

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DONATO CARAIG, APPELLANT.

G.R. Nos. 116224-27. March 28, 2003

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

Appellant Donato Caraig challenges the consolidated decision[1] dated 28 April 1994 of the Regional Trial Court of Quezon City, Branch 88, finding him guilty beyond reasonable doubt of (1) three counts of murder in Criminal Cases Nos. Q-88-684 to Q-88-686 for the death of Melencio Castro, Jr., Roberto Raagas, and Placido Agustin; and (2) frustrated murder in Criminal Case No. Q-88-687 for the mortal wounding of Edmundo Diaz.

Initially, only a certain Rolando Laomoc and four Does were charged in the separate informations in Criminal Cases Nos. Q-88-684 to Q-88-687. The informations, however, were subsequently amended to substitute the names of Richard Doe and Roger Doe with Renato Laxamana and Donato Caraig. The trial court approved the amendments in its Order of 28 February 1989.[2]

The Amended Information for Murder in Criminal Case No. Q-88-684 reads:

The undersigned Assistant City Prosecutor accuses ROLANDO LAOMOC Y CABE, DONATO CARAIG Y GARCIA, RENATO LAXAMANA and TWO (2) DOES, the latter whose true names and whereabouts have not as yet been ascertained, of the crime of MURDER, committed as follows:

That on or about the 5[th] day of October 1988, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and confederating with and mutually helping each other, with intent to kill, with evident premeditation and treachery, did, then and there, willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one MELENCIO CASTRO Y PASCUA, JR., by then and there shooting him with a gun, hitting him on the different parts of the body, thereby inflicting upon him serious and mortal wounds, which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said Melencio P. Castro, Jr., in such amount as may be awarded under the provisions of the New Civil Code.[3]

The informations for murder in Criminal Cases Nos. Q-88-685 and Q-88-686 are similarly worded, except as to the victims who were Roberto Raagas and Placido Agustin, respectively.[4]

The information for frustrated murder in Criminal Case No. Q-88-687 reads:

That on or about the 5[th] day of October 1988, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, confederating with and mutually helping each other, with intent to kill, with evident premeditation and treachery, did, then and there, willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one EDMUNDO DIAZ Y DE DIOS, by then and there shooting him with a gun, hitting him on the different parts of his body, thereby inflicting upon him serious and mortal injuries, the offenders thus performing the acts of execution which would produce death as a consequence, but which nevertheless did not produce it by reason or causes independent of the wills of the perpetrators, that is, the timely medical intervention given to the latter, to the

damage and prejudice of the said offended party in such amount as may be awarded under the provisions of the New Civil Code.[5]

Laomoc was arrested, while the warrants for the arrest[6] of Laxamana and Caraig were returned unserved.

On 9 November 1988, Laomoc was arraigned and pleaded not guilty.[7] Trial proceeded as against him. However, on 31 May 1989, on motion of the prosecution and with Laomoc's consent, the trial court ordered the provisional dismissal and archival of the cases as against him on the ground of insufficiency of evidence. But later, on 28 October 1991, the prosecution filed a motion to revive all the cases as against Laomoc.[8] In its Order of 4 December 1991, the trial court granted the motion and issued a warrant for the arrest of Laomoc.[9] The latter, however, has remained at large.[10]

Meanwhile, or on 18 July 1991, Caraig was arrested in Cavite.[11] Upon arraignment, he entered a plea of not guilty in each case.[12] The trial then proceeded as against him.

The prosecution's principal witness was Edmundo Diaz. He testified that at around 11:00 p.m. on 4 October 1988, he, together with Roberto Raagas, Melencio Castro Jr., and Placido Agustin went to the Orchids Beerhouse in Quezon City, in front of Ali Mall, Cubao. As they were leaving the beerhouse at past midnight or in the early morning of 5 October 1988, Caraig confronted them (sinita) whether they were military men. They did not answer.[13] A rumble or fight suddenly ensued between his group and Caraig. It was a brief scuffle. Caraig then ran back to the Orchids Beerhouse.[14] Thereafter, Edmundo and his companions rode on a Rocalex taxi. They were chased, however, by an old 1976 model white Galant car, which eventually blocked the taxi along 12[th] Avenue and P. Tuazon St., Quezon City, about 100 meters from the Orchids Beerhouse.[15] Caraig, Laxamana, and Laomoc alighted from the Galant car. Each of them held a .45 caliber gun, which they simultaneously fired upon Edmundo and his companions.[16] While the hail of bullets went on, Edmundo played dead. He then heard somebody utter: "Pare, tama na yan. Patay na lahat ang mga iyan." When the car left, he asked the people who gathered around the scene to bring him to a hospital, where he underwent treatment for eighteen days. [17]

