Senate
Office of the Secretary

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SENATE
S. No. __2513__

Introduced by Senator Miriam Defensor Santiago

AN ACT
AMENDING ARTICLE 2206 OF REPUBLIC ACT NO. 386 OTHERWISE KNOWN
AS "THE CIVIL CODE OF THE PHILIPPINES" TO INCREASE THE AMOUNT OF
DAMAGES FOR DEATH CAUSED BY A CRIME OR QUASI-DELICT

EXPLANATORY NOTE

In the case of *People v. Combate*,[1] the Supreme Court clarified the proper award of damages in criminal cases where the imposable penalty for the crime is *reclusion perpetua* or death. The first among three kinds of damages is civil indemnity *ex delicto*, which is equivalent to actual or compensatory damages in civil law. It is this kind of indemnity that is the focus of this Act.

When the Civil Code of the Philippines was enacted in 1950, Article 2206 fixed the minimum amount of actual or compensatory damages for death caused by crime or quasi-delict at ₱3,000. It is common knowledge however, that during that time, the purchasing power of the Philippine Peso was much higher, at $1.00 to ₱2.00, compared the current exchange rate that averages around $1 to ₱44. Due to the decline of the Philippine Peso, the increase of the costs of living, and many other considerations, current jurisprudence has fixed the indemnity for death under Article 2206 at ₱50,000.00, subject to increase due to aggravating circumstances.[2]

It has become clear, however, that ₱50,000.00 may no longer be deemed just civil indemnification to the heirs of the deceased victim a crime or quasi-delict for the reason

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[1] 638 SCRA 797 (2010).

[2] *People v. Combate, Id.; Philippine Hawk Corporation v. Lee*, 612 SCRA 576 (2010); *Philtranco Service Enterprises, Inc. v. Court of Appeals*, 273 SCRA 562 (1997).

that one's total liability for causing death may be smaller than one's liability should he only cause serious physical injuries resulting in the incapacitation of the victim. Stated simply, it may be cheaper to kill than to injure. In situations where injury has been caused due to reckless imprudence, the discrepancy of the damages may incentivise one to ensure the death of the victim rather than attempt to save his life.

This situation may be exemplified by comparing the case of *Mercury Drug Corporation*[3] v. *Sps. Huang* and *People v. Combate*[4]. In the former case, a road accident left respondent Huang alive but permanently incapacitated. The Supreme Court affirmed the award of ₱2,973,000.00 as actual damages, ₱23,461,062.00 for the life care cost of Huang, ₱10,000,000.00 for loss of earning capacity, not to mention an additional ₱4,000,000.00 for moral and exemplary damages and attorney's fees. On the other hand, in the case of *Combate,* the Court found the accused guilty of one count of homicide and one count of murder, and condemned him to pay a total of ₱186,319.59 by way of civil indemnity, reimbursement of burial expenses, moral damages and exemplary damages for the crime of homicide, and ₱130,000.00 by way of civil indemnity, moral damages and exemplary damages for the crime of murder. The discrepancy between these two cases is unconscionable and must be addressed by proper legislation.
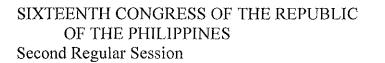
It is also worth noting the urban myth that has spread to the effect that bus drivers who, through reckless imprudence, have caused serious physical injuries to pedestrians, will return and ensure their death in order to decrease their monetary liability.
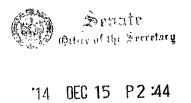
Thus, in order to give justice to the deceased and his heirs, as well as to disincentivize killing, it is proper to drastically increase the minimum civil liability for death caused by crime or quasi-delict.

MIRIAM DEFENSOR SANTIAGO

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[3]525 SCRA 427 (2007).

[4]*People v. Combate, Id.*

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S. No. **2513**

Introduced by Senator Miriam Defensor Santiago

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 AN ACT
2 AMENDING ARTICLE 2206 OF REPUBLIC ACT NO. 386 OTHERWISE KNOWN
3 AS "THE CIVIL CODE OF THE PHILIPPINES" TO INCREASE THE AMOUNT OF
4 DAMAGES FOR DEATH CAUSED BY A CRIME OR QUASI-DELICT

5 SECTION 1. Article 2206 of Republic Act No. 386, otherwise known as the

6 "Civil Code of the Philippines," is hereby amended to read as follows:

7 Art. 2206. The amount of damages for death caused by a crime or

8 quasi-delict shall be at least **FIVE HUNDRED THOUSAND**

9 **PESOS(₱500,000)**[Three thousand pesos], even though there may have

10 been mitigating circumstances. In addition:

11 (1) The defendant shall be liable for the loss of the earning capacity

12 of the deceased, and the indemnity shall be paid to the heirs of the latter;

13 such indemnity shall in every case be assessed and awarded by the court,

14 unless the deceased on account of permanent physical disability not caused

15 by the defendant, had no earning capacity at the time of his death;

16 (2) If the deceased was obliged to give support according to the

17 provisions of Article 291, the recipient who is not an heir called to the

18 decedent's inheritance by the law of testate or intestate succession, may

19 demand support from the person causing the death, for a period not

20 exceeding five years, the exact duration to be fixed by the court;

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1   (3) The spouse, legitimate and illegitimate descendants and

2   ascendants of the deceased may demand moral damages for mental anguish

3   by reason of the death of the deceased.

4   SECTION 2. *Repealing Clause.* – Any law, presidential decree or issuance,

5   executive order, letter of instruction, administrative order, rule or regulation contrary to

6   or is inconsistent with the provision of this Act is hereby repealed, modified, or amended

7   accordingly.

8   SECTION 3. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after

9   its publication in at least two (2) newspapers of general circulation.

Approved,

/aml 5dec2014