

ISABEL Q. JUECO, PETITIONER, VS. FELICIDAD FLORES, RESPONDENT.

G.R. No. L-19325. February 28, 1964

Ponente: BARRERA, J.

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BARRERA, J.:

This is a petition to review on certiorari the decision of the Workmen's Compensation Commission dated October 17, 1961, as well as its resolution en banc of December 19, 1961 in WCC Case No. 226.

On April 21, 1958, respondent Felicidad Flores (claimant-mother of the deceased Emiliano Flores) filed with the Department of Labor (Regional Office No. 3) a complaint against Isabel Q. Jueco alleging, inter alia, that the latter was the owner and operator of passenger pick-ups and cargo trucks; that her son, the deceased Emiliano Flores, had been in the employ of said Jueco as a truck helper from April 23, 1957; that on April 25, 1957, while said deceased was "engaged in the performance of his duty with other co-employees, he was pinned down between two trucks owned and operated by petitioner, thereby "causing his death"; and that she is entitled to compensation under the Workmen's Compensation Act (Act No. 3428, as amended) in the sum of P4,000.00, but petitioner refused and failed to pay her. Claimant prayed that judgment be rendered against Jueco ordering the latter to pay her P4,000.00 as compensation, and such other relief as may be just and proper.

To this complaint, petitioner filed an answer (on January 22, 1959) alleging as special defenses that the deceased Emiliano Flores "has never been employed" by her and, therefore, "there existed no relation of employer-employee between her and the deceased"; that petitioner as owner of the truck involved in the accident wherein the deceased was killed "has settled the claim" of respondent, the latter having executed a document of release and waiver of entire satisfaction, thereby releasing petitioner from any and all claims whatsoever, suits, actions, and liabilities which have or may arise by reason of said accident; and that whatever consideration was given by petitioner to respondent in connection with the death of the deceased, was on account of her subsidiary liability as employer of the driver of the truck that caused the accidental death of the deceased, and not as alleged employer of the deceased, because in truth and in fact, the deceased "has never been employed" by petitioner. Petitioner prayed for the dismissal of the complaint.

Issues having been joined, the case was tried and after trial, the Hearing Officer (Paulino S. Perez) rendered a decision (on October 29, 1959) finding that the deceased "worked for and in furtherance of the business" of petitioner, and that he died "from accident arising out of and in the course of his employment", and consequently, his dependent mother (herein respondent) was entitled to death benefits under the Workmen's Compensation Act. Petitioner was ordered to pay to respondent the sums of P2,496.00 as compensation and P200.00 as burial expenses.

Dissatisfied with this decision of the Hearing Officer, petitioner elevated the case to the Workmen's Compensation Commission. On October 17, 1961, the Commission rendered a decision modifying that of the Hearing Officer, by ordering petitioner to pay to respondent P1,996.80 as compensation, P200.00 as burial

expenses, and P149.76 as attorney's fees.

Petitioner filed a motion for reconsideration of said decision, on the ground that the following findings of fact were not supported by substantial evidence: (1) the employer-employee relationship between petitioner and the deceased; and (2) the actual and full dependency of respondent on the deceased at the time of the injury which caused his death. Said motion for reconsideration was denied by the Workmen's Compensation Commission in its resolution en banc of December 19, 1961.

On January 6, 1962, petitioner filed with us the present petition for review. Petitioner claims that the Workmen's Compensation Commission erred:

- (1) In finding; the existence of employer-employee relationship between petitioner and the deceased son of the respondent at the time of the accident, without any substantial evidence in support thereof, substantial evidence being to the contrary.
- (2) In failing, contrary to law and precedents, to order the deduction from the awarded amount of compensation of the sum of P400.00 admittedly received by respondent from petitioner as re- presented by the waiver and release. Annex C-1.
- (3) In finding that respondent was fully dependent upon Emiliano Flores at the time of the accident without any substantial evidence in support thereof, substantial evidence being to the contrary.
- (4) In awarding the attorney's fees as part of the decision in this case, without any basis in law.

