

OSCAR S. NUGUID, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION, BRAINS, INC. AND/OR PHILIPPINE REFINING CO., INC., RESPONDENTS.

G.R. No. L-43286. September 28, 1979

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petition for certiorari from the order en banc dated January 30, 1976 of the Workmen's Compensation Commission in RO4-WC Case No. 147945, granting petitioner reimbursement of medical, surgical, hospital services and supplies only in the amount of P6,039.99 in spite of the fact that the duly receipted amount claimed totaled P34,644.36.

The records disclose that on November 12, 1973, and immediately prior thereto, petitioner was a laborer (mixer feeder) in the employ of private respondents.

On said date, while petitioner was working as such mixer feeder in the enzyme plant of the Philippine Refining Co., Inc. and while in the course of the performance of his duties stripping and/or cleaning the electric detergent mixer feeder machine, the machine suddenly started to run and the blades or paddles of the machine caught the two legs of the petitioner, and as a result he suffered serious injuries diagnosed as "compound fracture right mid-femur evulsion Rt. foot at level of ankle, multiple contusions and severe evulsions and lacerations both lower extremities"(p. 19, rollo).

On December 7, 1973, respondent Brains, Inc. filed its employer's report of accident or sickness, wherein it stated that the accident occurred at the Philippine Refining Co., Inc. and admitted that "while Mr. Nuguid was stripping and/or cleaning the mixer (he was inside the mixer but the micro switch was off) it accidentally started. The machine operated crushing his legs severely" (p. 15, rollo).

On December 10, 1973, petitioner filed a notice of injury and claim for compensation against both private respondents (p. 17, rollo).

The private respondents failed to controvert petitioner's claim for compensation within the pre-scribed period, thus waiving all and any defense which they may have against petitioner's claim.

On May 7, 1974, finding petitioner's claim meritorious and uncontroverted, Regional Office No. 4 made an award as follows:

"AWARD, therefore, is hereby entered in favor of the claimant of the afore-mentioned benefits and respondent ordered to pay jointly and severally:

"1. The claimant, thru this Office, in one lump sum the amount of EIGHT HUNDRED FIFTY-THREE PESOS and 39/100 (P853.39) and the weekly compensation of P33.75 beginning May 8, 1974 until his disability ceases. Provided, that the lump sum payment and subsequent weekly payments do not exceed P6,000.00.

"2. The Workmen's Compensation Fund, the amount of NINE PESOS (P9.00) as administrative fee, pursuant to Section 55 of the Act. x x x"

Private respondents appealed from said award and on June 27, 1975 respondent Commission rendered its decision modifying the previous award and ruling that the "claimant should be entitled to compensation benefit under Section 15 of the Act on the finding of Manila Medical Center that the claimant cannot resume his former occupation or do similar work" as well as directing the respondent to pay

"1. the claimant the sum of SIX THOUSAND PESOS (P6,000.00) as his compensation benefit under Section 15 of the Act; and

"2. the Workmen's Compensation Fund, the sum of SIXTY-SIX PESOS (P66.00) as administrative fee including review costs under Section 55 of the Act, as amended."

On August 1, 1975, after respondent Commission's decision has become final and respondent Philippine Refining Co., Inc. has paid the amount of P6,000.00 to petitioner, the latter filed with respondent Commission a motion for reimbursement of medical, surgical, hospital services and supplies in the total amount of P34,644.36, itemized as follows:

(a) actual expenses incurred by claimant as duly supported by receipts - - - - - P11,121.06

(b) unpaid account to the Trinity General Hospital, Inc. - - - - - 23,523.30

On August 26, 1975, the motion for reimbursement was denied by respondent Commission, which, after a motion for reconsideration was filed by the petitioner, reconsidered its order of denial and allowed respondent to present evidence on his motion for reimbursement.

On January 30, 1976, respondent Commission issued an order en banc as follows:

"x x x. What was found reasonable for reimbursement by the Evaluation Division of the Bureau of Workmen's Compensation is the sum of P6,039.99 per recommendation dated January 21, 1976 herein adopted by the Commission en banc.

"Consequently, the respondents are hereby ordered to pay the claimant the sum of SIX THOUSAND THIRTY NINE PESOS and 99/100 (P6,039.99). The Secretary of the Commission is directed to send the necessary bill for the collection of the same."

From said order en banc of respondent Commission, both petitioner and private respondent Brains, Inc. appealed. Petitioner asserts that the award of the meager amount of P6,039.99 has no legal and factual basis.

Private respondent Brains, Inc. maintains that it should not be made liable jointly and severally with the other private respondent Philippine Refining Co., Inc. for want of employer-employee relationship and that the grant of the additional sum is invalid as petitioner was already granted permanent total disability benefit under Section 15 of the Act.

