

AURORA C. VDA. DE LEORNA, FOR HERSELF AND FOR HER MINOR CHILDREN: SABINA, SEVERINO, SERGIO AND SYLVIA, ALL SURNAMED LEORNA, PETITIONERS, VS. WORKMEN'S COMPENSATION COMMISSION A...

G.R. No. L-42543. September 30, 1976

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Appeal from the decision dated November 24, 1975 of the Workmen's Compensation Commission (herein-after referred to as the Commission) in RO4-WC Case No. 160206.

The following facts are either undisputed or duly proved at the proceedings below:

On October 21, 1974, petitioner Vda. de Leorna filed a notice and claim for compensation against private respondent Luzon Stevedoring Corporation (hereinafter referred to as LUSTEVECO) with the Department of Labor's Regional Office No. 4 for the death of her husband Conrado Leorna, a laborer or stevedore of respondent LUSTEVECO, who died on May 29, 1967 of rheumatism with heart complication at the age of 62, leaving a wife and four minor children (Annex "A", rec., p. 12).

On August 20, 1975, Department of Labor's Regional Office No. 4, through Acting Referee Emeterio C. Rañola, held for the claimant (Annex "B", p. 13, rec.).

Copy of the above-said decision was received on September 6, 1975 by respondent LUSTEVECO (p. 10, rec.), which on September 17, 1975, filed a motion for reconsideration allegedly for want of sufficient evidence to justify the same.

On October 11, 1975, Deputy Coordinator and Acting Referee Roberto Blanco, denied LUSTEVECO's motion for reconsideration and elevated the entire records of the case to the Workmen's Compensation Commission (Annex "E", p. 18, rec.).

On October 17, 1975, petitioner filed an urgent motion for execution on the ground that the August 20, 1975 decision had already become final (Annex "D", p. 17, rec.).

On November 24, 1975, respondent Commission reversed the decision of Region 4 on the ground "that the all-important connection link between his work and the cause of his demise is missing. The record is completely devoid of any substantial proof to show causal relation of decedent's employment and his death, or the cause thereof. There is not even a physician's report to establish a link between the illness and the cause of death. The preliminary link being absent, the presumption of causality does not come into play."

The challenged decision of respondent Commission should be reversed and set aside.

The record reveals that respondent LUSTEVECO did not controvert claimant's claim, which failure is a waiver of

all defenses not otherwise jurisdictional (Section 45, Act No. 3428, as amended; *Abong vs. Work-men's Compensation Commission*, L-32347-53, Dec. 26, 1973, 54 SCRA 379, 388; *Phil. Graphic Arts, Inc. vs. Mariano*, L-30979, Oct. 26, 1973, 53 SCRA 409; *Development Bank of the Philippines vs. WCC*, L-30428, Feb. 7, 1963, 49 SCRA 365, 375; *General Textiles, Inc. vs. Taay*, L-29348, Nov. 29, 1971, 42 SCRA 375, 380; *National Development Company vs. Galamgam*, L-29634, April 21, 1971, 38 SCRA 495, 498).

Moreover, the presumption that Conrado Leorna's sickness which eventually led to his death was work-connected or at least work-aggravated, was not rebutted with substantial evidence by respondent LUSTEVECO and therefore stands.

Section 44(1) of the Workmen's Compensation Act (Act No. 3428, as amended) directs that in the absence of substantial evidence to the contrary, it shall be presumed that the claim comes within the purview of the law.

Elucidating the above-mentioned presumption, WE reiterated just a month ago:

"This presumption places in the employer the burden of proving that the employee's injury or sickness was not, and could not be, caused or aggravated by the nature of his work" (*Valencia vs. Workmen's Compensation Commission & the City of Manila*, L-41554, July 30, 1976, citing *A.D. Santos, Inc. vs. De Sapon, et al.*, L-22220, April 29, 1966, 16 SCRA 792, 795, and *Naira vs. Work-men's Compensation Commission*, L-18060, Oct. 30, 1962, 6 SCRA 36).

