



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 189850

- versus -

Present:

REYNALDO TORRES,
JAY TORRES,
BOBBY TORRES @
ROBERTO TORRES y NAVA,
and RONNIE TORRES,
Accused,

CARPIO, *Acting Chief Justice,* *
VELASCO, JR., **
BRION,
DEL CASTILLO, *and*
LEONEN, *JJ.*

BOBBY TORRES @
ROBERTO TORRES y NAVA,
Accused-Appellant.

Promulgated:

SEP 22 2014

Manabalo Arjeto

X ----- X

DECISION

DEL CASTILLO, J.:

This is an appeal from the July 23, 2009 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02925, which modified the December 5, 2006 Decision² of the Regional Trial Court (RTC), Manila, Branch 27 in Criminal Case No. 02-200171. The RTC found appellant Bobby Torres @ Roberto Torres y Nava (appellant) guilty beyond reasonable doubt of the crime of murder but on appeal, the CA found appellant guilty of the special complex crime of robbery with homicide.

Factual Antecedents

On January 28, 2004, an Amended Information³ was filed before the RTC,

* Per Special Order No. 1778 dated September 16, 2014.

** Per Raffle dated September 8, 2014.

¹ CA *rollo*, pp. 145-156; penned by Associate Justice Sesinando E. Villon and concurred in by Associate Justices Jose Catral Mendoza (now a Member of this Court) and Antonio L. Villamor.

² Records, pp. 256-262; penned by Judge Teresa P. Soriaso.

³ Id. at 55-56.

charging siblings Reynaldo Torres (Reynaldo), Jay Torres (Jay), Ronnie Torres (Ronnie) and appellant with the special complex crime of robbery with homicide committed against Jaime M. Espino (Espino). The Amended Information contained the following accusatory allegations:

That on or about September 21, 2001, in the City of Manila, Philippines, the said accused, armed with bladed weapons, conspiring and confederating together with one malefactor whose true name, real identity and present whereabouts [is] still unknown and helping one another, did then and there willfully, unlawfully and feloniously, with intent of gain and by means of force, violence, and intimidation, to wit: while one JAIME M. ESPINO was on board his car and travelling along C.M. Recto Avenue corner Ylaya St., Tondo, this City, by blocking his path and forcibly grabbing from the latter his belt-bag; that on the occasion of the said robbery and by reason thereof, the herein accused, in pursuance of their conspiracy, did then and there willfully, unlawfully and feloniously, with intent to kill, attack, assault, use personal violence and abuse of superior strength upon the said JAIME M. ESPINO and that when the latter resisted, by then and there stabbing the latter with bladed weapons on x x x different parts of his body, thereby inflicting upon the latter multiple stab wounds which were the direct and immediate cause of his death thereafter, and afterwhich, divest, take, rob and carry away a belt-bag, wallet, necklace, watch and ring of undetermined amount, belonging to said JAIME M. ESPINO.

Contrary to law.⁴

Only appellant was arrested. Reynaldo, Jay and Ronnie remain at-large to date. During arraignment, appellant entered a plea of “not guilty”.⁵ After the termination of the pre-trial conference, trial ensued.⁶

Version of the Prosecution

The prosecution presented as eyewitnesses Eduardo Umali (Umali), a butcher, and Merlito Macapar (Macapar), a cigarette vendor. Also presented were Dr. Romeo T. Salen (Dr. Salen), who testified on the cause of death of Espino. From their testimonies,⁷ the following facts emerged:

At around 10:00 p.m. of September 21, 2001, Espino was driving his car along C.M. Recto Avenue in Divisoria, Manila when Ronnie suddenly blocked his path. Espino alighted from his vehicle and approached Ronnie, who tried to grab his belt-bag. Espino resisted and struggled with Ronnie for the possession of his

⁴ Id. at 55.

⁵ Id. at 64.

⁶ Id. at 71.

⁷ TSN, September 15, 2004, pp. 2-29; TSN, May 4, 2005, pp. 2-20; TSN, December 7, 2004, pp. 3-15; TSN, March 29, 2005, pp. 2-5.

belt-bag but the latter's brothers, Jay, Rey, appellant, and an unidentified companion suddenly appeared. With all of them brandishing bladed weapons, appellant and his brothers took turns in stabbing Espino in different parts of his body while the unidentified companion held him by the neck. When Espino was already sprawled on the ground, they took his belt-bag, wallet and jewelries and immediately fled.

