TORTS AND DAMAGES

Post-Midterms

VICARIOUS LIABILITY

ARTICLE 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

[x x x x]

The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage.

In general

1. Cangco v. Manila Railroad Co. (1918)
    a. **NATURE AND ORIGIN**. The liability, which, under the Spanish law, is, in certain cases imposed upon employers with respect to damages occasioned by the negligence of their employees to persons to whom they are not bound by contract, is not based, as in the English Common Law, upon the principle of *respondent superior*. If it were, the master would be liable in every case and unconditionally. But upon the principle announced in art. 1902 [2176] of the Civil Code, which imposes upon all persons who by their fault or negligence, do injury to another, the obligation of making good the damage caused. One who places a powerful automobile in the hands of a servant whom he knows to be ignorant of the method of managing such a vehicle, is himself guilty of an act of negligence which makes him liable for all the consequences of his imprudence. The obligation to make good the damage arises at the very instant that the unskillful servant, while acting within the scope of his employment, causes the injury.
    b. **MASTER'S LIABILITY IS DIRECT; CAVEAT**. The liability of the master is personal and direct. But, if the master has not been guilty of any negligence whatever in the selection and direction of the servant, he is not liable for the acts of the latter, whether done within the scope of his employment or not, if the damage done by the servant does not amount to a breach of the contract between the master and the person injured.

c. **MASTER'S DEFENSE.** It is not accurate to say that proof of diligence and care in the selection and control of the servant relieves the master from liability for the latter's acts. On the contrary, that proof shows that the responsibility has never existed.
d. **ID; IN THE CONTEXT OF BREACH OF CONTRACT.** On the other hand, the liability of masters and employers for the negligent acts or omissions of their servants or agents, when such acts or omissions cause damages which amount to the breach of a contract, is not based upon a mere presumption of the master's negligence in their selection or control, and proof of exercise of the utmost diligence and care in this regard does not relieve the master of his liability for the breach of his contract.

2. Dela Llana v. Biong (2013)
    a. **PROVING VICARIOUS LIABILITY**. (1) The injured party must first establish by preponderance of evidence the three elements of quasi-delict before we determine the liability of the employer. (2) Only after she has laid this foundation can the presumption—that the employer did not exercise the diligence of a good father of a family in the selection and supervision of the employee—arise.
    b. **RATIONALE**. The rationale for these graduated levels of analyses is that it is essentially the wrongful or negligent act or omission itself which creates the *vinculum juris* in extra-contractual obligations.

Parents and guardians

ARTICLE 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

The father and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live in their company.

Guardians are liable for damages caused by the minors or incapacitated persons who are under their authority and live in their company. [x x x x]

1. Tamargo v. Court of Appeals (1992)
    a. **NATURE**. This principle of parental liability is a species of what is frequently designated as vicarious liability, or the doctrine of "imputed

negligence" under Anglo-American tort law, where a person is not only liable for torts committed by himself, but also for torts committed by others with whom he has a certain relationship and for whom he is responsible. Thus, parental liability is made a natural or logical consequence of the duties and responsibilities of parents—their parental authority—which includes the instructing, controlling and disciplining of the child.

b. **REITERATION OF *CANGCO*; MORAL RESPONSIBILITY.** The legislature which adopted our Civil Code has elected to limit extra-contractual liability—with certain well-defined exceptions—to cases in which moral culpability can be directly imputed to the persons to be charged. This moral responsibility may consist in having failed to exercise due care in one's own acts, or in having failed to exercise due care in the selection and control of one's agents or servants, or in the control of persons who, by reasons of their status, occupy a position of dependency with respect to the person made liable for their conduct.
c. **CONSEQUENCE OF PARENTAL AUTHORITY.** The civil liability imposed upon parents for the torts of their minor children living with them, may be seen to be based upon the parental authority vested by the Civil Code upon such parents. The civil law assumes that when an unemancipated child living with its parents commits a tortious act, the parents were negligent in the performance of their legal and natural duty closely to supervise the child who is in their custody and control. Parental liability is, in other words, anchored upon parental authority coupled with presumed parental dereliction in the discharge of the duties accompanying such authority.
d. **DEFENSE.** The parental dereliction is, of course, only presumed and the presumption can be overturned under art. 2180 by proof that the parents had exercised all the diligence of a good father of a family to prevent the damage.

2. Libi v. Intermediate Appellate Court (1992, *en banc*)
    a. **PARENT'S LIABILITY IS DIRECT**. We believe that the civil liability of parents for quasi-delicts of their minor children, as contemplated in art. 2180, is primary and not subsidiary. In fact, if we apply art. 2194 which provides for solidary liability of joint tortfeasors, the persons responsible for the act or omission, in this case the minor and the father and, in case of his death of incapacity, the mother, are

solidarily liable. Accordingly, such parental liability is primary and not subsidiary, hence the last paragraph of art. 2180 provides that "(t) he responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damages."

b. **ID; IN THE CASE OF CIVIL LIABILITY *EX DELICTO***. The parents are and should be held primarily liable for the civil liability arising from criminal offenses committed by their minor children under their legal authority or control, or who live in their company, unless it is proven that the former acted with the diligence of a good father of a family to prevent such damages. That primary liability is premised on the provisions of art. 101 of the RPC with respect to damages *ex delicto* caused by their children [15] years of age or under, or over [15] but under [18] years of age who acted without discernment; and, with regard to their children over [15] but under [18] years of age who acted with discernment, such primary liability shall be imposed pursuant to art. 2180. Under said art. 2180, the enforcement of such liability shall be effected against the father and, in case of his death or incapacity, the mother. This was amplified by the Child and Youth Welfare Code which provides that the same shall devolve upon the father and, in case of his death or incapacity, upon the mother or, in case of her death or incapacity, upon the guardian, but the liability may also be voluntarily assumed by a relative or family friend of the youthful offender. However, under the Family Code, this civil liability is now, without such alternative qualification, the responsibility of the parents and those who exercise parental authority over the minor offender.

3. CICL XXX v. People of the Philippines (2019)
   a. **CIVIL LIABILITY IN CASE OF ACQUITTAL DUE TO MINORITY.** While CICL XXX is not criminally liable for his acts because the presumption that he acted without discernment was not overcome, he is still civilly liable for the injuries sustained by Redoquerio. It is well-settled that "[e]very person criminally liable is also civilly liable." However, it does not follow that a person who is not criminally liable is also free from civil liability. Exemption from criminal liability does not always include exemption from civil liability.
   b. **LIABILITY OF PARENTS; REMAND**. The foregoing liability is imposed upon CICL XXX's parents because Art. 101 of the RPC. Art.

101 of the RPC, however, provides that the foregoing liability of CICL XXX's parents is subject to the defense that they acted without fault or negligence. Thus, the civil aspect of this case is remanded to the trial court, and it is ordered to implead CICL XXX's parents for reception of evidence on their fault or negligence.

4. Cuadra v. Monfort (1970)
    a. **PARENT'S DEFENSE; HOW PROVEN**. But what is the exact degree of diligence contemplated, and how does a parent prove it in connection with a particular act or omission of a minor child, especially when it takes place in his absence or outside his immediate company? Obviously there can be no meticulously calibrated measure applicable; and when the law simply refers to "all the diligence of a good father of the family to prevent damage," it implies a consideration of the attendant circumstances in every individual case, to determine whether by the exercise of such diligence the damage could have been prevented.
    b. **IN THE CASE AT BAR**. In the present case there is nothing from which it may be inferred that the defendant could have prevented the damage by the observance of due care, or that he was in any way remiss in the exercise of his parental authority in failing to foresee such damage, or the act which caused it. On the contrary, his child was at school, where it was his duty to send her and where she was, as he had the right to expect her to be, under the care and supervision of the teacher. And as far as the act which caused the injury was concerned, it was an innocent prank not unusual among children at play and which no parent, however careful, would have any special reason to anticipate much less guard against. Nor did it reveal any mischievous propensity, or indeed any trait in the child's character which would reflect unfavorably on her upbringing and for which the blame could be attributed to her parents.

5. United States v. Baggay Jr. (1911, *en banc*)
    a. **CRIMINAL LIABILITY OF INSANE PERSONS; CIVIL LIABILITY**. True it is that civil liability accompanies criminal liability, because every person liable criminally for a crime or misdemeanor is also liable for reparation of damage and for indemnification of the harm done, but there may be civil liability because of acts ordinarily

punishable, although the law has declared their perpetrators exempt from criminal liability. Such is the case of a lunatic or insane person who, in spite of his irresponsibility on account of the deplorable condition of his deranged mind, is still reasonably and justly liable with his property for the consequences of his acts, even though they be performed unwittingly, for the reason that his fellows ought not to suffer from the disastrous results of his harmful acts more than is necessary, in spite of his unfortunate condition.

b. **WHO ARE LIABLE FOR THE INSANE'S CIVIL LIABILITY**. (1) The persons in the first place liable are those who have the insane party under their care or guardianship, unless they prove that there was no blame or negligence on their part. (2) If the demented person or imbecile lack a guardian or some person charged with his care, or if the latter be insolvent, then his own property must meet the civil liability of indemnifying or repairing the damage done.

c. **DUTY OF COURTS**. Judges and courts in rendering judgment in a criminal cause prosecuted against an insane or demented person, even when they hold the accused exempt from criminal liability, must fix the civil liability of the persons charged with watching over and caring for him or the liability of the demented person himself with his property for reparation of the damage and indemnification for the harm done, unless the offended party or the heirs of the person murdered expressly renounce such reparation or indemnification.

Owners and managers of enterprises/employers

ARTICLE 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

[x x x x]

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry. [x x x x]

1. Safeguard Security Agency Inc. v. Tangco (2006)
    a. **PRESUMPTION OF NEGLIGENCE; DEFENSE**. Under art. 2180, when the injury is caused by the negligence of the employee, there instantly arises a presumption of law that there was negligence on the part of the master or the employer either in the selection of the servant or employee, or in the supervision over him after selection or both. The liability of the employer under art. 2180 is direct and immediate. Therefore, it is incumbent upon petitioners to prove that they exercised the diligence of a good father of a family in the selection and supervision of their employee.
    b. **DUE DILIGENCE IN THE SELECTION AND SUPERVISION OF EMPLOYEES; CONCRETE PROOF**. In the selection of prospective employees, employers are required to examine them as to their qualifications, experience, and service records. On the other hand, due diligence in the supervision of employees includes the formulation of suitable rules and regulations for the guidance of employees and the issuance of proper instructions intended for the protection of the public and persons with whom the employer has relations through his or its employees and the imposition of necessary disciplinary measures upon employees in case of breach or as may be warranted to ensure the performance of acts indispensable to the business of and beneficial to their employer. Actual implementation and monitoring of consistent compliance with said rules should be the constant concern of the employer, acting through dependable supervisors who should regularly report on their supervisory functions. To establish these factors in a trial involving the issue of vicarious liability, employers must submit concrete proof, including documentary evidence.

2. Reyes v. Doctolero (2017)
    a. **REQUISITES FOR ART. 2180 TO APPLY**. (1) It must be stressed, however, that the above rule is applicable only if there is an employer-employee relationship. This employer-employee relationship cannot be presumed but must be sufficiently proven by the plaintiff. (2) The plaintiff must also show that the employee was acting within the scope of his assigned task when the tort complained of was committed. It is only then that the defendant, as employer, may find it necessary to

interpose the defense of due diligence in the selection and supervision of employees.

b. **REQUISITES FOR THE DEFENSE TO APPLY**. To rebut the presumption of negligence, Grandeur must prove two things: *first*, that it had exercised due diligence in the selection of respondents Doctolero and Avila, and *second*, that after hiring Doctolero and Avila, Grandeur had exercised due diligence in supervising them.

c. **ID; CONCRETE PROOF REQUIRED.** In the earlier case of *Central Taxicab Corp. v. Ex-Meralco Employees Transportation Co.*, the Court held that there was no hard-and-fast rule on the quantum of evidence needed to prove due observance of all the diligence of a good father of a family as would constitute a valid defense to the legal presumption of negligence on the part of an employer or master whose employee has, by his negligence, caused damage to another. Jurisprudence nevertheless shows that testimonial evidence, without more, is insufficient to meet the required quantum of proof. In *Metro Manila Transit Corporation v. Court of Appeals*, the Court found that "[p]etitioner's attempt to prove its *diligentissimi patris familias* in the selection and supervision of employees through oral evidence must fail as it was unable to buttress the same with any other evidence, object or documentary, which might obviate the apparent biased nature of the testimony." Subsequently, in a different case also involving MMTC, the Court held that in a trial involving the issue of vicarious liability, employers must submit concrete proof, including documentary evidence.

3. Philippine Rabbit Bus Lines Inc. v. Phil-American Forwarders Inc. (1975)

a. **MEANING OF "EMPLOYERS" DOES NOT INCLUDE A MANAGER**. The novel and unprecedented legal issue in this appeal is whether the terms "employers" and "owners and managers of an establishment or enterprise" (*dueños o directores de un establicimiento o empresa*) used in art. 2180, embrace the manager of a corporation owning a truck, the reckless operation of which allegedly resulted in the vehicular accident from which the damage arose. We are of the opinion that those terms do not include the manager of a corporation. It may be gathered from the context of art. 2180 that the term "manager" ("director" in the Spanish version) is used in the sense of "employer."

4. Sps. Jayme v. Apostol (2008)
    a. **REQUISITES TO HOLD EMPLOYER VICARIOUSLY LIABLE.** (1) That the employee was chosen by the employer personally or through another; (2) That the service to be rendered in accordance with orders which the employer has the authority to give at all times; and (3) That the illicit act of the employee was on the occasion or by reason of the functions entrusted to him.
    b. **MUST BE PERFORMING FUNCTIONS**. Significantly, to make the employee liable under paragraphs 5 and 6 of art. 2180, it must be established that the injurious or tortuous act was committed at the time the employee was performing his functions.
    c. **MERE AUTHORITY TO GIVE INSTRUCTIONS DOES NOT GIVE RISE TO LIABILITY**. Even assuming arguendo that Mayor Miguel had authority to give instructions or directions to Lozano, he still cannot be held liable. In *Benson v. Sorrell*, the New England Supreme Court ruled that mere giving of directions to the driver does not establish that the passenger has control over the vehicle. Neither does it render one the employer of the driver.
    d. **LIABILITY OF PUBLIC OFFICIALS**; **EXCEPTIONS**. In *Swanson v. McQuown*, a case involving a military officer who happened to be riding in a car driven by a subordinate later involved in an accident, the Colorado Supreme Court adhered to the general rule that a public official is not liable for the wrongful acts of his subordinates on a vicarious basis since the relationship is not a true master-servant situation. The court went on to rule that the only exception is when they cooperate in the act complained of, or direct or encourage it.

5. Filamer Christian Institute v. Court of Appeals (1992, *en banc*)
    a. **MEANING OF "WITHIN THE SCOPE OF THEIR ASSIGNED TASKS."** The clause "within the scope of their assigned tasks" includes any act done by an employee, in furtherance of the interests of the employer or for the account of the employer at the time of the infliction of the injury or damage.
    b. **TEST TO BE RESOLVED.** Even if somehow, the employee driving the vehicle derived some benefit from the act, the existence of a presumptive liability of the employer is determined by answering the

question of whether or not the servant was at the time of the accident performing any act in furtherance of his master's business.

6. Universal Aquarius Inc. v. Q.C. Human Resources Management Corp. (2007)
    a. **NO VICARIOUS LIABILITY WHEN THE ACT OR OMISSION IS BEYOND THE RANGE OF EMPLOYMENT**. It is settled that an employer's liability for acts of its employees attaches only when the tortious conduct of the employee relates to, or is in the course of, his employment. The question then is whether, at the time of the damage or injury, the employee is (1) engaged in the affairs or concerns of the employer or, (2) independently, in that of his own. An employer incurs no liability when an employee's conduct, act or omission is beyond the range of employment.

7. Imperial v. Heirs of Sps. Bayaban (2018)
    a. **MEANING OF "ASSIGNED TASK."** An act is deemed an assigned task if it is done by an employee, in furtherance of the interests of the employer or for the account of the employer at the time of the infliction of the injury or damage.
    b. **BURDEN OF PROOF BELONGS TO PLAINTIFF.** One of the issues in *Castilex* was determining who had the burden of proving that the act was within the scope of the employee's assigned tasks. On this issue, this Court said that the burden of proving the existence of an employer-employee relationship and that the employee was acting within the scope of his or her assigned tasks rests with the plaintiff under the Latin maxim "*ei incumbit probatio qui dicit, non qui negat*" or "he who asserts, not he who denies, must prove." Therefore, it is not incumbent on the employer to prove that the employee was not acting within the scope of his assigned tasks.

8. FGU Insurance Corp. v. Court of Appeals (1998)
    a. **NO VICARIOUS LIABILITY AS TO LESSOR**. Respondent FILCAR being engaged in a rent-a-car business was only the owner of the car leased to Dahl-Jensen. As such, there was no vinculum juris between them as employer and employee. Respondent FILCAR cannot in any way be responsible for the negligent act of Dahl-Jensen, the former not being the employer of the latter.

b. **ART. 2184 NOT APPLICABLE.** Art. 2184 is neither applicable because of the absence of master-driver relationship between respondent FILCAR and Dahl-Jensen.

9. Castilex Industrial Corp. v. Vasquez (1999)
    a. **ART. 2810 (5) CONSTRUED**. The phrase "even though the former are not engaged in any business or industry" found in the fifth paragraph should be interpreted to mean that it is not necessary for the employer to be engaged in any business or industry to be liable for the negligence of his employee who is acting within the scope of his assigned task.
    b. **ART. 2180 NO. 5 DISTINGUISHED FROM NO. 4.** Both provisions apply to employers: the fourth paragraph, to owners and managers of an establishment or enterprise; and the fifth paragraph, to employers in general, whether or not engaged in any business or industry. The fourth paragraph covers negligent acts of employees committed either in the service of the branches or on the occasion of their functions, while the fifth paragraph encompasses negligent acts of employees acting within the scope of their assigned task. The latter is an expansion of the former in both employer coverage and acts included. Negligent acts of employees, whether or not the employer is engaged in a business or industry, are covered so long as they were acting within the scope of their assigned task, even though committed neither in the service of the branches nor on the occasion of their functions. For, admittedly, employees oftentimes wear different hats. They perform functions which are beyond their office, title or designation but which, nevertheless, are still within the call of duty.
    c. **PRINCIPLES ON USE OF EMPLOYER'S MOTOR VEHICLE**; **OPERATION OF EMPLOYER'S MOTOR VEHICLE GOING TO AND FROM MEALS**. An employee who uses his employer's vehicle in going from his work to a place where he intends to eat or in returning to work from a meal is not ordinarily acting within the scope of his employment in the absence of evidence of some special business benefit to the employer. Evidence that by using the employer's vehicle to go to and from meals, an employee is enabled to reduce his time-off and so devote more time to the performance of his duties supports the finding that an employee is acting within the scope of his employment while so driving the vehicle.

d. **ID**; **OPERATION OF EMPLOYER'S MOTOR VEHICLE IN GOING TO OR FROM WORK**. Traveling to and from the place of work is ordinarily a personal problem or concern of the employee, and not a part of his services to his employer. Hence, in the absence of some special benefit to the employer other than the mere performance of the services available at the place where he is needed, the employee is not acting within the scope of his employment even though he uses his employer's motor vehicle. The employer may be liable where he derives some special benefit from having the employee drive home in the employer's vehicle as when the employer benefits from having the employee at work earlier and, presumably, spending more time at his actual duties. Where the employee's duties require him to circulate in a general area with no fixed place or hours of work, or to go to and from his home to various outside places of work, and his employer furnishes him with a vehicle to use in his work, the courts have frequently applied what has been called the "special errand" or "roving commission" rule, under which it can be found that the employee continues in the service of his employer until he actually reaches home. However, even if the employee be deemed to be acting within the scope of his employment in going to or from work in his employer's vehicle, the employer is not liable for his negligence where at the time of the accident, the employee has left the direct route to his work or back home and is pursuing a personal errand of his own.

e. **ID**; **USE OF EMPLOYER'S VEHICLE OUTSIDE REGULAR WORKING HOURS**. An employer who loans his motor vehicle to an employee for the latter's personal use outside of regular working hours is generally not liable for the employee's negligent operation of the vehicle during the period of permissive use, even where the employer contemplates that a regularly assigned motor vehicle will be used by the employee for personal as well as business purposes and there is some incidental benefit to the employer. Even where the employee's personal purpose in using the vehicle has been accomplished and he has started the return trip to his house where the vehicle is normally kept, it has been held that he has not resumed his employment, and the employer is not liable for the employee's negligent operation of the vehicle during the return trip.

