

**VISAYAN STEVEDORE & TRANSPORTATION COMPANY,
PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION
AND JULIETA S. LABIYO, RESPONDENTS.**

G.R. No. L-26657. September 12, 1974

Ponente: MAKALINTAL, C.J.

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MAKALINTAL, C.J.:

Appeal from the decision of the Workmen's Compensation Commission requiring petitioner Visayan Stevedore & Transportation Company to pay respondent Julieta S. Labiyo compensation benefits, burial expenses and costs in connection with the death of her husband Eduardo Labiyo.

The deceased, employed as engineer by Visayan Stevedore & Transportation Company with a monthly salary of P235.00, was part of a 3-man crew of the tugboat "M/T DILIS." His main duty consisted in his starting the engine and seeing to it that it functioned properly during the voyage, with the actual navigation of the tugboat being the responsibility of his 2 other companions, the "patron" who controlled the wheel and a helper (timonel) who operated the rudder. According to Federico Sespene, "patron" of the tugboat when the deceased died,

"x x x from February 10 to 17 (1964) they were given orders to tow barges to the ship and load it with cargoes. They also had to shift or bring barges to drydock at the company's compound in Iloilo. Aside from that, their other work was to bring the barges from Jordan to Iloilo City, from the terminal to the middle of Guimaras Strait or to bring workers, food and checkers to the ship and back. As a consequence of this work, they were compelled to stay in the tugboat. On that fatal day of February 17 (1964), they had received various orders. And at about 4 a.m. of the same day, they were towing barges from the Shell wharf to Tabangao, and while they were navigating, Eduardo Labiyo visibly tired and in active duty asked for permission to take a rest. When the tugboat reached Tabangao, witness Sespene was ordered by Orleans to start towing the barge, but when Sespene called Labiyo to start the engine, there was no answer from Labiyo. The Quartermaster was the one who responded instead and was the one ordered to wake up Labiyo, who at the time was already dead. It was about 6:30 o'clock in the morning of February 17, 1964 x x x"

A subsequent autopsy of the deceased's remains conducted by Dr. Raymundo L. Torres, the assistant medico-legal officer of the Iloilo City Police Department, traced the cause of Eduardo Labiyo's death to "bangungot." The autopsy report reads:

"AUTOPSY FINDINGS

HEAD AND NECK - No apparent external lesion was found.

THORAX - No apparent lesion was found. Heart and lungs are normal.

ABDOMEN - No apparent external lesion was found. Stomach was full.

UPPER AND LOWER EXTREMITIES - No apparent external lesion was found.

CAUSE OF DEATH - BANGUNGUT.

(Sgd.) - RAYMUNDO L. TORRES

Asst. Med. Legal Officer"

On March 16, 1964 respondent Julieta Labiyo, the widow, filed a claim for compensation with the Department of Labor, Regional Office No. VII, Iloilo City. After appropriate proceedings, the acting referee of the Workmen's Compensation Unit in Iloilo City dismissed the case upon a finding that "the cause of death of Eduardo Labiyo did not arise out of and was aggravated by the nature of his employment." Upon review this decision was set aside by the Workmen's Compensation Commission in a decision dated June 16, 1966, ordering at the same time the petitioner to pay compensation benefits, burial expenses and costs. Petitioner thereafter moved to reconsider but the Commission, in a resolution en banc dated August 30, 1966, denied the motion.

The decision appealed from states:

"x x x, there is no question hat Eduardo Labiyo, together with the Patron and Quartermaster were at work twenty-four (24) hours a day. That although they could rest and sleep for sometime still they were always ready to be called to duty anytime, for busy or not busy they remained in the tugboat, the premises of their employment subject to call anytime. That the nature of their work had prevented them from leaving the tugboat. It must also be remembered that from February 10 to 17, 1964, the three (3) complement of the 'M/T DILIS' were busy at work. Evidence supports the finding that about 4 o'clock in the morning of February 17, 1964, Engineer Labiyo requested permission to sleep for a while and which request had been granted. And it appears that about 6:30 o'clock of the same morning, when he was being awakened for duty he was already found cold and lifeless in his bunk lying on his back dressed in his maong pants and white T/shirt. The theory of the Medico-Legal Officer who autopsied his body was that the cause was due to 'bangungot.' To this view we cannot subscribe. In the first place we have already learned that there is no such things as 'bangungot;' that is, at least as of this moment, the term has not as yet been clearly explained, particularly its cause and effect. This Commission after considering the evidence and the facts, is of the view that Eduardo Labiyo must have died due to over fatigue or over exertion. Or that there must have been heart failure due to some factors. Our view is supported by the fact that Labiyo asked permission to sleep at an early hour in the morning of February 17. Why he asked permission to sleep must have been due to the fact that he was actually very tired and exhausted due to the continuous performance of their work from February 10 to 17. If work was not heavy that morning or previous to it, and that the complement was already resting, there was no necessity for the deceased to plead for sleep. Moreover, the allegation that his stomach was full of food cannot be given weight because at 4:00 a.m. any meal taken in the evening however late it may have been was already digested."