Espino was rushed to the hospital but was pronounced dead on arrival. In his Medico-Legal Report No. W-658-2001,⁸ Dr. Salen concluded that Espino died of multiple stab wounds caused by sharp bladed instruments. The back portion of his head bore two stab wounds while his body suffered four stab wounds which proved fatal. Considering the number and varying measurements of the wounds, Dr. Salen opined that there were more than one assailant.

To prove the civil aspect of the case, Espino's daughter, Winnie Espino-Fajardo (Winnie) testified that the pieces of jewelry stolen from her father consisted of a necklace worth ₱35,000.00, bracelet worth ₱15,000.00, wristwatch worth ₱10,000.00 and two rings worth ₱10,000.00 each. As for their expenses, Winnie said that ₱25,000.00 was spent for the burial lot and ₱37,000.00 for the funeral services. She stated further that Espino was 51 years old at the time of his death and was earning ₱3,000.00 a day as a meat vendor.⁹

Version of the Defense

Appellant denied any participation in the crime. He testified that at around 10:00 p.m. of September 21, 2001, he was with his girlfriend, Merlita Hilario (Merlita). They proceeded to the house of their friend, Marilou Garcia (Marilou), in Villaruel, Tayuman, Manila where they had a drinking session which lasted until they fell asleep. They did not leave their friend's house until the following morning when they went home. Thereupon, he was told that policemen were looking for him because his brothers got involved in an altercation that resulted in the death of someone.¹⁰ Merlita and Marilou corroborated appellant's alibi in their respective testimonies.¹¹

From the testimony of another defense witness, Jorna Yabut-Torres (Jorna), wife of Ronnie, the defense's version of the incident emerged as follows:

⁸ Records, p. 126.

⁹ TSN, December 6, 2005, pp. 2-12.

¹⁰ TSN, May 30, 2006, pp. 3-18.

¹¹ TSN, September 5, 2006, pp. 4-15 and TSN, June 21, 2006, pp. 3-16.

In the evening of September 21, 2001, Jorna and Ronnie were sharing jokes with other vendors in Divisoria when a car stopped a few meters from their stall. The driver alighted and asked why they were laughing. Ronnie replied that it had nothing to do with him. The driver seemed drunk since he walked back to his vehicle in an unsteady manner. Moments later, the driver returned and stabbed Ronnie on the wrist with a knife. Jay saw the assault on his brother, Ronnie, and got a bolo which he used to hack the driver repeatedly. Thereafter, Ronnie and Jay fled.¹²

Ditas Biescas-Mangilya, a vegetable vendor in Divisoria, corroborated Jorna's version of the incident in her testimony.¹³

Ruling of the Regional Trial Court

In its December 5, 2006 Decision,¹⁴ the RTC held that appellant could not have committed robbery. It ratiocinated, *viz*:

Prosecution witness Merlito D. Macapar testified that Ronnie took the belt bag of the deceased while Bobby and the rest took his wristwatch, ring and necklace. However, on cross-examination, witness admitted that he did not see who took the ring, wristwatch and necklace because as soon as the deceased fell on the ground, accused and companions surrounded him. Merlito's testimony was contradicted by Eduardo Umali on a vital point. Thus, Merlito testified that there was an exchange of heated words. There was no intimation whatsoever what the altercation was about. He was ten meters away. No such altercation, however, took place according to Eduardo who was barely five meters away. This tainted the testimony of Merlito and Eduardo with suspicion. When material witnesses contradict themselves on vital points, the element of doubt is injected and cannot be lightly disregarded. That was not all though. Merlito testified [that] several people witnessed the incident. The stall of the victim's daughter was about ten meters from the crime scene, which was a few meters from the stall of Ronnie. They both had been in their respective stalls for quite sometime. The principal prosecution witnesses are familiar with the deceased and the accused except for the unidentified companion as they often see them at the vicinity. Thus, in all likelihood, accused and the victim are familiar if not know each other very well. The perpetration of robbery at the place was thus unlikely.

Even granting that the element of taking is present, still, accused cannot be held liable for the complex crime of robbery with homicide for the reason that it was not indubitably shown that the main purpose of the accused was to rob the victim. To the mind of the Court, this is precisely the reason why the prosecution skipped the utterances made by the protagonist[s] during the attack. To sustain a

¹² TSN, June 13, 2006, pp. 2-51.

¹³ TSN, August 29, 2006, pp. 3-25.

¹⁴ Records, pp. 256-262.

[conviction] for the special complex crime of robbery with homicide, the original criminal design of the culprit must be robbery and the homicide is perpetrated with a view to the consummation of the robbery, or by reason or on the occasion of the robbery (People vs. Ponciano, 204 SCRA 627).

