

SECOND DIVISION

[G.R. No. 172200, July 06, 2010]

**THE HEIRS OF REDENTOR COMPLETO AND ELPIDIO ABIAD,
PETITIONERS, VS. SGT. AMANDO C. ALBAYDA, JR.,
RESPONDENT.**

D E C I S I O N

NACHURA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Decision^[1] dated January 2, 2006 and the Resolution^[2] dated March 30, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 68405.

The Facts

The facts of the case are as follows:

Respondent Amando C. Albayda, Jr. (Albayda) is a Master Sergeant of the Philippine Air Force, 527th Base Security Squadron, 520th Airbase, Philippine Air Force, located at Villamor Air Base (VAB), Pasay City. Petitioner Redentor Completo (Completo), now represented by his heirs, was the taxi driver of a Toyota Corolla, bearing Plate No. PYD-128, owned and operated by co-petitioner Elpidio Abiad (Abiad).^[3] Albayda and Completo figured in an accident along the intersection of 8th and 11th Streets, VAB. Albayda filed a complaint for damages before the Regional Trial Court (RTC) of Pasay City. The case was docketed as Civil Case No. 98-1333.^[4]

The amended complaint alleged that, on August 27, 1997, while Albayda was on his way to the office to report for duty, riding a bicycle along 11th Street, the taxi driven by Completo bumped and sideswiped him, causing serious physical injuries. Albayda was brought to the Philippine Air Force General Hospital (PAFGH) inside VAB. However, he was immediately transferred to the Armed Forces of the Philippines Medical Center (AFPMC) on V. Luna Road, Quezon City, because there was a fracture in his left knee and there was no orthopedic doctor available at PAFGH. From August 27, 1997 until February 11, 1998, he was confined therein. He was again hospitalized at PAFGH from February 23, 1998 until March 22, 1998.^[5]

Conciliation between the parties before the *barangay* failed. Thus, Albayda filed a complaint for physical injuries through reckless imprudence against Completo before the Office of the City Prosecutor of Pasay City. On the other hand, Completo filed a counter-charge of damage to property through reckless imprudence against Albayda. On January 13, 1998, the Office of the City Prosecutor issued a resolution,^[6] recommending the filing of an information for reckless imprudence resulting in physical injuries against Completo. The counter-charge of damage to property was recommended dismissed.^[7]

The case was raffled to the Metropolitan Trial Court of Pasay City, Branch 45, where Albayda manifested his reservation to file a separate civil action for damages against petitioners Completo and Abiad.^[8]

Albayda alleged that the proximate cause of the incident which necessitated his stay in the hospital for approximately seven (7) months was the negligence of Completo who, at the time of the accident, was in the employ of Abiad. The pain he suffered required him to undergo medical physiotherapy for a number of years to regain normality of his left knee joint, and he claimed that he incurred actual damages totaling Two Hundred Seventy-Six Thousand Five Hundred Fifty Pesos (P276,550.00), inclusive of his anticipated operations.^[9]

He further stated that aggravating the physical sufferings, mental anguish, frights, serious anxiety, besmirched reputation, wounded feelings, moral shock, and social humiliation resulting from his injuries, his wife abandoned him in May 1998, and left their children in his custody. He thus demanded the amount of Six Hundred Thousand Pesos (P600,000.00) as moral damages. He likewise asked for exemplary damages in the amount of Two Hundred Thousand Pesos (P200,000.00) and attorney's fees of Twenty-Five Thousand Pesos (P25,000.00), plus One Thousand Pesos (P1,000.00) per court appearance.^[10]

In his answer to the amended complaint, Completo alleged that, on August 27, 1997, he was carefully driving the taxicab along 8th Street, VAB, when suddenly he heard a strange sound from the rear right side of the taxicab. When he stopped to investigate, he found Albayda lying on the road and holding his left leg. He immediately rendered assistance and brought Albayda to PAFGH for emergency treatment.^[11]

Completo also asserted that he was an experienced driver who, in accordance with traffic rules and regulations and common courtesy to his fellow motorists, had already reduced his speed to twenty (20) kilometers per hour even before reaching the intersection of 8th and 11th Streets. In contrast, Albayda rode his bicycle at a very high speed, causing him to suddenly lose control of the bicycle and hit the rear door on the right side of the taxicab.^[12]

