

THIRD DIVISION

[G.R. NO. 163351, June 21, 2005]

ANTONIO V. NUEVA ESPAÑA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

CORONA, J.:

At about 11:15 a.m. on May 15, 1998, petitioner Antonio E. Nueva España was driving a passenger bus owned by Vallacar Transit, Inc. He was then traversing the national highway of Calag-Calag, Ayungon, Negros Oriental and was southbound going to Dumaguete City. While negotiating a curve, the passenger bus collided with a northbound Honda motorcycle. As a result, Reynard So, the driver of the motorcycle, and Nilo Castro, the person riding in tandem with him, were killed. An information for reckless imprudence resulting in double homicide^[1] was filed against petitioner who was also accused of failing to extend aid or assistance to the victims.

During the trial of the case, the prosecution presented Julito Dayuday and Florencio Banico as eyewitnesses to the collision. The father of So and the mother of Castro were also called to the witness stand to substantiate their respective claims for damages.

Julito Dayuday, a resident of Calag-Calag, Ayungon, Negros Oriental, testified that he was waiting for a ride to Dumaguete City when the collision between the bus and the Honda motorcycle occurred. He saw the bus coming from the north going to Dumaguete City and, in the opposite direction, a pedicab being followed by a Suzuki motorcycle and a Honda motorcycle on which So and Castro were riding. Upon approaching the curve on the highway, the bus swerved from its lane and struck the Honda motorcycle. The motorcycle snagged onto the left front fender of the bus and was dragged about 24 meters to the right of the southbound lane. So had been thrown to the ground by the time the bus finally stopped. Dayuday testified that he saw the accused get off the bus with the conductor and the passengers but, instead of assisting the victims, he casually walked away from the scene of the accident.

Florencio Banico, on the other hand, was a passenger of the bus driven by petitioner. He corroborated the testimony of Dayuday that the bus hit the motorcycle while it was negotiating a curve on the highway of Calag-Calag. He also stated in court that the accused left the scene of the accident while the victims lay dying on the road. He heard Castro shouting for help while So was unconscious. He testified that nobody helped the victims.

The father of So testified that his son was 30 years old at the time of his death and he was engaged in the buying and selling of copra. He was likewise a sugar cane planter and maintained a sari-sari store. So's father claimed that his son was earning P30,000 a month from his copra business and sari-sari store, and P50,000 a

month from selling sugar cane. He added that his family spent P87,200^[2] for the wake and funeral. He also demanded payment of attorney's fees of P30,000.

The mother of Castro, on the other hand, testified that her son was 26 years old when he died. He worked as welder in Manila and earned P8,000 a month. She allegedly spent P30,000 for her son's wake and burial.

For the defense, SPO2 Dolger Germundo, SPO3 Hilbert Arinaza, Roche Taburasa and the petitioner himself were called to the witness stand.

SPO2 Germundo, a policeman, testified that he found the southbound bus in its proper lane when he arrived at the site after the collision. He did not see any tire or skid marks which meant that the point of impact was at the center of the road, as stated by the prosecution witnesses. In his sketch^[3] and photograph^[4] of the accident, the passenger bus and the Honda motorcycle were at the outer part of the southbound lane, which was the lane the bus was traversing at the time of the accident. Due to the positions of the colliding vehicles, he concluded that it was the motorcycle that rammed into the bus.

SPO3 Arinaza of the Philippine National Police testified that he was on his way to Dumaguete City on board the bus driven by petitioner. At the time of the accident, he was seated behind petitioner-driver and felt the Honda motorcycle smash into the bus.

Taburasa, for his part, claimed he was the driver of the Suzuki motorcycle. So tried to overtake when they were both nearing the curve on the highway of Calag-Calag. He claimed the collision occurred because the Honda motorcycle overshot its lane in its attempt to overtake him. He corroborated the declaration of SPO3 Arinaza that So's motorcycle hit the left front fender of the bus.

When petitioner (the accused) was called to the witness stand, he denied the accusations against him. He testified that the Honda motorcycle swerved out of its lane and veered towards the bus, resulting in the collision. After the incident, he allegedly went down the bus to aid the victims and even helped carry them into the vehicle that brought them to a nearby hospital. He thereafter went to a police station to report the incident.

