

PRESENTACION D. DELANA, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES (BUREAU OF PUBLIC SCHOOLS), RESPONDENTS.

G.R. No. L-43358. May 31, 1978

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Workmen's Compensation Commission dated December 31, 1975 in RO7-WCC Case No. 17477 entitled "Presentacion D. Delana, claimant, versus Republic of the Philippines (Bureau of Public Schools), respondent" reversing the decision of the Acting Referee of Regional Office No. 8, Department of Labor, Cebu City, which awarded disability and death benefits to the claimant.[1]

The Petitioner, Presentacion D. Delana, is the widow of Catalino Delana who died of Subarachnoid Hemorrhage, Rupture of congenital A-V Malformation, Diabetes Mellitus, Chronic Pyelonephritis, and Arteriosclerotic Heart Disease on July 21, 1974 within two years after he was retired as City Superintendent of Schools of Cebu City.

Before his retirement, Catalino Delana filed a claim for disability compensation on April 30, 1974. Before the said claim could be adjudicated, Catalino Delana died. On October 9, 1974, his widow, the herein petitioner, filed another claim for death benefits and medical reimbursement. The disability and death benefits claims were joined and docketed in the Cebu Labor Regional Office as RO7-WCC Case No. 17477.

Pursuant to Labor Department Order No. 3, Series of 1974, the claimant submitted all the required affidavits and documents marked as Exhibits "A" to "Q", inclusive. The respondent, Bureau of Public Schools, did not submit any evidence to rebut the claim.[2]

The Hearing Officer and Acting Referee of Regional Office No. 8, Department of Labor, Cebu City, rendered his decision dated August 5, 1975, the dispositive part of which reads:

"WHEREFORE, the Republic of the Philippines (Bureau of Public Schools) is hereby ordered -

- To pay to the estate of deceased Catalino Delana the sum of P5,416.18 representing medical expenses and the sum of P4,568.85 representing temporary total disability compensation or a total of NINE THOUSAND NINE HUNDRED EIGHTY SIX and 03/100 PESOS (P9,986.03) in lump sum and through this Office;
- To pay to the claimant, through this Office, the sum of P1,431.15 representing death compensation and the sum of P200.00 representing burial expenses or a total of ONE THOUSAND SIX HUNDRED THIRTY ONE and 15/100 PESOS (P1,631.15) in lump sum;
- To pay to Attorney Cornelio Besinga, claimant's counsel, the sum of THREE HUNDRED PESOS (P300.00) representing attorney's fees; and,
- To pay to the Workmen's Compensation Fund the sum of SIXTY ONE PESOS (P61.00) representing fees pursuant to Section 55 of the Act.

SO ORDERED.

Cebu City, Philippines, August 5, 1975.

BERNARDO G. DELFIN

Hearing Officer & Acting Referee"[3]

Both the claimant and the respondent Bureau of Public Schools filed motions for reconsideration. The petitioner asked that the decision dated August 5, 1975 be modified by increasing the award for death from P1,431.15 to P3,934.28.

The respondent Bureau of Public Schools asked for the complete denial of the claim. It is alleged by the petitioner that said respondent's motion for reconsideration was filed late.

The Acting Hearing Officer and Acting Referee denied both motions for reconsideration.

The Workmen's Compensation Commission absolved the respondent Bureau of Public Schools from any liability under the Workmen's Compensation Act on the ground that the deceased, Catalino Delana, was not disabled for labor although sick and had received his salaries corresponding to the period of his service and that the deceased died on July 21, 1974 after his compulsory retirement from the service on February 14, 1973, or one year, five months and seven days after such time.

The facts, as found by the Hearing Officer and Acting Referee of Regional Office No. 8, Department of Labor, Cebu City, are:

"On the evidence submitted, it was shown that the late Catalino Delana was, at the time of his death, an employee of the Bureau of Public Schools working as City Superintendent of Schools with assignment and station in Danao City and with salary at the rate of P12,000.00 per annum; that the said deceased began working with the said bureau as an ordinary classroom teacher in June, 1927 and except for the war period, continued working since then until his physical incapacity on February 14, 1973; that claimant held various positions with the said bureau from an ordinary classroom teacher to principal, from principal to district supervisor, from district supervisor to Provincial Assistant of the Division Superintendent, from Provincial Assistant to In-Charge of the Division, from In-Charge of the Division to Assist-Division Superintendent of Schools and from Assistant Division Superintendent of Schools to City Superintendent of Schools; that while at work on March 22, 1972, said deceased was attacked of a very disabling disease and had to be confined at the Chong Hua Hospital under the medical attendance of Dr. Manuel T. Lim and Dr. Benigno Aldana, Jr., who diagnosed decedent's disabling diseases as 'Left 3rd Cranial Nerve Palsy secondary to cerebral hemorrhage and pneumonia'; that after said confinement and when said deceased partially recovered, he went back to work on September 4, 1972 and subsequently filed a claim for disability and medical benefits for his disability within the period from March 22, 1972 to September 3, 1972; that before his disability claim could be adjudicated, said deceased died on July 21, 1974 leaving behind claimant herein and one child who is already of age and married; and, that the said deceased spent for the treatment of his said fatal diseases the total sum of P5,416.18 at the Chong Hua Hospital and at the Cebu Doctors' Hospital including professional fees and other medical supplies.

