

TECLA MAGPANTAY, FOR HERSELF AND IN BEHALF OF HER MINOR CHILDREN BITUIN AND CARLOSA BOTH SURNAMED MAGPANTAY, PETITIONERS, VS. WORKMEN'S COMPENSATION COMMISSION AND THE REPUBLIC ...

G.R. No. L-43457. October 26, 1976

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petition for certiorari from the decision dated February 12, 1976 of the Workmen's Compensation Commission in R06-WCU-Case No. 12840, reversing the decision dated October 8, 1975 of the Acting Referee, Workmen's Compensation Unit, Regional Office No. V, Department of Labor, Camarines Norte Agency, Daet, Camarines Norte.

The records show that the late Dionisio Magpantay was employed as a truck driver in the Bureau of Public Highways from April 4, 1946 to April 15, 1967 (p. 13, rec.). On January 1, 1968 he also worked as a driver in the Provincial Engineer's Office, Province of Camarines Norte, until November 11, 1971. Then from July 1, 1972 he worked as a casual laborer in the same office until July 31, 1972 when he was allegedly laid off due to lack of funds (Exh. D). His daily wage then was P8.00.

The records also show that from August, 1969 to November 15, 1973, on and off, he submitted himself to PTB treatment, caused by excessive driving and dust causing him chronic cough (Exh. E, Physician's Report of Accident or Illness). At the age of 66, he died of pulmonary tuberculosis (Exh. A, death certificate), on December 1, 1973, or sixteen (16) months after his separation from the service (Record - 1st Indorsement, Office of the Highway District Engineer).

On February 12, 1974, Tecla Magpantay, the surviving spouse of Dionisio Magpantay, for herself and in behalf of their minor children Bituin and Carlota Magpantay, filed a claim for compensation benefits with Regional Office No. V, Department of Labor, Camarines Norte Agency, Daet, Camarines Norte, arising from the death of Dionisio Magpantay against the Republic of the Philippines (Department of Public Highways), docketed as ROC-WCU-Case No. 12840.

On October 8, 1975, Regional Office No. V rendered a decision, the dispositive portion of which reads:

"Conformably, decision is hereby rendered in favor of the claimant and against the respondent, which is ordered:

"1. To pay the claimant, thru this Office, the amount of SIX THOUSAND (P6,000.00) PESOS as compensation;

"2. To reimburse the claimant-widow the sum of P2,032.00 by way of burial and medical expenses;

"3. To pay Atty. Jose B. Corral, counsel for claimant Daet, Camarines Norte, the sum of P300.00 as attorney's

fee; and

"4. To pay this office the sum of P61.00 as administrative fee pursuant to Section 55 of said Act."

From this decision, the Office of the Solicitor General filed a motion for reconsideration dated October 21, 1975. The petitioner filed an opposition thereto dated November 12, 1975.

On February 12, 1976, the Workmen's Compensation Commission rendered the decision against the claimant, who instituted the present petition, which was treated by this COURT as a special civil action.

There is sufficient evidence that the claim for compensation was seasonably controverted by respondent (p. 1, Annex D, Petition; page 1, Annex A, Petition).

What is vital in this petition is the question of whether the heirs of the late Dionisio Magpantay are entitled to such compensation benefit, considering that he was laid off as a casual laborer on July 31, 1972 for lack of funds.

The Office of the Solicitor General contends that the present claim should be disallowed because the deceased stopped working "not because of any disability occasioned by his alleged ailment but because of lack of government funds for the project where he was then working. While it may be true that he had been suffering from PTB since 1969, the same has not disabled him from work."

This contention is without merit. To sustain this position would subvert the beneficent provisions of the Workmen's Compensation Act. All that Section 2 of said Act requires as ground for compensation, among others, is that the employee "x x x contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, x x x."

The factual findings of the Workmen's Compensation Unit, Regional Office No. V, Department of Labor, that the late Dionisio Magpantay contracted PTB and was treated for such ailment from April 10 to July 8, 1971, or for a period of 90 days are supported by the evidence on record. During said period he was in the active employ as a driver of the Provincial Engineer's Office, Province of Camarines Norte. Indeed, after he has "markedly improved", the same office employed him as a casual laborer from July, 1972 until he was laid off on July 31, 1972. Thus,

Dr. Benjamin Paleros testified:

"Q. On July 8, 1971 or approximate thereto, did you diagnose the condition of the patient?

"A. Yes, sir.

"Q. What was your finding?

"A. There was improvement on the patient after the treatment but the case of advanced PTB, there is always a scar or remains of the old lesion which will never return to normal. That is a healed PTB which could recur anytime if patient is exposed to unfavorable conditions.

"Q. When you say he has markedly improved, do you mean to say the ailment is arrested?

"A. Yes, sir.

"Q. And as such condition, (would) he be capable of doing work, say, (of) ordinary laborers which would entail too much physical exertion?

"A. Yes, sir.

"Q. For instance, what kind of work may he performed in this particular case of Dionisio Magpantay?

