

FIRST DIVISION

[G.R. No. 120027, April 21, 1999]

**EDNA A. RAYNERA, FOR HERSELF AND ON BEHALF OF THE
MINORS RIANNA AND REIANNE RAYNERA, PETITIONERS, VS.
FREDDIE HICETA AND JIMMY ORPILLA, RESPONDENTS.**

D E C I S I O N

PARDO, J.:

The case is a petition for review on *certiorari* of the decision of the Court of Appeals, [1] reversing that of the Regional Trial Court, Branch 45, Manila. [2]

The rule is well-settled that factual findings of the Court of Appeals are generally considered final and may not be reviewed on appeal. However, this principle admits of certain exceptions, among which is when the findings of the appellate court are contrary to those of the trial court, a re-examination of the facts and evidence may be undertaken. [3] This case falls under the cited exception.

The antecedent facts are as follows:

Petitioner Edna A. Raynera was the widow of Reynaldo Raynera and the mother and legal guardian of the minors Rianna and Reianne, both surnamed Raynera. Respondents Freddie Hiceta and Jimmy Orpilla were the owner and driver, respectively, of an Isuzu truck-trailer, with plate No. NXC 848, involved in the accident.

On March 23, 1989, at about 2:00 in the morning, Reynaldo Raynera was on his way home. He was riding a motorcycle traveling on the southbound lane of East Service Road, Cupang, Muntinlupa. The Isuzu truck was travelling ahead of him at 20 to 30 kilometers per hour. [4] The truck was loaded with two (2) metal sheets extended on both sides, two (2) feet on the left and three (3) feet on the right. There were two (2) pairs of red lights, about 35 watts each, on both sides of the metal plates. [5] The asphalt road was not well lighted.

At some point on the road, Reynaldo Raynera crashed his motorcycle into the left rear portion of the truck trailer, which was without tail lights. Due to the collision, Reynaldo sustained head injuries and truck helper Geraldino D. Lucelo [6] rushed him to the Parañaque Medical Center. Upon arrival at the hospital, the attending physician, Dr. Marivic Aguirre, [7] pronounced Reynaldo Raynera dead on arrival.

At the time of his death, Reynaldo was manager of the Engineering Department, Kawasaki Motors (Phils.) Corporation. He was 32 years old, had a life expectancy of sixty five (65) years, and an annual net earnings of not less than seventy three thousand five hundred (P73,500.00) pesos, [8] with a potential increase in annual

net earnings of not less than ten percent (10%) of his salary.^[9]

On May 12, 1989, the heirs of the deceased demanded^[10] from respondents payment of damages arising from the death of Reynaldo Raynera as a result of the vehicular accident. The respondents refused to pay the claims.

On September 13, 1989, petitioners filed with the Regional Trial Court, Manila^[11] a complaint^[12] for damages against respondents owner and driver of the Isuzu truck.

In their complaint against respondents, petitioners sought recovery of damages for the death of Reynaldo Raynera caused by the negligent operation of the truck-trailer at nighttime on the highway, without tail lights.

In their answer filed on April 4, 1990, respondents alleged that the truck was travelling slowly on the service road, not parked improperly at a dark portion of the road, with no tail lights, license plate and early warning device.

At the trial, petitioners presented Virgilio Santos. He testified that at about 1:00 and 2:00 in the morning of March 23, 1989, he and his wife went to Alabang market, on board a tricycle. They passed by the service road going south, and saw a parked truck trailer, with its hood open and without tail lights. They would have bumped the truck but the tricycle driver was quick in avoiding a collision. The place was dark, and the truck had no early warning device to alert passing motorists.^[13]

On the other hand, respondents presented truck helper Geraldino Lucelo.^[14] He testified that at the time the incident happened, the truck was slowly traveling at approximately 20 to 30 kilometers per hour. Another employee of respondents, auto-mechanic Rogoberto Reyes,^[15] testified that at about 3:00 in the afternoon of March 22, 1989, with the help of Lucelo, he installed two (2) pairs of red lights, about 30 to 40 watts each, on both sides of the steel plates.^[16] On his part, traffic investigation officer Cpl. Virgilio del Monte^[17] admitted that these lights were visible at a distance of 100 meters.

On December 19, 1991, the trial court rendered decision in favor of petitioners. It found respondents Freddie Hiceta and Jimmy Orpilla negligent in view of these circumstances: (1) the truck trailer had no license plate and tail lights; (2) there were only two pairs of red lights, 50 watts^[18] each, on both sides of the steel plates; and (3) the truck trailer was improperly parked in a dark area.

The trial court held that respondents' negligence was the immediate and proximate cause of Reynaldo Raynera's death, for which they are jointly and severally liable to pay damages to petitioners. The trial court also held that the victim was himself negligent, although this was insufficient to overcome respondents' negligence. The trial court applied the doctrine of contributory negligence^[19] and reduced the responsibility of respondents by 20% on account of the victim's own negligence.

The dispositive portion of the lower court's decision reads as follows:

"All things considered, the Court is of the opinion that it is fair and reasonable to fix the living and other expenses of the deceased the sum

of P54,000.00 a year or about P4,500.00 a month (P150.00 p/d) and that, consequently, the loss or damage sustained by the plaintiffs may be estimated at P1,674,000.00 for the 31 years of Reynaldo Raynera's life expectancy.

"Taking into account the cooperative negligence of the deceased Reynaldo Raynera, the Court believes that the demand of substantial justice are satisfied by allocating the damages on 80-20 ratio. Thus, P1,337,200.00 shall be paid by the defendants with interest thereon, at the legal rate, from date of decision, as damages for the loss of earnings. To this sum, the following shall be added:

(a) P33,412.00, actually spent for funeral services, interment and memorial lot;

(b) P20,000.00 as attorney's fees;

(c) cost of suit.

"SO ORDERED."^[20]

On January 10, 1992, respondents Hiceta and Orpilla appealed to the Court of Appeals.^[21]

After due proceedings, on April 28, 1995, the Court of Appeals rendered decision setting aside the appealed decision. The appellate court held that Reynaldo Raynera's bumping into the left rear portion of the truck was the proximate cause of his death,^[22] and consequently, absolved respondents from liability.

Hence, this petition for review on *certiorari*.

In this petition, the heirs of Reynaldo Raynera contend that the appellate court erred in: (1) overturning the trial court's finding that respondents' negligent operation of the Isuzu truck was the proximate cause of the victim's death; (2) applying the doctrine of last clear chance; (3) setting aside the trial court's award of actual and compensatory damages.

The issues presented are (a) whether respondents were negligent, and if so, (b) whether such negligence was the proximate cause of the death of Reynaldo Raynera.

Petitioners maintain that the proximate cause of Reynaldo Raynera's death was respondents' negligence in operating the truck trailer on the highway without tail lights and license plate.

The Court finds no reason to disturb the factual findings of the Court of Appeals.

"Negligence is the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs, would do, or the doing of something, which a prudent and reasonable man would not do."^[23]