

DOLORES I. RUIVIVAR, PETITIONER, VS. SOCIAL SECURITY SYSTEM (SSS), (PHILIPPINE TRANSMARINE CARRIERS INCORPORATION), RESPONDENTS.

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GALAPATE-LAGUILLES, J:

For review under Rule 43 of the Rules of Court is the Decision[1] dated 29 October 2012 of the Employees' Compensation Commission (ECC) in ECC Case No. SM-19022-0917-12, which affirmed on appeal the decision of respondent Social Security System denying petitioner Dolores I. Ruivivar's claim for death benefits under Presidential Decree (PD) No. 626 (Employees Compensation Law), as amended.

The facts follow.

Jonathan I. Ruivivar was employed, on an intermittent basis, by the Philippine Transmarine Carrier, Inc. as seafarer-oiler since 2005.[2] In March 2011, PTCI hired Jonathan as an oiler on board the vessel “Navigator of the Seas” from 2 March 2011 until 15 July 2011. Prior to his employment, Jonathan underwent the customary pre-employment medical examination on 22 February 2011, wherein his Medical Examination Record[3] revealed that he was “fit for sea duty.”

As an oiler, Jonathan was tasked with the following duties and responsibilities, viz: (1.) performs engine room watch in port and underway particularly onboard ships propelled by steam or diesel engine; (2.) oils and greases moving parts, such as gears, shafts, and bearings of engines and auxiliary equipment used to propel maritime vessels; (3.) examines machinery with grease and lubricating oil, according to machinery lubrication instruction; (4.) reads pressure, RPM and temperature gauges and records data in Engineering logbook; (5.) assists Engineer in routine preventive maintenance works and adjusting machinery; (6.) may lubricate deck machinery when vessel is in loading and unloading operations; (7.) assists in the proper operation, maintenance and repair of other deck/engine room machinery; (8.) assists in the receipt and control of fuel, lubricants and engine spare parts and consumables; (9.) assists in dry-docking, repair of some engine room machinery and equipment under the direction of the First Engineer; and (10.) does other related jobs as directed by superior officers.[4]

On 24 October 2011, Jonathan underwent L3 Corpectomy/Titanium Cage Reconstruction and Plating L2-L4 surgery at the Manila Doctors Hospital due to compression fracture L2-L3 probably secondary to Metastatic CA.[5] He subsequently underwent incision biopsy of scalp mass on 17 November 2011.[6]

On 31 January 2012, Jonathan died at the Manila Doctors Hospital due to the following causes, to wit:

Immediate Cause : Acute respiratory failure, secondary to

Antecedent Cause : Ascending paralysis, secondary to

Underlying Cause : Spinal Cord Compression due to Multiple Myeloma[7]

On 29 May 2012, the petitioner filed a claim for death benefits[8] before the SSS-Malabon City Branch. The said branch, however, denied the claim on the ground that there was no causal relationship between the job of Jonathan

as an oiler and his fatal ailment.[9]

On 7 June 2012, petitioner wrote[10] the Employees' Compensation Commission requesting for its assistance on the denial of her claim, which was indorsed[11] on 8 June 2012 to the SSS-Medical Operations Department (SSS-MOD).

On 7 September 2012, the SSS-MOD denied petitioner's claim for death benefits on the following basis, to wit:

Mother's claim for the EC benefit for the death of member to MULTIPLE MYELOMA was denied by the SYSTEM. Said illness that caused member's death was not causally related to his job as OILER. Also, multiple myeloma is not included in the list of occupational diseases.[12]

On appeal, the ECC also denied petitioner's claim in its Decision dated 12 October 2012.

Hence, this Petition for Review.

The issue in this case is whether or not the SSS erred in denying the petitioner's claim for death benefits on the ground that there is no causal relationship between the nature of Jonathan's job as an oiler and his illness which is not included in the list of occupational illnesses.

The Petition is impressed with merit.

P.D. No. 626, as amended, defines compensable sickness as "any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment subject to proof by the employee that the risk of contracting the same is increased by the working conditions." Under 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 same must be an "occupational disease" included in the list provided (Annex "A"), with the conditions set therein satisfied; otherwise, the claimant must show proof that the risk of contracting it is increased by the working conditions. Otherwise stated, for sickness and the resulting death of an employee to be compensable, the claimant must show either: (1) that it is a result of an occupational disease listed under Annex "A" of the Amended Rules on Employees' Compensation with the conditions set therein satisfied; or (2) if not so listed, that the risk of contracting the disease is increased by the working conditions.[13]

In this case, the underlying cause of Jonathan's death was multiple myeloma which is not among the Occupational Diseases listed under Annex A of the Amended Rules on Employees Compensation. This being so, it is now incumbent upon petitioner to adduce substantial proof to show that Jonathan's employment or working condition increased the risk of contracting the disease.