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The crime of robbery not having been indubitably established, the accused cannot be convicted of the special complex crime of robbery with homicide.¹⁵

The RTC thus concluded that appellant can only be liable for the killing of Espino. It held him guilty of murder after it found the qualifying circumstance of abuse of superior strength, which was alleged in the Information and duly established by the prosecution. Moreover, the RTC ruled that conspiracy among the accused attended the crime.

Anent the civil aspect of the case, the RTC granted civil indemnity, actual and moral damages to the heirs of Espino, but denied the claim for loss of earning capacity for lack of documentary evidence.

The dispositive portion of the RTC Decision reads:

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the Court finds accused Bobby Torres y Nava, “Guilty” beyond reasonable doubt of the crime of Murder as the qualifying circumstance of abuse of superior strength attended the commission of the crime and hereby sentences him to suffer the penalty of Reclusion Perpetua, to indemnify the heirs of the victim the sum of ₱50,000.00, the additional sum of ₱50,000.00 as moral damages, actual damages in the amount of ₱62,000.00 and to pay the costs.

Let alias warrant of arrest issue against accused Reynaldo Torres, Jay Torres and Ronnie Torres.

SO ORDERED.¹⁶

Appellant filed a Motion for Reconsideration¹⁷ which was denied in an Order¹⁸ dated April 10, 2007.

Hence, appellant appealed to the CA.¹⁹

¹⁵ Id. at 260.

¹⁶ Id. at 262.

¹⁷ Id. at 264-272.

¹⁸ Id. at 281-282.

¹⁹ See Notice of Appeal, id. at 290 and the RTC Order of July 30, 2007 which gave due course to the said notice of appeal, id. at 291.

Ruling of the Court of Appeals

In modifying the ruling of the RTC, *i.e.*, finding appellant guilty of robbery with homicide instead of murder, the CA found that the primary intention of appellant and his co-accused was to rob Espino and his killing was only incidental to the robbery. The blocking of Espino's car and the struggle for possession of his belt-bag after he alighted are clear manifestations of the intent to commit robbery. The dispositive portion of the July 23, 2009 Decision²⁰ of the CA reads as follows:

WHEREFORE, in view of foregoing, the appealed decision of the RTC Manila, Branch 27 dated December 5, 2006 is hereby MODIFIED in that appellant is found GUILTY beyond reasonable doubt of the crime of ROBBERY with HOMICIDE and he is hereby sentenced to suffer the penalty of *reclusion perpetua*. The trial court's award to the heirs of the victim, Jaime Espino, of civil indemnity in the amount of ₱50,000.00, moral damages in the amount of ₱50,000.00, and actual damages in the amount of ₱62,000.00 as well as its order to appellant to pay the costs of suit, are hereby AFFIRMED.

SO ORDERED.²¹

Hence, this present appeal.

Assignment of Errors

Appellant imputes upon the CA the following errors in his Supplemental Brief.²²

The acquittal of the accused-appellant in the robbery charge should be left undisturbed as being final and executory which cannot be overturned without violating the proscription against double jeopardy.²³

The appellate court exceeded its jurisdiction when it reviewed the entire case despite the fact that the accused-appellant only appealed his conviction for murder.²⁴

It was an error to convict the accused-appellant of the crimes charged considering that his guilt was not proven beyond reasonable doubt.²⁵

²⁰ CA *rollo*, pp. 145-156.

²¹ Id. at 155.

²² *Rollo*, pp. 68-82.

²³ Id. at 69.

²⁴ Id. at 72.

²⁵ Id. at 75.

Our Ruling

The appeal is unmeritorious.

In an appeal by an accused, he waives his right not to be subject to double jeopardy.

Appellant maintains that the CA erred in finding him liable for robbery with homicide as charged in the Amended Information. He argues that his appeal to the CA was limited to his conviction for murder and excluded his acquittal for robbery. And by appealing his conviction for murder, he does not waive his constitutional right not to be subject to double jeopardy for the crime of robbery. He claims that even assuming that the RTC erred in acquitting him of the robbery charge, such error can no longer be questioned on appeal.