Another prosecution eyewitness, Danilo Javier, corroborated Edmundo's story. Danilo testified that at around 10:00 p.m. of 4 October 1988, he was at the Orchids Beerhouse drinking beer with several companions, namely, Caraig, Laxamana, and a certain Lando.[18] Later in the night, a commotion took place at the beerhouse exit. From there, Caraig re-entered the beerhouse shouting that someone had taken his gun. All the men in their table rushed towards the exit. Caraig, Laxamana, and Lando got into a car and chased a taxi.[19]

From the street pavement, Danilo observed that the taxi was moving rather slowly away from the beerhouse. The car blocked the taxi. Laxamana pointed a .45 caliber gun at the person inside the right side of the taxi, while Caraig went to the left side of the taxi. Then somebody handed over a .9 mm. gun to Caraig. When he received the gun, Caraig suddenly fired it upon the passengers in the taxi. Laxamana followed suit. A person tried to get out of the taxi, but Laxamana grabbed him and shot him in the head. Danilo claimed that he was about twenty-five meters from the scene of the incident.[20]

Prosecution witness SPO4 Lino Banaag, one of the policemen who responded to the shooting incident, declared that he found the dead body of Roberto Raagas on the passenger's seat beside the driver, that of Placido Agustin at the passenger's seat at the back, and that of Melencio Castro Jr. on the pavement beside the taxi. The victims were identified through their identification cards. He also found empty shells and slugs of .45 caliber and .9 mm. firearms around the taxi. Banaag was also informed by the other police officers that an injured person, whom they were able to identify as Edmundo Diaz, was brought to the Quirino Memorial Hospital. There, they took Edmundo's statement.[21]

Dr. Valentin Bernales, medico-legal officer of the National Bureau of Investigation, testified that he conducted an

autopsy on the bodies of the three victims. He found that the cause of the death of Roberto Raagas was hemorrhage secondary to gunshot wounds resulting to shock.[22] He opined that from the location of the gunshot wounds it could be gleaned that when the victim was fired upon he was stooping forward and sitting. He approximated that the bullets came from a .9 mm. to a .45 caliber gun.[23] His autopsy on Placido Agustin's cadaver revealed that the cause of his death was also hemorrhage secondary to gunshot wounds resulting to shock.[24] The body sustained eleven wounds. The varying measurements of the entrance wounds disclosed that the firearms used were a .9 mm. to .45 mm. caliber range. On the cadaver of Melencio Castro Jr., Dr. Bernales testified that he found two gunshot wounds. The first was located on the head at the back portion, right side and directed forward slightly downward and medially to the left. It involved the brain, the skull bone, and exited on the auxillary area or at the back on the left side. The second was directed backward, downward and laterally; it involved the lungs and exited on the back portion of his scapula.[25]

Dr. Alberto Capuno, a resident surgeon at the Quirino Memorial Medical Center, testified that he treated Edmundo Diaz for three gunshot wounds. These wounds perforated the chest, stomach, and leg and were fatal.[26]

The wives of the dead victims testified on the civil aspect of the crime.

Mrs. Ruth Agustin testified that her husband was 37 years old at the time of his death. Her husband was an employee of the Social Security System receiving a monthly salary of P5,000. She and her children had suffered mental anguish and torture and financial setback as a result of her husband's untimely demise. She spent around P150,000 for the funeral of her husband.[27]

Mrs. Rhodora Raagas testified that her husband was 40 years old at the time of his death. He was the President of Sinclair Security and Allied Services, a family-owned corporation, with a monthly compensation of P30,000. Mrs. Raagas claimed to have spent more than P100,000 for funeral expenses. She said that she and her children were at a loss and in a state of shock as a consequence of her husband's death.[28]

Mrs. Merle Loria-Castro testified that her husband was 36 years old at the time of his death. He was a taxi driver of New Rocalex with an average earning of P500 per day or P7,500 a month. She spent a total of P19,900 for the burial of her husband.[29]

