Republic of the Philippines
SUPREME COURT
Manila

SECOND DIVISION

G.R. No. 152033 March 16, 2011

FILIPINAS SYNTHETIC FIBER CORPORATION, Petitioner,
vs.
WILFREDO DE LOS SANTOS, BENITO JOSE DE LOS SANTOS, MARIA ELENA DE LOS SANTOS and CARMINA VDA. DE LOS SANTOS, Respondents.

D E C I S I O N

PERALTA, *J.*:

This Petition for Review under Rule 45 of the 1997 Rules of Civil Procedure assails the Decision[1] of the Court of Appeals (CA) dated August 15, 2001, affirming with modification, the Decision[2] dated February 14, 1994 of the Regional Trial Court (RTC), and the Resolution dated January 29, 2002 of the CA, denying petitioner's Motion for Reconsideration.

This all stems from a case for damages filed against the petitioner and one of its employees. The facts, as found by the RTC and the CA, are as follows:

On the night of September 30, 1984, Teresa Elena Legarda-de los Santos (Teresa Elena), the wife of respondent Wilfredo de los Santos (Wilfredo), performed at the Rizal Theater in Makati City, Metro Manila as a member of the cast for the musical play, Woman of the Year.

On that same night, at the request of Wilfredo, his brother Armando de los Santos (Armando), husband of respondent Carmina Vda. de los Santos, went to the Rizal Theater to fetch Teresa Elena after the latter's performance. He drove a 1980 Mitsubishi Galant Sigma (Galant Sigma) with Plate No. NSL 559, a company car assigned to Wilfredo.

Two other members of the cast of Woman of the Year, namely, Annabel Vilches (Annabel) and Jerome Macuja, joined Teresa Elena in the Galant Sigma.

Around 11:30 p.m., while travelling along the Katipunan Road (White Plains), the Galant Sigma collided with the shuttle bus owned by petitioner and driven by Alfredo S. Mejia (Mejia), an employee of petitioner. The Galant Sigma was dragged about 12 meters from the point of impact, across the White Plains Road landing near the perimeter fence of Camp Aguinaldo, where the Galant Sigma burst into flames and burned to death beyond recognition all four occupants of the car.

A criminal charge for reckless imprudence resulting in damage to property with multiple homicide was brought against Mejia, which was decided in favor of Mejia. The family of Annabel filed a civil case against petitioner and Mejia docketed as Civil Case No. Q-51382, which was raffled to Branch 82 of the RTC of Quezon City. Wilfredo and Carmina, joined by their minor children, also filed separate actions for damages against petitioner and Mejia. The said cases were eventually consolidated.

After trial on the merits, the RTC decided in favor of herein respondents. The dispositive portion of the decision reads:

WHEREFORE, in view of the foregoing, this Court finds the herein plaintiffs in Civil Case Nos. Q-44498 and Q-45602, namely Wilfredo de los Santos, et al. and Carmina Vda. de los Santos, et al., respectively, to have duly proven their causes of action against Filipinas Synthetic Fiber Corporation and Alfredo S. Mejia, defendants in both cases, thru preponderance of evidence, hence, Judgment is hereby rendered ordering defendants, jointly and severally, to pay the herein plaintiffs in Civil Case No. Q-44498, (1) for actual damages, ₱29,550.00, with interest thereon at the legal rate until paid; (2) the amount of ₱4,769,525.00 as compensatory damages and unrealized

income of Teresa Elena, which is one-half of the amount of ₱9,539,050.00, taking into consideration her status in life, and that during her lifetime she was not only spending for herself. The latter's average expenses would either be more or less than one-half of her gross income for the year; (3) ₱100,000.00 as moral damages to assuage the family of the deceased Teresa Elena for the loss of a love one who was charred beyond recognition; and (4) attorney's fees of ₱150,000.00. As to exemplary damages, the same cannot be granted for the reason that no one wanted this unfortunate accident to happen, which was a costly one.

For Civil Case No. Q-45602, the herein defendants are hereby ordered, jointly and severally, to pay the plaintiffs (1) ₱20,550.00 for actual damages, with interest thereon at the legal rate until the same is paid; (2) ₱444,555.00 as compensatory damages and unrealized income of the deceased Armando de los Santos, for the same reason as the deceased Teresa Elena, who during his lifetime, Armando was not only spending for himself; (3) ₱100,000.00 as moral damages to assuage the loss of a love one who was burnt beyond recognition; and (4) ₱100,000.00 as attorney's fees. As to exemplary damages, the same could not be granted for the same reason as that in Civil Case No. Q-44498.

SO ORDERED.

