

**MANSUETA T. TIBULAN, MARIO TIBULAN AND ULYSSES TIBULAN,
PETITIONERS, VS. HON. AMADO G. INCIONG, ACTING MINISTER OF
LABOR, AND LUZON STEVE-DORING CORPORATION, RESPONDENTS.**

G.R. No. L-48576. August 11, 1989

Ponente: FELICIANO, J.

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FELICIANO, J.:

Petitioners here seek to set aside (a) a decision of the Workmen's Compensation Commission dated 29 November 1975 which reversed the Decision of the Acting Referee awarding to petitioner Mansueta Tibulan and her children Mario and Ulysses, both surnamed Tibulan, compensation benefits by reason of the death of Pedro Tibulan, as well as (b) the orders dated 19 July 1977 and 7 June 1978 of the Secretary and Acting Secretary of the Department of Labor denying petitioners' first and second Motions for Reconsideration, respectively.

Pedro Tibulan started working for private respondent Luzon Stevedoring Corporation as Barge Patron of one of its barges sometime in 1930, and remained there until his death in 1965. In 1963, he began to suffer from high blood pressure, hypertension and heart ailment.

On 23 December 1965, when Pedro Tibulan returned home from work, he complained to his wife of chest and stomach pains. The latter brought him to the Philippine General Hospital for treatment. Pedro died the very next day. The cause of his death was diagnosed as myocardial infarction, aortic insufficiency and hypertension.[1]

On 13 September 1966, in representation of herself and her two (2) minor children, Mansueta Tibulan through her then counsel, Atty. Felizardo Moreno, filed a claim for compensation benefits under the pertinent provisions of the Workmen's Compensation Act (Act No. 3428, as amended) docketed as Case No. RO-4-WC-5412. On 29 September 1966, without any authority from Mansueta, Atty. Moreno filed a motion to dismiss claiming that the filing of said motion was authorized by petitioner Mansueta and that petitioner was no longer interested in prosecuting her claim against respondent company. The Acting Referee granted said motion in his order dated 29 September 1966.

On 9 November 1966, Mansueta through another counsel, Atty. Gaspar Tagle filed a motion for reconsideration of the order of dismissal, claiming that she had not consented to the filing of the motion to dismiss, not having understood its contents: that she never had the intention of asking for dismissal of her claim and had not received any pecuniary benefits by reason of the said dismissal; that the said dismissal had prejudiced her interest and that of her children. The Acting Referee denied the motion for having been filed out of time. This order of denial was served on the petitioners through their new counsel on 1 February 1967.

On 6 February 1967, petitioner interposed a Petition for Review on the following grounds, namely: that the order dismissing the claim was null and void considering that the motion to dismiss dated 29 September 1966 was filed without the authority of Mansueta and her children; that the Acting Referee's order dated 29 September 1966 did not start the running of the period to file the petition for review since the same was not served on petitioners' counsel; that the Petition for Review was filed under the provisions of Section 38 of the Rules of Court which had

supplemental effect under Section 2, Rule 7 of the Rules of the Workmen's Compensation Commission. This Petition for Review (or for relief) remained formally unacted upon despite the fact that the Commission in October 1971 remanded the case to its Regional Office No. 4 for further proceedings.

Several years went by without any further proceedings being taken. On 29 November 1974, petitioners refiled their claim which was docketed as RO-4-WC Case No. 160991. A copy of the re-filed claim was furnished to private respondent corporation which, on 14 January 1975, filed its Employer's Report of Accident or Sickness controverting petitioner's claim on grounds of "(a) lack of employer-employee relationship; (b) cause of death not service-connected; and (c) claim is time-barred." The Acting Referee then required the parties to file their respective affidavits. Only petitioner Mansueta filed her affidavit to which she attached a certification of her marriage to the deceased and the baptismal certificates of her minor children. Respondent corporation filed nothing.

In his decision[2] dated 25 August 1975, the Acting Referee awarded to petitioners the sum of P5,990.40 as compensation benefits, P200.00 as burial expenses and P300.00 as attorney's fees.

Not satisfied with the decision, private respondent corporation filed with the Workmen's Compensation Commission a motion for reconsideration on the ground of pendency of another, similar claim filed by petitioners.

