

THIRD DIVISION

[CA-G.R. CR NO. 35162, March 14, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EMILIO BIAG Y RAFANAN, ACCUSED-APPELLANT.

DECISION

DE GUIA-SALVADOR, R., J.:

Before the Court is an appeal from the Decision dated April 16, 2012 rendered by the Regional Trial Court of Manila City, Branch 43 (**RTC**), in Criminal Case No. 07-255532,^[1] the dispositive portion of which states:

"ACCORDINGLY, the guilt of the accused is proven by proof beyond reasonable doubt. Accused Emilio Biag y Rafanan is sentenced to imprisonment of One (1) Month and One (1) Day. He is ordered to pay minor complainant Meena Jelo Abogadie the amount of Fifty Thousand Pesos (P50,000.00) for actual damages and Thirty Thousand Pesos (P30,000.00) for moral damages.

SO ORDERED."^[2]

The Facts

Accused-appellant Emilio Biag y Rafanan was indicted for the crime of Reckless Imprudence Resulting in Serious Physical Injuries in an information filed by the Office of the Manila City Prosecutor, the accusative portion of which reads as follows:

"That on or about March 8, 2006, in the City of Manila, Philippines, the said accused, being then the driver and/or person in charge of a Honda Motorcycle bearing Plate o. XO-4580, did then and there unlawfully and feloniously drive, manage and operate the said vehicle along Piy Margal/V. Cruz St., Sampaloc, this City in a careless, reckless, negligent and imprudent manner by then and there making the same run at a speed greater than was reasonable and proper without taking the necessary precaution to avoid accident to person, considering the condition of the traffic at said place at the time, causing as a consequence of such carelessness, recklessness, negligence, imprudence and lack of precaution the said vehicle, so driven, manage and operated by him in a manner above set-forth, to collide with a Granstar Motorcycle driven by Marilyn V. Bogadie y Viloría and owned by Joel Abogadie and due to the said impact, Meena Jelo Abogadie y Viloría, a minor, 8 years old, a passenger of Granstar Motorcycle, sustained physical injuries which have required and will require medical attendance for a period of more than thirty (30) days and incapacitated her from performing her customary labor during the said period of time.

CONTRARY TO LAW."^[3]

Upon arraignment, appellant, with the assistance of his counsel, entered a plea of "Not Guilty." The possibility of an amicable settlement discounted and the pre-trial conference subsequently terminated, the RTC proceeded to try the case on the merits.

To prove its case, the prosecution called to the witness stand the minor **Meena** Jelo Abogadie and her mother, **Marilyn** Abogadie. Their combined testimonies were to the effect, among other matters, that at around 1:00 p.m. of March 8, 2006, Marilyn fetched Meena from the Dominican School of Manila where, at 11 years old,^[4] she was then enrolled as a Grade 6 pupil. Nearing the intersection of Piy Margal and Vicente Cruz Sts. in Sampaloc, Manila and heading towards the direction of Quezon City, said mother and daughter claimed that the scooter they were riding was bumped from the left by the motorcycle then being driven by appellant, with Gilbert Deladia as back rider. As a consequence of the collision, Meena was pinned down by appellant's motorcycle whose muffler caused burn injuries on her left leg. Accordingly, Meena was brought to the UST Hospital^[5] where her family spent around P50,000.00 for her hospital and medical expenses.^[6]

The prosecution also adduced the testimonies of Police Officer Demetrio **Bunquin**, the investigator from the Manila District Traffic Enforcement Bureau, and **Dr. Bienvenido Torres**, Meena's attending physician. While admitting that he did not go to site of the collision, Bunquin issued a Traffic Investigation Report^[7] which, based on the statement of Marilyn and appellant, stated that the latter's motorcycle fell and that its muffler hit Meena's left leg.^[8] Having attended to Meena at the UST Hospital, Dr. Torres also issued an initial and final medico legal report^[9] certifying that said minor's burn injuries required multiple admissions and skin grafting which took not more than 31 days to heal.^[10]

In refutation, the defense presented the testimonies of appellant and Deladia who both claimed that, from the right direction, it was the scooter being driven by Marilyn which bumped the motorcycle they were riding. Coming from Lacson St. and cruising through the middle lane of Vicente Cruz St. which was a one-way street then experiencing heavy traffic, said defense witnesses asserted that Marilyn's scooter suddenly came out from behind a van and hit the right side of appellant's motorcycle, specifically the disk break of the front wheel thereof. Although they were unharmed because they were able to brace their legs on the left side of the motorcycle, Marilyn and Meena purportedly fell on them, causing the left leg of the latter to hit the motorcycle's exhaust pipe.^[11] Together with a sketch of the collision scene,^[12] appellant submitted copies of his *Sinumpaang Salaysay*^[13] and driver's license.^[14]

On April 16, 2012, the RTC rendered the herein appealed decision finding appellant guilty of simple negligence or imprudence and liable to the minor complainant for moral and exemplary damages.^[15] Finding the defense version contradicted by the Traffic Accident Report and appellant's own *Sinumpaang Salaysay* which both indicated that Marilyn's scooter did not come in contact with the motorcycle, the RTC ruled as follows:

"Analyzing further, it is worth emphasizing that the injury suffered by the child is third degree burn which required skin grafting operation. This means that the child was stuck for a considerable moment of time when pinned or sandwiched in between the two (2) colliding motorcycles. If the leg of the child was on top of the motorcycle of the accused, it could be easily moved away. There is no other conclusion other than that the motorcycle of the accused was the one on top of the child or her leg. The removal of the motorcycle of the accused took a considerable length of time so that the injury caused to the child reached third degree burn. If the child was on top of the motorcycle of the accused, she could easily get away and would not suffer such deep burned injury. It would be pointed out that what Marilyn was driving is a scooter which [was] a small-sized motorcycle that can easily be lifted. The accused was driving a 'Honda' motorcycle which is obviously bigger and heavier.

The defense posited by the accused is denial. In his denial, he submitted a story that cannot be reconciled, and therefore, the same is not reliable. The evidence of the prosecution pointing to the accused as the one who bumped the scooter of Marilyn was not overcome, rather it was even beefed up by the contradicting versions of the accused in the way he puts up his denial."^[16]

The Issue

Appellant urges the reversal of the appealed Decision upon the following error imputed against the RTC, to wit:

"THE REGIONAL TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF SIMPLE IMPRUDENCE/NEGLIGENCE RESULTING TO PHYSICAL INJURIES AND HOLDING HIM LIABLE FOR ACTUAL AND MORAL DAMAGES."

^[17]

The Court's Ruling

The appeal is bereft of merit.

Against the RTC's finding that the version of the prosecution was more believable than that proffered by the defense which was contradictory to the account of the incident in the Traffic Accident Report and the *Sinumpaang Salaysay* executed by him, appellant calls our attention to the fact that police investigator Bunquin was not present at the time and place of its occurrence. Contending that this circumstance already casts doubt on the propriety of his conviction, appellant insists that he was not reckless in driving his motorcycle and that the proximate cause of the injuries sustained by Meena was Marilyn's sudden manoeuver of her scooter from behind a van and bumping the front wheel of his motorcycle. As a consequence, appellant maintains that he cannot be held liable for the injury and/or damages resulting from the collision.^[18]

While it may, however, be conceded that personal knowledge is a substantive prerogative in accepting testimonial evidence establishing the truth of a disputed fact,^[19] appellant lose sight of the fact that the Traffic Accident Report upon which