



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **March 29, 2023** which reads as follows:*

“**G.R. No. 264250 (Francisco Banzuela Grumo, Jr., Petitioner v. People of the Philippines, Respondent)**. — This Court resolves the Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed by petitioner Francisco Banzuela Grumo, Jr. (*Grumo*), assailing the Decision² and the Resolution³ of the Court of Appeals (*CA*) which denied his Petition for Review of the Decision⁴ and Order⁵ of the Regional Trial Court (*RTC*), and ultimately affirmed Grumo’s conviction for reckless imprudence resulting in homicide for the death of Edric Velilia Dela Umbria (*Edric*), which was rendered in the Decision⁶ of the Metropolitan Trial Court (*MeTC*).

The accusatory portion of the Information reads:

That on or about **November 6, 2013**, in the City of Manila, Philippines, the said accused, being then the driver and/or person in charge of a **KEN WORTH tractor head with trailer** bearing plate no. **TOV-944/LUE-595**, did then and there unlawfully and feloniously drive, manage and operate the same along *Marcos Road near Pier 12, North Harbour, Tondo, this City*, in a careless, reckless, negligent and imprudent manner, by then and there picking up **EDRIC VELILIA DELA UMBRIA** and allowing to board at the back portion of the tractor head as a consequence of such carelessness, recklessness, negligence, imprudence and lack of precaution, **EDRIC VELILIA DELA UMBRIA** slipped and fell into the ground and was run over by the vehicle driven by accused and as a consequence thereof, said **EDRIC VELILIA DELA UMBRIA**

¹ *Rollo*, pp. 10-25.

² *Id.* at 30-40. The May 16, 2022 Decision in CA-G.R. SP No. 168067 was penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Myra V. Garcia-Fernandez and Jaime Fortunato A. Caringal of the Eleventh Division, Court of Appeals, Manila.

³ *Id.* at 42-44. The October 14, 2022 Resolution in CA-G.R. SP No. 168067 was penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Myra V. Garcia-Fernandez and Jaime Fortunato A. Caringal of the Former Eleventh Division, Court of Appeals, Manila.

⁴ *Id.* at 65-70. The January 24, 2020 Decision in Crim. Case No. 056505-CN was penned by Judge Danilo D. Leyva of Branch 19, Regional Trial Court, Manila.

⁵ *Id.* at 79. The March 11, 2020 Order in Crim. Case No. 056505-CN was penned by Judge Danilo D. Leyva of Branch 19, Regional Trial Court, Manila.

⁶ *Id.* at 59-62. The November 8, 2018 Decision in Crim. Case No. 056505-CN was penned by Judge Jorge Emmanuel M. Llonedo of Branch 26, Metropolitan Trial Court, Manila.

sustained traumatic abdomen injuries which were the direct and immediate cause of his death thereafter.

Contrary to law.⁷ (Emphasis in the original)

Upon arraignment on May 25, 2018, Grumo entered a plea of not guilty to the crime charged.⁸ After pre-trial, trial on the merits ensued.⁹

As found by the CA, quoting the MeTC, the pertinent facts are as follows:

The prosecution presented Jayson R. Santiso as its witness. Said witness, testified among others, that on November 6, 2013 at around 12:15 in the morning, he and his co-worker, Edric Dela Umbria (Edric for brevity), were walking along Marcos Road near Pier 12, North Harbor, Tondo, Manila. Edric flagged down the truck with plate no. TOV-944 being driven by accused Francisco Grumo, Jr. and boarded at the back portion of the said vehicle. Edric slipped from the vehicle and was subsequently run over by the wheel of the truck. Upon seeing what happened to Edric, witness Santiso asked for help. Later, Edric was brought to the hospital where he was declared dead. When witness Santiso went to Manila Traffic Investigation to give his affidavit, he saw the driver of the truck, accused Francisco Grumo, Jr.

The prosecution also presented Elly Dela Umbria as its witness. Said witness, testified among others, that he is the father of (deceased) Edric.

.....

The defense presented accused Francisco Grumo, Jr. as its lone witness. Accused Grumo, Jr., testified among others, that on November 6, 2013 at around past 12:00 in the morning, he was driving a trailer truck along Marcos Road near Pier 12, North Harbor, Tondo, Manila. A male person (later identified [as] Edric Dela Umbria) flagged down the truck and shouted "makikisakay[.]" Accused stopped the truck and Edric went on board the vehicle and even invited his companion to also hitchhike but the latter begged off. When he saw on his side mirror the companion of Edric walked away, accused drove the truck slowly. After a while, he saw the companion of Edric shouting "Uy, nahulog [ang] kasama ko[.]" Accused stopped the truck, went down and saw Edric lying on the road with his eyes closed. Accused's companion also went down the truck and asked for help.¹⁰

In its Decision,¹¹ the MeTC found Grumo liable for reckless imprudence resulting in homicide, thus:

⁷ *Id.* at 80.

