

TWELFTH DIVISION

[CA-G.R. CV NO. 69339, August 11, 2006]

**CAMILO CASCOLAN, JR., PLAINTIFF-APPELLEE, VS. R & E
TRANSPORT, INC. AND MAGNOLITO TAJONERA, DEFENDANTS-
APPELLANTS.**

D E C I S I O N

MENDOZA, J.:

At bar is an appeal from the October 6, 2000 Decision^[1] of the Regional Trial Court, Branch 224, Quezon City, awarding damages in favor of the plaintiff-appellee, Camilo Cascolan, Jr. (*Cascolan*), whose car was bumped by the taxi of defendant-appellant R & E Transport, Inc. (*R & E Transport*), a company engaged in the taxi business, then driven by co-defendant-appellant Magnolito Tajonera (*Tajonera*).

The facts follow.

On December 23, 1997, Cascolan filed a Complaint for Damages against R & E Transport and Magnolito Tajonera for damages arising from a vehicular accident on October 2, 1997 involving their respective vehicles. In his Complaint,^[2] Cascolan alleged:

"2. That plaintiff is the owner of a 1997 NISSAN SENTRA car with Plate No. PJA-362 which he purchased from the previous owner, Melanie Susan J. Quinto, as evidenced by a Deed of Sale of Motor Vehicle, dated April 14, 1995, duly executed by them, xerox copy of which is attached hereto as part hereof as Annex 'A';

3. That defendant R & E Transport, Inc. is engaged in the taxicab business, transporting passengers in Metro-Manila, and is the registered owner of the R & E Taxicab, a Daewoo Racer car, with Plate No. PWK-662, as evidenced by LTO Certificate of Registration No. 66827531, dated February 28, 1997, xerox copies of which are attached hereto as parts hereof as Annexes 'B' and 'B-1.' Defendant Magnolito Tajonera was the driver of the said R & E Taxicab at the time of the vehicular accident, subject of this complaint.

4. That on October 2, 1997, at about 12:20 o'clock in the morning, plaintiff was carefully and prudently driving his said car along Quezon Avenue Extension coming from Epifanio delos Santos Avenue (EDSA), Quezon City. When plaintiff's car was about to enter the elliptical road with the intention to turn right at the inner lane of the Elliptical Circle, he saw one vehicle coming, running along the elliptical road going in the direction of the Quezon City Hall, and so, plaintiff slowed down his car and let said vehicle pass, after which he slowly drove his car straight,

blowing his car's horn several times and turning his car's front lights in full brightness, as a signal in order to turn right at the inner lane. *While plaintiff was slowly and carefully driving his car straight towards the inner lane, three (3) vehicles running along the elliptical road stopped to let plaintiff's car pass. However, before plaintiff's car could reach the center island separating the outer and inner lanes, the R & E Taxicab with Plate No. PWK-662 being driven by defendant Magnolito Tajonera, which was running fast, did not stop and, all of a sudden bumped plaintiff's car which, as a consequence of the impact, turned around about ninety (90) degrees from its original position before the impact.*

5. That as a result of such bumping, plaintiff's left face hit the left face hit the left front window glass, causing plaintiff to feel dizzy as well as pain on his left face;

6. That furthermore, as a consequence of such bumping, plaintiff's aforesaid car suffered enormous damage, which required major repair at the cost P73,992.42, as evidenced by the Sales Invoices of Nissan Quezon Avenue, Inc. and their attachments, xerox copies of which are attached hereto as parts hereof as Annexes 'C', 'C-1' and 'D.' Additionally, the rim of one of the tires of plaintiff's car was damaged and it will cost P1,500.00 to replace it.

7. That plaintiff was likewise deprived of the use of his said car, forcing him to use taxicabs as a means of transportation, for a period of fourteen (14) days while his said car was undergoing repairs, thereby putting him to a daily transportation expense of P300.00, for a total of P4,200.00 x x x"[3]

In their Answer,^[4] R & E Transport and Magnolito Tajonera vehemently denied that they are liable for the accident as it was caused by the fault or negligence of Cascolan. R & E Transport added that, as a taxi company, it had exercised the due diligence of a good father of a family in the selection and supervision of its employees like Tajonera.

On October 6, 2000, after the trial on the merits, the trial court handed down a decision in favor of Cascolan, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and as against defendants, ordering the latter:

1. to pay plaintiff jointly and severally the following:

- a. actual damages in the amount of P79,692.42 plus 12% interest until fully paid;
- b. P100,000.00 as moral damages;
- c. P50,000.00 as exemplary damages;
- d. P30,000.00 as attorney's fees;

2. Costs of the suit.

IT IS SO ORDERED.”^[5]

Not in conformity with the trial court’s ruling, R & E Transport and Tajonera interposed this appeal assailing the decision and praying for its reversal anchored on the following

“ASSIGNMENT OF ERRORS

1. The Regional Trial Court has committed error when it failed to appreciate the defendant-appellant’s evidence that the defendant R & E Transport, Inc., has exercised the due diligence in the supervision of its employees. Consequently, the order in the decision to pay plaintiff jointly and severally on damages, attorney’s fees and the cost of the suit against the defendant R & E Transport, Inc. is improper.
2. The Regional Trial Court has committed grave error when it awarded the plaintiff the moral and exemplary damages when the same is improper and were not proven by the plaintiff.”^[6]

R & E Transport points out that it has “always exercised the due diligence in the supervision of its employees, and more particularly defendant Magnolito Tajonera.”^[7] In fact, they caused the “installation of two-way radios to the taxi units, and to the units used by the inspectors in order to monitor and supervise the activities of the drivers. Installation of two-way radios is not even done in other big taxi companies. The inspectors working in the field who monitored the activities of the drivers, as they have designated places, could immediately report to the office and/or directly to the personnel manager on whatever violations committed by erring drivers, who did not comply with the rules and regulations of the company and/or traffic rules and regulations. As has been stated, the erring drivers have also to attend the seminar that is conducted once in every three months, and if the said erring driver failed to attend the seminar, he could not drive a taxi of the defendant company.”^[8]

On quasi-delict, *Article 2176 of the New Civil Code* states:

“Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damages done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.”

In connection therewith, *Article 2180* provides for the solidary liability of an employer for the quasi-delict committed by an employee. The responsibility of employers for the negligence of their employees in the performance of their duties is primary and, therefore, the injured party may recover from the employers directly, regardless of the solvency of their employees. *Victory Liner, Inc. vs. Heirs of Andres Malecdan*^[9] explains the rationale for the rule on vicarious liability and the proof necessary to exempt the employer from such liability: