

**TERESITA GALINDEZ, IN HER OWN BEHALF AND IN BEHALF OF HER
MINOR SON JOSE GALINDEZ, JR., PETITIONERS, VS.
WORKMEN'S COMPENSATION COMMISSION AND THE
UNIVERSITY OF MINDANAO, RESPON...**

G.R. No. L-43058. October 06, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petition for review of the decision dated June 24, 1975 of the Workmen's Compensation Commission in ROXII-WCU Case No. 534-73, reversing the Award dated September 17, 1973 of the Acting Chief, Workmen's Compensation Unit, Regional Office XII, Davao City.

FACTS OF THE CASE:

On May 25, 1973, at about 10:30 in the morning, the deceased Jose Galindez, Sr. was aboard a bus from Davao City bound for Tagum, Davao del Norte, when the bus figured in an accident which resulted in his death. At the time of his demise, he was a resident of Tagum and was receiving a salary of P386.00 a month as a college professor of the Tagum branch of the University of Mindanao based in Davao City.

On July 13, 1973, petitioner, widow of deceased Jose Galindez, Sr., in her own behalf and in behalf of her minor son, Jose Galindez, Jr., filed a claim for death compensation with Regional Office No. XII, Davao City. On July 18, 1973, a copy of the notice and claim for compensation was furnished deceased's employer, the University of Mindanao.

On September 17, 1973, Regional Office No. XII issued an Award in favor of claimants, pertinent portion of which is quoted hereunder:

"A careful perusal of the records of this case disclose that the late Jose B. Galindez, Sr. died from a vehicular accident which arose out of and in the course of his employ-ment as a Teacher of the respondent. The records further show that the right to compensation of the claimants has not been controverted. Therefore, under the Workmen's Compensation Act, as amended, death benefits should be extended to the claimants (widow and one child) who are wholly dependent upon the deceased for support x x x."

On October 6, 1973, private respondent moved for a reconsideration of the said Award, on the ground that "by the enclosed copy of controversion marked as Annex 'A' it will be shown that the subject claim was duly controverted" (pp. 15-16, rec.).

On October 19, 1973, Regional Office No. XII found no basis to disturb the Award and resolved to deny private respondent's motion for reconsideration and to elevate the entire records of the case to the Workmen's Compensation Commission for review.

On June 24, 1975, the Commission rendered a decision reversing the Award appealed from pertinent portions of

which read as follows:

"It clearly appears on record that the deceased met with an accident in Carmen, Davao del Norte. However, the place of work of the deceased, as a college professor of the respondent, was in Tagum, Davao del Norte which was also the residence of the deceased, as shown by the address of the claimant-widow. The records does (sic) not show the reason why he was in Carmen, Davao del Norte, riding in a passenger bus, when he met with the accident. Neither was there a showing that the deceased was in the place of the accident on an official mission or in furtherance of his official duties as a college professor. To supply or at least presume the facts in support of compensability under the circumstance would be stretching too far the legislative intent in the enactment of the law.

"The Supreme Court incorporated in its decision, in the case of Iloilo Dock and Engineering Co. vs. WCC and Irene M. Pablo, G.R. No. L-26341, November 27, 1968, the following citation:

'The statute is not intended to relieve completely an employee from the burden of showing that accidental injuries suffered by him actually were sustained in the course of his employment. It is not the law that mere proof of an accident, without other evidence, creates the presumption under Section 21 of the Workmen's Compensation Law (Consol. Laws, C. 67) that the accident arose out of and in the course of employment. On the contrary, it has been frequently held, directly and indirectly, that there must be some evidence from which the conclusion can be drawn that the injuries did not arise out of and in the course of employment. Proof of the accident will give rise to the statutory presumption only where some connection appears between the accident and the employment.'

The above-cited opinion is a deterrent from the misapplication of the causative provision of the law. Otherwise, without this criterion to follow, employers will frequently be exposed to unjustified claims.

"It is therefore the considered opinion of this Commission that this case does not fall within the coverage of Act 3428, as amended."

On February 3, 1976, petitioner received a copy of the decision dated June 24, 1975.

On February 12, 1976, petitioner filed a notice of appeal of decision dated June 24 1975 and, after having been granted by this Court an extension of time within which to file its petition for review, filed the instant petition on March 13, 1976.

The case of Iloilo Dock and Engineering Co. vs. WCC, et al. (supra), on which the decision is mainly anchored, has not been intended to apply to a case such as this where an award was granted based solely on petitioner's claim and supporting papers, without any formal hearing, pursuant to the provisions of Section 2, Rule 9 of the Rules of the Workmen's Compensation Commission. The cited ruling clearly contemplates a case where, after claimant is afforded the opportunity to be heard and to present all his evidence, there still subsists a void between the accident and the employment. The contrary view subverts the ends for which the Workmen's Compensation Act, a social legislation, was enacted.

As held by this Court in Cabinta, et al. vs. WCC, et al. (L-42639, July 30, 1976, 72 SCRA 266) and reiterated in Jacob vs. WCC, et al. (L-43302, August 31, 1976, 72 SCRA 575), if respondent Commission believed that the documents presented by the petitioners were not sufficient to show compensability of the claim, it should have requested the presentation of the proper evidence by the petitioner, but not to dismiss the case outright.

A careful scrutiny of the records on hand, however, would show that the presentation of such additional evidence by petitioner is not even necessary to justify a finding of compensability. The records are clear (1) that the deceased was employed as a college professor of the University of Mindanao (Tagum branch) at Tagum, Davao del Norte, a place about 60 kilometers from Davao City; (2) that the deceased was a resident of Tagum, Davao del

Norte at the time of his death; (3) that the main office of the University of Mindanao is in Davao City; (4) that the accident took place along the highway of Carmen, Davao del Norte while deceased was riding a bus; (5) that the accident occurred at around 10:30 in the morning of May 25, 1973, a working day, being a Friday; (6) that the respondent failed to disprove the claim of petitioner that the deceased at the time of his death was going to attend a conference at the University of Mindanao in Davao City for which he was called; and (7) that there is no record to show that the deceased took a leave of absence from his work, or was absent from his work on the day of the accident.

Indeed, foregoing situations are sufficient to create a disputable presumption that deceased was in the performance of an official mission for the school at the time of the accident and that his death was therefore compensable. Nothing of record can be found that private respondent has presented evidence to rebut the presumption. It made no attempt in its comment to lend evidentiary support to its unsubstantiated claim that deceased was not on an official mission at the time of the accident.

Furthermore, the private respondent failed to seasonably controvert the claim as found by the Referee and as re-stated by the respondent Commission which did not negate the same. Such failure constitutes waiver of non-jurisdictional defenses.

The very decision of respondent Commission states that respondent failed to controvert claimant's right within the period fixed by Act No. 3428.

WHEREFORE, JUDGMENT IS HEREBY RENDERED REVERSING THE DECISION DATED JUNE 14, 1975 OF RESPONDENT COMMISSION, AND ORDERING RESPONDENT UNIVERSITY OF MINDANAO TO PAY:

1. CLAIMANTS TERESITA GALINDEZ AND HER MINOR SON, JOSE GALINDEZ, JR., THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS DEATH COMPENSATION, AND TWO HUNDRED (P200.00) PESOS FOR BURIAL EXPENSES;
2. H. & A. CABARROGUIS, AGRAVANTE & SANDIEGO, THE SUM EQUIVALENT TO 10% OF THE RECOVERABLE AMOUNT AS ATTORNEY'S FEES; AND
3. THE SUM OF SIXTY-ONE (P61.00) PESOS AS ADMINISTRATIVE FEE.

WITH COSTS AGAINST RESPONDENT UNIVERSITY OF MINDANAO.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, Martin, Fernandez, and Guerrero, JJ., concur.

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