

FELISA C. EVANGELISTA, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (DEPARTMENT OF JUSTICE), RESPONDENTS.

G.R. No. L-46661. January 18, 1982

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Employees' Compensation Commission in ECC Case No. 0220, entitled "Felisa Evangelista, Appellant, versus Government Service Insurance System (Department of Justice), Respondent", which affirmed the denial by the Government Service Insurance System of the claim for income benefits arising from the death of Tomas T. Evangelista.[1]

The petitioner, Felisa C. Evangelista, is the widow of Tomas T. Evangelista who died on November 14, 1975 while employed as Special Counsel in the Office of the Provincial Fiscal of Cebu. She filed a claim for death income benefits with the Government Service Insurance System which denied the claim on the ground that there is no showing that the ailment of her husband directly arose from or was aggravated by his employment.

The facts, as found by the Employees' Compensation Commission, are:

"The service record of the late Tomas T. Evangelista discloses that he started his services with the government at the age of 22 as a laborer of the Bureau of Posts, from March 27, 1943 to November 22, 1943 he worked with the Bureau of Communications. On November 23, 1943, he was promoted to Assistant Censor of the latter office, which position he held until January 1, 1944. His employment was broken for sometime due to the Second World War and he again commenced his employment on October 17, 1945 as clerk of the People's Court. His work with the Department of Justice started from April 1, 1947 to November 13, 1975 wherein he held various positions. In 1947, he was appointed as Agent of the Office of the Solicitor General; and on October 25, 1953, he became Assistant Provincial Fiscal of Samar until May 6, 1954. However, it was when he was working as Special Counsel of the Office of the Provincial Fiscal of Cebu when he was first treated for moderately advanced tuberculosis of the right apex of his lung in 1956, as certified to by Cecilio Dolorfino, the physician who treated him from 1956 to September, 1975. He was likewise hospitalized for said illness at St. Luke's Hospital, Quezon City from November 2, 1975 to November 14, 1975 and on this latter date, he died due to Tuberculosis Bronchiectasis.

"At the time of his death, he was holding the position of 3rd Assistant Provincial Fiscal and even when he was still employed as Special Counsel, his duties consisted of conducting preliminary investigations, prosecuting criminal cases, representing the state in some civil and special proceedings, and performing such functions pertaining to fiscals."[2]

From the facts found by the Employees' Compensation Commission, it is clear that the illness of Tomas T. Evangelista which caused his death on November 14, 1975 supervened while employed by the Department of Justice years before the Amended Labor Code took effect. Hence this claim should be decided under the Workmen's Compensation Act.[3]

The record shows that as early as 1956, the deceased Tomas T. Evangelista was treated for moderately advanced tuberculosis of the right apex of his right lung in 1956, as certified to by Dr. Cecilio Dolorfino, the physician who treated him from 1956 to September, 1975.[4]

Under Section 44 of the Workmen's Compensation Act, which covers the present situation, in the absence of substantial evidence to the contrary it is presumed that when the illness supervened during the employment the claim is compensable. An employee is freed from the burden of proving that his illness or injury was caused or aggravated by the nature of his work. In fact, the cause of the ailment is immaterial; what is important is that it occurred or was aggravated in the course of employment.[5]

There is no evidence to rebut the disputable presumption that the claim is compensable.

WHEREFORE, the decision appealed from is hereby set aside and the Government Service Insurance System is ordered:

- (1) To pay the petitioner the amount of SIX THOUSAND PESOS (P6,000.00) as death compensation benefits;
- (2) To reimburse the petitioner of hospital and medical expenses supported by proper receipts;
- (3) To pay the petitioner the amount of SIX HUNDRED PESOS (P600.00) as attorney's fees; and
- (4) To pay the Ministry of Labor in the amount of SIXTY-ONE PESOS (P61.00) as administrative fees.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, Melencio-Herrera, and Plana, JJ., concur.

[1] Rollo, pp. 28-32.

[2] Rollo, pp. 28-29.

[3] Bayogbog vs. Workmen's Compensation Commission, 99 SCRA 717.

[4] Rollo, p. 28.

[5] G.B. Francisco, Inc. vs. Workmen's Compensation Commission, 87 SCRA 22, 30.

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