

LUPO S. CARBAJAL, PETITIONER, VS. GOVERNMENT SERVICE INSURANCE SYSTEM (MUNICIPALITY OF SAN JULIAN, EASTERN SAMAR), AND EMPLOYEES COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. L-46654. August 09, 1988

Ponente: PARAS, J.

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PARAS, J.:

This petition for review on certiorari seeks to set aside and annul the decision of respondent Employees Compensation Commission (ECC) in ECC Case No. 0168 dated June 27, 1977, which affirmed the decision of respondent Government Service Insurance System, denying petitioner's claim for benefits under the New Labor Code as amended (P.D. No. 626) for the death of his spouse, Nenita P. Carbajal (Rollo, Annex "A", p. 14).

The undisputed facts of the case are as follows:

The late Nenita P. Carbajal was employed as Campaign Clerk in the Municipal Treasurer's Office of San Julian, Eastern Samar. On February 2, 1976 while typing tax declarations and making entries in their books, which were her duties aside from campaigning for tax collections, she suffered from bleeding per vaginum due to incomplete abortion. Her hospitalization and treatment at the Bagacay Mines Hospital due to profuse hemorrhage of one month duration secondary to complete abortion and shock were of no avail for on March 8, 1976, petitioner's wife died.

On May 12, 1976, he filed his claim for benefits for the death of his wife with the respondent Government Service Insurance System under P.D. No. 626, as amended.

On June 3, 1976, the Senior Assistant General Manager of the Underwriting and Claims Department of GSIS, Mr. Domingo N. Garcia, denied the petitioner's claim stating that the ailments of his wife were not occupational.

Petitioner requested reconsideration of respondent's adverse ruling. However, his request was also turned down by respondent GSIS reiterating its previous stand that ailment which resulted in his wife's death is not causally related to her duties and conditions of work. From this decision, a petition for review was filed by petitioner before the Employees Compensation Commission (ECC).

On June 27, 1977, the respondent ECC rendered its quest-ioned decision in ECC Case No. 0168 based upon the findings of its Medical Officer, Dr. Mercia C. Abrenica, that there is no proof to establish the compensability of the sickness in relation to claimant's occupation. Neither was there an increased risk arising from the working conditions affirm-ing the GSIS decision denying the claim.

Hence, this petition.

The sole issue raised in the case at bar is the compensability of petitioner's wife's ailments.

Section 1, P.D. No. 626, amending Article 165 of the Labor Code, defines a compensable sickness as "any illness definitely accepted as occupational disease listed by the Commission, or any illness caused by employment subject to proof by the employee that the risk of contracting the same is increased by the working conditions."

Respondent ECC in its decision denying petitioner's claim, stressed that the causes of abortion are: (1) fetal, as when there is defective development of the fertilized ovum; (2) maternal, as in acute infections, disease, and when the spermatozoa is inadequate to give ovum the necessary generative impulse (Obstetrics, J.P. Greenhill, 12th Edition, 1060).

Respondent ECC asserted that there is absence of any proof that the abortion suffered by petitioner's wife was caused by her employment and that petitioner failed to establish risk of his wife's contracting it was increased by working conditions attendant in her employment.

Petitioner contends that the decision of the ECC overlooked the nature and conditions of employment of his late wife. Petitioner claims that the risk of contracting the disease was aggravated/increased by the working conditions as evidenced by Report of Injury/Sickness/Death, Municipal Mayor Matilde A. Operario of San Julian, Eastern Samar (ECC, Records, p. 11); Medical Certificate of the two attending physicians of the deceased (ECC, Records, Annex "A", p. 15; Annex "B", p. 14); and the affidavit of the Municipal Treasurer of the aforementioned town (ECC, Records, Annex "C", p. 13) which confirmed that the illness was connected with her work as Campaign Clerk in the Municipal Treasurer's Office.

Further, petitioner cites the travels of his wife and the lifting of heavy tax declaration books in connection with her work thereby causing her "two attacks of vaginal bleeding and hypogastric pain."