10. Filcar Transport Services v. Espinas (2012)

a. **REGISTERED OWNER RULE**. It is well settled that in case of motor vehicle mishaps, the registered owner of the motor vehicle is considered as the employer of the tortfeasor-driver and is made primarily liable for the tort committed by the latter under art. 2176, in relation with art. 2180. In *Equitable Leasing Corporation v. Suyom*, we ruled that in so far as third persons are concerned, the registered owner of the motor vehicle is the employer of the negligent driver, and the actual employer is considered merely as an agent of such owner. The Court further stated that "[i]n contemplation of law, the owner/operator of record is the employer of the driver, the actual operator and employer being considered as merely its agent."
b. **ID; RATIONALE.** The main aim of motor vehicle registration is to identify the owner so that if any accident happens, or that any damage or injury is caused by the vehicle on the public highways, responsibility therefor can be fixed on a definite individual, the registered owner. Instances are numerous where vehicles running on public highways caused accidents or injuries to pedestrians or other vehicles without positive identification of the owner or drivers, or with very scant means of identification. It is to forestall these circumstances, so inconvenient or prejudicial to the public, that the motor vehicle registration is primarily ordained, in the interest of the determination of persons responsible for damages or injuries caused on public highways.
c. **EMPLOYER-EMPLOYEE RELATIONSHIP IRRELEVANT**. Thus, whether there is an employer-employee relationship between the registered owner and the driver is irrelevant in determining the liability of the registered owner who the law holds primarily and directly responsible for any accident, injury or death caused by the operation of the vehicle in the streets and highways.
d. **DEFENSE UNDER ART. 2180 UNAVAILABLE.** Neither can Filcar use the defenses available under art. 2180 of the Civil Code—that the employee acts beyond the scope of his assigned task or that it exercised the due diligence of a good father of a family to prevent damage—because the motor vehicle registration law, to a certain extent, modified art. 2180 by making these defenses unavailable to the registered owner of the motor vehicle. Thus, for as long as Filcar is the registered owner of the car involved in the vehicular accident, it could not escape primary liability for the damages caused to Espinas.

e. **REGISTERED OWNER'S REMEDY.** Under the civil law principle of unjust enrichment, the registered owner of the motor vehicle has a right to be indemnified by the actual employer of the driver of the amount that he may be required to pay as damages for the injury caused to another.

11. Del Carmen v. Bacoy (2012)
    a. **LIABILITY OF REGISTERED OWNER TO THIRD PERSONS.** In *Aguilar Sr. v. Commercial Savings Bank*, the car of therein respondent bank caused the death of Conrado Aguilar, Jr. while being driven by its assistant vice president. Despite art. 2180, we still held the bank liable for damages for the accident as said provision should defer to the settled doctrine concerning accidents involving registered motor vehicles, *i.e.,* that the registered owner of any vehicle, even if not used for public service, would primarily be responsible to the public or to third persons for injuries caused the latter while the vehicle was being driven on the highways or streets.
    b. **AVAILABLE DEFENSES**. Absent the circumstance of unauthorized use or that the subject vehicle was stolen which are valid defenses available to a registered owner, Oscar Jr. cannot escape liability for quasi-delict resulting from his jeep's use.

12. Caravan Travel and Tours International Inc. v. Abejar (2016)
    a. **HARMONIZING REGISTERED OWNER RULE WITH ART. 2180**. In cases where both the registered-owner rule and art. 2180 apply, the plaintiff must first establish that the employer is the registered owner of the vehicle in question. Once the plaintiff successfully proves ownership, there arises a disputable presumption that the requirements of art. 2180 have been proven. As a consequence, the burden of proof shifts to the defendant to show that no liability under art. 2180 has arisen.
    b. **RATIONALE FOR THE RULE**. This disputable presumption, insofar as the registered owner of the vehicle in relation to the actual driver is concerned, recognizes that between the owner and the victim, it is the former that should carry the costs of moving forward with the evidence. The victim is, in many cases, a hapless pedestrian or motorist with hardly any means to uncover the employment relationship of the owner and the driver, or any act that the owner may have done in

relation to that employment. The registration of the vehicle, on the other hand, is accessible to the public.

c. **AVAILABLE DEFENSES**. It is now up to the registered owner to establish that it incurred no liability under art. 2180. This it can do by presenting proof of any of the following: (1) that it had no employment relationship with Bautista; (2) that Bautista acted outside the scope of his assigned tasks; or (3) that it exercised the diligence of a good father of a family in the selection and supervision of Bautista.

d. **PERSON EXERCISING SUBSTITUTE PARENTAL AUTHORITY MAY CLAIM MORAL DAMAGES.** Given the policy underlying arts. 216 and 220 of the Family Code as well as the purposes for awarding moral damages, a person exercising substitute parental authority is rightly considered an ascendant of the deceased, within the meaning of art. 2206 (3). Hence, respondent is entitled to moral damages.

13. Greenstar Express Inc. v. Universal Robina Corp. (2016)

a. ***CARAVAN TRAVEL*** **EXCEPTIONS.** Applying the above pronouncement in the *Caravan Travel and Tours* case, it must be said that when by evidence the ownership of the van and Bicomong's employment were proved, the presumption of negligence on respondents' part attached, as the registered owner of the van and as Bicomong's employer. The burden of proof then shifted to respondents to show that no liability under art. 2180 arose. This may be done by proof of any of the following: (1) That they had no employment relationship with Bicomong; (2) That Bicomong acted outside the scope of his assigned tasks; or (3) That they exercised the diligence of a good father of a family in the selection and supervision of Bicomong.

b. **IN THE CASE AT BAR.** Respondents succeeded in overcoming the presumption of negligence, having shown that when the collision took place, Bicomong was not in the performance of his work; that he was in possession of a service vehicle that did not belong to his employer NURC, but to URC, and which vehicle was not officially assigned to him, but to another employee; that his use of the URC van was unauthorized—even if he had used the same vehicle in furtherance of a personal undertaking in the past, this does not amount to implied permission; that the accident occurred on a holiday and while

Bicomong was on his way home to his family in Quezon province; and that Bicomong had no official business whatsoever in his hometown in Quezon, or in Laguna where the collision occurred, his area of operations being limited to the Cavite area.

14. Ramos v. C.O.L. Realty Corp. (2009)
    a. **WHEN SERVANT CONTRIBUTES TO MASTER'S INJURY; EXCEPTION**. If the master is injured by the negligence of a third person and by the concurring contributory negligence of his own servant or agent, the latter's negligence is imputed to his superior and will defeat the superior's action against the third person, assuming of course that the contributory negligence was the proximate cause of the injury of which complaint is made.
    b. **IN THE CASE AT BAR**. Applying the foregoing principles of law to the instant case, Aquilino's act of crossing Katipunan Avenue via Rajah Matanda constitutes negligence because it was prohibited by law. Moreover, it was the proximate cause of the accident and thus precludes any recovery for any damages suffered by respondent from the accident.

15. Cerezo v. Tuazon (2004)
    a. **NO NEED FOR SERVICE OF SUMMONS TO THE SERVANT-TORTFEASOR**. The action can be brought directly against the person responsible (for another), without including the author of the act. The action against the principal is accessory in the sense that it implies the existence of a prejudicial act committed by the employee, but it is not subsidiary in the sense that it cannot be instituted till after the judgment against the author of the act or at least, that it is subsidiary to the principal action; the action for responsibility (of the employer) is in itself a principal action. Thus, there is no need in this case for the trial court to acquire jurisdiction over Foronda. The trial court's acquisition of jurisdiction over Mrs. Cerezo is sufficient to dispose of the present case on the merits.

The State

ARTICLE 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

[x x x x]

The State is responsible in like manner when it acts through a special agent; but not when the damage has been caused by the official to whom the task done properly pertains, in which case what is provided in Article 2176 shall be applicable. [x x x x]

1. Merritt v. Government of the Philippine Islands (1916)
    a. **DOCTRINE OF SOVEREIGN IMMUNITY**. The state not being liable to suit except by its express consent, an act abrogating that immunity will be strictly construed.
    b. **WAIVER OF IMMUNITY IS NOT A WAIVER OF LIABILITY**. It is difficult to see how the act does, or was intended to do, more than remove the state's immunity from suit. It simply gives authority commence suit for the purpose of settling plaintiff's controversies with the state. Nowhere in the act is there a whisper or suggestion that the court or courts in the disposition of the suit shall depart from well-established principles of law, or that the amount of damages is the only question to be settled. The act opened the door of the court to the plaintiff. It did not pass upon the question of liability, but left the suit just where it would be in the absence of the state's immunity from suit.
    c. **WHO IS A SPECIAL AGENT; EXCEPTION**. That the responsibility of the state is limited by art. 1903 [2180] to the case wherein it acts through a special agent (and a special agent, in the sense in which these words are employed, is one who receives a definite and fixed order or commission, foreign to the exercise of the duties of his office if he is a special official) so that in representation of the state and being bound to act as an agent thereof he executed the trust confided to him. This concept does not apply to any executive agent who is an employee of the active administration and who in his own responsibility performs the functions which are inherent in and naturally pertain to his office and which are regulated by law and the regulations.

2. Bank of the Philippine Islands v. Central Bank of the Philippines (2020)
    a. **INCORPORATED AND UNINCORPORATED**. In the case of government agencies, the question of its suability depends on whether it is incorporated or unincorporated. An incorporated agency has a Charter of its own with a separate juridical personality while an unincorporated agency has none. In addition, the Charter of an incorporated agency shall explicitly provide that it has waived its immunity from suit by granting it with the authority to sue and be sued. This applies regardless of whether its functions are governmental or proprietary in nature.
    b. **IN THE CASE AT BAR**. While the CBP performed a governmental function in providing clearing house facilities, it is not immune from suit as its Charter, by express provision, waived its immunity from suit. However, although the CBP allowed itself to be sued, it did not necessarily mean that it conceded its liability. Petitioner BPI had been given the right to sue CBP, such as in this case, to obtain compensation in damages arising from torts, subject, however, to the right of CBP to interpose any lawful defense.
    c. **SPECIAL AGENT**. As such, the State or CBP in this case, is liable only for the torts committed by its employee when the latter acts as a special agent but not when the said employee or official performs his or her functions that naturally pertain to his or her office. A special agent is defined as one who receives a definite and fixed order or commission, foreign to the exercise of the duties of his office.
    d. **STATE NOT LIABLE WHEN PUBLIC OFFICER ACTS IN EXCESS OF AUTHORITY**. Thus, where a public officer acts without or in excess of jurisdiction, any injury or damage caused by such acts is his or her own personal liability and cannot be imputed to the State.

Teachers and heads of establishments

ARTICLE 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible. [x x x x]

Lastly, teachers or heads of establishments of arts and trades shall be liable for damages caused by their pupils and students or apprentices, so long as they remain in their custody. [x x x x]

1. Palisoc v. Brillantes (1971, *en banc*)
    a. **LIABILITY OF HEADS OF NONACADEMIC SCHOOLS**. Teachers or directors of arts and trades are liable for any damage caused by their pupils or apprentices while they are under their custody, but this provision only all applies to an institution of arts and trades and not to any academic educational institution.
    b. **"REMAIN IN THEIR CUSTODY" CONSTRUED**. The phrase used in the cited article—"so long as (the students) remain in their custody"—means the protective and supervisory custody that the school and its heads and teachers exercise over the pupils and students for as long as they are at attendance in the school, including recess time. There is nothing in the law that requires that for such liability to attach, the pupil or student who commits the tortious act must live and board in the school.
    c. **RATIONALE FOR THE RULE**. Where the parent places the child under the effective authority of the teacher, the latter, and not the parent, should be the one answerable for the torts committed while under his custody, for the very reason that the parent is not supposed to interfere with the discipline of the school nor with the authority and supervision of the teacher while the child is under instruction. The school itself, likewise, has to respond for the fault or negligence of its school head and teachers under the same cited article.

2. Amadora v. Court of Appeals (1988, *en banc*)
    a. **LIABILITY OF TEACHERS OF ACADEMIC SCHOOLS**. Where the school is academic rather than technical or vocational in nature, responsibility for the tort committed by the student will attach to the teacher in charge of such student, following the first part of the provision. This is the general rule. In the case of establishments of arts and trades, it is the head thereof, and only he, who shall be held liable as an exception to the general rule. In other words, teachers in general shall be liable for the acts of their students except where the school is technical in nature, in which case it is the head thereof who shall be answerable. Following the canon of *reddendo singula singulis*, "teachers"

should apply to the words "pupils and students" and "heads of establishments of arts and trades" to the word "apprentices."

b. **BASIS FOR DISTINCTION**. The reason for the disparity can be traced to the fact that historically the head of the school of arts and trades exercised a closer tutelage over his pupils than the head of the academic school. The old schools of arts and trades were engaged in the training of artisans apprenticed to their master who personally and directly instructed them on the technique and secrets of their craft. The head of the school of arts and trades was such a master and so was personally involved in the task of teaching his students, who usually even boarded with him and so came under his constant control, supervision and influence. By contrast, the head of the academic school was not as involved with his students and exercised only administrative duties over the teachers who were the persons directly dealing with the students. The head of the academic school had then (as now) only a vicarious relationship with the students. Consequently, while he could not be directly faulted for the acts of the students, the head of the school of arts and trades, because of his closer ties with them, could be so blamed.

c. **MEANING OF "CUSTODY."** As long as it can be shown that the student is in the school premises in pursuance of a legitimate student objective, in the exercise of a legitimate student right, and even in the enjoyment of a legitimate student right, and even in the enjoyment of a legitimate student privilege, the responsibility of the school authorities over the student continues. Indeed, even if the student should be doing nothing more than relaxing in the campus in the company of his classmates and friends and enjoying the ambience and atmosphere of the school, he is still within the custody and subject to the discipline of the school authorities under the provisions of art. 2180.

d. **APPLICABLE EVEN IF THE STUDENT IS NOT A MINOR.** The teacher will be held liable not only when he is acting *in loco parentis* for the law does not require that the offending student be of minority age. Unlike the parent, who will be liable only if his child is still a minor, the teacher is held answerable by the law for the act of the student under him regardless of the student's age. Thus, in *Palisoc*, liability attached to the teacher and the head of the technical school although

the wrongdoer was already of age. In this sense, art. 2180 treats the parent more favorably than the teacher.[1]

3. Apolinario v. Heirs of De Los Santos (2024)
    a. **DEFENSE AVAILABLE TO TEACHERS**. Pursuant to art. 2180, teachers shall be freed of liability arising from the tortious acts of their students if they can prove that they observed all the diligence of a good father of a family to prevent damage. As long as the defendant can show that he had taken the necessary precautions to prevent the injury complained of, he can exonerate himself/herself from the liability imposed by art. 2180.
    b. **LIABILITY OF SCHOOL UNDER THE FAMILY CODE**. In addition, arts. 218 and 219 of the Family Code provide that the school, its administrator, and teachers have special parental authority and responsibility over the minor child while under their supervision, instruction, and custody, and are thus principally and solidarily liable for damages caused by the acts or omissions of the unemancipated minor. In turn, the parents, judicial guardians or the persons exercising substitute parental authority over said minor shall be subsidiarily liable for damages.
    c. **REQUISITES TO HOLD A TEACHER VICARIOUSLY LIABLE**. (1) The student committed an act for which a claim for damages based on quasi-delict can be sustained; (2) The defendant is a teacher-in-charge under the law who had custody over the student at the time of the commission of the act; and (3) The teacher failed to show that he observed the diligence of a good father of a family to prevent damages.
    d. **PARENT PRIMARILY LIABLE UNDER THE FAMILY CODE; NO NEED TO IMPLEAD MINOR**. It is true that parents can be sued and held primarily liable on their own account for the

[1] *See* art. 218, Family Code: "The school, its administrators and teachers, or the individual, entity or institution engaged in child care shall have special parental authority and responsibility over the minor child while under their supervision, instruction or custody. Authority and responsibility shall apply to all authorized activities whether inside or outside the premises of the school, entity or institution. *See also* art. 219, Family Code: "Those given the authority and responsibility under the preceding Article shall be principally and solidarily liable for damages caused by the acts or omissions of the unemancipated minor. The parents, judicial guardians or the persons exercising substitute parental authority over said minor shall be subsidiarily liable. The respective liabilities of those referred to in the preceding paragraph shall not apply if it is proved that they exercised the proper diligence required under the particular circumstances. All other cases not covered by this and the preceding articles shall be governed by the provisions of the Civil Code on quasi-delicts."

tortious acts of their minor children, as the civil liability of parents for quasi-delicts of their minor children under art. 2180 of the Civil Code, in relation to art. 221 of the Family Code, is primary and not subsidiary. The failure to implead the minor in the complaint for damages, as in this case, is thus not an obstacle to holding the parent primarily liable for quasi-delict under art. 2180.

e. **ID; ID; IN THE CASE AT BAR**. However, it is crucial to note that the incident occurred while Rico was in Apolinario's custody and direct supervision. When the parent places the child under the effective authority of the teacher, the teacher should be the one answerable for the torts committed by the pupil while under his/her custody, since the parent is not supposed to interfere with the discipline of the school nor with the authority and supervision of the teacher while the child is under instruction.

4. Philippine School of Business Administration v. Court of Appeals (1992)
    a. **HOLDING SCHOOLS DIRECTLY LIABLE**. Using the test of *Cangco*, the negligence of the school would not be relevant absent a contract. In fact, that negligence becomes material only because of the contractual relation between PSBA and Bautista. In other words, a contractual relation is a condition *sine qua non* to the school's liability. The negligence of the school cannot exist independently on the contract, unless the negligence occurs under the circumstances set out in art. 21.
    b. **ID; BASIS.** When an academic institution accepts students for enrollment, there is established a contract between them, resulting in bilateral obligations which both parties are bound to comply with. For its part, the school undertakes to provide the student with an education that would presumably suffice to equip him with the necessary tools and skills to pursue higher education or a profession. On the other hand, the student covenants to abide by the school's academic requirements and observe its rules and regulations. Because the circumstances of the present case evince a contractual relation between the PSBA and Carlitos Bautista, the rules on quasi-delict do not really govern.
    c. **DEFENSE AVAILABLE TO SCHOOLS**. The school may still avoid liability by proving that the breach of its contractual obligation to the students was not due to its negligence, here statutorily defined

to be the omission of that degree of diligence which is required by the nature of the obligation and corresponding to the circumstances of persons, time and place.

5. Ylarde v. Aquino (1988)
    a. **LIABILITY OF PRINCIPALS OF ACADEMIC SCHOOLS**. As regards the principal, we hold that he cannot be made responsible for the death of the child, he being the head of an academic school and not a school of arts and trades. This is in line with our ruling in *Amadora vs. Court of Appeals*, wherein this Court thoroughly discussed the doctrine that under art. 2180, it is only the teacher and not the head of an academic school who should be answerable for torts committed by their students. This Court went on to say that in a school of arts and trades, it is only the head of the school who can be held liable.
    b. **LIABILITY UNDER ART. 2176 MAY BE HAD DESPITE AVAILABILITY OF ART. 2180; IN THE CASE AT BAR**. The negligent act of Aquino in leaving his pupils in such a dangerous site has a direct causal connection to the death of the child Ylarde. Left by themselves, it was but natural for the children to play around. Tired from the strenuous digging, they just had to amuse themselves with whatever they found. Driven by their playful and adventurous instincts and not knowing the risk they were facing, three of them jumped into the hole while the other one jumped on the stone. Since the stone was so heavy and the soil was loose from the digging, it was also a natural consequence that the stone would fall into the hole beside it, causing injury on the unfortunate child caught by its heavy weight. Everything that occurred was the natural and probable effect of the negligent acts of private respondent Aquino. Needless to say, Ylarde would not have died were it not for the unsafe situation created by Aquino which exposed the lives of all the pupils concerned to real danger.

