

ESMERALDO GUZMAN, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND JESUS ROS BAGO, RESPONDENTS.

G.R. No. L-38911. January 28, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a special civil action for certiorari to set aside the award of the Acting Chief Referee and Chief of Section in RO 4 W.C. Case No. 148347 entitled "Jesus Ros Bago, Claimant, vs. Esmeraldo Guzman, Respondent", on the ground that the petitioner was denied due courses of law because he was not given his day in court.[1]

The dispositive part of the award reads:

"Accordingly, under Sections 14 and 18 of Act 3428, as amended, the claimant is entitled to the maximum compensation of P6,000.00.

AWARD, therefore, of the aforementioned benefits in favor of the complainant is hereby entered and respondent ordered to pay:

- The claimant, thru this Office, the sum of SIX THOUSAND PESOS AND NO/100 (P6,000.00) as compensation; and
- The Workmen's Compensation Fund, the amount of P61.00 as administrative fee, pursuant to Section 55 of the Act. Bill. No. IV-3611-73 is attached."[2]

The record shows that on January 14, 1974, Jesus Ros Bago filed a Notice of Injury or Sickness and Claim for Compensation[3] with Regional Office 4, Workmen's Compensation Section, Manila, for disability against the employer Esmeraldo Guzman.

The respondent employer, Esmeraldo Guzman, filed on January 25, 1974, an Employer's Report on Accident or Sickness wherein he manifested that he was controverting the employee's right to compensation on the ground that the said employee who was a driver in the jeepney transportation of the employer left in November 1971, did not report that he was sick and did not go back to work because he was then driving a taxi.[4]

The Acting Chief Referee and Chief of Section found that the employer Esmeraldo Guzman "failed to controvert the claimant's right to compensation within 14 days from the date of disability or within 10 days from knowledge thereof, pursuant to Section 45, Act 3428, as amended, resulting, as it did, in the loss of his non-jurisdictional defenses and ultimate admission of the compensability or work-connection of the claimant's illness x x x."[5]

The employer Esmeraldo Guzman, petitioner herein, filed an urgent motion for reconsideration of the award on the ground that on January 25, 1974, he filed his answer contained in the Employer's Report; that his contravention was formally filed within the 10-day period upon notice; that, therefore, he was entitled to a day in court so that his side could be properly heard; and that if properly given an opportunity to present his side, he

could show that the claimant is not entitled to a compensation benefit for the claimant had abandoned his job as jeepney driver in November 1971 and worked as driver of a taxi where he incurred the sickness.[6]

The Acting Chief Referee and Chief of Section considered the motion for reconsideration as "nothing but a useless piece of paper" because there was no proof of service of the said motion to the claimant and considered the award sought to be reconsidered as final.[7]

The employer, petitioner herein, instead of appealing to the Workmen's Compensation Commission, filed a Notice of Appeal that he was appealing to the Supreme Court.[8]

The Workmen's Compensation Commission contends that the petitioner cannot appeal from the award directly to the Supreme Court because he did not appeal to the Workmen's Compensation Commission.[9]

The petitioner filed on October 9, 1974 a manifestation which alleged:

"2. That on the alleged failure of herein petition to first exhaust all remedies in law, the issues raised before the Honorable Tribunal, are legal ones or questions of law and not decision on the merits of the case. These pertain to the issue on the following:

1st - Whether or not petitioner herein controverted the claim.

2nd - Whether the failure to serve notice to respondent, is fatal to the herein petitioner."[10]

The issue of whether or not the petitioner seasonably controverted the claim is a question of fact. It appears from the Notice of Injury or Sickness and Claim for Compensation that the claimant became sick of hypertension, congestive heart failure resulting in paralysis of half of his body on August 15, 1970 in the course of his employment with the petitioner, and that the claimant gave notice of the sickness on August 15, 1970 to the manager of the petitioner orally and in writing.[11]

The petitioner filed the Employer's Report on Accident or Sickness only on January 25, 1974, long after he learned of the illness of the claimant, private respondent herein, on August 15, 1970.

The Acting Chief Referee and Chief of Section found as a fact that the respondent failed to controvert the claimant's right to compensation within 14 days from the date of disability or within 10 days from knowledge thereof.[12] This finding of fact of the Acting Chief Referee and Chief of Section cannot be reviewed in this proceeding for certiorari.

The record shows that the illness of the private respondent supervened during his employment with the petitioner. Hence, there is a disputable presumption that the claim is compensable.[13] The claimant is relieved of the duty to prove causation as it is then legally presumed that the illness arose out of the employment. The burden of proof is shifted to the employer to show that the sickness is not compensable.[14]

The petitioner has manifested that he is not raising an issue on the merits of the decision.

WHEREFORE, the petition is hereby DISMISSED, and the award sought to be set aside is AFFIRMED.

SO ORDERED.

Makasiar, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.
Teehankee, J., (Chairman), reserved his vote.

[1] Rollo, pp. 1-3.

[2] Rollo, p. 7.

[3] Rollo, p. 4.

[4] Rollo, p. 5.

[5] Rollo, p. 7.

[6] Rollo, p. 8.

[7] Rollo, p. 9.

[8] Rollo, p. 10.

[9] Rollo, pp. 40-45.

[10] Rollo, p. 48.

[11] Rollo, p. 4.

[12] Rollo, p. 7.

[13] Section 44, Workmen's Compensation Act; Justiniano vs. Workmen's Compensation Commission, 18 SCRA 677.

[14] Balanga vs. Workmen's Compensation Commission, et al., 83 SCRA 721.

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