

CAMOTES SHIPPING CORPORATION, PETITIONER, VS. JULIAN OTADOY & ZOILA GARCIANO, RESPONDENTS.*G.R. No. L-27699. October 24, 1970*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0397655f7cbf/>**FERNANDO, J.:**

Petitioner Camotes Shipping Corporation would have us review the decision of the Workmens Compensation Commission of March 27, 1967 reversing an order of dismissal of an acting referee and sustaining the claim of respondents Julian Otadoy and Zoila Garciano arising from the death of their son Felino Otadoy who was lost at sea while in the employ of petitioner. With the attack on the above decision primarily centered, as noted in petitioner's brief, on the substantiality and sufficiency of the evidence, and considering further that there was a failure to controvert in time, there was no justification for the reversal sought. We affirm.

As noted in the aforesaid decision under review, respondents, on July 31, 1964, filed a notice and claim for compensation alleging that their son, Felino Otadoy, while in the employ of petitioner Camotes Shipping Corporation, was, on the night of July 13, 1964, on board its vessel Ave Maria II, but upon arrival the next morning in Poro, Cebu, he could not be found, having disappeared and presumably drowned. A copy of such notice and claim was sent to petitioner on August 10, 1964, but it was not until two months and five days later, on October 15, that the employee's report was filed. At the hearing before the acting referee at Cebu City, respondents presented their evidence with petitioner filing a motion to dismiss on the ground of insufficiency of evidence. It was sustained by the acting referee, but on appeal to the Workmens Compensation Commission primarily on the issue of the substantiality of the evidence adduced, the decision now sought to be reviewed was entered sustaining the claim of respondents.

It is expressly stated in the decision now sought to be reviewed that there was a conclusive showing "that Felino Otadoy was with the respondent's Ave Maria II when it sailed from Poro to Cebu on July 12, 1964. On its return trip from Cebu City to Poro, via Mandawe, Otadoy was still aboard the boat. He was even requested by Teresito Baidal, one of the boat passengers who boarded at Mandawe, Cebu, for something to eat. That was on the night of July 13, 1964 when the boat lifted anchor from Mandawe on its way to Poro. Another passenger, Crisostomo Fabroa, said that Otadoy, Baidal and he slept together on the roof of the boat on the night of said July 13. As there was a slight drizzle, they had to go down the deck to look for some other place to resume their sleep. When the boat reached Poro on the early morning of July 14, 1964, Baidal, while still aboard the boat, tried to look for Otadoy to ask for coffee. However, he could not find Otadoy so, he boarded the rowboat that carried passengers from the Ave Maria II to the shore. Fabroa likewise stated that from the time Otadoy and he separated at the roof of the boat he did not see Otadoy again." [1] Reference was likewise made to another witness, Vicente Ale, who "stated that on July 14, 1964, he went to the wharf at Poro purposely to look for Otadoy for the medicine which his sick father had requested Otadoy to buy. He arrived at the wharf ahead of the arrival of the Ave Maria II. When the Ave Maria II docked, he looked for Otadoy from among the passengers that were being rowed from the Ave Maria II by means of a rowboat to the shore. However, he failed to find Otadoy. So he boarded the rowboat

and went aboard the Ave Maria II to continue his search for Otadoy. Again, he did not see Otadoy." [2]

The conclusion flowing from the above is set forth in the decision under review thus: "These overwhelming circumstantial evidence on the unexplained disappearance of Otadoy while aboard Ave Maria II, plus the inherent impossibility for him to leave the boat voluntarily while the boat was sailing on the high sea between Mandawe and Poro, Cebu, the fact that he could not be found dead or alive notwithstanding the diligent efforts of his parents to locate him, the failure of the respondent to establish that he was alive, are more than sufficient to support the inference that he fell into the sea and was drowned and said incident was not noticed by anybody. And, inasmuch, as, at the time of his disappearance, Otadoy was in the course of his employment with the respondent, his dependent parents should be entitled to the benefits provided by the Act." [3]

Caltex (Phil.) Inc. v. Villanueva [4] comes to mind. Thus: "The fact that the employee was found missing while on board the petitioner's vessel MV 'Caltex Mindanao' became known to the captain of the vessel on 10 October 1956 but it was only on 6 November 1956 when the petitioner transmitted to the respondent Commission WCC Form No. 3 stating that the employee was 'lost at sea and presumed dead as of October 10, 1956,' and that it was controverting the respondent's claim. The controversion of the claim having been made beyond the period provided for by the law and the rules, the petitioner should have stated under oath the reasons for his failure to do so. Having failed to comply with this requirement, the petitioner is deemed to have renounced its right to controvert the respondent's claim, the claim may be considered uncontroverted and the regional administrator may adjudicate the respondent's claim on the basis of the evidence at hand." [5] Earlier, in Victory Shipping Lines, Inc. v. Workmens Compensation Commission, [6] we categorically affirmed that "the rule on preponderance of evidence [thus applied] to establish the fact of death." [7] With the summary above made of the evidence offered and the careful analysis of its implications so evident in the decision now under review, it would be unwarranted to indulge petitioner in its plea for a reversal.

WHEREFORE, the decision of the Workmens Compensation Commission of March 27, 1967 is affirmed. With costs against petitioner.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Ruiz Castro, Teehankee, Barredo, and Makasiar, JJ., concur.
Concepcion, C.J., and Villamor, J., did not take part.

[1] Decision of the Workmens Compensation Commission, pp. 2-3.

[2] Ibid, p. 3.

[3] Ibid, pp. 3-4.

[4] L-15658, August 21, 1961, 2 SCRA 995.

[5] Ibid, p. 1003.

[6] 106 Phil. 550 (1959).

[7] Ibid, p. 553.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.