

LUZVIMINDA Z. JAMER, PETITIONER, VS. REPUBLIC OF THE PHI-LIPPINES (BUREAU OF PUBLIC SCHOOLS) AND THE SECRETARY OF LABOR, RESPONDENTS.

G.R. No. L-47044. August 22, 1978

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Workmen's Compensation Commission[1] in R06-WC Case No. 12617 entitled "Luzviminda Z. Jamer, Claimant, vs. Republic of the Philippines (Bureau of Public Schools), Respondent", reversing the award of the Referee in Regional Office No. VI, Workmen's Compensation Unit, Naga City, which ordered the respondent to pay the following sums:

"1. To the claimant, thru this office, the total sum of FOUR THOUSAND THREE HUNDRED FORTY SEVEN PESOS AND THIRTY SIX CENTAVOS (P4,347.36) by way of compensation and reimbursement of medical expenses;

"2. To Atty. Santos Q. Terceño, claimant's counsel, the sum of P192.37 as attorney's fees, pursuant to Section 31 of the Act; and

"3. To this office the sum of P39.00 as fee, pursuant to Section 55 of the Act."[2]

The petitioner, Luzviminda Z. Jamer, is a public school teacher of the Bombon Elementary School, at Bom-bon, Camarines Sur. On September 12, 1973, she boarded a passenger bus in Naga City for Bombon after accomplishing a special errand for her school principal. On the way, the bus suddenly swerved to the left and landed on a ditch causing her injuries. The petitioner was later confined at the Mother Seton Medical Center at Naga City. She filed a notice and claim for compensation dated June 13, 1974 with the Workmen's Compensation Unit, Regional Office No. VI, Department of Labor, Naga City. The Assistant Solicitor General, in a letter dated July 26, 1974 to the Workmen's Compensation Unit, controverted the claim for not being compensable under Section 2 of the Workmen's Compensation Act. On September 19, 1974, the claim was heard by the Referee. After hearing, the Referee issued an award in favor of the claimant on September 26, 1974 on the grounds that the claimant at the time of the accident which resulted in injuries to her was on her way to the school where she teaches; that presumption of law is in favor of compensability; and that the letter-controversion filed by the Office of the Solicitor General is pro-forma and considered the claim for compensation as not controverted.[3]

After the Referee had denied the motion for reconsideration of the respondent Bureau of Public Schools, the records were elevated to the Workmen's Compensation Commission.

On October 14, 1975, the Workmen's Compensation Commission rendered a decision reversing the award and dismissing the case on the ground that the claim was not compensable as it falls under the general rule governing off-premises accidents.

On October 31, 1975, claimant filed a motion for reconsideration of said decision with the Workmen's Compensation Commission. In view, however, of the abolition of the Workmen's Compensation Commission on March 31, 1976, the case was among those turned over to the Compensation Appeals and Review Staff (CARS), Department of Labor, for disposition. On August 4, 1977, an order was issued by the Secretary of Labor denying said motion for reconsideration for lack of merit.

It is a fact that the petitioner was employed as a teacher by the respondent in the Bombon Elementary School, Camarines Sur. When she sustained injuries in a vehicular accident, she was on her way to the Bombon Central School and she was on a special errand for her school principal.[4]

The respondents have not controverted the contents of the affidavit executed by the then principal of the Bombon Central School. That said affidavit was not presented at the hearing conducted by the Referee is of no moment. The strict rules of evidence are not applicable in administrative hearings specially in claims for workmen's compensation. Thus in *Socorro T. Aguilar vs. Workmen's Compensation Commission, et al.*[5] this Court said:

"The report of Dr. Castor M. Ricaña that Antonio Aguilar was suffering of essential hypertension which started in 1959 and that the said illness was the result of the nature of his employment, may be the basis for the award even if the physician himself was not presented as a witness. While such a report may be hearsay under the common law rules of evidence, it is nevertheless admissible under Section 49 of the Workmen's Compensation Act and may be considered in addition to the affidavit of the petitioner, Socorro T. Aguilar. x x x"

In *Bael vs. Workmen's Compensation Commission, L-42255*, January 31, 1977,[6] this Court held:

"In the case before Us, the circumstances attending the death of the deceased constrain Us, to hold that the accident of the deceased comes within the 'going to and coming from rule'. The records show that right after her work at school she immediately proceeded to go home by taking jeepney. In going home, she has still other school work to do, like preparing lesson plan for the next day, correcting papers and preparing school projects. When she therefore took a jeepney on her way home, she was merely commuting to another place to continue with her work. Her taking the ride in that fatal vehicle can be treated as a necessary incident to her school work. The very nature of the work of the deceased, the time required of her after class hours created that special circumstances that qualify her heirs to the benefits arising from her death. In one case, the claimant started working with the Bureau of Public Schools as a classroom teacher as early as July 8, 1953, assigned in one of the barrios of the town of Enrile, province of Cagayan. In going to her place of work, she had to cross the Cagayan River, where she had to board a banca to ferry her to the other side. In one of her trips while alighting from the banca, she slipped causing her to fall and her head bumped on the side of the boat, resulting in the pains and contusions on the head. Here the Supreme Court held that the head injury that induced the tumor which caused her death was in-curred in line of duty. Similarly, in the instant case, We can consider the death of the deceased as having occurred in connection with her duty."

