

EUSTAQUIO MAYO Y AGPAOA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 91201. December 05, 1991

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The petition seeks to review the decision of the Court of Appeals insofar as the appellate court affirmed the decision of the Regional Trial Court of Angeles City, Branch 57, awarding the amount of Seven Hundred Thousand Pesos (P700,000.00) as moral damages in favor of Linda Navarette, complainant in Criminal Case No. 5633, entitled "People of the Philippines v. Eustaquio Mayo y Agpaoa."

Petitioner Eustaquio Mayo y Agpaoa was charged with the crime of "Reckless Imprudence Resulting in Damage to Property with Multiple Serious, Less Serious, and Slight Physical Injuries" in an information filed by the Provincial Fiscal of Pampanga with the Regional Trial Court of Angeles City allegedly committed as follows:

"That on or about the 7th day of August, 1982, at more or less 4:10 o'clock in the afternoon, along the MacArthur Highway, at barangay Mamatitang, in the municipality of Mabalacat, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused EUSTAQUIO MAYO Y AGPAOA, being the driver and person in charge of a Philippine Rabbit bus bearing Plate No. 888 FG PUB Pilipinas, without observing traffic rules, regulations and ordinances, without exercising due precaution to avoid accident to persons and damage to property, by giving the said bus a speed far greater than is allowed by law, did then and there wilfully, unlawfully, and feloniously drive, operate and manage said vehicle in a careless, reckless and imprudent manner, causing as a result of his carelessness, recklessness and imprudence to bump and hit a Lancer car bearing Plate No. NSJ 720 L Pilipinas, thereby causing damage to the said Lancer car in the total amount of SIXTY SEVEN THOUSAND NINE HUNDRED TWENTY FIVE PESOS AND FORTY ONE CENTAVOS (P67,925.41) and belonging to June Navarette, to the damage and prejudice of the said owner, in the total amount of P67,925.41, Philippine Currency, likewise causing injuries causing partial disfigurement on the facial portion of the said Linda Navarette, a total loss of vision on her right, also causing physical injuries upon Narciso Yandan, which needed and will need medical attendance for a period of from ten (10) to fifteen (15) days, and incapacitated and will incapacitate said victim from performing his customary labor for the same period of time, and also causing physical injuries upon Mae Custodio, which needed and will need medical attendance for a period of from three (3) to four (4) weeks, and incapacitated and will incapacitate said victim from performing his (sic) customary labor for the same period of time, likewise causing physical injuries upon June Navarette, Noel Reynaldo Navarette, Legionaria Panopio, Mercy Panopio and Raymond Asprer, which needed and did need medical attendance for a period of from seven (7) to eight (8) days and incapacitated and will incapacitate said victims from performing their customary labor for the same period of time.

All contrary to law." (Rollo, pp. 40-42; Original Records, pp. 46-47)

The facts as found by the trial court and quoted by the Court of Appeals are not disputed. These are:

"The evidence for the prosecution shows that on August 7, 1982, between 4:00 to 4:30 o'clock in the afternoon,

June Navarette was driving a Mitsubishi Lancer, owned by Linda Navarette, her sister, along MacArthur Highway in Bo. Mamatitang, travelling towards the general direction of Manila on board the Lancer car were Linda Navarette, Legionaria Panopio, Mae Custodio, Noel Reynaldo Navarette, Raymond Asprer (aged 6 years), Antonette Asprer (aged 4 years), and Mercy Panopio. Noel Reynaldo Navarette and Raymond Asprer were seated on the front seat at the right side of the driver. Linda and the rest of the passengers were all seated at the back seat.

The Lancer car was then cruising steadily at the right lane of the road in Bo. Mamatitang, Mabalacat, Pampanga at a rate of speed of about forty kilometers per hour (40 kph), southbound for Manila. No other vehicle was preceding the Lancer car. There was, however, the Philippine Rabbit bus driven by accused Eustaquio Mayo, Jr. trailing closely behind the Lancer car. Behind the Philippine Rabbit bus was a Tamaraw jeep driven by Danilo Miranda Concepcion.

