

**PHILIPPINE NATIONAL RAILWAYS (MANILA RAILROAD CO.),
PETITIONER, VS. FRANCISCA VDA. DE MENDOZA AND
WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.**

G.R. No. L-24659. March 28, 1980

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

On June 21, 1965, The National Railroad Co., (MRRCO.) now The Philippine National Railway, filed a petition for review by certiorari of the decision of the Workmen's Compensation Commission (WCC) affirming the decision of the Chief Hearing Officer of Regional Office No. 1 at Dagupan City, and ordering the petitioner:

- To pay the claimant, thru this office, the amount of Two Thousand Two Hundred Forty Six and 40/100 Pesos (P2,246.40) as death benefit pursuant to the provisions of Act 3428, as amended;
- To reimburse the claimant for medical expenses incurred for the treatment of the deceased, in the amount of P41.60, pursuant to Section 13 of the Act;
- To pay the claimant, thru this office, the sum of P200.00 for burial expenses incurred;
- To pay attorney's fees in the amount of P168.53 equivalent to 7.3% of the amount of compensation due pursuant to Section 6, Rule 26 of the Rules of the Commission and Article 2208 (8) of the New Civil Code which should be increased to 10% if the case is appealed to the Supreme Court; and
- To pay this Commission the amount of P28.00 (including the P5.00 cost of this review) as fee under Section 55 of the Act.

As found by the WCC, the relevant facts, quoting from its decision, are as follows:

"Mariano Mendoza, deceased husband of the claimant in this case, worked as a laborer in the Benquet Auto Lines, a subsidiary of the Manila Railroad Company at Bauang, La Union, since pre-war days until the outbreak of the Second World War, and was reinstated to the same position in 1946 until August 1954, receiving a salary of P120.00 a month. On March 5, 1955, seven months from his last known day of work, he was confined at the Bethany Hospital where an x-ray examination taken on March 6, 1955 showed a finding of "Right Bomithorax-scattered soft exudative lesions all over lung fields. Left Bomithorax - scattered soft exudative lesions involving 1/2 of lung fields. Impression: Far advanced, possibly Koch's. The next day, on March 7, 1955, Mariano Mendoza died." (pp. 1-2, WCC Decision).

In holding that the death of Mariano Mendoza was compensable under the compensation statute (Act 3428, as amended), the WCC found the illness from which Mariano Mendoza died to have been caused or aggravated by factors traceable to his employment with the petitioner. Thus, again quoting from its decision:

"It is undisputed that the work of the deceased was strenuous and the working conditions to which he was subjected were unfavorable to his health. A perusal of the records of this case reveal the nature of Mariano

Mendoza's work as well as his working conditions. As laborer in the Bauang, La Union BAL Station, his job consisted mainly in the loading and unloading of bags of cement, cavans of rice, hauling of dynamites and cyanide, and occasionally accompanied freight trucks to other provinces to dismantle steel mattings and load the same to the trucks to be transported back to Bauang, La Union. Whenever there was loading and unloading to be done, he worked continuously day and night, through any kind of weather. When there was no hauling, the deceased worked in the gas station of the respondent pumping gasoline for the trucks.

"We find no error in the decision, subject of this review, which is, therefore hereby sustained, that the illness of Mariano Mendoza which caused his death is compensable pursuant to the provisions of the Workmen's Compensation Act, as amended. The evidence does not disclose whether the deceased was given pre-employment physical examination, although the circumstance that he was re-employed in 1946, after years of non-employment occasioned by the war, lends support to the presumption that he was physically fit to work at the time he was accepted as a laborer by the respondent. While it is true that no amount of strain or exertion or unfavorable working conditions can generate tuberculosis germs or cause tuberculosis these factors can create a fertile condition in one's body for the growth and development of such germ. The fact that he later on contracted tuberculosis, which resulted to his death in the absence of other attending circumstance indicates that it must have been aggravated if not directly caused by the nature and conditions of his employment. Mariano Mendoza's strenuous work had lowered his resistance and resulted in the flaring up of the tuberculosis germs embodied in his body." (pp. 2-3, WCC Decision)

Two main issues are raised in the instant petition: (1) whether the failure to give notice of the injury or sickness as soon as possible after the same was received or contracted, and to make claim for compensation not later than two months in case of sickness or injury, or in case of death, not later than three months after death, as provided in Section 24 of the Workmen's Compensation Act, is a jurisdictional defect, fatal to the claim, and (2) whether "aggravation" is a ground for payment of death benefits under Section 8 of the same Act.

Petitioner contends that the late filing of the claim, more than five years after the death of the deceased employee, Mariano Mendoza, bars recovery, because while the death took place on March 7, 1955, his wife filed the claim on July 15, 1960 with Regional Office No. 1, at Dagupan City. In its answer as required, petitioner filed the employer's report of accident, with statement that it was controverting the claim.

In her answer to the petition after her motion to dismiss has been denied, private respondent alleged that she had complied with Section 24 of Act 3428, as amended, as the family and neighbor of the deceased, one Mauro dela Cruz, gave notice of her husband's death to his employer, thru Isidro Gapasin, a weight and passenger agent of BAL, Bauang, La Union, claimed by her to be sufficient compliance with the requirement of the above-cited provision of the law.

1. It is the theory of petitioner that the delayed filing of the claim by five years where the law requires the claim for death compensation to be filed not later than three months after the death is a jurisdictional defect that bars recovery. In the case of *National Development Co. vs. Galamgam*, a 1971 case,[1] this Court, speaking through now Chief Justice Fernando, rejected this contention, quoting from *Operators, Inc. vs. Cacatian*, L-26173, October 31, 1969:

"It is much too late in the day to complain about the long delay in instituting the claim here of seven years. This Court in 1965 categorically declared that the failure to file a claim within the statutory period does not affect the jurisdiction of the Workmen's Compensation Commission. Such a doctrine found mention in a 1968 decision, *Pampanga Sugar Mills v. Vda. de Espeleta*, citing two cases decided the year before. In the first, it took the claimant eight years and in the second, nine years before the right to compensation was sought to be enforced. Its non-jurisdictional character was stressed anew in *Victorias Milling Co., Inc. v. Workmen's Compensation Commission*, announced less than two months later. To the same effect are later cases likewise of 1968 vintage. We have had occasion this year to rule similarly." [2]

In some of the cases cited which laid down the same ruling, the Manila Railroad Company, itself was a party and raised the same question of jurisdiction.[3] The present petition was filed on June 21, 1965, but the petitioner's brief was filed on September 20, 1965, after the decision in the Perez case had been promulgated on June 29, 1965. If petitioner had read this decision before preparing its brief it might have spared itself the effort and expense which would result in futility, since the cases cited in its brief in support of its theory, are all of earlier vintage than the Perez decision.

From the host of cases[4] reaffirming the ruling rejecting petitioner's submission that the requirement of filing claims for compensation within the statutory period provided[5] is jurisdictional, it may now be regarded as firmly established that the filing of claim even beyond the aforesaid period does not bar recovery, and does not affect the jurisdiction of the Workmen's Compensation Commission.[6]

Strikingly similar to the case at bar is that of *Royal Manufacturing Co. vs. Rosario Gonzales and Workmen's Compensation Commission*, G.R. No. L-34097, the decision in which was promulgated only on November 21, 1979, also involving late filing of the death claim, from which We quote the following:

"We find no merit in the contentions of the company. On July 18, 1966, the widow of Bilbao notified Tomas Tan, the Manager of the Company regarding the death of the deceased. However, it was only on August 28, 1967 when the Company filed its notice of controversion alleging lack of official knowledge of the accident there being no formal claim or notice within the statutory period of 3 months after death. The purpose of giving notice of injury and claim for compensation is to apprise said employer of the injury or disease. Where the employer is already aware of such occurrence or where circumstances are shown from which such awareness or knowledge may be reasonably inferred, the purpose of the notice has already been served and want of a notice or a delay in giving it, is deemed excusable, as what happened in the case at bar. It is true that a formal notice of claim for compensation was made by the widow only on August 2, 1967, a period of more than one (1) year from death of her husband, but the Company's disclaimer that it had no knowledge of the accident prior to its notification is not tenable. It may be pointed out that the law does not speak of "formal notice"; it specifies only "knowledge of the accident."

It was not disputed in the case at bar, that notice of death was made to a responsible employee of petitioner in Bauang, La Union.

2. In the second issue raised, petitioner contends that under Section 8 of Act 3428, death is not compensable when it is caused by the aggravation of the disease while in the course of employment. It points to the fact that the term "aggravated" in Section 2 of the Act was inserted only by Republic Act No. 772 on June 20, 1952, and argues that the law could not have intended to apply the term "aggravated" to Section 8 because had such been the intention of Congress, it could have easily inserted the word "aggravated" in Section 8 when it enacted Republic Act No. 772. Petitioner raises actually the same issue it raised in *Manila Railroad Co. vs. Perez*, supra, in which it maintained that the employee's illness was not aggravated by the nature of his employment, and that even assuming that it was so aggravated, the resulting death is not compensable, it having taken place before the effectivity of Republic Act No. 772, when aggravation of a pre-existing illness was not yet mentioned as ground for compensability.

Likewise, this contention of petitioner was rejected in the case cited above, the Court stating:

"Is the legal consequence of such aggravation affected by the fact that it took place before June 20, 1952, when Republic Act No. 772 became effective? In this connection, it should be noted that our Workmen's Compensation Law is patterned after similar laws in the United States, under which compensation for disability resulting from the aggravation of a pre-existing illness has invariably been granted despite the absence of a specific provision to this effect (see *Harovitz on Workmen's Compensation*, p. 82; *Naughton vs. Retirement Board of S. F.* 43 Cal.

App. 2d 254, 260-61, 110 p. 2d 714; Knock vs. Industrial Acc. Com. 200 Cal. 456, 461, 253 P. 712; Lumbermen's Mut. Cas. Co. vs. Ind. Acc. Com. 29 Cal. 2d 492, 496, 175 P. 2d 823; Firestone Tire Rubber Co. vs. Industrial Acc. Com. 208 Pac. 2d 44, 45). Accordingly, in Blue Bar Coconut Company, et al. vs. Joaquin Boo, G.R. No. L-6920, September 28, 1954 (53 Off. Gaz. 3475), we held the employer liable for compensation, despite the fact that the aggravation of a pre-existing illness and the consequent disability had taken place before June 20, 1952, thus:

"The fact that the term 'tuberculosis' and the words 'either aggravated by' are asserted by Republic Act. No. 772, amending section 2 of the Workmen's Compensation Act (No. 3428, as amended), which took effect on 20 June 1952 only, does not change the import of the legal provisions concerning the employer's liability to give compensation to a laborer xxx as provided for in the original Workmen's Compensation Act (No. 3428, as amended by Act No. 3812) xxx." (Underscoring supplied).

In the case of Pioneer Ceramics vs. Samia[7] "aggravation" was considered as ground for compensability when this Court said: "It can hardly be doubted that the disease (pulmonary tuberculosis) which the claimant contracted, if not directly caused by his employment, was at least aggravated by it." Whether the disease was contracted or aggravated in the course of employment, the fact the death is caused by the disease makes the death compensable. This should be obvious from the avowed purpose of the statute. There is, furthermore, substantial evidence show that death was due to the aggravation of the disease, which the deceased contracted in the course of his employment, said employment at least having contributed, even in a small way, to the contraction of the illness and later, its aggravation.

The following observation of the respondent Commission already quoted earlier in this decision, disposes of the petitioner's allegation that its findings that the disease of PTB was aggravated by the nature of employment is based merely on assumption, speculation and conjecture:

"It is undisputed that the work of the deceased was strenuous and the working conditions to which he was subjected were unfavorable to his health. A perusal of the records of this case reveal the nature of Mariano Mendoza's work as well as his working conditions. As laborer in the Bauang, La Union BAL Station, his job consisted mainly in the loading and unloading of bags of cement, cavans of rice, hauling of dynamites and cyanide, and occasionally accompanied freight trucks to other provinces to dismantle steel mat-tings and load the same to the trucks to be transported back to Bauang, La Union. Whenever there was loading and unloading to be done, he worked continuously day and night, through any kind of weather. When there was no hauling, the deceased worked in the gas station of the respondent pumping gasoline for the trucks.

"We find no error in the decision subject of this review, which is, therefore hereby sustained, that the illness of Mariano Mendoza which caused his death is compensable pursuant to the provisions of the Workmen's Compensation Act, as amended. The evidence does not disclose whether the deceased was given pre-employment physical examination, although the circumstance that he was re-employed in 1946, after years of non-employment occasioned by the war, lends support to the presumption that he was physically fit to work at the time he was accepted as a laborer by the respondent. While it is true that no amount of strain or exertion or unfavorable working conditions can generate tuberculosis germs or cause tuberculosis these factors can create a fertile condition in one's body for the growth and development of such germ. The fact that he later on contracted tuberculosis, which resulted to his death, in the absence of other attending circumstance indicates that it must have been aggravated if not directly caused by the nature and conditions of his employment. Mariano Mendoza's strenuous work had lowered his resistance and resulted in the flaring up of the tuberculosis germs embodied in his body." (pp. 34-35, Petitioner's Brief).

We agree with the respondent Commission that not only was it possible that the disease was directly caused by the nature and conditions of the employment, but is of the utmost probability, while its aggravation in the course

of said employment is nothing less than a certainty, to make the death compensable under the law. That aggravation is enough ground for compensability is clearly suggested in the case of *Manila Railroad vs. Perez*,^[8] even if such aggravation had taken place before June 20, 1952 when Republic Act No. 772, the law relied upon by petitioner in his contention that mere "aggravation" would not support a claim for compensation. This case is the same one adverted to earlier which might have spared the petitioner the trouble of preparing its brief in this case, which raises virtually the very same issues as have been disposed of in the aforecited case, brought up to this Court by the same petitioner the Manila Railroad Company, as it should have then yielded to the ruling therein laid down, which signaled the recent trend of jurisprudence on the matter as so announced in another case of the petitioner, "*Manila Railroad Co. vs. Manalang et al.*"^[9] Thus,

"Conformably to the recent trend of jurisprudence, this Court has in fact ruled that timeliness of notice or claim under Section 24 of the Act is not jurisdictional (*Century Insurance Co. v. Fuentes*, L-16039, August 31, 1961). Failure of the employer, as in this case, to file a timely contro-version under Section 45 of the law, bars all defense available to the employer, including the defense based on the employee's failure to file the claim in due time (*National Development Corporation v. Workmen's Compensation Commission*, L-19863, April 29, 1964)." (italics supplied).

WHEREFORE, the instant petition is hereby dismissed, and the judgment appealed from, affirmed. No Costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] 38 SCRA 495.

[2] 30 SCRA 218, pp. 224-225.

[3] *Manila Railroad Co. vs. Perez* L-21071, June 29, 1965, 14 SCRA 504; *Manila Railroad Co. vs. Rivera*, L-23021, May 29, 1968, 23 SCRA 922.

[4] The first case cited is *Manila Railroad Company v. Perez*, L-21071, June 29, 1965, 14 SCRA 504. The two cases referred to in the *Vda. de Espeleta* decision, L-24073, Jan. 30, 1968, 22 SCRA 325 are *National Development Co. v. Ayson*, L-23450, May 24, 1967, 20 SCRA 192 and *National Development Co. v. Rongavilla*, L-21963, Aug. 30, 1967, 20 SCRA 1172. *Victorias Milling Co. v. Workmen's Compensation Commission*, L-25640, March 21, 1968 is reported in 22 SCRA 1215. The other 1968 rulings are found in *Surigao Consolidated v. Workmen's Compensation Commission*, L--26077, May 29, 1968, 23 SCRA 820; *Manila Railroad v. Rivera*, L-23021, May 29, 1968, 23 SCRA 922 and *San Miguel Brewery v. Vda. de Joves*, L-24258, June 26, 1968, 23 SCRA 1093. Such a doctrine was reiterated in the 1969 case of *Victorias Milling Co. v. Dadivas*, L-24985, March 27, 1969, SCRA 413; *NDC vs. Galamgam*, 38 SCRA 495 (1971).

[5] Section 24, Act 3428, as amended.

[6] *Pioneer Ceramics Inc. vs. Samia*, 33 Phil. 487, 492.

[7] 33 SCRA 487.

[8] 14 SCRA 504, 508.

[9] Nov. 29, 1965, 15 SCRA 409, 413.

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