

## **FIRST DIVISION**

**[ G.R. No. 115024, February 07, 1996 ]**

**MA. LOURDES VALENZUELA, PETITIONER, VS. COURT OF APPEALS, RICHARD LI AND ALEXANDER COMMERCIAL, INC., RESPONDENTS.**

### **D E C I S I O N**

**KAPUNAN, J.:**

These two petitions for review on certiorari under Rule 45 of the Revised Rules of Court stem from an action to recover damages by petitioner Lourdes Valenzuela in the Regional Trial Court of Quezon City for injuries sustained by her in a vehicular accident in the early morning of June 24, 1990. The facts found by the trial court are succinctly summarized by the Court of Appeals below:

This is an action to recover damages based on quasi-delict, for serious physical injuries sustained in a vehicular accident.

Plaintiff's version of the accident is as follows: At around 2:00 in the morning of June 24, 1990, plaintiff Ma. Lourdes Valenzuela was driving a blue Mitsubishi lancer with Plate No. FFU 542 from her restaurant at Marcos highway to her home at Palanza Street, Araneta Avenue. She was travelling along Aurora Blvd. with a companion, Cecilia Ramon, heading towards the direction of Manila. Before reaching A. Lake Street, she noticed something wrong with her tires; she stopped at a lighted place where there were people, to verify whether she had a flat tire and to solicit help if needed. Having been told by the people present that her rear right tire was flat and that she cannot reach her home in that car's condition, she parked along the sidewalk, about 1½ feet away, put on her emergency lights, alighted from the car, and went to the rear to open the trunk. She was standing at the left side of the rear of her car pointing to the tools to a man who will help her fix the tire when she was suddenly bumped by a 1987 Mitsubishi Lancer driven by defendant Richard Li and registered in the name of defendant Alexander Commercial, Inc. Because of the impact plaintiff was thrown against the windshield of the car of the defendant, which was destroyed, and then fell to the ground. She was pulled out from under defendant's car. Plaintiff's left leg was severed up to the middle of her thigh, with only some skin and sucle connected to the rest of the body. She was brought to the UERM Medical Memorial Center where she was found to have a "traumatic amputation, leg, left up to distal thigh (above knee)." She was confined in the hospital for twenty (20) days and was eventually fitted with an artificial leg. The expenses for the hospital confinement (P 120,000.00) and the cost of the artificial leg (P27,000.00) were paid by defendants from the car insurance.

In her complaint, plaintiff prayed for moral damages in the amount of P1 million, exemplary damages in the amount of P100,000.00 and other medical and related expenses amounting to a total of P180,000.00, including loss of expected earnings.

Defendant Richard Li denied that he was negligent. He was on his way home, travelling at 55 kph; considering that it was raining, visibility was affected and the road was wet. Traffic was light. He testified that he was driving along the inner portion of the right lane of Aurora Blvd. towards the direction of Araneta Avenue, when he was suddenly confronted, in the vicinity of A. Lake Street, San Juan, with a car coming from the opposite direction, travelling at 80 kph, with "full bright lights." Temporarily blinded, he instinctively swerved to the right to avoid colliding with the oncoming vehicle, and bumped plaintiff's car, which he did not see because it was midnight blue in color, with no parking lights or early warning device, and the area was poorly lighted. He alleged in his defense that the left rear portion of plaintiff's car was protruding as it was then "at a standstill diagonally" on the outer portion of the right lane towards Araneta Avenue (par. 18, Answer). He confirmed the testimony of plaintiff's witness that after being bumped the car of the plaintiff swerved to the right and hit another car parked on the sidewalk. Defendants counterclaimed for damages, alleging that plaintiff was reckless or negligent, as she was not a licensed driver.

The police investigator, Pfc. Felic Ramos, who prepared the vehicular accident report and the sketch of the three cars involved in the accident, testified that the plaintiff's car was "near the sidewalk"; this witness did not remember whether the hazard lights of plaintiff's car were on, and did not notice if there was an early warning device; there was a street light at the corner of Aurora Blvd. and F. Roman, about 100 meters away. It was not mostly dark, i.e. "things can be seen" (p. 16, tsn, Oct. 28, 1991).