The deep indentation on the rear right door of the taxicab was caused by the impact of Albayda's body that hit the taxicab after he had lost control of the bicycle; while the slight indentation on the right front door of the taxicab was caused by the impact of the bike that hit the taxicab after Albayda let go of its handles when he had lost control of it.^[13]

Completo maintained that Albayda had no cause of action. The accident and the physical injuries suffered by Albayda were caused by his own negligence, and his purpose in filing the complaint was to harass petitioners and unjustly enrich himself at their expense.^[14]

After submission of the parties' respective pleadings, a pretrial conference was held. On December 8, 1998, the RTC issued a pretrial order. Thereafter, trial on the merits ensued.^[15]

Albayda presented himself, Michael Navarro (Navarro), Dr. Rito Barrosa, Jr. (Dr. Barrosa), Dr. Armando Sta. Ana, Jr., Dr. Ranny Santiago, (Dr. Santiago), and Dr. Manuel Fidel Magtira (Dr. Magtira) as witnesses in open court.^[16]

On direct examination, Navarro testified that, on August 27, 1997, at around 1:45 p.m., he saw a taxicab, with Plate No. PYD-128, coming from 11th Street, running at an unusual speed. The normal speed should have been twenty-five (25) kilometers per hour. He was at the corner of 9th and 8th Streets when the taxicab passed by him. The side of the bicycle was hit by the taxicab at the intersection of 11th and 8th Streets. He saw Albayda fall to the ground, grimacing in pain. The taxicab at that moment was about ten (10) meters away from Albayda. On cross-examination, Navarro reiterated that the taxicab was running quite fast. The bicycle ridden by Albayda reached the intersection of 8th and 11th Streets before the taxicab hit it.^[17]

Dr. Santiago, the orthopedic surgeon who treated Albayda when the latter was admitted at AFPMC, testified that the cause of the injury was "hard impact," and recommended an operation to alleviate the suffering. On cross-examination, he said that there was a separation of the fragments of the proximal leg, the injured extremity, called levias. They placed the victim on knee traction or calcaneal traction,^[18] in order to avoid further swelling. They bore the calcaneal bone with a stainless steel pin so that they could put five percent (5%) of the body weight of the patient to cool down the leg. He treated Albayda for three (3) months. He recommended surgery, but the victim had other medical problems, like an increase in sugar level, and they were waiting for the availability of the implant. The implant was supposed to be placed on the lateral aspect of the proximal leg or the levias, the part with the separation. It was a long implant with screws.^[19]

Dr. Magtira testified that Albayda was readmitted at AFPMC on January 25, 1999 because of complaints of pain and limitation of motion on the knee joint. Upon evaluation, the pain was caused by traumatic arthritis brought about by malunion of the lateral tibia condyle. An operation of the soft tissue release was conducted for him to mobilize his knee joint and attain proper range of motion. After the operation, Albayda attained functional range of motion, but because of subsisting pain, they had to do osteoplasty^[20] of the malunion, which was another operation. On cross-examination, Dr. Magtira testified that he rendered free medical service at AFPMC.^[21]

Albayda testified that he was thirty-six (36) years old and a soldier of the Armed Forces of the Philippines. On August 27, 1997, at around 1:40 p.m., he was riding his bike on his way to the office, located on 916 Street, VAB. He had to stop at the corner of 11th and 8th Streets because an oncoming taxicab was moving fast. However, the taxicab still bumped the front tire of his bike, hit his left knee and threw him off until he fell down on the road. The taxicab stopped about ten meters away, and then moved backwards. Its driver, Completo, just stared at him. When somebody shouted to bring him to the hospital, two (2) persons, one of whom was Dr. Barrosa, helped him and carried him into the taxicab driven by Completo, who brought him to PAFGH.^[22]

Upon examination, it was found that Albayda suffered fracture in his left knee and

that it required an operation. No orthopedic doctor was available at PAFGH. Thus, he was transferred that same afternoon to AFPMC, where he was confined until February 11, 1998.^[23]

At AFPMC, Albayda's left leg was drilled on and attached to traction. When his leg was drilled, it was so painful that he had to shout. After his release from the hospital, he continued to suffer pain in his leg. He underwent reflexology and therapy which offered temporary relief from pain. But after some time, he had to undergo therapy and reflexology again.^[24]

