

TALISAY-SILAY MILLING CO., INC., PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND ILDEFONSO ALVAREZ, RESPONDENTS.

G.R. No. L-22096. September 29, 1967

Ponente: CASTRO, J.

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CASTRO, J.:

This is an appeal by certiorari by the Talisay-Silay Milling Co., Inc. from the decision of the Workmen's Compensation Commission rendered on August 16, 1963 in case R07-46801[1] and affirmed by the Commission en banc on October 8, 1963, ordering the company

"1. To pay the claimant, through this Office, in lump sum the amount of ONE THOUSAND THREE HUNDRED NINETY FIVE AND 69/100 (P1,395.69) as compensation;

"2. To pay the claimant the amount of SIX HUNDRED TWENTY-ONE and 85/100 (P621.85) as reimbursement of medical expenses; and

"3. To pay to the Workmen's Compensation Fund the amount of FOURTEEN PESOS (P14.00) as fees, pursuant to Section 55 of the Act.

On November 23, 1953 the claimant Ildefonso Alvarez, paymaster of the petitioner, after he had paid the wages of some of the laborers of the petitioner, was ordered by the latter to cease work and go home because of an approaching typhoon. A passenger bus brought him to Bacolod City, where he boarded a pick-up truck of the petitioner which proceeded to Bago, Negros Occidental, his hometown. At Kilometer 17 in barrio Calumangan, the vehicle met with an accident, resulting in death to three of its passengers and physical injuries to four others, among them the respondent. The latter was confined at the Negros Occidental Provincial Hospital for twenty-one days. After his discharge from the hospital, his injuries took three more months to heal. He was thereafter never re-employed.

The issues tendered for resolution are (1) whether the WCC erred in holding that the respondent's injuries arose "out of and in the course of employment[2] within the meaning and intent of section 2 of the Workmen's Compensation Act, as amended, and (2) whether the petitioner failed to controvert the claim for compensation.

It is undisputed that the petitioner furnished its employees free transportation from its central to Bacolod City and from Bacolod City to the central, and that the pick-up truck that figured in the accident was assigned for such purpose. The petitioner contends, however, that the injuries sustained by the respondent are not compensable as they did not arise out of and in the course of employment, because the trip to Bago was made without the "knowledge and consent" of its resident manager, Mariano Castañeda, or his duly authorized representative, Roque Torres, chief of security guards and superintendent of transportation; and that, therefore, the respondent took the ride at his own risk, and, like a "hitch-hiker", should suffer the consequences of the travel.

This contention is untenable. Castañeda's testimony that the respondent did not ask him permission to use the

vehicle for the trip to Bago does not belie the respondent's claim that he "asked permission from Mr. Torres * * * for the use of the pick-up truck from the Talisay-Silay Milling Co., Inc., to the municipality of Bago, Negros Occidental, which request was granted him by Mr. Torres".[3] True it is that Torres declared that "there was no pass" or written permission given for that trip, but this witness never denied categorically that the respondent orally asked his permission for the use of the vehicle for the trip, or that he orally "granted" the request. Absent such categorical denial, the reasonable inference can be made that such request was indeed made and that he, as superintendent of the petitioner's transportation department, granted it orally.

This Court has in the past refused to reverse or modify the findings of fact of the WCC on the ground, here relied upon, that there was testimonial evidence on record contrary to the findings of the WCC.[4] And there is at all no showing that the findings of the WCC, more particularly the finding that the trip was with the petitioner's "knowledge and consent", find "absolutely no support in the evidence on record", or are "unsupported by substantial evidence." [5] Upon the contrary, findings of the WCC are based not merely upon the respondent's oral testimony, but also upon "factors and circumstances brought out during the hearing of the case". Thus, the WCC correctly observed that

"Aside from the claimant who lived in Bago, three other passengers of said truck, who were also employees of respondent company, resided in said municipality. From this and from the fact that the respondent declared an emergency because of the coming storm and had to send its employees home, the most logical conclusion that can be drawn is that said trip to Bago was with the knowledge and consent of the respondent [petitioner herein], as had been previously done during an emergency or when employees rendered overtime work."

It is of no moment that the trip to Bago, Negros Occidental, was beyond the customary perimeter of travel, for the extended trip was made with the acquiescence of no less than the petitioner's superintendent of transportation. Injuries sustained by a workman when he is provided with transportation while going to or coming from his work have been considered as arising out of and in the course of his employment,

"when such transportation is the result of an 'express agreement' between the employer and his workman, or when it has ripened into a 'custom' to the extent and it is 'incidental to,' and 'part of', the 'contract of employment,' or when it is with the 'knowledge and acquiescence of the employer,' or when it is the result of a 'continued practice' in the 'course of the employer's business' and which practice 'beneficial to both employer and employee.'" [6]

The petitioner further contends that the WCC erred holding that it failed to make a timely controversion of the respondent's claim for compensation. The petitioner admittedly failed to file on time its Controverting Claim for Compensation (Form No. 6, exh. 1) and its Employer's Supplementary Report of Accident or Sickness (Form No. 5, exh. 2). It nonetheless argues that the time requirement of the law regarding the filing of the controversion is not "strictly mandatory", considering that the rules of the WCC should be "liberally construed in order to promote and attain their objective assist the parties in obtaining a just, speedy and inexpensive determination of their case" [7] that the fact that the hearing officer allowed the petitioner to adduce evidence resisting the respondent's claim shows that such claim was "never treated as an uncontroverted or uncontested case"; and that the respondent's failure to have the petitioner declared in default and to object to the presentation of its evidence "had the legal consequence of reinstating to the petitioner its right to controvert".

This contention is without merit. Having failed to file its controversion on time, the petitioner thereby waived or renounced "by operation of law" its right to question the validity or reasonableness of the respondent's claim for compensation. [8]

And this "statutory renunciation" was not voided by the fact that the hearing officer never treated the case as uncontroverted or uncontested. Nowhere case ipso facto re-instated because of the respondent's failure to have

the pe-titioner declared in default or to object to the presentation of its evidence. For to effect a reinstatement of its right to controvert, it was incumbent upon the petitioner to submit reasonable grounds on the basis of which his right to controvert might be reinstated. The petitioner's honest assumption that controversion was superfluous and unnecessary as "the respondent's claim for compensation was filed out of time", is not one of the "reasonable grounds," contemplated by the applicable provision of law. We have repeatedly held that the requirement prescribed in section 24 of the Workmen's Compensation Act, as amended may be dispensed with, where, as in this case the record indubitably shows that the pe-titioner had knowledge of the accident that resulted in phy-sical injuries to the respondent and that no prejudice was caused to the employer by the delay in the filing of the claim for compensation.[9]

ACCORDINGLY, the judgment a quo is affirmed in toto, at petitioner's cost.

Concepcion, C.J., Reyes, Dizon, and Makalintal, Zaldivar, Sanchez, Angeles and Fernando JJ., concur.
Bengzon, J., no part.

[1] "ILDEFONS0 ALVAREZ, Claimant, versus TALISAY-SILAY MILL-ING CO., INC., Respondent".

[2] The words 'arising out of' refer to the origin or cause of the accident and are descriptive of its character, while the words 'in the course of' refer to the time, place and cir-cumstances under which the accident takes place." (Amado vs. Rio y Olabarrieta, Inc., 95 Phil. 33, 36.)

[3] P. 36, Record.

[4] Laguna-Tayabas Bus Co. vs. Consulto, G.R. No. L-12726, May 20,1960 Davao Gulf Lumber Corp. vs..Del Rosario, G.R. No. L-15978, Dec. 29, 1960.

[5] Rio y Compania vs. WCC, et al, G.R. No. L-21647, Aug. 30 1967 and the cases cited therein.

[6] Micieli vs. Erie R. Co. (New Jersey) (1943), 33 A.2d 586, 589, cited in In Re Jensen (1947), 178 P.2d 897, 902-903. (emphasis supplied)

[7] Sec. 2, Rule 1, Rules of the WCC.

[8] See Note 5; Tan Lim Te vs. WCC, et al., G.R. No. L-12324, Aug. 30, 1958; Victorias Milling Co., Inc. vs. WCC, et al., G.R. No. L-10553, May 13, 1957.

[9] Rio y Compania vs. WCC, et al, supra, and case therein cited.

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