Claimant's contention is meritorious.

Under Article 1167, (I), Presidential Decree No. 626, as amended, a "compensable sickness means (1) any illness definitely accepted as an occupational disease listed by the ECC; or (2) any illness caused by employment subject to proof by the employee that the risk of contracting the same is increased by working conditions."

Records reveal that petitioner's wife while working as Campaign Clerk in the Treasurer's Office of San Julian, Eastern Samar, suffered "two attacks of vaginal bleeding and hypogastric pain" attributing said ailment to the lifting of heavy tax declaration books, due to abortion incomplete.

This opinion of the decedent's physicians is in accord with the findings/analysis of medical authorities, which read as follows:

"Pregnant women become tired more readily, therefore, the prevention of fatigue must be stressed very emphatically. The body is made up of various types of cells, each type with a specific function. Depletion of nerve-cell energy results in fatigue, and fatigue causes certain reactions in the body that are injurious". (Maternity Nursing 12th Edition, by Fitzpatrick, Reeder and Mastroianni, Jr.).

"It is not considered desirable for pregnant women to be employed in the following types of occupation and they should, if possible, be transferred to lighter and more sedentary works:

(a)

occupation that involve heavy lifting or other heavy work;

(b)

occupation involving continuous standing and moving about." (One of the Standards for Maternity Case and

Employment of Mothers recommended by the Children's Bureau of the United States). (Rollo, p. 12).

Moreover, spontaneous abortion may result from the influence of periodicity as the uterine muscle reaches a certain state of distention; or in various accidents as a fall, strain or over-muscular exertion when the uterus reacts and expels its load." (Italics supplied; "Anatomy and Allied Sciences for Lawyers, W.F. English, p. 181).

Therefore, the opinion of the ECC Medical Officer (ECC Record, p. 20) that there was no causal relation between the ailment of petitioner's spouse and the nature and/or conditions of his wife's employment cannot overcome the substantial evidence submitted by petitioner (See Calvero v. ECC et al., 117 SCRA 461 [1982], cited in Parages v. ECC, 134 SCRA 73; Overson v. ECC, GSIS; G.R. No. 65216, December 1, 1987).

Additionally, medical opinion to the contrary can be disregarded especially when there is some basis in the facts for inferring a work connection (Delegente v. ECC, 118 SCRA 67; San Valentin v. ECC, 118 SCRA 160 cited in Sarmiento v. ECC, Sept. 24, 1986, 144 SCRA 421).

Thus, in the cases of Mercado, Jr. v. ECC, 139 SCRA 270 and Mora v. ECC and GSIS, G.R. No. 62157, December 1, 1987 citing Cristobal v. ECC, 103 SCRA 329, this Court ruled as follows:

"While the presumption of compensability and theory of aggravation espoused under the Workmen's Compensation Act may have been abandoned under the New Labor Code (the constitutionality of such abrogation may still be challenged), it is significant that the liberality of the law in general still subsists.

"x x x As agents charged by the law to implement social justice guaranteed and secured by both 1935 and 1973 Constitutions respondents should adopt a more liberal attitude in deciding claims for compensability specially where there is some basis in the facts for inferring a work connection." (Cristobal v. ECC, supra).

Moreover, "this kind of interpretation gives meaning and substance to the liberal and compassionate spirit of the law as embodied in Article 4 of the New Labor Code which states 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'". (Cristobal v. ECC, supra). The policy is to extend the applicability of the decree to a greater number of employees who can avail of the benefits under law, which is in consonance with the avowed policy of the State to give maximum aid and protection to labor (Acosta v. ECC, 109 SCRA 209 cited in Sarmiento v. ECC and GSIS, L-65648, September 24, 1986, 144 SCRA 421).

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is GRANTED and the decision of respondent Employees Compensation Commission is hereby SET ASIDE and another rendered ordering respondents to pay herein petitioner the full amount of compensation under Presidential Decree No. 626, as amended.

SO ORDERED.

Melencio-Herrera, (Chairperson), Padilla, and Sarmiento, JJ., concur.

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