As the vehicles approached the vicinity of Mabalacat Institute, the Rabbit bus picked up speed and swerved to the left lane to overtake the Lancer car which was running on the right lane of the highway. When the Rabbit bus was abreast with the Lancer, an oncoming vehicle from the opposite direction appeared and flashed its headlights to warn the Rabbit bus to give way. The Rabbit bus swerved to its right in an effort to return to the right lane to avoid collision with the oncoming vehicle, and in the process it hit and bumped the left rear side portion of the Lancer car with its right front bumper. Because of the impact the driver of the Lancer car lost control of the wheel and the car swerved across to the left and hit Narciso Yandan, a bystander, and thereafter crashed against the concrete fence of Mr. Bernie Reyes. (p. 221, orig. rec.)

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It was established that before the accident took place, the Tamaraw jeep was first ahead, followed by the Lancer car, and behind the Lancer car was the Rabbit bus, travelling towards the direction of Manila. The Lancer car as well as the Rabbit bus following one after the other overtook the Tamaraw jeep. The Rabbit bus, still trailing behind the Lancer car, then tried to overtake the Lancer car. And when the Rabbit bus, was abreast with the Lancer car, there was an oncoming vehicle approaching and signalling through the flash of its headlights from the opposite direction. The Rabbit bus, to avoid a head-on collision with the vehicle, tried to get back to its lane to the right, and in the process it bumped the left rear portion of the Lancer car (Exhibit 'H-1-A'), which was then cruising on the right lane of the road. Thus because of the impact, precipitated by the reckless imprudence of the accused, a chain reaction occurred; the driver of the Lancer car lost control of the wheel and the car swerved to the left and darted across the road, hitting thereat Narciso Yandan, a pedestrian, and stopped only when it crashed against the concrete fence of Mr. Bernie Reyes.

The Lancer car was heavily damaged. It was almost a total wreck; the passengers, including the driver, sustained physical injuries in varying degrees.

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(p. 234, orig. rec.)" (Rollo, pp. 42-44)

On the basis of these factual findings, the petitioner was convicted as charged. The civil aspect of the case was heard in the criminal case. Hence, the complainants in the criminal case were awarded damages. The dispositive portion of the decision reads:

"WHEREFORE, premises considered, judgment is hereby rendered finding accused Eustaquio Mayo Jr. y Agpaoa guilty beyond reasonable doubt of the felony of Reckless Imprudence Resulting in Damage to Property with Multiple Serious, Less Serious, and Slight Physical Injuries as charged in the information, and the Court sentences the said accused Eustaquio Mayo Jr. y Agpaoa to suffer the penalty of imprisonment of twenty (20) days of Arresto Menor as minimum to four (4) months of Arresto Mayor as maximum, and to indemnify:

1. Linda Navarette the sum of -
 - (a) P192,236.07 as actual damages;
 - (b) P700,000.00 as moral damages;
 - (c) P67,925.41 for the repair of the Lancer car; and
 - (d) P80,000.00 as attorney's fees.
2. Noel Reynaldo Navarette the sum of P60,000.00 as moral damages.
3. Mae Custodio the sum of -
 - (a) P2,032.00 as actual damages; and
 - (b) P50,000.00 as moral damages.
4. June Navarette the sum of -
 - (a) P495.00 as actual damages; and
 - (b) P5,000.00 as moral damages.

And in case of insolvency, the Philippine Rabbit Bus Lines, Inc. is subsidiarily liable to pay or indemnify the aforementioned injured passengers of the Lancer car.

SO ORDERED. (pp. 235-236, orig. rec.)" (Rollo, pp. 39-40)

The petitioner filed an appeal with the Court of Appeals. The trial court's decision was affirmed with the modification that the appellant suffer a straight penalty of three months which was recommended by the Solicitor General on the ground that the Indeterminate Sentence Law is not applicable in the instant case, the maximum penalty imposable not exceeding one year (Sec. 2, Art. No. 4103, as amended)

A motion for reconsideration was denied for lack of merit.

Hence, this petition.

In a resolution dated April 22, 1991, we gave due course to the petition.

As stated earlier, the instant petition is limited to the moral damages in the amount of P700,000.00. Initially, the petitioner alleged the amount of P1,000,000.00 as moral damages awarded to Linda Navarette. The amount was later clarified to be P700,000.00 awarded to complainant Linda Navarette as a result of the vehicular accident.

