

**THIRD DIVISION**

**CANDANO SHIPPING LINES,  
INC.,**  
Petitioner,

**G.R. No. 163212**

Present:

YNARES-SANTIAGO, *J.*,  
Chairperson,  
AUSTRIA-MARTINEZ,  
CALLEJO, SR.,\*  
CHICO-NAZARIO, and  
NACHURA, *JJ.*

- *versus* -

Promulgated:

**FLORENTINA J. SUGATA-ON,**  
Respondent.

March 13, 2007

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**DECISION**

**CHICO-NAZARIO, *J.*:**

This is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, seeking to reverse and set aside the Court of Appeals Decision<sup>[1]</sup> dated 23 May 2003 and its Resolution dated 1 April 2004, affirming with modification the Decision of the Regional Trial Court (RTC) of Manila, Branch 20, finding CandanoShipping Lines, Inc. (Candano Shipping) liable for the death of Melquiades Sugata-on. The dispositive portion of the assailed decision of the appellate court reads:

**IN VIEW OF ALL THE FOREGOING**, the appealed decision is **AFFIRMED**, with the **MODIFICATION** that: (1) the awarded compensation for the death of Melquiades Sugata-on is reduced to P608,400.00; and, (2) the award of moral and exemplary damages as well as attorneys fees is **deleted**. No pronouncement as to costs.<sup>[2]</sup>

The factual and procedural antecedents of this instant petition are as follows:

Candano Shipping is a domestic corporation engaged in the business of coastwise trading within the Philippines.<sup>[3]</sup> On 7 March 1994, Melquiades Sugata-on was employed by Candano Shipping as Third Marine Engineer on board its cargo vessel, M/V David, Jr., with the monthly salary of P7,800.00.<sup>[4]</sup>

On 25 March 1996, M/V David, Jr. left the port of Davao City with its cargo and 20 crew members. The voyage was initially uneventful until around seven o'clock in the evening of 27 March 1996 when the vessel encountered rough seas and strong winds while traversing the waters of Lianga Bay, Surigao del Sur, causing her to tilt at three degrees on its starboard side. Due to the violent waves which continuously hammered the tilting vessel, the seawaters slowly swallowed up the main deck causing the tilting to worsen up to 30 degrees. In an effort to salvage the vessel, the ship captain changed its course from the north to the south but the tilting continued to grow to a dangerously high level, rendering the vessel beyond control. It was at this point when the ship captain ordered the crew members to abandon the vessel. Despite the efforts exerted by the crew members to save the vessel, M/V David, Jr. sank together with her cargo at around eleven o'clock in the evening at Bakulin Point, Lianga Bay, Surigao del Sur. Among the 20 crew members, twelve survived, one died and seven were missing. One of those who were missing was Melquiades Sugata-on (Melquiades), the husband of herein respondent, Florentina Sugata-on, (Florentina) as shown in the List of Surviving Crew of the Ill-Fated David, Jr., prepared by Candano Shipping.<sup>[5]</sup>

Upon learning of Melquiades fate, Florentina immediately went to the office of Candano Shipping in Manila to claim the death benefits of her husband but it refused to pay.<sup>[6]</sup>

Such refusal prompted Florentina to institute on 31 January 1997, an action seeking indemnity for the death of her husband against Candano Shipping before the RTC of Manila, Branch 20. She grounded her case on the provision of Article 1711<sup>[7]</sup> of the New Civil Code, which imposes upon the employer liability for the death of his employee in the course of employment, even if the death is caused by a fortuitous event. Accordingly, Florentina prayed that actual, moral and exemplary damages including attorneys fees, be awarded in her favor.<sup>[8]</sup>

In its Answer,<sup>[9]</sup> Candano Shipping countered that Florentina had no cause of action against it because the death of Melquiades was not yet an established fact since he was merely reported missing upon the sinking of M/V David, Jr. The filing of the case before the RTC therefore was premature for she should have waited until the body of Melquiades could be recovered or until the lapse of time which would render the provision of Article 391 of the New Civil Code<sup>[10]</sup> on presumptive death operative.