Right to reimbursement

ART. 2181. Whoever pays for the damage caused by his dependents or employees may recover from the latter what he has paid or delivered in satisfaction of the claim.

Distinguished from subsidiary liability under the REV. PEN. CODE

ART. 102. ***Subsidiary civil liability of innkeepers, tavernkeepers and proprietors of establishments***.—In default of the persons criminally liable, innkeepers, tavernkeepers, and any other persons or corporations shall be civilly liable for crimes committed in their establishments, in all cases where a violation of municipal ordinances or some general or special police regulation shall have been committed by them or their employees.

Innkeepers are also subsidiarily liable for the restitution of goods taken by robbery or theft within their houses from guests lodging therein, or for the payment of the value thereof, provided that such guests shall have notified in advance the innkeeper himself, or the person representing him, of the deposit of such goods within the inn; and shall furthermore have followed the directions which such innkeeper or his representative may have given them with respect to the care of and vigilance over such goods. No liability shall attach in case of robbery with violence against or intimidation of persons unless committed by the innkeeper's employees.

ART. 103. ***Subsidiary civil liability of other persons***.—The subsidiary liability established in the next preceding article shall also apply to employers, teachers, persons, and corporations engaged in any kind of industry for felonies committed by their servants, pupils, workmen, apprentices, or employees in the discharge of their duties.

1. Carpio v. Doroja (1989)
    a. **REQUISITES FOR EMPLOYER'S SUBSIDIARY LIABILITY**. In order that an employer may be held subsidiarily liable for the employee's civil liability in the criminal action, it should be shown (1) that the employer, etc. is engaged in any kind of industry, (2) that the employee committed the offense in the discharge of his duties and (3) that he is insolvent.
    b. **WHEN LIABILITY ARISES**. The subsidiary liability of the employer, however, arises only after conviction of the employee in the criminal action. All these requisites present, the employer becomes *ipso facto* subsidiarily liable upon the employee's conviction and upon proof of the latter's insolvency.
    c. **NO NEED FOR A SEPARATE CIVIL ACTION TO ENFORCE CIVIL LIABILITY**. Furthermore, we are not convinced that the owner-operator has been deprived of his day in court, because the case before us is not one wherein the operator is

sued for a primary liability under the Civil Code but one in which the subsidiary civil liability incident to and dependent upon his employee's criminal negligence is sought to be enforced. Considering the subsidiary liability imposed upon the employer by law, he is in substance and in effect a party to the criminal case. *Ergo*, the employer's subsidiary liability may be determined and enforced in the criminal case as part of the execution proceedings against the employee. This Court held in the earlier case of *Pajarito v. Señeris* that the proceeding for the enforcement of the subsidiary civil liability may be considered as part of the proceeding for the execution of the judgment. A case in which an execution has been issued is regarded as still pending so that all proceedings on the execution are proceedings in the suit.

2. Bantoto v. Bobis (1966)
    a. **MASTER'S LIABILITY NOT PREDICATED ON EMPLOYEE'S INSOLVENCY**. The master's liability, under the Revised Penal Code, for the crimes committed by his servants and employees in the discharge of their duties, is not predicated upon the insolvency of the latter. The insolvency of the servant or employee is nowhere mentioned in said article as a condition precedent. In truth, such insolvency is required only: when the liability of the master is being made effective by execution levy, but not for the rendition of judgment against the master. The subsidiary character of the employer's responsibility merely imports that the latter's property is not to be seized without first exhausting that of the servant.

3. Baza Marketing Corp. v. Bolinao Security and Investigation Service Inc. (1982)
    a. **"IN THE DISCHARGE OF HIS DUTIES" CONSTRUED**. This subsidiary liability does not arise from any and all offenses that the employee may commit but limited to those which he shall be found guilty of in the discharge of his duties. The law does not say, as urged by plaintiff-appellant, that the crime of the employee must be the one committed "while in the discharge of his duties." It could not be contemplated that an employer will be held responsible for any misdeed that his employee could have done while performing his assigned task. Thus, it is neither just nor logical that, if a security guard committed robbery in a neighboring establishment near the one he is

assigned to guard, or raped a woman passerby in the course of his tour of duty, his employer should be made subsidiarily liable for his said misdeed. In such circumstances, it cannot be said that the crime was committed by the employee in the discharge of his duties.

b. **ACT CONTEMPLATED IN ART. 103, RPC**. The act contemplated in art. 103 of the Revised Penal Code is necessarily a crime from which civil liability had arisen but which could not be satisfied by the accused employee. The statutory limitation that the crime of the employee must have been committed "in the discharge of his duties" is clearly intended to exclude crimes not related to the performance of duties assigned to him by his employer.

4. Yonaha v. Court of Appeals (1996)
    a. **NOTICE AND HEARING REQUIRED**. Execution against the employer must not issue as just a matter of course, and it behooves the court, as a measure of due process to the employer, to determine and resolve *a priori*, in a hearing set for the purpose, the legal applicability and propriety of the employer's liability. The requirement is mandatory even when it appears *prima facie* that execution against the convicted employee cannot be satisfied.
    b. **WHAT MUST BE PROVEN**. The court must convince itself that the convicted employee is in truth in the employ of the employer; that the latter is engaged in an industry of some kind; that the employee has committed the crime to which civil liability attaches while in the performance of his duties as such; and that execution against the employee is unsuccessful by reason of insolvency.
    c. **REQUISITES**. (1) The existence of an employer-employee relationship; (2) That the employer is engaged in some kind of industry; (3) That the employee is adjudged guilty of the wrongful act and found to have committed the offense in the discharge of his duties (not necessarily any offense he commits "while" in the discharge of such duties); and (4) That said employee is insolvent.

5. Solidum v. People of the Philippines (2014)
    a. **"INDUSTRY" DEFINED; PUBLIC HOSPITAL EXCEPTED**. The term "industry" means any department or branch of art, occupation or business, especially one that employs labor and capital, and is engaged in industry. However, Ospital ng Maynila, being a public

hospital, was not engaged in industry conducted for profit but purely in charitable and humanitarian work.

PRIMARY LIABILITY

Possessors/users of animals

ART. 2183. The possessor of an animal or whoever may make use of the same is responsible for the damages which it may cause, although it may escape or be lost. The responsibility shall cease only in case the damage should come from *force majeure* or from the fault of the person who has suffered damage.

1. Vestil v. Intermediate Appellate Court (1989)
    a. **LIABLE REGARDLESS IF TAME OR NOT**. Art. 2183 holds the possessor liable even if the animal should "escape or be lost" and so be removed from his control. And it does not matter either that as the petitioners also contend, the dog was tame and was merely provoked by the child into biting her. The law does not speak only of vicious animals but covers even tame ones as long as they cause injury.
    b. **BASIS OF LIABILITY**. According to Manresa, the obligation imposed by art. 2183 is not based on the negligence or on the presumed lack of vigilance of the possessor or user of the animal causing the damage. It is based on natural equity and on the principle of social interest that he who possesses animals for his utility, pleasure or service must answer for the damage which such animal may cause.

Manufacturers and processors

ART. 2187. Manufacturers and processors of foodstuffs, drinks, toilet articles and similar goods shall be liable for death or injuries caused by any noxious or harmful substances used, although no contractual relation exists between them and the consumers.

1. Coca-Cola Bottlers v. Court of Appeals (1993)
    a. **REMEDIES AGAINST HIDDEN DEFECTS INCLUDE AN ACTION BASED ON QUASI-DELICT.** The vendee's remedies against a vendor with respect to the warranties against hidden defects of or encumbrances upon the thing sold are not limited to those

prescribed in art. 1567[2]. The vendee may also ask for the annulment of the contract upon proof of error or fraud, in which case the ordinary rule on obligations shall be applicable. Responsibility arising from negligence is also demandable in any obligation, but such liability may be regulated by the courts, according to the circumstances. The vendor could likewise be liable for quasi-delict under art. 2176 of the Civil Code, and an action based thereon may be brought by the vendee. While it may be true that the pre-existing contract between the parties may, as a general rule, bar the applicability of the law on quasi-delict, the liability may itself be deemed to arise from quasi-delict, *i.e.,* the act which breaks the contract may also be a quasi-delict.

2. Pascual v. Ford Motor Company Philippines Inc. (2016, *minute resolution*)
    a. **LIABILITY OF A MANUFACTURER OR SELLER; REQUISITES**. The case of *Nutrimix Feeds Corporation v. CA* provides that the following must be present before a manufacturer or seller may be held liable for any damage caused by the product: (1) proof that the product in question was defective; (2) the defect must be present upon the delivery or manufacture of the product; or when the product left the seller's or manufacturer's control; or when the product was sold to the purchaser; and (3) the product must have reached the user or consumer without substantial change in the condition it was sold.

Local government units

ART. 2189. Provinces, cities and municipalities shall be liable for damages for the death of, or injuries suffered by, any person by reason of the defective condition of roads, streets, bridges, public buildings, and other public works under their control or supervision.

1. City of Manila v. Teotico (1968, *en banc*)
    a. **OWNERSHIP NOT REQUIRED**. At any rate, under art. 2189, it is not necessary for the liability therein established to attach that the defective roads or streets belong to the province, city or municipality from which responsibility is exacted. What said article requires is that the province, city or municipality have either "control or supervision"

[2] Art. 1567: "In cases of Articles 1561, 1562, 1564, 1565 and 1566, the vendee may elect between withdrawing from the contract and demanding a proportionate reduction of the price, with damages in either case."

over said street or road. Even if P. Burgos Avenue were, therefore, a national highway, this circumstance would not necessarily detract from its "control or supervision" by the City of Manila, under Republic Act 409.

2. City Government of Tagaytay v. Guerrero (2009)
    a. **DOCTRINE OF RESPONDENT SUPERIOR APPLIED; IN THE CASE AT BAR**. Under the doctrine of respondent superior, the principal is liable for the negligence of its agents acting within the scope of their assigned tasks. The City of Tagaytay is liable for all the necessary and natural consequences of the negligent acts of its city officials. It is liable for the tortious acts committed by its agents who sold the subject lots to the Melencios despite the clear mandate of R.A. No. 1418, separating Barrio Birinayan from its jurisdiction and transferring the same to the Province of Batangas. The negligence of the officers of the City of Tagaytay in the performance of their official functions gives rise to an action *ex contractu* and *quasi ex-delictu*.
    b. **WHEN TAX COLLECTION AMOUNTS TO GROSS NEGLIGENCE; MORAL DAMAGES**. The gross negligence of the City of Tagaytay in levying taxes and auctioning properties to answer for real property tax deficiencies outside its territorial jurisdiction amounts to bad faith that calls for the award of moral damages.

Building proprietors

ART. 2190. The proprietor of a building or structure is responsible for the damages resulting from its total or partial collapse, if it should be due to the lack of necessary repairs.

1. De Roy v. Court of Appeals (1988)
    a. **IN THE CASE AT BAR**. The firewall of a burned out building owned by petitioners collapsed and destroyed the tailoring shop occupied by the family of private respondents, resulting in injuries to private respondents and the death of Marissa Bernal, a daughter. Private respondents had been warned by petitioners to vacate their shop in view of its proximity to the weakened wall but the former failed to do so. On the basis of the foregoing facts, the Regional Trial Court First Judicial Region, Branch XXXVIII, presided by the Hon. Antonio

M. Belen, rendered judgment finding petitioners guilty of gross negligence and awarding damages to private respondents. On appeal, the decision of the trial court was affirmed *in toto* by the Court of Appeals. This Court likewise finds that the Court of Appeals committed no grave abuse of discretion in affirming the trial court's decision holding petitioner liable under art. 2190.

ART. 2191. Proprietors shall also be responsible for damages caused:

(1) By the explosion of machinery which has not been taken care of with due diligence, and the inflammation of explosive substances which have not been kept in a safe and adequate place;

(2) By excessive smoke, which may be harmful to persons or property;

(3) By the falling of trees situated at or near highways or lanes, if not caused by *force majeure*;

(4) By emanations from tubes, canals, sewers or deposits of infectious matter, constructed without precautions suitable to the place.

ART. 2193. The head of a family that lives in a building or a part thereof, is responsible for damages caused by things thrown or falling from the same.

Engineers/architects/contractors

ART. 1723. The engineer or architect who drew up the plans and specifications for a building is liable for damages if within fifteen years from the completion of the structure, the same should collapse by reason of a defect in those plans and specifications, or due to the defects in the ground. The contractor is likewise responsible for the damages if the edifice falls, within the same period [15 years], on account of defects in the construction or the use of materials of inferior quality furnished by him, or due to any violation of the terms of the contract. If the engineer or architect supervises the construction, he shall be solidarily liable with the contractor.

Acceptance of the building, after completion, does not imply waiver of any of the causes action by reason of any defect mentioned in the preceding paragraph.

The action must be brought within ten years following the collapse of the building.

ART. 2192. If damages referred to in the two preceding articles [arts. 2190-2192] should be the result of any defect in the construction mentioned in Article 1723, the third person suffering damages may proceed only against the engineer or architect or contractor in accordance with said article, within the period therein fixed.

1. Nakpil & Sons v. Court of Appeals (1986 & 1988)
    a. **IN THE CASE AT BAR**. The aforementioned facts clearly indicate the wanton negligence of both the defendant and the third-party defendants in effecting the plans, designs, specifications, and construction of the PBA building and we hold such negligence as equivalent to bad faith in the performance of their respective tasks. Considering the special and environmental circumstances of this case, we deem it reasonable to render a decision imposing, upon the defendant and the third-party defendants a solidary indemnity in favor of the Philippine Bar Association.
    b. **DANGEROUS CONDITION**. One who negligently creates a dangerous condition cannot escape liability for the natural and probable consequences thereof, although the act of a third person, or an act of God for which he is not responsible, intervenes to precipitate the loss.

Strict liability torts

- Liability is imposed even without fault or negligence.

SPECIAL TORTS

Abuse of rights and acts contra bonus mores ("*against good morals")*

ART. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

ART. 20. Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same.

ART. 21. Any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for damages.

1. St. Martin Polyclinic Inc. v. LWV Construction Corp. (2017)
    a. **SPECIAL TORTS**. Art. 2176 is not an all-encompassing enumeration of all actionable wrongs which can give rise to the liability for damages. Under the Civil Code, acts done in violation of arts. 19, 20, and 21 will also give rise to damages.
    b. **ABUSE OF RIGHTS**. Art. 19, known to contain what is commonly referred to as the principle of abuse of rights, sets certain standards which must be observed not only in the exercise of one's rights, but also in the performance of one's duties. Case law states that when a right is exercised in a manner which does not conform with the norms enshrined in art. 19 and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be held responsible. But while art. 19 lays down a rule of conduct for the government of human relations and for the maintenance of social order, it does not provide a remedy for its violation. Generally, an action for damages under either art. 20 or art. 21 would then be proper.
    c. **INTERPLAY AMONG ARTS. 19, 20, AND 21**. Art. 19 is the general rule which governs the conduct of human relations. By itself, it is not the basis of an actionable tort. Art. 19 describes the degree of care required so that an actionable tort may arise when it is alleged together with art. 20 or art. 21. Art. 20 concerns violations of existing law as basis for an injury. It allows recovery should the act have been willful or negligent. Willful may refer to the intention to do the act and the desire to achieve the outcome which is considered by the plaintiff in tort action as injurious. Negligence may refer to a situation where the act was consciously done but without intending the result which the plaintiff considers as injurious. Art. 21, on the other hand, concerns injuries that may be caused by acts which are not necessarily proscribed by law. This article requires that the act be willful, that is, that there was an intention to do the act and a desire to achieve the outcome. In cases under art. 21, the legal issues revolve around whether such outcome should be considered a legal injury on the part of the plaintiff or whether the commission of the act was done in violation of the standards of care required in art. 19.
    d. **DISTINGUISHED FROM ART. 2176**. Thus, with respect to negligent acts or omissions, it should therefore be discerned that art. 20 of the Civil Code concerns violations of existing law as basis for an injury, whereas art. 2176 applies when the negligent act causing damage

to another does not constitute a breach of an existing law or a preexisting contractual obligation.

2. Cebu Country Club Inc. v. Elizagaque (2008)
    a. **PRINCIPLE OF ABUSE OF RIGHTS**. Art. 19, known to contain what is commonly referred to as the principle of abuse of rights, sets certain standards which must be observed not only in the exercise of one's rights but also in the performance of one's duties. These standards are the following: to act with justice; to give everyone his due; and to observe honesty and good faith. The law, therefore, recognizes a primordial limitation on all rights; that in their exercise, the norms of human conduct set forth in art. 19 must be observed. A right, though by itself legal because recognized or granted by law as such, may nevertheless become the source of some illegality. When a right is exercised in a manner which does not conform with the norms enshrined in art. 19 and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be held responsible.
    b. **IN THE CASE AT BAR**. In rejecting respondent's application for proprietary membership, petitioners violated the rules governing human relations, the basic principles to be observed for the rightful relationship between human beings and for the stability of social order. The lower courts aptly held that petitioners committed fraud and evident bad faith in disapproving respondent's applications. This is contrary to morals, good custom or public policy. Hence, petitioners are liable for damages pursuant to art. 19 in relation to art. 21.

3. Metroheights Subdivision Homeowners Association Inc. v. CMS Construction and Development Corp. (2018)
    a. **INTENTION BEHIND ART. 19**. The principle of abuse of rights departs from the classical theory that he who uses a right injures no one. The modern tendency is to depart from the classical and traditional theory, and to grant indemnity for damages in cases where there is an abuse of rights, even when the act is not illicit. Art. 19 was intended to expand the concept of torts by granting adequate legal remedy for the untold number of moral wrongs which is impossible for human foresight to provide, specifically in statutory law. If mere fault or negligence in one's acts can make him liable for damages for

injury caused thereby, with more reason should abuse or bad faith make him liable.

b. **ABSENCE OF GOOD FAITH ESSENTIAL; GOOD FAITH DEFINED**. The absence of good faith is essential to abuse of right. Good faith is an honest intention to abstain from taking any unconscientious advantage of another, even through the forms or technicalities of the law, together with an absence of all information or belief of fact which would render the transaction unconscientious. In business relations, it means good faith as understood by men of affairs.
c. **REQUISITES OF ART. 19**. The elements of an abuse of rights under art. 19 are: (1) there is a legal right or duty; (2) which is exercised in bad faith; (3) for the sole intent of prejudicing or injuring another.
d. **INJURY COMES IN THE EXERCISE OF RIGHT**. Having the right should not be confused with the manner by which such right is to be exercised. Art. 19 sets the standard in the exercise of one's rights and in the performance of one's duties, *i.e.,* he must act with justice, give everyone his due, and observe honesty and good faith. The exercise of a right ends when the right disappears, and it disappears when it is abused, especially to the prejudice of others. The mask of a right without the spirit of justice which gives it life is repugnant to the modern concept of social law.

4. Wassmer v. Velez (1964)
    a. **BREACH OF PROMISE TO MARRY; NOT ACTIONABLE; EXCEPTION**. A mere breach of promise to marry is not an actionable wrong. But to formally set a wedding and go through all the above-described preparation and publicity, only to walk out of it when the matrimony is about to be solemnized, is quite different. This is palpably and unjustifiably contrary to good customs, for which defendant must be held answerable in damages in accordance with art. 21.

