

FIRST DIVISION

[G.R. No. 160286, July 30, 2004]

SPOUSES FRANCISCO M. HERNANDEZ AND ANICETA ABEL-HERNANDEZ AND JUAN GONZALES, PETITIONERS, VS. SPOUSES LORENZO DOLOR AND MARGARITA DOLOR, FRED PANOPIO, JOSEPH SANDOVAL, RENE CASTILLO, SPOUSES FRANCISCO VALMOCINA AND VIRGINIA VALMOCINA, SPOUSES VICTOR PANOPIO AND MARTINA PANOPIO, AND HON. COURT OF APPEALS, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

This is a petition for review under Rule 45 of the Rules of Court seeking the reversal of the decision^[1] of the Court of Appeals, dated April 29, 2003, in CA-G.R. CV No. 60357, which affirmed with modification the amount of damages awarded in the November 24, 1997 decision^[2] of the Regional Trial Court of Batangas City, Branch IV.

The undisputed facts are as follows:

At about 3:00 p.m. of December 19, 1986, Lorenzo Menard "Boyet" Dolor, Jr. was driving an owner-type jeepney with plate no. DEB 804 owned by her mother, Margarita, towards Anilao, Batangas. As he was traversing the road at Barangay Anilao East, Mabini, Batangas, his vehicle collided with a passenger jeepney bearing plate no. DEG 648, driven by petitioner Juan Gonzales and owned by his co-petitioner Francisco Hernandez, which was travelling towards Batangas City.

Boyet Dolor and his passenger, Oscar Valmocina, died as a result of the collision. Fred Panopio, Rene Castillo and Joseph Sandoval, who were also on board the owner-type jeep, which was totally wrecked, suffered physical injuries. The collision also damaged the passenger jeepney of Francisco Hernandez and caused physical injuries to its passengers, namely, Virgie Cadavida, Fiscal Artemio Reyes and Francisca Corona.^[3]

Consequently, respondents commenced an action^[4] for damages against petitioners before the Regional Trial Court of Batangas City, alleging that driver Juan Gonzales was guilty of negligence and lack of care and that the Hernandez spouses were guilty of negligence in the selection and supervision of their employees.^[5]

Petitioners countered that the proximate cause of the death and injuries sustained by the passengers of both vehicles was the recklessness of Boyet Dolor, the driver of the owner-type jeepney, who was driving in a zigzagging manner under the influence of alcohol. Petitioners also alleged that Gonzales was not the driver-

employee of the Hernandez spouses as the former only leased the passenger jeepney on a daily basis. The Hernandez spouses further claimed that even if an employer-employee relationship is found to exist between them, they cannot be held liable because as employers they exercised due care in the selection and supervision of their employee.

During the trial of the case, it was established that the drivers of the two vehicles were duly licensed to drive and that the road where the collision occurred was asphalted and in fairly good condition.^[6] The owner-type jeep was travelling uphill while the passenger jeepney was going downhill. It was further established that the owner-type jeep was moderately moving and had just passed a road bend when its passengers, private respondents Joseph Sandoval and Rene Castillo, saw the passenger jeepney at a distance of three meters away. The passenger jeepney was traveling fast when it bumped the owner type jeep.^[7] Moreover, the evidence presented by respondents before the trial court showed that petitioner Juan Gonzales obtained his professional driver's license only on September 24, 1986, or three months before the accident. Prior to this, he was holder of a student driver's permit issued on April 10, 1986.^[8]

On November 24, 1997, the trial court rendered a decision in favor of respondents, the dispositive portion of which states:

Premises duly considered and the plaintiffs having satisfactorily convincingly and credibly presented evidence clearly satisfying the requirements of preponderance of evidence to sustain the complaint, this Court hereby declares judgment in favor of the plaintiffs and against the defendants. Defendants-spouses Francisco Hernandez and Aniceta Abel Hernandez and Juan Gonzales are therefore directed to pay jointly and severally, the following:

1. To spouses Lorenzo Dolor and Margarita Dolor:

- A. P50,000.00 – for the death of their son, Lorenzo Menard "Boyet" Dolor, Jr.;
- B. P142,000.00 – as actual and necessary funeral expenses;
- C. P50,000.00 – reasonable value of the totally wrecked owner-type jeep with plate no. DEB 804 Phil '85;
- D. P20,000.00 – as moral damages;
- E. P20,000.00 as reasonable litigation expenses and attorney's fees.