We cannot give credence to appellant's contentions. "An appeal in [a] criminal case opens the entire case for review on any question including one not raised by the parties."²⁶ "[W]hen an accused appeals from the sentence of the trial court, he waives the constitutional safeguard against double jeopardy and throws the whole case open to the review of the appellate court, which is then called upon to render such judgment as law and justice dictate, whether favorable or unfavorable to the appellant."²⁷ In other words, when appellant appealed the RTC's judgment of conviction for murder, he is deemed to have abandoned his right to invoke the prohibition on double jeopardy since it became the duty of the appellate court to correct errors as may be found in the appealed judgment. Thus, appellant could not have been placed twice in jeopardy when the CA modified the ruling of the RTC by finding him guilty of robbery with homicide as charged in the Information instead of murder.

Appellant is guilty of the crime of robbery with homicide.

"Robbery with homicide exists 'when a homicide is committed either by reason, or on occasion, of the robbery. To sustain a conviction for robbery with homicide, the prosecution must prove the following elements: (1) the taking of personal property belonging to another; (2) with intent to gain; (3) with the use of violence or intimidation against a person; and (4) on the occasion or by reason of

²⁶ *People v. Mirandilla, Jr.*, G.R. No. 186417, July 27, 2011, 654 SCRA 761, 774.

²⁷ *Id.* at 775.

the robbery, the crime of homicide, as used in its generic sense, was committed. A conviction requires certitude that the robbery is the main purpose and objective of the malefactor and the killing is merely incidental to the robbery. The intent to rob must precede the taking of human life but the killing may occur before, during or after the robbery.’²⁸

In this case, the prosecution adduced proof beyond reasonable doubt that the primary intention of appellant and his companions was to rob Espino. Umali and Macapar, the eyewitnesses presented by the prosecution, testified that at around 10:00 p.m. of September 21, 2001, appellant’s brother and co-accused, Ronnie, blocked Espino’s car at the corner of C.M. Recto Avenue and Ylaya Street. When Espino alighted from his vehicle, Ronnie attempted to grab his belt-bag. A struggle for possession of the belt-bag ensued. It was at this juncture that appellant and the other co-accused joined the fray and stabbed Espino several times in the head and body. When Espino fell to the pavement from his stab wounds, appellant, Ronnie and their cohorts got hold of the victim’s wallet, belt-bag, wristwatch and jewelry then fled together.²⁹

From the foregoing, it is clear that the primordial intention of appellant and his companions was to rob Espino. Had they primarily intended to kill Espino, they would have immediately stabbed him to death. However, the fact that Ronnie initially wrestled with appellant for possession of the belt-bag clearly shows that the central aim was to commit robbery against Espino. This intention was confirmed by the accused’s taking of Espino’s belt-bag, wallet, wrist-watch and jewelries after he was stabbed to death. The killing was therefore merely incidental, resulting by reason or on occasion of the robbery.

The testimonies of the prosecution eyewitnesses are worthy of credence.

Appellant attempts to discredit Umali and Macapar by asserting that there are glaring contradictions in their testimonies. He calls attention to the RTC’s observation that Macapar gave conflicting testimonies on whether he actually witnessed who among appellant and his cohorts took Espino’s valuables after he fell to the ground. Appellant asserts further that Umali’s testimony that an altercation did not precede the commission of the crime contradicts the testimony of Macapar that a heated exchange of words occurred prior to the incident. He

²⁸ *Crisostomo v. People*, G.R. No. 171526, September 1, 2010, 629 SCRA 590, 598.

²⁹ TSN, September 15, 2004, pp. 4-6; TSN, May 4, 2005, pp. 3-7.

also claims that it is contrary to human nature for Espino to alight from his car at 10:00 p.m. while in possession of a large amount of money without fear of an impending hold-up.

We are not persuaded. The inconsistencies attributed to the prosecution's eyewitnesses involve minor details, too trivial to adversely affect their credibility. Said inconsistencies do not depart from the fact that these eyewitnesses saw the robbery and the fatal stabbing of Espino by appellant and his cohorts. "[T]o the extent that inconsistencies were in fact shown, they appear to the Court to relate to details of peripheral significance which do not negate or dissolve the positive identification by [Umali and Macapar of appellant] as the perpetrator of the crime."³⁰ "Inaccuracies may in fact suggest that the witnesses are telling the truth and have not been rehearsed. Witnesses are not expected to remember every single detail of an incident with perfect or total recall."³¹

Moreover, it is unlikely that Espino feared alighting from his vehicle at a late hour while in possession of a huge amount of money since he was a vendor doing business in the vicinity where the incident occurred. He was familiar with the people and their activities in the premises.

In view of the above, the Court finds that the CA properly lent full credence to the testimonies of Umali and Macapar.

The weapons are not the corpus delicti.