The RTC resolved the controversy in favor of Florentina and ratiocinated that the provision of Article 391 of the New Civil Code on presumptive death had become operative since the period of four years had already elapsed since Melquiades was reported missing upon the sinking incident which occurred on 27 March 1996. In a Decision<sup>[11]</sup> promulgated on 15 February 2001, the RTC ordered Candano Shipping to indemnify Florentina for the death of her husband, in the following amounts:

WHEREFORE, premises considered, judgment is hereby rendered ordering defendant Candano Shipping Lines, Inc. to indemnify plaintiff Florentina J. Sugata-on the amount of P988,400.00 as actual damages, P100,000.00 as moral damages P50,000.00 as exemplary damages and 10% of the amount due as and for attorneys fees plus the cost of suit.

The award for actual damages amounting to P988,400.00 was computed by the lower court by adopting the formula in the computation of loss of earning capacity enunciated in the case of *Villa Rey Transit, Inc. v. Court of Appeals*,<sup>[12]</sup> wherein the annual expenses of the deceased are deducted from his gross annual income and multiplied by life expectancy (gross annual income annual expense x life expectancy).<sup>[13]</sup>

The Motion for Reconsideration interposed by Candano Shipping was denied by the RTC for lack of cogent reason to disturb or reconsider its decision.<sup>[14]</sup>

Aggrieved, Candano Shipping elevated the adverse RTC decision to the Court of Appeals, which in turn, affirmed with modification the judgment of the lower court. The award for actual damages was reduced from P998,400.00 to P608,400.00, while the awards for moral and exemplary damages including attorneys fees were deleted for lack of sufficient basis for their allowance.<sup>[15]</sup>

In arriving at the sum of P608,400.00, the appellate court applied the standard prescribed by Article 194 of the Labor Code of the Philippines, as amended, to wit:

ART. 194. *DEATH.* (a) Under such regulations as the Commission may approve, the System shall pay to the primary beneficiaries upon the death of the covered employee under this Title an amount equivalent to his monthly income benefit, plus ten percent thereof for each dependent child, but not exceeding five, beginning with the youngest and without substitution, except as provided for in paragraph (j) of Article 167 hereof; Provided, however, That the monthly income benefit shall be guaranteed for five years: Provided, further, That if he has no primary beneficiary, the System shall pay to his secondary beneficiaries the monthly income benefit not to exceed sixty months; Provided, finally, That the minimum monthly death benefit shall not be less than fifteen thousand pesos.

In a Resolution<sup>[16]</sup> issued on 1 April 2004, the Court of Appeals denied the Motion for Reconsideration filed by Candano Shipping for failure to offer any justifiable ground to modify, reverse or reconsider the questioned decision.

Hence, this instant Petition for Review on *Certiorari* filed by Candano Shipping raising the following issues:

WHETHER OR NOT THE FORMULA FOR FIXING THE AMOUNT OF DEATH COMPENSATION IN ARTICLE 194 OF THE LABOR CODE APPLIES IN DETERMINING THE COMPENSATION CLAIMED BY THE HEIR OF THE DECEASED EMPLOYEE AGAINST THE EMPLOYER UNDER ARTICLE 1711?

WHETHER OR NOT IT IS PERMITTED FOR THE COURT OF APPEALS, ON ORDINARY APPEAL, TO APPLY ART. 194 OF THE LABOR CODE ON A CLAIM FOR DEATH COMPENSATION OF AN EMPLOYEE AGAINST THE EMPLOYER FILED AND TRIED BEFORE THE REGULAR COURTS ON THE BASIS OF ARTICLE 1711 OF THE CIVIL CODE AND THE DOCTRINE ENUNCIATED IN THE VILLA REY TRANSIT CASE?

WHETHER OR NOT APPLICATION OF ARTICLE 194 OF THE LABOR CODE ON THE CLAIM FOR DEATH COMPENSATION OF RESPONDENT OUSTS THE REGULAR COURTS, INCLUDING THE COURT OF APPEALS OF JURISDICTION OVER THE CASE?

