

**MANILA RAILROAD COMPANY, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION AND BELEN GLENDÓ VDA. DE
GANDO, IN HER OWN BEHALF AND AS GUARDIAN AD LITEM OF HER
MINOR CHILDREN, ALEJ...**

G.R. No. L-21504. September 15, 1967

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Appeal from a decision of the Workmen's Compensation Commission granting P4,000.00 as death compensation, P700.00 for medical expenses, and P200.00, attorneys' fees; and directing the payment of P41.00 to the Workmen's Compensation Fund and P5.00 as the costs of review.

Alejandro Gando was, from March 1, 1947 up to October 7, 1959, the time of his death, petitioner's employee. At first, he was a coalman. But, from July 1, 1952 to his demise, he was a lubricator-greaseman. His job was to grease train cars and wagons. Which exposed him to all weather conditions, to avoid delay of train schedules. On August 2, 1949, on the occasion of the company's annual physical check-up, the company physician gave Gando a clean bill of health, declared him fit for work. On February 27, 1952 and January 5, 1953, Dr. Fernando C. Jusay of the Quezon Provincial Chest Center diagnosed him to be suffering from "P.T.B., minimal right." Petitioner allowed him to continue with his work. Dr. Jusay's examinations, on two subsequent occasions, October 25 and November 23, 1958, show that Gando was afflicted with "moderately advanced pulmonary tuberculosis, right; infiltration 1st interspace to 3rd rib, left." He was again allowed to work. Such was his condition upon examination by the same physician on August 15, 1957. One year thereafter, petitioner's own physician found him with only his right lung weak. And, he remained in his job.

But then, on September 11, 1959, Gando was struck on the chest by an iron bar which he was at the time using to remove the axle cover of a drum. He failed to report for work since then. He suffered continuous hemoptysis. First taken home, he was, on September 28, 1959, removed to the Quezon Institute. On October 7, 1959, he died of "bilateral, far advanced pulmonary tuberculosis."

On August 11, 1960, his wife, Belen Glendo Vda. de Gando, formally registered with the Department of Labor a claim for death compensation. On October 22, 1960, petitioner filed its employer's report.

Hearing on the merits was had before Roman Caringal, hearing officer, who awarded compensation to Gando's dependents. On appeal, the Chairman of the Workmen's Compensation Commission affirmed with but slight modifications. The Commission en banc approved the Chairman's decision.

Hence, this appeal.

1. First of the questions to claim attention is the dependents' right to death benefits. Controlling here is Section 2 of the Workmen's Compensation Law which provides that "[w]hen an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly

caused by such employment, or either aggravated by or in result of the nature of such employment, his employer shall pay compensation in the sums and to the persons hereinafter specified.

That Section 8 of the law,[1] which defines the death benefit, does not mention aggravation, as petitioner contends, is inconsequential. Because Section 8 itself speaks of death caused by a "disease contracted or injury received" as provided in Section 2 hereinbefore quoted, which in turn makes compensable, injury or illness aggravated by the nature of the employment. It does not matter that the word "aggravated" was only inserted in Section 2 by a later amendment thru Republic Act 772, which took effect on June 20, 1952. It bears repetition that death here took place on October 7, 1959. And a rule, elementary in legal hermeneutics, is that an amended statute should be construed as if it had been originally passed in its amended form.[2]

On the merits, the finding below, on which we place our stamp of approval, emphatically negates petitioner's claim of non-compensability. Says the Commission decision:

"The fact that the deceased was in the best of health at the time he was taken in by respondent [MRR] and was allowed to continue with his job even after he was discovered to be afflicted with tuberculosis remains undisputed. So, is the fact that the deceased died of pulmonary tuberculosis, far advanced, bilateral, 26 days after he quit working on September 12, 1959. What the respondent seems to dispute, however, is the fact that the deceased's employment had something to do with the acceleration of his death due to pulmonary tuberculosis. For it is of the opinion that the demise of the deceased was due to the natural progress of his ailment.

We could not agree with the respondent on the above opinion. If the deceased were separated from the service immediately upon being discovered to be afflicted with tuberculosis in its early stage and since then his illness had gradually progressed to moderately advanced stage we might say that respondent's view is tenable. But, such was not the situation in this case. Instead of persuading the deceased to go on vacation to enable him to recuperate from his illness, respondent had explicitly assured the former that there was nothing wrong with his continuing with his job because he was merely suffering from weak lungs (Exhs. '1', '2', '3' and '4' for respondent). Only to find later that he was already afflicted with the disease in its moderately advanced stage, and bilateral at that. That the deceased's illness was worsened and his death hastened by a harm associated with his employment, which consisted primarily of greasing train cars and wagons under any weather condition to avoid delay in the schedule of their trips, is best evidenced by the fact that he had recurrent hemoptysis during the period of his employment. And this holds true, even if we ignore entirely the alleged incident met by the deceased while in the performance of his job and even if we assume that other factors foreign to the employment had likewise contributed to the aggravation of his illness. After all, the law does not weigh the relative weight of the contribution made by the employment to the illness. It is enough that it did contribute to its aggravation even in a small degree. (See The Law of Workmen's Compensation by Arthur Larson, Vol. I, p. 50)."

In *ITEMCOP vs. Florzo*, G.R. No. L-21969, August 31, 1966, we said:

"At any rate, the law presumes, in the absence of substantial evidence to the contrary, that the claim is compensable. The burden to disconnect, by substantial evidence, the injury or sickness from employment, is laid at the employer's door. Petitioner failed to discharge this burden. So rigid is the rule that even where the cause of the employee's death is unknown - as petitioner claims - the right to compensation subsists. Reason for this is that the Workmen's Compensation Act is a social legislation; it is designed to give relief to the workman; therefore, to effectuate its purpose, it must be liberally construed." [Citing Section 44 (1), Workmen's Compensation Act; *Naira vs. Workmen's Compensation Commission, et al.*, G.R. No. L-18066, October 30, 1962; *Agustin vs. Workmen's Compensation Commission, et al.*, G.R. No. L-19957, September 29, 1964; *Vda. de Acosta, et al. vs. Workmen's Compensation Commission, et al.*, G.R. No. L-19772, October 31, 1964, citing *Blue Bar Coconut Co., et al. vs. Boo*, 53 O.G. 3471, 3474; *Batangas Transportation Co. vs.*

Rivera, et al., G.R. No. L-7658, May 8, 1956; Vicente vs. Workmen's Compensation Commission, et al., G.R. No. L-18241, December 27, 1963. See also: Madrigal Shipping Co. vs. Melad, et al., G.R. Nos. L-17362, L-17367-69, February 28, 1963; Batangas Transportation Co. vs. Perez, et al., G.R. No. L-19522, August 31, 1964].

Upon the law and the facts, the claim here involved is compensable.

2. That Alejandro Gando suffered the accident heretofore adverted to on September 11, 1959, we do not doubt. Evidence then is that immediately after the accident, two of his co-laborers took him home. From thence, he was, on September 23, 1959, taken to the Quezon Institute. He did not report for duty from September 1959. The man died on October 7, 1959. Petitioner did not say that it did not have any knowledge of such death. And yet, petitioner was remiss in its duty, set forth in Section 37 of the Workmen's Compensation Act, to report the injury "[a]s soon as possible after the occurrence" which resulted "in absence from work for a day or more", and to report the death of the employee. Laches, therefore, on the part of the individual respondents in filing their claim would not bar recovery.[3]

3. Neither did petitioner comply with Section 45 of the Act. Because, it did not controvert the right to compensation (death benefit "on or before the fourteenth day of disability or within ten days after he has knowledge" thereof. In fact, petitioner only bestirred itself after respondent Belen Glendo Vda. de Gando had already filed the claim for compensation. Guilty itself of delay in filing the report, petitioner cannot now invoke a similar delay on the part of the claimant to avoid the latter's claim for compensation. More than this, petitioner's failure to explain lack of controversion for an unreasonable length of time constitutes "a renunciation of his right to challenge the claim." [4]

4. Petitioner's averment that the compensation award should not have been given to the minor children of the Gandos deserves but passing mention. It is true that it was only Belen Glendo Vda. de Gando who signed the claim; that she did not expressly hold herself out therein as representing their children; and that she was not appointed guardian ad litem in the case. But it is equally true that, as stated in the Commission decision, Item 7 of the claim lists the names of the minors as surviving dependents of the deceased, together with their respective dates of birth, addresses, and relationship (children) with the deceased. These dependents, by Section 9 of the law, are entitled to compensation. And, there is no necessity for Belen Glendo Vda. de Gando to be appointed guardian ad litem. For, she is, by Article 320, Civil Code, the legal administrator of the property of her children. At the very least, we say that form does not override substance.

For the reasons given, we vote to affirm the decision under review.

With costs against petitioner.

SO ORDERED.

Concepcion, C.J., Reyes, Dizon, Makalintal, Bengzon, Zaldivar, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] "SEC. 8. Death benefit. – If the disease contracted or injury received by the employee as provided in section two hereof cause his death within two years from the date of such injury or sickness the employer shall pay the compensation to the persons entitled thereto, and in case there shall be none, he shall pay to the person representing the deceased employee the burial expenses not to exceed two hundred pesos, and shall also pay to or for the following persons, in the order of priority and during the periods hereinafter set forth, a weekly compensation equivalent to the following percentages of the average weekly wages of the employee, as determined in section nineteen of this Act:

x x x.”

[2] Crawford, Statutory Construction, 1940 ed., p. 618.

[3] Manila Railroad Co. vs. Workmen’s Compensation Commission, G.R. No. L-19377, January 30, 1964, ITEM COP vs. Florzo, *supra*, citing cases.

[4] ITEM COP vs. Florzo, *supra*; NADECO vs. Ayson, G.R. No. L-23450, May 24, 1967; Manila Railroad Co. vs. Workmen’s Compensation Commission, G.R. No. L-21902, August 10, 1967.

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