

## THIRD DIVISION

[ G.R. No. 212008, November 16, 2016 ]

**WILLIAM ENRIQUEZ AND NELIA-VELA ENRIQUEZ, PETITIONERS,  
VS. ISAROG LINE TRANSPORT, INC. AND VICTOR SEDENIO,  
RESPONDENTS.**

### D E C I S I O N

**PERALTA, \*\* J.:**

This is a Petition for Review which petitioners William Enriquez and Nelia Vela-Enriquez filed assailing the Court of Appeals (CA) Decision<sup>[1]</sup> dated June 13, 2013 and Resolution<sup>[2]</sup> dated March 4, 2014 in CA-G.R. CV No. 97376.

The pertinent antecedents of the case as disclosed by the records are as follows:

Sonny Enriquez was a passenger of a bus owned and operated by respondent Isarog Line Express Transport, Inc. (*Isarog Line*) driven by Victor Sedenio on July 7, 1998. While traversing the diversion road at Silangang Malicboy, Pagbilao, Quezon, said bus collided with another bus owned by Philtranco Service Enterprises, Inc. (*Philtranco*) which was being driven by Primitivo Aya-ay. As a result of the impact between the two (2) buses, several passengers died, including Sonny, who was twenty-six (26) years old at that time.

On September 7, 1999, Sonny's parents, petitioners William Enriquez and Nelia Vela-Enriquez (*the Spouses Enriquez*), filed a complaint for damages against Isarog Line and Philtranco as well as their drivers before the Regional Trial Court (RTC) of Libmanan, Camarines Sur.

On February 24, 2011, the RTC rendered a Decision finding Isarog Line, Sedenio, Philtranco, and Aya-ay solidarity liable for Sonny's death, thus:

WHEREFORE, premises considered, decision is hereby rendered in favor of the plaintiffs, William Enriquez and Nelia Vela-Enriquez, and against defendants Isarog Line Express Transport, Inc., Victor Sedenio, Philtranco Service Enterprises, Inc., and Primitivo Aya-ay. Said defendants are hereby declared SOLIDARILY liable to the plaintiffs in the following amounts:

- a) PHP 50,000.00 - as civil indemnity for the death of Sonny Enriquez;
- b) PHP 1,038,960.00 - for unrealized income;
- c) PHP 100,000.00 - for moral damages;

d) PHP 25,000.00 - for exemplary damages;

e) PHP 25,000.00 - for attorney's fees.

The total amount adjudged shall earn interest at the rate of 6% *per annum* from the date of this judgment until finality; thereafter, 12% *per annum* until the judgment is satisfied.

Costs against the defendants.

SO ORDERED.<sup>[3]</sup>

Isarog Line then appealed before the CA. On June 13, 2013, the appellate court affirmed the RTC Decision, with modification, thus:

**WHEREFORE**, premises considered, the instant appeal is hereby **DISMISSED** for lack of merit. **ACCORDINGLY**, the challenged Decision dated 24 February 2011 and Resolution dated 02 June 2011 of the RTC, Branch 29, Libmanan, Camarines Sur are **AFFIRMED** with the **MODIFICATION** in that the monetary award in the amount of P1,038,960.00 by way of unrealized income is **DELETED**; and that Appellant is ordered to pay Appellees the amount of P25,000.00 as temperate damages.

**SO ORDERED.**<sup>[4]</sup>

The Spouses Enriquez then filed a Motion for Partial Reconsideration, which the CA denied.<sup>[5]</sup>

Hence, the instant petition.

The sole issue left to be resolved is whether or not the Spouses Enriquez are entitled to the amount of P1,038,960.00 as damages for their son's loss of earning capacity.

Under Article 2206 of the Civil Code, the heirs of the victim are entitled to indemnity for loss of earning capacity, thus:

Article 2206. The amount of damages for death caused by a crime or quasi-delict shall be at least three thousand pesos, even though there may have been mitigating circumstances. In addition:

(1) The defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to the heirs of the latter; such indemnity shall in every case be assessed and awarded by the court, unless the deceased on account of permanent physical disability not caused by the defendant, had no earning capacity at the time of his death;

x x x

Compensation of this nature is awarded not for loss of earnings, but for loss of capacity to earn. The indemnification for loss of earning capacity partakes of the nature of actual damages which must be duly proven by competent proof and the