In its decision[3] dated 29 November 1975, the Workmen's Compensation Commission reversed the decision of the Acting Referee. The Commission ruled that there was no causal connection between the work of the deceased and the cause of his death, petitioners having failed to show that the deceased was incapacitated for work prior to his death: and, that the Certificate of Marriage and the Baptismal Certificates submitted by petitioners were insufficient to prove their relationship with and filiation to the deceased. Petitioners filed two (2) motions for reconsideration both of which were denied by the Secretary and the Acting Secretary of the Department of Labor, respectively.

In the instant Petition for Review, the petitioners assail the decision of the Commission for not having entertained their two (2) motions for reconsideration although meritorious.

In turn, respondent company urges that, under the provisions of the Labor Code, petitioners' motion for reconsideration of the decision of the Commission dated 29 November 1975 was filed out of time, having been filed beyond the ten-day reglementary period. It must be observed that petitioners' claim was filed under the pertinent provisions of the Workmen's Compensation Act and not of the Labor Code, and that under the former Act, the reglementary period was fifteen (15) days.

The records show that while the claim was pending before the Commission, Atty. Hermoso, petitioners' previous counsel, was appointed to the Judge Advocate General's Office (JAGO) and at the time the decision was received in his house on 22 December 1975, he was away at Mactan Airbase serving as its Provost Court Officer. It was only on 5 January 1976, when he came back to Manila that he had learned of said decision. Consequently, he was able to file the motion for reconsideration only on 13 January 1976. In view of this excusable negligence, we believe that the period should be considered to have had started to run from 6 January 1976 and not from 22 December 1975. Under this view, the first motion for reconsideration may be regarded as filed seasonably. As is well-known, the Workmen's Compensation Act is a piece of social welfare legislation which seeks to give effect to the concept of social justice,[4] and the provisions of which should accordingly be liberally construed in favor of the employee or the claimant.[5]

The main issue to be resolved in this case is whether or not petitioners are entitled to the compensation benefits under the provisions of the Workmen's Compensation Act.

It appears that petitioners' claim was not just denied by the Commission on the ground of lack of causal connection between Pedro's death and the conditions of his work, but also for the reason that the petitioners had allegedly failed to establish their relationship to the deceased. As observed, however, petitioner Mansueta Tibulan had in fact attached to her affidavit filed with the Acting Referee several documents to support her claim, namely: a medical certificate, the baptismal certificates of petitioners Mario and Ulysses Tibulan, a certification of Mansueta's marriage to the deceased issued by the parish priest who had solemnized the marriage. Mansueta had also attached to her motion for reconsideration which she had filed with the Commission copies of the birth certificates of Mario and Ulysses Tibulan. The totality of this evidence was, in this case, quite sufficient to establish petitioners' relationship to the deceased. In any case, it is merely commonplace to note that strict observance of the technical rules of evidence is not properly demanded in Workmen's Compensation cases.[6] Moreover, respondent corporation did not present any evidence controverting petitioners' documentation.

Respondent company, whatever else it may have stated in its earlier "Employer's Report of Accident and Sickness," does not dispute before this Court that Pedro Tibulan had been in its employ as Barge Patron during his lifetime. The records further show that Pedro's illness had begun in 1963 while still employed by the respondent company. Considering that the claim was filed under the provisions of the Workmen's Compensation Act, petitioners are entitled to the presumption of compensability which, under the provisions of said act, arise under the aforementioned circumstances.[7]

Because Pedro Tibulan's illness is presumed to be compensable, his employer, respondent corporation, had the burden of controverting and overcoming such presumption with competent evidence showing that the deceased's illness was not in fact work-connected and had in fact not been aggravated by the conditions of his employment.

We do not believe that respondent company was successful in discharging the burden of disproving the work-relatedness of Pedro Tibulan's illness. Respondent company merely argued that because the deceased was occupying a supervisory position, therefore, the cause of his death could not be directly traceable to his employment. To overcome the legal presumption of compensability, evidence must do more than merely create a doubt.[8] In the instant case, no substantial doubt was generated by respondent company's contention.

