

TERESA M. ARMEÑA, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (MUNICIPAL TREASURER'S OFFICE, DARAGA, ALBAY), RESPONDENTS.

G.R. No. L-46894. June 24, 1983

Ponente: VASQUEZ, J.

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VASQUEZ, J.:

This is a petition for review by certiorari of the decision of Employees' Compensation Commission in ECC Case No. 0367 affirming the decision of the Government Service Insurance System which denied the claim for death benefits filed by petitioner Teresa M. Armeña.

Patricio D. Armeña, husband of the herein petitioner was employed by the government on February 21, 1942, and held the positions of clerk, public school teacher, budget examiner and lastly as municipal treasurer of Daraga, Albay, which position he occupied since July 1, 1975 until his death on June 1, 1976. The cause of his death was certified to be "acute monocytic leukemia."

On September 30, 1976, petitioner filed a claim for employee's compensation with the respondent GSIS which denied the said claim on the grounds that Patricio D. Armeña's ailment was not in the least causally related to his duties and conditions of work, and that there was no showing that said ailment directly resulted from his occupation or employment as municipal treasurer of Daraga, Albay. (Annex "A", Petition.) A motion for reconsideration of the denial of the claim filed by petitioner was also denied by respondent GSIS on the ground that:

"In the case of your husband, it will be noted that the ailment which resulted to his death on June 1, 1976 was Acute Monocytic Leukemia. This ailment, not being listed as an occupational disease, therefore, requires such degree of proof as mentioned above. On the basis, however, of the papers and evidence on record which you have submitted, it appears that you have not established that the deceased's employment as Municipal Treasurer of Daraga, Albay, there has not been any showing that the same directly arose therefrom or resulted from the nature thereof." (Annex "B", Petition.)

Petitioner appealed the decision of the respondent GSIS to the respondent Employees' Compensation Commission on the principal contention that the respondent GSIS committed error in denying her claim inasmuch as the death of her husband should be presumed compensable under P.D. 626, as amended, as it was so presumed under Section 44 of Act 3428 (the old Workmen's Compensation Law), inasmuch as the illness that resulted in his death supervened in the course of his employment. This contention was brushed aside by the respondent Employees' Compensation Commission reasoning out as follows:

"The dictum enumerated under Act 3428 that an illness is presumed compensable once it is shown that it supervened in the course of employment cannot now be relied upon to support a claim for compensation under P.D. 626, as amended. For under P.D. 626, the sickness, to be compensable, must be an occupational disease

listed by the Commission, or if it is not so, then it must be caused by employment and the employee must prove that the risk of contracting it is increased by working conditions. Nowhere in the law can we find a provision from which we can draw the presumption that once the illness developed during employment, it is compensable. In fact, since by explicit mandate (Section 1[e], Rule III, Book VII of the implementing rules of the Labor Code), Act 3428, or the Workmen's Compensation Act, the law under which the dictum evolved, has been repealed, then it follows as a logical consequence, that the principle of presumptive compensability should have no application to cases cognizable under P.D. 626, as amended.

In claims grounded on non-occupational disease such as the case at hand, the claimant is called upon by law to prove that his sickness is caused by his employment and the risk of contracting it is increased by his working conditions (Section 1[b], Rule III on Employees' Compensation). He is obligated by law to do specific act to entitle him to compensation and, that is, to prove, by substantial evidence, the direct causation between the illness which caused the death and the nature of his employment. On the other hand, the dictum of presumptive compensability precisely exempts one who claims compensation benefits from doing such a specific act. Thus, it would be discordant for the appellant herein to say that he is relieved from coming forward with proof of work-connection between her husband's employment and his fatal disease, as the two requirements are unmistakably incompatible with each other, especially so because the express repeal of Act 3428, as amended, under which the dictum evolved, by P.D. 442, as amended (Labor Code of the Philippines) and the implementing rules (Sec. 1[e], Rule IV, Book VII), increased our skepticism about its applicability to cases falling under the decree.

Moreover, the etiology of "Monolytic Leukemia" from which appellant's husband died shows no causal relation with his work. Leukemia is a generalized proliferative neoplastic disorder of the blood-forming tissues, usually involving the leucocytic series. ETIOLOGY: Some forms of Leukemia in chickens mice and rats are due to viruses: thus far, there is no proof of a similar etiology in man. Pending further investigation, leukemia may be regarded as a cancer of the blood-forming organs. Genetic factors are not conspicuous in the occurrence of leukemia in man, but in some cases exposure to environmental factors, such as X-ray, radioactive materials and certain chemicals (especially benzene) may be associated with the disease. While leukemia is not difficult to diagnose in most instances, certain preleukemia states and poorly defined leukemia variants may be difficult to classify. Occasionally, a leukemia reaction (blood picture resembling leukemia) may appear with certain infections (e.g., whooping cough, infections mononucleosis, tuberculosis) and also in non-neoplastic blood dyscrasias, and advanced cancer. (Monocytic Leukemia is a disease, usually with a fairly rapid course, marked by excessive proliferation of the monocytic elements of the bone marrow, liver and spleen. The monocytes probably are produced in the reticuloendothelial system. While circulating monocytes normally constitute about 4 to 10% of the leucocytes, monocytic leukemia they are infiltration of lymphnodes, spleen and bone marrow and appear in the peripheral blood. (Lyght, C.E.: The Merck Manual of Diagnosis and Therapy: M.S. & D: N.J.: 11th edition: 1966; pp. 90-91.) The records do not show proof that the death is related to his employment as municipal treasurer nor was there an increased risk in the working conditions; hence, this case is not compensable." (Annex "C", pp. 16-19, Rollo).

The above-quoted ruling is the one brought to Us on appeal by certiorari in the instant proceeding.

In her present petition, the petitioner reiterates her reliance on what she terms "the long established legal and concrete doctrine of our Honorable Supreme Court on presumptive compensability" which she claims to be applicable likewise to claims for compensation under P.D. 626, as amended.

There is no dispute that the petitioner's claim for death benefits is governed by the provisions of the New Labor Code of the Philippines (P.D. 442, as amended) inasmuch as the death of the petitioner's husband occurred on June 1, 1976 or after January 1, 1975. (Art. 208, P.D. 442, as amended.) In Annex "A" of the Amended Rules on Employees' Compensation issued by the Employees' Compensation Commission to implement Title II, Book IV of the Labor Code, "leukemia" is considered as an occupational disease if the nature of the employment involved

"exposure to X-rays, ionizing particle of radium or other radioactive substance or other forms of radiant energy." As was correctly observed by the respondent Employees' Compensation Commission, no evidence on record shows that the petitioner's husband in his job as municipal treasurer, or in the other government positions held by him, was exposed to X-rays ionizing particle of radium or other radioactive substance in connection with his duties.

The submittal by the petitioner that she could still rely on the doctrine of "presumptive compensability" whereby, when an illness supervened during the course of employment, there is a presumption that the same arose out of or at least was aggravated in the course of employment (*Santos vs. Workmen's Compensation Commission*), had already been resolved in "*Sulit vs. Employees' Compensation Commission*", 98 SCRA 483 wherein, through Justice Aquino, this Court explained the abandonment of the doctrine of presumptive compensability as follows:

"Those radical innovations (referring to R.A. No. 772, Act No. 812, amending Section 2 of Act No. 3428), the presumption of compensability and the rule on aggravation of illness, which favor the employee, paved the way for the latitudinarian or expansive application of the Workmen's Compensation Law in favor of the employee or worker.

It now appears that after the government had experimented for more than twenty years with such employee-oriented application of the law, the law-maker found the result to be unsatisfactory because it destroyed the parity or balance between the competing interests of employer and employee with respect to workmen's compensation. The balance was tilted unduly in favor of the workmen.

Hence, to restore a sensible equilibrium between the employer's obligation to pay workmen's compensation and the employee's right to receive reparation for work-connected death or disability, the old law was jettisoned and in its place we have the employees' compensation and state insurance fund in the Labor Code, as amended.

As correctly observed by the learned Government Corporate Counsel, Manuel M. Lazaro, the Labor Code abolished the presumption of compensability and the rule on aggravation of illness caused by the nature of the employment. This Court is powerless to apply those rules under the Labor Code (Resolution of March 8, 1978 in L-47008, *Ibañez vs. Workmen's Compensation Commission*)."