The trial court gave no credence to the defense witnesses and convicted petitioner of the crime charged. The dispositive part of the decision read:

WHEREFORE, premises considered, this court finds accused, ANTONIO VILLANUEVA NUEVA ESPAÑA, guilty beyond reasonable doubt for the crime of RECKLESS IMPRUDENCE RESULTING TO DOUBLE HOMICIDE, and aggravated by his failure to help the victim, as provided for Article 365 of the Revised Penal Code, and appreciating in his favor the benefits of the Indeterminate Sentence Law, is hereby imposed the indeterminate penalty of SIX (6) MONTHS of *arresto mayor* as minimum to SIX (6) YEARS AND ONE (1) DAY of prision correccional as maximum, and to pay the following damages:

TO THE HEIRS OF THE VICTIM REYNARD SO

- 1) P2,997,000.00 – indemnity for loss of earning capacity of victim
- 2) 14,200.00 – for expenses of the wake
- 3) 20,000.00 – for funeral parlor
- 4) 12,000.00 – for the tomb
- 5) 53,000.00 – for cost of burial site
- 6) 30,000.00 – for attorney's fees
- 7) 200,000.00 – for moral damages
- 8) 100,000.00 – for exemplary damages

P3,429,200.00 – TOTAL AMOUNT

which total amount shall bear interest at the rate of TWELVE (12%) percent per annum from the date of this decision until the same is paid.

TO THE HEIRS OF VICTIM NILO CASTRO

- 1) P1,728,000.00 – indemnity for loss of earning capacity
- 2) 20,000.00 – for funeral expenses
- 3) 200,000.00 – for moral damages
- 4) 50,000.00 – for exemplary damages

P1,998,000.00 – TOTAL AMOUNT

which total amount shall bear interest at the rate of TWELVE (12%) percent per annum counted from the date of this decision until the same is fully paid.

Cost against accused.

So ordered.^[5]

Via a petition for review, petitioner appealed the judgment of the court a quo to the Court of Appeals. On November 2, 2003, the appellate court modified the assailed judgment:

Consequently, the penalty imposed by the trial court is erroneous. The appellant should suffer the indeterminate penalty of SIX (6) YEARS of *prision correccional*, as minimum, to EIGHT (8) years of *prision mayor*, as maximum.

As to the civil liability, particularly the indemnity for the loss of the earning capacity of the victims, the formula last enunciated by the Supreme Court is:

“Net earning capacity (x) = life expectancy x gross-living
expenses annual (50% of
gross annual
income)”

Thusly, since the victim Reynard So was earning P80,000 a month at the time of his death when he was thirty (30) years old, his lost earning

capacity should be computed as follows:

$$x = \frac{2(80-30)}{3} \times [P960,000.00 \div P480,000.00]$$

$$x = 33.4 \times P480,000.00$$

$$x = \quad \times P16,032,000.00$$

With respect to the victim Nilo Castro, he was earning P8,000.00 a month when he died at the age of twenty-six (26). His lost earnings were:

$$x = \frac{2(80 - 26)}{3} \times [P96,000.00 \div P48,000.00]$$

$$x = 36 \times P48,000.00$$

$$x = P1,728,000.00$$

which the trial court correctly computed.

The other items of damages awarded are correct.^[6]

The appellate court likewise provided for the subsidiary liability of petitioner's employer under Article 103^[7] of the Revised Penal Code. The dispositive portion of the decision read:

WHEREFORE, the Decision appealed from is AFFIRMED, subject to MODIFICATION as to the penalty imposed; the indemnity for loss of earning capacity of the victim Reynard So; the reckoning date of the start of the 12% interest imposed; and the subsidiary civil liability of the accused appellant's employer, all as herein-above indicated. Costs against appellant.

SO ORDERED.^[8]

In this appeal before us, petitioner insists that he should not be made liable for the mishap as it was actually the Honda motorcycle that rammed into the bus he was driving. He seeks the reversal of his conviction for reckless imprudence resulting in double homicide. The issues raised by him can be summarized as follows:

1. the ruling of the Court of Appeals is untenable and contrary to law because the evidence of the prosecution is incompatible with the physical evidence on record;
2. the award of damages in the (total) amount of more than P18 Million is untenable and contrary to jurisprudence and law.^[9]

On the first issue, the Court does not ordinarily pass upon the findings of fact of the trial court, specially if they have been affirmed on appeal by the appellate court.^[10] The trial court was able to observe the witnesses and their demeanor on the stand and was in a position to scrutinize and discern whether they were telling the truth.