The defense presented as its sole witness appellant Caraig, who was still a member of the Philippine Constabulary (PC) when the incident in question happened. He recalled that on the night of 4 October 1988, he went to the Orchids Beerhouse to look for Rolando Laomoc, a driver of the service vehicle of the PC. Caraig was with Laxamana, another member of the PC. They used their service car, a 1979 white Galant. They found Laomoc and joined him in drinking beer with twelve other persons, one of whom he recognized as prosecution witness Danilo Javier. Later, he gave the car keys to Laomoc and excused himself from the group, as he wanted to go back to the barracks.[30]

When Caraig stepped out of the beerhouse, a man whom he later identified as prosecution witness Edmundo Diaz approached him and asked whether he was a member of the PC. Caraig replied in the affirmative. Edmundo countered that he was a member of the Criminal Investigation Service (CIS). Caraig then asked for identification or proof of Edmundo's claim, but the latter remarked, "CIS 'to. Makulit ka." Ignoring Edmundo this time, Caraig proceeded to the street pavement.[31]

Suddenly, Edmundo poked a gun at Caraig's side. But Caraig merely turned his back against Edmundo. The latter then hit him with a gun on his left eyebrow and lips. Suddenly, the companions of Edmundo ganged up on him, held his arms, and hit him on the different parts of his body. They took his service pistol. After almost ten

minutes, he was able to kick the side of a parked car, and they all fell down. He forthwith ran towards the beerhouse and told his companions that his service pistol was grabbed from him. His companions scampered towards the exit of the beerhouse.[32]

Caraig was aided by Laxamana while he walked towards the exit. He pointed to Laomoc the taxi where his assailants rode. Laomoc and his companions rode in the Galant car and chased the taxi. Laxamana and Caraig were still at the street pavement when they saw the taxi passengers exchange gunfire with those riding in the Galant car. The gunfire ceased when the car blocked the taxi. Caraig was shocked with what he saw, and he remained rooted from his vantage point for one or two minutes. After the gunfight, he noticed his pistol service on the ground, got it, and later rode in the car with Laxamana and Laomoc back to their headquarters.[33]

Caraig denied that he was one of the assailants. He also claimed that Danilo Javier was still in the beerhouse when the chase started, and arrived at the scene only when everything was over.[34]

In its challenged decision, the trial court found that the prosecution established with moral certainty that Caraig was one of the assailants who shot the victims. The testimonies of the prosecution witnesses were clear, straightforward, and convincing as opposed to the testimony of the defense witness, which consisted merely of denial and alibi. These defenses cannot prevail over the positive identification of Caraig by eyewitnesses Edmundo Diaz and Danilo Javier, as well as the documentary, physical, and other testimonial evidence offered by the prosecution. The trial court appreciated treachery and conspiracy in the commission of the crime. It then decreed:

WHEREFORE, premises considered accused Donato Caraig is found Guilty beyond reasonable doubt of the three counts of murder for the deaths of Melencio Castro, Roberto Raagas and Placido Agustin and sentenced to serve the penalty of reclusion perpetua for each of the offense and ordered to pay the heirs of Melencio Castro the sum of P19,900 for burial expenses, P50,000 for indemnity and P100,000 for moral damages; to pay the heirs of Roberto Raagas the sum of P140,000 for burial expenses, P50,000 for indemnity and P500,000 for moral damages [and] to pay the heirs Placido Agustin the sum of P150,000 for burial expense, P50,000 for indemnity and P300,000 for moral damages.

Accused is likewise found guilty beyond reasonable doubt of the offense of frustrated murder for the mortal wounding of Edmundo Diaz and sentenced to serve the penalty of eight (8) years and one (1) day of prision mayor as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal as maximum, and to pay the cost.[35]

Caraig seasonably appealed to us from the judgment of conviction.

For causes hereunder discussed, the disposition of these cases was delayed.

On 26 September 1994, we accepted the appeal in these cases but required the clerk of court of the trial court to explain why the records of the cases transmitted were incomplete, and directed him to require the stenographers concerned to submit the transcripts of stenographic notes (TSNs).

In our resolution of 23 November 1994, we noted the Compliance of the clerk of court, who explained that a part of the records were irretrievably lost and that he required the stenographers to submit to the trial court their copies of the TSNs.

Except for Mirasol Ramos, the stenographers submitted the TSNs. Mirasol Ramos was the stenographer who took down the stenographic notes of the 1 February 1989 hearing, specifically the testimony of Dr. Jose Albert Capuno and part of the testimony of Merle Castro. Despite diligent efforts to do so, Mirasol's whereabouts could not be located. Finally, our Office of Administrative Services reported that she had been officially dropped from the

rolls. Thus, in our resolution of 12 February 1997, we required the parties to manifest whether the TSNs for the 1 February 1989 hearing could be dispensed with.

