

SECOND DIVISION

[G.R. No. 101439, June 21, 1999]

**GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS),
PETITIONER, VS. COURT OF APPEALS FORMER TENTH
DIVISION), VICTORIA JAIME VDA. DE KHO, FOR HERSELF AND
MINOR ROY ROLAND, GLORIA KHO VDA. DE CALABIA FOR
HERSELF AND MINORS MARY GRACE, WILLIE, JR., VOLTAIRE,
GLENN, AND MAY, ALL SURNAMED CALABIA, DANIEL KHO,
JOSEFINA KHO, EMERITA KHO APEGO, ANTONIO KHO AND
TERESITA KHO, RESPONDENTS.**

DECISION

QUISUMBING, J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Government Service Insurance System (GSIS) assails the January 15, 1991 Decision^[1] of the Court of Appeals in CA-G.R. No. 19849, which affirmed in toto the judgment of the Regional Trial Court of Butuan City, Branch II, dated April 30, 1985, stating in part:

"WHEREFORE, judgment is hereby rendered, as follows:

x x x

In Civil Case No. 2256:

- a) Dismissing the complaint against defendant Victor Uy;
- b) Ordering defendants Mabuhay Insurance and Guaranty Company, Inc., Guillermo Corbeta, NFA and GSIS to pay jointly and severally the following sums of money:
 - i. to pay plaintiff Gloria Kho Vda. de Calabia, the sum of P8,935.06 for doctor's fees, medicines, hospitalizations and medical expenses; P2,319.00 for transportation expenses; and P53.30 for telegrams; P10,000.00 for the injuries she sustained; P12,000.00 loss of income for six months.
 - ii. to plaintiff Victoria Kho, the sum of P832.00 for hospitalization and medicines; P10,000.00 for the injuries she sustained;
 - iii. to the heirs of Wellie [Willie] Calabia, Roland Kho and Maxima Uhmad [Ugmad] Vda. de Kho, the sum of P7,500.00 as funeral expenses less P5,000.00 advanced by defendant Victor Uy.

to the heirs of Wellie [Willie] Calabia, Sr., heirs of Roland
iv. Kho and heirs of Maxima Ugmad Vda. de Kho; P30,000.00
each as compensatory damages.

- c) To pay plaintiff the sum of P10,000.00 as attorney's fees and expenses of litigation;
- d) Dismissing defendants counterclaim, and cross-claim; and
- e) To pay the costs.

That this decision is without prejudice as to the right of Mabuhay Insurance & Guaranty Co., Inc., and NFA to recover from Guillermo Corbeta and GSIS the amounts they may have paid by virtue hereof."^[2]

For purposes of this review, we deem as also assailed the disposition by the trial court in its Order issued on July 12, 1985, modifying its original decision, by awarding moral damages to the heirs of the deceased victims, as follows:

"Considering that the dispositive portion of the decision in this case, an award of P10,000.00 each made to plaintiffs Gloria Kho Vda. de Calabia x x x, for injuries they sustained, this award, through [sic] not clearly stated in the decision, is the moral damages the instant motion seeks to obtain. However, the prayer for moral damages for the death of the three (3) persons above-mentioned is proper. (citation omitted)

In view of the foregoing, the prayer of plaintiffs Gloria Kho Vda. de Calabia and Victoria Kho for an award of moral damages in their favor is hereby denied. However, as for the death of Wellie [Willie] Calabia, Sr., Rolando Kho and Maxima Ugmad Vda. de Kho, an award of moral damages is hereby made, and ordering and directing defendants Mabuhay Insurance and Guaranty Company Inc., Guillermo Corbeta, National Food Authority and Government Service Insurance System to pay jointly and severally the following sums to wit:

P10,000.00 to the heirs of Wellie [Willie] Calabia, Sr.

P10,000.00 to the heirs of Rolando Kho and

P10,000.00 to the heirs of Maxima Ugmad Vda. de Kho

x x x

IT IS SO ORDERED."^[3]

The relevant facts as found by the trial court are as follows:

National Food Authority (NFA, formerly National Grains Authority) was the owner of a Chevrolet truck which was insured against liabilities for death of and injuries to third persons with the GSIS.