The petitioner summarizes its objections to the award of moral damages in favor of Linda Navarette as follows:

1. The Court of Appeals gravely abused its discretion and seriously erred in awarding moral damages to the private complainant without citing the factual basis for such an award and without giving the justification for granting such an arbitrary and exorbitant amount of over One Million Pesos.
2. The Court of Appeals gravely abused its discretion and seriously erred in awarding an exorbitant amount of One Million Pesos to complainant Linda Navarette by way of moral damages despite the fact that: a) the complainant had placed a value of only P500,000.00 for her mental, psychological and moral sufferings, and b) the complainant's claim for moral damages for the loss of her boyfriend in the amount of P1,000,000.00 can have no legal or factual basis." (Rollo, p. 16-17)

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As alleged by the petitioner, the Court of Appeals did not discuss specific factual circumstances which would justify the award of moral damages in favor of Navarette. Instead, the appellate court in general terms stated that:

“The Court has gone over decision appealed from and finds it replete with facts, with the details, the anguish, the fright, the anxieties, the shock and loss, that the victims had gone through and suffered. As to legal provisions, the law is specific concerning the award of moral damages x x x.” (Rollo, p. 46)

The appellate court then cited the provisions of the Civil Code, specifically Articles 2217 and 2219 to justify the legal basis for the award of moral damages. It then concluded that “The record shows ample proof introduced in support of the award of damages in this case. The Court is satisfied that the amount of award is not excessive and is in accord with the law and the facts of the case.” (Rollo, p. 48)

We examine the decision of the trial court as regards the propriety of the award of moral damages in favor of Linda Navarette.

Extant from the trial court's decision are the following findings of the said court:

“Linda R. Navarette is 32 years old, single, Assistant Vice-President and Resident Manager of Club Solviento, Quezon City.

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As a result of the bumping incident the car was severely damaged, its passengers sustained physical injuries and Linda Navarette suffered the most among them:

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As to her injuries, she claimed that she was first brought to the Central Luzon Hospital in San Fernando, Pampanga for treatment. A medical certificate was issued to her by Dr. Ramon B. Po (Exhibit “M”). She was also brought to the U.S.T. Hospital (Exhibits “N” and “N-1”) and at the Makati Medical Center for further treatment of her injuries (Exhibits “CC” and “EE”). That in her medical certificate (Exhibits “N” and “N?1”) the doctor concluded that ‘Permanent partial facial disfigurement and total loss of vision of the right eye will result’; that Linda Navarette showed to the Court the ugly scar on her forehead and the total loss of vision of her right eye, now replaced by a false eye. She also presented for appreciation five (5) copies of her pictures depicting the permanent partial facial disfigurement and damage of the right eye (Exhibits “O”, “O-1”, “O-2”, “O-3” and “O-4”).

Linda Navarette declared that she had a boyfriend. She lost him after the accident. She broke down and couldn’t help but cry and between sobs she bewailed over her misfortune. According to her she had worked for so many years -- thirteen (13) long years -- that it took her time to get her career, and couldn't bear losing her eye simply because of a reckless driver.

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On advice of Dr. Carlos L. Sevilla, Eye Specialist of the Makati Medical Center (Exhibit “G”) Linda Navarette went to San Francisco, U.S.A. for further treatment. x x x.”

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She was examined and treated by Dr. William Danz an Eye Specialist, at the Dental Building, Posch Street, in San Francisco, California. After her check-up and treatment, she was asked by Dr. Danz to return to the U.S. after eight (8) months for another round of examination because the doctor noticed some changes in her ruptured right eye. x x x.

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She expressed her desire to go back to the United States for another round of check--up and examination for which she expects to spend from P60,000.00 to P80,000.00 because she will also undergo plastic surgery (Exhibit "II").

Linda Navarette is an Economist by profession. She is a graduate of Bachelor of Science in Home Economics at the University of the Philippines. She is at present the Assistant Vice-President as well as the Resident Manager of Club Solviento, and as such she received a gross take-home pay of P10,000.00 a month (Exhibit "B"). And prior to her mishap she was also the Food Consultant of Food City for which she received a monthly salary of P7,000.00. She lost her consultancy job because of her prolonged absence and because of her physical handicap she suffered as a result of the accident, that she had to resign (Exhibit "U").

For four (4) months immediately following the accident she was unable to report for work and she had to avail of her vacations and sick leaves from the two (2) companies, which in the past, if the same were not availed of, she converted them into cash. But because of the accident, and having been forced to use them, she was not able to avail herself of the cash equivalent amounting to P32,000.00.

Were it not for the accident and the injuries she sustained, she could, according to her, continue performing her job as Consultant for ten (10) to twenty (20) years more.

