

ALATCO TRANSPORTATION, INC., PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION AND CARMEN LEGASPI VDA. DE CATIMBANG, ET AL., RESPONDENTS.

G.R. No. L-30548. February 24, 1971

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Alatco Transportation, Inc. seeks the review of an award made by a referee of the Workmen's Compensation Commission, as affirmed by a member of said Commission, and, later, by the Commission en banc.

While crossing a street, in Pili, Camarines Sur, in the performance of his duties as inspector-checker of the Alatco Transportation, Inc. - to inspect a bus thereof - Pastor Catimbang was, on January 22, 1954, "bumped" by another Alatco bus. As a consequence, his right leg was fractured and he became incapacitated to work, until June, 1954, when he resumed his work in the company, but, this time, as an office checker. He held this job until June 1, 1962, when he was separated from the service. On February 15, 1966, he filed, with the Workmen's Compensation Commission, a claim for compensation, based upon said injury sustained in 1954. Alatco filed, on April 11, 1966, its "Employer's Report of Accident or Sickness" stating, inter alia, that it would controvert the claim, since the "cause of action has already expired, it being more than 10 yrs."

On May 21, 1966, Catimbang filed an amended claim, alleging therein that he had "felt the weakening of his bodily constitution and mental faculties due to a previous accident or injury he suffered in line of duty as an inspector" of Alatco (referring to the accident of January 22, 1954), and that, in fact, he was "separated from the service of the respondent company by reason of" his aforementioned "injury or sickness incurred in line of duty." No notice of controversion thereof having been filed by Alatco, Catimbang moved that his amended claim be declared uncontroverted, and Acting Referee Napoleon H. Niño-franco, of the Workmen's Compensation Commission, so declared in an order dated August 5, 1966, which, also, set the case for the reception of claimant's evidence on August 23, 1966, and authorized Alatco's counsel to "cross-examine the witnesses for the claimant, should he (counsel) so desire."

Over six (6) months later, or on February 13, 1967, Alatco filed a motion for reconsideration of said order of August 5, 1966, and "reinstatement of its right to controvert the claim of Catimbang." On March 9, 1967, said Acting Referee issued an order modifying that of August 5, 1966, by granting Alatco five (5) days from notice to register its controversion. In its notice of controversion, filed on March 29, 1967, Alatco alleged prescription of action; that the illness of Catimbang was contracted after his separation from the service and, hence, "not work-connected"; that Catimbang was "hale and hearty" at the time of his separation from the service; and that it was only upon the filing of the amended claim that Alatco came to know about his alleged illness.

Pastor Catimbang having, meanwhile, died on March 16, 1967, his widow and children substituted him as claimants. Soon after, or on May 8, 1967, they filed a motion to set aside the order of March 9, reinstating Alatco's right of controversion. Despite Alatco's opposition thereto, the Acting Referee granted the motion, in an

order dated July 12, 1967. Presently, or on July 17, 1967, said officer issued an award, in favor of the claim-ants, directing Alcatco to pay the following:

"1. To the claimants, thru this Office, the sum of FOUR THOUSAND SEVEN HUNDRED SEVENTY TWO PESOS (P4,772.00) as compen-sation and reimbursement of medical expenses, less any amount already paid to the claimant as compensation;

"2. To this Office, the amount of FORTY ONE PESOS (P41.00) as fee pursuant to Section 55 of the Act.

"3. To Atty. Basilio M. Catimbang, counsel for the claimant, the amount of P200.00 as attorney's fee, pursuant to Sec. 31 of the Act."

On motion for reconsideration filed by Alcatco, said award was, on February 11, 1969, affirmed by Associate Commissioner Paciano C. Villavieja, in a decision, the dispositive part of which reads:

"WHEREFORE, premises duly considered, the Award sought to be reconsidered is, as it is hereby, AFFIRMED and the respondent is or-dered:

"1. To pay to claimants, through this Commission, in lump sum, the total amount of FOUR THOUSAND (P4,000.00) PESOS, as compensation benefits due to the claimants;

"2. To pay to claimants, also through this Commission, as reimbursement for medical expenses incurred, the total amount of SEVEN HUNDRED SEVENTY-TWO (P772.00) PESOS, pursuant to Section 13 of the Act;

"3. To pay to claimants' counsel, Atty. Basilio M. Catimbang, the total amount of FOUR HUNDRED SEVENTY-SEVEN and 20/100 (P477.20) PESOS, as attorneys fees, pursuant to Section 31 of the Act; and

"4. To pay to the Workmen's Compen-sation Fund, the total amount of FIFTY-THREE (P53.00) PESOS, as costs, which includes the costs of this review, in accordance with Section 55 of the same Act."

A reconsideration of this decision having been unanimously denied by the Workmen's Compensation Commission en banc, Alcatco interposed the present appeal, in which it maintains that said Com-mission had erred: (1) "in awarding compensation to claimants-respondents on the ground that petitioner failed to seasonably controvert the amended claim"; (2) "in not dismissing the case on the ground of prescription"; (3) "in awarding P772.00 as medical expenses to claimants-respondents"; and (4) "in awarding attorney's fees to claimants-respondents."

In support of its first assignment of error, Alcatco argues that it could not possibly controvert the amended claim of Catim-bang until the same had been admitted; that said amended claim was admitted by the order of August 5, 1966, which was received by Alcatco on August 11, 1966; that it could not file notice of con-troversion thereafter, because the amended claim was already declared uncontroverted in said order; that, when, on motion of Alcatco, its right to controvert was reinstated by the order of March 9, 1967, Alcatco filed its notice of controversion within the period given in said order; and that the amended claim is based upon the same injury sustained by Catimbang in 1954.

Alatco's pretense is untenable. Even though the order of August 5, 1966, declared that the amended claim was uncon-troverted, nothing prevented Alcatco from filing its notice of controversion - if it really wanted to do so - within the statutory period computed from August 11, 1966, when it received notice of said order of August 5, 1966. Yet, Alcatco did not do so. What is worse, it did nothing, until six (6) months later, or on Febru-ary 13, 1967, when it filed a motion for reconsideration of said order of August 5, 1966, and reinstatement of its right to contro-vert the amended claim. Such motion necessarily implied an admission of the fact that it had not as yet controverted the amended claim and that it no longer had the right to controvert the same, unless it was reinstated in accordance with law.

It is true that said right was reinstated by an order of March 9, 1967, but this order was set aside and revoked by another order dated July 12, 1967. The records do not show, and petitioner does not maintain, that said order of July 12, 1967, was erroneous or had been issued without jurisdiction or in excess of jurisdiction. In consequence thereof, the parties reverted to their status prior to the issuance of the order of March 9, 1967. In other words, the amended claim is uncontroverted.

As a matter of fact, even the original claim should be deemed uncontroverted, Alatco not having filed a notice of controversion "before the fourteenth day of disability or within ten days after" it had "knowledge of the alleged accident" in 1954.[1] The record shows that Alatco had knowledge of said accident on the very date it happened, January 22, 1954. The notice of controversion included in the "Employer's Report of Accident or Sickness" it filed twelve (12) years later, or on April 11, 1966, came, therefore, too late.

Alatco invokes prescription under its second assignment of error. It should be noted, however, that the amended claim is based upon the illness that resulted in Catimbang's separation from the service on June 1, 1962. Hence, the prescriptive period of ten (10) years began to run from such date, not from 1954. At any rate, since the amended claim is uncontroverted, Alatco can not avail of the defense of prescription of action.

The third assignment of error is predicated upon the alleged absence of competent evidence in support of the award of P772.00 for medical expenses incurred by Catimbang. This allegation is belied by the receipts attached to page 17 of the Record of the Work-men's Compensation Commission.

The last assignment of error is based upon the theory that Catimbang is not entitled to compensation, which is false. Alatco is, however, right in contending that the sum awarded as reimbursement for medical expenses may not be included in the computation of the attorney's fees,¹ which should, accordingly, be reduced to P400.00.

With this modification, the appealed decision of Associate Commissioner Paciano C. Villavieja is hereby affirmed, therefore, in all other respects, with costs against Alatco Transportation, Inc.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.
Makalintal, J., took no part.

[1] Section 45, Act No. 3428.

¹ Section 31, Act No. 3428, as amended.

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