

NOTES

MORAL DAMAGES

Cases decided under the provisions of the old Civil Code denying the granting of moral damages:

- Marcelo vs. Velasco (11 Phil. 287)
- Algarra vs. Sandejas (27 Phil. 284)
- De Guia vs. Manila Electric Railway and Light, Co. (40 Phil. 706)
- Gutierrez vs. Gutierrez (56 Phil. 177)

Case decided under the Employer's Liability Act granting moral damages:

- Tamayo vs. Gsell (35 Phil. 935)

Cases decided under the Libel Law granting moral damages:

- Macleod vs. Philippine Publishing, Co. (12 Phil. 427)
- Jimenez vs. Reyes (37 Phil. 52)

Cases decided under the provisions of the old Civil Code granting moral damages:

- Lilius vs. Manila Railroad, Co. (59 Phil. 768)
- Castro vs. Acro Taxi-cab Co. (46 O.G. No. 5 p. 2023)

Latest case on moral damages decided under the provisions of the new Civil Code:

- Layda vs. Court of Appeals (G.R. No. L-4487, Jan. 29, 1952)

The term "damages" in its legal sense may be defined as meaning the compensation which the law will award for an injury done (Hege vs. Newsom, 170 N.E. 336); a compensation, recompense, or satisfaction in money for a loss or injury sustained (Cunningham vs. Reynolds, 26 P. 2nd 869, 870).

"Damages" is defined as the pecuniary compensation or indemnity which may be recovered in the courts by any person who has suffered loss, detriment, or injury, whether to his person, property, or rights, through the unlawful act or omission or negligence of another. (Black's Dictionary, 2nd. Ed. p. 292)

Article 2197 of the Civil Code classifies damages into:

- (1) Actual or compensatory;
- (2) Moral;
- (3) Nominal;
- (4) Temperate or moderate;
- (5) Liquidated; or
- (6) Exemplary or corrective.

Under the old Civil Code, the only damages expressly provided for are the compensatory damages and those agreed upon in the penal clause. The Code Commission, after examining the principles of American Law on the subject of damages, deemed it wise to incorporate into the Civil Code moral, temperate or moderate, nominal and exemplary or corrective damages.

It is evident that the subject of moral damages is quite new in this jurisdiction. This does not mean, however, that the concept of moral damages was wholly unknown in the Philippines before the effectivity of the Civil Code: it saw the first light of day in Philippine jurisprudence even before the passage of Rep. Act No. 386, in the form of judicial decisions allowing claims for moral damages. It was then known not as moral damages, but as "damages for pain and suffering". Article 2217 of the new Civil Code gives the following definition of moral damages: "Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission." This definition, it will be noticed, is broader than the old concept of moral damages limited to "pain and suffering".

Philippine cases on moral damages are very few. In fact, one can count them with the fingers of his hand:

Under its early decisions, the Supreme Court of the Philip-

piners had repeatedly denied claims for "pains and sufferings" or in other words moral damages. As has been stated, the old Code provided only for damages agreed upon in the penal clause and for compensatory damages, the latter being covered by Article 1902 of the said law. The reason given by the Supreme Court is that damages for "pain and suffering" are not included in the concept of compensatory damages; that one can, under the former Civil Code, recover only such damages as he can prove.

The leading case upholding the doctrine which rejected the granting of moral damages was the case of Marcelo vs. Velasco (11 Phil. 287, 291-292) wherein the Supreme Court ruled:

"We have found nothing either in the judgments of the Supreme Court of Spain or in the commentaries which would permit such a recovery.

"The fact that in the United States, damages are allowed in this class of cases for pain and suffering cannot affect the resolution of the question here."

The doctrine advanced in this case was subsequently reiterated in the cases of Algarra vs. Sandejas, and de Guia vs. Manila Electric Railway and Light, Co., wherein the Supreme Court said:

"Actual damages, under the American system include pecuniary recompense for pain and suffering, injured feeling and the like. Article 1902, as interpreted by this Court in Marcelo vs. Velasco (11 Phil. 287) does not extend to such incidents." (*Algarra vs. Sandejas*, 27 Phil. 284, 299).

"Of course in this jurisdiction damages cannot be assessed in favor of the plaintiff as compensation for physical or mental pain he may have endured." (*De Guia vs. Manila Electric Railway and Light, Co.*, 40 Phil. 706, 714).