In sustaining the decision appealed from, We have not overlooked the ruling laid down in "*Duran vs. Employees' Compensation Commission*", 113 SCRA 389, March 30, 1982, wherein this Court ordered the payment of death benefits to the surviving wife of a municipal judge who died likewise of acute monocytic leukemia on April 28, 1977. Said case does not contravene our previous rulings on the abandonment of the doctrine of presumptive compensability and may even be said to be a recognition thereof. The grant of compensation in *Duran* was premised on a showing by the therein petitioner that, although monocytic leukemia is not an occupational disease, the said ailment resulted from a complication or after-effects of prolonged treatment of diseases which were attributed to the nature and conditions of his work. In *Duran*, the following findings had been made:

"Petitioner has sufficiently established and respondent Commission has in fact admitted that as justice of the peace and judge, deceased served in three municipalities which did not have adequate transportation facilities. Sta. Rita alone where Judge Duran spent his last 13 years as municipal judge has 31 barrios. Obviously, land transportation was not then developed nor easily available since Judge Duran travelled mostly by foot or banca. It has also been shown and admitted that aside from his regular duties of conducting hearings and making ocular inspections, he went beyond his court-room to settle disputes between parties by amicable settlement or mediation and to speak at conferences and seminars. And in the performance of such duties, it was normal to see him wade through streams or ride in bancas.

It requires simple imagination to picture the experience that the deceased judge had gone through just so he

could dispense justice even if it meant giving more of himself than what was normally expected of him. He walked along distances and forged streams under variable weather conditions. He was literally exposed to the elements — the sun, rain, weather and rough roads. He worked as if he were a fieldman; he was a roving judge. The tenious work coupled with unhealthy exposure bore down on him after 20 years. He must have been a strong, healthy person when he first joined the Judiciary because it took all of 20 years before he suffered from angina pectoris, gouty arthritics, coronary insufficiency and monocytic leukemia. Needless to say, the human body can only take so much physical and mental pressures."

.....

"It must be borne in mind that from March, 1972 to April 28, 1977, decedent was treated and hospitalized for angina pectoris, coronary insufficiency, gouty arthrities and finally, acute monocytic leukemia. As part of his treatment, he was continuously given analgesics and antibiotics. As shown by the aforequoted medical findings, chloramphenicol is the technical name for antibiotics and phenybultazone for anti-rheumatic drugs. It has also been found that such medicines, when taken consistently for a long period of time, can be leukemogenic or can cause monocytic leukemia as a complication. There is an element of certainty in aforesaid findings; otherwise, medical authorities will not attest the same."

We have carefully examined the record of the instant case in an effort to find some credible and adequate basis to show that the acute monocytic leukemia that resulted in the death of the petitioner's husband could have been caused by or traceable to conditions under which he performed his duties as municipal treasurer. Sadly enough, our efforts proved in vain. No circumstance similar to those involved in Duran had been shown or is existent in the records to justify a similar disposition of the case at bar.

We are equally unsuccessful in finding factual basis to apply in favor of the petitioner the ruling in Corales vs. Employees' Compensation Commission (84 SCRA 762; 88 SCRA 547) to the effect that if the illness of the deceased accrued before January 1, 1975, the presumption of compensability must still be observed. There is no showing of any illness suffered by the petitioner's husband prior to January 1, 1975. The records reveal that the deceased was hospitalized for the first time on March 13, 1976 for allergy and influenza. His subsequent hospitalization on March 21, 1976 was for urinary tract infection, and on March 24, 1976 for acute monocytic leukemia. It would be delving in the realm of pure conjecture to rule that the last mentioned disease accrued, or was aggravated by ailments that supervened prior to January 1, 1975.

WHEREFORE, We are constrained to hold that the decision appealed from should be, as it is hereby, **AFFIRMED**. No costs.

SO ORDERED.

Melencio-Herrera, Plana, Relova and Gutierrez, Jr., JJ., concur.
Teehankee (Chairman), J., took no part.

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