Upon the other hand, the petitioners claimed that the conditions under which Pedro Tibulan had served as Barge Patron had some connection with the emergence and development of the disease which caused his death. Petitioners pointed out that the deceased had worked for respondent company for almost thirty-five (35) years, from 1930 up to his death on 24 December 1965. The barge to which the deceased was assigned was being used to transport heavy cargoes up and down and around the Pasig River and had under his supervision only two (2) sailors. These conditions lead us to the inference that while the position of the deceased was not one requiring mainly manual labor, nonetheless, he could not have avoided strenuous physical activity in carrying out his duties. Certainly, the captain or patron of a cargo barge was not expected to, and would not have been allowed to, live his life behind a desk.

Further, it appears that when Pedro Tibulan first joined respondent company, he was in fact in good health. Where an employee entered employment in good health and suffered an illness in the course of employment which illness he never had before said employment, he has in his favor the statutory presumption that his disease or illness is compensable. Once more, respondent corporation was unable to overturn the applicable statutory presumption of compensability and of the work-related character of Pedro Tibulan's illness.[9]

Finally, since respondent company failed to submit any affidavit or counter-affidavit to the Acting Referee as required by the provisions of Department Order No. 3, it must be deemed to have renounced its right to challenge petitioners' claim and to have waived all non-jurisdictional defenses.[10]

The Acting Referee's award in 1975 in favor of petitioners was clearly in order. It is difficult to understand why private respondent corporation should have felt compelled to appeal that award which came after the claim had been pending for nine (9) years; that appeal was frivolous and insubstantial. It is even more difficult to comprehend the reversal of that award by the Commission in a decision notable only for its failure to apply the simple and widely-known statutory presumption of compensation, and which compelled petitioners to come to this Court and which resulted in the further prolongation of this case. Under these circumstances, petitioners are entitled to legal interest on the amount of the original award computed from the date of rendition of that award by the Acting Referee.[11]

WHEREFORE, the Petition for Review is GRANTED and the Decision dated 29 November 1975 of respondent Workmen's Compensation Commission in WCC Case No. R04-160991, the Order of the Secretary of the Department of Labor dated 19 July 1977 and the Order dated 7 June 1978 by the Acting Secretary of the Department of Labor are hereby SET ASIDE. Respondent Luzon Stevedoring Corporation is hereby DIRECTED to pay petitioners the award rendered by the Acting Referee on 25 August 1975 in the amount of P5,990.40 as compensation benefits and P200.00 as funeral expense, together with legal interest on these amounts computed from 25 August 1975 until full payment thereof, and 10% of the resulting aggregate amount as attorney's fees. Costs against public and private respondents.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, Annex "B" of Petition, p. 28.

[2] Id., Annex "A" of Petition, p. 26.

[3] Id., Annex "B" of Petition, pp. 27-29.

[4] *Molet v. Workmen's Compensation Commission*, 83 SCRA 170 (1978); *Parlago v. Workmen's Compensation Commission*, 83 SCRA 829 (1978).

[5] *Vda. de Pagaling v. Philippine Packing Corporation*, 87 SCRA 399 (1978); *Octavio v. Workmen's Compensation Act*, 87 SCRA 416 (1978).

[6] *Espiritu v. Workmen's Compensation Commission*, 84 SCRA 636 (1978).

[7] *Pillsbury Mindanao Flour Mill Co., Inc. vs. Murillo*, 81 SCRA 306 (1978); *Lorenzo vs. Workmen's Compensation Commission*, 81 SCRA 434 (1978); *Trinidad vs. Workmen's Compensation Commission*, 81 SCRA 664 (1978).

[8] *Lizardo vs. Workmen's Compensation Commission*, 89 SCRA 77 (1979).

[9] *Lizardo vs. Workmen's Compensation Commission*, 87 SCRA 77 (1978); *Landicho vs. Workmen's Compensation Commission*, 89 SCRA 147 (1979); *Marasigan vs. Workmen's Compensation Commission*, 89 SCRA 259 (1979); *Dulay vs. Workmen's Compensation Commission*, 89 SCRA 659 (1979).

[10] *Dinario v. Workmen's Commission*, 70 SCRA 292 (1976); *Security Services Unlimited, Inc. v. Workmen's Compensation Commission*, 69 SCRA 269 (1976).

[11] See *Eladia de Lima, et al. v. Laguna Tayabas Company, et al.* 160 SCRA 70 (1988).

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