IN THE EVENT THAT THE SUPREME COURT RULES THAT THE COURT OF APPEALS APPLICATION OF ARTICLE 194 OF THE LABOR CODE IN THIS CASE SHOULD BE SET ASIDE, IS RESPONDENT ENTITLED TO RECOVER DEATH COMPENSATION FROM PETITIONER IN ACCORDANCE WITH HER THEORY OF THE CASE AS ALLEGED, ARGUED AND TRIED BEFORE THE TRIAL COURT.<sup>[17]</sup>

Since the factual findings of the RTC and the Court of Appeals that the non-recovery of Melquiades body for the period of four (4) years from 27 March 1996 creates a presumption that he is already dead and that his death was caused by a fortuitous event, were already settled, and considering that these findings were notcontroverted by the parties in this instant petition, we find no compelling reason to disturb the same. Henceforth, we will limit our discussion to the computation of the amount of indemnification.

In its Petition, Candano Shipping argues that the application of the measure stipulated under Article 194 of the Labor Code is erroneous since it applies only to

death compensation to be paid by the Social Security System to the beneficiaries of a deceased member, to which proposition Florentina concedes. We agree. The remedy availed by Sugata-on in filing the claim under the New Civil Code has been validly recognized by the prevailing jurisprudence on the matter.

In the case of *Floresca v. Philex Mining Company*,<sup>[18]</sup> we declared that the employees may invoke either the Workmens Compensation Act or the provisions of the Civil Code, subject to the consequence that the choice of one remedy will exclude the other and that the acceptance of the compensation under the remedy chosen will exclude the other remedy. The exception is where the claimant who had already been paid under the Workmens Compensation Act may still sue for damages under the Civil Code on the basis of supervening facts or developments occurring after he opted for the first remedy.<sup>[19]</sup>

Stated differently, save for the recognized exception, an employee cannot pursue both remedies simultaneously but has the option to proceed by interposing one remedy and waiving his right over the other. As we have explained in *Floresca*, this doctrinal rule is rooted on the theory that the basis of the compensation under the Workmens Compensation Act is separate and distinct from the award of damages under the Civil Code, thus:

The rationale in awarding compensation under the Workmens Compensation Act differs from that in giving damages under the Civil Code. The compensation acts are based on a theory of compensation distinct from the existing theories of damages, payments under the acts being made as compensation and not as damages (99 C.J.S. 53). Compensation is given to mitigate harshness and insecurity of industrial life for the workman and his family. Hence, an employer is liable whether negligence exists or not since liability is created by law. Recovery under the Act is not based on any theory of actionable wrong on the part of the employer (99 D.J.S. 36).

In other words, under compensation acts, the employer is liable to pay compensation benefits for loss of income, as long as the death, sickness or injury is work-connected or work-aggravated, even if the death or injury is not due to the fault of the employer (*Murillo v. Mendoza*, 66 Phil. 689). On the other hand, damages are awarded to one as a vindication of the wrongful invasion of his

rights. It is the indemnity recoverable by a person who has sustained injury either in his person, property or relative rights, through the act or default of another (25 C.J.S. 452).

The principle underscored in the case of *Floresca* was further affirmed in the later case of *Ysmael Maritime Corporation v. Avelino*,<sup>[20]</sup> wherein we emphasized that once the claimant had already exercised his choice to pursue his right under one remedy, he is barred from proceeding with an alternative remedy. As eloquently laid down by Chief Justice Marcelo Fernan:

It is therefore clear that respondents had not only opted to recover under the Act but they had also been duly paid. At the very least, a sense of fair play would demand that if a person entitled to a choice of remedies made a first election and accepted the benefits thereof, he should no longer be allowed to exercise the second option. **Having staked his fortunes on a particular remedy, (he) is precluded from pursuing the alternate course, at least until the prior claim is rejected by the Compensation Commission.**

In the case at bar, Florentina was forced to institute a civil suit for indemnity under the New Civil Code, after Candano Shipping refused to compensate her husband's death.