It was also established that said deceased was disabled immediately before his death for a total period of 232 days or 33 1/7 weeks. According to an affidavit jointly executed by Marcos Nuñez and Porfirio Satina -

'That on the night of March 22, 1972 we had a culminating program on the theme of Green Revolution at the Central School of Danao City which lasted until well past midnight, and thereafter Undersecretary Albarracin and Supt. Delana proceeded back to Cebu City despite the cold weather and constant drizzle;

That since then Supt. Delana failed to report back to work and we learned that he was confined at the Chong

Hua Hospital, sick of Pneumonia and Cerebral Hemorrhage;

xxx xxx xxx

That on October 19, 1972, Supt. Delana had again his cerebral attack when he collapsed in the Office, and after his consciousness was revived by the School Nurse, he had to be brought home to Cebu City for rest and continued medication;”[4]

From the facts found by the Hearing Officer and Acting Referee, there is no doubt that the disability and subsequent death of Catalino Delana are compensable under the Workmen's Compensation Act. The disability was caused by "Left 3rd Cranial Nerve Palsy secondary to cerebral hemorrhage and pneumonia". Catalino Delana died of a disease obviously connected with his employment as City Superintendent of Schools.

The Hearing Officer and Acting Referee correctly computed the temporary total disability compensation as follows:

"Under Section 14, to temporary total disability compensation equivalent to 60% of his average weekly wage for 33 1/7 weeks. 60% of P230.76, decedent's average weekly wage, is P138.45 and for 33 1/7 weeks, the estate of said deceased is entitled to the sum of P4,568.85 in temporary total disability compensation;”[5]

The contention of the Solicitor General that the petitioner is not entitled to the death benefits because when Catalino Delana died on July 21, 1974, there was no more employer-employee relationship between him and the respondent Bureau of Public Schools, the said Catalino Delana having retired earlier at the age of 65 years on February 14, 1973, has no merit.

In *Central Azucarera Don Pedro, petitioner, versus Cesario de Leon etc. et al., respondents*, G.R. No. L-9449, promulgated on July 24, 1959, this Court held:

"The contention that the claim of death benefits and burial expenses should be dismissed for the reason that Garin died more than two years from his sickness, is not also well founded. The law invoked by petitioner is Section 8 of the Act which we quote in part:

'SEC. 8. Death benefits - If the disease contracted or injury received by the employee as provided in section two hereon cause his death within two years from the date of such injury or sickness, the employer shall pay the compensation to the persons entitled thereto, and in case there shall be none, he shall pay to the person representing the deceased employee the burial expenses not to exceed two hundred pesos, and shall also pay to or for the following persons, in the order or priority and during the periods hereinafter set forth. x x x.'

It is petitioner's theory that the two-year period mentioned in the law should be reckoned with from the date the injury is caused or the illness is contracted resulting in death in order that the employee may be entitled to compensation, or that the wording of the law should be interpreted literally in order that the illness or death may be compensable. To this we cannot agree for that would render the law nugatory and ineffective. A reasonable interpretation would be that the two-year period 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, which interpretation is in keeping with the general rule in compensation cases that the injuries or diseases that are compensable are only those which produce disability and thereby affect the earning power of the employee. x x x"

Catalino Delana died within two years from the date his illness became compensable. Hence, the petitioner is entitled to death benefits.

We find to be meritorious petitioner's contention that the award for death compensation should be increased from

the sum of P1,431.15 granted originally in the referee's award to P3,934.28, in consonance with Section 12 of the Workmen's Compensation Act which provides for the deduction of the period of disability and not the money value of the disability award.[6] As correctly contended by petitioner, "Since the period of temporary total disability sustained by the deceased from the time he was disabled on March 22, 1972 up to the date of his compulsory retirement at 65 years on February 13, 1973 was for a period of 33-1/7 weeks, this period is to be deducted from 208 weeks, so that the claimant-widow is entitled to a death compensable period of 174-6/7 weeks. Thus, multiplying this with the average weekly compensation of P22.50 (50% of P50.00), the death compensation supposed to be due the claimant is P3,934.29, not P1,431.15 as stated in the (referee's) decision."

WHEREFORE, the decision of the Workmen's Compensation Commission is hereby set aside and judgment is rendered ordering the respondent, Republic of the Philippines (Bureau of Public Schools):

- 1) To pay to the estate of Catalino Delana the sum of Five Thousand Four Hundred Sixteen Pesos and 18/100 (P5,416.18) representing medical expenses and the sum of Four Thousand Five Hundred Sixty Eight Pesos and 85/100 (P4,568.85) representing the temporary total disability compensation or a total of Nine Thousand Nine Hundred Eighty Six Pesos and 03/100 (P9,986.03) in lump sum;
- 2) To pay to the petitioner the sum of Three Thousand Nine Hundred Thirty-four Pesos and Twenty-eight centavos (P3,934.28) representing death compensation and the sum of Two Hundred Pesos (P200.00) representing burial expenses or a total of Four Thousand One Hundred Twenty Four Pesos and 28/100 (P4,124.28) in lump sum;
- 3) To pay to the counsel of the petitioner the sum of Six Hundred Pesos (P600.00) representing attorney's fees; and
- 4) To pay to the successor of the Workmen's Compensation Commission the sum of Sixty One Pesos (P61.00) as administrative fee.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Santos, and Guerrero, JJ., concur.

[1] Annex "A", Rollo, pp. 23-25.

[2] Petition, Rollo, pp. 9-10.

[3] Annex "E", Rollo, p. 38.

[4] Annex "E", Rollo, pp. 35-37.

[5] Annex "E", Rollo, p. 37.

[6] Cf. *Vda. de Calado vs. Workmen's Compensation Commission, et al.*, 38 SCRA 567.

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