It also appeared that Caraig's counsel of record, Atty. Phytagoras Oliver, was no longer holding office in the address given in the records. We then required Caraig to manifest whether he was willing to be represented by a counsel de oficio. It took Caraig some time to submit his manifestation. So on 18 April 1997, we appointed Atty. Fortunato Gupit, Jr., as his counsel de oficio.

In its Compliance with our 12 February 1997 Resolution, the Office of the Solicitor General (OSG) manifested that it was inclined to dispense with the TSNs in question. On the other hand, in his Compliance filed on 18 July 1997, Atty. Gupit maintained that if he would be "compelled to take a stand, he ha[d] to state that the missing transcript should not be dispensed with because the accused on appeal is entitled to due process in its full spectrum, no more and no less."

Thus, in our Resolution of 11 August 1997, we required the trial court to retake the testimonies of Dr. Jose Albert Capuno and Merle Castro. The retaking of the testimony was, however, delayed for a number of reasons. Finally, on 9 August 2001, we received the letter dated 20 July 2001 of Judge Abednego Adre, then Presiding Judge of Branch 88 of the RTC of Quezon City, informing us that the testimony of Dr. Capuno was retaken on 13 September 2000 and the TSNs thereof were transmitted to us on 8 March 2001 by registered mail. Judge Adre also stated that Merle Castro had been missing and efforts to locate her had proved futile; hence, her testimony could not be retaken.

On 3 September 2001, we required the parties to manifest whether they were willing to dispense with the TSNs of the testimony of Merle Castro. In its Manifestation, the OSG answered in the affirmative. Atty. Gupit, on the other hand, manifested that the TSNs of the testimony of Merle Castro could be dispensed with only if the facts sought to be proved by her testimony would be disregarded. The Court noted the manifestation of the parties.

In his Appellant's Brief filed on 1 April 2002, Caraig asserts that the trial court erred in (a) believing the alleged eyewitnesses' testimonies of Edmundo Diaz and Danilo Javier; (b) discarding his defense of alibi and denial; (c) finding the existence of a conspiracy and treachery; (d) finding as established beyond reasonable doubt the criminal charges filed against him; and (e) ordering him to pay damages.

Caraig emphasizes that Edmundo Diaz and Danilo Javier are not credible witnesses because it took them quite some time, i.e., three years from the time of the incident, before they testified in court. He then boldly asserts that his conviction is based on mere gut feeling, as the proverbial "axe which has to fall on someone" did fall on him by his convenient presence at the place and time when the crime was committed.

In the Appellee's Brief filed on 26 August 2002, the OSG counters that the trial court committed no errors in these cases. The trial court correctly rejected the defenses of alibi and denial, which could not outweigh Edmundo Diaz's positive identification of Caraig as one of those who peppered with bullets the taxi that carried the victims to their death, and Edmundo to his near death. This identification was corroborated by Danilo Javier, who was one of Caraig's drinking buddies at the beerhouse.

On Caraig's attempt to diminish the credibility of the eyewitnesses' accounts on the ground that they were reluctant witnesses, the OSG maintains that the initial reticence of prosecution witnesses for fear of reprisal is not uncommon. Such observation is supported by jurisprudence and explained in these cases, as Caraig was a PC member at the time of the incident. The OSG likewise agrees with the trial court's appreciation of treachery and conspiracy.

After a careful review of the records of the cases and the evidence adduced by the parties, we agree with the OSG.

The trial court's decision was not based on gut feeling. The proverbial axe falling on someone did fall on Caraig on the basis of the evidence duly established at the trial.

The prosecution proved beyond reasonable doubt that Caraig, in conspiracy with his co-assailants, killed Roberto Raagas, Placido Agustin, and Melencio Castro Jr. and almost killed Edmundo Diaz. They used the Galant PC service car to pursue the victims, who were riding on a Rocalex taxi, and to block the path of the taxi. They alighted from the car and then used their .45 caliber and .9 mm. service guns to pepper the taxi and the victims with bullets, and they left them for dead. Only Edmundo Diaz escaped from the carnage because of timely medical treatment and attention.

