

LUZ G. CRISTOBAL, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (NATIONAL SCIENCE DEVELOPMENT BOARD), RESPONDENTS.

G.R. No. L-49280. February 26, 1981

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

On April 30, 1980, We rendered a decision in this case finding that petitioner Luz G. Cristobal, widow of the deceased Fortunato Cristobal, has shown by clear and convincing evidence that her husband contracted rectal cancer or at least the risk of contracting the same had been increased by the conditions under which he was working and accordingly ordered respondent GSIS:

- 1) to pay the petitioner the sum of P12,000.00 as death benefits;
- 2) to reimburse petitioner medical, surgical and hospital expenses duly supported by proper receipts;
- 3) to pay petitioner the sum of P700.00 as funeral expenses; and
- 4) to pay the petitioner attorney's fees equivalent to 10% of the death benefits.

On June 5, 1980, respondent GSIS filed a motion for reconsideration based on the following grounds:

I. As the ailment of the deceased is not a listed occupational disease, proof should have been shown that the cause of the ailment was the working conditions. This Honorable Court only found a case of aggravation which is different from proof of increased risk of contracting the ailment.

II. Assuming that the ailment is compensable under the new law, the benefits awarded to petitioner are not in accordance with said law.

III. The grant of attorney's fees in the sum equivalent to ten (10%) per cent of the death benefits is not proper.

On June 14, 1980, respondent ECC likewise filed a motion for reconsideration based essentially on the same grounds, to wit:

I. The illness of rectal malignancy which caused the death of Fortunato S. Cristobal is not compensable under the theory of increased risk as provided in PD 626, as amended.

II. The amounts awarded as death benefits, funeral expenses and attorney's fees are not in accordance with law.

III. The cause of death not being a compensable illness, the order for reimbursement of medical, surgical and hospital expenses has no basis.

WE cannot sustain respondents' views.

The main issue raised by respondents as to whether or not the illness of the deceased, rectal cancer, is compensable, actually boils down to the question of sufficiency of evidence. Respondents took note of the following evidence submitted by petitioner:

a) The affidavit of Angel Peres, a co-employee of the deceased, to this effect --

"I know personally Fortunato Cristobal because he was my Supervisor in the Bureau of Printing;

"During the employment of Fortunato Cristobal at the Bureau of Printing, he contracted sickness which was later diagnosed as ano-rectal cancer which caused his death;

"Fortunato Cristobal continued working at the aforementioned Bureau of Printing even when he was already suffering from a rectal illness and he had been complaining to me that said illness became more painful whenever he performs his job in the Bureau;

"I also noticed that he oftentimes eat food in the Bureau without washing his hands;

"The place where Fortunato Cristobal was assigned in the Bureau of Printing is very unhygienic and polluted with chemicals and he oftentimes complain to me that the odor of the chemicals make him feel dizzy always.

"Fortunato Cristobal always handled chemicals in the Bureau of Printing while in the performance of his duties" (Annex C, Petition).

b) The medical certificate issued by Dr. Rufo A. Guzman stating that "the illness may be aggravated by the

unhygienic conditions in the Bureau of Printing where he works. Handling of chemicals for printing, eating without proper washing of hands, tension due to the pressure of work, plus neglected personal necessity which may be attributed to the inadequate facilities in the Bureau of Printing" [Annex D, Petition].

As correctly observed by the respondents herein, these evidence were considered in the light of the foregoing facts:

- The deceased entered the government service in 1964 free from any kind of disease;
- He was assigned to the printing department of the NSDB as supervising information officer where he was exposed to various chemicals and intense heat.
- The deceased's ailment supervened in the course of his employment with said agency.

Respondents however refuse to appreciate these facts in relation to other equally compelling considerations.

The deceased died of rectal cancer on May 27, 1977. Concededly, the exact cause or etiology of this disease is still unknown. Even respondent ECC's own medical officer, Dr. Mercia C. Abrenica, certified that "the cause of rectal carcinoma as of any other malignancies is still unknown" (p. 9, ECC rec.). Its cause and development are insidious, imperceptible to the naked eye, and defies expert analysis. Therefore, whether or not the disease rectal cancer was caused or the risk of contracting the same was increased by the decedent's working conditions remains uncertain. This uncertainty, of course, cannot eliminate the probability that the ailment was work-connected as it had been established that the deceased was exposed to unhygienic working conditions, various chemicals and intense heat which are generally considered as predisposing factors of cancer. At this point, there is need to reiterate that when the deceased started working in 1964, he was free from any kind of disease.