5. Petrophil Corp. v. Court of Appeals (2001)
    a. **INJURY NEED NOT BE DIRECTED TO A SPECIFIC PERSON**. Note that under art. 20, there is no requirement that the act must be directed at a specific person, but it suffices that a person suffers damage as a consequence of a wrongful act of another in order that indemnity could be demanded from the wrongdoer.

b. **TERMINATION OF CONTRACT ATTENDED WITH BAD FAITH.** In terminating the hauling contract of Dr. Cruz without hearing her side on the factual context above described, a petitioner opened itself to a charge of bad faith. While Petrophil had the right to terminate the contract, petitioner could not act purposely to injure private respondents. In this case, nowhere in the record do we find that petitioner asked her to explain her actions. Petrophil simply terminated her contract. We find all three elements of art. 19 present in this case.

6. Navarro-Banaria v. Banaria (2020)
    a. **ARBITRARY OR UNJUST PERFORMANCE OF DUTIES**. While art. 19 may have been intended as a mere declaration of principle, the cardinal law on human conduct expressed in said article has given rise to certain rules, *e.g.,* that where a person exercises his rights but does so arbitrarily or unjustly or performs his duties in a manner that is not in keeping with honesty and good faith, he opens himself to liability. The elements of an abuse of rights under art. 19 are: (1) there is a legal right or duty; (2) which is exercised in bad faith; (3) for the sole intent of prejudicing or injuring another.
    b. **BASES OF LIABILITY ARE ARTS. 20 OR 21.** Consequently, when art. 19 is violated, an action for damages is proper under arts. 20 and 21. Art. 20 pertains to damages arising from a violation of law.
    c. **ID; IN THE CASE AT BAR**. Her failure to observe good faith in the exercise of her right as the wife of Pascasio caused loss and injury on the part of the respondents, for which they must be compensated by way of damages pursuant to art. 21.

Malicious prosecution

1. Globe Mackay Cable and Radio Corp. v. Court of Appeals (1989)
    a. **RIGHT TO INSTITUTE CRIMINAL PROSECUTIONS**. While sound principles of justice and public policy dictate that persons shall have free resort to the courts for redress of wrongs and vindication of their rights, the right to institute criminal prosecutions cannot be exercised maliciously and in bad faith.
    b. **TORT OF MALICIOUS PROSECUTION**. To constitute malicious prosecution, there must be proof that the prosecution was prompted by a design to vex and humiliate a person and that it was

initiated deliberately by the defendant knowing that the charges were false and groundless.

c. **ID; EXCEPTIONS**. Concededly, the filing of a suit, by itself, does not render a person liable for malicious prosecution. The mere dismissal by the fiscal of the criminal complaint is not a ground for an award of damages for malicious prosecution if there is no competent evidence to show that the complainant had acted in bad faith.

2. Marsman & Co. v. Ligo (2015)
    a. **MALICIOUS PROSECUTION DEFINED; SCOPE**. The term malicious prosecution has been defined as an action for damages brought by one against whom a criminal prosecution, civil suit, or other legal proceeding has been instituted maliciously and without probable cause, after the termination of such prosecution, suit, or other proceeding in favor of the defendant therein. While generally associated with unfounded criminal actions, the term has been expanded to include unfounded civil suits instituted just to vex and humiliate the defendant despite the absence of a cause of action or probable cause.
    b. **STATUTORY BASIS.** The statutory basis for a civil action for damages for malicious prosecution is found in the provisions of the New Civil Code on Human Relations and on damages particularly art. 19, 20, 21, 26, 29, 32, 33, 35, 2217 and 2219 (8)[3].
    c. **REQUISITES.** (1) The prosecution did occur, and the defendant was himself the prosecutor or that he instigated its commencement; (2) The criminal action finally ended with an acquittal; (3) In bringing the action, the prosecutor acted without probable cause; and (4) The prosecution was impelled by legal malice—an improper or a sinister motive.
    d. **GRAVAMEN OF THE TORT**. The gravamen of malicious prosecution is not the filing of a complaint based on the wrong provision of law, but the deliberate initiation of an action with the knowledge that the charges were false and groundless.

3. Tan v. Valeriano (2017)

[3] Moral damages.

a. **LEGAL MALICE A REQUIREMENT**. The existence of malice or bad faith is the fundamental element in abuse of right. In an action to recover damages based on malicious prosecution, it must be established that the prosecution was impelled by legal malice.
b. **ABUSE OF JUDICIAL PROCESSES**. The award of damages arising from malicious prosecution is justified if and only if it is proved that there was a misuse or abuse of judicial processes.
c. **MERE FILING OF CASE NOT MALICIOUS PROSECUTION**. It is a doctrine well-entrenched in jurisprudence that the mere act of submitting a case to the authorities for prosecution, of and by itself, does not make one liable for malicious prosecution, for the law could not have meant to impose a penalty on the right to litigate.
d. **ID; IN THE CASE AT BAR**. Given the law's prohibition on public officers and employees, such as Valeriano, from engaging in certain forms of political activities, it could reasonably be said that those who had filed the complaints against Valeriano before the CSC and the Office of the Ombudsman had done so as they had reason to believe that Valeriano was violating the prohibition. Given the circumstances of the conference, it can reasonably be said that the complaints were filed out of a belief in a viable cause of action against Valeriano. Put in another way, it cannot be said, for certain, that the complaints against Valeriano were filed simply out of malice.

Unjust enrichment

ART. 22. Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

ART. 23. Even when an act or event causing damage to another's property was not due to the fault or negligence of the defendant, the latter shall be liable for indemnity if through the act or event he was benefited.

1. Almario v. Philippine Airlines Inc. (2007)
    a. **WHAT UNJUST ENRICHMENT CONSISTS OF**. Enrichment of the defendant consists in every patrimonial, physical, or moral advantage, so long as it is appreciable in money. It may consist of some positive pecuniary value incorporated into the patrimony of the

defendant, such as: (1) the enjoyment of a thing belonging to the plaintiff; (2) the benefits from service rendered by the plaintiff to the defendant; (3) the acquisition of a right, whether real or personal; (4) the increase of value of property of the defendant; (5) the improvement of a right of the defendant, such as the acquisition of a right of preference; (6) the recognition of the existence of a right in the defendant; and (7) the improvement of the conditions of life of the defendant.

b. **CORRELATIVE INJURY TO THE PLAINTIFF REQUIRED**. The enrichment of the defendant must have a correlative prejudice, disadvantage, or injury to the plaintiff. This prejudice may consist, not only of the loss of property or the deprivation of its enjoyment, but also of nonpayment of compensation for a prestation or service rendered to the defendant without intent to donate on the part of the plaintiff, or the failure to acquire something which the latter would have obtained.

c. **INJURY NEED NOT BE THE CAUSE OF ENRICHMENT**. The injury to the plaintiff, however, need not be the cause of the enrichment of the defendant. It is enough that there be some relation between them, that the enrichment of the defendant would not have been produced had it not been for the fact from which the injury to the plaintiff is derived.

2. Grandteq Industrial Steel Products Inc. v. Margallo (2009)
    a. **ELEMENTS OF UNJUST ENRICHMENT**. There is unjust enrichment when (1) a person is unjustly benefited, and (2) such benefit is derived at the expense of or with damages to another.
    b. **OBJECTIVE**. The main objective of the principle of unjust enrichment is to prevent one from enriching oneself at the expense of another. It is commonly accepted that this doctrine simply means that a person shall not be allowed to profit or enrich himself inequitably at another's expense.
    c. **NO OTHER ACTION AVAILABLE**. One condition for invoking this principle is that the aggrieved party has no other action based on a contract, quasi-contract, crime, quasi-delict, or any other provision of law.

Disrespect of persons

ART. 26. Every person shall respect the dignity, personality, privacy and peace of mind of his neighbors and other persons. The following and similar acts, though they may not constitute a criminal offense, shall produce a cause of action for damages, prevention and other relief:

(1) Prying into the privacy of another's residence;

(2) Meddling with or disturbing the private life or family relations of another;

(3) Intriguing to cause another to be alienated from his friends;

(4) Vexing or humiliating another on account of his religious beliefs, lowly station in life, place of birth, physical defect, or other personal condition.

1. Manaloto v. Veloso (2010)
    a. **RATIONALE FOR ART. 26**. The philosophy behind Art. 26 underscores the necessity for its inclusion in our civil law. The Code Commission stressed in no uncertain terms that the human personality must be exalted. The sacredness of human personality is a concomitant consideration of every plan for human amelioration. The touchstone of every system of law, of the culture and civilization of every country, is how far it dignifies man. If the statutes insufficiently protect a person from being unjustly humiliated, in short, if human personality is not exalted — then the laws are indeed defective. Thus, under this article, the rights of persons are amply protected, and damages are provided for violations of a person's dignity, personality, privacy and peace of mind.
    b. **ENUMERATION IN ART. 26 NOT EXCLUSIVE**. The violations mentioned in the codal provisions are not exclusive but are merely examples and do not preclude other similar or analogous acts. Damages therefore are allowable for actions against a person's dignity, such as profane, insulting, humiliating, scandalous or abusive language.

2. Radio Communications of the Philippines v. Verchez (2006)
    a. **VIOLATION OF FILIAL TRANQUILITY**. RCPI's negligence in not promptly performing its obligation undoubtedly disturbed the peace of mind not only of Grace but also her co-respondents. As observed by the appellate court, it disrupted the "filial ttranquility" among them as they blamed each other "for failing to respond swiftly

to an emergency." The tortious acts and/or omissions complained of in this case are analogous to acts mentioned under art. 26, which are among the instances of quasi-delict when courts may award moral damages.

3. St. Louis Realty Corp. v. Court of Appeals (1984)
    a. **EXAMPLE**. St. Louis Realty's employee was grossly negligent in mixing up the Aramil and Arcadio residences in a widely circulated publication like the *Sunday Times*. To suit its purpose, it never made any written apology and explanation of the mix-up. It just contented itself with a cavalier "rectification." Persons, who know the residence of Doctor Aramil, were confused by the distorted, lingering impression that he was renting his residence from Arcadio or that Arcadio had leased it from him. Either way, his private life was mistakenly and unnecessarily exposed. He suffered diminution of income and mental anguish.

4. Sps. Hing v. Chochuy (2013)
    a. **"PRYING INTO THE PRIVACY OF ANOTHER'S RESIDENCE" CONSTRUED**. An individual's right to privacy under art. 26 (1) should not be confined to his house or residence as it may extend to places where he has the right to exclude the public or deny them access. The phrase "prying into the privacy of another's residence," therefore, covers places, locations, or even situations which an individual considers as private. And as long as his right is recognized by society, other individuals may not infringe on his right to privacy.
    b. **REASONABLE EXPECTATION OF PRIVACY TEST**. In *Ople v. Torres*, we enunciated that the reasonableness of a person's expectation of privacy depends on a two-part test: (1) whether, by his conduct, the individual has exhibited an expectation of privacy; and (2) this expectation is one that society recognizes as reasonable.
    c. **ID; CASE-TO-CASE BASIS**. Customs, community norms, and practices may, therefore, limit or extend an individual's reasonable expectation of privacy. Hence, the reasonableness of a person's expectation of privacy must be determined on a case-to-case basis since it depends on the factual circumstances surrounding the case.
    d. **RULE ON SECURITY CAMERAS**. In this day and age, video surveillance cameras are installed practically everywhere for the

protection and safety of everyone. The installation of these cameras, however, should not cover places where there is reasonable expectation of privacy, unless the consent of the individual, whose right to privacy would be affected, was obtained. Nor should these cameras be used to pry into the privacy of another's residence or business office as it would be no different from eavesdropping, which is a crime under the Anti-Wiretapping Law.

5. MVRS Publications Inc. v. Islamic Da'Wah Council of the Philippines (2003, *en banc*)
    a. **OFFENSIVE LANGUAGE NOT ACTIONABLE *PER SE***. It must be stressed that words which are merely insulting are not actionable as libel or slander *per se*, and mere words of general abuse however opprobrious, ill-natured, or vexatious, whether written or spoken, do not constitute a basis for an action for defamation in the absence of an allegation for special damages. The fact that the language is offensive to the plaintiff does not make it actionable by itself.
    b. **DECLARATIONS TO A LARGE NUMBER OF PEOPLE**. Declarations made about a large class of people cannot be interpreted to advert to an identified or identifiable individual. Absent circumstances specifically pointing or alluding to a particular member of a class, no member of such class has a right of action without at all impairing the equally demanding right of free speech and expression, as well as of the press, under the Bill of Rights.
    c. **ID; REQUIREMENT OF SPECIFITY**. Where the defamation is alleged to have been directed at a group or class, it is essential that the statement must be so sweeping or all-embracing as to apply to every individual in that group or class, or sufficiently specific so that each individual in the class or group can prove that the defamatory statement specifically pointed to him, so that he can bring the action separately, if need be.
    d. **TORT OF DEFAMATION; REQUISITES**. Defamation is made up of the twin torts of libel and slander — the one being, in general, written, while the other in general is oral. In either form, defamation is an invasion of the interest in reputation and good name. This is a "relational interest" since it involves the opinion others in the community may have or tend to have of the plaintiff. Consequently, as a prerequisite to recovery, it is necessary for the plaintiff to prove as

part of his *prima facie* case that the defendant (1) published a statement that was (2) defamatory (3) of and concerning the plaintiff.

e. **STANDING TO SUE**. The rule in libel is that the action must be brought by the person against whom the defamatory charge has been made. Even when a publication may be clearly defamatory as to somebody, if the words have no personal application to the plaintiff, they are not actionable by him. If no one is identified, there can be no libel because no one's reputation has been injured.

f. **ID; LARGE GROUP OF PEOPLE**. If defamatory words are used broadly in respect to a large class or group of persons, and there is nothing that points, or by proper colloquium or innuendo can be made to apply, to a particular member of the class or group, no member has a right of action for libel or slander. Where the defamatory matter had no special, personal application and was so general that no individual damages could be presumed, and where the class referred to was so numerous that great vexation and oppression might grow out of the multiplicity of suits, no private action could be maintained.

g. **TORT OF INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; REQUISITES**. Primarily, an "emotional distress" tort action is personal in nature, *i.e.,* it is a civil action filed by an individual to assuage the injuries to his emotional tranquility due to personal attacks on his character. To recover for the intentional infliction of emotional distress the plaintiff must show that: (a) The conduct of the defendant was intentional or in reckless disregard of the plaintiff; (b) The conduct was extreme and outrageous; (c) There was a causal connection between the defendant's conduct and the plaintiff's mental distress; and, (d) The plaintiff's mental distress was extreme and severe.

h. **ID; EXTREME AND OUTRAGEOUS CONDUCT**. Extreme and outrageous conduct means conduct that is so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in civilized society. The defendant's actions must have been so terrifying as naturally to humiliate, embarrass or frighten the plaintiff. Generally, conduct will be found to be actionable where the recitation of the facts to an average member of the community would arouse his resentment against the actor, and lead him or her to exclaim, "Outrageous!" as his or her reaction.

i. **ID; EMOTIONAL DISTRESS**. Emotional distress means any highly unpleasant mental reaction such as extreme grief, shame, humiliation, embarrassment, anger, disappointment, worry, nausea, mental suffering and anguish, shock, fright, horror, and chagrin. Severe emotional distress, in some jurisdictions, refers to any type of severe and disabling emotional or mental condition which may be generally recognized and diagnosed by professionals trained to do so, including posttraumatic stress disorder, neurosis, psychosis, chronic depression, or phobia. The plaintiff is required to show, among other things, that he or she has suffered emotional distress so severe that no reasonable person could be expected to endure it; severity of the distress is an element of the cause of action, not simply a matter of damages.

j. **ID; HURT FEELINGS NOT ENOUGH**. Liability does not arise from mere insults, indignities, threats, annoyances, petty expressions, or other trivialities. In determining whether the tort of outrage had been committed, a plaintiff is necessarily expected and required to be hardened to a certain amount of criticism, rough language, and to occasional acts and words that are definitely inconsiderate and unkind; the mere fact that the actor knows that the other will regard the conduct as insulting, or will have his feelings hurt, is not enough.

k. **ID; FREE SPEECH PREVAILS**. Simply stated, an intentional tort causing emotional distress must necessarily give way to the fundamental right to free speech.

Dereliction of duty

ART. 27. Any person suffering material or moral loss because a public servant or employee refuses or neglects, without just cause, to perform his official duty may file an action for damages and other relief against the latter, without prejudice to any disciplinary administrative action that may be taken.

1. Tuzon v. Court of Appeals (1992)
    a. **PURPOSE OF ART. 27**. It has been remarked that one purpose of this article is to end the bribery system, where the public official, for some flimsy excuse, delays or refuses the performance of his duty until he gets some kind of *pabagsak*. Official inaction may also be due to plain indolence or a cynical indifference to the responsibilities of public service.

b. **MALICE OR INEXEUSABLE NEGLIGENCE REQUIRED.** Art. 27 presupposes that the refusal or omission of a public official to perform his official duty is attributable to malice or inexcusable negligence. In any event, the erring public functionary is justly punishable under this article for whatever loss or damage the complainant has sustained.

c. **ERRONEOUS INTERPRETATION OF LAW.** It has been held that an erroneous interpretation of an ordinance does not constitute nor does it amount to bad faith that would entitle an aggrieved party to an award for damages.

2. Vital-Gozon v. Court of Appeals (1998)
   a. **MISFEASANCE, MALFEASANCE OR NONFEASANCE**. Under art. 27, in relation to arts. 2219 and 2217, a public officer may be liable for moral damages for as long as the moral damages suffered by private respondent were the proximate result of petitioner's wrongful act or omission, *i.e.,* refusal to perform an official duty or neglect in the performance thereof. In fact, if only to underscore the vulnerability of public officials and employees to suits for damages to answer for any form or degree of misfeasance, malfeasance or nonfeasance, this Court has had occasion to rule that under arts. 19 and 27, a public official may be made to pay damages for performing a perfectly legal act, albeit with bad faith or in violation of the abuse of right doctrine embodied in the preliminary articles of the Civil Code concerning Human Relations.

3. Torio v. Fontanilla (1978)
   a. **TORT LIABILITY OF A MUNICIPALITY**. If the injury is caused in the course of the performance of a governmental function or duty no recovery, as a rule, can be had from the municipality unless there is an existing statute on the matter, nor from its officers, so long as they performed their duties honestly and in good faith or that they did not act wantonly and maliciously.
   b. **ART. 27 ONLY COVERS NONFEASANCE**. The Court of Appeals erred in applying art. 27, for this particular article covers a case of nonfeasance or non-performance by a public officer of his official duty; it does not apply to a case of negligence or misfeasance in carrying out an official duty.

4. Rico v. Deguma (2019, *minute resolution*)
    a. **INACTION MUST BE WITHOUT JUST CAUSE**. For public officers to violate art. 27, their refusal or negligence must be without just cause.
    b. **ART. 27 ONLY COVERS NONFEASANCE**. Art. 27 only covers acts amounting to nonfeasance, or the non-performance of a public duty.

Unfair competition

ART. 28. Unfair competition in agricultural, commercial or industrial enterprises or in labor through the use of force, intimidation, deceit, machination or any other unjust, oppressive, or high-handed method shall give rise to a right of action by the person who thereby suffers damage.

1. Willaware Products Corp. v. Jesichris Manufacturing Corp. (2014)
    a. **WHAT ART. 28 PROHIBITS**. What is being sought to be prevented is not competition *per se* but the use of unjust, oppressive or high-handed methods which may deprive others of a fair chance to engage in business or to earn a living. Plainly, what the law prohibits is unfair competition and not competition where the means used are fair and legitimate.
    b. **CHARACTERISTICS OF UNFAIR COMPETITION.** In order to qualify the competition as "unfair," it must have two characteristics: (1) it must involve an injury to a competitor or trade rival, and (2) it must involve acts which are characterized as contrary to good conscience, or shocking to judicial sensibilities, or otherwise unlawful; in the language of our law, these include force, intimidation, deceit, machination or any other unjust, oppressive or high-handed method. The public injury or interest is a minor factor; the essence of the matter appears to be a private wrong perpetrated by unconscionable means.
    c. **IN THE CASE AT BAR.** When a person starts an opposing place of business, not for the sake of profit to himself, but regardless of loss and for the sole purpose of driving his competitor out of business so that later on he can take advantage of the effects of his malevolent purpose, he is guilty of wanton wrong.