The foregoing ruling was reiterated in *Teresita Galindez, et al., vs. WCC, et al.*[7] where this Court held:

"A careful scrutiny of the records on hand, however, would show that the presentation of such additional evidence by petitioner is not even necessary to justify a finding of compensability. The records are clear (1)

that the deceased was employed as a college professor of the University of Mindanao (Tagum branch) at Tagum, Davao del Norte, a place about 60 kilometers from Davao City;(2) that the deceased was a resident of Tagum, Davao del Norte at the time of his death; (3) that the main office of the University of Mindanao is in Davao City; (4) that the accident took place along the highway of Carmen, Davao del Norte while deceased was riding a bus; (5) that the accident occurred at around 10:30 in the morning of May 25, 1973, a working day, being a Friday; (6) that the respondent failed to disprove the claim of petitioner that the deceased at the time of his death was going to attend a conference at the University of Mindanao in Davao City for which he was called; and (7) that there is no record to show that the deceased took a leave of absence from his work, or was absent from his work on the day of the accident.

Indeed, foregoing situations are sufficient to create a disputable presumption that deceased was in the performance of an official mission for the school at the time of the accident and that his death was therefore compensable. Nothing of record can be found that private respondent has presented evidence to rebut the presumption. It made no attempt in its comment to lend evidentiary support to its unsubstantiated claim that deceased was not on an official mission at the time of the accident."

The Referee based his award on the following findings:

"On the basis of all the foregoing, and aided by the presumption of law in favor of the compensability of this case, we find and do hold that the injuries suffered by claimant are work-connected, hence, compensable. Conformably with the above finding, the Compensation Rating Medical Officer of this office granted claimant six (6) months temporary total disability, 21% permanent partial disability of the arm, and 12% non-scheduled disability. He also certified to the fairness and reasonableness of the sum of P500.00 for reimbursement of medical expenses.

Under Section 14 of the Act, claimant is entitled to 60% of her average weekly wage of P75.23 (P326.00 x 12 mos. over 52 weeks) or P45.14, and for 26 weeks, she should receive the sum of P1,173.64; and under Section 17, she is entitled to 50% of P75.23 or P37.62 and for 43.48 weeks (21% of 208 weeks), she should receive the sum of P1,634.72; and under section 18, claimant is entitled to 50% of P75.23 or P37.62, and for 37.62 weeks (12% of 208 weeks), she should receive the sum of P1,039.00. She should therefore, receive the total sum of P3,847.36 by way of compensation, plus the additional sum of P500.00 by way of reimbursement of medical expenses."[8]

We find the computation of the Referee as correct.

WHEREFORE, the decision of the Workmen's Compensation Commission is hereby set aside and the respondent Republic of the Philippines (Bureau of Public Schools) is hereby ordered to pay the following sums:

- 1) To the petitioner, the total sum of Four Thousand Three Hundred Forty Seven Pesos and 36/100 (P4,347.36) by way of compensation and reimbursement of medical expenses;
- 2) To petitioner's counsel, the sum of One Hundred Ninety Two Pesos and 37/100 (P192.37) as attorney's fees; and
- 3) To the successor of the Workmen's Compensation Commission, the sum of Thirty Nine Pesos (P39.00) as administrative fee.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, and Guerrero, JJ., concur.

Makasiar, J., concurs in a separate opinion.

[1] Annex "B", Rollo, pp. 13-14.

[2] Annex "A", Rollo, p. 12.

[3] Comment of Respondent, Rollo, pp. 37-38.

[4] Annex "C-1", Rollo, p. 19.

[5] G. R. No. L-43213, May 11, 1978.

[6] 75 SCRA 181, 186-187.

[7] 79 SCRA 332, 336.

[8] Annex "A", Rollo, pp. 11-12.

SEPARATE CONCURRING OPINION**MAKASIAR, J.:**

I concur with the additional opinion that the respondent employer should likewise be directed to provide the claimant with such medical, surgical and hospital services as well as appliances and supplies as the nature of her disability and the progress of her recovery may require and which will promote her early restoration to the maximum level of her physical capacity. It is my consistent view that the provisions of Section 13 of the Workmen's Compensation Act, as amended, and Article 184 of the New Labor Code, as amended, confer such right on the disabled employee, whether her disability is temporary or permanent. This is in compliance with the social justice guarantee of both the 1935 and 1973 Constitutions and in obedience to the directive of Article 4 of the New Labor Code that "all doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor", which is a re-statement of existing jurisprudence as well as Article 1702 of the New Civil Code. To limit such right to a temporarily disabled employee would inflict gross injustice on those permanently disabled, who still need to be relieved from the pain, trauma, social ostracism or humiliation generated by such permanent disability.

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