

## SECOND DIVISION

[ G.R. No. 218014, December 07, 2016 ]

**EDDIE CORTEL Y CARNA AND YELLOW BUS LINE, INC.,  
PETITIONERS, VS. CECILE GEPAYA-LIM, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

Petitioners Eddie Cortel y Carna (Cortel) and Yellow Bus Line, Inc. (Yellow Bus Line) assail the 16 October 2014 Decision<sup>[1]</sup> and 21 April 2015 Resolution<sup>[2]</sup> of the Court of Appeals Cagayan de Oro City in CA-G.R. CV No. 02980. The Court of Appeals affirmed with modification the Judgment,<sup>[3]</sup> dated 27 April 2012, of the Regional Trial Court of Midsayap, Cotabato, Branch 18 (trial court), finding petitioners jointly and severally liable to the heirs of SP03 Robert C. Lim (Lim) for the latter's death.

#### The Antecedent Facts

The Court of Appeals narrated the facts as follows:

On 29 October 2004, Cartel was driving a bus, operated by Yellow Bus Line, which was on its way from Marbel, Koronadal to Davao City. At around 9:45 in the evening, as the bus was traversing Crossing Rubber in the Municipality of Tupi, South Cotabato, Cortel noticed two trucks with glaring headlights coming from the opposite direction. Cortel stated that he was driving at a speed of 40 to 50 kilometers per hour. He claimed that upon noticing the trucks, he reduced his speed to 20 kilometers per hour. However, the bus hit a black motorcycle which allegedly had no tail light reflectors. The impact dragged the motorcycle at a distance of three meters before it came to a full stop. Lim, who was riding the motorcycle, was thrown upward and then slammed into the bus, hitting the base of its right windshield wiper. The motorcycle got entangled with the broken bumper of the bus. According to Cortel, Lim was wearing a black jacket and was riding without a helmet at the time of the accident.

Felix Larang (Larang), the bus conductor, alighted from the bus to aid Lim. Larang gave instructions to Cortel to move back to release Lim and the motorcycle from the front bumper of the bus. Two bystanders proceeded to the scene to assist Lim. After reversing the bus and freeing Lim and the motorcycle, Cortel drove the bus away and went to a nearby bus station where he surrendered to authorities. Cortel claimed that he left the scene of the incident because he feared for his life.

Respondent Cecile Gepaya-Lim, Lim's widow, filed a complaint for damages against

petitioners. The case was docketed as Civil Case No. 05-010.

During trial, SPO4 Eddie S. Orencio (SPO4 Orencio), the officer who investigated the incident, testified that Lim was driving a DT Yamaha 125 black motorcycle when the accident took place. Cortel's bus and the motorcycle were going in the same direction. SPO4 Orencio testified that that the bus bumped the motorcycle from behind. The motorcycle's engine and chassis were severely damaged, while its rear rim was totally damaged by the accident.

Yellow Bus Line presented and offered in evidence photographs showing that the bus' right front windshield and wiper were damaged. The bus' lower right side bumper was also perforated. During the preliminary conference, Yellow Bus Line also presented Cortel's certificates showing that he attended the following seminars: (1) Basic Tire Care Seminar; (2) Basic Tire Knowledge and Understanding Retreading; and (3) Traffic Rules and Regulations, Defensive Driving and Road Courtesy Seminar.

However, the certificates were not offered in evidence during trial.

### **The Decision of the Trial Court**

In its 27 April 2012 Judgment, the trial court established that Cortel was at fault. The trial court found that the bus was running fast when it bumped the motorcycle ridden by Lim. The trial court ruled that the accident is the proximate cause of Lim's death. The trial court also ruled that Yellow Bus Line failed to present sufficient evidence to prove that it exercised due diligence in the selection and supervision of Cortel.

The dispositive portion of the trial court's decision reads:

WHEREFORE, premises considered, the Court hereby renders judgment against Defendants Eddie Cortely Carna and likewise against the owners of the Yellow Bus Line, Inc., numbered bus with Body No. A-96, and bearing Plate No. LWE-614, with PDL No. L05-30-002730; thus pursuant to [A]rticles 2176 and 2180 of the Civil Code of the Philippines[,] said Defendants are ordered to pay jointly and severally to the plaintiffs the following amount:

In favor of the heirs of Robert C. Lim represented by Cecil[]e Gepaya Lim as the surviving spouse, and with [a] living child, the death compensation of One Hundred Fifty Thousand Pesos (P150,000.00), plus x x x[:]

a) Funeral and burial expenses of Fifty Thousand Pesos (P50,000.00);

b) [C]ompensation for loss of earning capacity in the amount of P100,000.00;

(c) x x x Damages [to] the motorcycle in the amount of [Fifteen Thousand Pesos] (P15,000.00);

d) Attorney's fees of Fifteen Thousand Pesos (P15,000.00);

e) Costs of suit.