2. Coca-Cola Bottlers Philippines Inc. v. Sps. Bernardo (2016)
    a. **NO VIOLATION OF ART. 28**. According to the Tolentino, the act of a merchant who puts up a store near the store of another and in this way attracts some of the latter's patrons is not an abuse of a right.
    b. **ID; IN THE CASE AT BAR**. The scenario in the present case is vastly different: the merchant was also the producer who, with the use of a list provided by its distributor, knocked on the doors of the latter's customers and offered the products at a substantially lower price. Unsatisfied, the merchant even sold its products at a preferential rate to another store within the vicinity. Jurisprudence holds that when a person starts an opposing place of business, not for the sake of profit, but regardless of loss and for the sole purpose of driving a competitor out of business, to take advantage of the effects of a malevolent purpose, that person is guilty of a wanton wrong.

Violation of civil/political rights

ART. 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

[x x x x]

In any of the cases referred to in this article, whether or not the defendant's act or omission constitutes a criminal offense, the aggrieved party has a right to commence an entirely separate and distinct civil action for damages, and for other relief. Such civil action shall proceed independently of any criminal prosecution (if the latter be instituted), and may be proved by a preponderance of evidence.

The indemnity shall include moral damages. Exemplary damages may also be adjudicated.

The responsibility herein set forth is not demandable from a judge unless his act or omission constitutes a violation of the Penal Code or other penal statute.

1. MHP Garments Inc. v. Court of Appeals (1994)
    a. **RATIONALE FOR ART. 32; MALICE OR BAD FAITH IS IRRELEVANT**. The very nature of art. 32 is that the wrong may be civil or criminal. It is not necessary therefore that there should be

malice or bad faith. To make such a requisite would defeat the main purpose of art. 32 which is the effective protection of individual rights. Public officials in the past have abused their powers on the pretext of justifiable motives or good faith in the performance of their duties. Precisely, the object of the Article is to put an end to official abuse by plea of the good faith.

b. **SCOPE OF VIOLATORS**. The law speaks of an officer or employee or person "directly or indirectly" responsible for the violation of the constitutional rights and liberties of another. Thus, it is not the actor alone (*i.e.,* the one directly responsible) who must answer for damages under art. 32; the person indirectly responsible has also to answer for the damages or injury caused to the aggrieved party.
c. **ID; JOINT TORTFEASORS**. While it would certainly be too naive to expect the violators of human rights would easily be deterred by the prospect of facing damages suits, it should nonetheless be made clear in no uncertain terms that art. 32 makes the persons who are directly, as well as indirectly, responsible for the transgression joint tortfeasors.

2. Silahis International Hotel v. Soluta (2006)
    a. **VIOLATION IS ENOUGH**. The Code Commission thus deemed it necessary to hold not only public officers but also private individuals civilly liable for violation of rights enumerated in art. 32. That is why it is not even necessary that the defendant under this Article should have acted with malice or bad faith, otherwise, it would defeat its main purpose, which is the effective protection of individual rights. It suffices that there is a violation of the constitutional right of the plaintiff.
    b. **RIGHT AGAINST UNREASONABLE SEARCHES AND SEIZURES**. As constitutional rights, like the right to be secure in one's person, house, papers, and effects against unreasonable search and seizures, occupy a lofty position in every civilized and democratic community and not infrequently susceptible to abuse, their violation, whether constituting a penal offense or not, must be guarded against.

Tortious interference with contractual relations

ART. 1314. Any third person who induces another to violate his contract shall be liable for damages to the other contracting party.

1. Gilchrist v. Cuddy (1915, *en banc*)
    a. **TWO MOTIVES**. It is said that the ground on which the liability of a third party for interfering with a contract between others rests, is that the interference was malicious. The contrary view, however, is taken by the Supreme Court of the United States in the case of *Angle vs. Railway Co.* The only motive for interference by the third party in that case was the desire to make a profit to the injury of one of the parties of the contract. There was no malice in the case beyond the desire to make an unlawful gain to the detriment of one of the contracting parties.
    b. **IN THE CASE AT BAR (ACTION FOR INJUNCTION)**. In the case at bar the only motive for the interference with the Gilchrist-Cuddy contract on the part of the appellants was a desire to make a profit by exhibiting the film in their theater. There was no malice beyond this desire; but this fact does not relieve them of the legal liability for interfering with that contract and causing its breach. It is, therefore, clear, under the above authorities, that they were liable to Gilchrist for the damages caused by their acts, unless they are relieved from such liability by reason of the fact that they did not know at the time the identity of the original lessee (Gilchrist) of the film.
    c. **KNOWLEDGE OF THE IDENTITY OF THE OTHER CONTRACTING PARTY NOT REQUIRED**. There is nothing in art. 1902 [2176] which requires as a condition precedent to the liability of a tortfeasor that he must know the identity of a person to whom he causes damage. In fact, the chapter wherein this article is found clearly shows that no such knowledge is required in order that the injured party may recover for the damage suffered.

2. Daywalt v. Corporacion de PP Agustinos Recoletos (1919, *en banc*)
    a. **MALICE NOT REQUIRED**. Malice in some form is generally supposed to be an essential ingredient in cases of interference with contract relations. But upon the authorities it is enough if the wrongdoer, having knowledge of the existence of the contract relation, in bad faith sets about to break it up. Whether his motive is to benefit himself or gratify his spite by working mischief to the employer is immaterial. Malice in the sense of ill-will or spite is not essential.

b. **INTEFERER CANNOT BE MORE LIABLE THAN THE PARTY IN BREACH**. Whatever may be the character of the liability which a stranger to a contract may incur by advising or assisting one of the parties to evade performance, there is one proposition upon which all must agree. This is, that the stranger cannot become more extensively liable in damages for the nonperformance of the contract than the party in whose behalf he intermeddles. To hold the stranger liable for damages in excess of those that could be recovered against the immediate party to the contract would lead to results at once grotesque and unjust.

3. So Ping Bun v. Court of Appeals (1999)
    a. **WHEN INTERFERER IS FINANCIALLY INTERESTED**. Where the alleged interferer is financially interested, and such interest motivates his conduct, it cannot be said that he is an officious or malicious intermeddler.
    b. **ECONOMIC INTEREST IS A VALID JUSTIFICATION (ACTION FOR INJUNCTION)**. While we do not encourage tort interferers seeking their economic interest to intrude into existing contracts at the expense of others, however, we find that the conduct herein complained of did not transcend the limits forbidding an obligatory award for damages in the absence of any malice. The business desire is there to make some gain to the detriment of the contracting parties. Lack of malice, however, precludes damages. But it does not relieve petitioner of the legal liability for entering into contracts and causing breach of existing ones.

4. Lagon v. Court of Appeals (2005)
    a. **REQUISITES OF TORTOUS INTERFERENCE**. The Court, in the case of *So Ping Bun v. Court of Appeals*, laid down the elements of tortuous interference with contractual relations: (1) existence of a valid contract; (2) knowledge on the part of the third person of the existence of the contract and (3) interference of the third person without legal justification or excuse.
    b. **ID; SECOND REQUISITE; ACTUAL KNOWLEDGE NOT REQUIRED**. The second element, on the other hand, requires that there be knowledge on the part of the interferer that the contract exists. Knowledge of the subsistence of the contract is an essential element to

state a cause of action for tortuous interference. A defendant in such a case cannot be made liable for interfering with a contract he is unaware of. While it is not necessary to prove actual knowledge, he must nonetheless be aware of the facts which, if followed by a reasonable inquiry, will lead to a complete disclosure of the contractual relations and rights of the parties in the contract.

5. Excellent Essentials International Corp. v. Extra Excel International Philippines Inc. (2018)
    a. **MALICE REQUIRED IN AN ACTION FOR DAMAGE**. To sustain a case for tortuous interference, the defendant must have acted with malice or must have been driven by purely impure reasons to injure plaintiff; otherwise stated, his act of interference cannot be justified. We further explained that the word induce refers to situations where a person causes another to choose one course of conduct by persuasion or intimidation.
    b. **NATURE OF TORTUOUS INTERFERENCE**. A duty which the law of torts is concerned with is respect for the property of others, and cause of action *ex delicto* may be predicated by an unlawful interference by any person of the enjoyment of the other of his private property. This may pertain to a situation where a third person induces a person to renege on or violate his undertaking under a contract.

Medical negligence/malpractice

1. Casumpang v. Cortejo (2015)
    a. **ELEMENTS OF MEDICAL MALPRACTICE**. (1) Duty; (2) Breach; (3) Injury; and (4) Proximate causation.
    b. **DUTY**. Duty refers to the standard of behavior that imposes restrictions on one's conduct. It requires proof of professional relationship between the physician and the patient.
    c. **ID; PHYSICIAN-PARENT RELATIONSHIP**. A physician-patient relationship is created when a patient engages the services of a physician, and the latter accepts or agrees to provide care to the patient. The establishment of this relationship is consensual. Once a physician-patient relationship is established, the legal duty of care follows. The doctor accordingly becomes duty-bound to use at least the same standard of care that a reasonably competent doctor would use to treat a medical condition under similar circumstances.

d. **ID; ID; CONSENT NEED NOT BE EXPRESS**. The consent needed to create the relationship does not always need to be express. In the absence of an express agreement, a physician-patient relationship may be implied from the physician's affirmative action to diagnose and/or treat a patient, or in his participation in such diagnosis and/or treatment.
e. **BREACH**. Breach of duty occurs when the doctor fails to comply with, or improperly performs his duties under professional standards. This determination is both factual and legal, and is specific to each individual case.
f. **INJURY**. If the patient, as a result of the breach of duty, is injured in body or in health, actionable malpractice is committed, entitling the patient to damages.
g. **PROXIMATE CAUSATION**. To successfully claim damages, the patient must lastly prove the causal relation between the negligence and the injury. This connection must be direct, natural, and should be unbroken by any intervening efficient causes. In other words, the negligence must be the proximate cause of the injury. The injury or damage is proximately caused by the physician's negligence when it appears, based on the evidence and the expert testimony, that the negligence played an integral part in causing the injury or damage, and that the injury or damage was either a direct result, or a reasonably probable consequence of the physician's negligence.
h. **STANDARD OF CARE**. A determination of whether or not the petitioning doctors met the required standard of care involves a question of mixed fact and law; it is factual as medical negligence cases are highly technical in nature, requiring the presentation of expert witnesses to provide guidance to the court on matters clearly falling within the domain of medical science, and legal, insofar as the Court, after evaluating the expert testimonies, and guided by medical literature, learned treatises, and its fund of common knowledge, ultimately determines whether breach of duty took place.
i. **DUTY OF COURTS**. First, we emphasize that we do not decide the correctness of a doctor's diagnosis, or the accuracy of the medical findings and treatment. Our duty in medical malpractice cases is to decide—based on the evidence adduced and expert opinion presented—whether a breach of duty took place.

j. **WRONG DIAGNOSIS *PER SE* IS NOT MALPRACTICE.** Second, we clarify that a wrong diagnosis is not by itself medical malpractice. Physicians are generally not liable for damages resulting from a bona fide error of judgment. Nonetheless, when the physician's erroneous diagnosis was the result of negligent conduct (*e.g.,* neglect of medical history, failure to order the appropriate tests, failure to recognize symptoms), it becomes an evidence of medical malpractice.

k. **ATTENDING VS. RESIDENT PHYSICIAN**. Residents are generally doctors of medicine licensed to practice in the Philippines and who would like to pursue a particular specialty. They are usually the front line doctors responsible for the first contact with the patient. During the scope of the residency program, resident physicians function under the supervision of attending physicians or of the hospital's teaching staff. Under this arrangement, residents operate merely as subordinates who usually defer to the attending physician on the decision to be made and on the action to be taken. The attending physician, on the other hand, is primarily responsible for managing the resident's exercise of duties. While attending and resident physicians share the collective responsibility to deliver safe and appropriate care to the patients, attending physician who assumes the principal responsibility of patient care. Because he/she exercises a supervisory role over the resident, and is ultimately responsible for the diagnosis and treatment of the patient, the standards applicable to and the liability of the resident for medical malpractice is theoretically less than that of the attending physician.

l. **ID; SAME LEVEL OF DILIGENCE**. A decade later, *Centman v. Cobb*, affirmed the *Jenkins* ruling and held that interns and first-year residents are "practitioners of medicine required to exercise the same standard of care applicable to physicians with unlimited licenses to practice." The Indiana Court held that although a first-year resident practices under a temporary medical permit, he/she impliedly contracts that he/she has the reasonable and ordinary qualifications of her profession and that he/she will exercise reasonable skill, diligence, and care in treating the patient.

m. **EXPERT WITNESS**. The competence of an expert witness is a matter for the trial court to decide upon in the exercise of its discretion. The test of qualification is necessarily a relative one, depending upon the subject matter of the investigation, and the fitness of the expert

witness. In our jurisdiction, the criterion remains to be the expert witness' special knowledge experience and practical training that qualify him/her to explain highly technical medical matters to the Court.

n. **ID; WHEN SPECIALTIES IRRELEVANT**. A close scrutiny of *Ramos* and *Cereno* reveals that the Court primarily based the witnesses' disqualification to testify as an expert on their incapacity to shed light on the standard of care that must be observed by the defendant physicians. That the expert witnesses' specialties do not match the physicians' practice area only constituted, at most, one of the considerations that should not be taken out of context. After all, the sole function of a medical expert witness, regardless of his/her specialty, is to afford assistance to the courts on medical matters, and to explain the medical facts in issue.

o. **ID; ID; REQUISITES**. To qualify a witness as a medical expert, it must be shown that the witness (1) has the required professional knowledge, learning and skill of the subject under inquiry sufficient to qualify him to speak with authority on the subject; and (2) is familiar with the standard required of a physician under similar circumstances.

2. De Jesus v. Uyloan (2022)

a. **MEDICAL MALPRACTICE BASED ON BREACH OF CONTRACT**. In the light of the foregoing, we hold that a mere reference to an implied contract between the physician and the patient in general is insufficient for pleading a cause of action under the contract theory of professional malpractice. An action for medical malpractice based on contract must allege an express promise to provide medical treatment or achieve a specific result.

b. **ID; IMPLIED WARRANTY**. Absent an express contract, a physician does not impliedly warrant the success of his or her treatment but only that he or she will adhere to the applicable standard of care. Thus, there is no cause of action for breach of implied contract or implied warranty arising from an alleged failure to provide adequate medical treatment. This allegation clearly sounds in tort, not in contract; therefore, the plaintiff's remedy is an action for malpractice, not breach of contract. A breach of contract complaint fails to state a cause of action if there is no allegation of any express promise to cure or to achieve a specific result. A physician's statements of opinion

regarding the likely result of a medical procedure are insufficient to impose contractual liability, even if they ultimately prove incorrect.

3. Li v. Soliman (2011, *en banc*)
    a. **DOCTRINE OF INFORMED CONSENT; REQUISITES**. There are four essential elements a plaintiff must prove in a malpractice action based upon the doctrine of informed consent: (1) the physician had a duty to disclose material risks; (2) he failed to disclose or inadequately disclosed those risks; (3) as a direct and proximate result of the failure to disclose, the patient consented to treatment she otherwise would not have consented to; and (4) plaintiff was injured by the proposed treatment.
    b. **ID; EXPERT TESTIMONY REQUIRED**. In a medical malpractice action based on lack of informed consent, the plaintiff must prove both the duty and the breach of that duty through expert testimony. Such expert testimony must show the customary standard of care of physicians in the same practice as that of the defendant doctor.

4. Rosit v. Davao Doctors Hospital (2015)
    a. **DOCTRINE OF *RES IPSA LOQUITUR***. We have further held that resort to the doctrine of *res ipsa loquitur* as an exception to the requirement of an expert testimony in medical negligence cases may be availed of if the following essential requisites are satisfied: (1) the accident was of a kind that does not ordinarily occur unless someone is negligent; (2) the instrumentality or agency that caused the injury was under the exclusive control of the person charged; and (3) the injury suffered must not have been due to any voluntary action or contribution of the person injured.
    b. **ID; APPLICATIONS**. Thus, courts of other jurisdictions have applied the doctrine in the following situations: leaving of a foreign object in the body of the patient after an operation, injuries sustained on a healthy part of the body which was not under, or in the area, of treatment, removal of the wrong part of the body when another part was intended, knocking out a tooth while a patient's jaw was under anesthetic for the removal of his tonsils, and loss of an eye while the patient plaintiff was under the influence of anesthetic, during or following an operation for appendicitis, among others.

5. Ramos v. Court of Appeals (1999 & 2002)
    a. **BASIS FOR APPLICATION OF *RES IPSA LOQUITUR***. The doctrine of res ipsa loquitur is simply a recognition of the postulate that, as a matter of common knowledge and experience, the very nature of certain types of occurrences may justify an inference of negligence on the part of the person who controls the instrumentality causing the injury in the absence of some explanation by the defendant who is charged with negligence. It is grounded in the superior logic of ordinary human experience and on the basis of such experience or common knowledge, negligence may be deduced from the mere occurrence of the accident itself. Hence, res ipsa loquitur is applied in conjunction with the doctrine of common knowledge.
    b. ***RES IPSA LOQUITUR* IS A QUESTION OF LAW**. Medical malpractice cases do not escape the application of this doctrine. Thus, res ipsa loquitur has been applied when the circumstances attendant upon the harm are themselves of such a character as to justify an inference of negligence as the cause of that harm. The application of res ipsa loquitur in medical negligence cases presents a question of law since it is a judicial function to determine whether a certain set of circumstances does, as a matter of law, permit a given inference.
    c. **INSTANCES WHEN *RES IPSA LOQUITUR* IS NOT APPLICABLE.** *Res ipsa loquitur* is generally restricted to situations in malpractice cases where a layman is able to say, as a matter of common knowledge and observation, that the consequences of professional care were not as such as would ordinarily have followed if due care had been exercised. A distinction must be made between the failure to secure results, and the occurrence of something more unusual and not ordinarily found if the service or treatment rendered followed the usual procedure of those skilled in that particular practice. It must be conceded that the doctrine of *res ipsa loquitur* can have no application in a suit against a physician or surgeon which involves the merits of a diagnosis or of a scientific treatment. The physician or surgeon is not required at his peril to explain why any particular diagnosis was not correct, or why any particular scientific treatment did not produce the desired result. Thus, *res ipsa loquitur* is not available in a malpractice suit if the only showing is that the desired result of an operation or treatment was not accomplished.

d. **CAPTAIN OF THE SHIP DOCTRINE.** As the so-called "captain of the ship," it is the surgeon's responsibility to see to it that those under him perform their task in the proper manner.
e. **ID; NOT ABANDONED**. That there is a trend in American jurisprudence to do away with the captain-of-the-ship doctrine does not mean that this Court will ipso facto follow said trend. Due regard for the peculiar factual circumstances obtaining in this case justify the application of the captain-of-the-ship doctrine. From the facts on record, it can be logically inferred that Dr. Hosaka exercised a certain degree of, at the very least, supervision over the procedure then being performed on Erlinda.
f. **BOTH ACTUAL AND TEMPERATE DAMAGES AWARDED**. In other words, temperate damages can and should be awarded on top of actual or compensatory damages in instances where the injury is chronic and continuing. And because of the unique nature of such cases, no incompatibility arises when both actual and temperate damages are provided for. The reason is that these damages cover two distinct phases.