The foregoing acts undoubtedly showed unanimity in design, intent, and execution of the attack on the part of Caraig and his co-assailants. They performed specific acts with closeness and coordination as to unmistakably indicate a common purpose and design to bring about the death of the victims. Conspiracy among Caraig and his co-assailants was thus established with moral certainty.

Conspiracy may be shown through circumstantial evidence; deduced from the mode and manner in which the offense was perpetrated; or inferred from the acts of the accused pointing to a joint purpose and design, a concerted action, and a community of interest.[36] It was not even necessary to show that all the conspirators actually hit and killed the victims.

Caraig wants to impress us that he was merely a horrified spectator of the gruesome events that unfolded before him. We are not persuaded. His version is incredible and must be rejected in light of his positive identification as one of the assailants, as well as the categorical and straightforward testimony of the prosecution witnesses. His bare and uncorroborated denial amounted to nothing more than a negative and self-serving evidence unworthy of weight in law.[37]

Caraig cannot fault the prosecution witnesses' initial reluctance to testify. It is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case. The natural reticence of most people to get involved is of judicial notice. It is understandable for a witness to fear for his safety,[38] especially in this case where PC men were involved in the commission of the crime. Such initial reticence does not affect the witnesses' credibility.[39] Besides, their delay in testifying was principally caused by the delay in the trial caused by, among other things, Caraig's success in avoiding the service of the warrant of arrest. It was only in 1991 when he was finally arrested.

We also agree with the OSG and the trial court on the finding of treachery. There is treachery when the offender employs means, methods, or forms in the execution of any of the crimes against persons that tend directly and especially to ensure its execution without risk to himself arising from the defense which the offended party might make.[40] Two elements must therefore concur: (1) the means of execution employed gives the person attacked no opportunity to defend himself or retaliate; and the (2) the means of execution was deliberately or consciously adopted.[41]

The attack upon the victims in these cases was attended by treachery. Per Danilo Javier's testimony, the taxi on which the victims were riding was moving slowly away from the beerhouse when Caraig and his co-assailants pursued it and then blocked its path. The interception took place at less than 100 meters away from the beerhouse. Since the victims were inside the taxi, they had no chance to fight back or defend themselves. The number of the victims' individual wounds and their relative positions when found dead by the police emphasized further the essence of treachery. The means, method, and form of the attack in this case were, therefore, consciously adopted and effectively forestalled the victims from employing a defense against their attackers.

Accordingly, as correctly found by the trial court, Caraig should be held liable for three counts of murder and one count of frustrated murder.

And now on the civil liability of Caraig.

In awarding in favor of the heirs of Roberto Raagas the amount of P140, 000 for burial expenses, the trial court relied on Exhibits “A” and “A-1,” which are merely lists of expenses written on a PCIBank check booklet.[42] It based the award for burial expenses in the amount of P19,900 in favor of the heirs of Melencio Castro Jr. on Exhibits “C” (receipt issued by Memorial Homes), “D” (list of expenses), and “D-1” (Affidavit of Adjudication).[43] Notably, these exhibits were presented during the trial of the cases against Laomoc on 14 December 1988 and 1 February 1989 before appellant Caraig was arrested. They were not among the documentary evidence offered in evidence during the trial of the consolidated cases against Caraig.[44] Hence, they cannot be considered as evidence against him.

Besides, a list of expenses cannot replace receipts when the latter should have been issued as a matter of course in business transactions.[45] Neither can the mere testimonies of the victims’ widows Ruth Agustin, Rhodora Raagas, and Merle Castro in the consolidated cases against Caraig justify the awards for funeral or burial expenses. It is necessary for a party seeking the award of actual damages to produce competent proof or the best evidence obtainable to justify such award. Only substantiated and proven expenses, or those that appear to have been genuinely incurred in connection with the death, wake, or burial of the victim will be recognized in court. [46] Nonetheless, in line with *People v. Carillo*, [47] reiterated in *People v. Bonifacio*, [48] we shall award nominal damages in the amount of P10,000 for each group of heirs of the victims, since they clearly incurred funeral expenses.

Anent the awards for moral damages, the same must be sustained in addition to the awards of civil indemnity. Ruth Agustin and Rhodora Raagas testified on the mental anguish they and their children suffered as a consequence of the death of their respective husbands.