In regard to the first assigned error, we find the finding of the Workmen's Compensation Commission as to the existence of employer-employee relationship between petitioner and the deceased at the time of the accident, amply supported by substantial evidence. As stated by the Commission:

"In denying any contractual relationship with the deceased workman, the respondent (herein petitioner) swore that although said Emiliano Flores was recommended by Pepito Banaga she did not, in reality, hire him because it appeared that he was inexperienced in the line of work he was applying for. To fortify her stand, the respondent (herein petitioner) presented the payroll covering the period from April 1 to April 30, 1957 (Exh. 2) which did not contain the name Emiliano Flores. Respondent's husband tried to corroborate this testimony by saying that he was the only one who had the power to hire new employees, and that Emiliano Flores was not known to him, having heard his name only after the occurrence of the accident,

"We cannot give any credit to the respondent's defenses. The records of the case clearly show that in the police investigation of the criminal aspect of the accident, Pepito Banaga and Salvador Pulido issued separate statements before the peace officer in charge of the case wherein they repeatedly referred to Emiliano as their co-worker. It is significant that these statements were given on the very day of the accident, when the filing of a compensation claim was not yet even thought of by the parties involved, a fact which discounts the possibility that the affiants might have contrived to prejudice the interests of the respondent. Although Pepito Banaga later tried to impeach his own statements which were given before the peace officer, nevertheless, he admitted that all the facts therein stated were furnished by him. It appears that after the accident, Banaga disappeared for a long time, and presented himself to his employer only during the Christmas season of that year, for reasons which need not be looked into. It was on this occasion that Banaga agreed to testify for the respondent and on the strength of this assurance, the respondent moved for a new trial of the case. As already adverted to above, Banaga tried to retract his previous statements, by means of another affidavit which was used by respondent in connection with a motion for new trial. Considering the circumstances, we do not believe that what was said in the affidavit last mentioned should, one way or another, influence our conclusion on the matter before us. The same is true with the payroll presented as evidence by the respondent. It was admitted that said payroll was prepared on the first day of the month, and that the hours of work and the corresponding wages earned are noted only at the end of the month. There is no question that Emiliano Flores

met his death on April 25, 1957, that is, after the payroll had been prepared, and before any entry in the hours work and wages could be made. The claimant and the respondent are in agreement on the fact that Emiliano presented himself for employment in the latter part of April, although the evidence for the claimant, in effect, tried to show that it was on April 23, 1957, contrary to respondent's assertion that it was on April. 25, 1957. These facts make it clear why Emiliano's name did not appear in the payroll presented by the respondent.

"The reason advanced by respondent Isabel Jueco for her alleged refusal to employ EmiHano appears to us to be flimsy and without basis. Having; been orphaned at a Very tender age, Emiliano, then only 13 years old, was forced by necessity to work in different lines of employment which all demand manual exertion. As a matter of fact, he worked as truck helper for a certain Mr. Flores in Bagac, Bataan, Because every opportunity given Emiliano to work was a boon to claimant Felicidad Flores, she had to come to Makati to make sure that what she heard regarding her son's new job was true. She was not disappointed, because on the evening of April 23, 1957, her son assured her that he was already working under the respondent. Mrs. Floras went home the next day feeling, relieved and without the slightest premonition of the then impending injury which was to take the life of her only Breadwinner, When she learned about the death of her son, she immediately returned to Makati, and with the aid of others, was able to get P400.00 from the respondent which she spent in bringing the remains of her son to their home province.

"Portions of the testimony of Felicidad Flores appear to be hearsay, but we cannot let this fact have any material effect on the outcome of the case, because what have been disclosed by them, were substantially corroborated by other evidence. It should be remembered that this Commission and the Hearing Officers taking cognizance of Workmen's Compensation cases are not bound by technical rules of procedure. * * *

"Because of the death of Emiliano Flores, the respondent had all the opportunity to deny any relations with him during his life-time. The only persons who could shed light on the issue as to why Emiliano was actually working on the day he met the fatal accident, have turned their backs on his dependents. Under these circumstances, we are inclined to tilt the scale of justice in favor of the claimant, who by constitutional mandate, should be afforded the protection of the state. * * *."