6. Professional Services Inc. v. Agana (2007, 2008 & 2010, *en banc*)
   a. **LIABILITY OF HOSPITALS**. (1) Where an employment relationship exists, the hospital may be held vicariously liable under art. 2176 in relation to art. 2180 of the Civil Code or the principle of *respondeat superior*. (2) Even when no employment relationship exists but it is shown that the hospital holds out to the patient that the doctor is its agent, the hospital may still be vicariously liable under art. 2176 in relation to art. 1431 and art. 1869 of the Civil Code or the principle of apparent authority. (3) Moreover, regardless of its relationship with the doctor, the hospital may be held directly liable to the patient for its own negligence or failure to follow established standard of conduct to which it should conform as a corporation.
   b. **ID; DOCTRINE OF APPARENT AUTHORITY**. In general, a hospital is not liable for the negligence of an independent contractor-physician. There is, however, an exception to this principle. The hospital may be liable if the physician is the "ostensible" agent of the hospital. This exception is also known as the "doctrine of apparent authority." Sometimes referred to as the apparent or ostensible agency theory.

c. **ID; ID; TWO FACTORS**. The doctrine of apparent authority essentially involves two factors to determine the liability of an independent contractor-physician. (1) The first factor focuses on the hospital's manifestations and is sometimes described as an inquiry whether the hospital acted in a manner which would lead a reasonable person to conclude that the individual who was alleged to be negligent was an employee or agent of the hospital. In this regard, the hospital need not make express representations to the patient that the treating physician is an employee of the hospital; rather a representation may be general and implied. (2) The second factor focuses on the patient's reliance. It is sometimes characterized as an inquiry on whether the plaintiff acted in reliance upon the conduct of the hospital or its agent, consistent with ordinary care and prudence.

d. **ID; ID; BASIS IS ESTOPPEL**. The doctrine of apparent authority is a specie of the doctrine of estoppel. Art. 1431 provides that "through estoppel, an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon." Estoppel rests on this rule: Whether a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it.

e. **ID; DOCTRINE OF CORPORATE NEGLIGENCE**. The duty of providing quality medical service is no longer the sole prerogative and responsibility of the physician. This is because the modern hospital now tends to organize a highly professional medical staff whose competence and performance need also to be monitored by the hospital commensurate with its inherent responsibility to provide quality medical care. Such responsibility includes the proper supervision of the members of its medical staff. Accordingly, the hospital has the duty to make a reasonable effort to monitor and oversee the treatment prescribed and administered by the physicians practicing in its premises.

f. **ID; ID; THREE RELATIONSHIPS**. Three legal relationships crisscross: (1) between the hospital and the doctor practicing within its premises; (2) between the hospital and the patient being treated or examined within its premises and (3) between the patient and the

doctor. The exact nature of each relationship determines the basis and extent of the liability of the hospital for the negligence of the doctor.

Environmental tort

1. Sanggacala v. National Power Corp. (2021)
    a. **ENVIRONMENTAL TORT; DEFINED**. Environmental tort is a hybrid of two disciplines—tort law and environmental law and may provide an institutional answer that addresses the remaining gaps in public health protection. Environmental harm may include immediate and future physical injury to people, emotional distress from fear of future injury, social and economic disruption, remediation costs, property damage, ecological damage, and regulatory harms.
    b. **ID; REQUISITES**. Tort law provides a means to address environmental harms, where the (1) harm is to a well-defined area or specific person or class of persons, (2) is readily supported by general and specific causation, and (3) closely fits the traditional elements of a tort cause of action.
    c. **ID; STANDING**. More important, for an environmental tort action to prosper, there must be an actual injury to a person or group of persons or to property. The essential purpose of an environmental tort action is to provide corrective justice based upon the relative fault or blameworthiness of another.
    d. **ID; TWO THEORIES UNDERLYING ENVIRONMENTAL TORT**. The primary tort theories that have been successfully used to remedy alleged environmental harms are rooted in the law of nuisance and negligence. (1) Nuisance law has emerged as a widely used theory to address environmental interests, in part, because of the perceived vagueness and broad latitude of the tort action. (2) The other theory commonly underlying environmental tort actions, negligence, is broader in scope, and also permits traditional tort damages as a remedy. Because negligence requires the breach of a duty of care and a duty may be created where a party creates an unreasonable risk of harm to another, the law of negligence can potentially reach those environmental harms that do not implicate a possessory interest in the use and enjoyment of land.
    e. **IN THE CASE AT BAR**. The essential elements of an environmental tort action based on negligence are present. The environmental harm in a well-defined area or specific person or class of persons is the

damage to the farmlands and other properties of petitioners sited along the shore of Lake Lanao. Further, the finding of respondent's negligence in operating the Agus Regulation Dam caused inundation and damage to petitioners' properties shows a general and specific causation, and closely fits the traditional elements of a tort cause of action.

DAMAGES

In general

ART. 2197. Damages may be: (1) Actual or compensatory; (2) Moral; (3) Nominal; (4) Temperate or moderate; (5) Liquidated; or (6) Exemplary or corrective.

Actual damages

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.

Value of the loss actually sustained (*damnum emergens*)

ART. 2200. Indemnification for damages shall comprehend not only the value of the loss suffered [*damnum emergens*], but also that of the profits which the obligee failed to obtain [*lucrum cessans*].

1. PNOC Shipping and Transport Corp. v. Court of Appeals (1998)
    a. **NATURE OF ACTUAL DAMAGES**. Actual or compensatory damages are those awarded in satisfaction of, or in recompense for, loss or injury sustained. They proceed from a sense of natural justice and are designed to repair the wrong that has been done, to compensate for the injury inflicted and not to impose a penalty.
    b. **VALUE OF LOSS; RECKONING POINT.** Where goods are destroyed by the wrongful act of the defendant the plaintiff is entitled

to their value at the time of destruction , that is, normally, the sum of money which he would have to pay in the market for identical or essentially similar goods, plus in a proper case damages for the loss of use during the period before replacement.

c. **EVIDENTIARY STANDARD AND BURDEN OF PROOF.** As stated at the outset, to enable an injured party to recover actual or compensatory damages, he is required to prove the actual amount of loss with reasonable degree of certainty premised upon competent proof and on the best evidence available. The burden of proof is on the party who would be defeated if no evidence would be presented on either side. He must establish his case by a preponderance of evidence.

d. **ACTUAL DAMAGES NOT PRESUMED**. In other words, damages cannot be presumed and courts, in making an award must point out specific facts that could afford a basis for measuring whatever compensatory or actual damages are borne.

2. Adrian Wilson International Associates Inc. v. TMX Philippines Inc. (2010)
   a. **EVIDENTIARY STANDARD**. The award thereof must be based on the evidence presented, not on the personal knowledge of the court; and certainly not on flimsy, remote, speculative and nonsubstantial proof. One is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved.
   b. **IN THE CASE AT BAR**. To prove that salaries have been paid, TMX has the burden to show that payments have actually been made to its employees. However, the documents it submitted were composed only of a master list of daily and monthly paid employees, summarized and itemized lists and computations of payroll costs during the covered period of shoring installation, salary structures, and vouchers prepared by the accounting department.

<u>Lost profits (*lucrum cessans*)</u>

1. Algarra v. Sandejas (1914)
   a. **HOW PROVEN; NO NEED FOR EXACTITUDE.** Loss of profits of an established business which was yielding fairly steady returns at the time of its interruption by defendant's wrongful act is not so speculative or contingent that a court of justice may refuse to allow the plaintiff any damages at all. When the evidence shows the previous average income of the plaintiff's business and the reduced

receipts therefrom during or immediately after the interruption, there can be no doubt that a loss of profits has resulted. The fact that such a loss cannot be determined with exactitude is no reason for refusing to allow them at all. In such a case damages should be allowed for the diminution in profits from the time of the interruption until the business has resumed its normal proportions, based upon the time it has taken or will take the owner to rebuild it by the exercise of proper diligence.

b. **NOT AWARDED IN 'ADVENTURES.'** The plaintiffs' business lacked duration, permanency, and recognition. It was an adventure, as distinguished from an established business. Its profits were speculative and remote, existing only in anticipation. The law, with all its vigor and energy in its effort to right or wrongs and damages for injuries sustained, may not enter into a domain of speculation or conjecture. In view of the character and condition of the plaintiffs' business, the jury had not sufficient evidence from which to ascertain profits.

2. Cerrano v. Tan Chuco (1918, *en banc*)
    a. **NECESSARILY SPECULATIVE; BEST EVIDENCE RULE**. When the existence of a loss is established, absolute certainty as to its amount is not required. The benefit to be derived from a contract which one of the parties has absolutely failed to perform is of necessity to some extent, a matter of speculation, but the injured party is not to be denied all remedy for that reason alone. He must produce the best evidence of which his case is susceptible and if that evidence warrants the inference that he has been damaged by the loss of profits which he might with reasonable certainty have anticipated but for the defendant's wrongful act, he is entitled to recover.

3. Hicks v. Manila Hotel Company (1914, *en banc*)
    a. **BREACH BY ANTICIPATION**. Where a party bound to the future performance of a contract puts it out of his power to perform it, the other party may treat this as a breach and sue him at once, having thus an immediate right of action for breach of the contract by anticipation.
    b. **ID; HOW ESTIMATED.** The trial court should have found as damages in favor of the plaintiff the profits which he failed to realize by reason of the refusal of the defendant to permit him to continue under the contract for the second year, which were foreseen or might

have been foreseen at the time the contract was made and which were a necessary consequence of the breach.

c. **WHEN PLAINTIFF ENTITLED TO SUE.** The plaintiff, upon the breach of the contract by the defendant, was entitled at once to sue for damages, and in that action, he was entitled to recover all that he would have received in the future as well as in the past if the contract had been kept. He simply recovers the value of the contract to him at the time of the breach, including all the damages, past or future, resulting from the total breach of the contract.

4. Daywalt v. La Corporacion de Los Padres Agustinos Recoletos (1919, *en banc*)
   a. **TWO KINDS OF RECOVERABLE DAMAGES IN BREACH OF CONTRACT**. (1) Ordinary, natural and necessary damages; and (2) Special damages.
   b. **ID; ORDINARY DAMAGES**. Ordinary damages is found in all breaches of contract where there are no special circumstances to distinguish the case specially from other contracts. The consideration paid for an unperformed promise is an instance of this sort of damage. In all such cases the damages recoverable are such as naturally and generally would result from such a breach, according to the usual course of things. In cases involving only ordinary damage no discussion is ever indulged as to whether that damage was contemplated or not. This is conclusively presumed from the immediateness and inevitableness of the damage, and the recovery of such damage follows as a necessary legal consequence of the breach. Ordinary damage is assumed as a matter of law to be within the contemplation of the parties.
   c. **ID; SPECIAL DAMAGES**. Special damage, on the other hand, is such as follows less directly from the breach than ordinary damage. It is only found in case where some external condition, apart from the actual terms to the contract exists or intervenes, as it were, to give a turn to affairs and to increase damage in a way that the promisor, without actual notice of that external condition, could not reasonably be expected to foresee. *Hadley v. Baxendale* (1854) lays down the definite and just rule that before such damage can be recovered the plaintiff must show that the particular condition which made the damage a possible and likely consequence of the breach was known to the defendant at the time the contract was made.

d. **HOW SPECIAL DAMAGES MAY BE RECOVERED**. To bring damages within the category of recoverable special damages, it is necessary that the condition should be made the subject of contract in such sense as to become an express or implied term of the engagement.

5. Orient Freight International Inc. v. Keihin-Everett Forwarding Co. Inc. (2017)
    a. **GOOD FAITH VS. BAD FAITH BREACH; IN THE CASE AT BAR**. It could be reasonably foreseen that the failure to disclose the true facts of an incident, especially when it turned out that a crime might have been committed, would lead to a loss of trust and confidence in the party which was bound to disclose these facts. Petitioner caused the loss of trust and confidence when it misled respondent and Matsushita into believing that the incident had been irresponsibly reported and merely involved a stalled truck. Thus, petitioner is liable to respondent for the loss of profit sustained due to Matsushita's termination of the In-House Brokerage Service Agreement.

6. Consolidated Dairy Products Co. v. Court of Appeals (1992)
    a. **FORMULA FOR INDEMNIFICATION**. A more reasonable amount would be the average of the yearly profit for the five years preceding the closure (1971-1975) multiplied by the number of years remaining as provided for in the contract. The average yearly profit for 1971 to 1975 is P1,041,095.76. This amount multiplied by five years amounts to P5,205,478.80.

7. Universal International Investment (BVI) Ltd. v. Ray Burton Development Corporation (2016)
    a. **REQUISITES**. To recover damages, the claimant must prove (1) an injury or a wrong sustained (2) as a consequence of a breach of contract or tort and (3) caused by the party chargeable with a wrong.

<u>Injury to business standing or commercial credit</u>

ART. 2205. Damages may be recovered:

(1) For loss or impairment of earning capacity in cases of temporary or permanent personal injury;

(2) For injury to the plaintiff's business standing or commercial credit.

1. National Power Corporation v. Court of Appeals (1982)
    a. **MUST BE ESTABLISHED BY CLEAR EVIDENCE; IN THE CASE AT BAR**. And such actual or compensatory damages must be established by clear evidence. In justifying its award of damages in the amount of P500,000 for alleged injury to WILMAG's business standing or commercial credit, the appellate court merely took as good WILMAG's bare assertion that its "credit standing in the community were [sic] completely shattered, its entire business destroyed and its mortgages lost" but cites no evidence whatsoever to support the same. More importantly, these damages have no legal basis in view of our finding that WILMAG has no cause of action against NPC.

2. Araneta v. Bank of America (1971)
    a. **NATURE AND PROOF**. The financial credit of a businessman is a prized and valuable asset, it being a significant part of the foundation of his business. Any adverse reflection thereon constitutes some material loss to him. As stated in the case *Atlanta National Bank vs. Davis*, "it can hardly be possible that a customer's check can be wrongfully refused payment without some impeachment of his credit, which must in fact be an actual injury, though he cannot, from the nature of the case, furnish independent, distinct proof thereof."
    b. **IN THE CASE AT BAR**. The petitioner is a merchant of long standing and good reputation in the Philippines. Some of his record is cited in the decision appealed from. We are of the opinion that his claim for temperate damages is legally justified. Considering all the circumstances, including the rather small size of the petitioner's account with the respondent, the amounts of the checks which were wrongfully dishonored, and the fact that the respondent tried to rectify the error soon after it was discovered, although the rectification came after the damage had been caused, we believe that an award of P5,000 by way of temperate damages is sufficient.

3. Simex International (Manila) Inc. v. Court of Appeals (1990)

a. **NEED NOT BE PROVEN WITH ABSOLUTE CERTAINTY.** There is no question that the petitioner did sustain actual injury as a result of the dishonored checks and that the existence of the loss having been established "absolute certainty as to its amount is not required." Such injury should bolster all the more the demand of the petitioner for moral damages and justifies the examination by this Court of the validity and reasonableness of the said claim.

Indemnity for death

ART. 2206. The amount of damages for death caused by a crime or quasi-delict shall be at least three thousand pesos, even through there may have been mitigating circumstances. In addition:

(1) The defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to the heirs of the latter; such indemnity shall in every case be assessed and awarded by the court, unless the deceased on account of permanent physical disability not caused by the defendant, had no earning capacity at the time of his death;

(2) If the deceased was obliged to give support according to the provisions of article 291, the recipient who is not an heir called to the decedent's inheritance by the law of testate or intestate succession, may demand support from the person causing the death, for a period not exceeding five years, the exact duration to be fixed by the court;

(3) The spouse, legitimate and illegitimate descendants and ascendants of the deceased may demand moral damages for mental anguish by reason of the death of the deceased.

1. People of the Philippines v. Oandasan (2016, *en banc*)
    a. **DEFINITION**. Civil indemnity comes under the general provisions of the Civil Code on damages, and refers to the award given to the heirs of the deceased as a form of monetary restitution or compensation for the death of the victim at the hands of the accused. Its grant is mandatory and a matter of course, and without need of proof other than the fact of death as the result of the crime or quasi-delict, and the fact that the accused was responsible therefor.
    b. **NATURE**. The mandatory character of civil indemnity in case of death from crime or quasi-delict derives from the legal obligation of

the accused or the defendant to fully compensate the heirs of the deceased for his death as the natural consequence of the criminal or quasi-delictual act or omission.

c. **MONEY AS BEST REPLACEMENT**. Although money has been accepted as the most frequently used means of punishing, deterring, compensating and regulating injury throughout the legal system, it has been explained that money in the context of damages is not awarded as a replacement for other money, but as substitute for that which is generally more important than money; it is the best thing that a court can do.

d. **ECONOMIC REALITIES RULE**. Regardless, the civil indemnity for death, being compensatory in nature, must attune to contemporaneous economic realities; otherwise, the desire to justly indemnify would be thwarted or rendered meaningless. This has been the legislative justification for pegging the minimum (P3,000.00), but not the maximum, of the indemnity.

2. Catuiza v. People of the Philippines (1965)
    a. **ARTICLE 2206, NO. (1) AND (2) DISTINGUISHED.** Its second subdivision is not in point, for the award made in the decision appealed from is in favor of the "heirs" of the deceased, to which the first subdivision refers, whereas the second subdivision applies to persons entitled to support from the deceased who are not his heirs.

<u>Temporary or permanent loss of earning capacity</u>

1. Cruz v. Sun Holidays Inc. (2010)
    a. **DAMAGES DUE THE HEIRS FOR BREACH OF CONTRACT OF CARRIAGE RESULTING TO DEATH**. (1) Art. 1764[4] vis-à-vis art. 2206 holds the common carrier in breach of its contract of carriage that results in the death of a passenger liable to pay the following: (1) indemnity for death, (2) indemnity for loss of earning capacity and (3) moral damages.
    b. **DAMAGES REPRESENTING UNEARNED INCOME; FORMULA**. Net earning capacity = Life expectancy *x* (Gross annual

[4] Art. 1764: "Damages in cases comprised in this Section shall be awarded in accordance with Title XVIII of this Book, concerning Damages. *Article 2206 shall also apply to the death of a passenger caused by the breach of contract by a common carrier*."

income – Reasonable and necessary living expenses), where Life expectancy = 2/3 (80 – Age of deceased at the time of death).

c. **NET INCOME**. The loss is not equivalent to the entire earnings of the deceased, but only such portion as he would have used to support his dependents or heirs. Hence, to be deducted from his gross earnings are the necessary expenses supposed to be used by the deceased for his own needs.

d. **REASONABLE AND NECESSARY LIVING EXPENSES**. In computing the third factor – necessary living expense, *Smith Bell Dodwell Shipping Agency Corp. v. Borja* teaches that when, as in this case, there is no showing that the living expenses constituted the smaller percentage of the gross income, the living expenses are fixed at half of the gross income.

2. Tamayo v. Señora (2010)
   a. **LIFE EXPECTANCY**. Life expectancy shall be computed by applying the formula (2/3 x [80 - age at death]) adopted from the American Expectancy Table of Mortality or the Actuarial of Combined Experience Table of Mortality. Hence, the RTC erred in modifying the formula and using the retirement age of the members of the PNP instead of "80."
   b. **EVIDENCE OF GROSS ANNUAL INCOME**. Gross annual income requires the presentation of documentary evidence for the purpose of proving the victim's annual income.

3. De Caliston v. Court of Appeals (1993)
   a. **PENSION**. The pension of the decedent being a sure income that was cut short by her death for which Dalmacio was responsible, the surviving heir of the former is entitled to the award of P 10,000.00 which is just equivalent to the pension the decedent would have received for one year if she did not die.

4. Metro Manila Transit Corporation v. Court of Appeals (1998)
   a. **RULE WHEN VICTIM IS NOT EMPLOYED**. Evidence must be presented that the victim, if not yet employed at the time of death, was reasonably certain to complete training for a specific profession.
   b. **ID; VICTIM IS A MINOR.** Compensation should be allowed for loss of earning capacity resulting from the death of a minor who has

not yet commenced employment or training for a specific profession if sufficient evidence is presented to establish the amount thereof. The argument for allowing compensation for loss of earning capacity of a minor is even stronger if he or she was a student, whether already training for a specific profession or still engaged in general studies.

c. **IN THE CASE AT BAR.** Considering her good academic record, extra-curricular activities, and varied interests, it is reasonable to assume that Liza Rosalie would have enjoyed a successful professional career had it not been for her untimely death.
d. **GROSS ANNUAL INCOME; BASIS.** Her projected gross annual income, computed based on the minimum wage for workers in the non-agricultural sector in effect at the time of her death.