As to Merle Castro, it is unfortunate that the TSNs of her testimony in the cases against Caraig were irretrievably lost and could not anymore be reproduced, and her testimony could not be retaken. Moreover, the decision of the trial court did not mention of a testimony on her moral suffering. What remained in the records is the TSN of her testimony during the trial of Laomoc, where she declared that she experienced “difficulties in life” as a consequence of Melencio’s death and that she and her children missed him so much. However, this testimony was not adopted in the cases against Caraig; hence, it cannot be taken into consideration for purposes of determining the civil liabilities of Caraig. Nevertheless, conformably with *People v. Carillo*, [49] *People v. Panela*, [50] and *People v. Panado*, [51] where we reconsidered our policy on moral damages and held that an award therefor is mandatory and does not require allegation and proof other than the death of the victim, we uphold the award of moral damages in favor of Melencio’s heirs even granting that there is no allegation and proof of their emotional suffering. We reiterate what we said in *People v. Panado*:

Unlike in the crime of rape, we grant moral damages in murder or homicide only when the heirs of the victim have alleged and proved mental suffering. However, as borne out by human nature and experience, a violent death invariably and necessarily brings about emotional pain and anguish on the part of the victim’s family. It is inherently human to suffer sorrow, torment, pain and anger when a loved one becomes the victim of a violent or brutal killing. Such violent death or brutal killing not only steals from the family of the deceased his precious life, deprives them forever of his love, affection and support, but often leaves them with the gnawing feeling that an injustice has been done to them. For this reason, moral damages must be awarded even in the absence of any allegation and proof of the heirs’ emotional suffering. Verily Hilda and her son Louie Gee would forever carry the emotional wounds of the vicious killing of a husband and a father. With or without

proof, this fact can never be denied; since it is undisputed, it must be considered proved.[52]

The amounts of moral damages awarded for each group of the deceased's heirs are, however, reduced to P50,000 in accordance with current jurisprudence.[53]

We also observe that there was testimonial evidence by the widows of Placido Agustin, Roberto Raagas, and Melencio Castro Jr. on their respective husbands' monthly compensation and age at the time of death. The trial court, however, was silent on the indemnity for loss of earning capacity under Article 2206 of the Civil Code. In view of the testimonial evidence on the loss of earning capacity, we deem it necessary to make a pronouncement on the matter.

The rule is that documentary evidence should be presented to substantiate a claim for damages for loss of earning capacity. By way of exception, damages therefor may be awarded despite the absence of documentary evidence, provided that there is testimony that the victim was either (1) self-employed earning less than the minimum wage under current labor laws, and judicial notice may be taken of the fact that in the victim's line of work no documentary evidence is available; or (2) employed as a daily-wage worker earning less than the minimum wage under current labor laws.[54]

The testimonial evidence shows that Placido Agustin, Roberto Raagas, and Melencio Castro Jr. were not self-employed or employed as daily-wage workers earning less than the minimum wage under the labor laws existing at the time of their death. Placido Agustin was a Social Security System employee who received a monthly salary of P5,000. Roberto Raagas was the President of Sinclair Security and Allied Services, a family owned corporation, with a monthly compensation of P30,000. Melencio Castro Jr. was a taxi driver of New Rocalex with an average daily earning of P500 or a monthly earning of P7,500. Clearly, these cases do not fall under the exceptions where indemnity for loss of earning capacity can be given despite lack of documentary evidence. Therefore, for lack of documentary proof, no indemnity for loss of earning capacity can be given in these cases.

On a final note, moral damages in the amount of P50,000 should also be awarded to Edmundo Diaz. He testified that he was treated for eighteen days at the hospital for the injuries he sustained. He also showed the scars of said wounds on his chest, left foot, knee, and the back of his leg.[55] As stated earlier, Dr. Alberto Capuno, the physician who treated Edmundo, testified that these wounds were fatal.[56] The fact that he sustained nearly fatal wounds for which he was treated for eighteen days at the hospital constituted the trauma of physical, psychological, and moral sufferings on which the award for moral damages under Article 2219(1) of the Civil Code could be based. Moral damages can be awarded without the need for pleading or proof of the basis thereof if it is too obvious to still require the recital thereof.[57] The physical suffering of Edmundo is quite obvious to still direct him to recount the same.