The pertinent provision of the New Civil Code reads:

Article 1711. Owners of enterprises and other employers are obliged to pay compensation for the death of or injuries to their laborers, workmen, mechanics or other employees, even though the event may have been purely accidental or entirely due to a fortuitous cause, if the death or personal injury arose out of and in the course of employment. The employer is also liable for compensation if the employee contracts any illness or diseases caused by such employment or as the result of the nature of employment. If the mishap was due to the employee's own notorious negligence, or voluntary act, or drunkenness, the employer shall not be liable for compensation. When the employee's lack of due care contributed to his death or injury, the compensation shall be equitably reduced.

In the case of *Philippine Air Lines, Inc. v. Court of Appeals*,<sup>[21]</sup> this Court validated the strength of the aforementioned provision and made the employer liable for the injury suffered by its employee in the course of employment. We thus ruled:

Having affirmed the gross negligence of PAL in allowing Capt. Delfin Bustamante to fly the plane to Daet on January 8, 1951 whose slow reaction and poor judgment was the cause of the crash-landing of the plane which resulted in private respondent Samson hitting his head against the windshield and causing him injuries for which reason PAL terminated his services and employment as pilot after refusing to provide him with the necessary medical treatment of respondents periodic spells, headache and general debility produced from said injuries, **We must necessarily affirm likewise the award of damages or compensation under the provisions of Art. 1711 and Art. 1712 of the New Civil Code.** x x x.

As early as the case of *Valencia v. Manila Yacht Club, Inc.*,<sup>[22]</sup> this Court, speaking through the renowned civilist, Mr. Justice J.B.L. Reyes, made a pronouncement that Article 1711 of the Civil Code imposes upon the employer the obligation to compensate the employee for injury or sickness occasioned by his employment, and thus articulated:

**Appellants demand for compensation is predicated on employers liability for the sickness of, or injury to, his employee imposed by Article 1711 of the Civil Code,** which reads:

Article 1711. Owners of enterprises and other employers are obliged to pay compensation for the death x x x.

**We find the abovequoted provision to be applicable and controlling in this case. The matter of the amount of compensation and allowable medical expenses should be properly determined by the Municipal Court** after the parties are heard accordingly.

Given that the right of the claimant arose from the contract of employment and the corresponding obligation imposed by the New Civil Code upon the employer to indemnify the former for death and injury of the employee circumstanced by his employment, necessarily, the provisions of the same code on damages shall govern the extent of the employers liability.

The pertinent provision on damages under the New Civil Code provides:

Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.

Article 2200. Indemnification for damages shall comprehend not only the value of the loss suffered, but also that of the profits which the obligee failed to obtain.

In order to give breath to the aforestated provisions on damages of the New Civil Code, they must be transformed into a more tangible and practical mathematical form, so that the purpose of the law to indemnify the employee or his heirs for his death or injury occasioned by his employment, as envisioned by the Article 1711 of the same code may be realized. We deem it best to adopt the formula for loss of earning capacity enunciated in the case of *Villa Rey v. Court of Appeals*,<sup>[23]</sup> in computing the amount of actual damages to be awarded to the claimant under Article 1711 of the New Civil Code.

In *Villa Rey*, the common carrier was made liable for the death of its passenger on board a passenger bus owned and operated by Villa Rey Transit, Inc. going to Manila from Lingayen, Pangasinan. While the bus was nearing Sadsaran Bridge in Barrio Sto. Domingo, Minalin, Pampanga, it frontally hit the rear side of bull cart filled with hay and bamboo poles. The protruding end of one bamboo pole, about eight feet long, penetrated through the glass windshield of the bus and hit the face of Policarpio Quintos, Jr., who was then sitting at the front row, causing his death.<sup>[24]</sup>