The third assigned error is also untenable. On this point, the Workmen's Compensation observed that;

"In the first place, it should be stated that we are fully convinced that the claimant herein was wholly dependent upon her deceased son during the lifetime of the latter. The fact that there were times when deceased Emiliano Flores was out of work can not alter the status of dependency upon him of his mother, because in truth, he was his mother's sole bread-winner. We agree to the contention that from time to time the claimant was the recipient of financial aid from her brother when her son was not working, but this circumstance would not be sufficient to make her a legal dependent of said brother. From the point of view of the Workmen's Compensation Law, as long as one is wholly dependent upon the earnings of a deceased workmen at the time of the latter's death, he or she should be entitled to the full benefit provided by law. In other words, the controlling factor in the determination of whether one should be considered fully dependent or merely partially is the extent of his or her dependency at the time of death of the workmen depended upon. In this case there can be no question that the claimant's subsistence was wholly anchored on the income of her deceased son at the time he met an untimely death."

We also find the fourth assigned error devoid of merit. We fully agree in the following reasoning of the "Workmen's Compensation Commission and adopt it as our own:

"Another assigned error in the instant, petition for review is that 'the award, of attorney's fees has no basis in law'. This contention is devoid of merit. In addition to the Civil Code provisions regarding attorney's fees in workmen's compensation cases (Art. 2208[8]), certain provisions of our Workmen's Compensation Laws, as amended, clearly show that the respondent is the one who should legally shoulder the payment of attorney's fees ordered by the Commission in the instant case. Pursuant to an established rule in statutory construction,

provisions of law should be construed or read, in relation to other provisions of the same law. Section 31 of Act No. 3428, as amended, is silent as to who should shoulder the payment of attorney's fees provided therein. However, if we construe the provisions of this section, in relation to those of Sections 7, 29, and 47 of the same law, the only conclusion that can be arrived at is that the respondent or employer in a workmen's compensation case should be adjudged liable to pay attorney's fees, if they are found liable to pay compensation under the Act. Sections 7 and 29 of the Act prohibit the diminution of compensation which is legally due the claimant. Should the claimant be ordered to pay attorney's fees, the order would, in effect, be out of harmony with the intention of the law to keep intact the compensation provided for in the Workmen's Compensation Act. One of the enumerated powers and duties of the Commission under Section 47 of the Act is the power to fix attorney's fees, which carries with it the necessary connotation that the Commission may designate the party who should pay said attorney's fees. Section 47 provides in part:

'Sec. 47. General powers and duties.—The Commissioner shall have full power and authority;

* * * * *

'(b) To hear and determine all claims for compensation under this Act in the manner herein provided; to require and order medical service for injured employees provided herein; to approve and fix attorney's fees and claims for medical services; * * *.'

"The commissioner's power to fix attorney's fees goes hand in hand with its power to fix claims for medical expenses. In as much as the reimbursement of medical expenses is a liability imposed upon an employer or respondent, it stands to reason that the respondent should also be held liable for the payment of attorney's fees."

However, we find some merit in petitioner's second assigned error. True it is, that during the hearing of the case, petitioner had declared that she gave the amount of P400.00 in question, not as advanced payment of compensation, but in compliance with the provision of another law prescribing subsidiary liabilities of the employer of a driver causing injury in a motor vehicle accident. But the fact remains that petitioner, as employer of the deceased Emiliano Flores has been adjudged by the Workmen's Compensation Commission liable to pay to respondent compensation for the death of her son under the provisions of the Workmen's Compensation Law, and not under the provision of another law. Therefore, in the interest of justice and in fairness to petitioner, said amount of P400.00 should, for all legal intents and purposes, be considered as an advance payment of the compensation (P1,996.80) adjudged by the Workmen's Compensation Commission in this case. Consequently, said amount of P400.00 should be deducted from the amount of P1,996.80 which the Commission had ordered petitioner to pay as compensation to respondent.

Wherefore, modified as above indicated, the decision and resolution of the Workmen's Compensation Commission appealed from, are hereby affirmed, without pronouncement as to costs. It is so ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Paredes, Dizon, Regala and Makalintal, JJ., concur

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