

**LILIA D. SIMON, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES
(SUPREME COURT), RESPONDENT.***G.R. No. L-42510. June 30, 1976*

Ponente: MARTIN, J.

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This is a compensation case which affects directly the Supreme Court because the petitioner here is a personnel of the Court of First Instance of Cebu over whom it exercises the power of supervision.[1] It is a case which We cannot avoid and which by force of necessity, We are constrained to decide, there being no other tribunal authorized to act on it.[2] The case refers to a decision of the Workmen's Compensation Commission in WCC Case No. 19003 which reversed the award made by the Acting Chief of the Regional Office of the Department of Labor in Cebu City in favor of the petitioner granting her compensation for temporary disability and allowing her to recover reimbursement for medical, surgical and hospital expenses.

Petitioner Lilia D. Simon, started to work as a legal researcher in the Court of First Instance of Cebu City, Branch VII since December 1, 1965. On November 8, 1973, she noticed a swelling under her chin. Worried about it, she consulted a physician to be sure that she was not suffering from any serious ailment. Upon advice of the latter, she finally submitted to an operation which ended in the removal of a "dermoid cyst", benign, under chin. After the operation she was hospitalized in the Perpetual Succor Hospital from November 11, to November 23, 1974. On November 25, 1974 she returned to work, but even then, she had to go to her doctor to receive medication until March 20, 1975.

On March 21, 1975, the petitioner filed a claim for compensation benefits and for reimbursement of her medical, surgical and hospital expenses with the Regional Office of the Department of Labor in Cebu City. As said claim was not controverted, the Acting Chief of the Regional Office of the Department of Labor in Cebu City favorably acted on her claim based on her own declarations and the medical report of the doctor who operated on her and awarded her compensation for temporary disability for the period she failed to report for work from November 11 to 23, 1974 in the amount of P100.00 and reimbursement of medical, surgical and hospital expenses in the amount of P915.40.

From said award of the Acting Chief of the Regional Office in Cebu City, the Solicitor General in representation of this Court appealed the same to the Workmen's Compensation Commission on the ground that the facts and the law on which the same is based are not clearly and distinctly stated therein. Upon review of the award, the respondent Commission reversed the same and dismissed the claim of petitioner for lack of merit.

Hence this petition for review, with the petitioner raising the following alleged errors of the respondent Commission:

1. THAT THE WORKMEN'S COMPENSATION COMMISSION WAS NOT JUSTIFIED IN ITS CONCLUSION THAT PETITIONER'S AILMENT HAS NO CAUSAL CONNECTION WITH THE NATURE OF HER EMPLOYMENT AS A LEGAL RESEARCHER; AND

2. THAT THE WORKMEN'S COMPEN-SATION COMMISSION DECIDED THIS CASE IN A WAY NOT IN ACCORD WITH LAW SPECIALLY SECTION 4 OF ACT 3428 AND THE APPLICABLE DECISIONS OF THE SUPREME COURT ON PRESUMPTION OF COMPENSABILITY AND BY ITS FAILURE TO CONSIDER THE FUNDAMENTAL AND PATENT LOGICAL RELATIONSHIP AND THE EVIDENCE, IT AMOUNTED TO A CLEAR TRAVESTY OF JUSTICE AND GRAVE ABUSE OF DISCRETION.

In the Physician's Report, the attending physician diagnosed the ailment of the petitioner as "Dermoid Cyst submaxillary area" and described its cause as congenital although he admitted that the ailment "may be aggravated by such employment." According to the book, Principles of Internal Medicine -

"Dermoid Cyst" is the common type of teratoid tumor containing extodermal and often mesodermal tissue in the form of macerated skin, hair, bone and teeth. The cyst is filled with a heavy, greasy, sebaceous material. It occurs primarily in women 18-40 years of age. Orientals are prone to develop dermoids. The clinical manifestations of teratoid tumor is produced when the freely shifting mass distorts and displaces neighboring viscera. It tends to float and encourages the development of a long pedicle; when torsion occurs, sudden excruciating, and persistent pain results, treatment is surgical removal. The prognosis is usually excellent."[3]

There is no dispute that the petitioner entered the service of the respondent in 1965. When she entered the service, she was not found to be suffering from any ailment at the time. Eight (8) years thereafter or in 1973 she noticed the swelling under her chin. The implication is therefore clear that her illness supervened in the course of her employment. The "dermoid cyst" may be congenital, but it is admitted in the Physician's Report that it may also be aggravated. In fact it flared up only during the course of her employment. In a very recent case penned by Mr. Justice Claudio Teehankee, this Court held: "* * * assuming the employee's illness may be ruled out as an occupational disease or that the causal link between the nature of his employment and his ailment has been insufficiently shown, nevertheless, it is to be presumed as mandated by Section 44 of the Workmen's Compensation Act[4] that the employee's illness which supervened during his employment either arose out of, or at least aggravated by said employment and with this presumption, the burden of proofs shifts to the employer and the employee is relieved of the burden to show causation.[5] In the case before Us, the respondent has failed to discharge that burden. The mere opinion of the doctor who treated the petitioner that "dermoid cyst" is congenital, although he admitted that it may also be aggravated by her employment, cannot prevail over the presumption of compensability.[6]

Besides the respondent has failed to controvert the claim of the petitioner. In a long line of decisions, this Court has ruled that "failure on the part of the employer to file a seasonable notice of controversion of the right of employees to compensation as required by Section 45 of the Workmen's Compensation Act[7] as amended, constitutes a waiver by operation of law of his right to controvert the employee's claim for compensation on non-jurisdictional ground and such legal defect does not violate the requirements of due process.[8] A claim for compensation filed by an employee against his employer under the Workmen's Compensation Act is deemed admitted if not controverted within the time provided by law.[9] It has also been held that the absence of controversion is fatal to any defense.[10] Thus the respondent cannot claim that the illness of the petitioner was not work-connected or that it was not aggravated by the nature of her employment. Accordingly the Referee was justified in making the corresponding award in favor of the petitioner based on petitioner's declaration and the physician's report.

