

**ARSENIA LACATAN-NUÑEZ, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION, CANLUBANG SUGAR ESTATE,
RESPONDENTS.***G.R. No. L-46395. October 02, 1992*

Ponente: MELO, J.

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This has reference to a petition for review on certiorari, filed in forma pauperis, of the Decision dated October 27, 1975, of the Employee's Compensation Commission in R05-W.C. Case No. 1993, entitled "Arsenia Lacatan Nuñez vs. Canlubang Sugar Estate, C.J. Yulo & Sons", which denied the grant of death compensation benefits to petitioner for the demise of her husband under the provisions of the Workmen's Compensation Act.

Petitioner Arsenia Lacatan-Nuñez filed the present petition in her capacity as the widow of the late Victorino Nuñez who had been employed by private respondent Canlubang Sugar Estate as a locomotive driver with a monthly salary of P325.00. On February 22, 1967, Victorino was unable to continue with his work due to severe headache and dizziness. Three days thereafter, or more specifically, on February 25, 1967, he developed paralysis of the left half of the body and right half of the face with inability to speak and eat properly. His left upper extremity was completely paralyzed. Since complete recovery was impossible, he was retired from the service for cerebral apoplexy (stroke) on March 16, 1967. At that time, the deceased was already 65 years old, with 18 years and 6 months service to his credit.

On December 31, 1970, or three (3) years and nine (9) months after retirement, Victorino died due to "bleeding peptic ulcer". As a consequence thereof, the widow, herein petitioner, filed on August 13, 1973, a claim for death compensation benefits with the Regional Office No. 5, Department of Labor, San Pablo City.

Private respondent Canlubang Sugar Estate controverted the claim on the ground that (a) the claim was filed beyond the reglementary period; (b) his death was not due to work-connected cause, said death occurring nearly four (4) years after separation from service; and (c) payment of retire-ment benefits amounting to P6,012.50 was made to his heirs as of March 16, 1967.

Acting Referee Bonifacio I. Marasigan rendered a decision dated October 10, 1974, granting disability benefits to the claimant but at the same time declaring that death benefits cannot be granted for the reason that Victorino Nuñez died beyond the 2-year period from date of disability and/or retirement. The dispositive portion of the said decision reads as follows:

"WHEREFORE, finding the above-claim to be meritorious, judgment is rendered in favor of the claimant/heirs and the respondent is directed to:

1. Pay the claimant, thru this Unit, the sum of SIX THOUSAND PESOS (P6,000.00) as compensation benefits under Section 14 of the Act, as amended, computed as follows:

Claimant for the decedent is entitled to 60% of his average weekly wage of P75.00 for the period of disability

from March 16, 1967 (date of medical retirement) up to December 31, 1970 (date of death), a period of 197 $\frac{2}{7}$ weeks. Sixty (60%) percent of his average weekly wage of P75.00 is P45.00 multiplied by 197 $\frac{2}{7}$ weeks is P8,877.84, reduced to P6,000.00, the maximum amount of compensation allowed by law, the full amount of what is now due and demandable.

2. Pay Feliciano Reyes his attorney's fee, the sum of THREE HUNDRED PESOS (P300.00) (Sec. 31).

3. Pay this Office the sum of SIXTY ONE PESOS (P61.00 as fee (Sec. 55).

SO ORDERED."

From the aforesaid decision, private respondent filed a "Petition for Reconsideration and/or Review." Treated as an appeal, the case was elevated to respondent Workmen's Compensation Commission.

In a decision dated October 27, 1975, respondent Commission reversed the decision of the acting referee and dismissed the claim of petitioner, ruling as follows:

"The instant claim for death com-pensation should be rejected. Deceased died more than three (3) years after retirement due to bleeding peptic ulcer. In order to hold respondent liable under the claim it must be shown that the death of the deceased was linked to his employment with the respondent. And the only possible connection with which to bridge his relation is to prove that the deceased suffered an illness during his employment. His illness was hypertension due to arteriosclerosis. Death due to bleeding peptic ulcer occurring after almost 4 years from retirement or separation from the service definitely is not proximate, hence, any factor that may have predisposed his illness which led to his death cannot be related to his employment. (p. 27, Rollo).

