

CHUA YENG, PETITIONER, VS. MICHAELA ROMA, AND HER MINOR CHILDREN GUADALUPE, PILAR, ROSARIO, CORNELIO AND GERAKDO, ALL SURNAMED ROMEO, RESPONDENTS.

G.R. No. L-14827. October 31, 1960

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal by certiorari from the decision of the Workmen's Compensation Commission, dated September 17, 1958, and its resolution en banc, dated December 4, 1958, awarding compensation for the death of Santos Romeo.

The appeal raises issues of fact and of law, but since findings of fact by the Workmen's Compensation Commission are final, if supported by substantial evidence, (*Batangas Transportation Co., vs. Galicano Rivera, et al.*, supra., p. 175; *Laguna Tayabas Bus Co. vs. Consunto, et al.*, 108 Phil., 62, and since the record shows that such evidence is not wanting, this Court will consider the case on the facts as found by the commission.

Santos Romeo was, on May 16, 1956, working for petitioner as cargador in loading and unloading copra at the former's warehouse at C. Padilla Street, Cebu City. In the morning of that day, after asking permission from his employer, Santos Romeo went to petitioner's house just across the street from the warehouse to get a drink of water, the water pump in the warehouse being out of order and no supply being available. Reaching the kitchen of said house and while he was drinking, he saw a puppy eating some fried nsh inside an open cabinet. He tried to drive away the puppy by saying "tse," but as the puppy still continued to eat the fish, Santos made a motion with his hand to drive it away, in the course of which his right hand was bitten by said puppy. On June 26, 1958, Santos Romeo died of hydrophobia from the dog bite. It appears that the puppy was not owned by petitioner.

Appellant contends that, under the circumstances narrated, the death of the laborer can not be considered to arise "out of and in the course" of his employment.

We find no merit in this contention. The rule is well established that-

"Such acts as are reasonably necessary to the health and comfort of an employee while at work, such as satisfaction of his thirst, hunger, or other physical demands, or protecting himself from excessive cold, are nevertheless incidental to the employment, and injuries sustained in the performance of such act are generally held to be compensable as arising out of and in the course of the employment." (58 Am. Jur., sec. 236, p. 742, citing numerous cases.)

That Santos Romeo was in the kitchen of appellant's house and not at his usual place of work does not bring the case out of the operation of the rule previously quoted, for the reason that the laborer was practically driven to that place through the appellant's fault in not providing an adequate supply of drinking water at the warehouse.

Appellant urges that the dog bite was provoked by Santos' trying to take the fish away from the puppy and hence, while he was engaged in an independent activity. We do not regard such act as a voluntary deviation from his duties, considering that the act of the deceased was practically an instinctive one, that would naturally be expected

from any person in his position. Moreover, it was motivated by a sense of loyalty to his employer, a desire" to protect the latter's property, that can not be deemed wholly foreign to the duties of the laborer as such (71 C.J. 675). In fact, it has been held that the act of saving the employee's 'own property from an apparent danger, is compensable (in re Brightman, 107 N.E. 527, cited in 71 C. J. 670). There, it was said:

"the standard to be applied is not that which now, in the light of all that has happened, is seen to have been directly within the line of labor helpful to the master, but that which the ordinary-man required to act in such an emergency might do while actuated with a purpose to do his duty."

Compensation has been granted, even if the injury occurred while the worker was not performing acts strictly within the scope of his duties, but engaged in an activity either related or incidental to his duties, or doing an act in the interest of his employer. Thus, injury to an employee of a bus firm, occurring outside of assigned territory, in undertaking to retrieve personal belongings of a passenger, was compensable (Vergoza vs. Arnaz Vda. de Cruz, L-7305, December 15, 1953); so was that of a laborer who, trying to alight from a truck to pick up a sack which had fallen, belonging to his employer, was caught between the wheels (Ramos vs. Poblete, 40 Off. Gaz., 3474); likewise, the death of a worker who tried to recover a piece of board which had fallen into a molasses tank, and died from the deadly fumes therein (Estandarte vs. Phil. Motor Alcohol Corp., G. R. No. 39733, Nov. 1, 1933). In the foregoing, an impelling factor considered by the court was the fact that the employee was acting in the interest of the employer.

To the argument that the employee sustained the injury not from drinking water but from driving away the puppy, suffice it to say that under the circumstances that impelled him to act without opportunity for deliberate reflection, we are not prepared to say that his act was unreasonable or negligent. Driving away a puppy is not so fraught with potent danger as to deter every man possessed of reasonable disposition. As has been said-

"* * * he was doing a thing¹ which a man while working may reasonably do-a workman of his sort may reasonably smoke, he may reasonably drop his pipe, and he may reasonably pick it up again." (Ramos vs. Poblete, supra,, citing M'Lauchan vs. Anderson, S.C. 529.)

By analogy, the deceased in this case may reasonably get a drink of water to satisfy his thirst; while drinking, he may reasonably see a puppy eating some fried fish belonging to his employer; and he may reasonably be expected to make a motion with his hand to drive said puppy away.

At any rate, the resulting injury is not without causation in the conditions under which deceased was required to perform his work. It appears that there were no adequate and. sanitary means of water supply in the place of work; that petitioner's workers used, for drinking purposes, water from a well at the back of the warehouse; that this well was out of order at the time of the incident, so that the deceased had to cross a wide public street to petitioner's house just to get a drink, thereby exposing himself to hazards which may well have been avoided if there were drinking facilities at, or more proximate to, the place of work.

Finally, the Workmen's Compensation Act being a social legislation, and in line with the intent of the law to effect social justice, the provisions thereof should be liberally construed in favor of the workingman (Luzon Brokerage Co., Inc., vs. Dayao, et al., 106 Phil., 525; Madrigal Shipping Co. vs. Baens del Rosario, et al., L-13130, October 31, 1959).

Wherefore, the decision and the resolution appealed from are hereby affirmed. Costs against petitioner.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Barrera, Gutierrez David, and Paredes, JJ., concur.

Decision and resolution affirmed.

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