The obligation of the common carrier to indemnify its passenger or his heirs for injury or death arose from the contract of carriage entered into by the common carrier and the passenger.<sup>[25]</sup> By the very nature of the obligation which is imbued with public interest,<sup>[26]</sup> in contract of carriage the carrier assumes the express obligation to transport its passenger to his destination safely and to observe extraordinary diligence with due regard to all the circumstances, and any injury

that might be suffered by the passenger is right away attributable to the fault or negligence of the carrier and thus gives rise to the right of the passenger or his heirs for indemnity.<sup>[27]</sup>

In the same breadth, the employer shall be liable for the death or personal injury of its employees in the course of employment as sanctioned by Article 1711 of the New Civil Code. The liability of the employer for death or personal injury of his employees arose from the contract of employment entered into between the employer and his employee which is likewise imbued with public interest.<sup>[28]</sup> Accordingly, when the employee died or was injured in the occasion of employment, the obligation of the employer for indemnity, automatically attaches. The indemnity may partake of the form of actual, moral, nominal, temperate, liquidated or exemplary damages, as the case may be depending on the factual milieu of the case and considering the criterion for the award of these damages as outlined by our jurisprudence.<sup>[29]</sup> In the case at bar, only the award of actual damages, specifically the award for unearned income is warranted by the circumstances since it has been duly proven that the cause of death of Melquiades is a fortuitous event for which Candano Shipping cannot be faulted.

The formula for the computation of unearned income is:

$$\text{Net Earning Capacity} = \text{life expectancy} \times (\text{gross annual income} - \text{reasonable and necessary living expenses}).$$

Life expectancy is determined in accordance with the formula:

$$2 / 3 \times [80 \text{ age of deceased at the time of death}]$$

Jurisprudence provides that the first factor, *i.e.*, life expectancy, shall be computed by applying the formula (2/3 x [80 - age at death]) adopted in the American Expectancy Table of Mortality or the Actuarial of Combined Experience Table of Mortality.<sup>[30]</sup>

In the computation of the second factor, it is computed by multiplying the life expectancy by the net earnings of the deceased, *i.e.*, the total earnings less

expenses necessary in the creation of such earnings or income and less living and other incidental expenses.<sup>[31]</sup> The loss is not equivalent to the entire earnings of the deceased, but only such portion that he would have used to support his dependents or heirs. Hence, we deduct from his gross earnings the necessary expenses supposed to be used by the deceased for his own needs.<sup>[32]</sup> The Court explained in *Villa Rey*:

[(The award of damages for loss of earning capacity is)] concerned with the determination of losses or damages sustained by the private respondents, as dependents and intestate heirs of the deceased, and that said damages consist, not of the full amount of his earnings, but of the support they received or would have received from him had he not died in consequence of negligence of petitioners agent. In fixing the amount of that support, we must reckon with the necessary expenses of his own living, which should be deducted from his earnings. Thus, it has been consistently held that earning capacity, as an element of damages to ones estate for his death by wrongful act is necessarily his net earning capacity or his capacity to acquire money, less necessary expense for his own living. Stated otherwise, the amount recoverable is not the loss of entire earning, but rather the loss of that portion of the earnings which the beneficiary would have received. In other words, only net earnings, and not gross earnings are to be considered that is, the total of the earnings less expenses necessary in the creation of such earnings or income and less living and other incidental expenses.<sup>[33]</sup>

In computing the third factor, the necessary living expense, a survey of more recent jurisprudence shows that this Court consistently pegged the amount at 50% of the gross annual income.<sup>[34]</sup> We held in *Smith Bell Dodwell Shipping Agency Corp. v. Borja*,<sup>[35]</sup> that when there is no showing that the living expenses constituted the smaller percentage of the gross income, we fix the living expenses at half of the gross income.

