

**EMILIANO MANUEL AND SUPERLINES TRANSPORTATION CO., INC.,
PETITIONERS, VS. HONORABLE COURT OF APPEALS, ERNESTO A.
RAMOS SUBSTITUTED BY GOYENA Z. RAMOS, GRACE, DAVID, JOBET,
PORTI...**

G.R. No. 96781. October 01, 1993

Ponente: QUIASON, J.

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QUIASON, J.:

This is an appeal by certiorari under Rule 45 of the Revised Rules of Court from the decision of the Court of Appeals in CA-G.R. CV No. 11780, and its Resolution dated January 8, 1991, denying petitioners' motion for reconsideration. The decision subject of the appeal was an affirmation of the judgment of the Court of First Instance of Camarines Norte, in Civil Case No. 3020 and whose dispositive portion states:

"PREMISES CONSIDERED, judgment is hereby rendered: (1) finding the defendant Emiliano Manuel negligent, reckless and imprudent in the operation of Superlines Bus No. 406, which was the proximate cause of the injuries suffered by the plaintiffs and damage of the Scout Car in which they were riding; (2) ordering the said defendant, jointly and solidarily, with the defendant Superlines Bus Co., Inc. to pay plaintiffs the amounts of P49,954.86, as itemized elsewhere in this decision and the costs.

"It appearing that the defendants Superlines Transportation Co., Inc. is insured with the defendant Perla Compania de Seguros, which has admitted such insurance, the latter is hereby ordered to pay the former the amounts so stated up to the extent of its insurance coverage" (Rollo, pp. 70-71).

The operative facts culled from the decision of the Court of Appeals are as follows:

Private respondents were passengers of an International Harvester Scout Car (Scout car) owned by respondent Ramos, which left Manila for Camarines Norte in the morning of December 27, 1977 with respondent Fernando Abcede, Sr. as the driver of the vehicle.

There was a drizzle at about 4:10 P.M. when the Scout car, which was negotiating the zigzag road in Bo. Paraiso, Sta. Elena, Camarines Norte, was hit on its left side by a bus. The bus was owned by petitioner Superlines Transportation, Co., Inc. and was driven by petitioner Emiliano Manuel. Due to the impact, the Scout car was thrown backwards against a protective railing. Were it not for the railing, the Scout car would have fallen into a deep ravine. All its ten occupants, which included four children, were injured, seven of the victims sustained serious physical injuries (Rollo, p. 28).

Emiliano Manuel, the driver of the bus, was prosecuted for multiple physical injuries through reckless imprudence in the Municipal Court of Sta. Elena, Camarines Norte. As he could not be found after he ceased reporting for work a few days following the incident, the private respondents filed the instant action for damages based on quasi-delict.

After trial, the court a quo rendered judgment against petitioners and Perla Compania de Seguros, that covered the

insurance of the bus. The court ordered them to pay, jointly and severally, the amount of P49,954.86 in damages to respondents.

On appeal, the Court of Appeals, affirmed the decision of the trial court.

In their appeal before us, petitioners contend that it was Fernando Abcede, Jr., driver of the Scout car, who was at fault. Besides, petitioners claim that Fernando Abcede, Jr., who was only 19-years old at the time of the incident, did not have a driver's license (Rollo, p. 10).

Proof of this, according to petitioners, was that:

"Immediately after the accident, the bus conductor Cesar Pica and passengers, including Maximino Jaro, alighted from the bus. A woman passenger of the IH Scout car, Mrs. Ramos, was heard saying: 'Iyan na nga ba ang sinasabi ko, napakalakas ang loob,' referring to young man, Fernando Abcede, Jr. who was the driver of the IH Scout car (tsn., p. 43, November 19, 1979; tsn, p. 23-A. February 7, 1980) x x x" (Rollo, p. 75).

Likewise, petitioners questioned the accuracy of the pictures and sketches submitted by private respondents as evidence that the Superlines bus encroached on the lane of the Scout car. According to them, the sketch made by the police investigator showing the skid marks of the bus, is inadmissible as evidence because it was prepared the day after the incident and the alleged "tell-tale" skid marks and other details had already been obliterated by the heavy downpour which lasted for at least an hour after the accident (Rollo, p. 87). Likewise, they claim that the policeman who prepared the sketch was not the police officer assigned to conduct the investigation (Rollo, pp. 88-89).

While it may be accepted that some of the skid marks may have been erased by the "heavy downpour" on or about the time of the accident, it remains a possibility that not all skid marks were washed away. The strong presumption of regularity in the performance of official duty (Rule 131, Sec. 3(m), 1989 Rules on Evidence) erases, in the absence of evidence to the contrary, any suspicions that the police investigator just invented the skid marks indicated in his report.

Granting, however, that the skid marks in the questioned sketch were inaccurate, nonetheless, the finding of the Court of Appeals that the collision took place within the lane of the Scout car was supported by other conclusive evidence. "Indeed, a trail of broken glass which was scattered along the car's side of the road, whereas the bus lane was entirely clear of debris (Exhibit "L-1," p. 34, Records, pp. 56-65; TSN, Session of March 14, 1979)" (Rollo, p. 31).

Furthermore, the fact that the Scout car was found after the impact at rest against the guard railing shows that it must have been hit and thrown backwards by the bus (Rollo, p. 103). The physical evidence shows that the Superlines Bus while travelling at high speed, usurped a portion of the lane occupied by the Scout car before hitting it on its left side. On collision, the impact due to the force exerted by a heavier and bigger passenger bus on the smaller and lighter Scout car, heavily damaged the latter and threw it against the guard railing.

Petitioners' contention that the Scout car must have been moved backwards is not only a speculation but is contrary to human experience. There was no reason to move it backwards against the guard railing. If the purpose was to clear the road, all that was done was to leave it where it was at the time of the collision, which was well inside its assigned lane. Besides, even petitioners accept the fact that when the police arrived at the scene of the accident, they found no one thereat (Rollo, p. 13). This further weakens the possibility that some persons moved the Scout car to rest on the guard railing.

The evidence with respect to the issue that Fernando Abcede, Jr. who was not duly licensed, was the one driving the Scout car at the time of the accident, could not simply exempt petitioners' liability because they were the

parties at fault for encroaching on the Scout car's lane (Rollo, pp. 29-30).

Nevertheless, the witnesses presented by petitioners who allegedly saw "the younger Abcede pinned behind the driver's wheels," testified on matters that transpired after the accident. Discrediting this allegation, the Court of Appeals noted that none of the aforesaid witnesses actually saw the younger Abcede driving the car and that the younger Abcede could have simply been thrown off his seat toward the steering wheel (Rollo, p. 29).

Be that as it may, this Court has followed a well-entrenched principle that the factual findings of the Court of Appeals are normally given great weight, more so when said findings tally with the findings of the trial court and are supported by the evidence (*Francisco v. Magbitang*, 173 SCRA 382 [1989]); *New Owners/Management of TML Garments, Inc. v. Zaragoza*, 170 SCRA 563-564 [1989]).

The reason for this entrenched principle is given in *Chemplex (Phils.), Inc., et al. v. Ramon C. Pamatian, et al*, 57 SCRA 408 [1974], thus:

"This Court is not a trier of facts, and it is beyond its function to make its own findings of certain vital facts different from those of the trial court, especially on the basis of the conflicting claims of the parties and without the evidence being properly before it. For this Court to make such factual conclusions is entirely unjustified - first, because if material facts are controverted, as in this case, and they are issues being litigated before the lower court, the petition for certiorari would not be in aid of the appellate jurisdiction of this Court; and, secondly, because it preempts the primary function of the lower court, namely, to try the case on the merits, receive all the evidence to be presented by the parties, and only then come to a definite decision, including either the maintenance or the discharge of the preliminary injunction it has issued."

Appellants, likewise, contested the awarded damages as excessive and unsubstantiated. The trial court's findings show otherwise, as can be gleaned from the following excerpt of its decision:

"Plaintiffs were able to prove their injuries and submitted evidence to show expenses for their treatment, hospitalization and incidental disbursement (Exhs. AA to HH and their submarkings), having a total amount of P12,204.86 which had admittedly (sic) shouldered by plaintiff Ernesto Ramos. Considering the nature of the injuries as shown by the respective Medical Certificates (Exhs. A to J and their submarkings) said amount is very reasonable. It was also shown that the Scout car is a total wreck, the value of which was estimated to be P20,000.00 which may be the same amount to put (sic) into a running condition. We consider, likewise said amount reasonable taking into account its brand (International Harvester Scout car). The above mentioned damages are considered actual or compensatory (Par. 1 Art. 2197 in relation to Art. 2199, New Civil Code). Evidence was also adduced showing that as a result of the incident and the resultant injuries there had been an impairment on the earning capacity of some of the plaintiffs (Fernando Abcede, Sr., Anacleto Zamarosa, Ernesto Ramos and Goyena Ramos) which are recoverable pursuant to Article 2205 of the New Civil Code. Considering the nature of their injuries one month each loss of income seem reasonable. Attorney's fees and expenses of litigation is also proper. Since the act complained of falls under the aegis of quasi-delict (*culpa aquiliana*), moral damages is likewise available to plaintiffs pursuant to Article 2219 also of the New Civil Code" (Rollo, pp. 113-114).

In addition, moral damages may be recovered if they are the proximate results of defendant's wrongful acts or omission as in this case (*Banson vs. CA*, 175 SCRA 297 [1989]).

WHEREFORE, the petition is DENIED and the Decision of the Court of Appeals is AFFIRMED, with costs against petitioners.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., and Bellosillo, JJ., concur.

Grino-Aquino, J., on leave.

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