5. OMC Carriers Inc. v. Nabua (2010)
    a. **NOT AWARDED**. Respondents only testified to the fact that the victim, Reggie Nabua, was a freshman taking up Industrial Engineering at the Technological Institute of the Philippines in Cubao. Unlike in *Metro Transit* where evidence of good academic record, extra-curricular activities, and varied interests were presented in court, herein respondents offered no such evidence. Hence, the CA was correct when it deleted the award of compensatory damages amounting to P2,000,000.00, as the same is without any basis.

6. Sps. Pereña v. Sps. Zarate (2012)
    a. **MODIFIED FORMULA**. The RTC's computation of Aaron's life expectancy rate was not reckoned from his age of 15 years at the time of his death, but on 21 years, his age when he would have graduated from college. We find the considerations taken into account by the lower courts to be reasonable and fully warranted
    b. **EXAMPLES OF AWARD DESPITE NO EMPLOYMENT; FACTORS FOR CONSIDERATION**. In *Cariaga v. Laguna Tayabas Bus Company and Manila Railroad Company*, fourth-year medical student Edgardo Carriaga's earning capacity, although he survived the accident but his injuries rendered him permanently incapacitated, was computed to be that of the physician that he dreamed to become. The Court considered his scholastic record sufficient to justify the assumption that he could have finished the medical course and would have passed the medical board examinations in due time, and that he could have

possibly earned a modest income as a medical practitioner. Also, in *People v. Sanchez*, the Court opined that murder and rape victim Eileen Sarmienta and murder victim Allan Gomez could have easily landed good-paying jobs had they graduated in due time, and that their jobs would probably pay them high monthly salaries from P10,000.00 to P15,000.00 upon their graduation. Their earning capacities were computed at rates higher than the minimum wage at the time of their deaths due to their being already senior agriculture students of the University of the Philippines in Los Baños, the country's leading educational institution in agriculture.

7. Victory Liner Inc. v. Gammad (2004)
    a. **DOCUMENTARY EVIDENCE REQUIRED; EXCEPTIONS**. As a rule, documentary evidence should be presented to substantiate the claim for damages for loss of earning capacity. By way of exception, damages for loss of earning capacity may be awarded despite the absence of documentary evidence when (1) the deceased is self-employed earning less than the minimum wage under current labor laws, and judicial notice may be taken of the fact that in the deceased's line of work no documentary evidence is available; or (2) the deceased is employed as a daily wage worker earning less than the minimum wage under current labor laws.

8. Torreon v. Aparra (2017)
    a. **WHEN DOCUMENTARY EVIDENCE NOT REQUIRED**. Lack of documentary evidence is not fatal to a claim for the deceased's lost earning capacity. Testimony from a competent witness familiar with his salary is a sufficient basis to determine the deceased's income before his death.
    b. **WHO ARE COMPETENT TO TESTIFY**. This Court has previously accepted a competent witness' testimony to determine the deceased's income. In *Pleyto v. Lomboy*, this Court used the testimony of the deceased's widow as basis to estimate his earning capacity. In a torts case, this Court also accepted testimony from co-workers of the deceased to establish his income before his death. If co-workers were deemed competent to testify on the compensation that the deceased was receiving, all the more should an employer be allowed to testify on the amount she was paying her deceased employee.

c. **STEP-BY-STEP GUIDE ON COMPUTING**. (1) Subtract the age of the deceased from 80. (2) Multiply the answer in (1) by 2, and divide it by 3 (these operations, are interchangeable). (3) Multiply 50% to the annual gross income of the deceased. (4) Multiply the answer in (2) by the answer in (3).

9. Apolinario v. Heirs of De Los Santos (2024)
    a. **DOCUMENTARY EVIDENCE REQUIRED**. Awards for loss of earning capacity partake of damages which must be proven not only by credible and satisfactory evidence, but also by unbiased proof. Even the testimony by a relative of the deceased on the alleged income of the deceased is insufficient. As a rule, documentary evidence should be presented to substantiate a claim for damages for loss of earning capacity, subject to certain exceptions.
    b. **CLARIFICATION ON *PLEYTO.*** While the Court previously held in *Pleyto v. Lomboy* that testimonial evidence suffices to establish a basis for which the court can make a fair and reasonable estimate of the loss of earning capacity, the Court in later cases deleted the award for loss of earning capacity when its sole basis for the claim were the testimonies of the claimants.

10. Philtranco Service Enterprises Inc. v. Paras (2012)
    a. **TEMPORARY LOSS OF EARNING CAPACITY; FORMULA**. Even so, the formula that has gained acceptance over time has limited recovery to net earning capacity; hence, the entire amount of P72,000.00 is not allowable. The premise is obviously that net earning capacity is the person's capacity to acquire money, less the necessary expense for his own living. To simplify the determination, therefore, the net earning capacity of Paras during the 9-month period of his confinement, surgeries and consequential therapy is pegged at only half of his unearned monthly gross income of P8,000.00 as a trader, or a total of P36,000.00 for the 9-month period, the other half being treated as the necessary expense for his own living in that period. In expression form: ½ (Monthly gross income *x* No. of months incapacitated).

<u>Attorney's fees</u>

ART. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

(1) When exemplary damages are awarded;

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

(3) In criminal cases of malicious prosecution against the plaintiff;

(4) In case of a clearly unfounded civil action or proceeding against the plaintiff;

(5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;

(6) In actions for legal support;

(7) In actions for the recovery of wages of household helpers, laborers and skilled workers;

(8) In actions for indemnity under workmen's compensation and employer's liability laws;

(9) In a separate civil action to recover civil liability arising from a crime;

(10) When at least double judicial costs are awarded;

(11) In any other case where the court deems it just and equitable that the attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

1. Padilla Machine Shop v. Javilgas (2008)
    a. **TWO CONCEPTS OF ATTORNEY'S FEES**. In this jurisdiction, there are two concepts of attorney's fees. In the ordinary sense, attorney's fees represent the reasonable compensation paid to a lawyer by his client for the legal services he has rendered to the latter. On the other hand, in its extraordinary concept, attorney's fees may be awarded by the court as indemnity for damages to be paid by the losing party to the prevailing party, and not counsel. In its extraordinary sense, attorney's fees as part of damages is awarded only in the instances specified in art. 2208.

2. Petron Corporation v. National College of Business and Arts (2007)
    a. **ARTICLE 2208 (5) CONSTRUED**. Art. 2208 (5) contemplates a situation where one refuses unjustifiably and in evident bad faith to satisfy another's plainly valid, just and demandable claim, compelling the latter needlessly to seek redress from the courts. In such a case, the law allows recovery of money the plaintiff had to spend for a lawyer's assistance in suing the defendant–expenses the plaintiff would not have incurred if not for the defendant's refusal to comply with the most basic rules of fair dealing.
    b. **GROSS AND EVIDENT BAD FAITH A REQUIREMENT**. It does not mean, however, that the losing party should be made to pay attorney's fees merely because the court finds his legal position to be erroneous and upholds that of the other party, for that would be an intolerable transgression of the policy that no one should be penalized for exercising the right to have contending claims settled by a court of law. In fact, even a clearly untenable defense does not justify an award of attorney's fees unless it amounts to gross and evident bad faith.

3. Buan v. Camaganacan (1966)
    a. **JUSTIFICATION REQUIRED**. The exercise of judicial discretion in the award of attorney's fees under art. 2208 (11) demands a factual, legal, or equitable justification upon the basis of which the court exercises its discretion. Without such justification, the award is a conclusion without a premise, as basis being improperly left to speculation and conjecture.

4. Villanueva v. Salvador (2006)
    a. **NATURE AND REQUIREMENTS**. Counsel's fees are not awarded every time a party prevails in a suit because of the policy that no premium should be placed on the right to litigate. Attorney's fees, as part of damages, are assessed only in the instances specified in art. 2208. And it is necessary for the trial court to make express findings of fact and law that would bring the case within the exception. In short, the factual, legal or equitable justification for the award must be set forth in the text of the decision. The matter of attorney's fees cannot be touched only in the *fallo* of the decision, else the award should be thrown out for being speculative and conjectural.

b. **NOT AWARDED; IN THE CASE AT BAR**. Certainly not lost on the Court is the fact that petitioners, after being served with summons, made an attempt to obviate litigation by offering to accept tender of payment and return the jewelry. This offer, however belated, could have saved much expense on the part of both parties, as well as the precious time of the court itself. The respondents chose to turn down this offer and pursue judicial recourse. With this in mind, it hardly seems fair to award them attorney's fees at petitioners' expense.

<u>Interest</u>

1. Lara's Gifts & Decors Inc. v. Midtown Industrial Sales Inc. (2019 & 2022, *en banc*)
    a. **TWO KINDS OF INTEREST**. Interest is of two major kinds—conventional interest and compensatory interest.
    b. **CONVENTIONAL INTEREST**. In an onerous simple loan, the compensation to be paid by the borrower is referred to as conventional interest, as it is the interest agreed to by the parties themselves as distinguished from that prescribed by law. However, payment of conventional interest is allowed only if the following conditions concur: (1) There is an express stipulation for the payment of interest, and (2) The stipulation for the payment of interest is in writing.
    c. **ID; HOW DETERMINED**. Pursuant to the Usury Law, the applicable interest rate in the loan of money, goods, or credits (simple loans), shall be determined as follows: (1) If there is an interest rate stipulated, then the interest rate as stipulated shall be applicable. (2) If there is no stipulation on the interest rate, then the interest rate prescribed by statute (or legal interest) shall be applicable. But insofar as simple loans are concerned, this rule on legal interest applies only if in the first place, conventional interest was expressly stipulated in writing and only the rate of interest was left unstipulated.
    d. **ID; INTEREST ON INTEREST**. For conventional interest, the general rule is that interest is paid on the principal only (simple interest). Consequently, interest on interest, that is, the compensation for interest that is due and unpaid, is generally not demandable. It is only demandable if there is conventional interest—that is, an express stipulation in writing to pay interest in a contract of loan—and any or both of the following instances are applicable: (1) When by stipulation of the parties, compounding or capitalizing of interest is agreed upon,

in which case, previously accumulated interest is added as principal and earns interest as such (compound interest); (2) When interest that is due and unpaid is judicially demanded, whether or not there is an agreement or stipulation to this effect. Judicial demand is reckoned from the date of filing of a complaint in court. The rate of interest shall be the legal rate applicable to loans or forbearance of money.

e. **ID; UNTIL WHEN IT RUNS**. The conventional interest continues to accrue under the terms of the loan until actual payment is effected. The payment of conventional interest, specifically monetary interest, constitutes the price or cost of the use of money and thus, continues to accrue until the principal sum due is returned to the creditor
f. **COMPENSATORY INTEREST**. Compensatory interest, also referred to as penalty interest, indemnity, or moratory interest, is the indemnity for damages arising from delay on the part of the debtor in an obligation consisting in the payment of a sum of money. It is interest allowed by law in the absence of a promise to pay interest as compensation for delay in paying a fixed sum or a delay in assessing and paying damages.
g. **ID; AS A PENAL CLAUSE**. Although compensatory interest, unlike conventional interest, need not be expressly stipulated in writing, the parties may freely stipulate on compensatory interest through a penalty or penal clause.
h. **ID; WHEN IT BEGINS TO ACCRUE**. If the debtor were in delay, then compensatory interest, as a matter of law, will accrue in addition to conventional interest.
i. **RULE ON UNCONSCIONABILITY; CONVENTIONAL INTEREST; EFFECTS**. In cases where stipulated interest is more than twice the prevailing legal rate of interest, it is for the creditor to prove that this rate is required by prevailing market conditions. Furthermore, where the monetary interest rate is found to be unconscionable, only the rate is nullified and deemed not written into the contract; the parties' agreement on the payment of interest remains. In such instance, the legal rate of interest prevailing at the time the agreement was entered into is applied by the courts.
j. **ID; COMPENSATORY INTEREST**. The question of whether a penalty is reasonable or iniquitous can be partly subjective and partly objective. Its resolution would depend on such factors as, but not necessarily confined to, the type, extent and purpose of the penalty, the

nature of the obligation, the mode of breach and its consequences, the supervening realities, the standing and relationship of the parties, and the like, the application of which, by and large, is addressed to the sound discretion of the court.

k. **INTEREST ON INTEREST UNDER ART. 2212 IS NOT DISCRETIONARY**. Art. 2212's interest on interest is penalty or indemnity for delay in the payment of stipulated interest. It is expressly prescribed by law and deemed written into every contract. This, all contracting parties should be aware of when they stipulate on the payment of interest.

Moral damages

ART. 2217. Moral damages include physical suffering, metal 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.

ART. 2219. Moral damages may be recovered in the following and analogous cases:

(1) A criminal offense resulting in physical injuries;
(2) Quasi-delicts causing physical injuries;
(3) Seduction, abduction, rape, or other lascivious acts;
(4) Adultery or concubinage;
(5) Illegal or arbitrary detention or arrest;
(6) Illegal search;
(7) Libel, slander or any other form of defamation;
(8) Malicious prosecution
(9) Acts mentioned in Article 309[5];
(10) Acts and actions referred to in Articles 21[6], 26[7], 27[8], 28[9], 29[10], 30[11], 32[12], 34[13], and 35.

[5] Any person who shows disrespect to the dead, or wrongfully interferes with a funeral shall be liable to the family of the deceased for damages, material and moral.
[6] Abuse of right, contrary to morals, good customs or public policy. *See Wassmer v. Velez*.
[7] Disrespect of persons.
[8] Dereliction of duty.
[9] Unfair competition.
[10] Civil liability following acquittal due to reasonable doubt.
[11] Civil liability arising from a crime where no criminal proceedings were instituted.
[12] Violation of civil or political rights.
[13] Police force refuses or fails to render aid or protection.

The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brothers and sisters may bring the action mentioned in No. 9 of this article, in the order named.

1. Villanueva v. Salvador (2006)
    a. **REQUISITES**. The conditions required in awarding moral damages are: (1) there must be an injury, whether physical, mental or psychological, clearly sustained by the claimant; (2) there must be a culpable act or omission factually established; (3) the wrongful act or omission of the defendant must be the proximate cause of the injury sustained by the claimant; and (4) the award of damages is predicated on any of the cases stated in art. 2219.
    b. **PROOF OF FRAUD OR BAD FAITH**. While there need not be a showing that the defendant acted in a wanton or malevolent manner, as this is a requirement for an award of exemplary damages, there must still be proof of fraudulent action or bad faith for a claim for moral damages to succeed.
    c. **MORAL DAMAGES IN BREACH OF CONTRACT; NOT AWARDED AS A GENERAL RULE.** Moral damages are generally not recoverable in *culpa contractual* except when bad faith supervenes and is proven.[14]

2. Mayo v. People of the Philippines (1991)
    a. **MAY BE RECOVERED DUE TO PHYSICAL INJURIES**. Her injuries resulting in a permanent scar at her forehead and the loss of her right eye undoubtedly gave her mental anguish, wounded feelings and shock. The psychological effect on her as regards the scar on her forehead and her false eye must have devastated her considering that women in general are fastidious on how they look.
    b. **LOSS OF A BOYFRIEND AS A RESULT OF PHYSICAL INJURIES IS NOT A GROUND FOR MORAL DAMAGES.** No doubt, the loss of her boyfriend after the accident added to her mental and emotional sufferings and psychologically affected and disturbed

[14] *See* art. 2200: "Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. *The same rule applies to breach of contract where the defendant acted fraudulently or in bad faith*."

her. However, there is no clear evidence on record to show that her boyfriend left her after the accident due to her physical injuries. He may have left her even if she did not suffer the slightest injury. The reasons for the break-up of a courtship are too many and too complicated such that they should not form the basis of damages arising from a vehicular accident. Moreover, granting that her boyfriend left her due to her physical injuries, we still find no legal basis for the award of moral damages in favor of complainant Navarette because of the loss of a boyfriend. Art. 2719 enumerates cases wherein moral damages may be granted. Loss of a boyfriend because of physical injuries suffered after an accident is not one of them. Neither can it be categorized as an analogous case.

c. **GUIDEPOSTS IN THE AWARD OF MORAL DAMAGES.** The well-entrenched principle is that moral damages depend upon the discretion of the trial courts based on the facts and circumstances of each case. This discretion is, however, conditioned in that the amount awarded should not be palpably and scandalously excessive so as to indicate that it was the result of prejudice or corruption on the part of the trial court. In determining the amount of moral damages, the actual losses sustained by the aggrieved party and the gravity of the injuries must be considered. Finally, moral damages are emphatically not intended to enrich a complainant at the expense of the defendant. They are awarded only to enable the injured party to obtain means, diversion or amusements that will serve to alleviate the moral suffering he has undergone, by reason of the defendant's culpable action.

3. Kierulf v. Court of Appeals (1997)
    a. **MARITAL CONSORTIUM**. *Rodriguez* ruled that when a person is injured to the extent that he/she is no longer capable of giving love, affection, comfort and sexual relations to his or her spouse, that spouse has suffered a direct and real personal loss. The loss is immediate and consequential rather than remote and unforeseeable; it is personal to the spouse and separate and distinct from that of the injured person.
    b. **ID; *RODRIGUEZ* CASE**. *Rodriguez* involved a couple in their early 20s, who were married for only 16 months and full of dreams of building a family of their own, when the husband was struck and almost paralyzed by a falling 600-pound pipe. The wife testified how her life had deteriorated because her husband became a lifelong invalid,

confined to the home. bedridden and in constant need of assistance for his bodily functions; and how her social, recreational and sexual life had been severely restricted. It also deprived her of the chance to bear their children. As a constant witness to her husband's pain, mental anguish and frustration, she was always nervous, tense, depressed and had trouble sleeping, eating and concentrating. Thus, the California court awarded her damages for loss of consortium.

c. **IN THE CASE AT BAR**. Whether *Rodriguez* may be cited as authority to support the award of moral damages to Victor and/or Lucila Kierulf for "loss of consortium," however, cannot be properly considered in this case. Victor's claim for deprivation of his right to consortium, although argued before Respondent Court, is not supported by the evidence on record. His wife might have been badly disfigured, but he had not testified that, in consequence thereof, his right to marital consortium was affected. Clearly, Victor (and for that matter, Lucila) had failed to make out a case for loss of consortium, unlike the *Rodriguez* spouse.
d. **CONSIDERATION OF SOCIAL OR FINANCIAL STANDING; CONTEMPTUOUS CONDUCT**. The social and financial standing of a claimant of moral damages may be considered in awarding moral damages only if he or she was subjected to contemptuous conduct despite the offender's knowledge of his or her social and financial standing.

4. Filipinas Broadcasting Network Inc. v. AGO Medical and Educational Center (2005)
    a. **RULE ON CORPORATIONS**. A juridical person is generally not entitled to moral damages because, unlike a natural person, it cannot experience physical suffering or such sentiments as wounded feelings, serious anxiety, mental anguish or moral shock.[15]
    b. **ID; EXCEPTION; CASES OF DEFAMATION**. Art. 2219 (7) expressly authorizes the recovery of moral damages in cases of libel, slander or any other form of defamation. It does not qualify whether the plaintiff is a natural or juridical person. Therefore, a juridical person

[15] There is no standing doctrine that corporations are, as a matter of right, entitled to moral damages. The existing rule is that moral damages are not awarded to a corporation since it is incapable of feelings or mental anguish. Exceptions, if any, only apply *pro hac vice* (*Noel Whessoe Inc. v. Independent Testing Consultants,* 842 Phil. 899 (2018)).

such as a corporation can validly complain for libel or any other form of defamation and claim for moral damages.

