

**ROSALINDA PA-AC, FOR HERSELF AND IN BEHALF OF THE MINORS,
MARCELO, JR., GENOVEVA, DOMINADOR, BONIFACIO AND
ROSALINDA, ALL SURNAMED PA-AC, PETITIONERS, VS.
ITOGON-SUYOC MINES, IN...**

G.R. No. L-35800. July 23, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review the decision of the defunct Workmen's Compensation Commission in WCU Case No. ROI-388 entitled "Rosalinda Pa-ac v. Itogon Suyoc Mines, Inc." which reversed the decision of Mr. Erudito E. Luna, Workmen's Compensation Section Chief of the Baguio City Sub-Regional Office, and denied the claim for death benefits filed by petitioner Rosalinda Paac.

The factual findings of the Workmen's Compensation Commission are as follows:

"The record shows that the deceased, Marcelo Pa-ac, worked for the respondent company from 1951 to 1968 or a period of 17 years. He started as a laborer, shovelling sand and gravel in connection with the construction work of the respondent. After two years, Pa-ac was promoted as a shifter in the mill department as a precipitation man. His primary duty as such was to conduct precipitation color test. The process which lasted for about 15 minutes at a time was repeated every hour, and involved the mixing of chemical solutions. On January 1, 1960, Pa-ac was assigned as sand fill operator and charged with the duty of maintaining the specific gravity of the fed while he makes a record of the readings. He also saw to it that the pump was functioning smoothly. On January 1, 1961, the deceased was assigned as ball mill operator whose duty it was to regulate the ball mill fed by opening and controlling a 48-square inch (8"x 6") fed gate by pushing the fed lips. It was also his work to charge the steel balls by means of an electric machine which starts by pressing a button and to see to it that the machine was running smoothly while he balanced the fed. Three years thereafter, or on June 17, 1964, Pa-ac was reassigned to the precipitation section. On September 1, 1967, he was promoted as mill general capataz whose duty it was to supervise the men working in the mill. As such, he worked seven days a week and received a daily wage of P8.15. He worked in shifts rotated every 15 days. The morning shift was from 7:00 o'clock a.m. to 3:00 o'clock p.m.; the afternoon shift was from 3:00 o'clock p.m. to 11:00 o'clock p.m., and the night shift was from 11 :00 o'clock p.m. to 7:00 o'clock a.m.

"On June 14, 1968, Pa-ac was a guest in a wedding party. Before luncheon consisting of fatty foods was served, Pa-ac joined the other male guests in drinking San Miguel gin and Tanduay rum. It seems that he had one drink too many because he became talkative and when it was time to leave, he could not walk straight. He had to be supported by Mr. Alexander Olivar, the respondent's safety engineer, to the service pick-up which brought them to the bus terminal. Sensing that Pa-ac was in no condition to work, Olivar advised Pa-ac, who was supposed to report for work with the afternoon shift, not to report for duty anymore. From the bus terminal, where the two parted ways, Pa-ac headed home on foot to the Mountaineers's Store, some 500 meters away. At quarter past 2:00 o'clock p.m., that day, two laborers, Basilio Sabado, a crane helper and Camilo Valloyas, a hoistman, while on their way to work, came upon Pa-ac sitting alone by the roadside. He was in a

state of dizziness and his hands were shaking. Summoning the service pick-up, the two laborers rushed Pa-ac to the respondent's hospital in Sangilo.

"When admitted in the hospital, Pa-ac was weak and semi-conscious. He was immediately attended to by Dr. Carmen Chunuan. All efforts of the doctor notwithstanding which included medication, stimulant injection, oxygen and cardiac massage, Pa-ac died within two hours from admission. Safety Engineer Olivar volunteered a mouth-to-mouth resuscitation, but this, too, did not help. The cause of death was attributed to myocardial infarction.

"The record also shows that the deceased was twice married. On September 23, 1945, he married Natividad Sal-oy according to the rites of the Roman Catholic Church. In July, 1960, after living together as husband and wife for 15 years, Pa-ac and Natividad were divorced according to the tribal customs of the Mountain Province. In September of the same year, Pa-ac married Rosalinda Palki following the customs of their tribe. Whereas, Pa-ac had no issue with Natividad after years of married life, his second marriage proved fruitful for Rosalinda bore him five children, namely, Marcelo, Jr., Genoveva, Dominador, Bonifacio and Rosalinda, all surnamed Pa-ac. Rosalinda Palki instituted the instant claim for herself and for her five children. The claim was filed by Rosalinda with the knowledge and tacit consent of Natividad who had chosen to nurse her frustration and disappointment in her hometown of Bauko, Mountain Province." (pp. 33-35, Original Record).

On February 2, 1970, the Chief of the Workmen's Compensation Section, Baguio City Sub-Regional Office, decided in favor of the petitioner. He found the claim to be within the purview of Section 2 of the Workmen's Compensation Act (Act No. 3428), as amended, which states that:

"Grounds for compensation. — When an employee suffers personal injury from any accident arising out of and in the course of his employment or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the person hereinafter specified. The right to compensation as provided in this Act shall not be defeated or impaired on the ground that the death, injury or disease was due to the negligence of a fellow servant or employee, without prejudice to the right of the employer to proceed against the negligent party."

Relying on the pronouncement of this Court in the case of *Magalona v. Workmen's Compensation Commission and National Shipyard and Steel Corporation* (21 SCRA 1199), he held: "Considering that the work of the deceased involved strain and exposure to the inclemencies of the weather, even when he worked as a capataz, the conclusion is inevitable that his employment contributed to the acceleration of his illness. In any event, since the seriousness of his illness occurred while going to work, there is a rebuttable presumption that the same arose out of, or was at least aggravated by his employment. Hence, the claimant is relieved from the burden of proving causation. The burden to overthrow the presumption is laid by the statute on the employee." (Rollo, p. 15).

On these bases, he ordered the respondent to pay the petitioner and her children the sums of P6,000.00 as compensation benefits, P200.00 as burial expenses, P300.00 as attorney's fees, and to the Workmen's Compensation Sub-Regional Office, the sum of P.61.00 as administrative costs. (p. 17, Rollo).

On appeal by the respondent to the Workmen's Compensation Commission, the aforementioned decision was reversed. The Commission found that the petitioner failed to establish a preliminary link between the illness and the employment of the deceased. Moreover, it found that "the rebuttable presumption which the Workmen's Compensation Unit Chief invoked in favor of the claimant has been successfully overthrown by the respondent by substantial evidence." (p. 22, Rollo)

Hence, this petition. The petitioner assails the Commission's decision on the grounds that it is contrary to law and existing jurisprudence and that its conclusions are not supported by the evidence on record.

We sustain the Commission's decision.

In the case of *Vda. de Cardiente v. Workmen's Compensation Commission* (134 SCRA 66, 70), this Court, in construing Section 2 of Act 3428, held that: "x x x compensable illnesses or diseases are those which are: (1) directly caused by such employment; or (2) either aggravated by the employment, or (3) the result of the nature of such employment."

The records disclose that the deceased died of myocardial infarction. Medical authorities reveal the nature of such illness as follows:

"myocardial infarct. A region of dead or dying tissue in the muscle of the heart which is the result of an obstruction to the blood circulation, usually by a clot." (Schmidt, *Attorney's Dictionary of Medicine and Word Finder*, [1965], p. 531)

"Myocardial (mi'o-kar-de-al) pertaining to muscular tissue of the heart.

m. infarction, formation of an infarct in the heart muscle, due to interruption of the blood supply to the area (see also CORONARY OCCLUSION)." (Miller and Keane, *Encyclopedia and Dictionary of Medicine and Nursing*, [1972], p. 618)

Cross-referring to CORONARY OCCLUSION, the same shows:

"CORONARY (kor'o-na-'re) encircling in the manner of a crown, a term applied to vessels, ligaments, etc.

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"c. Occlusion, the occlusion, or closing off, of a coronary artery. It may occur when the artery is suddenly plugged by a blood clot developing within the vessel (coronary thrombosis), or it may result when mounting fatty deposits in the wall of the vessel finally clog the artery. Coronary occlusion and coronary thrombosis are commonly referred to as a 'heart attack' because the situation is usually acute with severe symptoms resulting from damage to the heart muscle (myocardial infarction) and subsequent heart failure." (Ibid., p. 231.)

In supporting her claim, the petitioner alleged that the strain involved in the deceased's work caused him to suffer the abovementioned ailment. Reviewing the records of the case, however, we find that no causal relation between the illness and the employment of the deceased has been established.

The duties of the deceased as stated in his job description are light and do not involve strenuous physical exertion. As capataz, he merely acted as overseer of the mill. It is not unreasonable, therefore, to conclude that such duties could not have directly caused the deceased's ailment.

The records also belie the theory of aggravation. They show that the illness was not pre-existing. Prior to his death, the deceased never complained of any symptoms of the disease. He was never admitted and treated in the hospital for the said ailment. The attack was the first time he suffered the ailment and that one time proved fatal.

The petitioner emphasizes the presumption of compensability provided by the law in these cases. We note, however, that this presumption is rebuttable. The presumption stands unless the employer clearly establishes that the death or ailment was not caused or aggravated by such employment or work. In this case, there is substantial evidence which shows that the deceased's ailment was not traceable to his employment. The respondent presented medical authority and opinions which state that myocardial infarction occurs without relation to efforts or other discernible clinical event. (Records, p. 123). It also showed that the deceased, prior to his death, had been drinking and eating fatty food.

We agree with the ruling of the Commission that "while the Workmen's Compensation Act is a social legislation designed to give relief to the workman who has been the victim of work-connected accident and should be liberally construed in favor of the workman, it cannot be reconstructed to fit particular cases x x x."

In *Afable v. Singer Sewing Machine Co.* (58 Phil. 39, 42), this Court held:

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"x x x It was not the intention of the legislature to make the employer an insurer against all accidental injuries which might happen to an employee while in the course of the employment, but only for such injuries arising from or growing out of the risks peculiar to the nature of the work in the scope of the workman's employment or incidental to such employment, and accidents in which it is possible to trace the injury to some risk or hazard to which the employee is exposed in a special degree by reason of such employment. Risks to which all persons similarly situated are equally exposed and not traceable in some special degree to the particular employment are excluded."

WHEREFORE, IN VIEW OF THE FOREGOING, the assailed decision is **AFFIRMED**, and the present petition is hereby **DISMISSED**.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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