Multiple myeloma is a hematologic (blood) cancer that develops in the bone marrow. Myeloma is a cancer of the plasma cells, which are one of the many types of blood cells that arise from the stem cells in bone marrow. Plasma cells are responsible for producing antibodies (immunoglobulins) which are critical for maintaining the body's immune system.[14] Multiple myeloma causes cancer cells to accumulate in the bone marrow, where they crowd out healthy blood cells. Rather than produce helpful antibodies, the cancer cells produce abnormal proteins that can cause kidney problems.[15]

The risk factors for multiple myeloma are not conclusive, because the cause of multiple myeloma is not known. Researchers believe that multiple myeloma is most likely the result of many risk factors acting together. There are, however, some factors that may be associated with an increased risk of developing multiple myeloma. These multiple myeloma risk factors include genetic factors, prevalence of MGUS, occupational exposure, age, race, and gender.[16] Some multiple myeloma research has suggested that myeloma may be associated with a decline in the immune system, specific occupations, exposure to certain chemicals, and exposure to radiation. For

example, the likelihood of multiple myeloma is higher than average among people in agricultural occupations, petroleum workers, workers in leather industries, and cosmetologists. Exposure to herbicides, insecticides, petroleum products, heavy metals, plastics, and various dusts including asbestos also appear to be risk factors for the disease. However, none of these associations is strong, and in most cases, multiple myeloma develops in individuals who have no known risk factors.[17]

In the case at bar, the Court finds sufficient proof of work connection between the ailment of the deceased and his working conditions. It is noteworthy that Jonathan was employed by PTCI, on intermittent basis, as an oiler since 2005 or for about six (6) years from his last contract. It cannot be denied also then that his work as an oiler required him to be exposed to petroleum products and harmful elements relative to, among others, the oiling and greasing of engine parts used to propel maritime vessels, examining machineries with the use of grease and lubricating oil, and routine maintenance of the ship's engine and other equipment. As aptly argued by the petitioner, the constant inhalation by Jonathan of noxious gases and exposure to petroleum products since his employment with PTCI for almost six (6) years had clearly increased his risk of contracting multiple myeloma.[18] It does not appear from the records also that Jonathan had a family history of cancer. Indubitably, his continuous exposure to the conditions of his employment logically led to the deterioration of his health and his untimely demise. As we see it then, the petitioner was able to prove by substantial evidence her entitlement to death benefits under PD No. 626.

In arriving at this conclusion, it bears accent that the degree of proof required under P.D. No. 626 is merely substantial evidence, which means, "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." What the law requires is a reasonable work-connection and not a direct causal relation. It is enough that the hypothesis on which the workman's claim is based is probable. Medical opinion to the contrary can be disregarded especially where there is some basis in the facts for inferring a work-connection. Probability, not certainty, is the touchstone.[19] It is not required that the employment be the sole factor in the growth, development or acceleration of a claimant's illness to entitle him to the benefits provided for. It is enough that his employment contributed, even if to a small degree, to the development of the disease.[20] We cannot close our eyes to any reasonable work-related connection of Jonathan's work as an oiler vis-à-vis his ailment. Any doubt on this matter has to be interpreted in favor of the employee, considering that P.D. No. 626 is a social legislation.[21]

As a final note, We find it necessary to reiterate that P.D. No. 626, as amended, is a social legislation whose primordial purpose is to provide meaningful protection to the working class against the hazards of disability, illness and other contingencies resulting in the loss of income. Thus, as the official agents charged by law to implement social justice guaranteed by the Constitution, the ECC and the SSS should adopt a liberal attitude in favor of the employee in deciding claims for compensability especially where there is some basis in the facts for inferring a work connection with the illness or injury, as the case may be. It is only this kind of interpretation that can give meaning and substance to the compassionate spirit of the law as embodied in Article 4 of the New Labor Code which states that all doubts in the implementation and interpretation of the provisions of the Labor Code including its implementing rules and regulations should be resolved in favor of labor.[22]

HEREFORE, premises considered, the instant Petition for Review is hereby GRANTED. The assailed Decision dated 29 October 2012 of the Employees' Compensation Commission in ECC Case No. SM-19022-0917-12 is REVERSED and SET ASIDE. Accordingly, the Social Security System is DIRECTED to pay petitioner Dolores I. Ruivivar the proper benefits for the death of Jonathan I. Ruivivar.

SO ORDERED.

Punzalan Castillo, M.P., Chairperson, and Macalino, F.S., JJ., concur.

- [1] Rollo, pp. 26-33, Annex “A” to the Petition.
- [2] See Employment History, id., p. 40, Annex “C-4” to the Petition.
- [3] Id., p. 52, Annex “C-16” to the Petition.
- [4] See Job Description, id., p. 50, Annex “C-H” to the Petition.
- [5] See Record of Operation, id., p. 45, Annex “C-9” to the Petition.
- [6] See Record of Operation, id., p. 46, Annex “C-10” to the Petition.
- [7] See Certificate of Death, id., p. 62, Annex “C-26” to the Petition.
- [8] See Death Claim Application, id., pp. 34-35, Annex “B” to the Petition.
- [9] See Recommendation, id., pp. 37-39, Annex “C-1” to “C-3.”
- [10] See Letter of petitioner to the ECC, id., p. 42, Annex “C-6” to the Petition.
- [11] See 1st Indorsement dated June 8, 2012, id., p. 69, Annex “C-33” to the Petition.
- [12] Id., p. 36.
- [13] Government Service Insurance System (GSIS) v. Vicencio, G.R. No. 176832, May 21, 2009.
- [14] <http://www.themmr.org/multiple-myeloma/what-is-multiple-myeloma/multiple-myeloma-definition/>
- [15] <http://www.mayoclinic.org/diseases-conditions/multiple-myeloma/basics/definition/con-20026607>.
- [16] <http://www.themmr.org/multiple-myeloma/multiple-myeloma-causes/myeloma-risk-factors/>
- [17] Id.
- [18] Rollo, p. 16.
- [19] Government Service Insurance System v. Vicencio, supra.
- [20] Id.
- [21] Government Service Insurance System v. Valenciano, G.R. No. 168821, April 10, 2006.
- [22] Obra v. Social Security System, G.R. No. 147745, April 9, 2003.

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