WHEREFORE, the appealed Decision of the Regional Trial Court of Quezon City, Branch 88, in Criminal Cases Nos. Q-88-684 to Q-88-687 is hereby AFFIRMED. Appellant DONATO CARAIG is found guilty of three (3) counts of murder and of frustrated murder, and SENTENCED to suffer the penalty of reclusion perpetua in each of the first three cases and an indeterminate penalty of eight (8) years and one day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum, in the fourth case. The awards of civil indemnity decreed by the trial court for the heirs of Roberto Raagas, Placido Agustin, and Melencio Castro Jr. are affirmed. The awards for burial expenses are, however, deleted for lack of documentary proof, and in lieu thereof, an award for nominal damages in the amount of P10,000 is hereby adjudged in favor of each group of heirs of the deceased victims. The award of moral damages is reduced to P50,000 for each group of the heirs of the deceased. Appellant is likewise ordered to pay Edmundo Diaz moral damages in the amount of

P50,000.

Costs de oficio.

SO ORDERED.

Vitug (Chairman), Ynares-Santiago, Carpio and Azcuna, JJ., concur.

[1] Per Judge Tirso D' C. Velasco.

[2] Original Record (OR), Criminal Case No. Q-88-684, 62.

[3] Id., 59.

[4] OR, Crim. Cases Nos. Q-88-685 and Q-88-686, 1.

[5] OR, Crim. Case No. Q-88-687, 1.

[6] OR, Crim. Case No. Q-88-684, 63.

[7] Id., 335.

[8] Id., 129.

[9] Id., 133.

[10] Id., 135.

[11] Id., 109.

[12] Id., 112.

[13] TSN, 22 June 1992, 4-6.

[14] TSN, 9 November 1992, 15-16.

[15] TSN, 22 June 1992, 6, 9.

[16] Id., 8-9; TSN, 10 November 1992, 18-19.

[17] TSN, 22 June 1992, 10-11.

[18] TSN, 3 March 1992, 4-5.

[19] Id., 6-7.

[20] TSN, 3 March 1992, 8-10, 19-21, 27.

[21] TSN, 19 March 1992, 5-9, 16.

[22] TSN, 15 January 1992, 4; Exh. "C."

[23] Id., 8.

[24] Id., 12; Autopsy Report No. N-88-3024.

[25] TSN, 15 January 1992, 13, 19-22; Exhs. "N-1" and "N-2"; Exhs. "O-1" and "O-2"; Exh. "M."

[26] TSN, 13 September 2000, 9, 14-16.

[27] TSN, 23 March 1992, 3.

[28] TSN, 16 March 1992, 4-7.

[29] OR, 349-350.

[30] TSN, 10 February 1993, 5-10.

[31] Id., 10-11.

[32] TSN, 10 February 1993, 12-15.

[33] Id., 18-21.

[34] Id., 22-24.

[35] OR, 350.

[36] People v. Morano, G.R. No. 129235, 18 November 2002.

[37] People v. Moreno, G.R. No. 140033, 25 January 2002.

[38] People v. Alarcon, G.R. Nos. 133191-93, 11 July 2000, 335 SCRA 457, 474.

[39] See People v. Abella, G.R. No. 127803, 28 August 2000, 339 SCRA 129, 146.

[40] People v. Aquino, G. R. No. 145371, 28 September 2001, 364 SCRA 266.

[41] People v. Solayao, G.R. No. 137043, 12 December 2001.

[42] OR, 29 (back page); Rollo, 10; TSN, 14 December 1988, 6.

[43] OR, 47; Rollo, 11.

[44] OR, 240-243.

[45] People v. Bonifacio, G.R. No. 133799, 5 February 2002.

[46] People v. Bonifacio, supra note 45; See also People v. Catapang, G.R. No. 128126, 25 June 2001, 359 SCRA 459; People v. Mantes, G.R. No. 137613, 14 November 2001, 368 SCRA 654; People v. Yatco, G.R. No. 138388, 19 March 2002.

[47] G.R. No. 129528, 8 June 2000, 333 SCRA 338, 353.

[48] Supra note 45.

[49] Supra note 47.

[50] G.R. No. 124475, 29 November 2000, 346 SCRA 308, 319.

[51] G.R. No. 133439, 26 December 2000, 348 SCRA 679, 691.

[52] People v. Panado, supra, 690-691.

[53] People v. Abella, supra note 39; People v. Bonifacio, supra note 45.

[54] People v. Pajotal, G.R. No. 142870, 14 November 2001, 368 SCRA 674, 689.

[55] TSN, 22 June 1992, 9-11.

[56] TSN, 13 September 2000, 9, 14-16.

[57] See *People v. Baloloy*, G.R. No. 140740, 12 April 2002.

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