

JOSE HUDENCIAL, PLAINTIFF-APPELLANT, VS. S.P. MARCELO & CO., INC., DEFENDANT-APPELLEE.

G.R. No. L-23969. February 27, 1971

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The only issue in this appeal, taken by the plaintiff in forma pauperis, is whether or not the Court of First Instance of Nueva Ecija, in its Civil Case No. 4337, correctly dismissed the complaint, upon motion of the defendant, on the ground of lack of jurisdiction.

The plaintiff's allegations, which were deemed admitted for purposes of the motion to dismiss, are as follows: that the plaintiff was employed as a mechanic by the defendant; that while the plaintiff was repairing a truck belonging to the defendant the truck caught fire and ex-ploded, as a result of which he suffered serious burns in different parts of his body; that the defendant was immediately notified of the mishap, and its manager promised to compensate him for the damages he sustained and to pay all the necessary expenses for his treatment and hospitalization; that aside from the wages he failed to earn because of his inability to engage in his usual work he paid certain amounts for his confinement in a hospital and for the plastic surgery he had to undergo; that the defendant's refusal to satisfy his claim for compensation caused him mental suffering, for which he is entitled to moral and exemplary damages; and that because he was compelled to seek the services of legal counsel he is also entitled to recover attorney's fees.

The defendant's motion to dismiss, which was granted by the trial court, was based on the ground that the case involved a claim for compensation under Act No. 3428 and hence pertained to the exclusive jurisdiction of the Work-men's Compensation Commission. The plaintiff, on the other hand, contended and now maintains in this appeal that his claim is based on Article 1711 of the Civil Code and is therefore cognizable by the Court of First Instance.

We affirm the order of dismissal. There is no material difference, insofar as the plaintiff's cause of action is concerned, between the provisions of the Work-men's Compensation Act, Section 2, and Article 1711 of the Civil Code. The compensable injury referred to in both statutes is one that arises "out of and in the course of the employment." Before the enactment of Republic Act No. 772 (amending Act No. 3428), which took effect on June 20, 1952, claims for compensation under the Workmen's Compensa-tion Act were cognizable by the regular courts, but since then exclusive jurisdiction was vested in the Workmen's Compensation Commission, as provided in Section 46 of the amendatory law, which states:

"SEC. 46. Jurisdiction. - The Workmen's Compensation Commissioner shall have juris-diction to hear and decide claims for com-pensation under the Workmen's Compensation Act, subject to appeal to the Supreme Court..."

In relation to Section 46, Section 5 must also be considered. This Section provides that "the rights and remedies granted by this Act to an employee by reason of a personal injury entitling him to compensation shall exclude all

other rights and remedies accruing to an employee, his personal representatives, dependents or nearest of kin against the employer under the Civil Code and other laws, because of said injury." These provisions were applied by this Court in the case of *Manalo vs. Foster Wheeler Corporation, et al.*, 98 Phil. 856, in sustaining the order of the trial court dismissing an employee's claim for damages against the employer for injuries suffered in an accident which happened in the course of his employment. It was there said: "The Legislature evidently deemed it best, in the interest of expediency and uniformity, that all claims of workmen against their employers for damages due to accidents suffered in the course of employment shall be investigated and adjudicated by the Workmen's Compensation Commission, subject to the appeal in the law provided."

It may of course happen that an employee may have claims against his employer other than those re-coverable under the Workmen's Compensation Act, in which case he should pursue his remedy in the courts. Thus in the case of *Pacana vs. Cebu Autobus Co.*, 32 SCRA 442, where aside from disability compensation the plaintiff sued for separation pay, sick leave, vacation and overtime pay, we held that the order of the Court of First Instance dismissing the complaint on the ground of lack of jurisdiction was erroneous. In the case at bar, however, the claims are for work disability by reason of the accident as well as for medical, surgical and hospital services, all of which are provided for in the Workmen's Compensation Act.

Insofar as the plaintiff's claim for moral and exemplary damages is concerned, we do not find it sufficient to remove this case from the exclusive jurisdiction of the Workmen's Compensation Commission, since a mere refusal on the part of an employer to pay the employee's extra-judicial claim for compensation, as alleged in the complaint, is not a ground for the award of such damages. Otherwise there would be a premium on the right to litigate. The following comments of Schneider are apropos:

"Since the remedy provided by the compensation act is exclusive as against the employer, the employee must pursue all rights for enforcement of his claim under the statute, and he has no other remedies. He may not maintain an action ex delicto and for punitive damages because of the alleged wrongful and wanton refusal of the employer to pay the compensation due him." [1]

Wherefore, the order appealed from is affirmed, without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] Schneider, *Workmen's Compensation Text*, Vol. 1, p. 245, citing *Sloss-Sheffield Steel & Iron Co. v. Greed*, 211 Ala. 95, 99 So. 791.

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