

ROGELIO H. MANDAPAT, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. L-47492. March 24, 1981

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Employees' Compensation Commission in ECC Case No. 0545 entitled "Noli S. Mandapat vs, Government Service Insurance System (Department of Education and Culture)" affirming the decision of the Government Service Insurance System dismissing the claim for compensation.[1]

The petitioner, Rogelio H. Mandapat, is the widow-er of the late Noli S. Mandapat, who was a teacher at the Bolaoit Elementary School, Malasique, Pangasinan. Noli S. Mandapat died on June 12, 1977 while her appeal was pending in the Employees' Compensation Commission.

The facts, as found by the Employees' Compensation Commission, are:

"This is a case of a thirty-two (32) years old female teacher at the Bolaoit Elementary School, Malasique, Pangasinan who, during the period of her employment, contracted tumor at her right breast which was biopsied as Intraductal Carcinoma, (R) Breast with Axillary Lymph Node Metastases. On May 10, 1975, she underwent radical mastectomy at the Manila Medical Center with Dr. Redentor Pagtalunan as her attending physician.

"The ensuing disability compelled her to file a compensation claim with the Government Service Insurance System on the assumption that such disability was the result of a work-connected ailment. In a decision rendered on February 27, 1976, the System disapproved her claim on the ground that claimant's ailment is not an occupational disease, primarily because it is not included in the list of occupational diseases listed by the Commission and, also because medical studies impute Cancer of the Breast to the action of estrogenic hormones, which hastens its development in genetically susceptible individuals rather than to factors of employment."[2]

The Employees' Compensation Commission dismissed the claim because:

"After a thorough study of the record, we are convinced in the validity of the System's conclusion that the nature of claimant's duties, as well as the working conditions of her employment could not have directly caused the ailment. While it is admitted that the cause of mammary cancer is not completely known, it is however the general belief among medical authorities, that highly specialized biological active mammary tissues under the influences of hormones (especially estrogen) undergoes periodic hyperplasia and involution. Imbalances lead to mammary dysplasia or to accentuated repair and hyperplasia that eventually cross the threshold of neoplasia. This is not mere speculation, since estrogens act principally upon the ducts and ductules from which most carcinomas arise. (Anderson, W.A.D.: Pathology; Japan, Mosby Co. 5th Edition; 1966).

"Moreover, Breast Cancer is definitely not accepted as occupational disease. It is not the direct or customary

result of claimant's occupations, neither was its contraction increased by working conditions or by factors peculiar to her employment." [3]

The Employees' Compensation Commission decided the case under Presidential Decree No. 626 as amended. This is error.

It is a fact that Noli S. Mandapat underwent radical mastectomy on May 10, 1975. It is obvious that the tumor in her right breast which was biopsied as Intraductal Carcinoma (R) Breast with Axillary Lymph Node Metastases must have supervened before 1975.

The onset of cancer is quiet and gradual, in contrast with many diseases which appear suddenly, dramatically and demand attention. [4]

It takes six to twelve months for a breast cancer 4 to grow from a size which can just be found to the size usually encountered at the time of surgery. [5]

In view of the foregoing, the claim of the petitioner must be decided under the Workmen's Compensation Act. [6]

The illness of Noli S. Mandapat supervened during her employment prior to the Amended Labor Code. Hence the presumption of compensability, the principle of aggravation, the award of attorney's fees and the payment of administrative fees must be observed and applied. [7] The Employees' Compensation Commission as the successor of the defunct Workmen's Compensation Commission is duty bound to observe and apply the foregoing principles in passing upon workmen's compensation. [8]

The employer of Noli S. Mandapat has not rebutted the disputable presumption that the claim is compensable.

WHEREFORE, the decision of the Employees' Compensation Commission is hereby set aside and the Government Service Insurance System is ordered:

1. To pay the petitioner the sum of SIX THOUSAND PESOS (P6,000.00) as death compensation and the amount of P600.00 as attorney's fees;
2. To reimburse the petitioner the medical expenses incurred by Noli S. Mandapat, supported by proper receipts; and
3. To pay the amount of P61.00 as administrative fees.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, De Castro*, and Melencio-Herrera, JJ., concur.

[1] Rollo, pp. 17-19.

[2] Rollo, pp. 17-18.

[3] Rollo, pp. 18-19.

[4] Illustrated Medical and Health Encyclopedia, Volume 2, p. 385.

[5] Ibid., p. 397.

[6] Fermin Cayco, et al. vs. Employees' Compensation Commission, et al., G.R. NO. L-49755, August 21, 1980.

[7] Santos vs. Workmen's Compensation Commission, 75 SCRA 364

[8] Corales vs. Employees' Compensation Commission and G.S.I.S., 88 SCRA 547.

* Mr. Justice De Castro was designated to sit with the First Division.

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