After the denial of the motion for reconsideration, petitioner appealed to the CA, and the latter ruled:

WHEREFORE, the assailed February 14, 1994 Decision of the Regional Trial Court of Quezon City, Branch 100 is AFFIRMED, subject to modification that in Civil Case No. Q-44498 the compensatory damages and unrealized income of deceased Teresa Elena shall be ₱3,120,300.00, and in Civil Case No. Q-45602 the compensatory damages and unrealized income of deceased Armando shall be ₱509,649.00.

SO ORDERED.

The subsequent motion for reconsideration was also denied. Hence, the present petition wherein the petitioner assigned the following errors:

ASSIGNMENT OF ERRORS

I. THE HONORABLE COURT OF APPEALS ERRED IN FINDING THE PETITIONER MEJIA NEGLIGENT, SUCH NOT BEING SUPPORTED BY THE EVIDENCE ON RECORD.

II. THE HONORABLE COURT OF APPEALS' FINDING THAT PETITIONER FILSYN DID NOT EXERCISE THE DUE DILIGENCE OF A GOOD FATHER OF A FAMILY IN THE SELECTION AND SUPERVISION OF ITS EMPLOYEES IS NOT SUPPORTED BY THE EVIDENCE ON RECORD.

III. THE DAMAGES AWARDED BY THE HONORABLE COURT OF APPEALS IS NOT IN ACCORD WITH THE EVIDENCE ON RECORD.

The respondents filed their Comment[3] dated June 7, 2002, while the petitioner filed its Reply[4] dated January 29, 2003. Subsequently, their respective memoranda[5] were filed.

The petition lacks merit.

Petitioner insists that the CA was not correct in ruling that Mejia was negligent. It argues that the said conclusion was not derived from the evidence adduced during the trial, which, upon further analysis, makes the nature of the issue presented to be factual.

Whether a person is negligent or not is a question of fact which this Court cannot pass upon in a petition for review on *certiorari*, as its jurisdiction is limited to reviewing errors of law.[6] As a rule, factual findings of the trial court, affirmed by the CA, are final and conclusive and may not be reviewed on appeal. The established exceptions are: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the findings are grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the CA is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the CA, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings of fact are conclusions without citation of specific evidence on which they are based; (8) when the CA manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (9) when the findings of fact of the CA are premised on the absence of evidence and are contradicted by the evidence on record.[7]

Not falling under any of the exceptions enumerated above, this Court must defer to the findings of the RTC and the CA.

Petitioner argues that the RTC admitted that De los Santos made a turn along White Plains Road without exercising the necessary care which could have prevented the accident from happening. It quoted the following portion of the

RTC's decision:

The Court is convinced that defendant Mejia was running real fast along EDSA when he saw a vehicle on the opposite side suddenly turn left towards White Plains.

According to petitioner, the sudden turn of the vehicle used by the victims should also be considered as negligence on the part of the driver of that same vehicle, thus, mitigating, if not absolving petitioner's liability. However, the said argument deserves scant consideration.

It was well established that Mejia was driving at a speed beyond the rate of speed required by law, specifically Section 35 of Republic Act No. (RA) 4136.[8] Given the circumstances, the allowed rate of speed for Mejia's vehicle was 50 kilometers per hour, while the records show that he was driving at the speed of 70 kilometers per hour. Under the New Civil Code,[9] unless there is proof to the contrary, it is presumed that a person driving a motor vehicle has been negligent if at the time of the mishap, he was violating any traffic regulation. Apparently, in the present case, Mejia's violation of the traffic rules does not erase the presumption that he was the one negligent at the time of the collision. Even apart from statutory regulations as to speed, a motorist is nevertheless expected to exercise ordinary care and drive at a reasonable rate of speed commensurate with all the conditions encountered[10] which will enable him to keep the vehicle under control and, whenever necessary, to put the vehicle to a full stop to avoid injury to others using the highway.[11] To suggest that De los Santos was equally negligent based on that sole statement of the RTC is erroneous. The entire evidence presented must be considered as a whole. Incidentally, a close reading of the ruling of the CA would clearly show the negligence of Mejia. A portion of the decision reads:

A closer study of the Police Accident Report, Investigation Report and the sketch of the accident would reveal nothing but that the shuttle bus was traveling at such a reckless speed that it collided with the car bearing the deceased. The impact was such that the bus landed astride the car, dragged the car across the right lane of White Plains Road, across the concrete island/flower box in the center of White Plains Road, destroying the lamp post in the island until both vehicles landed by the petitioner fence of Camp Aguinaldo.

