

**[ [G.R. No. 127934, August 23, 2000 ]**

**ACE HAULERS CORPORATION, PETITIONER, VS. THE  
HONORABLE COURT OF APPEALS AND EDERLINDA ABIVA,  
RESPONDENTS.**

**D E C I S I O N**

**PARDO, J.:**

The case is an appeal via *certiorari* seeking to set aside the decision of the Court of Appeals<sup>[1]</sup> affirming that of the Regional Trial Court, Quezon City, Branch 106, except for the award of thirty thousand pesos (P30,000.00) as exemplary damages, which was deleted. The dispositive portion of the trial court's decision reads as follows:

"WHEREFORE, judgment is hereby rendered ordering the defendant to pay plaintiff:

"1. the amount of Two Hundred Thousand (P200,000.00) as actual damages;

"2. the amount of Fifty Thousand (P50,000.00) as moral damages;

"3. the amount of Thirty Thousand (P30,000.00) as exemplary damages;

"4. the amount of Thirty Thousand (P30,000.00) as attorney's fees;

"5. Costs of suit.

"SO ORDERED."<sup>[2]</sup>

The facts, culled from the findings of the Court of Appeals, are as follows:

"The case was an action for damages arising from a vehicular mishap which took place on June 1, 1984, involving a truck owned by petitioner Ace Haulers Corporation and driven by its employee, Jesus dela Cruz, and a jeepney owned by Isabelito Rivera, driven by Rodolfo Parma. A third vehicle, a motorcycle, was bumped and dragged by the jeepney, and its rider, Fidel Abiva, was run over by the truck owned by petitioner Ace Haulers Corporation, causing his death. Upon his untimely demise, Fidel Abiva left behind a wife, respondent Ederlinda Abiva and their three (3) children.

"On July 27, 1984, a criminal information for reckless imprudence resulting in homicide was filed against the two drivers, Dela Cruz and Parma, docketed as Criminal Case No. Q-37248 before the RTC of Quezon City, Branch 103.

"While the criminal action was pending, on March 11, 1985, respondent Ederlinda Abiva filed with the Regional Trial Court, Quezon City, Branch

93, a separate civil action for damages against the two accused in the criminal case, as well as against Isabelito Rivera and petitioner Ace Haulers Corp., the owners of the vehicles involved in the accident and employers of the accused.

"In her complaint, respondent Abiva prayed that:

"1. A Writ of Preliminary Attachment be immediately issued against the properties of the defendants as security for the satisfaction of any judgment that may be recovered;

"2. Defendants in solidum, to pay plaintiff the amount of P200,000.00 as actual damage;

"3. Defendants, in solidum, to pay plaintiff the sum of P50,000.00 as attorney's fees;

"4. Defendants, in solidum, to pay plaintiff the amount of moral and exemplary damages which this Court may reasonably assess."

"On January 31, 1986, petitioner Ace Haulers Corp. and Jesus dela Cruz filed a motion to dismiss bringing to the trial court's attention the fact that a criminal action was pending before another branch of the same court, and that under the 1985 Rules on Criminal Procedure, the filing of an independent civil action arising from a quasi-delict is no longer allowed. Furthermore, said defendants alleged that respondent's private counsel actively participated in the criminal proceedings, showing that the respondent was in fact pursuing the civil aspect automatically instituted with the criminal case.

"On February 21, 1986, respondent filed an opposition to the motion arguing that she was not pursuing the civil aspect in the criminal case as she, in fact, manifested in open court in the criminal proceedings that she was filing a separate and independent civil action for damages against the accused and their employers, as allowed under Articles 2177 and 2180 of the Civil Code.

"On February 28, 1986, the trial court dismissed the action for damages on the ground that "no civil action shall proceed independently of the criminal prosecution in a case for reckless imprudence resulting in homicide". Respondent Abiva's motion for reconsideration of the order of dismissal was also denied by the trial court. She then elevated the case before the Intermediate Appellate Court (IAC) by way of a petition for certiorari, docketed as Civil Case No. 09644. The appellate court reversed the dismissal order of the trial court. It was then petitioner Ace Haulers Corporation and Jesus dela Cruz's turn to appeal the judgment of the IAC before the Supreme Court. On August 3, 1988, the Supreme Court issued a resolution denying the petition for review of Ace Haulers Corp. and Jesus dela Cruz for failure "to sufficiently show that the Court of Appeals had committed any reversible error in the questioned error". The case was remanded to the trial court for further proceedings.

"In the meantime that the petition for review was pending before the Supreme Court, fire razed the portion of the Quezon City Hall building

which housed the trial courts and the records of the case were among those that the fire reduced to ashes. It was not until March 26, 1992 that the records of the case was reconstituted by the trial court.

"While the pre-trial proceedings in the civil action for damages was still being set and reset upon motion of the opposing parties, on July 6, 1992, the RTC, Quezon City, Branch 83 rendered judgment in the criminal case, finding as follows:

"WHEREFORE, the prosecution having established beyond reasonable doubt the guilt of both accused Rodolfo Parma and Jesus dela Cruz for the offense of Reckless Imprudence Resulting in Homicide, this Court finds them guilty of said offense charged and hereby sentences each of them to suffer and undergo imprisonment of ONE (1) YEAR AND ONE (1) DAY of prision correccional as minimum to FOUR (4) YEARS, NINE (9) MONTHS and TEN (10) DAYS also of prision correccional as maximum, and to pay the costs.

"Accused Rodolfo Parma and Jesus dela Cruz are hereby ordered to pay the heirs of the deceased Fidel O. Abiva, jointly or pro rata, the amount of FIFTY THOUSAND PESOS (P50,000.00) as indemnification for his death and the amount of FOUR THOUSAND PESOS (P4,000.00) by way of actual damages.

"SO ORDERED."

"On March 9, 1993, the pre-trial conference of the civil case was finally set on April 6, 1993, and notices thereof were sent to the parties and their respective counsel. On the appointed date, however, no representative nor counsel for petitioner Ace Haulers Corporation appeared. Consequently, upon motion of respondent Abiva, the petitioner was declared as in default. Furthermore, defendants Jesus dela Cruz, Isabelito Rivera and Rodolfo Parma were discharged as defendants, and the case against them dismissed.

"On June 30, 1993, the trial court rendered a decision, ruling against petitioner Ace Haulers Corporation. The trial court summarized its findings thus:

"Hence, Mrs. Ederlinda Abiva as part of plaintiff's evidence, testified that she is 43 years old, a widow and housekeeper, residing at Cefels Subdivision, Deparo, Novaliches, Quezon City. She told the Court that she is the widow of Fidel Abiva, who died on June 1, 1984 after he was ran over by Isuzu Cargo Truck Plate No. NWY-T Phil 93 owned and operated by the defendant Ace Haulers Corporation, then driven by Jesus dela Cruz and that because of the death of her husband, she suffered damages, among which, moral, exemplary and actual damages for her expenses and attorney's fees. She claimed that she is lawfully married to the late Fidel Abiva as evidenced by their Marriage Contract (Exhibits 'A' and 'A-1'). Out of their wedlock, (sic) they begot three (3) children, namely: Noel, Gina and Argentina with ages 25, 21 and 15, respectively. Her husband died on June 1, 1984 at around 11:45 p.m. (Exhibits 'B', 'B-1' and 'B-2'), because of the vehicular accident which involved the wheeler truck of Ace Haulers Corporation driven by Jesus dela Cruz, a