In ruling on the claim, this Court also applied the theory of increased risk under Section 1(b) Rule III of PD 626 which states that:

"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 these 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" (*italics supplied*),

aside from the possibility that the disease might have been contracted even prior to the effectivity of the new Labor Code. To establish compensability of the claim under the said theory, the claimant must show proof of work-connection. Impliedly, the degree of proof required is merely substantial evidence, which means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion" (*Ang Tibay vs. The Court of Industrial Relations and National Labor Union, Inc.*, 69 Phil. 635) or clear and convincing evidence. In this connection, it must be pointed out that the strict rules of evidence are not applicable in claims for compensation. Respondents however insist on evidence which would establish direct causal relation between the disease rectal cancer and the employment of the deceased. Such a strict requirement which even medical experts in the field cannot support considering the uncertainty of the nature of the disease would negate the principle of liberality in the matter of evidence. Apparently, what the law merely requires is a reasonable work-connection and not a direct causal relation. This kind of interpretation gives meaning and substance to the liberal and 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 this Code, including its implementing rules and regulations shall be resolved in favor of labor."

In urging that the disease rectal cancer is not compensable since its nature or cause is unknown and petitioner was

not able to show proof of direct causal relation, respondents would instruct us to ignore the above provision of law and the policy of the State of giving maximum aid and protection to labor as We have stated earlier in the main decision. As the agents charged by the law to implement the social justice guarantee secured by both the 1935 and 1973 Constitutions, respondents should adopt a more liberal attitude in deciding claims for compensation especially when there is some basis in the facts for inferring a work-connection. This should not be confused with the presumption of compensability and theory of aggravation under the Workmen's Compensation Act. While these doctrines may have been abandoned under the new Labor Code (the constitutionality of such abrogation may still be challenged), it is significant that the liberality of the law, in general, still subsists. All these factual and legal grounds were considered in relation to each other constituting substantial evidence clearly convincing Us to resolve that rectal cancer is compensable.

With respect to the award of death benefits in the amount of P12,000.00, respondents argue that the same is not in consonance with Articles 193(a) and 191(a) of the Labor Code, as amended by PD 891, which provide as follows:

"Art. 193. Death - (a) Under such regulations as the Commission may approve the System shall pay to the primary beneficiaries upon the death of the covered employee under this Title a monthly income benefit equivalent to the monthly income benefit for permanent total disability plus ten percent of the basic benefit for each dependent child but not exceeding five, beginning with the youngest and without substitution: Provided, That the monthly income benefit shall not be paid for more than five years, but the portion corresponding to the monthly income benefit for permanent total disability shall be guaranteed for five years: Provided, however, That total payments shall in no case exceed twelve thousand pesos: Provided, further, That if he has no primary beneficiary, the System shall pay to his secondary beneficiaries a lump sum benefit equivalent to the lesser or thirty-five times the monthly income benefit for permanent total disability and six thousand pesos.

"Art. 191 (a) - "Under such regulations as the Commission may approve, any employee under this Title who contracts sickness or sustains an injury resulting in permanent total disability shall, for each month until his death but not exceeding five years, be paid by the System during such disability an income benefit equivalent to one hundred fifteen percent of the basic benefit which shall be computed as follows:

"Forty-five percent of the first three hundred pesos of average monthly salary credit or fraction thereof, plus

"Twenty-five percent of the next three hundred pesos of average monthly salary credit or fraction thereof; plus

"Nine percent of each succeeding one hundred pesos of average monthly salary credit or fraction thereof; plus

"One-tenth of one percent of the average monthly salary credit for each month of paid coverage in the System in excess of one hundred twenty months of paid coverage prior to the semester of disability: Provided, That the monthly income benefit shall not be less than forty-five pesos."

This argument is untenable. A computation of the death benefits in accordance with the underlined procedure would disclose that the amount awarded by this Court is well within the limitations provided therein. To illustrate:

The husband of petitioner received an annual salary of P11,904.00. His average monthly salary, therefore, is P992.00.

The monthly income benefit is 115% of the basic benefit which is computed as follows:

45% of the first P300 of the P992

P125.00

25% of the next P300

75.00

9% of each succeeding P100

9.00

9% of P100

9.00

9% of P100

9.00

9% of P92 (fraction of P100).....

8.28

Basic Benefit

P235.28

Consequently, the monthly income benefit (115% of P235.28) would amount to P270.57.

In addition, the law grants an additional 10% of the basic benefit (P235.28) for each dependent child not exceeding 5. The deceased left, at the time of his death, 7 dependent children. Petitioner would therefore be entitled to an additional grant of P23.53 (rounded) for each child or a total of P117.65 for 5 dependent children, observing the limitation.