Appellant contends that the evidence is insufficient for his conviction since the weapons used in the stabbing of Espino were not presented. In other words, he asserts that it was improper to convict him because the *corpus delicti* had not been established.

We disagree. "[C]*orpus delicti* refers to the fact of the commission of the crime charged or to the body or substance of the crime. In its legal sense, it does not refer to the ransom money in the crime of kidnapping for ransom or to the body of the person murdered' or, in this case, [the weapons used in the commission of robbery with homicide]. 'Since the *corpus delicti* is the fact of the commission of the crime, this Court has ruled that even a single witness'

³⁰ *People v. Dean, Jr.*, 314 Phil. 280, 292 (1995).

³¹ *People v. Alas*, G.R. Nos. 118335-36, June 19, 1997, 274 SCRA 310, 320.

uncorroborated testimony, if credible may suffice to prove it and warrant a conviction therefor. *Corpus delicti* may even be established by circumstantial evidence.”³²

In this case, the *corpus delicti* was established by the evidence on record. The prosecution eyewitnesses testified that appellant and his cohorts used knives to perpetrate the crime. Their testimonies on the existence and use of weapons in committing the offense was supported by the medical findings of Dr. Salen who conducted the post-mortem examination. Dr. Salen found that Espino sustained several stab wounds with varying measurements which were caused by sharp bladed instruments. Appellant is therefore mistaken in arguing that the failure to present the weapons used in killing Espino was fatal to the cause of the prosecution.

The defenses of denial and alibi cannot prosper.

We are in complete agreement with the RTC and the CA in finding lack of merit in appellant’s defenses of denial and alibi.

Appellant claims that he was in a drinking session in his friend’s house in Villaruel, Tayuman, Manila, from 10:00 p.m. of September 21, 2001 until 1:00 a.m. of the following day. He alleges to have slept at the place and went home at around 7:00 a.m. of September 22, 2001. According to appellant, he did not depart from his friend’s house from the time they started drinking until he went home the following morning.

Appellant’s alibi is unworthy of credence. Appellant himself testified that Villaruel is less than two kilometers away from Divisoria and that it would only take a few minutes to go to Divisoria from Villaruel.³³ Clearly, it was not impossible for appellant to be physically present at the crime scene during its commission. “For alibi to prosper, it must strictly meet the requirements of time and place. It is not enough to prove that the accused was somewhere else when the crime was committed, but it must also be demonstrated that it was physically impossible for him to have been at the crime scene at the time the crime was committed.”³⁴

³² *Villarin v. People*, G.R. No. 175289, August 31, 2011, 656 SCRA 500, 520-521.

³³ TSN, May 30, 2006, p. 14.

³⁴ *People v. Ebet*, G.R. No. 181635, November 15, 2010, 634 SCRA 689, 706-707.

The fact that appellant presented witnesses to corroborate his alibi deserves scant consideration. Their testimonies are viewed with skepticism due to the very nature of alibi the witnesses affirm.³⁵ Appellant can easily fabricate an alibi and ask relatives and friends to corroborate it.³⁶

We have always ruled that alibi and denial are inherently weak defenses and must be brushed aside when the prosecution has sufficiently and positively ascertained the identity of the accused. Moreover, it is only axiomatic that positive testimony prevails over negative testimony.³⁷

The evidence was sufficient to establish the presence of abuse of superior strength.

Appellant argues that mere superiority in numbers does not indicate the presence of abuse of superior strength. In the same manner, appellant claims that the number of wounds inflicted on the victim is not the criterion for the appreciation of this circumstance.

“There is abuse of superior strength when the offenders took advantage of their combined strength in order to consummate the offense.”³⁸ Here, appellant and his four companions not only took advantage of their numerical superiority, they were also armed with knives. Espino, on the other hand, was unarmed and defenseless. While Ronnie was wrestling with Espino, appellant and his co-accused simultaneously assaulted the latter. The unidentified companion locked his arm around the neck of Espino while appellant and his co-accused stabbed and hacked him several times. While Espino was lying defenseless on the ground, they divested him of all his valuables. Thereafter, they immediately fled the scene of the crime.³⁹ It is clear that they executed the criminal act by employing physical superiority over Espino.

The Proper Penalty

Nonetheless, the presence of abuse of superior strength should not result in qualifying the offense to murder. When abuse of superior strength obtains in the

³⁵ *People v. Sumalinog, Jr.*, 466 Phil. 637, 650 (2004).

³⁶ *Id.* at 651.

