

NATIONAL DEVELOPMENT COMPANY, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND LUZ AGUIRRE, RESPONDENTS.

G.R. No. L-19863. April 29, 1964

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

The National Development Company, a government-owned and controlled corporation, seeks review and reversal of a decision of the Workmen's Compensation Commission (WC Case No. 985) awarding compensation to respondent Luz Aguirre.

The Compensation Commission found:

"* * * that claimant (Luz Aguirre) first began working with the respondent on February 18, 1946 as an apprentice in its Weaving Textile Mills, after undergoing a pre-employment physical examination; then on April 9, 1946, she was promoted to Battery Hand, on March 26, 1947, to Spare Weaver, and on March 5, 1951, she was made a Regular Weaver, the position which she held up to June 30, 1953 when she was separated from the service because of her sickness of pulmonary tuberculosis. Claimant's work as spare weaver consisted of operating the looms, connecting broken threads, rolling the finished cloths, and lifting the rolls of cloths (weighing about 40 kilos) whenever they obstruct her place of work. In operating the looms, claimant had to stop or start each of the 12 looms assigned to her by pushing the corresponding handle of each, at least 15 times an hour, because the machine stops whenever the threads break or get entangled with cotton, and when the machine gets hot. Claimant worked frequently in the second shift (2:00 p.m.—10:00 p.m.) and the third shift (10:00 p.m.— 6:00 a.m.). It appears that sometime during the latter part of April, 1953, claimant, while lifting a roll of cloth to place it in its proper position, felt chest pains, and, after a few minutes, spat blood. She went to the Medical Department of respondent company, after reporting the matter to the Overseer, Jose Soriano. When she reported back for work after a few days' rest, she was given light work for two (2) months, but was afterwards laid off from the service.

The clinical records of the Medical Department of the respondent show that claimant had already felt the symptoms of the disease PTB such as chest and back pains, slight and occasional coughs and loss of weight, as early as June, 1950, as a result of which the fluoroscopic findings made by the respondent's medical department showed "suspicious density 1st rib and 1st intercostal space, left, Koch infection". The records further show that the claimant was X-rayed at the Quezon Institute on February 19, 1953 at the instance of the respondent, with the following findings:

Right Lung—Calcified focus at apex, fibrosis interspace 2 Enlarged and dense hilar shadow.

Left Lung.—Exudative lesion at the second interspace.

According to Dr. Pacifico D. Nazareno of the Quezon Institute, "the lesion in the right lung is compatible with healed lesion, while the left lung is acute and active pulmonary tuberculosis". The records further show that claimant had been under the treatment of Dr. Lorenzo Yuson who certified in the Physician's report that the

claimant's illness of PTB was in its moderately advanced stage; and that for her treatment by him from December, 1952 up to November, 1958, claimant had spent the amount of P900.00.

The records also show that on June 6, 1960, claimant filed with the Regional Office in Manila a compensation claim for the sickness of pulmonary tuberculosis in which she attributed to her employment with the respondent. The claim was heard, after which the Hearing Officer awarded compensation."

The Commission declared that the injury was compensable, being a "result of the return of her employment" because Aguirre's assigned work was "not only tiresome but also taxing to the worker's strength and vitality", considering that she "was frequently assigned to night work". The Commission, therefore, affirmed the award of the hearing officer to the sum of P3,594.24 as compensation benefits, plus P900.00 as medical expenses, P36.00 as fees, to which said ruling body added an award of P269.57 (being 7.5% of the main award) as attorney's fees. It is from this decision that the appeal is taken by writ of review, the Company's motion for reconsideration having been denied.