Applying the aforestated jurisprudential guidelines in the computation of the amount of award for damages set out in *Villa Rey*, we now proceed to determining Melquiades life expectancy, thus:

Life expectancy =  $2 / 3 \times [80 \text{ age of deceased at the time of death}]$   
 $2 / 3 \times [80 - 56]$   
 $2 / 3 \times [24]$

**Life expectancy = 16**

With 16 more years of life expectancy and a monthly income of P7,800.00, as evidenced by the pay slips duly presented before the RTC, Melquiades earning capacity is computed as follows:

$$\begin{aligned} \text{Net Earning Capacity} &= \text{life expectancy} \times (\text{gross annual income} - \text{reasonable and} \\ &\hspace{15em} \text{necessary living expenses}). \\ &= 16 \times (\text{P}93,600.00 - \text{P} 46,800.00) \\ &= 16 \times (\text{P} 46,800.00 ) \\ \text{Net Earning Capacity} &= \text{P } 748,800.00 \end{aligned}$$

The argument raised by Candano Shipping that the formula for determining the life expectancy under *Villa Rey* cannot be automatically applied without proof of the basis for the expected length of life of a Filipino does not merit our consideration. The formula for life expectancy has been repeatedly adopted in our jurisprudence in fixing the amount of indemnity for the death of a party. This was adopted from the American Expectancy Table of Mortality or the Actuarial of Combined Experience Table of Mortality which was used by insurers in determining the capital sum to be charged for annuity.<sup>[36]</sup>

Admittedly, in several cases, this Court reduced the life expectancy multiplier considering the medical history such as when the deceased previously underwent a major surgery<sup>[37]</sup> or when it was shown that he was treated for chest pains, backache or occasional feeling of tiredness<sup>[38]</sup> and the fact that the deceased has been consistently engaged in a dangerous and risky activity tending to shorten his life.<sup>[39]</sup> Failing to prove, however, that any of these circumstances is attendant in the case at bar, Candano Shipping cannot validly assert that the standard life expectancy factor laid down in *Villa Rey* cannot be applied in this case.

Accordingly, Florentina is entitled to recover the amount of P748,800.00 as actual damages for the death of her husband. The awards of moral and exemplary

damages are deleted. However, the award of costs of litigation and attorneys fees are proper.<sup>[40]</sup>

**WHEREFORE**, in view of the foregoing, the instant petition is **DENIED** and the Decision dated 23 May 2003 as well as the Resolution dated 1 April 2004, rendered by the Court of Appeals in CA-G.R. CV No. 70410, are hereby **PARTIALLY AFFIRMED** in so far as it finds petitioner liable to respondent for damages.

Pursuant to the appropriate provisions of the New Civil Code and the prevailing jurisprudence on the matter, petitioner Candano Shipping Lines, Inc., is **ORDERED** to pay the amount of ₱748,800.00, as actual damages, plus 10% of the amount awarded as attorneys fee plus cost of the suit.

**SO ORDERED.**

**MINITA V. CHICO-NAZARIO**  
Associate Justice

WE CONCUR:

**CONSUELO YNARES-SANTIAGO**  
Associate Justice  
Chairperson

No part; on leave

**MA. ALICIA AUSTRIA-MARTINEZ ROMEO J. CALLEJO, SR.**

Associate Justice Associate Justice

**ANTONIO EDUARDO B. NACHURA**

Associate Justice

### **ATTESTATION**

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Courts Division.

**CONSUELO YNARES-SANTIAGO**

Associate Justice

Chairperson, Third Division

### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairpersons Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Courts Division.

**REYNATO S. PUNO**

Chief Justice

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\* No part; on leave.

<sup>[1]</sup> Penned by Associate Justice Conrado M. Vasquez, Jr. with Associate Justices Mercedes Gozodadole and Rosmari D. Carandang, concurring; *rollo*, pp. 29-39.

[2] *Id.* at 38.

[3] *Id.* at 29.

[4] Records, p. 199.

[5] *Rollo*, pp. 29-39.

[6] Records, p. 199.

