact. The contention does not harmonize with the actual positions of the vehicles. If it is true that the jeep had just attempted to go to its proper lane before the impact,

its body would not have been parallel to the road, but somewhat inclined and transversing the road. In the case of the truck, it was found in an oblique position practically across the road, thereby creating no doubt that it was the truck that drove to the wrong lane. What seemed to have happened is, as contended by the plaintiff, before the impact the pick-up truck was trying to overtake a truck ahead of it, but its driver failed to see the oncoming jeep. This explains the position of the pick-up truck.

"Assuming that the driver of the pick-up truck attempted to avoid the collision by driving to the left lane, the wrong lane, because he saw the jeep being driven on the lane that belongs to the pick-up truck, in so doing the driver of the pick-up truck still acted negligently. He had no business doing another unnecessary wrong. We find that the jeep was found at the place where it had the right to be. This settles the issue of negligence."

We find no reason to disturb the findings of facts of respondent Court of Appeals. As held in *Tiongson vs. De la Merced*, 58 SCRA 89, "it is not the function of the Supreme Court to analyze or weigh such evidence all over again, its jurisdiction being limited to reviewing errors of law that might have been committed by the lower court." However, We find the award of P50,000.00 moral damages quite excessive, considering that on record the injuries suffered by private respondent Popioco were as follows:

"Fracture, simple, complete, femur left
Fracture, simple, complete, distal third, patella, left"

for which he underwent "an intramedullary nailing of the left femur on March 15, 1969 and removal of patellar fracture fragments and patellar tendon repair on April 2, 1969." There is no evidence showing that as a consequence thereof, he now limps, became lame or that even one of his legs became short.

ACCORDINGLY, except for the modification of the moral damages which is hereby reduced to P35,000.00, the appealed judgment is AFFIRMED in all other respects.

SO ORDERED.

Plana, Vasquez and Gutierrez, Jr., JJ., concur.
Teehankee (Chairman), J., took no part.
Melencio-Herrera, J., in the result.

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