

## **CALIXTA MERCADO, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND RIVERSIDE MILLS CORPORATION, RESPONDENTS.**

*G.R. No. L-42451. July 30, 1976*

Ponente: MARTIN, J.

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### **MARTIN, J.:**

Petition for review of the decision of the Workmen's Compensation Commission which reversed the award of death compensation benefits made by the Acting Referee of Regional Office No. 4, Department of Labor, Manila, in favor of Calixta Mercado, the widow of the late Regalado Mercado.

The deceased Regalado Mercado started working in 1963 with the private respondent, Riverside Mills Corporation, as a weaver with a salary of P9.70 a day. About the month of October 31, 1973, he felt some pains in his stomach, and upon examination by Dra. Concepcion Carambas, he was found to be afflicted with "cirrhosis of the liver; hyperdality, secondary to liver cirrhosis." In spite of his ailment he continued working with private respondent. His condition further deteriorated until he finally died on October 31, 1974.

On March 30, 1975, his widow, the petitioner herein, for herself and on behalf of her seven (7) children, namely, Marilyn, Rodolfo, Melencio, Rosalia, Armando, Maria Helen and Gerry, all surnamed Mercado, filed a claim for death compensation benefits with the Regional Office No. 4; Department of Labor, Manila.

In due time, private respondent controverted the claim. The Acting Referee then set the case for conference wherein efforts for amicable settlement were made but failed. Based on the affidavits and documentary evidences presented by the parties, the Acting Referee, of Regional Office No. 4, Manila, rendered a decision, the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered in favor of the claimant ordering the respondent to pay:

1. The claimant, thru this Office, the total sum of SIX THOUSAND TWO HUNDRED PESOS (P6,200.00) as total compensation for death benefits and reimbursement of burial expenses under Sections 8, 10 and 12 of the Act;
2. To Atty. Julio C. Contreras, counsel for claimant, the amount of P300.00 pursuant to Section 31 of the Act;
3. To the Workmen's Compensation Fund, the amount of P61.00 as administrative fee pursuant to Section 55 of the Act"

A motion for reconsideration of the foregoing decision was denied. On appeal to the Workmen's Compensation Commission, the same was reversed and the claim of petitioner dismissed for lack of merit.

Hence, this petition for review which this Court treats as a Special Civil Action as per its resolution dated May 3, 1976.

The main issue in this petition is whether or not the illness of Regalado Mercado which caused his death is compensable under the Workmen's Compensation Act, as amended. The records show that the deceased Regalado Mercado started working with the private respondent sometime in 1963 as a weaver with a salary of P9.70 a day. Sometime in October 1973, he felt occasional pains in the stomach which at first he did not mind. Despite his ailment he kept on working until the pains became so unbearable that he had to be taken to the private respondent's medical clinic. Later he was confined at the Chinese General Hospital, the designated official hospital for employees of private respondent. On April 1, 1974 and sometime in the month of May 1974, the deceased Regalado Mercado was treated by Dra. Concepcion Carambas at Cuyapo, Nueva Ecija. According to her report,[1] the deceased Regalado Mercado was suffering from "cirrhosis of the liver; hyperdality, secondary to liver cirrhosis" and that the cause of his illness was malnutrition. She confirmed in her report that the illness of the deceased Regalado Mercado was "aggravated by his employment due to heavy and too much physical exertion and irregular meals." [2] Although no laboratory examination or G.I. Series to determine the accuracy of the illness of the deceased the private respondent Commission made no attempt to question the findings of the attending physician.

In reversing the judgment of the Acting Referee the respondent Commission arrived at the conclusion that the illness of the deceased Regalado Mercado was not work-connected or work aggravated.

We cannot agree. According to private respondent it has about 3,500 employees. With such a number it can be expected that for its own protection, the private respondent would see to it that anyone applying for work in the company submits himself to physical and medical examination and it can be presumed that Regalado Mercado must have been physically and medically examined and found to be in good physical condition before he was accepted to work with the said company. If after ten years of continuous work with the company he began to suffer pains in his stomach which turned out to be "cirrhosis of the liver," it is evident that the illness of the deceased supervened in the course of his employment or at least was aggravated by the same. This conclusion is supported by no less than the Physician's Report. This Court has on many occasions already ruled that once the claimant has established that illness upon which the claim is premised supervened during the time of his employment, there is a legal presumption mandated by Section 44 of Workmen's Compensation Act that the illness arose of or at least aggravated by his employment.[3] According to the respondent Commission "while it is true that the cause of illness of 'cirrhosis of the liver' is due to malnutrition, there is a possibility that it may be due to too much intake of alcoholic drinks which is common among men. In other words this indicates the employment has nothing to do with the development of his illness \* \* \*." [4] Respondent Commission claims that there is no certainty about the illness of the deceased Regalado Mercado because no G.I. Series examination was taken, although Dra. Herminia Castelo of the respondent Commission who is a doctor herself made no exception to the findings of the attending physician that the illness is "cirrhosis of the liver." Granting that the illness is not "cirrhosis of the liver", the fact that he suffered said illness during the course of his employment and finally died of it gives rise to the rebuttable presumption that such illness arose out of, or at least was aggravated by such employment.[5] With this legal presumption the burden of proving that the illness which caused the death of the deceased was not work-connected or work aggravated shifts to the employer and the claimant is relieved of the burden to show causation.[6] Of course, Dra. Castelo of the respondent Commission while agreeing with the report of the attending physician that the illness of the deceased Regalado Mercado could have been hastened because of irregular meals, advanced the opinion that the illness of the deceased could also be attributed to drinking of intoxicating liquor. The records, however, fail to show that the deceased had been in the habit of drinking intoxicating liquor. Besides it is a well established doctrine that:

"Granting per arguendo that there are other factors not however shown in the records of this case other than the employment of the deceased that might have contributed to the acceleration of his disease or death, this is not a

drawback to its compensability. Under the law, it is not re-quired that the employment be the sole factor in the growth, development or acceleration of the illness or death to be entitled to the benefits provided for. It is enough that the employment had contributed, even in a small degree, to the development of the disease and in the bringing about of his death." [7]

IN VIEW OF THE FOREGOING , the judgment of the Workmen's Compensation Commission is hereby reversed and set aside and the Acting Referee's decision reinstated. No pronouncement as to costs. SO ORDERED.

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

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[1] Annex B of the Petition – Physician's Report of Sickness or Accident.

[2] Ibid.

[3] Agustin vs. WCC, L-19957, Sept. 29, 1964; Hernandez vs. WCC, L-20227, May 31, 1965; Maria Cristina Fertilizer Co. vs. WCC, 60 SCRA 228; Talip vs. WCC, G.R.' No. L-42575, May 31, 1976; Reynaldo vs. Republic G.R. No. L.43108, June 30, 1976.

[4] Decision, WCC.

[5] Talip vs. WCC, G.R. No. L-42571, May 31, 1976; Reynaldo vs. Republic, G.R. No. L43108, June 30, 1976.

[6] Abana vs. Quisumbing, L-21849, March 27, 1968.

[7] Abana vs. Quisumbing, supra.

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