

SIXTH DIVISION

[CA-G.R. CV NO. 85004, September 27, 2006]

**RAMON MARIANO, PLAINTIFF-APPELLEE, VS. AGNES DE JESUS
AND RODOLFO PAGALA, JR., DEFENDANTS-APPELLANTS.**

D E C I S I O N

COSICO, J.:

This decision resolves defendants-appellants Agnes de Jesus and Rodolfo Pagala, Jr.'s appeal from the judgment of the Regional Trial Court, Branch 64 of Tarlac City in Civil Case No. 9021, a civil action for damages based on quasi-delict.

The Facts

On January 2, 1999, at about 7:30 in the morning, an Amante Passenger Jeepney with plate number DFA-509 being driven by defendant-appellant Rodolfo Pagala, Jr. along the Victoria-Tarlac City Provincial Road collided with a bicycle being operated by plaintiff-appellee Ramon Mariano. The passenger jeepney was registered in the name of defendant-appellant Agnes de Jesus, who was also the employer of defendant-appellant Pagala, Jr.

Plaintiff-appellee Mariano claims that the collision was the result of the gross negligence of defendant-appellant Pagala, Jr. Because of the impact, he suffered a fracture on his right thigh and knee. He incurred medical expenses by reason of the accident, and even failed to earn as a farmer during the period of his medication. Defendant-appellant De Jesus was impleaded in the suit for damages for her failure to exercise the due diligence of a good father of a family in the selection, control and supervision of her employee-driver.

Witness Liberado Pascual, who testified for the plaintiff-appellee, claimed that he was waiting for passengers and talking to some men near the place of the collision at the time the said collision happened. According to him, the jeepney being driven by Pagala, Jr. tried to avoid a crack on the road and in doing so, intruded on the opposite lane of the highway, and then hit the bicycle being driven by the plaintiff-appellee. The passenger jeepney was then coming from Victoria, and was running at a fast clip.

Defendants-appellants, on the other hand, blame Mariano for the accident. Pagala, Jr. maintains that prior to the mishap, he was driving the passenger jeepney carefully, diligently and in accordance with settled traffic rules. According to him, he was driving along the highway at a moderate speed when the bicycle being operated by Mariano came from the opposite direction of the highway, tried to overtake the motorized cart before it, encroached upon the lane of Pagala, Jr. and then hit the left portion of the jeepney. Defendant-appellant De Jesus, on the other hand, denied the allegation that she failed to exercise the diligence of a good father of a family in the

selection and supervision of her co-defendant. She argued that her co-defendant was a holder of a professional driver's license, and had no previous bad record concerning violation of traffic rules and regulations.

The Ruling of the RTC

On April 8, 2005, the Regional Trial Court rendered its judgment¹ finding the negligence and careless driving of defendant-appellant Rodolfo Pagala, Jr. as the proximate cause of the collision between the passenger jeepney and the bicycle. Thus, the dispositive portion of the judgment reads:

"WHEREFORE, in the light of the foregoing judgment is hereby rendered in favor of the plaintiff against the defendants jointly and in solidum to pay:

1. The sum of P367,024.60 as actual and compensatory damages evidenced by Exhibit 'C' and Exhibit 'C-1' to Exhibit 'C-337' bunches of receipts for the medical expenses of plaintiff incurred from January 1999 to January 1, 2000;
2. For moral damages suffered by plaintiff, to pay the sum of P50,000.00;
3. For Attorney's fees rendered by plaintiff's counsel due to the unjustified refusal of defendants to pay the just claims of plaintiff, to pay the sum of P30,000.00;
4. To pay an exemplary damages for defendants' bad faith in their refusal to answer for all the damages incurred by the plaintiff to serve as an example to the public, the sum of P30,000.00 and;
5. To pay the cost of suit.

SO ORDERED."

The Issues

Thus, the instant appeal where defendants-appellants raise the following issues:

- I. Whether or not defendant-appellant Rodolfo Pagala, Jr. was at fault or was negligent in driving his jeepney;
- II. Whether or not defendant-appellant Agnes de Jesus failed to exercise the diligence of a good father of a family in the selection of her employee, driver Rodolfo Pagala, Jr.;
- III. Whether or not the award of damages has factual and legal bases.

This Court's Ruling

After due study, this Court finds the instant appeal bereft of merit.

First Issue:
Liability of Defendant-Appellant Pagala, Jr.

In assailing the RTC's resolution of the suit for damages, herein defendants-appellants argue that Pagala, Jr. did not act negligently in the operation of the passenger jeepney. Prior to the collision, Pagala, Jr. was allegedly driving the jeepney at a moderate speed and with due regard to traffic rules and regulations. They insist that the proximate cause of the accident was the fault of plaintiff-appellee Mariano in encroaching upon the lane of the jeepney.

We are not persuaded.

Case law has it that the findings of facts of the trial court, its calibration of the collective testimonies of the witnesses, its assessment of the probative weight of the evidence of the parties as well as its conclusions anchored on said findings are accorded by the appellate court high respect.² Unless the trial court clearly overlooked certain facts of substance of value which, if considered, might affect the result of the case, the findings of the trial court are to be respected.

This Court's perusal of the records of the case reveals that no such error was committed by the trial court. Firstly, the finding that the fault and gross negligence of defendant-appellant Pagala, Jr. was the proximate cause of the injuries sustained by plaintiff-appellee Mariano during the accident is supported by evidence.

Plaintiff-appellee categorically narrated in court how the collision between the passenger jeepney and the bicycle transpired. On January 2, 1999, at about 7:30 in the morning, he was driving a bicycle towards Victoria, Tarlac when his bicycle was bumped by the jeepney being driven by defendant-appellant Pagala, Jr. He was then at the edge/right side of the lane going to the direction of Victoria when the speeding passenger jeepney coming from the opposite direction hit him. As a result of the impact, he was thrown off the bicycle, became unconscious and suffered injuries on his right thigh and knee. He was brought to the Central Luzon Doctors Hospital, then to the Orthopedic Hospital for medical treatment. The medical certificates and receipts covering the medical expenses were presented and offered in evidence before the trial court. Plaintiff-appellee, a farmer, was also unable to work during the period of his medication.

The allegations of the plaintiff-appellee were corroborated on material points by witness Liberado Pascual, an eyewitness to the collision. Pascual further testified that the jeepney being driven by Pagala, Jr. was running very fast. The jeepney tried to avoid a pothole or a crack on the highway and in doing so, it encroached the other lane and hit the bicycle of Mariano.

Plaintiff-appellee's account of the accident deserves more credence as against the bare and uncorroborated testimony of defendant-appellant Pagala, Jr. as to the cause of the accident. The inconsistencies in the testimony of witness Pascual referred to by the defendants-appellants in their appeal brief refer to minor details and thus do not adversely affect the said witness' and his testimony's credibility.

The foregoing considered, the trial court did not commit a reversible error in ruling that herein defendant-appellant Pagala, Jr.'s carelessness and reckless driving was