

MARIA DEL ROSARIO, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND LUZON STEVEDORING CORPORATION, RESPONDENTS.

G.R. No. L-44114. February 21, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Workmen's Compensation Commission in R04-WC Case No. 166100 entitled "Maria del Rosario, Claimant, versus, Luzon Stevedoring Corporation, Respondent", setting aside the award rendered by the Hearing Officer of Regional Office 4, Work-men's Compensation Section, Manila, which ordered Luzon Stevedoring Corporation to pay the claimant, Maria del Rosario, the amount of P4,160.00 as death benefit and the sum of P200.00 as burial expenses.[1]

On March 26, 1975, Maria del Rosario filed with Regional Office 4, Department of Labor, Manila, a claim against Luzon Stevedoring Corporation for death compensation by reason of the death of Willie Rebite, son of the claimant. The respondent corporation submitted the Employer's Report denying liability.

After hearing, the Regional Office 4, Department of Labor, Manila, rendered an award in favor of the claimant.

The Luzon Stevedoring Corporation appealed to the Workmen's Compensation Commission which set aside the award on the ground that the claimant failed to prove that at the time Willie Rebite stopped working he was afflicted with pulmonary tuberculosis and that the said ailment caused his disability for labor and ultimately led to his death; and that no sufficient evidence was presented to prove the filiation of the claimant to the deceased.[2]

The record shows that affidavits were submitted to show that the claimant, Maria del Rosario, is the mother of the deceased Willie Rebite. Moreover, it appears from the death benefit adjudication of the Social Security System that Maria R. Rebite is the mother and the legitimate heir of Willie Rebite.[3]

The claim for death compensation benefit alleged that Willie Rebite contracted pulmonary tuberculosis in 1966 as a result of his employment and that said disease led to his death on May 28, 1967. The certificate of death shows that Willie Rebite died of pulmonary tuberculosis, the same illness which supervened during his employment with the Luzon Stevedoring Corporation.

On the basis of the evidence adduced by the claimant, the Hearing Officer of Regional Office 4 of the Department of Labor, found as a fact that the claimant is the mother of Willie Rebite and that the illness of said Willie Rebite which led to his death was the result of his employment with the Luzon Stevedoring Corporation.

The illness of Willie Rebite having supervened during his employment with the Luzon Stevedoring Corporation, there is a disputable presumption that the claim is compensable.[4] The claimant is relieved of the duty to prove causation as it is then legally presumed that the illness arose out of the employment. To the employer is shifted the burden of proof to establish that the illness is non-compensable.[5]

The claimant, petitioner herein, did not rely on the disputable presumption alone. She presented evidence that the illness was either the result of or aggravated by the nature of the employment of Willie Rebite with the Luzon Stevedoring Corporation.

There is no evidence which rebuts the disputable presumption and the evidence adduced by the petitioner.

The Hearing Officer of Regional Office 4 correctly computed the award to the claimant as follows:

"Under Section 8(d) of the Act, as amended, the claimant who was/were wholly partially dependent upon the deceased at the time of the latter's death, is/are entitled to 40 per centum of the average weekly wage of said deceased for a period of 208 weeks. Forty per centum of the deceased's average weekly wage of P88.00 to be reduced to 50.00 equals P20.00 and for 208 weeks, the claimant(s) should receive the sum of P4,160.00, plus the sum of P200.00 as burial expenses." [6]

WHEREFORE, the decision of the Workmen's Compensation Commission appealed from is hereby set aside and the Luzon Stevedoring Corporation is ordered:

- 1) To pay the claimant the sum of Four Thousand One Hundred Sixty Pesos (P4,160.00) as death benefit and Two Hundred Pesos (P200.00) as burial expenses;
- 2) To pay the claimant the sum of Four Hundred Sixteen Pesos (P416.00) as attorney's fees; and
- 3) To pay the successor of the Workmen's Compensation Commission the sum of Sixty-One Pesos (P61.00) as administrative fee.

SO ORDERED.

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

[1] Rollo, p. 12.

[2] Rollo, pp. 10-11.

[3] Rollo, p. 7.

[4] Section 44, Workmen's Compensation Act; Justiniano vs. Workmen's Compensation Commission, 18 SCRA 677.

[5] Balanga vs. Workmen's Compensation Commission, et al., 83 SCRA 721.

[6] Rollo, p. 12.

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