

LUIS DE VERA, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND INTERNATIONAL CONTAINER CORPORATION, RESPONDENTS.

G.R. No. L-41769. November 29, 1977

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Petitioner Luis de Vera was employed as a driver of International Container Corporation in November of 1970 at a daily wage of eight pesos (P8.00) and worked for six days a week until he stopped working, on June 3, 1972.

On October 4, 1972, de Vera filed before Regional Office No. IV of the Department of Labor a claim for disability compensation against his employer, International Container Corporation, on the ground that in the course of his employment he became sick of peptic ulcer which compelled him to leave his work.[1]

Having received notice of the claim on October 30, 1972, the International Container Corporation filed its employer's report controverting the claim on the ground that the alleged ailment was not work connected.[2]

After a hearing, acting referee Daisy Dumol Lopez rendered an award to the claimant, the dispositive portion of which We quote:

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"Wherefore, judgment is hereby rendered ordering the respondent International Container Corporation:

"1. To pay claimant, Luis de Vera, the sum of Four Hundred Sixty Pesos and 80/100 (P460.80) as disability compensation under Section 14 of the Act;

"2. To pay claimant's counsel Atty. Igmidio Lumibao, Jr., the sum of Twenty-Three Pesos and 04/100 (P23.04) as attorney's fees under Section 31 of the Act;

"3. To pay this Office, the sum of Five Pesos (P5.00) as administrative fees pursuant to Section 55 of the Act, as amended."

On a motion for reconsideration filed by the employer on the ground that the illness of petitioner did not arise out of nor was it aggravated by his employment and that the claim of petitioner was filed out of time, the Workmen's Compensation Commission in a decision dated September 30, 1975, set aside the award and dismissed the claim for lack of merit. Said decision is now before Us for review.

Respondent Commission reasoned out its reversal of the referee's award thus:

"The claimant claims to have stopped working on June 3, 1972, on account of his peptic ulcer and hyper-acidity (page 2 of the record). In support of this allegation, the claimant submitted Exhibit 'A', a physician's report, dated September 24, 1972, issued by Dr. Eulogio Banigued (page 1 of the record). In the said physician's report, and this has attracted our attention, it is stated that claimant's illness was only for

'epigastric discomfort and burning sensation.' This fact argues against a finding of compensability in favor of the herein claimant, in that his alleged peptic ulcer and hyperacidity were not disabling ailments. If claimant stopped working on June 3, 1972, as alleged, it was definitely not on account of his epigastric discomfort and burning sensation (in the abdomen).

xx xx xx xx

"In workmen's compensation cases, it is not enough that the workingman comes to this Commission and tells us that he is sick. He has to prove that his illness is causally related to his work and that the same has incapacitated him to earn his usual wages. He has to prove these facts by substantial evidence. In this case under consideration, the claimant has miserably failed to do just that. We shall conclude, without fear of contradiction, that this instant case does not come within the coverage of the Workmen's Compensation Act, as amended." (pp. 15-16, rollo)

The aforequoted pronouncements cannot stand in the face of overwhelming decisions of this Court on the legal presumption of compensability of an illness which supervenes in the course of and is aggravated by one's employment and results in the employee's disability to perform his customary work permanently or for some period of time.[3]

As found by the acting referee, Daisy Dumol Lopez, there is evidence in the record that the claimant suffered abdominal pains in the process of employment and had to stop working by reason thereof. In fact, petitioner had to leave the city and stay in the province presumably to seek rest from the heavy burden of driving the company's vehicles, as proof of which he was physically examined and treated for his "epigastric discomfort" by a physician, Dr. Eulogio Banigued in the town of Bautista, province of Pangasinan.

The employer asserts however that peptic ulcer could not have been caused by petitioner's work as a driver; that the greater part of the driver's day is spent in a sitting position and he does not operate his vehicle eight continuous hours and as a rule he takes snacks, etc. at pleasure; and that peptic ulcer may result from irregular eating habits or from excessive alcohol intake.[4]

The record is bereft however of evidence to substantiate the above assertions of respondent employer; moreover, such assertions are insufficient to overthrow the legal presumption of compensability of a claim as was filed in the instant case.

In *Belmonte vs. Workmen's Compensation Commission, et al.* the Court through Justice Claudio Teehankee reiterated and stressed its ruling in *Abana vs. Quisumbing* (1968, 22 SCRA 1278, 1282) to the effect that granting that claimant's evidence is insufficient to show a causal link between the nature of the employment and the ailment, under the provisions of section 44 of the Workmen's Compensation Act as amended it is to be presumed that the claimant's illness which supervened at the time of his employment either arose out of or was at least aggravated by said employment, and that with this legal pre-sumption the burden of proof shifts to the employer and the employee is relieved of the burden to show connection.[5]

The employer's submission that peptic ulcer could have been caused by excessive alcoholic intake and/or irregular eating habits is of no consequence for as also held in *Abana vs. Quisumbing*, *supra*,

"While there is that possibility that factors other than the employment of the claimant may also have contributed to the aggravation of his illness, this is not a drawback to its compensability. For, under the law, it is not required that the employment be the sole factor in the growth, development or acceleration of claimant's illness to entitle him to the benefits provided for. It is enough that his employment had contributed, even in a small degree, to the development of the disease." xx xx (at 1282; see also *Aranzanso vs. Hon. Sagnit, et al.*, 1976, 71 SCRA 608, 612)

Finally, in line with the liberal course of action the Court takes in connection with claims of workers for disability compensation under the Workmen's Compensation Act, the instant claim of petitioner may justifiably be made to fall within a judicial pronouncement that for compensation to be available the "harm to the physical structure of the body need not be external or visible nor must it be established by direct evidence." [6]

WHEREFORE, We set aside the decision under review and affirm the award rendered by the acting referee quoted in page two hereof, and in addition the respondent employer is ordered to:

- (a) refund petitioner for medical expenses supported by receipts incurred during the period of disability, if any;
- (b) provide petitioner with such services and supplies as may be necessary for the cure of the particular ailment which caused the disability object of this claim; and
- (c) pay Sixty-one (P61.00) Pesos as administrative fee. No costs.

So Ordered.

Teehankee, (Chairman), Makasiar, Martin, Fernandez, and Guerrero, JJ., concur.

[1] p. 12, rollo

[2] p. 44, *ibid.*

[3] *Victoria M. Roma vs. WCC and Bureau of Public Schools*, L-43675, October 28, 1977, citing *A.D. Santos vs. De Sapon, et al.*, 16 SCRA 792 and numerous other cases.

[4] p. 4 of respondent company's Memorandum at p. 81, rollo

[5] 58 SCRA 138, 143 (1974)

[6] *Brodtmann et al. vs. Zurich General Accident & Liability Ins. Co. Ltd.* 1937, 90 F. 2d 1; *Maryland Casualty Co. vs. Broadway et al.*, 1940, 110 F. 2d 357, 359; *Fidelity & Casualty Co. of New York vs. Neas et al.*, 1937, 93 F. 2d 137

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