Hence, the instant petition, with the petitioner raising this lone issue that:

"THE WORKMEN'S COMPENSATION COMMITTED A REVERSIBLE ERROR IN DISMISSING THE CLAIM ON THE GROUND THAT THE ILLNESS WHICH CAUSED THE DEATH OF PETITIONER'S HUSBAND WAS NOT WORK-CONNECTED."

Petitioner argues that no blood chemistry examination was taken of her husband at the time he was medically retired and that, therefore, it could have been possible that even at that time he was already suffering from a bleeding peptic ulcer. This gives rise, so petitioner argues, to the presumption that Victorino's ailment was work-connected.

Petitioner also claims that the decision of respondent Commission is contrary to the liberal spirit of the law. We have no quarrel with petitioner on this point and we certainly sympathize with her, for the Workmen's Compensation Act being a social legislation aimed at protecting the rights of the workingman in consonance with the social justice guarantee of the Constitution, its provisions must be interpreted liberally in favor of laborers or workers (*Alavado vs. City Government of Tacloban*, 139 SCRA 230). We have tried hard to find some factual and legal basis to enable us to decide in her favor, but our efforts have been in vain. Much as we sympathize with petitioner's plight, we are constrained to deny her claim.

It is not disputed that Victorino Nuñez died more than three (3) years after retirement. Under Section 8 of the Workmen's Compensation Act, it is required that before death benefits can be awarded to the heirs of a deceased employee, the death of the employee due to a work-connected disease, must occur within two (2) years from such sickness. In the cases of *International Oil Factory vs. Doriz* (109 Phil. 553) and *Central Azucarera Don Pedro vs. de Leon* (L-9449, July 29, 1959), this Court ruled that the 2-year period shall be counted from the time of the aggravation of the employee's ailment or the time he was forced to stop working or became physically disabled to work. This doctrine was reiterated in the subsequent cases of *Vda. de los Santos vs. WCC* (88 SCRA 134); *Delana vs. WCC* (83 SCRA 528); and *Tolosa vs. ECC* (136 SCRA 335). Since Victorino Nuñez stopped working or

became physically disabled to perform his duties at the time of his retirement on February 25, 1967, the 2-year period spoken of by Section 8 of the Workmen's Compensation Act should be counted from that date. Victorino, however, died on December 31, 1970, or more than two years after his retirement. Obviously, no death benefits can be granted under the law.

Regarding the contention that claimant should at least be allowed to recover disability benefits from the date her husband ceased working on May 16, 1967, to the time of his death on December 31, 1970, this contention has no legal basis because when the late Victorino Nuñez retired by reason of old age (65 years) on May 16, 1967, the employee-employee relationship between him and private respondent was terminated and absent such tie or relationship, the grant of compensation benefits cannot be justified. Thus, in *Alatco Trans. Inc. vs. WCC, et al.* (42 SCRA 391), it was held:

"The record reveals that the Commission computed the amount due from the petitioner from June 16, 1965; the date of the claimant's disability, however, actually started on September 6, 1964, when his illness compelled him to stop working. Disability compensation represents lost or unpaid earnings of a claimant due to his illness and becomes due from the time his earning power is lost or impaired. The liability therefore of the petitioner to pay the disability compensation accrued on September 6, 1964 (when the claimant's illness impaired his earning capacity) and subsisted only until June 16, 1965 when the claimant was actually separated from service or, more particularly, when the employer-employee relationship between petitioner and the claimant ceased) ... We find no basis to sustain the grant of compensation after June 16, 1965 -- the date of termination of the employer-employee relationship between petitioner and claimant." (p. 397)

WHEREFORE, the decision appealed from is hereby **AFFIRMED**.

Bidin, Davide, Jr., and Romero, JJ., concur.

Gutierrez, Jr., (Chairman), J., on leave.

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