In the subsequent case of Gutierrez vs. Gutierrez (57 Phil. 177) the Supreme Court granted the plaintiff the sum of P5,000 for injury to his leg. It is not clear whether this was intended to include damages for pain and suffering. (*The Supreme Court, however, in a later decision said that the indemnity did not include damages for "pain and suffering", but in a subsequent decision, this case was used*

a precedent for the awarding of moral damages. In the case of Castro vs. Acro Taxi-cab, Co. [46 O.G. No. 5, p. 2023] the court was of the opinion that the damages granted to Gutierrez did not include moral damages:

"El asunto de Gutierrez vs. Gutierrez, 56 Jur. Fil. 193, no se juzga ninguna indemnificación por dolor y sufrimiento, sino por los daños reales y el daño por la lesión a la pierna del demandante que le puede lansa una cojera permanente".

In the case of Layda vs. Court of Appeals (G.R. No. L-4487, January 29, 1952), the Court, however, was of the opinion that moral damages were awarded in the said case:

"In the Gutierrez case, the defendant were sentenced to indemnify the plaintiff in the sum of P5,000 as moral damages in spite of the fact that the said plaintiff 'was neither young nor good looking, nor had he suffered any facial deformity, nor did he have the social standing that the herein plaintiff-appellant Sonia Maria Lilius enjoys'."

During the same period, it is worthy of note that the Supreme Court had also granted moral damages in at least three cases.

The Supreme Court in the case of Tamayo vs. Gsell (35 Phil. 935) granted allowances for "pain and suffering". It is true that in this case, the Court granted moral damages, but this is not to be interpreted as a reversal of the doctrine in the Marcelo vs. Velasco case, for the action in this case was not based upon the Civil Code but upon the Employer's Liability Act. This Act, the Court found as taken from Massachusetts and since the jurisprudence interpreting the said law allowed the granting of moral damages, in the state of its origin, the Court was of the opinion that "the damages recoverable under the Employer's Liability Act include allowances for pain and suffering".

In the cases of Macleod vs. Philippine Publishing Co., (12 Phil. 427) and Jimenez vs. Reyes (37 Phil. 52), damages were awarded for injury to feelings and reputation though no pecuniary damages were proven. These two cases were libel cases and were prosecuted not under the provisions of the Civil Code, but under the provisions of the Libel Law, which actually allowed such kinds of damages.

These three cases did not overrule the doctrine laid down in the case of Marcelo vs. Velasco.

The change of attitude by the Supreme Court began with the case of *Lilius vs. Manila Railroad* (59 Phil. 768). This marked the end of the two-decade predominance of the *Marcelo vs. Velasco* case. This decision opened the way for the granting of moral damages, even long before the promulgation of the new Civil Code. In allowing the indemnity, the Court had occasion to say:—

“* * * that an indemnity of P10,000 for a permanent deformity on the face and on the left leg, suffered by a young and beautiful woman, is not excessive; (... that an indemnity of P5,000 for a permanent deformity of the face and legs of a four year old girl belonging to a well-to-do family is not excessive...)”

In allowing damages for a permanent deformity, the Supreme Court seemed to have turned to the American principle that mental pain in contemplation of a permanent mutilation or disfigurement of the person may be considered as an element of damages (*Erie R. Co., vs. Collins, N.Y. 40 S. Ct. 450*).

After the turnabout in the *Lilius* Case, two other decisions granting moral damages have been promulgated by the Supreme Court. The case of *Castro vs. Acro Taxi-cab* was decided before the effectivity of the new Civil Code, while the case of *Layda vs. Court of Appeals* was decided under the provisions of the new Civil Code:

Castro vs. Acro Taxicab (46 O.G. No. 5, p. 2023)

The plaintiff in this case boarded a cab owned by the defendant corporation. The driver of the cab drove the cab so fast that it collided with another cab owned by the same corporation. Without losing time, Castro boarded another cab and directed the driver to take him to the Philippine General Hospital, and upon reaching Calle Carriedo, he ordered the driver to stop and requested a patrolman, José Lomboy, to accompany him to the hospital. Upon being treated at the hospital, he was sent home. The following day he was still suffering from pains on the left chest. On July 18 of that year, he entered the St. Luke's Hospital and an X-Ray picture taken of him revealed that five of his ribs were fractured. For this injury he underwent occasional treatment.

In his action for damages, Castro was granted actual and moral damages. The Honorarium on Dr. Herrera was P100; on Dr. Flores, P150; and the hospital bill was P40. All these amounts were adjudicated to him. In addition, he was awarded P3,000 as adequate compensation for pain and disability to work.