⁸ *Id.* at 59.

⁹ *Id.* at 120.

¹⁰ *Id.* at 32.

¹¹ *Id.* at 59-62.

WHEREFORE, accused Francisco Banzuela Grumo, Jr. is found guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting in Homicide and is hereby sentenced to suffer imprisonment of one (1) year, seven (7) months and eleven (11) days to two (2) years, ten (10) months and twenty (20) days of *arresto mayor* in its maximum period to *prision correccional* in its medium period. Accused Francisco Grumo, Jr. is ordered to indemnify the heirs of Edric Dela Umbria the amount of [PHP] 50,000.00 as death indemnity.

SO ORDERED.¹²

According to the MeTC, Grumo was “careless, reckless, and negligent in allowing the victim, Edric, to board at the back of the said vehicle and allowed him to just stand there while the truck was moving.”¹³ Also, the MeTC found that Grumo conceded that their company, as well as the traffic rules, did not allow hitchhiking and he admitted that it was his mistake to allow Edric to board the truck.¹⁴

Grumo appealed to the RTC,¹⁵ however, his appeal was denied for lack of merit.¹⁶

In denying the appeal, the RTC ruled that the totality of the evidence showed that the proximate cause of the incident resulting in the death of Edric was the reckless negligence of Grumo in allowing Edric to ride on the outside of the rear end of the tractor head that he was driving, which was contrary to Section 51¹⁷ of Republic Act (R.A.) No. 4136.¹⁸ The RTC noted that Grumo knew or should have known that the back of the vehicle was unsafe for human transport and was not passenger-worthy. Thus, putting Edric in imminent danger of death or injury.¹⁹ The RTC also cited Article 2185²⁰ of the Civil Code in ruling that Grumo’s negligence was established by his violation of traffic regulation.²¹ Grumo then filed a Motion for Reconsideration,²² which was likewise denied by the RTC in its Order.²³

Grumo then filed a Petition for Review²⁴ with the CA, alleging that his guilt was not proven beyond reasonable doubt. However, in its Decision, the CA denied the Petition, thus:

¹² *Id.* at 61–62.

¹³ *Id.* at 60.

¹⁴ *Id.* at 60–61.

¹⁵ *Id.* at 63. Notice of Appeal dated November 23, 2018.

¹⁶ *Id.* at 70.

¹⁷ Republic Act No. 4136 (1964), sec. 51, Land Transportation and Traffic Code.

¹⁸ *Rollo*, p. 69.

¹⁹ *Id.*

²⁰ CIVIL CODE, art. 2185.

²¹ *Rollo*, p. 69.

²² *Id.* at 72–78.

²³ *Id.* at 79.

²⁴ *Id.* at 45–58.

ACCORDINGLY, the petition is DENIED.

The Decision dated 24 January 2020 of the Regional Trial Court, Branch 10, National Capital Judicial Region, Manila in Criminal Case No. 056505-CN is AFFIRMED.

SO ORDERED.²⁵

The CA concluded that Grumo was negligent in allowing Edric to hitchhike on the vehicle despite knowing that the vehicle was not intended to carry passengers and that it was not allowed by company policy. Further, he was aware that hitchhiking was against traffic rules.²⁶

The CA then cited Article 2185 of the Civil Code and Section 51 of R.A. No. 4136, concluding that Grumo was violating a traffic regulation when he allowed Edric to hitchhike.²⁷

Thus, the CA ruled that despite his knowledge of the dangers of his act of allowing a hitchhiker to the back of a tractor head, Grumo did not bar Edric from boarding and instead allowed him “to ride in standing position with nothing to hold on and moved the truck without observing the proper care and caution.”²⁸

Grumo filed a Motion for Reconsideration,²⁹ but the CA denied the same in its Resolution.³⁰

Hence, the instant Petition for Review on *Certiorari*, presenting the sole issue of whether the CA erred in affirming Grumo’s conviction despite the supposed insufficiency of evidence.³¹

Grumo points out that the prosecution failed to allege and prove that he drove the vehicle in an expeditious manner, causing Edric to fall off the truck, claiming that he was driving slowly at the time he picked up Edric.³² More, Grumo argued that Edric accidentally slipped from the truck, and since it was an accident, he could not be held criminally liable.³³ Finally, he argued that he had good intentions in allowing Edric to board the vehicle, and thus, there was no malice or intention to cause harm.³⁴

²⁵ *Id.* at 40.

²⁶ *Id.* at 34-37.

