

## SECOND DIVISION

[ G.R. No. 170813, April 16, 2008 ]

**B.F. METAL (CORPORATION), PETITIONER, VS. SPS. ROLANDO M. LOMOTAN AND LINAFLOR LOMOTAN AND RICO UMUYON, RESPONDENTS.**

### DECISION

**TINGA, J.:**

Before the Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, assailing the award of damages against petitioner in the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> of the Court of Appeals in CA-G.R. CV No. 58655. The Court of Appeals affirmed with modification the Decision of the Regional Trial Court (RTC), Branch 72, Antipolo, Rizal in Civil Case No. 1567-A, which found petitioner corporation and its driver, Onofre V. Rivera, solidarily liable to respondents for damages.

The following factual antecedents are not disputed.

In the morning of 03 May 1989, respondent Rico Umuyon ("Umuyon") was driving the owner-type jeep owned by respondents, Spouses Rolando and Linaflor Lomotan ("Spouses Lomotan"). The jeep was cruising along Felix Avenue in Cainta, Rizal at a moderate speed of 20 to 30 kilometers per hour. Suddenly, at the opposite lane, the speeding ten-wheeler truck driven by Onofre Rivera overtook a car by invading the lane being traversed by the jeep and rammed into the jeep. The jeep was a total wreck while Umuyon suffered "blunt thoracic injury with multiple rib fracture, fractured scapula (L), with pneumothorax," which entailed his hospitalization for 19 days. Also in view of the injuries he sustained, Umuyon could no longer drive, reducing his daily income from P150.00 to P100.00.

On 27 October 1989, respondents instituted a separate and independent civil action for damages against petitioner BF Metal Corporation ("petitioner") and Rivera before the Regional Trial Court (RTC) of Antipolo, Rizal. The complaint essentially alleged that defendant Rivera's gross negligence and recklessness was the immediate and proximate cause of the vehicular accident and that petitioner failed to exercise the required diligence in the selection and supervision of Rivera. The complaint prayed for the award of actual, exemplary and moral damages and attorney's fees in favor of respondents.

In the Answer, petitioner and Rivera denied the allegations in the complaint and averred that respondents were not the proper parties-in-interest to prosecute the action, not being the registered owner of the jeep; that the sole and proximate cause of the accident was the fault and negligence of Umuyon; and that petitioner exercised due diligence in the selection and supervision of its employees.

During the trial, respondents offered the testimonies of Umuyon, SPO1 Rico Canaria, SPO4 Theodore Cadaweg and Nicanor Fajardo, the auto-repair shop owner who gave a cost estimate for the repair of the wrecked jeep. Among the documentary evidence presented were the 1989 cost estimate of Pagawaan Motors, Inc.,<sup>[3]</sup> which pegged the repair cost of the jeep at P96,000.00, and the cost estimate of Fajardo Motor Works<sup>[4]</sup> done in 1993, which reflected an increased repair cost at P130,655.00. They also presented in evidence a copy of the Decision of the RTC, Assisting Branch 74, Cainta, Rizal in Criminal Case No. 4742, entitled *People of the Philippines v. Onofre V. Rivera*, finding Rivera guilty of reckless imprudence resulting in damage to property with physical injuries.

For its part, petitioner presented at the hearing Rivera himself and Habner Revarez, petitioner's production control superintendent. Included in its documentary evidence were written guidelines in preventive maintenance of vehicles and safety driving rules for drivers.

On 21 April 1997, the trial court rendered its Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering defendants to pay jointly and severally to herein plaintiffs the following sums:

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|-----------------------|--|
| (a) Actual Damages    | i. P 96,700.00 for cost of the owner-type jeep         |
|                       | ii. P 15,000.00 medical expenses                       |
|                       | iii. P 50,000.00 for loss of earnings                  |
| b) Moral Damages      | P 100,000.00   |
| (c) Exemplary Damages | P 100,000.00   |
| (d) Attorney's Fees   | P 25,000.00 plus P 1,000.00 for every Court appearance |

Costs of Suit.

SO ORDERED.<sup>[5]</sup>

The trial court declared Rivera negligent when he failed to determine with certainty that the opposite lane was clear before overtaking the vehicle in front of the truck he was driving. It also found petitioner negligent in the selection and supervision of its employees when it failed to prove the proper dissemination of safety driving instructions to its drivers.

Petitioner and Rivera appealed the decision to the Court of Appeals.

