

**DELGADO BROTHERS, INC., PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION AND ESPERIDIONA VDA. DE
FERNANDEZ FOR HERSELF AND FOR HER MINOR SON, RUBEN
FERNANDEZ, RESPONDENTS.**

G.R. No. L-31759. November 29, 1972

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

This is an appeal by certiorari from a decision of the Chairman of the Workmen's Compensation Commission and a resolution of the Workmen's Compensation Commission, sitting en banc, affirming, in effect, said decision.

It is not disputed that, while lashing concrete products being loaded on a trailer, on September 17, 1967, at about 4:15 p.m., Ignacio Fernandez, who was employed as a rigger of Delgado Brothers, Inc., the petitioner herein, complained to Francisco Reyes, a fellow worker, that he felt dizzy; that Fernandez was immediately relieved and advised to go home; that, upon arrival thereat, he collapsed, and, hence, was forthwith taken to the MCU Hospital, where he died the next day due to cerebro-vascular hemorrhage.

On October 18, 1967, his widow, Esperidiona Vda. de Fernandez, on her behalf and that of their minor son, Ruben Fernandez, filed, with the Regional Office of the Workmen's Compensation Section of the Department of Labor, a notice and claim for compensation. Copy of said notice and claim were sent to the employer, petitioner herein, by registered mail; but, the envelope containing said notice and claim for compensation was, thereafter, returned unclaimed to its sender. It appears, however, that, through its insurance carrier, petitioner herein had filed its Employer's Report of Accident or Sickness with the Quezon City Sub-Regional Office of the Department of Labor, on September 26, 1967. Said report controverted the claim of Mrs. Fernandez, without stating any reason therefor.

On December 10, 1968, Atanacio A. Mardo, Acting Chief Referee and Chief of the Workmen's Compensation Section, Regional Office No. 4 of the Department of Labor, made an award, holding that the very data set forth in the Employer's Report of Accident or Sickness show that Ignacio Fernandez became ill while he was in the actual performance of his duties; that, because of the seriousness of the illness, he was taken to the hospital, where he died the following day; and that, according to the physician's report of sickness or accident, the cerebral hemorrhage that caused the death of Ignacio Fernandez was the result of the nature of his work. The dispositive part of said award reads as follows:

"In view of the foregoing facts, the controversion made in the letter of the insurance carrier dated September 22, 1967 and received on September 26, 1967 by the Quezon City Sub-Regional Office has been overcome by the admissions by the employer in its answers in the employer's report. The compensability, therefore, of the claim could hardly be doubted and claimants are entitled to the issuance of an award in accordance with the pertinent compensatory provisions of the Workmen's Compensation Act, as follows:

"1. Compensation equivalent to fifty (50%) per centum of the decedent's average weekly wage for the period

of 208 weeks. Fifty per centum of his average weekly wage which was P77.60 reduced to P50.00 (maximum allowed under the Act for computation purposes in death cases) equals P25.00 and for 208 weeks, the dependent should receive the amount of FIVE THOUSAND TWO HUNDRED and no/100 PESOS (P5,200.00).

"2. Reimbursement of burial expenses in the sum of TWO HUNDRED PESOS (P200.00).

"The check or money order covering payment of compensation to the claimants should be drawn in their favor and remitted to this Office.

"AWARD, therefore, is hereby entered and the respondent is directed to pay:

"1. To the claimant, thru this office, the total sum of FIVE THOUSAND FOUR HUNDRED and no/100 PESOS (P5,400.00) as compensation and reimbursement of burial expenses; and

"2. To this Office, the sum of P53.00 as fee pursuant to the provision of Section 55 of the Act. Our Bill No. W-442-68 is enclosed.

"SO ORDERED."

Petitioner herein filed a motion for reconsideration, which was denied on February 14, 1969, whereupon, the matter was elevated to the Workmen's Compensation Commission, whose Chairman affirmed said award in a decision dated October 30, 1969. Acting upon a motion of petitioner herein, for a reconsideration of this decision, the Commission, sitting en banc, denied said motion. Hence, this appeal on certiorari.

