

MANILA RAILROAD COMPANY, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND CRISPIN PINEDA, RESPONDENTS.

G.R. No. L-19773. May 30, 1964

Ponente: PAREDES, J.

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PAREDES, J.:

On October 27, 1959, Crispin Pineda presented with the Department of Labor, Regional Office No. 3, a complaint for disability compensation, under the Workmen's Compensation Act No. 3428. In his recitals in the complaint, it appears that he was employed with the Manila Railroad Company (MRR for short) since 1936, as a trackman, whose principal duties were changing rails, ties, clips and alzada de via, fill tracks during washouts and other allied work; that in the performance of these jobs, he was exposed to the sun, heat, rain and stormy weather, night and day; that due to the nature of his work he (Pineda), contracted pulmonary tuberculosis; that on November 17, 1958, the Medical Department of the MRR found Pineda suffering from pulmonary tuberculosis and on December 16, 1958, he was retired from the service, due to physical disability.

The MRR answering the complaint, after the usual admissions and denials, interposed among others, Special and Affirmative Defenses, to wit –

"* * If ever the claimant contracted pulmonary tuberculosis, it was due to his poor diet, sanitation, health, debility and lack of the due care in the protection of his body against diseases like TB and not due to his employment in the respondent company nor was the illness aggravated by the same;

Assuming arguendo that the claimant was found to be suffering from TB sometime in November 8, 1958, same cannot be due to, nor aggravated by, the nature of his work, for if it is so, claimant: should have contracted the sickness very much earlier as he has been in the service of the respondent company for more than 22 years; x
x"

After due trial, the Hearing Officer dismissed the claim for lack of merits. The above decision was elevated to the Commission, and on February 26, 1962, the Chairman of the Commission affirmed the decree of dismissal stating that the illness from which Crispin Pineda suffered was not compensable within the meaning of the Workmen's Compensation Law, as amended. Claimant moved for a reconsideration of the affirming decision, contending, in the main, that the same is contrary to law and that the illness was generated by the work. On April 12, 1962, the Commission en banc, reversed the decision of the Chairman and ordered respondent MRR to:

"(1) Pay to the claimant, thru the Commission, the amount of THREE THOUSAND THREE HUNDRED EIGHT $\frac{13}{100}$ PESOS (P3,308.13), as compensation, computed as follows; 60% of his average weekly wage of P31.15 (P135.00 per month times 12 months is P1,620.00 divided by 52 weeks) or P18.69 for 177 weeks (from November 17, 1958 to April 12, 1962 is 1242 days; 1242 days less the 3-day waiting period equals 1239 or 177 weeks);

(2) pay further the claimant a weekly compensation of P18.69 from April 13, 1962 until his illness is cured or arrested but in no case shall the total amount of compensation exceed P4,000.00;

- (3) reimburse to the claimant the amount of P1,000.00 as medical expenses which he actually incurred for the treatment of his illness;
- (4) continue providing the claimant with such medical, surgical and hospital expenses and supplies as the nature of his illness may require;
- (5) pay to the Workmen's Compensation Fund, the sum of P39.99 as costs."

In reversing the decision of the Chairman, the Commission. en banc except the Chairman, considered the illness of claimant aggravated, if not the result of the nature of his employment and the fact that the claim was not seasonably controverted by respondent company. Expounding on these grounds, the Commission said: -

"However, considering the nature of claimant's work as a trackman, we are constrained to hold the present claim compensable on the theory that his illness was aggravated by, if not the result of the nature of his employment, x x x. The nature of claimant's work, which we find to be very strenuous and tiresome, and his continuous exposure to various elements in the performance of his job, Sad undoubtedly joined forces to affect a massive and violent attack upon his health, thereby lowering his vitality and reducing its resistance against the attack of TB germs, * * *.

As we have stated before on several occasions, while the claimant has the burden of proof to establish his case, under the Workmen's Compensation Law, it is not necessary for him to carry that burden to the point of demonstration. It is sufficient to show that the hypothesis on which he based his claim is probable.'

On the theory that claimant's illness was either aggravated by or the result of the nature of his employment as a trackman, we hold the present claim compensable. We cannot sustain the view that, simply because the claimant in this case did not suffer any impairment of health from 1936 up to the time he was found afflicted with moderately advanced pulmonary tuberculosis, there is no casual relation between the employment and the disease, x x x. If the claimant here did not suffer any health impairment during the early period of his employment despite the strenuous work he performed, it must have been because he was still in the peak of his health - being then young and full of vigor. It was only, as we have stated earlier, after he was continuously exposed to the nature and conditions of the employment that his health gave way to the attack of the disease.

While we do not discount the possibility that factors other than the employment of the claimant may also have contributed to the cause or acceleration of claimant's illness, this circumstance alone cannot affect the compensability of this case. Under the law, it is not required that the employment be the sole factor in the growth, development or acceleration of his illness to entitle him to the benefits provided therein. It is enough if his employment had contributed, even in as small degree, to the development or acceleration of the disease, x x.

Moreover, as correctly pointed out by the claimant x x, this claim appears not to have been controverted seasonably by the respondent company, * * *. Failure on its part to comply with this requirement constitutes a renunciation of its right to controvert the claim unless it submits reasonable grounds for such failure x x. Since claimant was disabled for work on November 17, 1958, on account of his moderately advanced bilateral pulmonary tuberculosis, the respondent had up to December 1, 1958 (which is 14 days from date of knowledge) within which to controvert the claim. Neither did it file a motion to reinstate its right to controvert the claim, x x. Under this situation, the respondent is considered to have renounced the right to controvert the present claim thereby constructively admitting the same to be compensable. * * *."

The above resolution is now before Us on a Petition for He-view, interposed by the MRR. Petitioner raised three errors allegedly committed by the Commission en banc, all of which center on the proposition of whether the illness of respondent Pineda is compensable and whether, the MRR had controverted the claim within the period allowed by law.

Anent the first issue, We find the conclusions reached by the Commission to be in conformity with the facts, the

law and jurisprudence on the matter. On an identical case, this Court made the following observations –

"* * We agree with respondent Commission that the strenuous work performed by the deceased worsened the condition of his disease. The fact that he was found to be suffering from lack of nourishment, upon examination by petitioner's physician on June 5, 1954, and that he was living in a small and crowded room, are not in themselves conclusive as causing the aggravation of his illness. If at all, they are merely contributory (not primary) factors, and could not counteract the established fact that the nature of his employment as petitioner's trackman, required him to perform strenuous work day and night, as the exigencies of the services required the same, exposing himself to the elements thereby aggravating his illness which he, undoubtedly, contracted in the course of his employment by petitioner. Neither would the fact that when examined by petitioner's physician after 3 months of continuous work, the sick condition of his left lung remained stationary while his right lung regressed to minimal, apparently showing some slight improvement of his condition, defeat his right to compensation. For the fact remains that when he was examined on March 27, 1957, his left lung was found to be far advanced in tuberculosis that he was recommended for retirement on the following day (March 28) due to physical disability and was actually separated on April 15, 1957, and died 9 months thereafter, on January 27, 1958." (Manila R.R. Co. vs. Ferrer & WCC, 109 Phil., 716).

Furthermore, the finding of facts of the Commission is conclusive upon Us. No showing has been made by petitioner that such finding is not supported by the evidence on record.

Regarding the second issue, the record is clear that there was no timely controversion. When Pineda's flouroscopy examination was taken on November 17, 1958, petitioner came to know of respondent's illness and had until December 1, 1958 to controvert the claim, in accordance with section 45 of Act No. 3238. Having failed to do so on or before this date (December 1), petitioner had, by operation of law, waived or renounced the right to dispute its liability for said compensation. It follows, that claimant's right to compensation cannot be affected by the delay in filing the claim (Victorias Milling Co., Inc. vs. WCC, et al., G.R. No. L-10553, May 13, 1957).

Conformably with the foregoing, the decision, subject of the instant petition for review should be, as it is hereby affirmed, in all respects, with costs against petitioner Manila Railroad Company.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Dizon, Regala, and Makalintal, JJ., concur.

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