IN VIEW OF THE FOREGOING, the decision of the respondent Commission is reversed and set aside and the award made by the Acting Chief of the Regional Office of the Department of Labor in Cebu City is hereby affirmed.

Without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Antonio, and Muñoz Palma, JJ., concur.

Antonio, J., was designated to sit in the First Division.

[1] Sec. 6, Art. X of New Constitution.

[2] See *Radiowealth Inc. vs. Agregado*, 86 Phil. 432.

[3] *Principles of Internal Medicine*, Harrison, 5th Edition, pp. 953.

[4]"SEC. 44. Presumption. - In any proceeding for the enforcement of the claim for compensation under this Act, it shall be presumed in the absence of substantial evidence to the contrary -

1. That the claim comes within the provisions of this Act.
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the wilful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the intoxication of the injured employee while on duty; and
5. That the contents of verified medical and surgical reports introduced in evidence by claimants for compensation are correct."

[5] *Talip vs. WCC*, G.R. No. 42575, May 31, 1976, see also *Maria Cristina Fertilizer Corp., vs. WCC*, 60 SCRA 228.

[6] *Maria Cristina Fertilizer Corp. vs. WCC*, *supra*.

[7] SEC. 45. Compensation, how payable. - The compensation herein provided for shall be paid periodically and promptly in like manner as wages, and as it accrues, and directly to the person or persons entitled thereto without the necessity of a formal award by the Commissioner, except in those cases in which the right to compensation is controverted by the employer. If the employer or insurance carrier does not controvert the injured workman's right to compensation, such employer or insurance carrier shall, either on or before the fourteenth day after disability or within five days after the employer first has knowledge of the accident, begin paying compensation and shall immediately notify the Commissioner in accordance with a form to be prescribed by him, that the payment of compensation has begun, accompanied by the further statement that the employer or insurance carrier, as the case may be will notify the Commissioner when the payment of compensation has been stopped, and immediately upon the stoppage or suspension of payment of compensation the employer or insurance carrier shall notify the Commissioner of such act on a form to be prescribed by him. After the first payment of compensation has been made, subsequent payments shall be made weekly thereafter; but the Commissioner may determine that any payments may be made monthly or at any other period, as may be made monthly or at any other period, as he may deem advisable.

In case the employer decided to controvert the right to compensation, he shall, either on or before the fourteenth day of disability or within ten days after he has knowledge of the alleged accident, file a notice with the Commissioner, on a form prescribed by him, that compensation is not being paid, giving the name of the claimant, name of the employer, date of the accident and the reason why compensation is not being paid. Failure on the part of the employer or the insurance carrier to comply with the requirement shall constitute a renunciation of his grounds for the failure to make the necessary reports, on the basis of which grounds the

Commissioner may reinstate his right to controvert the claim.

Whenever for any reason compensation payments cease, the employer, or his insurance carrier shall, within sixteen days thereafter, send to the Commissioner a notice on a form prescribed by the Commissioner that such payment has been stopped. Such notice shall contain the name of the injured employee or his principal dependent, the date of the accident, the date up to which compensation has been paid, and the whole amount of compensation paid. In case the employer or his insurance carrier fails to notify the Commissioner of cessation of payments within twelve days after the date on which compensation has been paid, the Commissioner may, after a hearing, fine such employer or his insurance carrier in an amount not exceeding one hundred pesos, which shall be paid into the Workmen's Compensation Administration Fund. Such penalty shall be collected in like manner as an award of compensation. Whenever the Commissioner shall deem it advisable, he may require any employer or insurance carrier to make a deposit with the Commissioner to secure prompt and convenient payment of such compensation, from which deposit may be deducted such fine as shall be imposed by the Commissioner.

All awards of compensation required to be made to minors under this Act shall be paid to or for the benefit of such minors under such rules as may be adopted by the Commissioner. Where such awards exceed four hundred pesos, the Commissioner may, in his discretion, require the appointment of a guardian to submit to him reports on the use of money paid to minors.

[8] Carlos vs. De la Rosa, 5 SCRA 262; Guardian Security and Investigation Agency vs. Workmen's Compensation Commission, 34 SCRA 29; Development Bank of the Phil. vs. WCC, 49 SCRA 365; Phil. Graphics Arts, Inc. vs. Mariano, 51 SCRA 409; Camotes Shipping Corp. vs. Otadoy, 35 SCRA 456.

[9] Victorias Milling Co., Inc. vs. WCC and Segovia, L-25665, May 22, 1969; Filipino Pipe & Foundry Corp. vs. WCC, et al., L-20381, December 24, 1963; Malan Bros. Watchman Agency vs. Conanan, 7 SCRA 856; A. D. Santos, Inc. vs. Ventura Vasquez, L-23586, March 20, 1968; Gen. Textiles Inc. vs. Teofilo Taay, L-20348, November 29, 1971; DBP vs. WCC, et al., L-30428, February 7, 1973.

[10] Seven-UP Bottling Co. of the Phil. vs. Vda. de Teso, 49 SCRA 378; Abay vs. WCC, 54 SCRA 379.

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