

**CARLOS MESINA, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES
(BUREAU OF CUSTOMS, DEPARTMENT OF FINANCE), THE
WORKMEN'S COMPENSATION COMMISSION (DEFUNCT),
ASSOCIATE COMMISSIONER ...**

G.R. No. L-43517. May 31, 1979

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Workmen's Compensation Commission in RO4-WC Case No. 157456 entitled "Carlos Mesina, Claimant, versus, Republic of the Philippines (Bureau of Customs), Respondent" reversing the decision of the Acting Referee of Regional Office No. 4 of the Department of Labor at Manila and dismissing the case.[1]

On August 8, 1974, Carlos Mesina filed a Notice of Injury or Sickness and Claim for Compensation with Regional Office No. 4 of the Department of Labor at Manila seeking to recover from the Republic of the Philippines (Bureau of Customs, Department of Finance), disability compensation benefits for having contracted in the course of his employment pulmonary tuberculosis, peptic ulcer, Rheumatoid Arthritis and coronary insufficiency which ailments were allegedly caused by or aggravated by his employment.

The Office of the Solicitor General acknowledged receipt of copies of the notice and claim on August 21, 1974. A copy of said notice and claim was sent to the Commissioner of Customs. However, no answer was filed by the respondent. Nevertheless, the case was set for hearing on the merits and the respondent was notified thereof.[2]

At the hearing, the claimant presented evidence to support his claim. The respondent, Bureau of Customs, did not adduce any evidence to rebut the evidence of the claimant.

The Acting Referee rendered his decision dated August 8, 1975 the dispositive part of which reads:

"WHEREFORE, premises considered, judgment is rendered in favor of the claimant and ordering the Bureau of Customs:

- 1) To pay the claimant, Carlos Mesina, thru this Office, the sum of SIX THOUSAND (P6,000.00) Pesos, as disability compensation benefits under Sections 14 and 18 of the Act; and the additional sum of P2,470.60 as re-imbursement of medical expenses under Section 13 of the Act;
- 2) To pay Atty. Ricardo M. Perez the sum of P300.00 as Attorney's fees; and
- 3) To pay this Office the sum of P61.00 as administrative and decision fees pursuant to Section 55 of the Act."

The facts, as found, by the Acting Referee are:

"That the claimant, Carlos Mesina, was employed as Clerk II in the Bureau of Customs. He first entered the

service of the respondent in July, 1948. He was required to undergo the routine pre-employment medical examinations and was found physically fit for work. As Clerk II his duties included among others the receiving and filing of Memorandum Orders, administrative Orders, letters, documents of importation called Entry Papers and have them distributed to Assessors so as not to hamper the release of goods or cargoes. He worked five (5) days a week from 8:00 A.M. to 5:00 P.M.. His last monthly salary was P400.00. On October 2, 1972 the claimant stopped working due to physical disability on account of his ailments which later were diagnosed as PTB, minimal, probably active, peptic ulcer, Rheumatoid arthritis and coronary insufficiency.

The claimant testified that he started to feel the symptoms of his ailments of PTB as early as 1965. He had himself x-rayed at the San Lazaro Hospital. The second x-ray examination was in 1970 and was found positive for PTB. He was prescribed medicines like Enervon C and was administered streptomycin injections. This was followed later by attacks of Coronary Insufficiency, Rheumatoid Arthritis and Peptic Ulcer. For his medical treatment claimant has spent over three thousand pesos.

On July 28, 1975 claimant was subjected to x-ray and medical examinations at the National Tuberculosis Center Clinic and was found still positive of PTB, minimal, probably inactive. The Compensation Rating Medical Officer rated claimant's disability at 12% of non-scheduled disability, on the basis of the chest x-ray findings at the National Tuberculosis Center Clinic.

Of his claim for medical expenses only the sum of P2,470.60 is supported by receipts supported by the statement of Dr. Francisco S. Cunanan, Jr.

Up to now the claimant is still out of work and has not been engaged in any gainful occupation."[4]

The respondent, Republic of the Philippines (Bureau of Customs, Department of Finance), appealed to the Work-men's Compensation Commission which reversed the decision of the Acting Referee and dismissed the case.

The petitioner assigns errors allegedly committed by the Workmen's Compensation Commission:

" I

THAT THE HONORABLE RESPONDENT COMMISSIONERS OF THE WORKMEN'S COMPENSATION COMMISSION (DEFUNCT) GRAVELY ERRED IN NOT HAVING TAKEN INTO CONSIDERATION THE FACT THAT THE SOLICITOR GENERAL'S OFFICE, AS COUNSEL FOR THE RESPONDENT BUREAU OF CUSTOMS, DEPARTMENT OF FINANCE, HAD NOT INDICATED IN THE MOTION FOR RECONSIDERATION THE TIMELINESS OF THE FILING OF ITS SAID MOTION GIVING THE IMPRESSION THAT THE SAID MOTION FOR RECONSIDERATION (ANNEXES C and C-1) WAS FILED OUT OF TIME AND THUS THE DECISION OF THE REGIONAL REFEREE (ANNEXES B, B-1, B-2 and B-3) HAD ALREADY BECOME FINAL AND EXECUTORY AND BEYOND THE AUTHORITY OF THE RESPONDENT COMMISSIONERS TO REVIEW OR DISTURB

" II

THAT GRANTING ARGUENDO THAT THE HONORABLE COMMISSIONERS MAY STILL POSSESS JURISDICTION TO REVIEW THE REFEREE'S DECISION (ANNEXES B THRU B-3) STILL THE HONORABLE COMMISSIONERS SERIOUSLY ERRED IN NOT HAVING TAKEN INTO CONSIDERATION THE FINDINGS AND RECOMMENDATIONS OF ITS REGIONAL COMPENSATION RATING MEDICAL OFFICER WHO HAS PERSONAL VIEW OF THE CONDITIONS OF HEREIN PETITIONER WHEN HE WAS EXAMINED AND WHO HAD EVALUATED CORRECTLY HIS DISABILITY FOR LABOR

" III

THAT THE HONORABLE RESPONDENT COMMISSIONERS ALSO GRAVELY ERRED IN NOT HAVING TAKEN INTO CONSIDERATION THE MEDICAL EVIDENCES SUBMITTED BY HEREIN PETITIONER IN SUPPORT OF HIS CLAIM FOR DISABILITY COMPENSATION BENEFITS CONSIDERING THAT THE SAID DOCUMENTARY EVIDENCE WAS NOT REBUTTED NOR OVERTHROWN BY RESPONDENT BUREAU OF CUSTOMS OF ITS COUNSEL OF RECORD WITH OTHER COMPETENT, MATERIAL, RELEVANT EVIDENCE

" IV

THAT THE HONORABLE RESPONDENT COMMISSIONERS FINALLY ERRED IN NOT APPLYING SECTION 45 OF ACT NO. 3428, AS AMENDED WHEN THE RECORDS OF THIS CASE SHOW CLEARLY THAT THE APPLICABILITY OF THE AFORECIDED PROVISION OF THE ACT IS IMPERATIVE IN THE CIRCUMSTANCES"[5]

The Workmen's Compensation Commission reversed the decision of the Acting Referee because:

"The decision under review must be reversed for the following reasons, to wit: (1) Claimant miserably failed to prove by substantial evidence that he suffered disability for labor due to his alleged ailments which started sometime in 1965 and after about seven (7) years had elapsed stopped working only on October 6, 1972 and since then no showing that he returned to work; (2) Exhibit 'A', Physician's report of sickness dated only on June 19, 1975, submitted and signed by Dr. Francisco S. Cunanan of Manila, claimant's attending physician, clearly shows that Dr. Cunanan first treated him for PTB, chronic, minimal, active in May 1970 and his second treatment took place on June 11, 1975, which even a layman in his right senses would not dare to admit; (3) if it were true that he suffered several illnesses which caused disability for labor, claimant failed to present sick leave of absences to back-up his claim and not even an X-ray examination report is likewise presented and offered in evidence; (4) it is safe to infer that his disability for labor only commenced when he stopped working on October 6, 1972 when he was over 56 years; and (5) his other alleged ailments of peptic ulcer, rheumatoid arthritis and coronary insufficiency are not disabling ailments unless they become serious."[6]

The petition for review is meritorious. It is not necessary to discuss the technical question of whether or not the Workmen's Compensation Commission acquired jurisdiction over the appeal of the respondent Republic of the Philippines (Bureau of Customs) from the decision of the Acting Referee.