In summation, petitioner should be receiving a monthly income benefit of P270.57 plus P117.65 or a total of P388.22. In a year's time, this would amount to P4,658.64 and in 5 years' time, the total would be P23,293.20. This Court in compliance with the proviso set forth in Article 193(a) "that total payments shall in no case exceed twelve thousand pesos [P12,000.00]" limited its award to P12,000.00.

Respondents likewise question the award of attorney's fees equivalent to 10% of the death benefits. Its objection is based primarily on Article 203 of the Code which provides that:

"No agent, attorney or other person pursuing or in charge of the preparation or filing of any claim for benefit under this Title shall demand or charge for his services any fee, and any stipulation to the contrary shall be null and void. The retention or deduction of any amount from any benefit granted under this Title for the payment of fees of such services is prohibited. Violation of any provision of this Article shall be punished by a fine of

not less than five thousand pesos (P5,000.00), or imprisonment for not less than six (6) months nor more than one (1) year, or both, at the discretion of the court."

A close examination of the aforequoted provision reveals that the intent of the law is to free the award from any liability or charge so that the claimant may enjoy and use it to the fullest. It is the claimant who is exempt from liability for attorney's fees. The defaulting employer or government agency remains liable for attorney's fees; because it compelled the claimant to employ the services of counsel by unjustly refusing to recognize the validity of the claim of petitioner. This actually is the rationale behind the prohibition. Nothing is wrong with the court's award of attorney's fees which is separate and distinct from the other benefits awarded. Besides, in the instant case, the participation of petitioner's counsel was not limited to the preparation or filing of the claim but in appealing petitioner's case before this Court necessitating submission of pleadings to establish his cause of action and to rebut or refute the arguments of herein respondents. Fairness dictates that the counsel should receive compensation for his services; otherwise, it would be entirely difficult for claimants, majority of whom are not learned in the intricacies of the law, to get good legal service. To deny counsel compensation for his professional services, would amount to deprivation of property without due process of law.

Petitioner appealed to this Court in forma pauperis. Respondents are of the mistaken belief that such manner of appeal is incompatible with the award of attorney's fees. It must be pointed out that Section 22, Rule 3 of the Rules of Court merely exempts a pauper litigant from the payment of legal fees and from the filing of appeal bond, printed record and printed brief, but does not exempt him from the payment of attorney's fees. Therefore, the award of attorney's fees in the instant case is proper.

With respect to the award of medical benefits, suffice it to say that Article 166 of the Labor Code provides that:

"Policy - The State shall promote and develop a tax-exempt employees' compensation program whereby employees and their dependents in the event of work-connected disability or death may promptly secure adequate income benefit and medical or related benefits."

In line with this provision, this Court ordered the reimbursement of medical, surgical and hospital expenses duly supported by proper receipts.

On the award of funeral benefits in the amount of P700.00, We find that the same should be increased to P1,000.00 pursuant to PD 1146, Section 19 in relation to Section 45, and PD 1641, Section 6(d), which took effect on May 31, 1977. This is also consistent with this Court's award in the cases of *Mitra vs. Employees' Compensation Commission* (96 SCRA 284 [1986]); *Vda. de Torbela vs. ECC* (96 SCRA 260 [1980]); and, *Tuquero vs. ECC* (96 SCRA 291 [1980]).

WHEREFORE, THE DECISION DATED APRIL 30, 1980 IS HEREBY MODIFIED TO READ AS FOLLOWS:

1) TO PAY THE PETITIONER THE SUM OF P12,000.00 AS DEATH BENEFITS;

2) TO REIMBURSE PETITIONER MEDICAL, SURGICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS;

3) TO PAY PETITIONER THE SUM OF ONE THOUSAND (P1,000.00) PESOS AS FUNERAL EXPENSES; AND

4) TO PAY PETITIONER ATTORNEY'S FEES EQUIVALENT TO 10% OF THE DEATH BENEFITS.

THUS MODIFIED, THE JUDGMENT APPEALED FROM IS AFFIRMED IN ALL OTHER RESPECTS.

THE MOTIONS FOR RECONSIDERATION ARE HEREBY DENIED FOR LACK OF MERIT; AND THIS DENIAL IS FINAL AND EXECUTORY.

SO ORDERED.

Teehankee, (Chairman), Fernandez, Guerrero and De Castro, JJ., concur.

Melencio-Herrera, J., constrained to reiterate her dissent in the main opinion, and vote to grant the Motion for Reconsideration.

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