From those evidence, borne out by the records, there was proof more than preponderant to conclude that Mejia was traveling at an unlawful speed, hence, the negligent driver. We, therefore, cannot find any error on the part of the trial court in concluding that he (Mejia) was driving more than his claim of 70 kilometers per hour. Significantly, the claimed speed of Mejia is still unlawful, considering that Section 35 of RA 4136 states that the maximum allowable speed for trucks and buses must not exceed 50 kilometers per hour. We are, therefore, unpersuaded by the defendants-appellants' claim that it was the driver of [the] Galant Sigma who was negligent by not observing Sections 42(d) and 43(c) of RA 4136-A. Second sentence of Section 42 provides that the driver of any vehicle traveling at any unlawful speed shall forfeit any right of way which he might otherwise have. A person driving a vehicle is presumed negligent if at the time of the mishap, he was violating a traffic regulation. The excessive speed employed by Mejia was the proximate cause of the collision that led to the sudden death of Teresa Elena and Armando. If the defendants-appellants truly believe that the accident was caused by the negligence of the driver of the Galant Sigma, they should have presented Mejia to the witness stand. Being the driver, Mejia would have been in the best position to establish their thesis that he was negligent when the mishap happened. Under the RULES OF EVIDENCE (Section 3[e], Rule 131), such suppression gives rise to the presumption that his testimony would have been adverse, if presented. It must be stressed further that Mejia left the scene, not reporting the fatal accident to the authorities neither did he wait for the police to arrive. He only resurfaced on the day after the incident. This is a clear transgression of Section 55 of RA 4136-A which provides:

SEC. 55 *Duty of driver in case of accident*. - In the [event] that any accident should occur as a result of the operation of a motor vehicle upon a highway, the driver shall stop immediately, and, if requested by any person present, shall show his driver's license, give his true name and address and also the true name and address of the owner of the motor vehicle.

No driver of a motor vehicle concerned in a vehicular accident shall leave the scene of the accident without aiding the victim, except under any of the following circumstances:

1. If he is in imminent danger of being seriously harmed by any person or persons by reason of the accident;

2. If he reports the accident to the nearest officer of the law; or

3. If he has to summon a physician or nurse to aid the victim.

x x x x

Equally untenable is the defendants-appellants contention that it would be impossible for the shuttle bus which was traveling at 70 kilometers per hour to stop. In view of this assertion, we quote with favor the statement of Justice Feliciano in the Kapalaran case that the law seeks to stop and prevent the slaughter and maiming of people (whether passenger or not) and the destruction of property (whether freight or not) on our highways by buses, the

very size and power of which seem often to inflame the minds of the drivers. To our mind, if a vehicle was travelling in an allowable speed, its driver would not have a difficulty in applying the brakes.

Anent the second issue raised, petitioner insists that it exercised the due diligence of a good father of a family in the selection and supervision of its employees. The RTC and the CA find otherwise.

Under Article 2180[12] of the New Civil Code, when an injury is caused by the negligence of the employee, there instantly arises a presumption of law that there was negligence on the part of the master or employer either in the selection of the servant or employee, or in supervision over him after selection or both. The liability of the employer under Article 2180 is direct and immediate; it is not conditioned upon prior recourse against the negligent employee and a prior showing of the insolvency of such employee. Therefore, it is incumbent upon the private respondents (in this case, the petitioner) to prove that they exercised the diligence of a good father of a family in the selection and supervision of their employee.[13]

Petitioner asserts that it had submitted and presented during trial, numerous documents in support of its claim that it had exercised the proper diligence in both the selection and supervision of its employees. Among those proofs are documents showing Mejia's proficiency and physical examinations, as well as his NBI clearances. The Employee Staff Head of the Human Resource Division of the petitioner also testified that Mejia was constantly under supervision and was given daily operational briefings. Nevertheless, the RTC and the CA were correct in finding those pieces of evidence presented by the petitioner insufficient.

In *Manliclic v. Calaunan*,[14] this Court ruled that:

In the selection of prospective employees, employers are required to examine them as to their qualifications, experience and service records. In the supervision of employees, the employer must formulate standard operating procedures, monitor their implementation and impose disciplinary measures for the breach thereof. To fend off vicarious liability, employers must submit concrete proof, including documentary evidence, that they complied with everything that was incumbent on them.

In *Metro Manila Transit Corporation v. Court of Appeals*, it was explained that:

Due diligence in the supervision of employees on the other hand, includes the formulation of suitable rules and regulations for the guidance of employees and the issuance of proper instructions intended for the protection of the public and persons with whom the employer has relations through his or its employees and the imposition of necessary disciplinary measures upon employees in case of breach or as may be warranted to ensure the performance of acts indispensable to the business of and beneficial to their employer. To this, we add that actual implementation and monitoring of consistent compliance with said rules should be the constant concern of the employer, acting through dependable supervisors who should regularly report on their supervisory functions.