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

Petitioners appealed from the trial court's decision.

### **The Decision of the Court of Appeals**

In its 16 October 2014 Decision, the Court of Appeals applied the doctrine of *res ipsa loquitor*.

The Court of Appeals ruled that Lim died because of the collision between the bus driven by Cortel and the motorcycle Lim was riding. The Court of Appeals ruled that both vehicles were driving in the same lane and were headed towards the same direction. The Court of Appeals noted that vehicles running on highways do not normally collide unless one of the drivers is negligent. The Court of Appeals further ruled that Cortel had exclusive control and management of the bus he was driving. The Court of Appeals found no evidence that Lim had any contributory negligence in the accident that resulted to his death. The Court of Appeals ruled that petitioners failed to prove that the motorcycle had no headlights or that Lim was not wearing a helmet. The Court of Appeals stated that even if the motorcycle was black and Lim was wearing a black jacket, these were not prohibited by traffic rules and regulations. The Court of Appeals noted that upon impact, Lim's body was thrown upward, indicating that Cortel was driving at high speed. The damages to the motorcycle and the bus also disproved Cortel's allegation that he was only driving at the speed of 20 kilometers per hour.

The Court of Appeals ruled that Yellow Bus Line failed to exercise the care and diligence of a good father of a family in its selection and supervision of its employees. The Court of Appeals ruled that the certificates presented by Yellow Bus Line were not admissible in evidence because the police officer who allegedly signed them was not presented before the trial court. In addition, Yellow Bus Line did not offer the certificates as evidence during trial.

The Court of Appeals modified the amount of damages awarded to the heirs of Lim. Using the formula set by this Court in *The Heirs of Poe v. Malayan Insurance Company, Inc.*<sup>[5]</sup> and *Villa Rey Transit, Inc. v. Court of Appeals*,<sup>[6]</sup> the Court of Appeals recomputed Lim's lost earning capacity, as follows:

$$\begin{aligned} &\text{Life} && 2/3 \times [80 - \text{age of deceased at the time of death}] \\ &\text{expectancy} && \\ &= && \\ &&& 2/3 \times (80 - 41) \\ &&& 2/3 \times [39] \\ &&& \text{FORMULA - NET EARNING CAPACITY (NEC)} \end{aligned}$$

If:

Age at time of death of Robert Lim = 41

Monthly Income at time of death = 13,715.00

Gross Annual Income (GAI)= [(P13,715.00) (12)] = P164,580.00

Reasonable/Necessary Living Expenses (R/NLE) – 50% of GAI = P82,290

NEC = [2/3 (80-41)] [164,580-82,290]  
= [2/3 (39)] [82,290]  
= [26] [82,290]  
= P2,139,540.00<sup>[7]</sup>

Thus, the Court of Appeals found that the award of 100,000 as death compensation given by the trial court to the heirs of Lim was inadequate. However, the Court of Appeals reduced the amount of death indemnity from 150,000 to 50,000. The Court of Appeals deleted the 15,000 awarded by the trial court for the damages to the motorcycle for absence of proof but awarded 25,000 for funeral and burial expenses. In addition, the Court of Appeals awarded 100,000 as moral damages to the heirs of Lim. The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, the Judgment dated 27 April 2012 of the Regional Trial Court (Branch 18), 12<sup>th</sup> Judicial Region, Midsayap, Cotabato, is AFFIRMED with MODIFICATION. Defendant[]-appellants Eddie Cortel and Yellow Bus Line, Inc. are hereby ordered to pay jointly and severally plaintiff-appellee Cecile Gepaya-Lim the following:

- (1) Funeral and burial expenses of P25,000.00;
- (2) Actual damages for loss of earning capacity of P2,139,540.00;
- (3) Moral damages amounting to P100,000.00;
- (4) Death indemnity of P50,000.00; and
- (5) Attorney's fees of P15,000.00

After this decision becomes final and executory, interest at 12% *per annum* shall additionally be imposed on the total obligation until full payment.

No costs.

SO ORDERED.<sup>[8]</sup>

Petitioners filed a motion for reconsideration. The Court of Appeals denied the motion in its 21 April 2015 Resolution.

Hence, the recourse before this Court.