On May 9, 1979, at about 7:00 in the evening at Tabon-Tabon, Butuan City, the said

truck driven by Guillermo Corbeta collided with a public utility vehicle, a Toyota Tamaraw. The Toyota Tamaraw was owned and operated by Victor Uy, under the name and style of "Victory Line." The Tamaraw was a total wreck.

All the collision victims were passengers of the Toyota Tamaraw. Five (5) passengers died^[4] while ten (10) others sustained bodily injuries. Among those injured were private respondents, Victoria Jaime Vda. de Kho and Gloria Kho Vda. de Calabia. Among the dead were Maxima Ugmad Vda. de Kho, Roland Kho and Willie Calabia, Sr.

Three (3) cases were filed with the Court of First Instance of Agusan del Norte and Butuan City. The *first*, Civil Case No. 2196 for quasi-delict, damages and attorney's fees, was commenced by Uy on June 5, 1979 against NFA and Corbeta. On August 27, 1979, the *second*, Civil Case No. 2225 for damages, was filed by an injured passenger, Librado Taer, against Uy, the operator of the public utility vehicle, and insurer, Mabuhay Insurance and Guaranty Co. (MIGC). In turn, Uy filed a cross-claim against MIGC and a third-party complaint against Corbeta and NFA. The *third*, Civil Case No. 2256, was instituted by herein private respondents on November 26, 1979 against the following: NFA and Corbeta for damages due to quasi-delict; GSIS as insurer of the truck; Uy for breach of contract of carriage; and MIGC as insurer of the Toyota Tamaraw. These cases were consolidated and partially tried by Judge Fortunato A. Vailoces, of the then Court of First Instance of Agusan del Norte and Butuan City.

These cases were later on transferred to Branch II of the Regional Trial Court of Butuan City. Trial ensued and on April 30, 1985, the court rendered its decision^[5] holding that Corbeta's negligence was the proximate cause of the collision. The findings of the trial court stated that the truck which crossed over to the other lane was speeding because after the collision, its left front wheel was detached and the truck traveled for about fifty (50) meters and fell into a ravine.^[6] Likewise, the court concluded that if both vehicles had traveled in their respective lanes, the incident would not have occurred.^[7] However, the Chevy cargo truck had crossed over to the other lane which, under traffic rules, was the lane of the Toyota Tamaraw.^[8]

In Civil Case No. 2196, the trial court awarded Uy the total amount of one hundred nine thousand one hundred (P109,100.00) pesos for damages. In Civil Case No. 2225, said court dismissed the case against Uy and ordered MIGC, Corbeta and NFA to pay plaintiff Taer, jointly and severally, the total amount of forty thousand five hundred fifty-nine pesos and ninety four centavos (P40,559.94) for actual, compensatory, and moral damages plus attorney's fees. Damages were likewise awarded to the herein private respondents in Civil Case No. 2256, as earlier mentioned.

Corbeta and NFA appealed the decision of the trial court in Civil Case Nos. 2196, 2225, and 2256 to the Court of Appeals. GSIS also elevated the decision in Civil Case No. 2256 to the same appellate court. The appeals were docketed as C.A.-G.R. Nos. 19847, 19848, and 19849.

The Court of Appeals agreed with the conclusions of the trial court and ruled as follows:

"WHEREFORE, in view of the foregoing considerations, and finding no reversible error, the decisions of the Court *a quo* in Civil Cases Nos. 2196, 2225 and 2256 are hereby AFFIRMED *in toto*, with costs against the appellants.

SO ORDERED."^[9]

On February 5 and 6, 1991, GSIS and NFA filed their motions for reconsideration respectively, which were denied by the respondent court in its Resolution^[10] dated August 13, 1991.

On October 4, 1991, only GSIS filed this petition for review on certiorari based on the following assigned errors:

1. The respondent court erred in holding GSIS solidarily liable with NFA.
2. The respondent court erred in holding GSIS liable beyond the terms and conditions of the contract of insurance and the limitations under Insurance Memorandum Circular (IMC) No. 5-78.
3. The respondent court erred in holding GSIS liable without proof that a notice of claim had been filed within six (6) months from the date of the accident.