In awarding moral damages to the plaintiff, the Court had occasion to discuss the rule on moral damages prevailing in the Philippines. The Court, in its decision, held that by virtue of the decision in the *Lilius* case, the *Marcelo vs. Velasco* case had ceased to have any force in this jurisdiction. It considered the *Lilius* case as a deviation from the old rule. In justifying its action, the Court pointed out that even in Spain, as early as 1912, the Supreme Court had already recognized that “daños patrimoniales y morales” were recoverable as indemnity for damages due to injury. It also made clear that this was not an attempt at judicial legislation. The reason relied upon in the *Marcelo* case had already ceased to exist. In conclusion, the court said:

“Concluimos, pues, reafirmando la doctrina sentada en el asunto de *Lilius supra*, en el sentido de que cabe indemnizar por daños morales y Patrimoniales, incluyendo en estos el dolor y sufrimiento físico (con esto affectuamos en esta jurisdicción una verdadera simbiosis del derecho hispano a derecho Americano, y nos ponemos, además justamente a tono con el espíritu y la marcha progresiva de los tiempos.

¿No legislamos con esto judicialmente? De ningún modo, no introducimos ninguna reforma en el código civil; todo lo que hacemos es ampliar la interpretación del concepto jurídico del daño, incluyendo en el mismo el daño moral y dolor o sufrimiento físico; pero todo dentro del código.”

Layda vs. Court of Appeals (G.R. No. L-4487, Jan. 29, 1952)

This is an appeal by way of certiorari from a decision of the Court of Appeals which orders the defendant to pay to the plaintiff the amount of P495.55 as material damages and the amount of P500 as moral damages.

Facts:— On November 25, 1948, the plaintiff-petitioner, Enrique Layda, boarded a passenger truck owned by the defendant-

respondent, Alfredo Brillantes and driven by Jesus Baylona, Barrio San Fernando, Municipality of Baratoc Viejo, Province of Iloilo. While proceeding to its destination, the truck collided with the side of the mountain due to the reckless driving of Baylona. As a result of the collision, Layda was thrown to the ground unconscious. He sustained injuries which confined him in the hospital for 14 days and incapacitated him from work for nearly six months.

Layda brought an action in the Court of First Instance against Brillantes and after trial, the later was sentenced to pay the former the amount of P4,000 as moral damages and P915 as actual damages.

On appeal, the Court of Appeals affirmed the judgment *a quo* with modifications that the moral damages were reduced from P4,000 to P500, and the actual damages from P915 to P495.55. Not satisfied with the decision, Layda brought the case before the Supreme Court.

The petitioner claimed that the nature of the injuries that he had suffered plus the mental anguish resulting from the apprehension that he may never return to his former physical usefulness, renders the moral damages awarded to him most unfair and should be modified. In support of his contention, the petitioner relied on the cases of *Castro vs. Acro Taxicab*, *Lilius vs. Manila Railroad* and *Gutierrez vs. Gutierrez*.

HELD: "With regard to moral damages, we believe that the contention deserves consideration. In the *Acro Taxicab* case, the offended party suffered less physical suffering than the petitioner in the case at bar. In this case the petitioner was thrown out of the truck and fell unconscious with blood streaming from his mouth and nose. He had internal hemorrhage and pains on the right chest which were aggravated by bleeding and coughing. He developed traumatism of the chest which means that some blood vessels of the lungs had been ruptured, causing hemorrhage. He had three fractured ribs and suffered pains for nearly six months. In the *Acro Taxicab* case, the plaintiff did not fall from the taxi. He never lost consciousness and had no internal or external hemorrhage. He looked so well that he only stayed in the hospital for a few days. It is true that petitioner

is a mere farm laborer, while the plaintiff in the *Acro Taxicab* case was a general utility man, but this difference in their position or earning capacity cannot be considered of significance for the reason that in the determination of moral damages the human value and the dignity of a man are of a paramount consideration. There is a marked parallelism of the facts of the two cases, with some incidents weighing more in favor of the condition of the petitioner. If Castro was awarded P3,000 for his moral and physical sufferings no valid reason exists for not awarding a similar if not bigger indemnity to the petitioner. His case is furthered bolstered up by the precedent set in the cases of *Lilius* and *Gutierrez* already adverted to.

"Moral damages under our new civil code, include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injury' (Article 2217, Republic Act No. 368). Most of these damages affect the petitioner's moral feeling and personal pride and should be weighed in the determination of the indemnity. Another important consideration is the fact that the respondent is a public utility operator whose commitment is to serve the public carefully, prudently and diligently so that the passengers may be brought by his men with safety to their place of destination. In assuming his public trust he vouches that he would employ good and reliable equipment and competent personnel, and in accepting passengers he agrees that he will bring them safely to the place of destination. Here he violated his trust and breached his contractual obligation to the public. There is need of imposing a stern and commensurate indemnity to the victim to serve as an exemplary measure and as a warning to all similarly situated to put a stop to the rampant and seemingly ever increasing accidents and mishaps caused by a flagrant disregard of traffic laws and regulations. In this respect, the award of P4,000 given by the court *a quo* to the petitioner is reasonable."

Isaias Fernando, Jr.