

**SARMIENTO ENGINEERING CORPORATION, PETITIONER, VS.
WORKMEN'S COMPENSATION COMMISSION, HONORABLE
SEVERO M. PUCAN, CHAIRMAN OF THE COMMISSION AND MAXIMA
VDA. DE DELENA, RESPONDENTS.**

G.R. No. L-42618. January 07, 1987

Ponente: PARAS, J.

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PARAS, J.:

Before Us is a Petition for Review on certiorari of the decision of the Workmen's Compensation Commission (hereinafter known as WCC) in the case of Maxima Vda. de Delena vs. Sarmiento Engineering Corporation docketed as RO-4-WC Case No. 163880. The dispositive part of the decision of the WCC ordered herein petitioner:

1. To pay claimant, thru this Commission, the sum of TWO THOUSAND SIX HUNDRED THIRTY THREE PESOS and 25/100 (P2,633.25), (P5,533.25 less advances of P2,900.00);
2. To pay the Workmen's Compensation Fund of this Commission the sum of P66.00 which includes the P5.00 fee for this review, as costs, pursuant to Section 55 of the Act.

The undisputed facts indicate that deceased Jose F. Delena, husband of claimant-private respondent Maxima Vda. de Delena, was previously employed with petitioner corporation as shop supervisor since 1968 up to the time of his death on December 11, 1974 with a monthly salary of P800.00 plus P30 monthly allowance. Previous to his death, he had been operated on for a kidney disease and was confined in the F. M. Cruz Hospital at Valenzuela, Bulacan for thirty (30) days. After his release, he was treated for cancer at the Veterans Hospital during the entire month of November, 1974. On December 1, 1974, the deceased was treated and confined at the Chinese General Hospital until he died on December 11, 1974 leaving behind his widow and two (2) minor daughters.

Petitioner does not dispute the compensability of the disease. It defrayed all the expenses for hospitalization of the deceased at the F.M. Cruz Hospital, however, deceased spent his own money for medicines, X-rays and Doctor's professional fees (all supported by receipts duly admitted in evidence). Deceased received his salaries in full during his period of sickness in the amount of P4,000.00.

The death compensation claim, not being controverted by the petitioner, the only issue is who should pay the petitioner for the EXTRA hospitalization and medical expenses (including supplies) advanced by the deceased. It is this amount that the WCC has ordered petitioner to pay private respondent.

Sec. 13 of the WC Act provides as follows:

"Immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of disability, the employer or insurance carrier shall provide the employee with such services, appliances and supplies as the nature of his disability and the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity.

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"In case the employer or insurance carrier cannot furnish the aforesaid services, appliances and supplies promptly, the injured or sick employee may acquire the same at the expense of the employer or insurance carrier." (*Italics supplied*)

It is thus clear that the above-mentioned expenses should be paid for by petitioner and should not be deducted from the death benefits accruing in favor of the deceased or his heirs.

WHEREFORE, this petition for certiorari is hereby DISMISSED, and the decision of the WCC is hereby AFFIRMED.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Gutierrez, Jr., JJ., concur.

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