³⁷ *People v. Ebet*, supra note 34 at 707.

³⁸ *People v. Lachayan*, 393 Phil. 800, 808 (2006).

³⁹ *Id.*

special complex crime of robbery with homicide, it is to be regarded as a generic circumstance, robbery with homicide being a composite crime with its own definition and special penalty in the Revised Penal Code. With the penalty of *reclusion perpetua* to death imposed for committing robbery with homicide,⁴⁰ “[t]he generic aggravating circumstance of [abuse of superior strength] attending the killing of the victim qualifies the imposition of the death penalty on [appellant].”⁴¹ In view, however, of Republic Act No. 9346, entitled “An Act Prohibiting the Imposition of the Death Penalty in the Philippines,” the penalty that must be imposed on appellant is *reclusion perpetua* without eligibility for parole.⁴²

The Civil Liabilities

In robbery with homicide, civil indemnity and moral damages are awarded automatically without need of allegation and evidence other than the death of the victim owing to the commission of the crime.⁴³ Here, the RTC and CA granted civil indemnity and moral damages to Espino’s heirs in the amount of ₱50,000.00 each. These courts were correct in granting the awards, but the awards should have been ₱100,000.00 each. Recent jurisprudence⁴⁴ declares that when the imposable penalty is death, the awards of civil indemnity and moral damages shall be ₱100,000.00 each.

In granting compensatory damages, the prosecution must “prove the actual amount of loss with a reasonable degree of certainty, premised upon competent proof and the best evidence obtainable to the injured party.”⁴⁵ “‘Receipts should support claims of actual damages.’ Thus, as correctly held by the [RTC] and affirmed by the CA, the amount of [₱62,000.00] incurred as funeral expenses can be sustained since these are expenditures supported by receipts.”⁴⁶

The existence of one aggravating circumstance also merits the grant of exemplary damages under Article 2230 of the New Civil Code. Pursuant to prevailing jurisprudence, we likewise award ₱100,000.00 as exemplary damages to the victim’s heirs.⁴⁷ An interest at the legal rate of 6% *per annum* on all awards

⁴⁰ REVISED PENAL CODE, Article 294, paragraph 1.

⁴¹ *People v. Villanueva, Jr.*, 611 Phil. 152, 178 (2009).

⁴² *Id.*

⁴³ *Crisostomo v. People*, supra note 28 at 603.

⁴⁴ *People v. Gambao*, G. R. No. 172707, October 1, 2013.

⁴⁵ *Crisostomo v. People*, supra note 28 at 604.

⁴⁶ *Id.*

⁴⁷ *People v. Gambao*, supra note 44.

of damages from the finality of this judgment until fully paid should likewise be granted to the heirs of Espino.⁴⁸

Lastly, the RTC did not err in refusing to award indemnity for loss of earning capacity of Espino despite the testimony of his daughter that he earned ₱3,000.00 a day as a meat dealer. "Such indemnity is not awarded in the absence of documentary evidence except where the victim was either self-employed or was a daily wage worker earning less than the minimum wage under current labor laws. Since it was neither alleged nor proved that the victim was either self-employed or was a daily wage earner, indemnity for loss of earning capacity cannot be awarded to the heirs of the victim."⁴⁹

WHEREFORE, the July 23, 2009 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02925 that affirmed with modifications the December 5, 2006 Decision of the Regional Trial Court of Manila, Branch 27, in Criminal Case No. 02-200171 is **AFFIRMED with further MODIFICATIONS**. Appellant Bobby Torres @ Roberto Torres y Nava is ordered to pay the heirs of the victim, Jaime M. Espino, ₱100,000.00 as civil indemnity; ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. The interest rate of 6% *per annum* is imposed on all damages awarded from the finality of this Decision until fully paid.

SO ORDERED.



MARIANO C. DEL CASTILLO

Associate Justice

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice
Chairperson

⁴⁸ *People v. Jalbonian*, G.R. No. 180281, July 1, 2013, 700 SCRA 280, 296.

⁴⁹ *People v. Obligado*, 603 Phil. 371, 376 (2009).



PRESBITERO J. VELASCO, JR.
Associate Justice



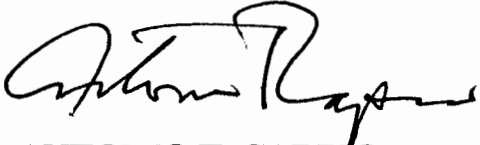
ARTURO D. BRION
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



ANTONIO T. CARPIO
Associate Justice
Acting Chief Justice