5. Arco Pulp and Paper Co. Inc. v. Lim (2014)
    a. **MORAL DAMAGES IN BREACH OF CONTRACT CASES.** Breaches of contract done in bad faith, however, are not specified within art. 2219. When a party breaches a contract, he or she goes against art. 19 of the Civil Code. However, art. 19 is the general rule which governs the conduct of human relations. By itself, it is not the basis of an actionable tort. Art. 19 describes the degree of care required so that an actionable tort may arise when it is alleged together with art. 20 or art. 21. In relation to art. 20, when parties act in bad faith and do not faithfully comply with their obligations under contract, they run the risk of violating art. 1159.
    b. **NOT AN EXHAUSTIVE LIST.** Art. 2219 is not an exhaustive list of the instances where moral damages may be recovered since it only specifies, among others, art. 21. When a party reneges on his or her obligations arising from contracts in bad faith, the act is not only contrary to morals, good customs, and public policy; it is also a violation of art. 1159. Breaches of contract become the basis of moral damages, not only under art. 2220, but also under art. 19 and 20 in relation to art. 1159.
    c. **BAD FAITH STILL REQUIRED.** Moral damages, however, are not recoverable on the mere breach of the contract. Art. 2220 requires that the breach be done fraudulently or in bad faith.

6. Fores v. Miranda (1959)
    a. **RULE ON BREACH OF CONTRACT OF CARRIAGE**. Moral damages are not recoverable in damage actions predicated on a breach of the contract of transportation. In case of breach of contract (including one of transportation) proof of bad faith or fraud (*dolus*), *i.e.,* wanton or deliberately injurious conduct, is essential to justify an award of moral damages. A breach of contract cannot be considered included in the description term "analogous cases" used in art. 2219; not only because art. 2220 specifically provides for the damages that are caused by contractual breach, but because the definition of quasi-delict in art. 2176 of the Code expressly excludes the cases where there is a "preexisting contractual relation between the parties."

b. **EXCEPTIONS**. (1) The exception to the basic rule of damages now under consideration is a mishap resulting in the death of a passenger, in which case art. 1764 makes the common carrier expressly subject to the rule of art. 2206. (2) But the exceptional rule of art. 1764 makes it more evident that where the injured passenger does not die, moral damages are not recoverable unless it is proved that the carrier was guilty of malice or bad faith.

7. Sulpicio Lines Inc. v. Curso (2010)
   a. **RULE ON BREACH OF CONTRACT OF CARRIAGE.** Moral damages may be recovered in an action upon breach of contract of carriage only when: (a) where death of a passenger results, or (b) it is proved that the carrier was guilty of fraud and bad faith, even if death does not result.
   b. **WHO MAY DEMAND.** Art. 2206 entitles the descendants, ascendants, illegitimate children, and surviving spouse of the deceased passenger to demand moral damages for mental anguish by reason of the death of the deceased.
   c. **ID; SIBLINGS NOT INCLUDED**. The omission from art. 2206 (3) of the brothers and sisters of the deceased passenger reveals the legislative intent to exclude them from the recovery of moral damages for mental anguish by reason of the death of the deceased. *Inclusio unius est exclusio alterius*.

Nominal damages

ART. 2221. Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.

ART. 2222. The court may award nominal damages in every obligation arising from any source enumerated in article 1157, or in every case where any property right has been invaded.

ART. 2223. The adjudication of nominal damages shall preclude further contest upon the right involved and all accessory questions, as between the parties to the suit, or their respective heirs and assigns.

1. Ventanilla v. Centeno (1961)
    a. **PURPOSE**. Nominal damages are not for indemnification of loss suffered but for the vindication or recognition of a right violated or invaded.
    b. **IN THE CASE AT BAR**. Even if the appeal in civil case No. 18833 had been duly perfected, it was not an assurance that the appellant would succeed in recovering the amount he had claimed in his complaint, the amount of P2,000 the appellant seeks to recover as nominal damages is excessive.

2. Vda. de Medina v. Cresencia (1956)
    a. **CANNOT COEXIST WITH ACTUAL DAMAGES**. Since the court below has already awarded compensatory and exemplary damages that are in themselves a judicial recognition that plaintiff's right was violated, the award of nominal damages is unnecessary and improper.

3. Seven Brothers Shipping Corp. v. DMC-Construction Resources Inc. (2014)
    a. **WHEN RECOVERABLE**. Nominal damages are recoverable where a legal right is technically violated and must be vindicated against an invasion that has produced no actual present loss of any kind or where there has been a breach of contract and no substantial injury or actual damages whatsoever have been or can be shown.
    b. **ID; EXAMPLES**. Thus, in *Saludo v. Court of Appeals*, nominal damages were granted because while petitioner suffered no substantial injury, his right to be treated with due courtesy was violated by the respondent, Transworld Airlines, Inc. Nominal damages were likewise awarded in *Northwestern Airlines v. Cuenca*, *Francisco v. Ferrer*, and *Areola v. Court of Appeals*, where a right was violated, but produced no injury or loss to the aggrieved party.

Temperate damages

ART. 2224. Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount can not, from the nature of the case, be proved with certainty.

ART. 2225. Temperate damages must be reasonable under the circumstances.

1. Equitable PCI Bank v. Tan (2010)
    a. **WHEN AWARDED**. In the absence of competent proof on the actual damages suffered, respondent is entitled to temperate damages.
    b. **A RULE OF EQUITY**. The allowance of temperate damages when actual damages were not adequately proven is ultimately a rule drawn from equity, the principle affording relief to those definitely injured who are unable to prove how definite the injury.
    c. **IN THE CASE AT BAR**. It is apparent that respondent suffered pecuniary loss. The negligence of petitioner triggered the disconnection of his electrical supply, which temporarily halted his business operations and the consequent loss of business opportunity. However, due to the insufficiency of evidence before us, we cannot place its amount with certainty.

2. People of the Philippines v. Gutierrez (2010)
    a. **TEMPERATE AND ACTUAL DAMAGES CANNOT COEXIST**. Temperate and actual damages are mutually exclusive in that both may not be awarded at the same time. Hence, no temperate damages may be awarded if actual damages have already been granted.[16]
    b. **DEATH *EX DELICTO*; RECOVERABLE DAMAGES**. When death occurs due to a crime, the following may be recovered: (1) civil indemnity *ex delicto* for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5) attorney's fees and expenses of litigation; and (6) interest, in proper cases.

Liquidated damages

ART. 2226. Liquidated damages are those agreed upon by the parties to a contract, to be paid in case of breach thereof.

ART. 2227. Liquidated damages, whether intended as an indemnity or a penalty, shall be equitably reduced if they are iniquitous or unconscionable.

[16] *But see Ramos v. Court of Appeals*.

ART. 2228. When the breach of the contract committed by the defendant is not the one contemplated by the parties in agreeing upon the liquidated damages, the law shall determine the measure of damages, and not the stipulation.

1. Azcuna v. Court of Appeals (1996)
    a. **UNLAWFUL DETAINER; DAMAGES**. Liquidated damages may be recovered above and beyond the fair rental value for the use and occupation of the property as provided for in Rule 70, Sec. 8 of the Rules of Court.
    b. **VALIDITY OF LIQUIDATED DAMAGES.** The freedom of the contracting parties to make stipulations in their contract, provided they are not contrary to law, morals, good customs, public order or public policy is so settled. An agreement for liquidated damages will be upheld so long as it has not been forced upon or fraudulently foisted.

2. Philippine Economic Zone Authority v. Pilhino Sales Corp. (2016)
    a. **EFFECT OF RESOLUTION**. Mutual restitution under art. 1191 is no license for the negation of contractually stipulated liquidated damages. The provision states that the payment of damages come in either resolution or specific performance.
    b. **RULE APPLICABLE IN EITHER JUDICIAL OR EXTRAJUDICIAL RESOLUTION**. The distinction between judicial and extrajudicial rescission is in how extrajudicial rescission is possible only when the contract has an express stipulation to that effect. This distinction does not diminish the rights of a contracting party under art. 1191 and is immaterial for purposes of the availability of liquidated damages.
    c. **LIQUIDATED DAMAGES; DEFINED**. Liquidated damages are those that the parties agree to be paid in case of a breach. As worded, the amount agreed upon answers for damages suffered by the owner due to delays in the completion of the project. These damages take the nature of penalties. A penal clause is an accessory undertaking to assume greater liability in case of a breach. It is attached to an obligation to ensure performance.
    d. **NATURE OF LIQUIDATED DAMAGES**. Liquidated damages are a penalty, meant to impress upon defaulting obligors the graver consequences of their own culpability. Liquidated damages must necessarily make noncompliance more cumbersome than compliance.

3. Filinvest Land Inc. v. Court of Appeals (2005)
    a. **PENAL CLAUSE; DUAL FUNCTIONS**. (1) To provide for liquidated damages; and (2) To strengthen the coercive force of the obligation.
    b. **ID; TWO TYPES.** (1) Where the amount or character of the indemnity is fixed without regard to the probable damages which might be anticipated as a result of a breach of the terms of the contract; and (2) Where the principle purpose of the indemnification agreed upon appears to have been to provide for the payment of actual anticipated and liquidated damages rather than the penalization.
    c. **ID; ID; WHEN DISTINCTION IRRELEVANT**. In cases where there has been partial or irregular compliance, there will be no substantial difference between a penalty and liquidated damages insofar as legal results are concerned.
    d. **WHEN PENALTY MAY BE REDUCED**. (1) If the principal obligation has been partly or irregularly complied; and (2) Even if there has been no compliance, if the penalty is iniquitous or unconscionable under art. 1229.
    e. **ID; REDUCTION DUE TO SUBSTANTIAL COMPLIANCE**. If there has been substantial compliance in good faith on the part of the obligor, the penalty, if fully applied, may become unconscionable.

Exemplary damages

ART. 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

ART. 2233. Exemplary damages cannot be recovered as a matter of right; the court will decide whether or not they should be adjudicated.

ART. 2234. While the amount of the exemplary damages need not be proved, the plaintiff must show that he is entitled to moral, temperate or compensatory damages before the court may consider the question of whether or not exemplary damages should be awarded. In case liquidated damages have been agreed upon, although no proof of loss is necessary in order that such liquidated damages may be recovered, nevertheless, before the court may consider the question of granting exemplary in addition to the liquidated damages, the plaintiff must show that he

would be entitled to moral, temperate or compensatory damages were it not for the stipulation for liquidated damages.

ART. 2235. A stipulation whereby exemplary damages are renounced in advance shall be null and void.

1. Consolidated Dairy Products Co. v. Court of Appeals (1992)
    a. **WHEN AWARDED IN BREACH OF CONTRACT.** Where a defendant violates a contract with plaintiff, the court may award exemplary damages if the defendant acted in a wanton, fraudulent, reckless, oppressive and malevolent manner.
    b. **ID; IN THE CASE AT BAR.** There is no doubt that the breach committed by the petitioners was made in a wanton and fraudulent manner. There was no reason for petitioners to terminate the can supply contract with Standard. The latter was purposely organized for the benefit of Consolidated Philippines. Neither was there a need to close Consolidated Philippines because Consolidated Seattle had all the intentions of continuing its business only this time to be undertaken by its sole subsidiary, Dexco to the prejudice of Standard.

2. Interphil Laboratories Inc. v. OEP Philippines Inc. (2019)
    a. **NATURE.** Also known as "punitive" or "vindictive" damages, exemplary or corrective damages are intended to serve as a deterrent to serious wrong doings, and as a vindication of undue sufferings and wanton invasion of the rights of an injured or a punishment for those guilty of outrageous conduct. These terms are generally, but not always, used interchangeably. In either case, these damages are intended in good measure to deter the wrongdoer and others like him from similar conduct in the future.
    b. **ID; IN COMMON LAW.** There is preference in the use of exemplary damages when the award is to account for injury to feelings and for the sense of indignity and humiliation suffered by a person as a result of an injury that has been maliciously and wantonly inflicted, the theory being that there should be compensation for the hurt caused by the highly reprehensible conduct of the defendant—associated with such circumstances as willfulness, wantonness, malice, gross negligence or recklessness, oppression, insult or fraud or gross fraud—that intensifies the injury.

c. **ID; IN CIVIL LAW.** The terms punitive or vindictive damages are often used to refer to those species of damages that may be awarded against a person to punish him for his outrageous conduct.

3. People of the Philippines v. Catubig (2001, *en banc*)
    a. **AGGRAVATING CIRCUMSTANCE IN CIVIL LAW.** Relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of art. 2230.
    b. **RATIONALE.** It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying.

4. People of the Philippines v. Jugueta (2016, *en banc*)
    a. **AGGRAVATING CIRCUMSTANCE NOT ALLEGED IN INFORMATION.** In the civil aspect, the presence of an aggravating circumstance, even if not alleged in the information but proven during trial would entitle the victim to an award of exemplary damages.
    b. **ID; EXCEPTION.** Being corrective in nature, exemplary damages, therefore, can be awarded, not only due to the presence of an aggravating circumstance, but also where the circumstances of the case show the highly reprehensible or outrageous conduct of the offender.
    c. **EXAMPLES.** (1) To deter other fathers with perverse tendencies or aberrant sexual behavior from sexually abusing their own daughters; (2) On account of moral corruption, perversity and wickedness of the accused in sexually assaulting a pregnant married woman; and (3) To set a public example, to serve as deterrent to elders who abuse and corrupt the youth, and to protect the latter from sexual abuse.

5. Guy v. Tulfo (2019)
    a. **NATURE.** Exemplary or corrective damages are imposed by way of example or correction for the public good. It is imposed as a punishment for highly reprehensible conduct and serves as a notice to prevent the public from the repetition of socially deleterious actions. Such damages are required by public policy, for wanton acts must be suppressed. They are an antidote so that the poison of wickedness may not run through the body politic.

b. **REQUIREMENTS FOR AWARD IN QUASI-DELICT.** (1) They may be imposed by way of example or correction only in addition, among others, to compensatory damages, and cannot be recovered as a matter of right, their determination depending upon the amount of compensatory damages that may be awarded to the claimant; (2) The claimant must first establish his right to moral, temperate, liquidated or compensatory damages; and (3) The wrongful act must be accompanied by bad faith, and the award would be allowed only if the guilty party acted in a wanton, fraudulent, reckless, oppressive or malevolent manner.

6. Quezon City Government v. Dacara (2005)
   a. **WHEN AWARDED ON TOP OF COMPENSATORY DAMAGES**. In cases of quasi-delicts, exemplary damages may be recovered if the defendant acted with gross negligence.
   b. **NOT A MATTER OF RIGHT**. Exemplary damages cannot be recovered as a matter of right. While granting them is subject to the discretion of the court, they can be awarded only after claimants have shown their entitlement to moral, temperate or compensatory damages.
   c. **PUBLIC INTEREST**. Not only is the work of petitioners impressed with public interest; their very existence is justified only by public service. Hence, local governments have the paramount responsibility of keeping the interests of the public foremost in their agenda. For these reasons, it is most disturbing to note that the present petitioners are the very parties responsible for endangering the public through such a rash and reckless act.

Source of obligation	Condition for award of exemplary damages
Crimes	Presence of one or more aggravating circumstances
Quasi-delicts	Defendant acted with gross negligence
Contracts and quasi-contracts	Defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner

Mitigation of damages

ART. 2214. In quasi-delicts, the contributory negligence of the plaintiff shall reduce the damages that he may recover.

ART. 2215. In contracts, quasi-contracts, and quasi-delicts, the court may equitably mitigate the damages under circumstances other than the case referred to in the preceding article, as in the following instances:

(1) That the plaintiff himself has contravened the terms of the contract;

(2) That the plaintiff has derived some benefit as a result of the contract;

(3) In cases where exemplary damages are to be awarded, that the defendant acted upon the advice of counsel;

(4) That the loss would have resulted in any event;

(5) That since the filing of the action, the defendant has done his best to lessen the plaintiff's loss or injury.

1. Lim v. Court of Appeals (2002)
    a. **DOCTRINE OF AVOIDABLE CONSEQUENCES**. One who is injured then by the wrongful or negligent act of another should exercise reasonable care and diligence to minimize the resulting damage. Anyway, he can recover from the wrongdoer money lost in reasonable efforts to preserve the property injured and for injuries incurred in attempting to prevent damage to it.
    b. **ID; IN THE CASE AT BAR**. However, we sadly note that in the present case petitioners failed to offer in evidence the estimated amount of the damage caused by private respondent's unconcern towards the damaged vehicle. It is the burden of petitioners to show satisfactorily not only that the injured party could have mitigated his damages but also the amount thereof; failing in this regard, the amount of damages awarded cannot be proportionately reduced.
    c. **PURPOSE OF DAMAGES**. In awarding damages for the tortuous injury, it becomes the sole design of the courts to provide for adequate compensation by putting the plaintiff in the same financial position he was in prior to the tort. It is fundamental principle in the law on damages that a defendant cannot be held liable in damages for more than actual loss which he has inflicted and that a plaintiff is entitled to no more than the just and adequate compensation for the injury suffered. His recovery is, in the absence of circumstances giving rise to an allowance of punitive damages, limited to a fair compensation for

the harm done. The law will not put him in a position better than where he should be in had not the wrong happened.

d. **CONCEPT OF THE "KABIT" SYSTEM; REGISTERED OWNER RULE**. In the early case of *Dizon v. Octavio* the Court explained that one of the primary factors considered in the granting of a certificate of public convenience for the business of public transportation is the financial capacity of the holder of the license, so that liabilities arising from accidents may be duly compensated. The *kabit* system renders illusory such purpose and, worse, may still be availed of by the grantee to escape civil liability caused by a negligent use of a vehicle owned by another and operated under his license. If a registered owner is allowed to escape liability by proving who the supposed owner of the vehicle is, it would be easy for him to transfer the subject vehicle to another who possesses no property with which to respond financially for the damage done. Thus, for the safety of passengers and public who may have been wronged and deceived through the baneful *kabit* system, the registered owner of the vehicle is not allowed to prove that another person has become the owner so that he may be thereby relieved of responsibility.

2. Ong v. Bogñalbal (2006)
   a. **ART. 2215 IS NOT IN CONFLICT WITH ART. 1192**. Arts. 1192[17] and 2215 are not irreconcilably conflicting. The plaintiff referred to in art. 2215 (1) should be deemed to be the second infractor, while the one whose liability for damages may be mitigated is the first infractor. Furthermore, the directions to equitably temper the liability of the first infractor in arts. 1192 and 2215 are both subject to the discretion of the court, despite the word "shall" in art. 1192, in the sense that it is for the courts to decide what is equitable under the circumstances.
   b. **ART. 1192 PRESUPPOSES THAT THE PARTIES ARE ON EQUAL FOOTING**. Care must, however, be judiciously taken when applying art. 1192 to contracts such as this where there has been partial performance on the part of either or both reciprocal obligors. Art. 1192, in making the first infractor liable for mitigated damages and in

[17] Art. 1192 reads: "In case both parties have committed a breach of the obligation, the liability of the first infractor shall be equitably tempered by the courts. If it cannot be determined which of the parties first violated the contract, the same shall be deemed extinguished, and each shall bear his own damages."

exempting the second infractor from liability for damages, presupposes that the contracting parties are on equal footing with respect to their reciprocal principal obligations. Actual damages representing deficiencies in the performance of the principal obligation should be taken out of the equation.

c. **EXAMPLE; FOOTNOTE 54.** For example, S sells 10 boxes of mangoes to B for P1,000 each (or a total of P10,000). B made a partial payment of P5,000, defaulting in the payment of the other P5,000, but S had previously delivered only 7 boxes and defaulted in the delivery of the other 3 boxes. If the parties did not eventually perform their respective obligations (such that there is breach and not mere delay), the courts should first put the parties in equal footing with respect to their reciprocal principal obligations. Hence, B, the second infractor, would indeed be exempt from the payment of damages, but this exemption should only be applied after she pays P2,000 in actual damages representing the excess of S's partial performance of her reciprocal principal obligation.

End of course.