This Court in separate resolutions respectively dated June 4, 1976 and July 7, 1976, denied private respondents' petition and treated petitioner's petition as a special civil action.

The records indubitably show petitioner's right to medical, surgical, hospital services and supplies under Section 13 of the Workmen's Compensation Act. The award dated May 7, 1974 of Regional Office No. 4 made a pronouncement to this effect although the dispositive portion thereof ordered payment only of disability benefits under Section 14 of the Act. Said award was affirmed by the Commission on appeal except for the modification that claimant be paid compensation benefits under Section 15 instead.

Clearly, therefore, petitioner has not been given the medical benefits due him under Section 13.

It may be true that there is no showing that petitioner has reserved his right to file his separate claim for medical expenses, but such procedural lapse should not operate as a bar to his right to medical benefits for such would subvert the objectives for which this social legislation has been designed. Besides, the records reveal that petitioner had been pressing for payment of his bills (pp. 191-193, rec., RO4-147495) but private respondents have reneged on their obligation.

Furthermore, it may be observed that the law, in imposing on the employer the obligation to provide medical, surgical, and hospital services to an injured or sick employee, unlike those provisions relating to compensation for disability, does not provide a maximum either in the amount to be paid or the time period within which such right may be availed of by the employee. On the contrary, the law imposes on the employer the obligation to "provide the employee with such medical, surgical, and hospital services and supplies as the nature of the injury or sickness may require." The implication is that, such medical expenses as may be necessary until the work-connected injury or sickness ceases, may be charged against the employer (*Cebu Portland Cement Co. vs. WCC*, L-19164, February 29, 1964), and that medical expense benefits are separate and distinct from disability benefits.

Thus, this Court finds no merit in private respondents' contention that respondent Commission acted in excess of its jurisdiction in granting petitioner's claim for medical expenses since it was filed only after the decision awarding him compensation benefits has become final, because the decision referred to merely awarded disability benefits under Section 15 and not payment of medical benefits under Section 13. The decision is therefore final only as regards disability compensation. As regards medical expenses, respondents' obligation subsists until the work-connected injury or sickness ceases.

Thus, too, this Court finds the award of P6,039.99 made by respondent Commission on the basis of the findings of the Compensation Rating Medical Officer, unrealistic and not commensurate to an injury so severe as to require surgery, hospital confinement and care at the Trinity General Hospital for almost two months after a first operation (p. 158, rec.); a subsequent hospitalization at the Lourdes Hospital for a second operation (T.s.n. Oct. 22, 1975, p. 166, rec.); and still another proposed confinement for a third operation to remove an embedded nail in his right thigh and possibly to effect movement of his otherwise immovable knee joints (T.s.n. Oct. 22, 1975, p. 166, rec.).

The opinion of the Compensation Rating Medical Officer arrived at "after careful scrutiny of the receipts submitted" (p. 28, rollo) without physically examining petitioner (p. 75, rollo), cannot be a better basis for making a just, reasonable, and realistic award than the very nature and extent of petitioner's injuries and the actual and duly receipted medical expenses incurred for his treatment and rehabilitation as established, and remain un rebutted, during the hearing before respondent Commission (T.s.n., October 22, 1975, p. 165, rec. RO4-147495).

The injury suffered by the claimant was due to the negligence of the employer in omitting to provide and implement the necessary safety measures to avoid the accident that befell the claimant. This is tortious. Liability arising from tort is solidary.

It should be stressed that failure on the part of private respondents to seasonably controvert the claim bars all non-jurisdictional defenses.

WHEREFORE, THE ORDER OF RESPONDENT COMMISSION DATED JANUARY 30, 1976 IS HEREBY MODIFIED. PRIVATE RESPONDENTS BRAINS, INC. AND PHILIPPINE REFINING CO., INC. ARE HEREBY ORDERED TO PAY JOINTLY AND SEVERALLY:

1. THE CLAIMANT THE SUM OF THIRTY FOUR THOUSAND SIX HUNDRED FORTY-FOUR and 36/100 (P34,644.36) PESOS AS MEDICAL BENEFITS;
2. ATTY. ERNESTO TOMANENG, CLAIMANT'S COUNSEL, THE AMOUNT OF THREE THOUSAND FOUR HUNDRED SIXTY-FOUR and 43/100 (P3,464.43) PESOS AS ATTORNEY'S FEES; AND
3. THE WORKMEN'S COMPENSATION COMMISSION THE SUM OF SIXTY-ONE (P61.00) PESOS AS ADMINISTRATIVE FEES.

SO ORDERED.

Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.
Teehankee, Acting C.J., (Chairman), reserves his vote.

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