

**PACIFIC LINE, INC., PETITIONER, VS. THE WORKMEN'S
COMPENSATION COMMISSION, CELECA VILLANUEVA VDA. DE
FLORENTINO, FOR HERSELF AND IN BEHALF OF THE MINORS
JESUSA, ANDREW, JOHNNY, ...**

G.R. No. L-13793. May 30, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

While the M/V "Catalina" was docked at the port of Sta. Cruz, Davao, on January 30, 1956, its first mate, Jesus P. Florentino, died in his cabin therein, at 11:00 p.m., when he was on duty, wearing, his working clothes. Dr. F. Laxamana, health officer of the locality, who examined the body, stated at first that the cause of Florentino's death was unknown; but subsequently, he officially diagnosed its cause as cardiac asthma. Soon thereafter, the widow, Mrs. Celeca Villanueva Florentino, filed on her behalf and that of the minor children of the deceased—some begotten by his first wife and the others by her—the corresponding claim for compensation, under Act No. 3428, against the Pacific Line, Inc., hereinafter referred to as the employer, as owner and operator of said motor vessel. The employer controverted said claim, alleging, inter alia, that Florentino had died a natural death and that his alleged heart attack, resulting from bronchial asthma was not directly caused by his employment or a consequence of the nature thereof.

In due course, decision was rendered by a hearing officer, with the approval of the regional administrator, sentencing the employer to pay P1,177.65 to the widow and P2,355.31 to the minor children of the deceased, in addition to P41.00 as costs. Upon petition for review filed by the employer, said decision was affirmed by associate commissioner Jose Sanchez, of the Workmen's Compensation Commission, who ordered the employer to pay, also, the additional sum of P5.00 as costs for the review. On motion for reconsideration of the employer, the decision of said assistant commissioner was affirmed by the Commission, sitting en banc. The case is now before us on petition for review filed by the employer, who maintains that the issues are:

"I. Whether the death of Chief Mate Jesus P. Florentino was caused by any personal injury from any accident arising out of and in the course of his employment or other illness directly caused by or either aggravated by or the result of his employment as temporary Chief Mate of the M/V 'Catalina' or whether said Chief Mate merely died a natural death on January 30, 1956 on board said vessel, at the port of Santa Cruz, Davao;

"II. Whether the 'death' of Chief Mate Jesus P. Florentino is compensable under the provision of Sec. 1, Republic Act No. 772, amending Sec. 2 of Act No. 3428;

"III. Whether an autopsy is required to determine the actual cause of death when the death certificate of Jesus P. Florentino (Exhibit 'Q') shows that the cause of death is unknown, and whether the claimants had the burden of proof to establish that the said death is compensable within the specific and clear grounds of the compensation act:

"IV. Whether the circumstances of the death of Chief Mate Florentino in the course of his employment and

resulting from natural causes were to be regarded as 'accident' or 'illness' directly caused by such employment or either aggravated by or the result of such employment within the meaning of the Workmen's Compensation Act."

These issues may, in turn, be summed up as follows, namely: (1) Did Jesus P. Florentino die of heart attack, in consequence of cardiac asthma, or was his death due to a natural cause? (2) Is his death compensable under Act No. 3428, as amended?

As regards the first issue, the employer alleges that cardiac asthma has not been proven to be the ultimate cause of the death of Florentino, for the certificate of his death states that its cause is unknown and Dr. Laxamana, who, after issuing the aforementioned certificate, officially diagnosed that Florentino had died of cardiac asthma, had not made an autopsy of the body of the deceased. It appears, however, that Florentino had had bronchial asthma for sometime prior to his death and that the physicians, Dr. Jose P. Llanto and Dr. Mario C. Alix, had treated him therefor in 1955, and found that his aforementioned illness had reached the stage of cardiac involvement, with recurrent attacks of asthma and shortness of breath, in view of which they advised him that fatigue would aggravate his condition and that he should, therefore, avoid overwork, as well as stuffy and crowded places and poorly ventilated rooms. Dr. Alix, who treated Florentino up to shortly before he boarded the M/V "Catalina", expressed the view that the heart attack that caused his death on January 30, 1956, might have been triggered by an asthmatic attack due to fatigue.