Petitioner now assails the Commission's finding that Eduardo Labiyo "must have died due to over fatigue or over exertion," arguing that said conclusion is not at all supported by the result of the autopsy which traced the cause of the deceased's death to "bangungot." In taking issue with the Commission's conclusion, it is pointed out, first, that the deceased could not have over exerted himself since he was not performing any physical or manual labor previous to his death, and second, that the nature of the deceased's work gave him more than ample time to rest and sleep.

We do not think that the main point pressed by petitioner, namely, that death caused by "bangungot" is not compensable, is at all decisive in the case at bar. What is not denied, and this is crucial insofar as the compensability of Eduardo Labiyo's death is concerned, is that when death came to the deceased he was in active duty as an engineer-employee of the petitioner. This being the case, the need to pinpoint the cause of his death as work-connected in order to render it compensable assumes very little importance. "(I)t is to be presumed, under section 44 of the Workmen's Compensation Act, as amended, that the employee's death supervening at the time of

his employment, either arose out of, or was at least aggravated by said employment. With this legal presumption the burden of proof shifts to the employer, and the employee is relieved of the burden to show causation. x x x The mere opinion of doctors presented by petitioner as evidence cannot prevail over the presumption established by law." (Abana vs. Quisumbing, 22 SCRA 1278, 1282)

The liberal attitude displayed by this Court in considering as compensable the death by heart attack of an off-duty employee helping in the loading operation of a vessel (William Lines, Inc. vs. Sañopal, 42 SCRA 48), or the disappearance of an off-duty crew member of a vessel who had no choice but to be in the vessel during the voyage (Aboitiz Shipping Corporation vs. Pepito, 18 SCRA 1028), or the death by drowning of an employee whose duty was to watch over and take charge of a barge in the absence of the patron (Luzon Stevedoring Co., Inc. vs. Workmen's Compensation Commission, 10 SCRA 207), proceeds from an awareness of the fact that when an employee undertakes to satisfy, in the course of employment, certain human wants, i.e. eating, freshening up, sleeping and the like, "and something takes place that may cause injury, harm or death to the employee or laborer, it is fair and logical that the happening be considered as one occurring in the course of employment for under the circumstances it cannot be undertaken in any other way" (Luzon Stevedoring Co., Inc. vs. Workmen's Compensation Commission, supra), unless it can be clearly shown that the mishap occurred because the employee acted beyond his duty or outside the course of employment, which is not so in the case at bar. For aside from the conclusion arrived at by the medico-legal officer who conducted the autopsy that "bangungot" was the cause of Eduardo Labiyo's death,* there was hardly anything else that would disconnect the deceased's death from his employment. In other words, petitioner had not proved that death was not and could not be caused or aggravated by the deceased's work as engineer who, at the time of his death, was practically on 24-hour continuous duty.

The petitioner's reliance on the case of Luzon Brokerage Co., Inc. vs. Dayao, et al., 105 Phil. 525, particularly that portion of the decision which reads:

"That Antonio Dayao died of heart failure is not disputed. The point of controversy is: what caused such failure? Was it – as the petitioner Company claims – a natural disease locally called 'bangungot' where the victim dies in his sleep allegedly due to bad dreams or nightmares? If this be the case then the death is not compensable. Or, was it – as maintained by the respondents – the overexertion or undue fatigue their deceased father suffered in helping lift, carry and transfer from one place to another the heavy household effects belonging to Mr. Karning or Cummins? If this be the cause then the death is compensable."

is misplaced to justify its claim of non-liability under the Workmen's Compensation Act. The aforequoted portion of the decision was evidently intended merely to emphasize that in said case the theory that "bangungot" could have caused the deceased's death appeared to be tenuous, there being competent contrary evidence that excessive exertion and physical strain accounted for the deceased's heart failure. In fact, in the very same case doubt was expressed as to the soundness of the theory that "bangungot" by itself can be the cause of death, thus:

"Although the enlightening points x x x brought out about the dreaded disease are worthy of note, still the inescapable conclusion is that 'bangungot' is still a theoretical disease – whose remote and immediate cause, pathology and cure have not as yet been accurately determined and scientifically established and confirmed. Whether it is a natural phenomenon that by itself can destroy or snuff the life out of a human being is still a question to which medical science has yet to give a more definite and conclusive answer. That 'bangungot' is still veiled in its own mystery is openly admitted by Dr. Santa Cruz who, on the witness stand, declared that 'until now, the real cause of bangungot is not known and that its pathology cannot be found in any textbook on medicine.'"

The decision under review is affirmed, with costs against the petitioner.

Castro, Teehankee, Esguerra, and Munoz Palma, JJ., concur.

Makasiar, J., took no part.

* Regarding the probative value of said autopsy findings to establish the cause of the deceased's death, it is noticeable that the medico-legal officer who performed the autopsy failed to testify at all despite notice.

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