

**GUADALUPE J. VDA. DE UCANG, FOR HERSELF AND ON BEHALF OF
HER MINOR CHILDREN, NAMELY, ALBERT, BERNARDETTE,
CAROLYN, DAVIDSON, EDGAR, FERDINAND, AND GRACE, ALL
SURNAMED UCANG, PET...**

G.R. No. L-41539. May 25, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Saturnino Ucang was a field worker of respondent Philippine Packing Corporation since July 7, 1950 until his death on November 6, 1971. His duties consisted of weeding, stripping, planting, fertilizing, harvesting, loading, yarding and spraying the pineapple field -- a strenuous manual labor which he assumed for 21 years (p. 56, rec.).

On November 4, 1971, Ucang applied for a vacation leave with pay which was approved by respondent company's Personnel Department from the aforesated date until December 2, 1971 (p. 57, rec.).

While still on vacation, or specifically on November 6, 1971, Ucang unfortunately suffered a heart attack. He died at the company-owned Phillips Memorial Hospital on the same day (pp. 9-10, rec.).

On August 9, 1973, Chief Referee Ildefonso G. Agbuya of the Department of Labor's Regional Office No. XI in Cagayan de Oro City rendered a verdict, the more important part of which reads:

"In this particular case, respondent presented witnesses on the aspect of the nature of employment, the working conditions, but did not present a medical expert or witness to testify on the compensability that the cause of death of the deceased could not have been caused directly or aggravated by the nature of his work. On the other hand, claimants, thru counsel, relied mainly on the presumption of law that death supervening during the period of employment of the late Saturnino Ucang should be presumed compensable under Sections 2 and 44 of the Workmen's Compensation Act. After considering the facts of the case, particularly the length of service that the deceased had rendered with the respondent-company, Philippine Packing Corporation, the nature of his work, he being exposed to the heat of the sun and rain in open field, led us to the conclusion that the death of the deceased must have been aggravated by the nature of his work. It is now unquestionable that once the illness supervenes at the time of the employment, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by such employment. As aptly ruled by the Supreme Court on the following cases, the claimants are relieved from the burden of proving causation where the illness is shown to have arisen in the course of employment (*Magalona vs. WCC & NASSCO*, L-21849, December 11, 1967). Further, under the law, as presently amended, it is not required that the employment be sole factor in the growth, development or acceleration of the illness to entitle the claimants the benefits provided for, but it is enough that his employment had contributed, even if a small category, to the development of the disease. It has been repeatedly held that under the Workmen's Compensation Law, it is not necessary for a claimant to carry the burden of proof to establish his case to the point of demonstration. It is sufficient to show that the hypothesis on which the basis of his claim is provable (*Abana et al. vs. Quisumbing*, L-23489, March 27, 1968) and also in the case of *General Shipping Company versus WCC*, L-14936, July 30, 1960, 'Heart Failure/Attack' was declared as compensable. In the light of the above-mentioned rulings of the Supreme

Court, the above-entitled claim is hereby considered compensable x x" (pp. 13-14, rec.; underlining supplied).

Seasonably, respondent company moved for reconsideration of the above-said decision, but said motion was denied by the Chief Referee in an order dated October 19, 1973.

On review, however, respondent Workmen's Compensation Commission reversed the aforestated verdict, holding in part:

"The main issue to be resolved is not whether the respondent has timely controverted the instant claim or not but whether or not there existed the relation of employer and employee between the respondent and the deceased at the time of the latter's heart attack which resulted in his death on November 6, 1971. The answer is in the negative. This is so, because at the time of said heart attack the deceased was on vacation leave with pay. So that he was not doing any work at that time that would redound to the interest of his employer, the respondent herein. In other words, there was a suspension of employer-employee relationship between the respondent and the deceased on that fatal day. Under the circumstances, there is no obligation for the respondent to file the notice of controversion required in Section 45 of the Act, for in the absence of employer-employee relationship no claim for workmen's compensation would prosper (*A.L. Amsen Transportation Co., Inc. vs. UCC, et al.*, L-20219, September 28, 1954). Hence, the Acting Chief Referee committed a reversible error in granting death compensation to the claimants" (p. 10, rec.).