In order that the defense of due diligence in the selection and supervision of employees may be deemed sufficient and plausible, it is not enough to emptily invoke the existence of said company guidelines and policies on hiring and supervision. As the negligence of the employee gives rise to the presumption of negligence on the part of the employer, the latter has the burden of proving that it has been diligent not only in the selection of employees but also in the actual supervision of their work. The mere allegation of the existence of hiring procedures and supervisory policies, without anything more, is decidedly not sufficient to overcome such presumption.

We emphatically reiterate our holding, as a warning to all employers, that "the formulation of various company policies on safety without showing that they were being complied with is not sufficient to exempt petitioner from liability arising from negligence of its employees. It is incumbent upon petitioner to show that in recruiting and employing the erring driver the recruitment procedures and company policies on efficiency and safety were followed." x x x.[15]

Applying the above ruling, the CA, therefore, committed no error in finding that the evidence presented by petitioner is wanting. Thus, the CA ruled:

In the present case, Filsyn merely presented evidence on the alleged care it took in the selection or hiring of Mejia way back in 1974 or ten years before the fatal accident. Neither did Filsyn present any proof of the existence of the rules and regulations governing the conduct of its employees. It is significant to note that in employing Mejia, who is not a high school graduate, Filsyn waived its long-standing policy requirement of hiring only high school graduates. It insufficiently failed to explain the reason for such waiver other than their allegation of Mejia's maturity and skill for the job.

As revealed by the testimony of Rolando Landicho, Filsyn admitted that their shuttle buses were used to ferry Filsyn's employees for three shifts. It failed to show whether or not Mejia was on duty driving buses for all three shifts. On the other hand, the trial court found that Mejia, by the different shifts would have been on the job for more than eight hours. Fylsin did not even sufficiently prove that it exercised the required supervision of Mejia by ensuring

rest periods, particularly for its night shift drivers who are working on a time when most of us are usually taking rest. As correctly argued by the plaintiffs-appellees, this is significant because the accident happened at 11:30 p.m., when the shuttle bus was under the control of a driver having no passenger at all. Despite, the lateness of the hour and the darkness of the surrounding area, the bus was travelling at a speed of 70 kilometers per hour.

In view of the absence of sufficient proof of its exercise of due diligence, Filsyn cannot escape its solidary liability as the owner of the wayward bus and the employer of the negligent driver of the wayward bus. x x x

As to the amount of the damages awarded by the CA, petitioner claims that it is not in accord with the evidence on record. It explained that the amounts used in computing for compensatory damages were based mainly on the assertions of the respondents as to the amount of salary being received by the two deceased at the time of their deaths.

This Court, in its ruling,[16] expounded on the nature of compensatory damages, thus:

Under Article 2199 of the New Civil Code, actual damages include all the natural and probable consequences of the act or omission complained of, classified as one for the loss of what a person already possesses *(daño emergente)* and the other, for the failure to receive, as a benefit, that which would have pertained to him (*lucro cesante)*. As expostulated by the Court in *PNOC Shipping and Transport Corporation v. Court of Appeals*:[17]

Under Article 2199 of the Civil Code, actual or compensatory damages are those awarded in satisfaction of, or in recompense for, loss or injury sustained. They proceed from a sense of natural justice and are designed to repair the wrong that has been done, to compensate for the injury inflicted and not to impose a penalty. In actions based on torts or quasi-delicts, actual damages include all the natural and probable consequences of the act or omission complained of. There are two kinds of actual or compensatory damages: one is the loss of what a person already possesses *(daño emergente)*, and the other is the failure to receive as a benefit that which would have pertained to him (*lucro cesante*).[18]

The burden of proof is on the party who would be defeated if no evidence would be presented on either side. The burden is to establish one's case by a preponderance of evidence which means that the evidence, as a whole, adduced by one side, is superior to that of the other. Actual damages are not presumed. The claimant must prove the actual amount of loss with a reasonable degree of certainty premised upon competent proof and on the best evidence obtainable. Specific facts that could afford a basis for measuring whatever compensatory or actual damages are borne must be pointed out. Actual damages cannot be anchored on mere surmises, speculations or conjectures. As the Court declared:

As stated at the outset, to enable an injured party to recover actual or compensatory damages, he is required to prove the actual amount of loss with reasonable degree of certainty premised upon competent proof and on the best evidence available. The burden of proof is on the party who would be defeated if no evidence would be presented on either side. He must establish his case by a preponderance of evidence which means that the evidence, as a whole, adduced by one side is superior to that of the other. In other words, damages cannot be presumed and courts, in making an award, must point out specific facts that could afford a basis for measuring whatever compensatory or actual damages are borne.[19]

The records show that the CA did not err in awarding the said amounts, nor was there any mistake in its computation. The respondents were able to establish their case by a preponderance of evidence. However, the petitioner is correct when it stated that the award of ₱100,000.00 as moral damages is excessive. Jurisprudence has set the amount to ₱50,000.00.[20]

WHEREFORE, the Petition for Review is hereby **DENIED**. Consequently, the Decision of the Court of Appeals, dated August 15, 2001, is hereby **AFFIRMED** with the **MODIFICATION** that the moral damages be reduced to ₱50,000.00.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

PRESBITERO J. VELASCO, JR.*
Associate Justice

ROBERTO A. ABAD
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Second Division, Chairperson

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

RENATO C. CORONA
Chief Justice

Footnotes

[*] Designated as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura per Special Order No. 933, dated January 24, 2011.

[1]Penned by Associate Justice Perlita J. Tria Tirona, with Associate Justices Eugenio S. Labitoria and Eloy R. Bello, Jr., concurring; *rollo* pp. 24-38.

[2]CA *rollo*, pp. 78-91.

[3]*Rollo*, pp. 48-52.

[4]*Id.* at 59-65.

[5]*Id*. at 71- 85 for the petitioner and 86-93 for the respondents.

[6]See *Estacion v. Bernardo,* G.R. No. 144723, February 27, 2006, 483 SCRA 222, 231, citing *Yambao v. Zuñiga,* 418 SCRA 266, 271 (2003).

[7]*Id*. at 231-232, citing *Child Learning Center Inc. v. Tagario*, 476 SCRA 236 (2005).

[8]**Section 35.** *Restriction as to speed.* – x x x

(a) Any person driving a motor vehicle on a highway shall drive the same at a careful and prudent speed, not greater nor less than is reasonable and proper, having due regard for the traffic, the width of the highway, and of any other condition then and there existing; and no person shall drive any motor vehicle upon a highway at such a speed as to endanger the life, limb and property of any person, nor at a speed greater than that will permit him to bring the vehicle to a stop within the assured clear distance ahead.

(b) Subject to the provisions of the preceding paragraph, the rate of speed of any motor vehicle shall not exceed the following:

MAXIMUM ALLOWABLE SPEEDS Passengers Motor trucks and buses

Cars and Motorcycle

1. On open country roads, with no 80 km. per hour 50 km. per hour
"blind corners" not closely bordered
by habitations.

2. On "through streets" or boulevards, 40 km. per hour 30 km. per hour
clear of traffic, with no " blind corners,"
when so designated.

3. On city and municipal streets, with 30 km. per hour 30 km. per hour
light traffic, when not designated
"through streets."

4. Through crowded streets, 20 km. per hour 20 km. per hour
approaching intersections at
"blind corners," passing school zones,
passing other vehicles which are stationery,
or for similar dangerous circumstances.

[9]Art. 2185.

[10]*Caminos, Jr. v. People,* G.R. No. 147437, May 8, 2009, 587 SCRA 348, 361, citing *Foster v. ConAgra Poultry Co*., 670 So.2d 471.

[11]*Id.,* citing *Nunn v. Financial Indem. Co.,* 694 So.2d 630*. Duty of reasonable care includes duty to keep the vehicle under control and to maintain proper lookout for hazards.*

[12]Art. 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.

x x x x

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.

x x x x

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.

[13]*Manliclic, v. Calaunan,* G.R. No. 150157, January 25, 2007, 512 SCRA 642, 662-663, citing *Dulay v. Court of Appeals*, 313 Phil. 8, 23 (1995).

[14]*Id.*

[15] *Id.* at 663-665, citing *Perla Compania de Seguros, Inc. v. Sarangaya III*, 474 SCRA 191, 202 (2005) and *Metro Manila Transit Corporation v. Court of Appeals,* 223 SCRA 521, 540-541 (1993).

[16] *Marikina Auto Line Transport Corporation, et al. v. People, et al*., G.R. No. 152040, March 31, 2006, 486 SCRA 284, 297-298.

[17]358 Phil. 38 (1998).

[18]*Id*. at 52-53.

[19]*Id*. at 53-54.

[20]See *Metro Manila Transit Corporation v. CA*, G.R. No. 116617, with *Rosales, et al. v. Court of Appeals, et al.*, G.R. No. 126395, 359 Phil. 18 (1998).

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