

**GUARDIAN SECURITY AND INVESTIGATION AGENCY, PETITIONER,
VS. THE WORKMEN'S COMPENSATION COMMISSION, AND
MERLA G. APRUEBO, FOR HERSELF AND IN BEHALF OF HER MINOR
CHILDREN ROBERTO ...**

G.R. No. L-26875. July 31, 1970

Ponente: DIZON, J.

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DIZON, J.:

On August 28, 1965 respondent Merla Apruebo, for herself and in behalf of her two children Roberto and Rogelio, both surnamed Apruebo, filed a claim for compensation arising from the death of her husband, Rodolfo Apruebo, who up to the time of his death on July 8, 1965 was an employee of petitioner Guardian Security and Investigation Agency. The notice of claim, however, was directed to the Boie Incorporated and a certain Capt. Pedro Martinez. After hearings held in connection therewith, the hearing officer made an award as follows:

"IN VIEW OF THE FOREGOING, we find no alternative but to hold, as we hereby hold, that the death of RODOLFO APRUEBO, is compensable under the Workmen's Compensation Act, as amended, and under 8(b) and 10 thereof, death benefits should be extended to the widow, MERLA G. APRUEBO and her two (2) minor children ROBERTO and ROGELIO, both surnamed APRUEBO, who were dependent upon the deceased for support, as follows:

1. Compensation equivalent to 50% of the decedent's average weekly wage for 208 weeks 50% of his average weekly wage which was P35.08 (P152.00 mo. times 12 months divided by 52 weeks) equals P17.54 and for 208 weeks, the claimants should receive the total compensation of THREE THOU-SAND SIX HUNDRED FORTY-EIGHT and 32/100 PESOS (P3,648.32).

2. Reimbursement of burial expenses in the sum of TWO HUNDRED PESOS (P200.00).

The check or money order covering payment of compensation due the claimants should be drawn in their favor, and remitted to this Office.

AWARD, therefore, is hereby entered in favor of the claimants of the aforesaid compensation benefits, and the respondent is directed to pay:

1. To the claimant, thru this Office, the total sum of THREE THOUSAND EIGHT HUNDRED FORTY-EIGHT and 32/100 PESOS (P3,848.32), as compensation and burial expenses; and burial expenses; and

2. To this Office, the sum of THIRTY-SEVEN PESOS (P37.00), as fee pursuant to the provisions of Section 55 of the Act Bill No. W-647-65 is attached."

Thereafter petitioner filed a petition praying the Workmen's Compensation Commission to review the award, claiming that the same was null and void on the ground that the claim (notice and claim for compensation in death cases) having been directed to and made against Botica Boie and Capt. Pedro Martinez, petitioner did not become

a party to the proceeding. The Commission, speaking through its Chairman, N. Baens del Rosario, finding no reversible error in the award, affirmed it, besides assessing against petitioner the sum of P5.00 as costs. On the main question raised by petitioner, the Commission said:

"This Commission after a thorough study of the case concurs with the Hearing Officer in its conclusion that the respondent's stand lacks merit for the simple reason that while it may be true that the claim was directed against Capt. Pedro Martinez, the Employer's Report filed with the Regional Office bore the Guardian Security and Investigation Agency, as the employer of the deceased who met with an accident on July 8, 1965 while toying with his gun. Thus, by voluntarily submitting to the jurisdiction of the Regional Office, respondent cannot deny that it is not a party to the case."

Within the reglementary period petitioner moved for a reconsideration of the decision just mentioned, praying that its right to controvert the claim be reinstated. This was also denied by the Commission in its resolution of October 25, 1966 now subject of the instant petition for review.

We find the petition for review to be without merit.

As found by the Wage Compensation Commission, petitioner filed the Employer's Report of Accident (P. F. Form No. 3) on September 8, 1965 clearly admitting therein that Rodolfo Apruebo was its security guard when he met a fatal accident on July 8, 1965, and that it had knowledge of said accident on the very date it happened. Under the provisions of Section 45 of Act 3428, if the employer wishes to controvert the right to compensation of any of his employees, he should either on or before the 14th day of disability or within 10 days after he had knowledge of the accident or death file a notice with the Commission, on a form prescribed by the latter, that compensation is not being paid, giving the name of the claimant, the name of the employer, the date of the accident, and the reason why compensation is not being paid. The law further provides that the employer's failure to comply with this requirement shall constitute a waiver of his right to controvert the claim, unless he submits reasonable grounds for his failure to make the necessary report on time, on the basis of which the Commissioner may reinstate his right to controvert the claim.

In the present case it is not denied that petitioner filed the employer's report required by the above legal provision only on September 8, 1965, obviously long after the expiration of the period for the purpose. This, according to law, amounted to a waiver of its right to controvert the claim.

Anent petitioner's contention that it did not become a party to the proceeding that led to the award in question, We deem it sufficient to quote here what the hearing officer who made such award said in his order of February 8, 1966:

"X X X X X X X X X X"

Having admitted to be the employer of the deceased and having filed the Employer's Report of Accident or Sickness, said respondent agency has for all legal intents and purposes voluntarily submitted to the jurisdiction of this Office and can not now be heard to complain that jurisdiction over its person has not been acquired as to make the Award against it binding and effectual."

Moreover if after all, petitioner was deemed to have waived its right to controvert the claim, the Hearing Officer had authority to consider the same ex-parte.

The only question remaining to be resolved is whether or not the Wage Compensation Commission erred in denying the petition for the reinstatement of petitioner's right to controvert the claim filed by the private respondents. In this connection it is to be observed that the waiver of the employer's right to controvert may be set aside by the Commission only if the former "submits reasonable grounds for (its) failure to make the necessary

report” strictly in accordance with the provisions of Section 45 of Act 3428. In the present case the Wage Compensation Commission, in the exercise of its discretion under the law, refused to reinstate petitioner's right to controvert the claim, and the record does not disclose anything clearly showing that, in so doing, it had gravely abused its discretion.

WHEREFORE, the petition for review under consideration is hereby dismissed, with costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

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