On 13 April 2005, the Court of Appeals rendered the assailed Decision. It affirmed the trial court's finding that Rivera's negligence was the proximate cause of the accident and that petitioner was liable under Article 2180<sup>[6]</sup> of the Civil Code for its negligence in the selection and supervision of its employees. However, the appellate court modified the amount of damages awarded to respondents. The dispositive portion of the Decision reads:

WHEREFORE, the decision appealed from is AFFIRMED with MODIFICATION to read as follows:

"WHEREFORE, premises considered, judgment is hereby rendered ordering defendants to pay jointly and severally to herein plaintiffs the following sums:

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|-----------------------|---|
| (a) Actual Damages    | i. P 130,655.00, for cost of repairing the owner-type jeep. |
|                       | ii. P 10,167.99 in medical expenses.                        |
|                       | iii. P 2,850.00 for lost earnings during medical treatment. |
| b) Moral Damages      | P 100,000.00  |
| (c) Exemplary Damages | P 100,000.00  |
| (d) Attorney's Fees   | P 25,000.00 plus P 1,000.00 for every Court appearance      |

Costs of Suit.

SO ORDERED.<sup>[7]</sup>

On 12 December 2005, the Court of Appeals denied the motion for reconsideration of its Decision. Only petitioner filed the instant petition, expressly stating that it is assailing only the damages awarded by the appellate court.

The instant petition raises the following issues: (1) whether the amount of actual damages based only on a job estimate should be lowered; (2) whether Spouses Lomotan are also entitled to moral damages; and (3) whether the award of exemplary damages and attorneys is warranted. For their part, respondents contend that the aforementioned issues are factual in nature and therefore beyond the province of a petitioner for review under Rule 45.

This is not the first instance where the Court has given due course to a Rule 45 petition seeking solely the review of the award of damages.<sup>[8]</sup> A party's entitlement to damages is ultimately a question of law because not only must it be proved factually but also its legal justification must be shown. In any case, the trial court and the appellate court have different findings as to the amount of damages to which respondents are entitled. When the factual findings of the trial and appellate courts are conflicting, the Court is constrained to look into the evidence presented before the trial court so as to resolve the herein appeal.<sup>[9]</sup>

The trial court split the award of actual damages into three items, namely, the cost of the wrecked jeep, the medical expenses incurred by respondent Umuyon and the monetary value of his earning capacity. On appeal, the Court of Appeals reduced the amount of medical expenses and loss of earning capacity to which respondent Umuyon is entitled but increased from P96,700.00 to P130,655.00 the award in favor of Spouses Lomotan for the cost of repairing the wrecked jeep.

The instant petition assails only the modified valuation of the wrecked jeep. Petitioner points out that the alleged cost of repairing the jeep pegged at

P130,655.00 has not been incurred but is only a job estimate or a sum total of the expenses yet to be incurred for its repair. It argues that the best evidence obtainable to prove with a reasonable degree of certainty the value of the jeep is the acquisition cost or the purchase price of the jeep minus depreciation for one year of use equivalent to 10% of the purchase price.

Petitioner's argument is partly meritorious.

Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.<sup>[10]</sup> Actual damages are such compensation or damages for an injury that will put the injured party in the position in which he had been before he was injured. They pertain to such injuries or losses that are actually sustained and susceptible of measurement. To justify an award of actual damages, there must be competent proof of the actual amount of loss. Credence can be given only to claims which are duly supported by receipts.<sup>[11]</sup>

In *People v. Gopio*,<sup>[12]</sup> the Court allowed the reimbursement of only the laboratory fee that was duly receipted as "the rest of the documents, which the prosecution presented to prove the actual expenses incurred by the victim, were merely a doctor's prescription and a handwritten list of food expenses."<sup>[13]</sup> In *Viron Transportation Co., Inc. v. Delos Santos*,<sup>[14]</sup> the Court particularly disallowed the award of actual damages, considering that the actual damages suffered by private respondents therein were based only on a job estimate and a photo showing the damage to the truck and no competent proof on the specific amounts of actual damages suffered was presented.

In the instant case, no evidence was submitted to show the amount actually spent for the repair or replacement of the wrecked jeep. Spouses Lomotan presented two different cost estimates to prove the alleged actual damage of the wrecked jeep. Exhibit "B," is a job estimate by Pagawaan Motors, Inc., which pegged the repair cost of the jeep at P96,000.00, while Exhibit "M," estimated the cost of repair at P130,655.00. Following *Viron*, neither estimate is competent to prove actual damages. Courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages.<sup>[15]</sup>

As correctly pointed out by petitioner, the best evidence to prove the value of the wrecked jeep is reflected in Exhibit "I," the Deed of Sale showing the jeep's acquisition cost at P72,000.00. However, the depreciation value of equivalent to 10% of the acquisition cost cannot be deducted from it in the absence of proof in support thereof.

Petitioner also questions the award of moral and exemplary damages in favor of Spouses Lomotan. It argues that the award of moral damages was premised on the resulting physical injuries arising from the *quasi-delict*; since only respondent Umuyon suffered physical injuries, the award should pertain solely to him. Correspondingly, the award of exemplary damages should pertain only to respondent Umuyon since only the latter is entitled to moral damages, petitioner adds.