

THIRD DIVISION

[G.R. No. 211424, November 26, 2014]

**DAVAO HOLIDAY TRANSPORT SERVICES CORPORATION,
PETITIONER, VS. SPOUSES EULOGIO AND CARMELITA
EMPHASIS, RESPONDENTS.**

R E S O L U T I O N

REYES, J.:

This resolves the Petition for Review^[1] filed under Rule 45 of the Rules of Court by Davao Holiday Transport Services Corporation (petitioner) to assail the Decision^[2] dated November 20, 2012 and Resolution^[3] dated January 22, 2014 of the Court of Appeals (CA) in CA-G.R. CV No. 01632-MIN in favor of Spouses Eulogio and Carmelita Emphasis (spouses Emphasis).

The petitioner was the owner and operator of Holiday Taxi No. 177 bearing Plate No. LVX-171, which figured in an accident on October 18, 2003, at around 12:45 p.m., that caused the death of a 12-year-old boy, Christian Emphasis (Christian). The taxicab was then being driven by Orlando Tungal (Tungal) along Airport Road in Davao City when it bumped Christian, who was then riding a bicycle.

On October 23, 2003, an information for reckless imprudence resulting in homicide was filed against Tungal. Meanwhile, on March 1, 2004, the parents of Christian, the spouses Emphasis, filed a separate action for damages and attorney's fees arising from the vehicular accident against both petitioner and Tungal. Upon the parties' agreement, the two cases were jointly tried by the Regional Trial Court (RTC) of Davao City, Branch 12.

On June 17, 2008, the RTC rendered its Judgment/Decision.^[4] In the criminal case, Tungal was found guilty beyond reasonable doubt of the crime of reckless imprudence resulting in homicide. He was then sentenced to suffer the indeterminate penalty of two (2) years and four (4) months of *prision correccional* in its minimum period as minimum, to four (4) years, nine (9) months and ten (10) days of *prision correccional* in its medium period as maximum. In the civil case, the petitioner and Tungal were ordered to pay the spouses Emphasis, jointly and severally, the following sums: (1) P75,000.00 as civil indemnity; (2) P800,000.00 as moral damages; (3) P550,000.00 as actual damages; (4) P150,000.00 as exemplary damages; (5) P50,000.00 as attorney's fees; (6) P33,455.00 as litigation expenses; and (7) interest on the foregoing amounts at the rate of 12% *per annum* counted from the date of the decision until full payment.

Feeling aggrieved by the RTC decision, the petitioner appealed the disposition of the civil case to the CA. It argued that it should be absolved of any liability for damages, as it exercised extraordinary diligence in the selection and supervision of its drivers, including Tungal.

On November 20, 2012, the CA rendered its Decision^[5] affirming the RTC's ruling that the petitioner was liable for damages. It, however, modified the amounts of civil indemnity, moral damages and actual damages, resulting in the following monetary awards: (1) P50,000.00 as civil indemnity; (2) P200,000.00 as moral damages; (3) P365,696.02 as actual damages; (4) P150,000.00 as exemplary damages; (5) P50,000.00 as attorney's fees; and (6) P33,455.00 as litigation expenses. The reduction in the awards was deemed proper, in view of attending circumstances and prevailing jurisprudence. The petitioner was also ordered to pay interest at the rate of six percent (6%) from the time of the offense's commission, then 12% from the date of finality of decision until full payment.

The CA explained that given Tungal's failure to appeal his conviction, the decision finding that he caused the accident had become final and executory. The petitioner was equally liable for damages given its failure to present sufficient evidence of Tungal's qualifications, experience, training and service records as a driver. The self-serving testimony in court of an employee of the petitioner failed to establish the company's due diligence in the selection and supervision of its employees.

The petitioner's motion for reconsideration was denied by the CA. Hence, this petition for review.

The Court finds the petition devoid of merit.

Article 2180 of the New Civil Code provides that an obligation for damages is demandable not only for one's own acts or omissions, but also for those of persons for whom he is responsible. Employers, in particular, shall be liable for the damages caused by their employees acting within the scope of their assigned tasks. The responsibility of employers shall only cease upon proof that they observed all the diligence of the good father of a family to prevent damage.

The CA correctly held that the petitioner, being Tungal's employer, was presumed liable to the heirs of Christian after a finding that it was Tungal who should be faulted for the accident that caused the death of the child. In *Cang v. Cullen*,^[6] the Court emphasized that when an employee causes damage due to his own negligence while performing his own duties, there arises the *juris tantum* presumption that his employer is negligent, rebuttable only by proof of observance of the diligence of a good father of a family. In the selection of prospective employees, employers are required to examine them as to their qualifications, experience and service records. With respect to the supervision of employees, employers must formulate standard operating procedures, monitor their implementation and impose disciplinary measures for breaches thereof. These facts must be shown by concrete proof, including documentary evidence.^[7]

The petitioner failed in this aspect. There then appears no cogent reason for the Court to depart from the RTC's and CA's observation that the petitioner failed to establish the modes and measures it adopted to ensure the proper selection and supervision of Tungal. This makes proper the order upon the petitioner to compensate the spouses Emphasis for damages. As the CA pointed out: