

DULCE VDA. DE FLORES, FOR HERSELF AND IN BEHALF OF MINOR CHILDREN NAMELY, SALVADOR, OSCAR, SALVIO, SALLY, SALVE AND SANDY ALL SURNAMED FLORES, PETITIONERS, VS. WORKMEN'S COMPENS...

G.R. No. L-43316. July 21, 1977

Ponente: MARTIN, J.

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MARTIN, J.:

A petition for review[1] of the decision of the Workmen's Compensation Commission in RO6-WCU Case No. 129100 which reversed the award made by the Acting Labor Referee in favor of the petitioners.

Salvador Flores, the deceased husband of the petitioner Dulce Vda. de Flores, was first employed by respondent Pantranco South Express, Inc., (formerly known as Alatco) way back in 1952. In the course of his employment, he occupied different positions, such as driver, driver-conductor, dispatcher, checker and later on, as line inspector for which he received a monthly salary of P321.00. In 1970, Salvador Flores, got sick of cardio respiratory arrest due to myocardial infarction, bronchial asthma and acute broncho-pneumonia for which he was treated and confined at the Briola Hospital in Daet, Camarines Norte. After a few weeks, he was able to return to his work but on an off and on basis. On September 30, 1972 respondent Pantranco terminated Flores' employment. On July 7, 1974, Flores' ailments recurred until he finally died on July 20, 1974. In due time his widow, the petitioner herein, filed a claim for death benefits, for herself and in behalf of her minor children, Salvador, Oscar, Salvio, Sally, Salve and Sandy, all surnamed Flores. She attached to the said claim the physician's report and her affidavit. Respondent Pantranco did not controvert the claim. But notwithstanding the non-controversion of the claim, the Acting Labor Referee conducted a hearing of the petition. During the hearing, although allowed to cross-examine the witnesses for the claimants, counsel for respondent Pantranco waived the presentation of any evidence.

On August 18, 1975, the Acting Labor Referee rendered an award, the dispositive portion of which, reads:

"WHEREFORE, AWARD is hereby rendered in favor of the claimants and the respondent is hereby ordered to pay the following:

1. To the claimants, thru this Office, the sum of SIX THOUSAND (P6,000.00) PESOS by way of compensation, plus TWO HUNDRED (P200.00) PESOS as reimbursement for burial expenses;
2. To the widow, thru this Office, the further sum of FIFTY THREE & 60/100 (P53.60) PESOS as reimbursement for medical ex-penses;
3. Atty. Jose B. Corral, Daet, Camarines Norte, the sum of P300.00 as attorney's fee;
4. To this office, the sum of P61.00 as office fee, pursuant to Section 55 of the law."

Respondent Pantranco moved to reconsider the award made by the Acting Labor Referee but the motion for reconsideration was denied. Accordingly the record of the case was elevated to the respondent Commission for

review.

On January 26, 1976, the respondent Commission reversed the award made by the Acting Labor Referee in favor of petitioner on the ground that the petitioner has failed to establish the causal connection between the deceased's employment with that of his alleged ailments and his subsequent death.

We disagree.

Sufficiently established by the evidence is the fact that the deceased became sick of cardio respiratory arrest due to myocardial infarction, bronchial asthma and acute bronchopneumonia in 1970 while he was still in the employ of respondent Pantranco. The same ailments recurred on July 7, 1974 causing his death on July 20, 1974. It is a well settled rule that once an ailment has supervened in the course of one's employment, there exists a rebuttable presumption that the same arose out of or was at least aggravated by such employment and the burden to overthrow such presumption shifts to the employer.[2]

The claimant is thus relieved from the burden of showing causation.[3] Under the circumstances, the claimant need not prove his case to the point of demonstration for it is only sufficient to show that the hypothesis upon which he bases his claim is probable.[4] Moreover, "the precise medical cause of the illness is not legally significant, as long as the illness supervened in the course of employment." [5] In the case at bar, the respondent Republic failed to discharge the burden of overthrowing the said presumption established by law. It did not even bother to controvert the claim of the petitioners. Such absence of controversion is indeed fatal to any defense that the employer may interpose [6] and the same constitutes a constructive admission of the compensability of the claim.[7]

It is claimed by respondent Pantranco that the claim of petitioner is out of time because under Section 8 of the Workmen's Compensation Act,[8] the death of an employee is compensable if the same occurs within two years from the date he contracted the sickness or received the injury as provided in Section 2 thereof [9] which caused his death. In the case at bar, respondent Pantranco points out Salvador Flores contracted his ailments in 1970 while his death occurred on July 20, 1974. Petitioners should have filed their claim within two (2) years from 1970. In *Central Azucarera Don Pedro vs. De Leon* [10] this Court already held that the two-year period should be counted from the date the disease or illness becomes compensable or from the time the employee's sickness renders him physically disabled to do the work, thus rejecting a literal interpretation of the wording of the law that the two-year period should be reckoned with from the time the sickness is contracted or the injury is caused resulting in death. The same view was subsequently adopted in *International Oil Factory vs. Doria, et al.* [11] It was shown during the hearing before the Acting Labor Referee that the deceased had occasionally suffered from his ailment which started in 1970 and which persisted until the respondent Pantranco terminated his services on September 30, 1972 due to the condition of his health. At the hearing respondent Pantranco did not bother to present any evidence to the contrary. True, counsel for respondent Pantranco had caused certain exhibits to be marked but he did not submit the same formally. It was only after the Acting Labor Referee had granted the award that respondent Pantranco showed interest in opposing the claim by filing a motion for reconsideration, appeal and/or review. Its main thrust in its motion for reconsideration is that the death of the deceased is not compensable because he did not become disabled while he was under its employ and that his ailment was contracted after he was already separated from the service. True it is that in support of its motion for reconsideration, respondent Pantranco attached thereto an alleged deed of quitclaim signed by the deceased, Salvador Flores; the letter of the President of the respondent Pantranco dated September 30, 1972 terminating the services of Salvador Flores; the separation pay voucher; and the letter dated July 7, 1973 of Salvador Flores to the General Manager of respondent Pantranco seeking reinstatement to his former position as line inspector. However, said documents can be of no evidentiary value as the same were not at all formally presented during the hearing of the case before the Acting

