

ROMAN LABENIA, PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION AND PHILIPPINE IRON MINES, INC., RESPONDENTS.

G.R. No. L-42889. December 27, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

For entitlement to disability benefits under the former Workmen's Compensation Act, will a medical report of sickness and accident be considered competent evidence that the claimant contracted illness during his employment? This is the issue raised in the instant petition.

Petitioner Roman Labenia was employed by respondent Philippine Iron Mines, Inc. as truckman, "capataz" from 1943 to November 30, 1973 when he retired. He actually stopped working on June 18, 1973 and never returned to work until his retirement five months later on November 30, 1973.

On December 17, 1973, he consulted Dr. Avelino T. Marfori of the V. Luna Medical Center of the Armed Forces at Quezon City. He was found to have an illness of pleuro-diaphragmatic right post infection.

The medical report issued by Dr. Marfori states:

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"Name of attending physician: Captain, AVELINO T. MARFORI, MC

Diagnosis: PLEURO DIAPHRAGMATIC ADHESION RIGHT, POST INFECTION.

Prognosis: GUARDED

Must the injured workman be confined at home, enter a hospital, or continue working and dedicate to his habitual occupation, without danger to his prompt and complete recovery? Confined at home.

SICKNESS OR INJURIES - NATURE AND DEGREE

Cause of injury or illness: Infection

(a) Was the injury or illness caused by accident due to and in pursuance of the employment? Yes.

(b) Or the result of the nature of such employment? Yes.

(c) Was the illness or injury contracted directly caused by the workman's employment? Yes.

(d) Or the result of the nature as such employment? Yes.

(c) Or aggravated by the employment? Yes

Give your findings to support items 9 and 10? Prior to employment subject patient does not manifest the above findings.

When did you first administer treatment to the sick injured?

Date 17, December, 1973

When did you last administer treatment to the sick injured?

Date Up to the present

Has the injury caused the workman, temporary total disability for labor? Yes.

For what length of time? Indefinite."

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On July 29, 1974, Labenia filed a notice of sickness and claim for compensation with the Workmen's Compensation Section at Manila. The claim was supported by the medical findings of Dr. Marfori.

On January 24, 1975, E. M. Cayapas, Acting Chief of the Workmen's Compensation Section at Manila issued a decision in favor of Labenia. In support thereof, Cayapas said:

"It appearing, upon perusal of the records, that the claimant ROMAN LABENIA contracted illness (Pleuro-diaphragmatic adhesion, right, post infection) on June 18, 1973, which appears to have supervened in the course of his employment as Truckman (with an average weekly wage of P70.35) of respondent, appearing further that the respondent failed to controvert the claimant's right to compensation within 14 days from the date of disability or within 10 days from knowledge thereof, pursuant to Section 45 of the Act, as amended, resulting, as it did, in the loss of its non-jurisdictional defenses and ultimate admission of the compensability or work-connection of claimant's illness, an outright award of compensation in favor of the claimant is, under these circumstances, in order.

"Under the Workmen's Compensation Act, as amended, the claimant is entitled to the following benefits, to wit:

"1. Medical, surgical and hospital services and supplies as the nature of his disability and the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity, pursuant to Section 13 of the Act.

"2. Compensation for temporary total disability for labor, equivalent to 60% of his average weekly wage for the entire period of his incapacity for labor, pursuant to Section 14 of the Act. In this case, he was disabled from June 19, 1973 to January 7, 1975 or for a period of 81-1/7 weeks. Sixty per centum of his average weekly wage of P70.35 (P10.05) per day X 7 working days) equals P42.21 and for 81-1/7 weeks, he is entitled to the amount of P3,425.04

"AWARD, therefore, of the afore-mentioned benefits in favor of the claimant is hereby entered and respondent ordered to pay:

"1. The claimant, thru this Office, the sum of THREE THOUSAND FOUR HUNDRED TWENTY FIVE AND 04/100 (P3,425.04) as compensation; and

"2. The Workmen's Compensation Fund, the amount of TWENTY FIVE PESOS (P25.00) as administrative fee, pursuant to Section 55 of the Act, as amended. Bill No. IV-1687-74 is hereto attached."

A motion for reconsideration of the decision was filed by the respondent company. The motion alleged that the company filed its Employer's Report and Notice of Controversion in relation to the alleged illness of Labenia with the Workmen's Compensation Unit Regional Office No. VII at Naga City. Hence, the respondent company argued that the issuance of the "Award" was contrary to the law and violative of the principle of due process.

The motion was denied. Nevertheless, the said motion was treated as a petition for review and in accordance with the rules of the Workmen's Compensation Commission, the entire records of the case was transmitted to the

Commission.

On December 16, 1975, the Commission reversed and set aside the decision of E. M. Capayas. The respondent company was absolved from any liability. The Commission ruled that Labenia's illness was acquired after retirement. The Commission justified its decision in the following manner:

"The claimant anchored his claim for compensation benefits on his alleged illness of pleuro diaphragmatic, adhesion, right, post infection acquired or either aggravated by his previous employment with respondent. In support of the claim, a Physician's Report of Accident or Sickness was submitted, which indicated however, that he was first treated by Dr. Avelino T. Marfori MC on December 17, 1973 for his alleged sickness which is almost 6 months after he stopped working. Hence, the inescapable conclusion was that claimant must have possibly acquired his illness after he ceased to be an employee of the herein respondent. Nevertheless, we could not find in the records any competent medical evidence to attest the fact of claimant's illness of pleuro diaphragmatic adhesion, right, post infection which is traceable from his employment. For want of competent medical evidence to show that claimant was suffering from any disabling illness during his employment and at the time of his separation from the respondent's service, this Commission believe that this claim is non-compensable under the law."

The petitioner's claim is covered by the provisions of the former statute governing workmen's compensation, Act 3428 as amended. The repealed law applies to this case.

The adversary nature of the proceedings under the former law and the consequent disadvantage of a worker when claiming benefits against his employer led to a presumption of compensability and a liberal approach favoring the claimant. Thus, where the illness supervened during the time of employment, there was a rebuttable presumption that the illness arose out of or at least was aggravated by the employment. (*Justiniano v. Workmen's Compensation Commission*, 18 SCRA 677 and cases cited therein.) However, for the presumption to arise, the illness must have supervened during the employment. There must be competent evidence to show when the illness was contracted.

Is the physician's report in this case competent to establish that the illness supervened during the employment?

The earlier cases of *Relente v. Republic* (106 SCRA 505); *Octavio v. Workmen's Compensation Commission*, (87 SCRA 406); *Gacula v. Republic* (94 SCRA 443); *Landayan v. Workmen's Compensation Commission, et al.* (77 SCRA 305); *Caling v. Workmen's Compensation Commission* (77 SCRA 309); *Evangelista v. Workmen's Compensation Commission* (77 SCRA 497); and *Romero v. Workmen's Compensation Commission* (77 SCRA 482), where we ruled that the Physician's Report of Illness or Accident is competent proof in a claim for disability benefits under the Workmen's Compensation Act do not apply.

The physician's report of illness or accident would be sufficient proof that the illness supervened during employment if the claimant had been examined while he was employed or within a reasonable time thereafter. In this case, the petitioner stopped working on June 18, 1973. He was considered as retired on November 13, 1973. He consulted Dr. Marfori of the V. Luna Medical Center only on December 17, 1973. There is absolutely no basis in the records for a conclusion that the illness diagnosed on December 17, 1973 was already present when the claimant was still working.

The petitioner's sickness was "pleuro diaphragmatic adhesion right, post infection." The pleura is the serous membrane investing the lungs (pulmonary pleura) and lining the walls of the thoracic cavity (parietal pleura).

An adhesion is the union of two surfaces that are normally separate or any fibrous band that connects them. A pleuro-diaphragmatic adhesion is an adhesion of the tissues of the lungs and the diaphragm. It is this adhesion of Mr. Roman Labenia that suffered the infection. Evidently more than a terse and unsupported diagnosis of

"pleuro-diaphragmatic adhesion right, post infection" entered in a blank in Workmen's Compensation Commission Form No. 4, long after the petitioner stopped working, is necessary before the respondent Commission may correctly find that the illness supervened during employment. We are constrained to sustain the respondent Commission in its factual finding that there is a want of competent medical evidence in this case.

WHEREFORE, the petition is hereby DISMISSED for lack of merit. The decision of the respondent Workmen's Compensation Commission is AFFIRMED. No costs.

SO ORDERED.

Plana, Relova, De La Fuente, and Patajo, JJ., concur.

Teehankee, J., (Chairman), no part.

Melencio-Herrera, J., on leave.

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