"A. Like painting can be done but to carry heavy load not advisable. I came to know later his work was to remove rust in the bridge.

"Q. At that time, rather, on July 8, 1971, what was the physical condition of the patient?

"A. It has markedly improved. The spitting of blood, anemia, loss of weight, cough and fever all disappeared.

"Q. How about the physical appearance of the patient?

"A. He had gained weight and strength.

"Q. What was his condition on July 8, 1971?

"A. There was marked improvement. The manifestations I have seen in him have disappeared. Anemia was arrested. Gained weight and hemoptysis stopped."

Even the respondent Workmen's Compensation Commission found that the deceased was treated in 1969 by Dr. Belen Zurbano for pulmonary tuberculosis (p. 14, rec.).

These circumstances demonstrate that the illness of the late Dionisio Magpantay supervened in the course of his employment and was aggravated by the nature of the work required of him, including removing rust in the bridge and ultimately causing his death on December 1, 1973 at the age of 66 *Simon vs. Republic of the Philippines* (Supreme Court) [L-42510, June 30, 1976], citing a very recent decision of this COURT, held:

"x x x assuming the employee's illness maybe ruled out an occupational disease or that the causal link between the nature of his employment and his ailment has been insufficiently shown, nevertheless, it is to be presumed as mandated by Section 44 of the Workmen's Compensation Act that the employee's illness which supervened during his employment either arose out of, or was at least aggravated by said employment and with this presumption, the burden of proofs shifts to the employer and the employee is relieved of the burden to show causation" (*Talip vs. WCC*, G.R. No. 425, May 31, 1976; see also *Maria Cristina Fertilizer Corp. vs. WCC*, 60 SCRA 228).

The Solicitor General, contending that Section 8 of the Workmen's Compensation Act grants death benefits if the disease "x x x causes his death within 2 years from the date of such x x x sickness, x x x", argued that the deceased in the instant case became ill in 1969 but died more than two years later on December 1, 1973. This contention is untenable.

It should be stressed that a claim for death benefits under the Workmen's Compensation Act prescribes in 10 years under the New Civil Code (*Central Azucarera Don Pedro vs. WCC and P. Villanueva*, L-24987, July 31, 1968, 24 SCRA 484; *National Development Company vs. Rongavilla and WCC*, L-21963, Aug. 30, 1967, 20 SCRA 1172; *Manila Railroad Company vs. Perez and WCC*, L-20171, June 29, 1965, 14 SCRA 504; and *LUZTEVECO vs. De Leon, et al.*, Nov. 28, 1959, 106 Phil. 562, 569).

The late Dionisio Magpantay was treated for PTB from 1969 to July 8, 1971. As testified to by Dr. Paleros, the previous ailment of PTB which the deceased was suffering from was arrested on July 8, 1971. Since he was allowed to work on July 1, 1972 by respondent until July 31, 1972, during which period the ailment recurred or was aggravated, the computation of the two-year period should start from July 31, 1972. *Earnshaw Docks and Honolulu Iron Works vs. Domingo Sortijas and the Workmen's Compensation Commission* (G.R. No. L-29375, Sept. 5, 1975) held that "for every recurrence thereof, a corresponding cause of action accrues in favor of the injured or sick employee and by this is meant that a recurrence, or even a mere reactivation in some cases, of an illness gives rise to a cause of action distinct and separate from the cause of action brought about by the illness as originally contracted."

It is of no moment that the claim for compensation was filed after the deceased has reached the compulsory age of retirement. A claim for death benefit is compatible with compulsory retirement from the service. Apart from the fact that the retirement of government officials and employees and the award of death benefits to them are governed by different laws and, therefore, should be treated separately one from the other, in Reynaldo vs. Republic of the Philippines (Bureau of Public Schools), et al. (L-43108, June 30, 1976), finding that claimant therein "went on sick and vacation leave from 1971 to sometime in 1972 when she finally retired at the age of 55 due to the further aggravation of her illness", this COURT sustained the award of compensation benefits after finding that therein petitioner's "illness was traceable to her working conditions which was attended by continuous and long use of her eyes in connection with her work and that her illness may have been aggravated by her employment."

WHEREFORE, THE DECISION OF THE RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY REVERSED AND SET ASIDE AND THE RESPONDENT DEPARTMENT OF PUBLIC HIGHWAYS IS HEREBY DIRECTED TO PAY:

1. THE CLAIMANT:

A. THE AMOUNT OF SIX THOUSAND (P6,000.00) PESOS AS COMPENSATION;

B. THE SUM OF TWO THOUSAND (P2,000.00) PESOS AS REIMBURSEMENT FOR MEDICAL AND BURIAL EXPENSES; AND

C. THE SUM OF EIGHT HUNDRED (P800.00) PESOS AS ATTORNEY'S FEES; AND

2. THE AMOUNT OF SIXTY ONE (P61.00) PESOS AS ADMINISTRATIVE FEES.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, Concepcion, Jr., and Martin, JJ., concur.

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