The main thrust of such appeal is that the afore-mentioned award was issued summarily, notwithstanding the timely controversion of private respondent's claim. We note, however, that petitioner's motion for reconsideration of said award was predicated only upon two grounds, namely: 1) that the Employer's Report of Accident or Sickness did not contain the admissions referred to in the award; and 2) that there was no proof that the claimants were dependents of the late Ignacio Fernandez. Neither claim is, however, true. Indeed, said Employer's Report of Accident or Sickness – copy of which is attached to the petition herein as Annex C – dated September 20, 1967, contained, inter alia, the following:

"x x x x x x x x

"16. Was he injured in regular occupation? Undetermined If not, state particular kind of work in which injured was engaged at the time of accident or sickness.

He was lashing concrete products being loaded onto trailer

"x x x x x x x x

"18. Place where accident occurred or sickness contracted Philstress Marikina, Rizal (place of optn)

19. Date of injury or sickness September 17, 1967 at 1615 hrs. M.

20. Date of disability began September 18, 1967 at ____M.

21. Was injured paid in full for this day? Yes

22. When did you or your foreman first know of injury or sickness? September 18, 1967

23. Name of foreman Ricardo L. Ortiz Superin-tendent

"x x x x x x x x

"28. Describe fully how accident happened, and state what employee was doing when injured Subject employee complained to Mr. Francisco Reyes, a fellow workman, that he felt dizziness. So, he was immediately relieved and was advised to go home. At 2000 hours, his son informed our Dispatch Office that said employee was brought to MCU Hospital, and cannot report for work.

"x x x x x x x x

"31. Nature and location of injury (Describe fully exact location of amputations or fractures, right or left) cerebro-vascular hemorrhage

"x x x x x x x x

What is more, said Employer's Report stated:

"40. Name and address of dependents:

Esperidiona Caparida Fernandez, Carlos Fernandez, Victoria Fernandez and Ruben Fernandez, all residing at 191 Int., Quirino Highway, Baesa, Quezon City"

And this was confirmed, insofar as private respondents herein are concerned, by complainant's affidavit of dependency, dated October 14, 1967, and filed on October 18, 1967. What is more, petitioner herein did not seek an opportunity to prove that the death of Ignacio Fernandez was not service-connected. Petitioner did not even claim that it had evidence to this effect, or submit an affidavit of merits showing that it had a good defense and the nature of its evidence in support thereof. It is, also, noteworthy that petitioner herein has not assailed, either in its motion for reconsideration of the award or in its motion for reconsideration of the decision of the Chairman of the Commission, the statement in the award to the effect that "the Physician's Report of Sickness or Accident admits that the sickness of cerebral hemorrhage was the result of the nature of the worker's employment."

Lastly, having been contracted while in the performance of his duties, and, hence, in the course of employment, it is presumed that the illness of Fernandez was due to, or had arisen out of, his employment.[1] There is absolutely nothing in the record to offset this presumption.

WHEREFORE , the appealed decision of the Chairman of the Commission and the contested resolution of the Commission en banc are hereby affirmed, with costs against petitioner herein.

IT IS SO ORDERED.

Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

[1] Vargas vs. Philippine American Embroideries, Inc., L-23762, Aug. 31, 1970; Iloilo Dock and Engineering Co. vs. WCC, L-26341, Nov. 27, 1966; Isberto vs. Republic, L-22769, Aug. 30, 1968; M R Co. vs. Rivera, L-23021, May 29, 1968; Rebar Bldgs., Inc. vs. WCC, L-27486, April 30, 1968; Abana vs. Quisumbing, L-23489, Mar. 27, 1968; Magalona vs. WCC, L-21849, Dec. 11, 1967; NDC vs. Ayson, et al., L-23450, May 24, 1967; Justiniano vs. WCC, L-22774, Nov. 21, 1966; Santos, Inc. vs. Sapon, etc., et al., L-22220, April 29, 1966; Hernandez vs. WCC, L-20202, May 31, 1965.

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