

ASUNCION VDA. DE GALLER, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND THE PHILIPPINE PACKING CORPORATION, RESPONDENTS.

G.R. No. L-41985. February 28, 1977

Ponente: MARTIN, J.

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MARTIN, J.:

Petition for review of the decision[1] of the Workmen's Compensation Commission in Workmen's Compensation Commission Case No. ROX I-9545, denying the claim of petitioner Asuncion Vda. de Galler for compensation benefits for the death of her husband Eustaquio Galler against respondent Philippine Packing Corporation.

Eustaquio Galler during his lifetime was an employee of the respondent Philippine Packing Corporation for the last 17 years as a field worker until his death on May 17, 1967. He used to work for eight (8) hours a day for 6 days a week at an average weekly wage of P31.68. As field worker he performed such manual job as weeding, harvesting, stripping, putting fertilizer on the pineapple plants. In this kind of work, he was exposed to the elements. Weeks before his death he had been complaining of pains in the chest, back and nape. In fact this was the very same complaint the night before he died on May 17, 1967. At the time of his death, he left his wife Asuncion Vda. de Galler, and five minor children, namely, Pablito, Manuel, Conchita, Danilo and Alberto, all surnamed Galler, who in due time filed a claim for compensation for the death of the deceased Eustaquio Galler which respondent Philippine Packing Corporation controverted on the ground that the ailment of which the deceased died was not compensable.

After considering all the evidence presented by both parties, the Acting Referee rendered its decision, the dispositive portion of which reads as follows:

“DECISION, therefore, is hereby entered in favor of the claimants and respondent is directed to pay thru this Office, the following:

1. To claimant, widow, Mrs. Asuncion G. Vda. de Galler the amount of P1,317.33 for death plus P200.00 as burial expenses.
2. The claimants, minor children, all surnamed Galler, the amount of P2,634.67 for death benefit, apportioned as follows:

Pablito ----- P 526.93

Manuel ----- 526.93

Conchita ----- 526.93

Danilo ----- 526.93

Alberto ----- 526.93

3. To this Office, the amount of P40.00 as service fee pursuant to Section 55 of the Act.

4. To claimants' counsel, Atty. Leovigildo Tandog, Jr. the amount of P197.60 as attorney's fee pursuant to Section 31 of the Act.

The check or money order covering the payment for death benefits due the claimant widow, Mrs. Asuncion G. Vda. de Galler, should be drawn in her name and course thru this Office in accordance with our policy.

The check or money order covering the payment for death due the claimants, minor children, namely; Pablito, Manuel, Conchita, Danilo, and Alberto, all surnamed Galler, should be drawn into their names and course thru this Office for a joint deposit in any reputable bank in the municipality or city where they reside and that withdrawal should be regulated by this Office for the protection of the said minor children.

SO ORDERED."

On appeal to the Workmen's Compensation Commission, the decision of the Acting Referee was reversed and the respondent Philippine Packing Corporation absolved from liability. In reversing the decision of the Acting Referee, the respondent Commission did not give much weight to the testimony of the petitioner that the deceased has been complaining of pains in his chest, back and nape which had bothered him for months before he died. The respondent Commission simply deduced that such pains in the chest, back and nape were just the result of muscle fatigue from work and that these pains cannot be considered symptoms referable to the heart or pancreas. According to the respondent Commission even granting without conceding that the cause of the death of the deceased was heart attack and not hemorrhage pancreatitis, still it cannot be considered that the cause of death of the deceased was due to his employment because there is no medical evidence that he had already the heart disease before he died and also because his death occurred while he was sleeping and after he had already been 10 hours away from his work.

In its decision, the respondent Commission maintained that since there is no history of extraordinary effort exerted or any accident that could have brought about the death of the deceased during his sleep, it cannot be presumed that his death was caused or aggravated by the nature of his employment. A review of the records, however, shows that the deceased has been working with the respondent for the last 17 years until the time of his death and that by the nature of his work he was exposed to the elements. The work of weeding, stripping and harvesting and putting fertilizers to the plant under the sun and rain is no easy matter and certainly not to the human body. When according to the evidence of the petitioner, the deceased complained of pains in the chest, back and nape, months before he died, and in fact there were few occasions when the deceased was given a medical tag and was able to consult at the respondent's Philipps Memorial Hospital, it could be that the pains he suffered in the back, neck and nape were but the symptoms of an illness which set in during the course of his employment. It could not just be the result of muscle fatigue or hard work in the field for if such pains were due to muscle fatigue only, he could have felt them even during the time he started working with the respondent while performing the same kind of work. The records show that the deceased had been working with the respondent for 17 years doing the same kind of work and yet he never complained of such pains in the chest, back and nape until only few months before his death. Whatever may be the cause of such pains, the fact is that the deceased died of an illness earlier manifested by said pains which according to the one who prepared the Death Certificate was "Bangungot". Considering that the doctor who prepared the Death Certificate of the deceased did not conduct an autopsy of the body of the latter, his certification as to the cause of death cannot be conclusive. It does not preclude the possibility that it could have been an ailment different from "Bangungot". As a matter of fact, in a question propounded to Dr. Sison as to the possible cause of death of the deceased, he answered that it might be possible that the deceased may not have died of a cause as stated in the Death Certificate but may be due to heart failure or heart attack which definitely the deceased did not have before he was employed by respondents but

which could have come only during the last few months of his employment.

Withal, it is now settled that the employer has the burden of disproving by substantial evidence the strong presumption that an illness which supervened during employment arose out of the employment or was at least aggravated by it.

As was stressed by former Chief Justice Querube C. Makalintal in *Visayan Stevedore & Transportation Co. vs. Workmen's Compensation Commission*,^[2] the mere opinion of doctors presented by the employer that would disconnect the deceased employee's death from his employment cannot prevail over the presumption established by law. He aptly explained the rationale for the Court's liberal attitude in upholding the legal presumption of compensability in workmen's compensation cases in this wise:

"The liberal attitude displayed by this Court in considering as compensable the death by heart attack of an off-duty employee helping in the loading operation of a vessel (*William Lines, Inc. vs. Sañopal*, 42 SCRA 48), or the disappearance of an off-duty crew member of a vessel who had no choice but to be in the vessel during the voyage (*Aboitiz Shipping Corporation vs. Pepito*, 18 SCRA 1028), or the death by drowning of an employee whose duty was to watch over and take charge of a barge in the absence of the patron (*Luzon Stevedoring Co., Inc. vs. Workmen's Compensation Commission*, 10 SCRA 207), proceeds from an awareness of the fact that when an employee undertakes to satisfy, in the course of employment, certain human wants, i. e. eating, freshening up, sleeping and the like, 'and something takes place that may cause injury, harm or death to the employee or laborer, it is fair and logical that the happening be considered as one occurring in the course of employment for under the circumstances it cannot be undertaken in any other way' (*Luzon Stevedoring Co., Inc. vs. Workmen's Compensation Commission*, *supra*), unless it can be clearly shown that the mishap occurred because the employee acted beyond his duty or outside the course of employment, which is not so in the case at bar. For aside from the conclusion arrived at by the medico-legal officer who conducted the autopsy that 'bangungot' was the cause of Eduardo Labiyo's death, there was hardly anything else that would disconnect the deceased's death from his employment. In other words, petitioner had not proved that death was not and could not be caused or aggravated by the deceased's work as engineer who, at the time of his death, was practically on 24-hour continuous duty."

The records do not show that the respondent has discharged its burden and overcome by substantial evidence the legal presumption of compensability of the illness of the de-ceased.

We have noted that the death compensation awarded by the referee is not in accordance with that provided by Section 8 of the Workmen's Compensation Act. The deceased having been survived by a widow and five minor children they are entitled to full death compensation of P6,000.00 (60% for the widow and 40% for the five dependent children). In addition, the widow shall be paid P200.00 for burial expenses and her counsel shall be entitled to a payment of 10% of the compensation awarded, by way of attorney's fees. The administrative fee provided by Section 55 of the Act shall likewise be paid by respondent.

ACCORDINGLY, the judgment of the respondent Commission is hereby reversed and set aside and another one rendered, ordering private respondent:

- (1) To pay petitioner and her five minor children the sum of P6,000.00 (60% for the widow and 40% for the five dependent children) as death compensation benefits;
- (2) To reimburse petitioner of the medical and hospital expenses supported by re-ceipts of payment;
- (3) To pay the petitioner the sum of P200.00 for burial expenses of the deceased employee;
- (4) To pay petitioner's lawyer the sum of P600.00 as attorney's fees; and
- (5) To pay the sum of P61.00 as administrative fees.

Without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Concepcion, Jr., JJ., concur.

[1] Treated as Special Civil Action by Resolution of the Court dated April 28, 1976.

[2] 59 SCRA 89 (Sept. 12, 1974), cited in Talip vs. Workmen's Compensation Commission, 71 SCRA 218 (May 31, 1976) per Teehankee, J.

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