

EN BANC

[G.R. No. 12306. October 22, 1918.]

SIMONA MANZANARES, *plaintiff-appellee*, **vs. RAFAEL MORETA**,
defendant-appellant.

DECISION

TORRES, J :

In this case which is brought for the recovery of the damages resulting from the death of the child Salvador Bona, of from 8 to 9 years of age, who had been run over by an automobile driven and managed by the defendant on the morning of March 5, 1916, a judgment was rendered on August 3, 1916, whereby the said defendant was sentenced to pay the sum of P1,000 as indemnity to the plaintiff, the mother of the deceased child, and to pay the costs. From this judgment, an appeal was taken by the defendant after his motion for a new trial had been overruled, and the case is now before this court by bill of exceptions.

The statement of facts is at once admitted, and we find no reason for disturbing the findings made by the trial judge in his judgment appealed from, wherein the defendant was found liable for the accident which occurred to the said child on Solana Street on the morning of said day, and consequently, the defendant, as the one who had caused the accident, is bound to indemnify the mother of the deceased child in the amount of P1,000, which was deemed by the trial judge to be the value of the damages occasioned to the mother for the loss and death of a member of her family.

To the reasons given by the trial judge as grounds for his decision, we deem pertinent to add the following:

If it were true that the defendant, in coming from the southern part of Solana Street, had to stop his auto before crossing Real Street, because he had met vehicles which were going along the latter street or were coming from the opposite direction along Solana Street, it is to be believed that, when he again started to run his auto across said Real Street and to continue its way along Solana Street northward, he should have adjusted the speed of the auto which he was operating until he had fully crossed Real Street and had completely reached a clear way on Solana Street. But, as the child was run over by the auto precisely at the entrance of Solana Street, this accident could not have occurred, if the auto had been running at a slow speed, aside from the fact that the defendant, at the moment of crossing Real Street and entering Solana Street, in a northward direction, could have seen the child in the act of crossing the latter street from the sidewalk on the right to that on the left; and if the accident had occurred in such a way that after the automobile had run over the body of the child, and the child's body had already been stretched out on the ground, the automobile still moved along a distance of about 2 meters, this circumstance shows the fact that the automobile entered Solana Street from Real Street, at a high speed without the defendant having blown the horn. If these precautions had been taken by the defendant, the deplorable accident which caused the death of the child would not have occurred.

In view of the foregoing considerations as well as those contained in the judgment of the trial court, which, we believe to be in accordance with law and the evidence of record, we believe that the errors assigned by the appellant are thereby refuted and that therefore the judgment appealed from, should be, as it hereby is, affirmed, with the costs against the appellant. So ordered.

Arellano, C.J., Johnson, Araullo and Street, JJ., concur.