

GLICERIA C. CASUMPANG, PETITIONER, VS. EMPLOYEES COMPENSATION COMMISSION, GOVERNMENT SERVICE INSURANCE SYSTEM AND BUREAU OF PRISONS, RESPONDENTS.

G.R. No. L-48664. May 20, 1987

Ponente: GUTIERREZ, JR. J.

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GUTIERREZ, JR. J.:

This is a petition to review the decision of the Employees' Compensation Commission in ECC Case No. 0713 entitled "Glicerica C. Casumpang v. Government Service Insurance System (Bureau of Prisons)" which affirmed the decision of the Government Service Insurance System and denied the claim for death benefits of Glicerica C. Casumpang, widow of the late Jose Calumpang.

The assailed decision of the Employees' Compensation Commission is as follows:

"The questioned decision denied the claim for compensation originally filed by the deceased appellee, Jose Casumpang, then working as Prison Guard of the Bureau of Prisons with assignment at the San Ramon Prison and Penal Farm, Zamboanga City. Upon its conversion to a claim for income benefits for death following the demise of said Jose Casumpang due to Cancer of the Stomach, the claim is now being prosecuted (sic) on appeal to this Commission by the herein appellant-widow, Glicerica Casumpang.

"The System's denial of the appellant's claim was predicated on the ground that the cause of death is not an occupational disease nor the result of the deceased's nature of occupation as Prison Guard. This is the gist of the System's letter-denial dated August 5, 1976, reiterated in its resolutions dated October 4, 1976 and August 18, 1977, respectively, therein further denying the requests for reconsideration of the appellant.

"The preponderance of mandatory legal postulate requiring proof of causation once an ailment upon which a claim is based is not considered an occupational disease as defined and understood under Presidential Decree No. 626, as amended, would subserve the respondent System's findings that the above-titled claim is not compensable. The conclusion of the respondent System cannot be faulted. From even the cursory reading of the record, the evidences (sic) submit-*ted* by the appellant in support of her claim would fail to indicate that the cause of death is an occupational disease, noting further thereon that the work of the deceased did not involve handling of wood products such as those of wood workers, loggers, carpenters and employees of ply-wood, pulp and paper mills. Neither did these evidences (sic) measure up to the substantial and positive evidence require-ment for a determination of compensability, since there is no showing that the risk of contracting gastric carcinoma was increased by the deceased's working conditions.

"The contention of the appellant that compensability is presumed once the ailment is shown to have supervened in the course of employment cannot be accorded merit. The doctrine of presumptive compensability which was then expressly provided under the old Workmen's Compensation Act (Act 3428) is not recognized under Presidential Decree No. 626, as amended, the present law on employees' compensation. In the latter law, proof of causation by the claimant is imperative, such burden being incompatible with the presumption of compensability.

"FOR ALL THE FOREGOING, the decision appealed from should be, as it is hereby AFFIRMED, and the instant claim dismissed." (Original Records, Decision of ECC).

The main issue in the case at bar is whether or not cancer of the stomach is an occupational disease and hence, compensable under Presidential Decree No. 626, as amended.

This case falls under the New Labor Code, which fact is admitted by the petitioner herself (Calumpang's Petition for Certiorari, p. 3).

After a close perusal of the records of the case, nowhere does it appear that Jose Casumpang contracted his disease or ailments before January 1, 1975. There are no medical findings, reports, affidavits or any indication that he was suffering from any pain or discomfort prior to the effectivity of the Labor Code which by liberal interpretation may have worked in his favor.

There is no dispute that prior to his demise, Jose Casumpang had ruptured duodenal ulcer with generalized peritonitis. This condition according to medical findings on record, worsened into cancer of the stomach which disease finally caused his death. The former ailment was officially diagnosed in June 28, 1976. In his medical history, this was traced to hematemesis and melena which began in November 1975. In other words, all of his ailments were after January 1, 1975.

It is Presidential Decree No. 626, as amended, therefore, which is applicable in this case and not the Workmen's Compensation Act.

It is important to determine which law is applicable.

Under the former Workmen's Compensation Act or Act No. 3428 as amended, the claimant was relieved of the duty to prove causation as it was then legally presumed that the illness arose out of the employment, under the presumption of compensability (*Tortal v. Workmen's Compensation Commission*, 124 SCRA 211).

However, under the new law, the principles of aggravation and presumption of compensability have been stricken off by the lawmaker as grounds for compensation (*Milano v. Employees' Compensation Commission*, 142 SCRA 52).

Under Article 167 (b) of the New Labor Code and Section 1 (b), Rule III of the Amended Rules on Employees' Compensation, for the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease listed under Annex "A" of the Rules with the conditions set therein satisfied; otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions (*De Jesus v. Employees' Compensation Commission*, 142 SCRA 92).

Under the Labor Code, cancer of the stomach is not an occupational disease considering the decedent's employment as prison guard.

We agree with the Solicitor General that:

"x x x In ECC Resolution No. 247-A dated April 13, 1977, cancer of the stomach and other lymphatic and blood forming vessels was considered occupational only among woodworkers; wood products industry carpenters, loggers and employees in pulp and paper mills and plywood mills. The complained illness is therefore not compensable under the first ground provided in the Labor Code.

"Under the second ground for compensability, it should be shown that an illness is caused by employment and that the risk of contracting the same is increased by working conditions. In her letter dated December 6, 1977 to respondent ECC (Annex B), petitioner claims that her deceased husband escorted inmates to work in the hinterlands of San Ramon; that at times he was overtaken by rain; that he had to work at night in case of prison

escapes, and that he missed his meals owing to the nature of his duties. It should be noted however, that said conditions do not bring about cancer of the stomach. On the ailment of Jose Casumpang, the GSIS found that the evidence (you have) submitted are not sufficient for us to establish that his ailment is the direct result of your occupation or employment as Prison Guard in the Bureau of Prisons, Zamboanga City (GSIS letter dated August 5, 1976, *supra*.) This was reiterated by the GSIS in its letter dated October 4, 1976 denying a request for reconsideration. Thus: 'On the basis, (however), of the papers and evidence on record which you have submitted, it appears that you have not established that your employment had any causal relationship with the contraction of the ailment'. Petitioner did not demonstrate that the adverse conditions mentioned above had direct causal connection with his job which would develop into cancer of the stomach." (Rollo, pp. 125-126)

The case of *Aninias v. Workmen's Compensation Commission*, (83 SCRA 806) cited by the petitioner is not applicable to the case at bar as the former case applied the Workmen's Compensation Act. The petitioner's arguments more properly apply to claims falling under the old law.

WHEREFORE, the petition is DISMISSED. The decision of the Government Service Insurance System and the Employees' Compensation Commission denying the claim are AFFIRMED. No costs.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

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