²⁷ *Id.* at 37.

²⁸ *Id.* at 38.

²⁹ *Id.* at 138-143.

³⁰ *Id.* at 44.

³¹ *Id.* at 16.

³² *Id.* at 18.

³³ *Id.* at 19-20.

³⁴ *Id.* at 21.

This Court resolves to deny the instant Petition, with modification as to the monetary awards imposed.

Reckless imprudence is defined in Article 365 of the Revised Penal Code as follows:

Reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his [or her] employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place.

The elements of reckless imprudence are the following:

(1) that the offender does or fails to do an act; (2) that the doing or the failure to do that act is voluntary; (3) that it be without malice; (4) that material damage results from the reckless imprudence; and (5) that there is inexcusable lack of precaution on the part of the offender, taking into consideration his [or her] employment or occupation, degree of intelligence, physical condition, and other circumstances regarding persons, time and place.³⁵

In *Gonzaga v. People*,³⁶ this Court clarified that to hold a motorist liable for the negligent operation of a vehicle, a direct causal connection must be shown between the negligence and the injuries or damage complained of, and that it is the inexcusable lack of precaution or conscious indifference to the consequences of the conduct that is penalized by law:

In order to establish a motorist's liability for the negligent operation of a vehicle, it must be shown that there was a direct causal connection between such negligence and the injuries or damages complained of. To constitute the offense of reckless driving, the act must be something more than a mere negligence in the operation of a motor vehicle – a willful and wanton disregard of the consequences is required. Willful, wanton or reckless disregard for the safety of others within the meaning of reckless driving statutes has been held to involve a conscious choice of a course of action which injures another, either with knowledge of serious danger to others involved, or with knowledge of facts which would disclose the danger to any reasonable person. Verily, it is the inexcusable lack of precaution or conscious indifference to the consequences of the conduct which supplies the criminal intent and brings an act of mere negligence and imprudence under the operation of the penal law, without regard to whether the private offended party may himself be considered likewise at fault.³⁷ (Citations omitted and emphasis supplied)

³⁵ *Cabugao v. People*, 740 Phil. 9, 21-22 (2014) [Per J. Peralta, Third Division].

³⁶ 751 Phil. 218 (2015) [Per J. Peralta-Bernabe, First Division].

³⁷ *Id.* at 227-228.

Notably, in petitions for review on *certiorari* under Rule 45 of the Rules of Court, this Court is generally limited to reviewing errors of law, and factual findings of the trial courts, especially if affirmed by the CA, “are accorded high respect, if not conclusive effect,” thus:

Well-entrenched is the rule that the Supreme Court’s role in a petition under Rule 45 of the Rules of Court is limited to reviewing errors of law allegedly committed by the CA. Factual findings of the trial courts, including its assessment of the credibility of the witnesses and the probative weight thereof, as well as the conclusions of the trial court based on its factual findings, are accorded high respect, if not conclusive effect, especially if such findings are affirmed by the CA. This is so because the trial court is able to observe at close range the demeanor and deportment of the witnesses as they testify. However, this rule does not apply if the trial court overlooked, misunderstood or misapplied some facts or circumstances which, if considered, will warrant a modification or reversal of the outcome of the case, which do not obtain here.³⁸ (Citations omitted)

Here, as found by the MeTC, RTC, and CA, Grumo allowed Edric to hitchhike on the back of a vehicle that he was driving, which he knew was not suitable for passengers, and without taking the necessary precautions in doing so, despite the dangers which he admitted he was aware of.³⁹

Likewise, the RTC and CA pointed out that at that time, Grumo was violating a traffic regulation, as Section 51 of R.A. No. 4136 prohibits a driver knowingly permitting any person to hang on to or ride the outside or rear end of the vehicle.⁴⁰ Consequently, it pointed out that Article 2185 of the Civil Code applies, which provides the presumption that unless rebutted “a person driving a motor vehicle has been negligent if at the time of the mishap he was violating any traffic regulation.”⁴¹ More than failing to rebut this presumption, Grumo even admitted to his negligence by conceding that he was aware of the dangers involved when he allowed Edric to board the vehicle and then subsequently chose to drive the vehicle in these circumstances.⁴²

This negligence consistently found by the MeTC, RTC, and CA, has a direct causal connection to the injury complained of, as Edric would not have fallen and have been run over by the vehicle were it not for Grumo’s lack of precaution and conscious indifference to the consequences of his conduct.

³⁸ : *Saulo v. People*, G.R. No. 242900, June 8, 2020 [Per J. J. Reyes, Jr., First Division].

³⁹ *Rollo*, pp. 34-37; 60-61; 69.

⁴⁰ *Id.* at 37.