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Linda Navarette claimed that the general anaesthesia applied to her has greatly impaired her memory. She declared that she easily forgets what she is supposed to say and what she is supposed to do. According to her it has negatively affected her job as Assistant Vice-President and Resident Manager of Club Solviento. She claimed that she lost her other work and salary of P7,000.00 a month as consultant of Food City.

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She placed a value of her mental, psychological and moral sufferings in the amount of P500,000.00 as moral damages, and for the loss of her boyfriend she asked to double the amount giving as a reason that her boyfriend would have been her lifetime partner and her guide of her eye forever had she not lost him.

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Dr. Brion is a physician and lawyer by profession. From 1939 up to the present, he has been the medico-legal consultant of the U.S.T. Hospital. x x x.

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Dr. Brion is certain that permanent facial disfigurement and total loss of vision of the right eye would inevitably result from the injuries sustained by Linda Navarette. He further declared that after the wounds in the face of Linda Navarette had healed, they would surely leave a permanent scar in her face.

According to Dr. Brion, there is no way or medical process by which the loss of vision of Linda Navarette's right eye could be saved because, necessarily, the right eyeball, which was injured, had to be removed. It had to be removed for the reason that the contused-laceration of the right eyeball involving the cornea, ciliary body, sclera with extension to vitreous, retina and choroid destroyed the right eyeball; that it cannot be saved and there is a necessity of artificial eye placement on the socket. He said he has treated and observed considerable number of cases similar to Linda Navarette's and in all those cases, total loss of vision had resulted." (Rollo, pp. 71-75)

The foregoing findings form the only basis for the award of moral damages in favor of Linda Navarette. These were adopted by the appellate court in affirming the trial court's decision as regards the award of moral damages in favor of Linda Navarette.

The vital question now is whether or not the said findings of the trial court justify the award of moral damages in the amount of P700,000.00 in favor of complainant Linda Navarette.

There is no question that moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission. (Article 2217, New Civil Code; *People v. Baylon*, 129 SCRA 62 [1984]; *Prudenciano v. Alliance Transport System, Inc.*, 148 SCRA 440 [1987]). Moreover, Article 2219 of the New Civil Code provides that:

ART. 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries.
- (2) Quasi-delicto causing physical injuries.
- (3) Seduction, abduction, rape or other lascivious acts.
- (4) Adultery or concubinage.
- (5) Illegal search.
- (6) Libel, slander or any other form of defamation.
- (7) Malicious prosecution.
- (8) Acts mentioned in article 309.
- (9) Acts and actions referred to in articles 21, 26, 27, 28, 29, 30, 32, 34 and 35.

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We agree that complainant Linda Navarette is entitled to moral damages. She suffered injuries as a result of the criminal offense of the petitioner. Moreover, her injuries resulting in a permanent scar at her forehead and the loss of her right eye undoubtedly gave her mental anguish, wounded feelings and shock. The psychological effect on her as regards the scar on her forehead and her false eye must have devastated her considering that women in general are fastidious on how they look.

More important, however, was the loss of vision of her right eye which was severely injured as a result of the accident. Since the accident, Linda Navarette had to contend with the loss of her eyesight on her right eye which necessarily hampers her not only physically but also professionally for the rest of her life. Before the accident, Linda Navarette who is a home economist by profession was doing well in her career. A graduate of the University of the Philippines with the degree of Home Economics, she is the Assistant-Vice President as well as Resident Manager of Club Solviento receiving a gross income of P10,000.00 a month. Simultaneously with her work at Club Solviento, she served as Food Consultant of Food City where she received a monthly salary of P7,000.00. She, however, had to give up her consultancy job after the accident not only because of her prolonged absences but because of the physical handicap she suffered.

Nevertheless, we find no justification to award moral damages in favor of Linda Navarette for the loss of her boyfriend. No doubt, the loss of her boyfriend after the accident added to her mental and emotional sufferings and psychologically affected and disturbed her. However, there is no clear evidence on record to show that her boyfriend left her after the accident due to her physical injuries. He may have left her even if she did not suffer the slightest injury. The reasons for the break-up of a courtship are too many and too complicated such that they

should not form the basis of damages arising from a vehicular accident. Moreover, granting that her boyfriend left her due to her physical injuries, we still find no legal basis for the award of moral damages in favor of complainant Navarette because of the loss of a boyfriend. Article 2719 of the New Civil Code quoted earlier enumerates cases wherein moral damages may be granted. Loss of a boyfriend as a result of physical injuries suffered after an accident is not one of them. Neither can it be categorized as an analogous case.