The undisputed fact is that the illnesses of the petitioner supervened during his employment with the respondent, Republic of the Philippines (Bureau of Customs). Hence, there is a disputable presumption that the claim is compensable.[7] The claimant is relieved of the duty to prove causation as it is then legally presumed that the illness arose out of the employment. To the employer is shifted the burden of proof to establish that the illness is non-compensable.[8]

There is no showing that the respondent, Republic of the Philippines (Bureau of Customs), controverted the claim. The Acting Referee that conducted the hearings stated in his decision that "Until this time, however, no answer has been filed by the respondent."[9] In view thereof, said respondent is deemed to have renounced all non-jurisdictional defenses.[10]

The claimant, petitioner herein, did not rely on the disputable presumption alone. He presented evidence that he acquired his illnesses as a result of the nature of his employment in the Bureau of Customs. The respondent, Republic of the Philippines (Bureau of Customs), did not rebut the disputable presumption and the evidence adduced by the petitioner.

The Acting Referee awarded to the claimant, petitioner herein, the following:

"Under Section 14 of the Act, claimant shall be entitled to disability compensation benefits equivalent to 60% of his average weekly wage which was P92.30 (P400.00 x 12 divided by 52 weeks). Sixty (60%) per cent of P92.30 is P55.38 and for 151 weeks of temporary total disability from October 2, 1972 to August 6, 1975 claimant shall be entitled to the sum of P8,362.38;

"Under Section 18 of the Act, claimant's disability was evaluated at 12% of non-scheduled disability or equivalent to 24.96 weeks. Fifty (50%) per cent of P92.30 is P46.15 and for 24.96 weeks claimant shall be entitled to the sum of P1,151.80;

"Under Sections 14 and 18 of the Act, claimant shall be entitled to the aggregate sum of P9,514.18 but this amount is reduced to P6,000.00, the maximum fixed by the Act;

"Under Section 13 of the Act, claimant shall be entitled to reimbursement of medical expenses. But of the amount of P3,000.00 prayed for we are granting only the amount of P2,470.60, the same being the only amount supported by official receipts and other documents.

"Atty. Ricardo M. Perez, claim-ant's counsel, shall be entitled to attorney's fees of P300.00 pursuant to Section 31 of the Act." [11]

The foregoing computation is correct except that the attor-ney's fees should be 10% of the amount awarded as disability compensation.

WHEREFORE, the decision appealed from is hereby set aside and the respondent, Republic of the Philippines (Bureau of Customs, Department of Finance), is ordered:

- 1) To pay the petitioner, Carlos Mesina, the sum of Six Thousand Pesos (P6,000.00) as disability compensation benefits;
- 2) To pay the petitioner the additional sum of Two Thousand Four Hundred Seventy Pesos and 60/100 (P2,470.60) as reimbursement for medical expenses if supported by proper receipts;
- 3) To pay the petitioner the sum of Six Hundred Pesos (P600.00) attorney's fees; and
- 4) To pay the successor of the Workmen's Compensation Commission the sum of Sixty-One Pesos (P61.00) as administrative fee.

SO ORDERED.

Teehankee, (Chairman), Guerrero, De Castro, and Melencio-Herrera, JJ., concur.
Makasiar, J., concurs in a separate opinion.

[1] Annex "E", Rollo, pp. 24-26.

[2] Annex "B", Rollo, p. 17.

[3] Annex "B-3", Rollo, p. 20.

[4] Annex "B", Rollo, pp. 17-18.

[5] Petition, Rollo, p. 2.

[6] Annex "E-1", Rollo, p. 25.

[7] Section 44, Workmen's Compensation Act; Justiniano vs. Workmen's Compensation Commission, 18 SCRA 677.

[8] Balanga vs. Workmen's Compensation Commission, et al., 83 SCRA 721.

[9] Annex "B", Rollo, p. 17.

[10] Lominog Dinero vs. Workmen's Compensation Commission, et al., 70 SCRA 292.

[11] Rollo, p. 20.

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SEPARATE CONCURRING OPINION

MAKASIAR, J.:

I concur with the additional opinion that the respondent employer should likewise be directed to continuously provide the claimant with such medical, surgical and hospital services as well as appliances and supplies as the nature of his disability and the progress of his recovery may require and which will promote his early restoration to the maximum level of his physical capacity. It is my consistent view that the provisions of Section 13 of the Workmen's Compensation Act, as amended, and Article 185 of the New Labor Code confer such right on the disabled employee, whether his disability is temporary or permanent. This is in compliance with the social justice guarantee of both the 1935 and 1973 Constitutions and in obedience to the directive of Article 4 of the New Labor Code that "all doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor", which is a re-statement of existing jurisprudence as well as Article 1702 of the New Civil Code. To limit such right to a temporarily disabled employee would inflict gross injustice on those permanently disabled, who still need to be relieved from the pain, trauma, social ostracism or humiliation generated by such permanent disability.

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