

**CIRILO TALIP, FOR AND IN BEHALF OF THE MINOR CHILDREN,
NAMELY: VICTORIA, HILDA & EFREN, SURNAMED TALIP,
PETITIONERS, VS. WORKMEN'S COMPENSATION
COMMISSION AND PHILIPPINE PACKIN...**

G.R. No. L-42574. May 31, 1976

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TEEHANKEE, J., Chairman:

The Court reverses respondent commission's decision dismissing the claim and instead reinstates the Referee's Award on the strength of controlling and established jurisprudence upholding the presumption of compensability of the employee's illness or death which supervened in the course of employment and ruling out non-jurisdictional defenses of the employer in cases of non-controversion or improper controversion.

Respondent commission in its decision of December 12, 1975 peremptorily reversed the Referee's July 25, 1974 Award of P5,200.00 as death compensation benefits to petitioners-claimants, P200.00-reimbursement of burial expenses, P260.00-attorney's fee and P53.00-administration fee, on the alleged ground of non-compensability, as follows:

*** The only issue for our resolution is whether the decedent's death is traceable to his employment.

"The deceased Agaton D. Talip died of massive myocardial infarction at the age of 59 years (Exhibit 'A', page 3 of the record). He died at home in his sleep (pages 24 and 25 of the record, Testimonies of Cirilo Talip, August 22, 1973 session). The deceased, therefore, died of what is commonly known as 'bangungot'. His death, certainly, was not occasioned or precipitated by work-connected factors. Consequently, the same is not compensable within the meaning of the Act, for want of all-important preliminary link between his work or employment and his death.

"The record does not show that the deceased, during his lifetime and while in the employ of the respondent, had a history of cardiac ailments."

Private respondent's counsel of record, Teogenes X. Velez, Jr., failed to file the required comment on its behalf notwithstanding a 30-day extension secured by him which expired on March 20, 1976. After receipt of respondent commission's comment, the Court resolved per its Resolution of May 10, 1976 to treat the case as a special civil action and declared it submitted for decision.

Respondent commission's decision was patent error and must be set aside on the strength of controlling and established jurisprudence that assuming that the deceased employee's illness which caused his death may be ruled out as an occupational disease or that the causal link between the nature of his employment and his ailment has been insufficiently shown, nevertheless it is to be presumed as mandated by section 44 of the Workmen's Compensation Act that the employee's illness which supervened during his employment, either arose out of, or at least was aggravated by, said employment; and with this legal presumption, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation. Respondent employer has failed to discharge the burden of disproving the claim by substantial evidence and the Referee's Award must therefore be

maintained. Contrary to the commission's gratuitous conclusion that the death was not compensable (for alleged want of a preliminary link between the deceased's work and his death contrary to the legal presumption), its very finding that the deceased had no history of cardiac ailments strengthens the presumption that his fatal heart attack during his employment was work-connected or aggravated and therefore compensable.

As was restated by former Chief Justice Makalintal in *Maria Cristina Fertilizer Corp. vs. Workmen's Compensation Commission*[1], "it is now well-settled that once it is established that the illness supervened during employment, as in this case, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by it; and the employer has the burden of proving the contrary by substantial evidence."

Chief Justice Makalintal in *Visayan Stevedore & Transportation Co. vs. Workmen's Compensation Commission*[2] which like this case involved a death caused allegedly by "bangungot"[3], stressed that the mere opinion of doctors presented by the employer that would disconnect the deceased employee's death from his employment cannot prevail over the presumption established by law, and aptly explained the rationale for the Court's liberal attitude in upholding the legal presumption of compensability in workmen's compensation cases in this wise:

"The liberal attitude displayed by this Court in considering as compensable the death by heart attack of an off-duty employee helping in the loading operation of a vessel (*William Lines, Inc. vs. Sañopal*, 42 SCRA 48), or the disappearance of an off-duty crew member of a vessel who had no choice but to be in the vessel during the voyage (*Aboitiz Shipping Corporation vs. Pepito*, 18 SCRA 1028), or the death by drowning of an employee whose duty was to watch over and take charge of a barge in the absence of the patron (*Luzon Stevedoring Co., Inc. vs. Workmen's Compensation Commission*, 10 SCRA 207), proceeds from an awareness of the fact that when an employee undertakes to satisfy, in the course of employment, certain human wants, i.e. eating, freshening up, sleeping and the like, 'and something takes place that may cause injury, harm or death to the employee or laborer, it is fair and logical that the happening be considered as one occurring in the course of employment for under the circumstances it cannot be undertaken in any other way' (*Luzon Stevedoring Co., Inc. vs. Workmen's Compensation Commission*, supra), unless it can be clearly shown that the mishap occurred because the employee acted beyond his duty or outside the course of employment, which is not so in the case at bar. For aside from the conclusion arrived at by the medico-legal officer who conducted the autopsy that 'bangungot' was the cause of Eduardo Labiyo's death, there was hardly anything else that would disconnect the deceased's death from his employment. In other words, petitioner had not proved that death was not and could not be caused or aggravated by the deceased's work as engineer who, at the time of his death, was practically on 24-hour continuous duty."[4]

Respondent's failure to validly controvert the claim[5] as acknowledged by the commission, far from calling for reversal of the award for alleged non-compensability, called for the outright issuance of an award pursuant to the express mandate of section 45 of the Workmen's Compensation Act. As recently reiterated by the Court in *Dinaro vs. Workmen's Compensation Commission*[6], a failure to controvert is a renunciation of the right to challenge the claim and a waiver of all non-jurisdictional defenses and there is nothing that the employer can legally prove in relation thereto. Non-compensability as a defense was therefore waived and ruled out.

As in the recent case of *Ruelan vs. Republic of the Philippines*[7], the Court is constrained to express its regret that respondent commission inexplicably saw fit in the last months of its existence up to the end of March of this year to hand down summary reversals of meritorious claims in gross disregard of the mandate of the statute and doctrinal jurisprudence on the presumption of compensability of illness which has supervened in the course of employment and on the employer's waiver of all non-jurisdictional defenses by failure to duly controvert the claim and thereby unduly burdened the Court with numerous appeals from its untenable decisions.

ACCORDINGLY, respondent commission's decision is hereby reversed and in lieu thereof, judgment is hereby

rendered reinstating the Referee's Award, with the modification that the attorney's fee to be paid to petitioners' counsel of record is increased to the statutory ten (10%) per cent of the compensation awarded (in appealed cases[8]) or Five Hundred Twenty Pesos (P520.00).

SO ORDERED.

Makasiar, Esguerra, Muñoz Palma, and Martin, JJ., concur.

[1] 60 SCRA 228, 232 (Oct. 21, 1974). The claim involved death by cancer of the liver and cited Justiniano vs. WCC, 18 SCRA 667 (hemiplegia or paralysis caused by hypertension); Abana vs. Quisumbing, 22 SCRA 1278 (congestive heart ailment); Meralco vs. WCC, 39 SCRA 669 (brain tumor) and other cases.

[2] 59 SCRA 89 (Sept. 12, 1974).

[3] The Court in this case clarified that " 'bangungot' is still a theoretical disease whose remote and immediate cause, pathology and cure have not as yet been accurately determined and scientifically established and confirmed. Whether it is a natural phenomenon that by itself can destroy or snuff the life out of a human being is still a question to which medical science has yet to give a more definite and conclusive answer," citing Luzon Brokerage Co., Inc. vs. Dayao, 105 Phil. 525.

[4] Emphasis supplied.

[5] The Referee properly found that the claim had not been duly controverted within the period and manner provided by law, since the employer's report did not specify in clear terms the grounds or reasons supporting the controversy. See General Textiles, Inc. vs. Taay, 42 SCRA 375 (Nov. 29, 1971).

[6] L-42457, March 31, 1976.

[7] L-42323, April 30, 1976.

[8] Rule 27, section 1, Rules of the Workmen's Compensation Commission.

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