We find pertinent the following issues:

- 1) Whether the respondent court erred in holding GSIS solidarily liable with the negligent insured/owner-operator of the Chevrolet truck for damages awarded to private respondents which are beyond the limitations of the insurance policy and the Insurance Memorandum Circular No. 5-78.
- 2) Whether the respondent court failed to consider that the private respondents have no cause of action against the petitioner, allegedly for failure of the victims to file an insurance claim within six (6) months from the date of the accident.

Petitioner denies solidary liability with the NFA or the negligent operator of the cargo truck because it claims that they are liable under different obligations. It asserts that the NFA's liability is based on quasi-delict, while petitioner's liability is based on the contract of insurance. Citing articles 1207^[11] and 1208^[12] of the Civil Code of the Philippines, petitioner states that when there are two or more debtors or two or more creditors, the obligation as a general rule is joint. It claims that the only exceptions are: (1) when there is a stipulation for solidary obligation; (2) when the nature of the obligation requires solidary liability; and (3) when the law declares the obligation to be solidary. However, since neither the provision of the contract nor the insurance law provides for solidary liability, petitioner asserts that the presumption is that its obligation arising from a contract of insurance is joint.

Petitioner's position insofar as joint liability is concerned is not tenable. It is now established that the injured or the heirs of a deceased victim of a vehicular accident

may sue directly the insurer of the vehicle. Note that common carriers are required to secure Compulsory Motor Vehicle Liability Insurance [CMVLI] coverage as provided under Sec. 374^[13] of the Insurance Code, precisely for the benefit of victims of vehicular accidents and to extend them immediate relief.^[14] As this Court held in *Shafer vs. Judge, RTC of Olongapo City, Br. 75:*^[15]

"Compulsory Motor Vehicle Liability Insurance (third party liability, or TPL) is primarily intended to provide compensation for the death or bodily injuries suffered by innocent third parties or passengers as a result of a negligent operation and use of motor vehicles. The victims and/or their dependants [dependents] are assured of immediate financial assistance, regardless of the financial capacity of motor vehicle owners.

x x x

The injured for whom the contract of insurance is intended can sue directly the insurer. The general purpose of statutes enabling an injured person to proceed directly against the insurer is to protect injured persons against the insolvency of the insured who causes such injury, and to give such injured person a certain beneficial interest in the proceeds of the policy, and statutes are to be liberally construed so that their intended purpose may be accomplished. It has even been held that such a provision creates a contractual relation which inures to the benefit of any and every person who may be negligently injured by the named insured as if such injured person were specifically named in the policy. (S 449 7 Am. Jur., 2d, pp. 118-119)"^[16]

However, although the victim may proceed directly against the insurer for indemnity, the third party liability is only up to the extent of the insurance policy and those required by law. While it is true that where the insurance contract provides for indemnity against liability to third persons, and such third persons can directly^[17] sue the insurer, the direct liability of the insurer under indemnity contracts against third party liability does not mean that the insurer can be held liable in *solidum* with the insured and/or the other parties found at fault.^[18] For the liability of the insurer is based on contract; that of the insured carrier or vehicle owner is based on tort.^[19] The liability of GSIS based on the insurance contract is direct, but not solidary with that of the NFA. The latter's liability is based separately on Article 2180^[20] of the Civil Code.^[21]

Obviously, the insurer could be held liable only up to the extent of what was provided for by the contract of insurance, in accordance with CMVLI law. At the time of the incident, the schedule of indemnities for death and/or bodily injuries, professional fees, hospital and other charges payable under a CMVLI coverage was provided under the Insurance Memorandum Circular (IMC) No. 5-78 which was approved on November 10, 1978. As therein provided, the maximum indemnity for death was twelve thousand (P12,000.00) pesos per victim.^[22] The schedules for medical expenses were also provided by said IMC, specifically in paragraphs (C) to (G).

Consequently, heirs of the victims who died in the May 9, 1979 vehicular incident,