Hence, the present appeal.

As respondents intimated, resolution of the case on review hinges on the answer to the issue of whether the employer-employee relationship between a laborer and the company wherein he works is suspended when the former is accorded by the latter a vacation leave with pay.

WE rule in the negative.

Employer-employee relationship is not suspended when an employee is given a vacation leave with pay. That the employee on vacation leave with pay is accorded his regular compensation, attests to said employee's continuously rendering regular service, in line with the settled principle that the basis of remuneration is actual work rendered (*Philippine Air Lines Employees Association vs. Philippine Air Lines*, L-31341 & L-31343, March 31, 1976, 70 SCRA 244, 252).

Moreover, WE had occasion to rule that

"The purpose of a vacation leave is to afford the laborer a chance to get much needed rest to replenish his worn out energies and to acquire a new vitality to enable him to effectively perform his duties, not merely to give him additional salary or bounty" (*Cuajao vs. Chua Lo Tan*, L-16298, Sept. 29, 1962, 6 SCRA 136, 138 citing *Sun Ripe Coconut Products, Inc. vs. National Labor Union*, L-7964, 51 O.G., 5133-5137; *Philippine Air Lines, Inc. vs. Balanguit, et al.*, 53 O.G., 8549; *Tanguiling, et al. vs. Theo H. Davies & Co.*, L-9144, May 30, 1959, 105 Phil. 1342, 1343).

From the aforequoted ruling, it is clear that the rationale behind the grant of vacation leave to an employee is to enable the employee to have some rest and to re-invigorate himself so that he would be more efficient and productive in his work. This is a situation akin to that of workers who are engaged in a lawful strike and are, thus, not actually rendering work, and yet their "relationship as employees with their employer is not severed or dissolved" (*Elizalde Rope Factory, Inc. vs. Social Security Commission*, L-15163, Feb. 28, 1962, 4 SCRA 512, 516).

That employer-employee relationship is not severed nor suspended when the employee is on vacation leave also finds support in American jurisprudence.

Thus, it was held that

"(I)n its ordinary sense, the word 'vacation' suggests a temporary status, implying continued service, and a 'vacation' is not the end of employment" (Pa. In re Dauber, 30 A 2d 214, 216, 151; Pa. Super. 293 - Matthey vs. Unemployment Compensation Board of Review, 63 A. 2d 429, 431, 164 Pa. Super 36.; underscoring supplied).

As such "when the employee is on vacation and receiving compensation by way of vacation pay, such employee, although not actually working is deemed not to be unemployed within the meaning of the law" (Conn. - Kelly vs. Administrator, Unemployment Compensation Act, 72 A. 2d 54, 136 Conn. 482).

WHEREFORE, THE APPEALED DECISION OF RESPONDENT WORKMEN'S COMPENSATION COMMISSION SHOULD BE, AS IT IS HEREBY, SET ASIDE AND RESPONDENT PHILIPPINE PACKING CORPORATION IS HEREBY ORDERED TO PAY:

1. THE CLAIMANT WIDOW, MRS. GUADALUPE VDA. DE UCANG, AND HER SIX MINOR CHILDREN

(A) THE AMOUNT OF SIX THOUSAND PESOS [P6,000.00] AS DEATH COMPENSATION; AND

(B) TWO HUNDRED PESOS [P200.00] AS BURIAL EXPENSES;

2. ATTORNEY'S FEES EQUIVALENT TO 10% OF THE AGGREGATE AMOUNT RECOVERABLE BY THE HEIRS OF THE DECEASED;

3. THE WORKMEN'S COMPENSATION COMMISSION THE AMOUNT OF SIXTY-ONE [P61.00] PESOS AS ADMINISTRATIVE FEE PURSUANT TO SECTION 55 OF THE ACT; AND

4. THE COSTS.

Teehankee, (Chairman), Antonio, Muñoz Palma, and Martin, JJ., concur.

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