A witness for the plaintiff, Rogelio Rodriguez, testified that after plaintiff alighted from her car and opened the trunk compartment, defendant's car came approaching very fast ten meters from the scene; the car was "zigzagging." The rear left side of plaintiff's car was bumped by the front right portion of defendant's car; as a consequence, the plaintiff's car swerved to the right and hit the parked car on the sidewalk. Plaintiff was thrown to the windshield of defendant's car, which was destroyed, and landed under the car. He stated that defendant was under the influence of liquor as he could "smell it very well" (pp. 43, 79, tsn., June 17, 1991).

After trial, the lower court sustained the plaintiff's submissions and found defendant Richard Li guilty of gross negligence and liable for damages under Article 2176 of the Civil Code. The trial court likewise held Alexander Commercial, Inc., Li's employer, jointly and severally liable for damages pursuant to Article 2180. It ordered the defendants to jointly and severally pay the following amounts:

1. P41,840.00, as actual damages, representing the miscellaneous expenses of the plaintiff as a result of her severed left leg;
2. The sums of (a) P37,500.00, for the unrealized profits because of the stoppage of plaintiffs Bistro La Conga restaurant three (3) weeks after the accident on June 24, 1990; (b) P20,000.00, a month, as unrealized profits of the plaintiff in her Bistro La Conga restaurant, from August, 1990 until the date of this judgment; and (c) P30,000.00, a month, for unrealized profits in plaintiffs two (2) beauty salons from July, 1990 until the date of this decision;
3. P1,000,000.00, in moral damages;
4. P50,000.00, as exemplary damages,
5. P60,000.00, as reasonable attorney's fees; and
6. Costs.

As a result of the trial court's decision, defendants filed an Omnibus Motion for New Trial and for Reconsideration, citing testimony in Criminal Case O.C. No. 804367 (People vs. Richard Li), tending to show that the point of impact, as depicted by the pieces of glass/debris from the parties' cars, appeared to be at the center of the right lane of Aurora Blvd. The trial court denied the motion. Defendants forthwith filed an appeal with the respondent Court of Appeals. In a Decision rendered March 30, 1994, the Court of Appeals found that there was "ample basis from the evidence of record for the trial court's finding that the plaintiff's car was properly parked at the right, beside the sidewalk when it was bumped by defendant's car."<sup>[1]</sup> Dismissing the defendants' argument that the plaintiff's car was improperly parked, almost at the center of the road, the respondent court noted that evidence which was supposed to prove that the car was at or near center of the right lane was never presented during the trial of the case.<sup>[2]</sup> The respondent court furthermore observed that:

Defendant Li's testimony that he was driving at a safe speed of 55 km./hour is self serving; it was not corroborated. It was in fact contradicted by eyewitness Rodriguez who stated that he was outside his beerhouse located at Aurora Boulevard after A. Lake Street, at or about 2:00 a.m. of June 24, 1990 when his attention was caught by a beautiful lady (referring to the plaintiff) alighting from her car and opening the trunk compartment; he noticed the car of Richard Li "approaching very fast ten (10) meters away from the scene"; defendant's car was zigzagging, although there were no holes and hazards on the street, and "bumped the leg of the plaintiff' who was thrown against the windshield of defendant's car, causing its destruction. He came to the rescue of the plaintiff, who was pulled out from under defendant's car and was able to say "hurting words" to Richard Li because he noticed that the latter was under the influence of liquor, because he "could smell it very well" (p. 36, et. seq., tsn, June 17, 1991). He knew that plaintiff owned a beerhouse

in Sta. Mesa in the 1970's, but did not know either plaintiff or defendant Li before the accident.

In agreeing with the trial court that the defendant Li was liable for the injuries sustained by the plaintiff, the Court of Appeals, in its decision, however, absolved the Li's employer, Alexander Commercial, Inc. from any liability towards petitioner Lourdes Valenzuela and reduced the amount of moral damages to P500,000.00. Finding justification for exemplary damages, the respondent court allowed an award of P50,000.00 for the same, in addition to costs, attorney's fees and the other damages. The Court of Appeals, likewise, dismissed the defendants' counterclaims.

[3]

Consequently, both parties assail the respondent court's decision by filing two separate petitions before this Court. Richard Li, in G.R. No. 117944, contends that he should not be held liable for damages because the proximate cause of the accident was Ma. Lourdes Valenzuela's own negligence. Alternatively, he argues that in the event that this Court finds him negligent, such negligence ought to be mitigated by the contributory negligence of Valenzuela.