With the foregoing findings we now resolve the issue as regards the amount of moral damages to which Linda Navarette is entitled.

The well-entrenched principle is that moral damages depend upon the discretion of the trial courts based on the facts and circumstances of each case. (*Prudenciado v. Alliance Transport System*, supra; *Pleno v. Court of Appeals*, 161 SCRA 208 [1988]). This discretion is, however, conditioned in that the "amount awarded should not be palpably and scandalously excessive" so as to indicate that it was the result of prejudice or corruption on the part of the trial court." (*Gellada v. Warner Barnes & Co., Inc.*, 57 O.G. [4] 7347, 7358; *Sadie v. Bachrach Motors Co., Inc.* 57 O.G. [4] 636; *Prudenciado v. Alliance Transport System, Inc.* supra; *Pleno v. Court of Appeals*, supra; *Siguenza v. Court of Appeals*, 137 SCRA 570 [1985]). In determining the amount of moral damages, the actual losses sustained by the aggrieved party and the gravity of the injuries must be considered. (*Pleno v. Court of Appeals*, supra; *Prudenciado v. Alliance Transport System, Inc.* supra; *Siguenza v. Court of Appeals*, supra) Finally, "moral damages are emphatically not intended to enrich a complainant at the expense of the defendant. They are awarded only to enable the injured party to obtain means, diversion or amusements that will serve to alleviate the moral suffering he has undergone, by reason of the defendant's culpable action." (*R & B Surety & Insurance Co., Inc. v. Intermediate Appellate Court*, 129 SCRA 736 [1984]; citing *Grand Union Supermarket, Inc. v. Espino, Jr.*, 94 SCRA 953 [1979], cited in *Prudenciado v. Alliance Transport System, Inc.* supra)

Applying these principles in the instant case, we rule that the award of P700,000.00 as moral damages in favor of complainant Linda Navarette is unconscionable and excessive. We rejected Navarette's claim for the amount of P1,000,000.00 as moral damages for the loss of her boyfriend. We note that she asked for the amount of P500,000.00 as moral damages due to her personal injuries. Therefore, the award for moral damages should not exceed the amount of P500,000.00 (*Makabali v. Court of Appeals*, 157 SCRA 253 [1988]) We rule that under the circumstances of the instant case, the amount of P200,000.00 as moral damages in favor of complainant Linda Navarette is reasonable, just and fair.

One final consideration.

In a resolution dated September 25, 1991, we required Atty. Evelyn Balgos-Guballa of the Acosta and Rico Law Offices, counsel for the private respondent, to show cause why disciplinary action should not be taken against her for failure to file the required memorandum within the extended period which expired on July 22, 1991 within ten days from notice.

In her "COMPLIANCE", Atty. Evelyn Balgos-Guballa stated that she finished the draft of the memorandum as early as the first week of July and submitted it to the partner-in-charge, Atty. Rex G. Rico; that it was only recently, that she discovered that the memorandum was inadvertently inserted by one of their secretaries (while fixing the table of Atty. Rex G. Rico) among the files of other cases of the law firm; that this unfortunate incident precluded the partner-in-charge to review, correct or modify the draft of the memorandum; and that after discovery of the incident they immediately finalized and filed the memorandum on October 8, 1991.

We find the explanation of Atty. Balgos-Guballa unsatisfactory. The law firm should have adopted a more systematic procedure to handle pleadings required to be filed in court. In the instant case, the memorandum was due on July 22, 1991 yet and it would seem that the law firm, if believed, discovered the secretary's blunder two

(2) months or more thereafter. Such inaction on the part of the law firm, specifically Atty. Rico and Atty. Balgos-Guballa to check whether or not the required memorandum has been filed with the Court within the reglementary period is equivalent to gross negligence on their part to comply with the directive of the Court.

WHEREFORE, the instant petition is partly GRANTED. The questioned decision of the Court of Appeals is MODIFIED in that the amount of P700,000.00 as moral damages granted to complainant Linda Navarette is reduced to P200,000.00.

Atty. Rex G. Rico and Atty. Evelyn Balgos-Guballa are hereby REPRIMANDED for non-compliance with the Resolution dated September 25, 1991 with the warning that further gross negligence of this nature committed by them would be dealt with more severely.

SO ORDERED.

Bidin, Davide, Jr., and Romero, JJ., concur.
Fernan, C.J., (Chairman), on leave.

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