The appeal is without merit. The employer's failure to report the employee's condition, leading to her dismissal, within the period prescribed by section 45 of the Workmen's Compensation law, imports a renunciation of the right to controvert the claim, as correctly held by the respondent Commission. Section 45, paragraph 2, is to the following effect:

"In case the employer decided to controvert the right to compensation, he shall, either on or before the fourteenth day of disability or within ten days after he has knowledge of the alleged accident, file a notice with the Commissioner, on a form prescribed by him, that compensation is not being paid, giving the name of the claimant, name of the employer, date of the accident and the reason why compensation is not being paid. Failure on the part of the employer or the insurance carrier to comply with this requirement shall constitute a renunciation of his right to controvert the claim unless he submits reasonable grounds for the failure to make the necessary reports, on the basis of which grounds the Commissioner may reinstate his right to controvert this claim."

The law bars all defenses available to the employer, making no exception. Hence, even the defense based on the employee's failure to file the claim in due time is now barred[1]. It is well to note that while the statute speaks of "renunciation of the right to controvert the claim", what it actually prescribes is a statutory bar or forfeiture of the employer's right to defend under the conditions given, since the loss is imposed regardless of the actual intent of the employer. Consequently, the tolling of the rights to controvert under section 45 is not subject to the limitations of a voluntary waiver.

On the matter of attorney's fees, the stand of the petitioner National Development Company is that the Workmen's Compensation Commission had no jurisdiction, or had abused its discretion, in allowing attorney's fees in favor of the respondent-earner, arguing that the company had nothing to do with the respondent's hiring the services of a counsel; that the power of the Commission to approve and fix attorney's fees under Section 47 of Act 3428, as amended[2] is already provided for under Section 31;[3] and that, since the Act is not deficient, No. 8, Article 2208, of the Civil Code[4] does not apply.

The employer's argument is untenable, because section 31 of the Compensation Law, which was designed to protect the employee, governs his relations with his lawyer, and does not govern attorney's fees recoverable from an adverse party; therefore, the civil law supplements the deficiency, pursuant to Article 18 of the Civil Code, which provide:

Art. 18, In matters which are governed by the Code of Commerce and special laws, their deficiency shall be supplied by the provisions of this Code."

There is a clear difference, from the standpoint of legislative policy, between attorney's fees to be paid by the laborer and fees awarded by the Court to be paid by the employer. The plain intent of the statute is that the compensation to be received by the injured workman should not be reduced by more than ten per cent on account of lawyer's fees. This purpose is attained where the fees are to be paid by the employer, since the compensation receivable by the workman is then in no way diminished. In the latter eventuality, all that the law requires is that the counsel fees should be reasonable.

Wherefore, the award of attorney's fees by the Commission in favor of the respondent worker and against her petitioner-employer, being just and reasonable, may not be disturbed.

The last error assigned by the petitioner is that the Commission admitted hearsay evidence as the basis of its decision. It is needless to belabor this point because the petitioner did not specify what part of the Commission's findings of fact was proved by hearsay evidence.

In view of the foregoing, the decision under review is hereby affirmed, with costs against the petitioner, National Development Company.

Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

[1] General Shipping Co. vs. W. Comp. Comm., 109 Phil., 60; Victory Shipping Lines vs. W.C.C., 106 Phil., 550; Victorias Milling Co. vs. W.C.C., L-10533, May 13, 1957.

[2] "Sec. 47. General powers and duties:—The Commission shall have full power and authority

* * * * *

(b) To hear and determine all claims for compensation * * *; to approve and fix attorney's fees * * * ;"

[3] "Sec. 31. Intervention of the Workmen's Compensation Commissioner.—In case a laborer who suffers an accident or contracts an illness comprised within the provisions of Section two of this Act or his dependents, contracts the services of a lawyer or other persons to help him or direct him in his claim for compensation against his employer the fees of said lawyer or person shall not be more than five per cent of the total sum which said injured or sick laborer or his dependent in case of death shall receive by way of compensation; but If his services shall take place in appealed cases, his fees shall not be in excess of ten per centum of said sum, and any person who, in violation of this provision, makes an excessive charge, shall be punished by a fine of not more than two hundred pesos."

[4] "Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except;

* * * * *

"(8) In actions for indemnity under workmen's compensation and employer's liability laws;"

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