Apart from the presumption of work-connection or work-aggravation, Conrado Leorna's sickness was induced by the very nature of his work. As a pier laborer or stevedore, Leorna was engaged in back-breaking and strenuous labor -- oftentimes, sans regard to time limits or schedule -- under all kinds of weather condition. Thus, it was not uncommon for him to have soaked himself in his own sweat or under heavy rains, braved early morning chills or bore the scorching heat of the sun, while inhaling dust and dirt that debilitate the lungs of his undernourished and aging body, which had been eking out a living to feed a family of six.

Medical authority recognizes that these conditions provide the atmosphere for rheumatism, or aggravate it, considering that the sickness is

"x x a constitutional disease marked by inflammation of the connective-tissue structure of the body, especially of the muscles and joints and attended by pain in them" (*Encyclopedia Americana*, 1946 Ed., pp. 459--460),

and is more common

"x x among farmers, longshoremen, coachmen, stokers, motormen, sailors, etc." (*Ibid*, p. 460).

Acting Referee Emeterio Rañola found that:

"The deceased Conrado Leorna was employed with the respondent since Japanese occupation until May, 1967, as stevedore laborer of the respondent. Before his employment, he was physically examined by a physician and found to be healthy and fit to work. As stevedore, his duties or work consisted of loading on and unloading general cargoes from different ships and vessels under contract by the respondent. In the performance of his work, he was exposed to cold weather as he worked at night. He performed his work at different places. He was also exposed to dust. His salary on his last day of work was P30.00 a night, working five (5) nights a week. His tour of duty start in the afternoon until the following morning. Long before his death, workman Conrado Leorna felt the symptoms of his ailment of rheumatism but due to proper medication he continued to perform his regular work with the respondent until his rheumatism complicated his heart, and despite proper medication extended to him, he died on May 29, 1967. x x" (P. 13, rec.).

Finally, the Workmen's Compensation Act is a social legislation designed to help the workingman (*ITEMCOP vs.*

Florzo, L-21969, Aug. 31, 1966, 17 SCRA 1104, 1110), in obedience to the social justice guarantee of the Constitution. This basic mandate of the fundamental law should guide all tribunals in resolving issues like the one at bar, especially where, as in the present case, petitioner and her minor children are paupers and have to come to court as pauper litigants.

It has surprised this Court that respondent Commission during its last months of existence, had not observed fealty to the social justice directive of the Constitution. Many a time in the past, respondent Commission had been dissuaded from assuming such posture (*Vicente vs. Workmen's Compensation Commission, et al.*, L-18241, Dec. 21, 1963, 9 SCRA 825; *Batangas Transportation Co. vs. Perez, et al.*, L-19522, Aug. 31, 1964, 11 SCRA 793).

WHEREFORE, THE DECISION OF THE RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY SET ASIDE AND RESPONDENT LUSTEVECO IS HEREBY ORDERED TO PAY

(1) CLAIMANT, AURORA VDA. DE LEORNA, FOR HERSELF AND IN BEHALF OF HER FOUR MINOR CHILDREN, NAMELY SABINA, SEVERINO, SERGIO AND SYLVIA, ALL SURNAMED LEORNA:

(A) THE SUM OF SIX THOUSAND AND TWO HUNDRED PESOS (P6,200.00) AS COMPENSATION BENEFITS AND REIMBURSEMENT OF BURIAL EXPENSES; AND

(B) SIX HUNDRED TWENTY PESOS (P620.00) AS ATTORNEY'S FEES;

(2) THE WORKMEN'S COMPENSATION COMMISSION THE SUM OF SIXTY-ONE PESOS (P61.00) AS ADMINISTRATIVE FEES; AND

(3) THE COSTS.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, Concepcion, Jr., and Martin, JJ., concur.

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