

MANILA RAILROAD COMPANY, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION, ET AL., RESPONDENTS.*G.R. No. L-19377. January 30, 1964*

Ponente: BAUTISTA ANGELO, J.

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Mariano Canalda was employed as trackman in the Manila Railroad Company on March 16, 1946. His daily work consisted in cutting grasses and weeds covering the railroad tracks, changing railroad ties, raising the rails, and shovelling stones and gravel under the rail ties to prevent them from sagging. He has never been absent from his work except for one month when he was operated on for appendicitis. In the physical examination made on him on August 19, 1949, he was found to be free from any illness, while his lungs were clear of any tubercular infection. His healthy condition remained the same until his medical examination on August 16, 1958.

On April 23, 1959, while performing his usual work, Canalda was overtaken by the rain and as a result he was not able to report for work. On April 28, 1959, he was brought to the Camarines Sur Provincial Hospital at Naga City where he was treated by Dr. Jose Arenas, but the treatment failed and six days thereafter he died of lobar pneumonia.

On February 4, 1960, the heirs of the deceased filed a complaint for compensation pursuant to law, but the claim was denied by the hearing officer on the ground that the death of Mariano Canalda was not compensable. On appeal taken by the claimants, Commissioner N. Baens Del Bosario reversed the decision and awarded to the claimants the amount of P3,744.00 as death benefits and P200.00 as burial expenses. She further ordered the company to pay the Commission the amount of P38.00 as Commission fees. This decision having been affirmed by the Commission en banc, the company interposed the present petition for review.

The issues posed by the company are: (1) whether the death of Canalda arose in the course of his employment and, therefore, compensable; and (2) whether the claim can be taken cognizance of by the Workmen's Compensation Commission it appearing that the same was not filed within the 3-month period required by Section 24 of the Workmen's Compensation Act, as amended.

The first issue raised should be answered in the affirmative. While it is true that lobar pneumonia is directly caused by the virus known as pneumococcus, and as such is not an occupational disease, it cannot however be denied that the sickness which brought the deceased to his grave was contracted in the course of his employment as shown by the fact that while working and perspiring under the heat of the sun on April 23, 1959, he was suddenly overtaken by a heavy downpour as a consequence of which he fell sick of pneumonia and died several days thereafter. The circumstance that he had been doing the same work and exposed to the same inconvenience for thirteen years and has not been afflicted with such sickness during that time, is of no moment for it is possible that his physical resistance then was strong and could repel the onslaught of the sickness, but that on the occasion in question the rain caught up with him when his resistance was low and contracted the sickness that resulted in his death. The stubborn fact, however, is that when he contracted the sickness he was well in the course of his

employment as he was doing then his usual daily chore and so it is but fair that he be compensated as required by law. We fully agree with the following comment of Commissioner Del Rosario:

"We believe, there can be no more positive and convincing proof of the fact that the deceased's death in this case was work-connected than the very finding that on April 23, 1959, the deceased was overtaken by a heavy downpour while performing his work as trackman. Indeed, one need not possess a proficient knowledge of medicine to arrive at the conclusion that any person working under the heat of the sun and perspiring, if suddenly overtaken by a heavy downpour, is likely to catch cold which may eventually develop into pneumonia. And the ensuing illness or death, is certainly one arising out of and in the course of his employment. This, we gathered from the records, was precisely what happened to the deceased Canalda. Consequently, we find ourselves without any alternative but to reverse the decision under consideration."

As regards the second issue, the record shows that when Mariano Canalda failed to report for work, his foreman was notified of his sickness and of his treatment at the Provincial Hospital of Camarines Sur, the medical clinic where the company usually sends its employees and laborers. Such information is a sufficient notice for the company to submit to the Commission the report that the law requires regarding the sickness or death of an employee or laborer. In spite of this notice, however, the company remained silent and failed to give to the Commission the report required by Section 37 of the Workmen's Compensation Act. Because of such failure, the company is deemed to have waived its defense that the claim is not compensable because of the claimant's failure to file it within the statutory period.

"* * * Moreover, it appears that the petitioner did not submit the required employer's report of accident or sickness which would have served as petitioner's answer in the compensation proceedings; and such failure may be deemed as a waiver of the defense that the claim for compensation was not filed within the statutory period." (Martha Lumber Mill, Inc. vs. Romana V. Lagradante, et al., 99 Phil., 434).

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

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Paredes, Dizon, Regala and Makalintal, JJ., concur.

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