

## **RICARDO CARLOS, PETITIONER VS. MARIA DELA ROSA, RESPONDENTS.**

*G.R. No. L-17939. May 30, 1962*

Ponente: BAUTISTA ANGELO, J.

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### **BAUTISTA ANGELO, J.:**

#### **SUMMARY**

A claim for compensation was instituted with the Labor Regional Office No. 3, Manila, by the widow of the deceased who died while in the employ of petitioner. Thereafter, a notice was sent to petitioner requiring him to answer and to submit the employer's report of accident as required by Section 37 of the Workmen's Compensation Act, as amended. Despite two notices duly served, petitioner defaulted; hence, the regional labor administrator on the bases of the police and other records on hand, issued an award in favor of claimants. Duly served, petitioner moved for a reconsideration of the order and when the motion was denied he elevated the case to the Commission en banc on the grounds of denial of due process and lack of jurisdiction. Petitioner contended that the award issued without formal summons served upon him advising him that if he fails to appear or answer, judgment by default will be rendered against him. The Commission denied the appeal for having been filed beyond the reglementary period of 15 days. From this order the petitioner instituted this petition for review based on the same grounds he had relied in the Commission. The Supreme Court upheld the ruling of the Commission affirming the award.

#### **RULING**

Section 45 of Act No. 3428 (Workmen's Compensation Act as amended) requires the filing of controversion of compensation claims with the Commission and failure to controvert the claim on time constitute a waiver by operation of law on non-jurisdictional grounds, and the effect of such waiver does not affect due process. Petitioner's remedy in this case was to reinstate his right to controversion based on some valid grounds but petitioner did not make an attempt. The contention that the award was made without formal summons served is unsatisfactory because the right claimed, pertains to one who has not waived the right to controvert the claim for compensation.

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