The asthmatic condition of the deceased was, moreover, confirmed by his widow, Mrs. Florentino, who testified also, that Honorio Gonzalez the employer's manager, was aware of the illness of her deceased husband, and that, before proceeding to the M/V "Catalina", in the evening of January 16, 1956, Gonzalez accompanied him to buy medicines. Indeed, the same part thereof were found in Florentino's cabin, at the time of his death. Again, the very report filed by the employer states that the disability of the deceased began before embarkation on January 16, 1956, and that said employer knew of his illness when his services were contracted on that date. In fact, the record indicates that, owing to the poor condition of his health, Florentino must have been reluctant to accept the job offered him by Gonzalez, for, in order to persuade him (Florentino) to take it, Gonzalez had to give him a P50.00 bonus, in addition to the regular salary of a first mate.

Thus, although an autopsy would have probably established the cause of Florentino's death in a conclusive manner, the evidence on record sufficiently supports the finding of the hearing officer, the regional labor administrator, associate commissioner Sanchez and the Workmen's Compensation Commission to the effect that Florentino had died of cardiac asthma. The employer alleges that the death of Florentino might have been due to suicide or poisoning, but it is obvious that this is a mere surmise, based upon an abstract possibility, completely devoid of factual foundation or even a motive.

The second issue boils down to whether or not there is a causal relation between the death of Florentino and His employment. The aforementioned testimony of Drs. Llanto and Alix has abundantly established the fact that Florentino had been suffering from recurrent attacks of asthma, with shortness of breath, and that his illness had reached such an advanced stage that it was already coupled with cardiac involvement, for which reason he was informed that fatigue would result in the aggravation of his disease and advised to avoid straining himself, as well as stuffy or crowded places and ill-ventilated room. Furthermore, it appears that while at sea, the deceased had to be on duty twice a day, four (4) hours each time; that, when at port, his duty stretched for twelve (12) hours without interruption, and sometimes more; that his cabin in the M/V "Catalina" was small, with a ceiling only six (6) feet high, with no more than a tiny porthole, apart from the door, by way of ventilation, and, hence, really stuffy; that, in going to Davao, the vessel had had a rough sailing, due to bad weather and a sea of rolling and pitching waves; and that, on January 30, 1956, Florentino had been working for fifteen (15) hours. If we add to

these circumstances the fact that Florentino died in the boat, while on duty, with his working clothes on it is only logical and fair to conclude that his disease had been aggravated by the nature of his employment and that the same had triggered an attack of cardiac asthma, resulting in his death.

In any event, pursuant to section 44 of Act No. 3428, "it shall be presumed in the absence of substantial evidence to the contrary—(1) that the claim comes within the provisions" thereof. There being absolutely no evidence to the contrary, it is apparent that the appeal taken by the employer in the case at bar has no leg to stand on.

It is lastly urged that the claimants are not entitled to compensation, for the death of Florentino was due, the employer alleges, to his notorious negligence in taking the job of first mate, knowing, as he did, that it would, in all probability, aggravate the condition of his disease. This pretense is untenable. The employer was similarly aware of his illness, and, consequently, negligent in engaging his service. What is more, it induced Florentino to act as he did, by offering him a bonus, in order to offset his reluctance to accept the aforementioned job, in view of the poor condition of his health. As the party mainly responsible for said negligence—if any—the employer may not invoke the same to escape liability under the law. At any rate, in order that notorious negligence of the employee may be a defense under Act No. 3428, as amended, it must be a negligence that has caused the "injuries" for which compensation is sought (section 4, Act No. 3428). In the present case, the claim is based not upon "injuries", but upon "illness" aggravated by the nature of the employment.

Wherefore, the decision appealed from is hereby affirmed, with costs against the Pacific Line, Inc. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, and Barrera, JJ., concur.
Reyes, J.B.L., and Endencia, JJ., took no part.

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