On the other hand, in G.R. No. 115024, Ma. Lourdes Valenzuela assails the respondent court's decision insofar as it absolves Alexander Commercial, Inc. from liability as the owner of the car driven by Richard Li and insofar as it reduces the amount of the actual and moral damages awarded by the trial court.[4]

As the issues are intimately related, both petitions are hereby consolidated. It is plainly evident that the petition for review in G.R. No. 117944 raises no substantial questions of law. What it, in effect, attempts to have this Court review are factual findings of the trial court, as sustained by the Court of Appeals finding Richard Li grossly negligent in driving the Mitsubishi Lancer provided by his company in the early morning hours of June 24, 1990. This we will not do. As a general rule, findings of fact of the Court of Appeals are binding and conclusive upon us, and this Court will not normally disturb such factual findings unless the findings of fact of the said court are palpably unsupported by the evidence on record or unless the judgment itself is based on a misapprehension of facts.[5]

In the first place, Valenzuela's version of the incident was fully corroborated by an uninterested witness, Rogelio Rodriguez, the owner-operator of an establishment located just across the scene of the accident. On trial, he testified that he observed a car being driven at a "very fast" speed, racing towards the general direction of Araneta Avenue.[6] Rodriguez further added that he was standing in front of his establishment, just ten to twenty feet away from the scene of the accident, when he saw the car hit Valenzuela, hurtling her against the windshield of the defendant's Mitsubishi Lancer, from where she eventually fell under the defendant's car. Spontaneously reacting to the incident, he crossed the street, noting that a man reeking with the smell of liquor had alighted from the offending vehicle in order to survey the incident.[7] Equally important, Rodriguez declared that he observed Valenzuela's car parked parallel and very near the sidewalk,[8] contrary to Li's allegation that Valenzuela's car was close to the center of the right lane. We agree that as between Li's "self-serving" asseverations and the observations of a witness

who did not even know the accident victim personally and who immediately gave a statement of the incident similar to his testimony to the investigator immediately after the incident, the latter's testimony deserves greater weight. As the court emphasized:

The issue is one of credibility and from Our own examination of the transcript, We are not prepared to set aside the trial court's reliance on the testimony of Rodriguez negating defendant's assertion that he was driving at a safe speed. While Rodriguez drives only a motorcycle, his perception of speed is not necessarily impaired. He was subjected to cross-examination and no attempt was made to question his competence or the accuracy of his statement that defendant was driving "very fast." This was the same statement he gave to the police investigator after the incident, as told to a newspaper report (Exh. "P"). We see no compelling basis for disregarding his testimony.

The alleged inconsistencies in Rodriguez' testimony are not borne out by an examination of the testimony. Rodriguez testified that the scene of the accident was across the street where his beerhouse is located about ten to twenty feet away (pp. 35-36, tsn, June 17, 1991). He did not state that the accident transpired immediately in front of his establishment. The ownership of the Lambingan sa Kambingan is not material; the business is registered in the name of his mother, but he explained that he owns the establishment (p. 5, tsn., June 20, 1991).

Moreover, the testimony that the streetlights on his side of Aurora Boulevard were on the night the accident transpired (p. 8) is not necessarily contradictory to the testimony of Pfc. Ramos that there was a streetlight at the corner of Aurora Boulevard and F. Roman Street (p. 45, tsn., Oct. 20, 1991).

With respect to the weather condition, Rodriguez testified that there was only a drizzle, not a heavy rain and the rain has stopped and he was outside his establishment at the time the accident transpired (pp. 64-65, tsn., June 17, 1991). This was consistent with plaintiffs testimony that it was no longer raining when she left Bistro La Conga (pp. 10-11, tsn., April 29, 1991). It was defendant Li who stated that it was raining all the way in an attempt to explain why he was travelling at only 50-55 kph. (p. 11, tsn., Oct. 14, 1991). As to the testimony of Pfc. Ramos that it was raining, he arrived at the scene only in response to a telephone call after the accident had transpired (pp. 9-10, tsn, Oct. 28, 1991). We find no substantial inconsistencies in Rodriguez's testimony that would impair the essential integrity of his testimony or reflect on his honesty. We are compelled to affirm the trial court's acceptance of the testimony of said eyewitness.

Against the unassailable testimony of witness Rodriguez we note that Li's testimony was peppered with so many inconsistencies leading us to conclude that his version of the accident was merely adroitly crafted to provide a version, obviously self-