[7] Article 1711. Owners of enterprises and other employers are obliged to pay compensation for the death of or injuries to their laborers, workmen, mechanics or other employees even though the event may have been purely accidental or entirely due to a fortuitous cause, if the death or personal injury arose out of and in the course of employment. The employer is also liable for compensation if the employee contracts any illness or diseases caused by such employment or as the result of the nature of the employment. If the mishap was due to the employees own notorious negligence, or voluntary act, or drunkenness, the employer shall not be liable for compensation. When the employees lack of due care contributed to his death or injury, the compensation shall be equitably reduced.

[8] Records, pp. 1-10.

[9] *Id.* at 17-19.

[10] Article 391, New Civil Code. The following shall be presumed dead for all purposes , including the division of the estate among the heirs:

(1) A person on board a vessel lost during a sea voyage, or an aeroplane which is missing, who has not be heard for four years since the loss of the vessel or aeroplane;

(2) A person in the armed forces who has taken part in war, and has been missing for four years;

(3) A person who has been in danger of death under other circumstances and his existence has not been known for four years.

[11] Records, pp. 199-203.

[12] *Villa Rey Transit, Inc v. Court of Appeals*, G.R. No. L-25499, 18 February 1970, 31 SCRA 511.

[13] Records, pp. 199-203.

[14] *Id.* at 231.

[15] *CA rollo*, pp. 86-96.

[16] *Rollo*, p. 40.

[17] *Id.* at 19-20.

[18] *Floresca v. Philex Mining Corporation*, 220 Phil. 533, 547-548 (1985).

[19] *Macropper Mining Corporation v. Abeleda*, G.R. No. L-33851, 15 August 1988, 164 SCRA 316, 318.

[20] G.R. No. L-43674, 30 June 1987, 151 SCRA 333, 337.

[21] 193 Phil. 560, 577 (1981).

[22] 138 Phil. 761, 765-766 (1969).

[23] *Villa Rey Transit v. Court of Appeals*, supra note 12.

[24] *Id.*

[25] *La Mallorca v. Court of Appeals*, G.R. No. L-20761, 27 July 1966, 17 SCRA 739, 745.

[26] *Bacarro v. Castao*, 203 Phil. 563, 571 (1982).

[27] Article 1764, New Civil Code, *Batangas Transportation Co. v. Caguimbal*, 130 Phil. 166, 171 (1968).

[28] Article 1700, New Civil Code. The relations between capital and labor are not merely contractual. They are so impressed with public interest that labor contracts must yield to the common good. Therefore, such contracts are subject to the special laws on labor unions, collective bargaining, strikes and lockouts, closed shops, wages, working conditions, hours of labor and similar subjects.

[29] Article 2197. Damages may be:

(1) Actual or compensatory;

(2) Moral;

(3) Nominal;

(4) Temperate or moderate;

(5) Liquidated; or

(6) Exemplary or corrective.

<sup>[30]</sup> *Lambert v. Heirs of Ray Castillon*, G.R. No. 160709, 23 February 2005, 452 SCRA 285, 294.

<sup>[31]</sup> *Id.*

<sup>[32]</sup> *Magbanua v. Tabusares, Jr.*, G.R. No. 152134, 4 June 2004, 431 SCRA 99, 104.

<sup>[33]</sup> *Id.* at 104-105.

<sup>[34]</sup> *Id.* at 105.

<sup>[35]</sup> 432 Phil. 913, 925 (2002).

<sup>[36]</sup> Winfield and Jolowich, p. 770 a cited in Aquino, *Torts and Damages*, 2001 Ed., pp. 843-844.

<sup>[37]</sup> *MD Transit, Inc. v. Court of Appeals*, G.R. No. L-49496, 31 May 1979, 90 SCRA 542, 546.

<sup>[38]</sup> *Davila v. Philippine Air Lines*, 151 Phil. 549, 556 (1973).

<sup>[39]</sup> *Rodriguez Luna v. Intermediate Appellate Court*, G.R. No. L-62988, 28 February 1985, 135 SCRA 242, 248.

<sup>[40]</sup> *Singson v. Court of Appeals*, G.R. No. 119995, 18 November 1997, 346 SCRA 831, 847.