Labor Referee. It is claimed by respondent Pantranco[12] that it has, through counsel filed a motion asking for five days from June 18, 1975, to submit its evidence by way of written affidavits together with the documents already marked during the trial of the case. Said motion was granted by the Acting Labor Referee in his Order dated June 18, 1975.[13] However, counsel for respondent Pantranco failed to submit the evidence mentioned in said motion within the five-day period granted him. Thus, for all legal intents and purposes, no evidence has been presented by respondent Pantranco and the documents marked during the hearing and attached to the motion for reconsideration, appeal and/or review cannot be considered at all; and, We have no other alternative but to consider the case strictly in accordance with the evidence formally submitted and admitted during the hearing. Since according to the evidence on record the deceased was separated from the service of the respondent Pantranco on September 30, 1972 due to ill-health, said date should be considered as the time the sickness of the deceased has rendered him physically disabled to work. When he died therefore on July 20, 1974 from the same ailments, it is obvious that his death occurred within the two-year period from the time he became disabled to work.

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the decision of the respondent Workmen's Compensation Commission is hereby reversed and set aside and the award made by the Acting Labor Referee, Regional Office No. V, revived and reinstated. No pronouncement as to costs.

IT IS SO ORDERED.

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

[1] Treated as a special civil action per resolution dated April 4, 1976.

[2] Talip vs. WCC, L-42575, May 31, 1976; Reynaldo vs. Republic, L-43108, June 30, 1976; Simon vs. Republic, L-42510, June 30, 1976; Cabinta vs. WCC, L-42639, July 30, 1976; Maria Cristina Fertilizer vs. WCC, 60 SCRA 228; Acosta vs. WCC, L-19772, October 31, 1964; Galang vs. WCC, L-41893, July 30, 1976; Pros vs. WCC, L-43348, September 29, 1976; Magalona vs. WCC, 21 SCRA 1199.

[3] Magalona vs. WCC, supra., citing Justiniano vs. WCC, L-22774, Nov. 21, 1966, citing Agustin vs. WCC, L-19957, Sept. 29, 1964; Cabinta vs. WCC, supra.

[4] Abana vs. Quisumbing, 22 SCRA 1279, citing MRR vs. WCC, L-18773, May 30, 1974; Cabinta vs. WCC, supra.

[5] Magalona vs. WCC, supra.; Cabinta vs. WCC, supra.

[6] Apolega vs. Hizon, 25 SCRA 336; National Mirror Factory vs. Vda. de Anure, 27 SCRA 719; Victorias Milling Co. vs. WCC, 28 SCRA 285; Northwest Airlines vs. WCC, 28 SCRA 877; La Mallorca vs. WCC, 30 SCRA 613; Pros vs. WCC, L-43348, Sept. 29, 1976.

[7] A.D. Santos vs. Vasquez, 22 SCRA 1156, citing A.D. Santos vs. Sapon, L-22220, April 29, 1966; Itemcop vs. Florzo, L-21969, Aug. 31, 1966; Nadeco vs. Rongavilla, L-21963; Aug. 30, 1967; Rio y Compañia vs. WCC, L-21467, Aug. 30, 1967; Pampanga Sugar Mills vs. Espeleta, L-24973, Jan. 30, 1968; Pros vs. WCC, supra.

[8] SEC. 8. Death benefit. - If the disease contracted or injury received by the employee as provided in Section two hereof causes his death within two years from the date of such injury or sickness, the employer shall pay to the persons entitled thereto, and, in case there shall be none, to the person representing the deceased employee the burial expenses in the amount of two hundred pesos, and shall also pay to or for the following persons, in the order of priority and during the periods hereinafter set forth, compensation equivalent to the following

percentages of the average weekly wages of the employee as determined in Section nineteen of this Act:

x x x x x

[9] SEC. 2. Grounds for compensation. - When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the person hereinafter specified. The right to compensation as provided in this Act shall not be defeated or impaired on the ground that the death, injury or disease was due to the negligence of a fellow servant or employee, without prejudice to the right of the employer to proceed against the negligent party.

[10] L-9449, July 24, 1969.

[11] L-13426, September 30, 1960.

[12] pp. 43-44, Record.

[13] p. 41, Record.

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