⁴¹ *Id.*

⁴² *Id.* at 35-37

As succinctly concluded by the CA:

Indisputably, based on the testimonial evidence, Grumo allowed Edric to hitch or ride at the back of the vehicle despite knowing the danger of the said act. Fully aware that hanging on the back of the truck was not allowed by the company and in violation of a traffic regulation, Grumo did not bar Edric from boarding the truck. Instead, he allowed Edric to ride in standing position with nothing to hold on and moved the truck without observing the proper care and caution.⁴³

In addition, upon a review of the records, this Court finds that all the circumstances raised by Grumo for his defense have been duly considered by the CA and the trial courts, and there is no reversible error in their findings in this regard. At any rate, these are factual issues that this Court is generally not allowed to review in a Petition for Review on *Certiorari*, such as the instant Petition.

While this Court affirms the conviction of Grumo, this Court modifies the penalty and monetary awards imposed.

Under Article 365 of the Revised Penal Code, the imposable penalty for reckless imprudence resulting in homicide is *arresto mayor* in its maximum period to *prision correccional* in its medium period, or within the range of four months and one day to two years and four months. However, the same provision provides that when the death of a person is caused by reckless imprudence and with violation of the Auto Mobile Law, the proper imposable penalty is *prision correccional* in its medium and maximum periods, that is, the range of two years, four months and one day to six years.⁴⁴ Thus, the maximum term of imprisonment shall be taken from this range of penalty.

Applying the Indeterminate Sentence Law, the minimum term of the sentence shall be anywhere within the range of the penalty next lower in degree than that prescribed by law, which is *arresto mayor* in its maximum period to *prision correccional* in its minimum period, that is, four months and one day to two years and four months.

Hence, this Court modifies the penalty imposed by the MeTC, RTC, and CA, hereby sentencing Grumo to an indeterminate penalty of one year and eight months, as minimum, to three years, six months, and 21 days, as maximum.

Here, there is a need to modify the monetary awards imposed with the MeTC, RTC, and CA, and imposing only death indemnity in the amount of

⁴³ *Id.* at 38.

⁴⁴ *Gonzaga v. People*, 751 Phil. 218, 231 (2015) [Per J. Perlas-Bernabe, First Division].

PHP 50,000.00. Pursuant to *People v. Jugueta*,⁴⁵ for cases of reckless imprudence resulting in homicide, monetary awards of PHP 50,000.00 as civil indemnity, and PHP 50,000.00 as moral damages are proper.⁴⁶ Additionally, the award of PHP 50,000.00 as temperate damages is warranted “when no documentary evidence of burial or funeral expenses is presented in court,”⁴⁷ as in this case.

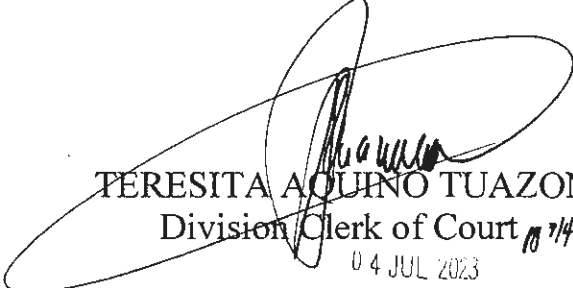
FOR THESE REASONS, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated May 16, 2022 and the Resolution dated October 14, 2022 of the Court of Appeals in CA-G.R. SP No. 168067 are **AFFIRMED** with **MODIFICATION**.

Petitioner Francisco Banzuela Grumo, Jr. is found **GUILTY** beyond reasonable doubt of reckless imprudence resulting in homicide and is sentenced to an indeterminate penalty of imprisonment of one (1) year and eight (8) months, as minimum, to three (3) years, six (6) months, and twenty-one (21) days, as maximum. He is **ORDERED** to **PAY** the heirs of Edric Velilia Dela Umbria the following: (a) PHP 50,000.00 as civil indemnity; (b) PHP 50,000.00 as moral damages; and (c) PHP 50,000.00 as temperate damages.

In line with current jurisprudence, legal interest at the rate of 6% per annum is imposed on all damages awarded from the date of the finality of this Resolution until fully paid.

SO ORDERED.” (*Leonen, SAJ*, on official leave, *Lazaro-Javier, J.*, Acting Chairperson per Special Order No. 2950 dated March 22, 2023.)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *10/14*
04 JUL 2023

⁴⁵ 783 Phil. 806 (2016).

⁴⁶ *Id.* at 852.

⁴⁷ *Id.* at 853.

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HON. PRESIDING JUDGE (reg)
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*with copy of the CA Decision dated May 16, 2022
Please notify the Court of any change in your address.
GR264250. 03/29/2023(324)URES *ALY*