

FERMIN CAYCO, ELDA CAYCO, JEMUELLE CAYCO, EDSEL CAYCO, JOIDA CAYCO, AND EDITH CAYCO, PETITIONERS, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM ...

G.R. No. L-49755. August 21, 1980

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for review of the decision of the Employees' Compensation Commission denying petitioners' claim for compensation under the Workmen's Compensation Act for the death of Adoracion Cayco, a classroom teacher at the Isabelo delos Santos Elementary School in Tondo, Manila, since 1945, which occurred in 1978 as a result of breast cancer which first showed up in 1972.

The sole issue for Us to determine, in view of the fact admitted in the comment of the respondent Commission that the death of Mrs. Cayco was caused by "infiltrating duct carcinoma of the breast with metastases" which may commonly be referred to as malignant cancer of the breast, (p. 4, Comment of Solicitor General dated May 7, 1979), is whether or not, inasmuch as said illness first showed up in 1972,[1] before the Labor Code and the new compensation laws took effect, but she died on April 26, 1978, after their effectivity, the presumption of compensability in cases of illness incurred while an employee is in the service or in the course of employment as provided for in the Workmen's Compensation Act and clarified in Our jurisprudence interpretative thereof, liberal and compassionate, may be invoked by petitioners, the death in question having taken place in 1978, after the Labor Code had already come into effect.

This question is not new. As pointed out by petitioners in their reply to respondent's comment, this Court has already settled this point in several preceding cases, such as *Corales vs. Employees' Compensation Commission and GSIS*, G. R. No. L-44063 by Our resolution of February 27, 1979 (88 SCRA 547); *De Castro, Jr. vs. Republic*, L-43289, February 28, 1977 (75 SCRA 373); *Aguirre vs. Workmen's Compensation Commission*, L-44115, November 17, 1978 (86 SCRA 360).

In *Corales*, *supra*, We held:

"Article 292 of the New Labor Code, which requires that workmen's compensation claims accruing prior to the New Labor Code shall be filed with the appropriate regional offices of the Department of Labor not later than March 31, 1975, otherwise, they shall forever be barred, does not apply to petitioner, who filed his claim on August 4, 1975 with the GSIS; because WE have repeatedly held that the prescriptive period for claims which accrued under the Workmen's Compensation Act, as amended is ten (10) years, it being a right founded on statute. Petitioner's right accrued as early as September 1965 and hence is a vested right."

"Rights accrued and vested while a statute was in force ordinarily survive its repeal.

"The repeal of a statute does not operate to impair or otherwise affect rights which have been vested or accrued

while the statute was in force. This rule is applicable alike to rights acquired under contracts and to rights of action to recover damages for torts. Where a new statute continues in force provisions of an old statute, although in form it repeals them at the moment of its passage, a right of action created by the old statute is not thereby destroyed x x x"

x x x x x

"Petitioner's claim having accrued prior to the New Labor Code, the presumption of compensability, the principle of aggravation, the award of attorney's fees and the payment of administrative fees must be observed and applied. And the Employees' Compensation Commission as the successor of the defunct Workmen's Compensation Commission is duty bound to observe and apply the foregoing principles in passing upon workmen's compensation. Moreover, as an agency of the State, the Employees' Compensation Commission, like the defunct Court of Industrial Relations and the Workmen's Compensation Commission, is under obligation at all times to give meaning and substance to the constitutional guarantees in favor of the workingmen, more specially the social justice guarantee; for otherwise, these guarantees would be merely a lot of meaningless patter (Santos vs. WCC, 75 SCRA 371 [1977])."

Upon the foregoing premises, it is incontestible that the decision of respondent Commission impugned in the petition herein is not in line with the law and jurisprudence applicable to petitioners' situation.

WHEREFORE, the decision of the Employees' Compensation Commission dated November 27, 1978 denying petitioners' claim for compensation for the death of Adoracion Cayco is hereby reversed and award to them of such compensation as provided by the Workmen's Compensation Act is hereby ordered. No costs.

Concepcion, Jr., Guerrero, De Castro, and Melencio-Herrera, JJ., concur.
Aquino, J., took no part.

[1] She underwent surgery at the Mary Johnston Hospital and resumed working for five (5) years.

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