On January 25, 1999, Albayda was readmitted at AFPMC and operated on. On June 24, 1999, he was operated on again. Wire and screw were installed so that he could bend his knee. Nonetheless, he continued to suffer pain. As of the date of his testimony in court, he was scheduled for another operation in January 2000, when the steel that would be installed in his leg arrives.^[25]

For his food, Albayda spent Thirty Pesos (P30.00) each day during his six (6) months of confinement; for his bed pan, One Thousand Pesos (P1,000.00); for his twice weekly reflexology, Three Hundred Pesos (P300.00) every session since April 1997; for his caretaker, P300.00 per day for six months. He also asked for P600,000.00 in moral damages because Completo did not lend him a helping hand, and he would be suffering deformity for the rest of his life. He demanded P25,000.00 as attorney's fees and P1,000.00 for every court appearance of his lawyer.^[26]

On cross-examination, Albayda testified that, on the date of the incident, he was the base guard at VAB, and his duty was from 2 p.m. to 8 p.m. That afternoon, he was not in a hurry to go to his place of work because it was only about 1:45 p.m., and his place of work was only six (6) meters away. After the accident, he was brought to PAFGH, and at 3:00 p.m., he was brought to the AFPMC. When he was discharged from the hospital, he could no longer walk.^[27]

Dr. Barrosa's testimony during cross-examination emphasized that he was with 2 other persons when he carried Albayda into the taxicab driven by Completo. He was certain that it was not Completo who carried the victim into the taxicab. It was only a matter of seconds when he rushed to the scene of the accident. The taxicab backed up fifteen (15) seconds later. Albayda lay 2 meters away from the corner of 8th and 11th Streets.^[28]

Completo, Abiad, and Benjamin Panican (Panican) testified for the defense.^[29]

Completo alleged that he had been employed as taxi driver of FOJS Transport, owned by Abiad, since February 1997. On August 27, 1997, he was driving the taxicab, with Plate No. PYD-128, from 10:00 a.m. At around 1:45 p.m., he was on his way home when a bicycle bumped his taxicab at the intersection of 8th and 11th Streets, VAB. The bicycle was travelling from south to north, and he was going east coming from the west. The bicycle was coming from 11th Street, while he was travelling along 8th Street.^[30]

On cross-examination, Completo testified that when Albayda hit the rear right door

of the taxicab, the latter fell to the ground. When he heard a noise, he immediately alighted from the taxicab. He denied that he stopped about 10 meters away from the place where Albayda fell. He carried Albayda and drove him to the hospital.^[31]

Panican testified that he worked as an airconditioner technician in a shop located on 8th Street corner 11th Street. On the date and time of the incident, he was working in front of the shop near the roadside. He saw a bicycle bump the rear right side of the taxicab. Then, the driver of the taxicab alighted, carried Albayda, and brought him to the hospital.^[32]

When questioned by the trial court, Panican testified that the bicycle was running fast and that he saw it bump the taxicab. The taxicab already passed the intersection of 11th and 8th Streets when the bicycle arrived.^[33]

Abiad testified that, aside from being a soldier, he was also a franchise holder of taxicabs and passenger jeepneys. When Completo applied as a driver of the taxicab, Abiad required the former to show his bio-data, NBI clearance, and driver's license. Completo never figured in a vehicular accident since the time he was employed in February 1997. Abiad averred that Completo was a good driver and a good man. Being the operator of taxicab, Abiad would wake up early and personally check all the taxicabs.^[34]

On July 31, 2000, the trial court rendered a decision,^[35] the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff [Albayda] and against the defendants [Completo and Abiad]. Accordingly, the defendants [Completo and Abiad] are hereby ordered to pay the plaintiff [Albayda] the following sum:

1. **P46,000.00** as actual damages;
2. **P400,000.00** as moral damages; [and]
3. **P25,000.00** as attorney's fees.

Costs against the defendants [Completo and Abiad].

SO ORDERED.^[36]

Completo and Abiad filed an appeal. The CA affirmed the trial court with modification in a Decision^[37] dated January 2, 2006, viz.:

WHEREFORE, premises considered, the appeal is **DENIED** for lack of merit. The assailed Decision dated 31 July 2000 rendered by the Regional Trial Court of Pasay City, Branch 117, in Civil Case No. 98-1333 is hereby **AFFIRMED** with the following **MODIFICATIONS**: