



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

**WILLIAM ENRIQUEZ and G.R. No. 212008**  
**NELIA-VELA ENRIQUEZ,**  
Petitioners, **Present:**

- versus -

VELASCO, JR., \* J., Chairperson,  
PERALTA,\*\*  
PEREZ,  
REYES, and  
JARDELEZA, JJ.

**ISAROG LINE TRANSPORT, Promulgated:**  
**INC. and VICTOR SEDENIO,**  
Respondents. **November 16, 2016**

X-----*[Signature]*-----X

DECISION

**PERALTA, J.:**

This is a Petition for Review which petitioners William Enriquez and Nelia Vela-Enriquez filed assailing the Court of Appeals (CA) Decision<sup>1</sup> dated June 13, 2013 and Resolution<sup>2</sup> dated March 4, 2014 in CA-G.R. CV No. 97376.

The pertinent antecedents of the case as disclosed by the records are as follows:

Sonny Enriquez was a passenger of a bus owned and operated by respondent Isarog Line Express Transport, Inc. (*Isarog Line*) driven by

\* On official leave.

\*\* Acting Chairperson per Special Order No. 2395 dated October 19, 2016.

<sup>1</sup> Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Vicente S.E. Veloso, and Eduardo B. Peralta, Jr.; concurring; *rollo*, pp. 24-37.

<sup>2</sup> *Id.* at 47-48.

Victor Sedenio on July 7, 1998. While traversing the diversion road at Silangang Malicboy, Pagbilao, Quezon, said bus collided with another bus owned by Philtranco Service Enterprises, Inc. (*Philtranco*) which was being driven by Primitivo Aya-ay. As a result of the impact between the two (2) buses, several passengers died, including Sonny, who was twenty-six (26) years old at that time.

On September 7, 1999, Sonny's parents, petitioners William Enriquez and Nelia Vela-Enriquez (*the Spouses Enriquez*), filed a complaint for damages against Isarog Line and Philtranco as well as their drivers before the Regional Trial Court (*RTC*) of Libmanan, Camarines Sur.

On February 24, 2011, the RTC rendered a Decision finding Isarog Line, Sedenio, Philtranco, and Aya-ay solidarily liable for Sonny's death, thus:

WHEREFORE, premises considered, decision is hereby rendered in favor of the plaintiffs, William Enriquez and Nelia Vela-Enriquez, and against defendants Isarog Line Express Transport, Inc., Victor Sedenio, Philtranco Service Enterprises, Inc., and Primitivo Aya-ay. Said defendants are hereby declared SOLIDARILY liable to the plaintiffs in the following amounts:

- a) PHP 50,000.00 - as civil indemnity for the death of Sonny Enriquez;
- b) PHP 1,038,960.00 - for unrealized income;
- c) PHP 100,000.00 - for moral damages;
- d) PHP 25,000.00 - for exemplary damages;
- e) PHP 25,000.00 - for attorney's fees.

The total amount adjudged shall earn interest at the rate of 6% per *annum* from the date of this judgment until finality; thereafter, 12% per *annum* until the judgment is satisfied.

Costs against the defendants.

SO ORDERED.<sup>3</sup>

Isarog Line then appealed before the CA. On June 13, 2013, the appellate court affirmed the RTC Decision, with modification, thus:

WHEREFORE, premises considered, the instant appeal is hereby **DISMISSED** for lack of merit. **ACCORDINGLY**, the challenged Decision dated 24 February 2011 and Resolution dated 02 June 2011 of the RTC, Branch 29, Libmanan, Camarines Sur are **AFFIRMED** with the **MODIFICATION** in that the monetary award in the amount of

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<sup>3</sup> *Rollo*, pp. 68-69.

₱1,038,960.00 by way of unrealized income is **DELETED**; and that Appellant is ordered to pay Appellees the amount of ₱25,000.00 as temperate damages.

**SO ORDERED.**<sup>4</sup>

The Spouses Enriquez then filed a Motion for Partial Reconsideration, which the CA denied.<sup>5</sup>

Hence, the instant petition.

The sole issue left to be resolved is whether or not the Spouses Enriquez are entitled to the amount of ₱1,038,960.00 as damages for their son's loss of earning capacity.

Under Article 2206 of the Civil Code, the heirs of the victim are entitled to indemnity for loss of earning capacity, thus:

Article 2206. The amount of damages for death caused by a crime or quasi-delict shall be at least three thousand pesos, even though there may have been mitigating circumstances. In addition:

(1) The defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to the heirs of the latter; such indemnity shall in every case be assessed and awarded by the court, unless the deceased on account of permanent physical disability not caused by the defendant, had no earning capacity at the time of his death;

x x x

Compensation of this nature is awarded not for loss of earnings, but for loss of capacity to earn. The indemnification for loss of earning capacity partakes of the nature of actual damages which must be duly proven by competent proof and the best obtainable evidence thereof. Thus, as a rule, documentary evidence should be presented to substantiate the claim for damages for loss of earning capacity. By way of exception, damages for loss of earning capacity may be awarded despite the absence of documentary evidence when (1) the deceased was self-employed and earning less than the minimum wage under current labor laws, in which case, judicial notice may be taken of the fact that in the deceased's line of work no documentary

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<sup>4</sup> *Id.* at 36. (Emphasis in the original)

<sup>5</sup> *Id.* at 47-48.

evidence is available; or (2) the deceased was employed as a daily wage worker earning less than the minimum wage under current labor laws.<sup>6</sup>

Here, contrary to the CA's pronouncement, the Spouses Enriquez were able to present competent proof and the best obtainable evidence of their departed son's income. There is no showing that the defense objected when they presented the certification from ASLAN Security Systems, Inc. (ASLAN) during the trial. In *People v. Lopez*,<sup>7</sup> the Court ruled that documentary evidence should be presented to substantiate a claim for loss of earning capacity. The claimant presented a similar certification from Tanod Publishing, showing that the deceased was a photo correspondent for Tanod Newspaper and that his monthly salary ranges from ₱1,780.00 to ₱3,570.00 on per story basis. The Court noted that since the defense did not object when the prosecution presented said document, it was deemed admitted and could be validly utilized by the trial court.

In the case at bar, while the CA itself ruled that the certification from ASLAN stating that Sonny was earning ₱185.00 per day as a security guard is admissible in evidence, it held that the same has no probative value since the signatory was never presented to testify. However, the rule is that evidence not objected to is deemed admitted and may be validly considered by the court in arriving at its judgment,<sup>8</sup> as what the RTC in this case aptly did, since it was indubitably in a better position to assess and weigh the evidence presented during trial.<sup>9</sup>

*Serra v. Mumar*,<sup>10</sup> as relied upon by the appellate court, does not apply because in said case they only presented testimonial evidence to prove damages for loss of earning capacity. No documentary evidence was submitted. The Court ruled that damages for loss of earning capacity is in the nature of actual damages, which must be duly proven by documentary evidence, not merely by the widow's self-serving testimony. Also, in *People v. Villar*,<sup>11</sup> the prosecution merely relied on the widow's self-serving statement on her deceased husband's monthly earning. Here, however, there is actual documentary evidence to support the claim. The Spouses Enriquez presented a certification from Sonny's employer to duly prove his income.

Using the settled formula,<sup>12</sup> the amount of damages for loss of earning capacity is ₱1,038,960.00, thus:

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<sup>6</sup> *People v. Villar*, G.R. No. 202708, April 13, 2015, 755 SCRA 346, 356.

<sup>7</sup> 658 Phil. 647 (2011).

<sup>8</sup> *Id.* at 651.

<sup>9</sup> *People v. Bautista*, 665 Phil. 815, 827 (2011).

<sup>10</sup> 684 Phil. 363 (2012).

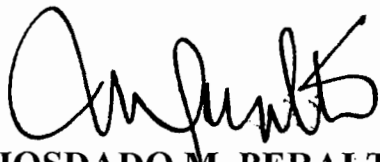
<sup>11</sup> *Supra* note 6.

<sup>12</sup> *Supra* note 7.

$$\begin{aligned}
 \text{Net Earning Capacity} &= \text{Life expectancy} \times \text{Gross Annual} \\
 &\quad \text{Income}^{13} - \text{Living Expenses} \\
 &= [2/3 (80 - \text{age at death})] \times \text{GAI} - [50\% \text{ of GAI}] \\
 &= [2/3 (80 - 26)] \times \text{P}57,720.00 - \text{P}28,860.00 \\
 &= [2/3 (54)] \times \text{P}28,860.00 \\
 &= 36 \times \text{P}28,860.00 \\
 \text{Net Earning Capacity} &= \text{P}1,038,960.00
 \end{aligned}$$

**WHEREFORE, IN VIEW OF THE FOREGOING,** the Court **GRANTS** the petition and **SETS ASIDE** the Decision of the Court of Appeals dated June 13, 2013 and Resolution dated March 4, 2014 in CA-G.R. CV No. 97376, and **REINSTATES** the Decision of the Regional Trial Court of Libmanan, Camarines Sur, Branch 29 dated February 24, 2011 in Civil Case No. L-896, with interest at six percent (6%)<sup>14</sup> *per annum* of the amount of damages awarded from the time of the finality of this Decision until its full satisfaction.


**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
 Associate Justice

**WE CONCUR:**

On official leave  
**PRESBITERO J. VELASCO, JR.**  
 Associate Justice  
 Chairperson

  
**JOSE PORTUGAL PEREZ**  
 Associate Justice

  
**BIENVENIDO L. REYES**  
 Associate Justice


<sup>13</sup> GAI = Daily wage x Number of working days in a week x Number of weeks in a year  
 = P185.00 x 6 x 52  
 = P57,720.00

<sup>14</sup> Pursuant to the Bangko Sentral ng Pilipinas Circular No. 799, Series of 2013; *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

  
**FRANCIS H. JARDELEZA**  
Associate Justice


**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**DIOSDADO M. PERALTA**  
Associate Justice  
Acting Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice