

PEDRITA S. MARTE, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION, RESPONDENT.

G.R. No. L-46362. January 30, 1982

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

On March 31, 1980, We rendered a decision in this case finding that petitioner Pedrita Marte, a public school classroom teacher since 1939, has fully established the veracity and authenticity of the medical certificate of her physician, Dr. Jorge O. Limjoco and that said medical certificate is sufficient to support her claim for permanent total disability benefits. Accordingly, We directed respondent Employees' Compensation Commission (represented by GSIS):

- 1) to pay petitioner the sum of twelve thousand [P12,000.00] pesos as disability income benefits;
- 2) to reimburse petitioner's medical and hospital expenses duly supported by receipts; and
- 3) to pay her by way of attorney's fees the sum equivalent to 10% of the amount of the award.

On May 19, 1980, the Government Service Insurance System (GSIS) filed a motion for partial reconsideration based on the ground that the grant of attorney's fees in the sum equivalent to 10% of the award is improper. It also prayed for the amendment of aforesaid decision in accordance with the following manifestations in relation to the medical evaluation of claimants for compensation:

- 1) The GSIS Medical Evaluation and Underwriting Group has been discovering numerous spurious and bloated claims and in view thereof, respondent GSIS does not agree to the Court's pronouncement that the medical certificate of petitioner's attending physician should have been taken at face value;
- 2) On its failure to have petitioner examined by its own medical officer and its reliance on the mere evaluation of its medical officer without a first-hand personal examination, the general policy of the GSIS is that as much as possible, the claimant should be examined by its own medical officers or in the nearest government hospital but due to numerous claims and time constraints, such policy cannot be strictly followed so that very often, it has to rely on evaluations of findings of the attending physicians of claimants; and
- 3) On its non-compliance with its duty of giving petitioner the required notice of examination, respondent GSIS asserts that the law does not really impose upon it the duty to conduct a yearly examination.

On August 23, 1980, petitioner filed her comments to the motion of the GSIS for partial reconsideration praying that the said motion, insofar as the deletion of the grant of attorney's fees from the decision be denied.

WE cannot sustain the views of respondent GSIS.

The liability of the GSIS for payment of attorney's fees has already been passed upon by this Court in the case of Luz G. Cristobal vs. ECC & GSIS (L-49280, February 16, 1981) wherein We enunciated:

"A close examination of the aforequoted provision reveals that the intent of the law is to free the award from any liability or charge so that the claimant may enjoy and use it to the fullest. It is the claimant who is exempt from liability for attorney's fees. The defaulting employer or government agency remains liable for attorney's fees because it compelled the claimant to employ the services of counsel by unjustly refusing to recognize the validity of the claim of petitioner. This actually is the rationale behind the prohibition. Nothing is wrong with the court's award of attorney's fees which is separate and distinct from the other benefits awarded. Besides, in the instant case, the participation of petitioner's counsel was not limited to the preparation or filing of the claim but in appealing petitioner's case before this Court necessitating submission of pleadings to establish his cause of action and to rebut or refute the arguments of herein respondents. Fairness dictates that the counsel should receive compensation for his services; otherwise, it would be entirely difficult for claimants, majority of whom are not learned in the intricacies of the law, to get good legal advice. To deny counsel compensation for his professional services, would amount to deprivation of property without due process of law."

It becomes clear that the prohibition against charging of attorney's fees within the context of Article 203 does not cover cases wherein said fees are chargeable against the GSIS for denying valid claims thus forcing claimants to unnecessarily resort to the Court to seek justice. In the case of *Nadura vs. Benguet Consolidated, Inc.* (L-17780, August 24, 1962, 5 SCRA 879), We ruled:

"In connection with attorney's fees, Art. 2208 of the new Civil Code provides that 'while the rule is that, in the absence of stipulation, attorney's fees cannot be recovered, they may be awarded, in the discretion of the court, in actions for the recovery of wages of household helpers, laborers and skilled workers.'

xx x xx x

"Moreover, the same legal provision provides that attorney's fees may be awarded in any other case where the court deems it just and equitable. Therefore, whether it is under one or the other case, *Nadura* is entitled to recover attorney's fees because *Benguet's* refusal to pay him the severance pay he was entitled to receive forced him to go to court to enforce his right.

Finally, if and when the State Insurance Fund can no longer absorb payment of attorney's fees, the same could be charged against the other sources of income of the GSIS. After all, the System was conceived and organized primarily to service its members, like herein petitioner, who contribute to the funds that enable it to operate and to pay the salaries of its own employees. Such funds, together with the retirement contributions of all government employees, are invested by the GSIS.

The fact that the GSIS has discovered or encountered many alleged "spurious and bloated" claims, does not mean that herein petitioner is involved in such anomaly. It is unfair to make her answer for acts allegedly committed by other claimants. The matter of fake and padded claims is an internal problem of the GSIS. The inability or failure of the GSIS to forestall or check spurious or bloated claims should not be a basis for, nor justify challenging a court decision. The GSIS has the resources to provide for the facilities to save it from being victimized by dishonest claimants and conniving physicians. If this were allowed to happen, then every compensation case brought before this Court would never be resolved with finality. Since the aforesaid problem is strictly internal, the proper remedy is for the GSIS to put up a foolproof system of processing claims or improve on the present system, if one is already existing. WE are particularly concerned over the prolonged ordeal of the faithful members of the System in applying for compensation benefits. Why should legitimate claimants be prejudiced unnecessarily by fraudulent claimants?

Another legal remedy available to the GSIS is civil action for recovery against, or criminal prosecution of claimants who file fraudulent or bloated claims together with conspiring physicians. And if the guilty claimant is still in the service, administrative discipline is an additional remedy against him. Likewise, the culpable physician

is subject to discipline by the Professional Regulation Commission which may include revocation of his license to practice.

By its own admission, while the general policy of the GSIS is to have the claimant examined by its own medical officers or in the nearest government hospital, it has not succeeded in implementing fully said policy, nor devised a system by which claimants' medical examination may be facilitated.

Hence, it is suggested that if the claimants cannot be examined by its medical officers or should the same be insufficient to cope with the bulk of claims, then the GSIS should designate or accredit government hospitals and physicians in all regions, provinces, cities and municipalities. If these would still be inadequate, the System should additionally accredit or deputize private hospitals, clinics and physicians. If the foregoing would still be insufficient, then the claimant's attending physician should be recognized upon his Hippocratic oath. Should their certification turn out to be false or erroneous, then the remedy would be a civil suit, criminal prosecution and revocation of his physician's license, as above insinuated.

However, in view of the fact that the Labor Code, as amended, had doubled the maximum compensation benefit for permanent total disability, the Court believes that the allowable attorney's fees should be reduced to the reasonable proportion of five (5%) percent of the amount awarded.

WHEREFORE, PARAGRAPH THREE (3) OF THE DISPOSITIVE PORTION OF THE DECISION OF MARCH 31, 1980 IS HEREBY MODIFIED TO READ AS FOLLOWS:

"xx xx xx.

"3. TO PAY HER BY WAY OF ATTORNEY'S FEES THE SUM EQUIVALENT TO FIVE (5%) PERCENT OF THE AMOUNT OF THE AWARD."

SO ORDERED.

Fernando, C.J., Barredo, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, Ericta, and Escolin, JJ., concur.

Teehankee, J., concurs in the result in line with his separate opinion of March 31, 1980.

Melencio-Herrera and Plana, JJ., in the result.

Aquino, J., no part.

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