2. To spouses Francisco Valmocina and Virginia Valmocina:

- A. P50,000.00 – for the death of their son, Oscar Balmocina (sic);
- B. P20,000.00 – as moral damages;

C. P18,400.00 – for funeral expenses;

D. P10,000.00 – for litigation expenses and attorney's fees.

3. To spouses Victor Panopio and Martina Panopio:

A. P10,450.00 – for the cost of the artificial leg and crutches being used by their son Fred Panopio;

B. P25,000.00 – for hospitalization and medical expenses they incurred for the treatment of their son, Fred Panopio.

4. To Fred Panopio:

A. P25,000.00 – for the loss of his right leg;

B. P10,000.00 – as moral damages.

5. To Joseph Sandoval:

A. P4,000.00 for medical treatment.

The defendants are further directed to pay the costs of this proceedings.

SO ORDERED.^[9]

Petitioners appealed^[10] the decision to the Court of Appeals, which affirmed the same with modifications as to the amount of damages, actual expenses and attorney's fees awarded to the private respondents. The decretal portion of the decision of the Court of Appeals reads:

WHEREFORE, the foregoing premises considered, the appealed decision is **AFFIRMED**. However, the award for damages, actual expenses and attorney's fees shall be MODIFIED as follows:

1. To spouses Lorenzo Dolor and Margarita Dolor:

A. P50,000.00 – civil indemnity for their son Lorenzo Menard Dolor, Jr.;

B. P58,703.00 – as actual and necessary funeral expenses;

C. P25,000.00 – as temperate damages;

D. P100,000.00 – as moral damages;

E. P20,000.00 – as reasonable litigation expenses and attorney's fees.

2. To Spouses Francisco Valmocina and Virginia Valmocina:

A. P50,000.00 – civil indemnity for the death of their son, Oscar Valmocina;

- B. P100,000.00 – as moral damages;
 - C. P10,000.00 – as temperate damages;
 - D. P10,000.00 – as reasonable litigation expenses and attorney's fees.
3. To Spouses Victor Panopio and Martina Panopio:
- A. P10,352.59 – as actual hospitalization and medical expenses;
 - B. P5,000.00 – as temperate damages.
4. To Fred Panopio:
- A. P50,000.00 – as moral damages.
5. To Joseph Sandoval:
- A. P3,000.00 as temperate damages.

SO ORDERED. ^[11]

Hence the present petition raising the following issues:

1. Whether the Court of Appeals was correct when it pronounced the Hernandez spouses as solidarily liable with Juan Gonzales, although it is of record that they were not in the passenger jeepney driven by latter when the accident occurred;
2. Whether the Court of Appeals was correct in awarding temperate damages to private respondents namely the Spouses Dolor, Spouses Valmocina and Spouses Panopio and to Joseph Sandoval, although the grant of temperate damages is not provided for in decision of the court *a quo*;
3. Whether the Court of Appeals was correct in increasing the award of moral damages to respondents, Spouses Dolor, Spouses Valmocina and Fred Panopio;
4. Whether the Court of Appeals was correct in affirming the grant of attorney's fees to Spouses Dolor and to Spouses Valmocina although the lower court did not specify the fact and the law on which it is based.

Petitioners contend that the absence of the Hernandez spouses inside the passenger jeepney at the time of the collision militates against holding them solidarily liable with their co-petitioner, Juan Gonzales, invoking Article 2184 of the Civil Code, which provides:

ARTICLE 2184. In motor vehicle mishaps, the owner is solidarily liable with his driver, if the former, who was in the vehicle, could have, by the

use of the due diligence, prevented the misfortune. It is disputably presumed that a driver was negligent, if he had been found guilty of reckless driving or violating traffic regulations at least twice within the next preceding two months.

If the owner was not in the motor vehicle, the provisions of article 2180 are applicable.

The Hernandez spouses argues that since they were not inside the jeepney at the time of the collision, the provisions of Article 2180 of the Civil Code, which does not provide for solidary liability between employers and employees, should be applied.

We are not persuaded.

Article 2180 provides:

ARTICLE 2180. The obligation imposed by article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

The father and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live in their company.

Guardians are liable for damages caused by the minors or incapacitated persons who are under their authority and live in their company.

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

The State is responsible in like manner when it acts through a special agent; but not when the damage has been caused by the official to whom the task done properly pertains, in which case what is provided in article 2176 shall be applicable.

Lastly, teachers or heads of establishments of arts and trades shall be liable for damages caused by their pupils and students or apprentices, so long as they remain in their custody.

The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage. (Underscoring supplied)

On the other hand, Article 2176 provides –