

JULIO BISCARRA, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES (BUREAU OF FORESTRY) AND THE WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. L-43425. January 22, 1980

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petitioner Julio Biscarra, a former assistant district forester of the Bureau of Forestry, filed a Notice of Injury or Sickness and Claim for Compensation dated April 4, 1972 with Regional Office No. IV of the Department of Labor for his ailments of diabetes mellitus, hypertensive cardiovascular disease, arteriosclerosis, and chronic pyonephritis. As a result of his ailments, he stopped working and retired at age 58 on October 31, 1970. This claim for compensation was not controverted.

On May 19, 1972, the Regional Office issued an award granting the petitioner P6,000.00 as disability compensation after declaring him totally and permanently disabled for labor, with a reservation for him to file a claim for reimbursement of medical expenses.

Petitioner, pursuant to this reservation, filed with the same Regional Office a claim for reimbursement of medical expenses. The Regional Office, in an Order dated September 15, 1972, awarded him P7,183.14 as reimbursement of medical expenses.

On January 3, 1975, petitioner filed another petition for reimbursement of medical expenses. The same Regional Office, in a decision dated September 24, 1975, again granted petitioner P4,965.41 as reimbursement of medical expenses. A copy of the decision was received by respondent Republic of the Philippines on September 30, 1975.

Aforesaid respondent then filed on February 4, 1976 a petition for relief from judgment dated January 29, 1976 with the respondent Commission on the ground that "x x due to the volume and pressure of work of the undersigned Trial Attorney in charge of the case, the decision in question was not acted upon immediately or within the period required for filing a motion for reconsideration," and argued that claimant, herein petitioner, is not entitled to further reimbursement of medical expenses after he had been declared totally and permanently disabled for labor.

On March 10, 1976, the respondent Commission, which obviously took cognizance of the case, treating sub silentio the petition for relief from judgment, as if the case had been seasonably appealed to it, rendered its questioned "Order En Banc" reversing the "decision appealed," the pertinent portion of which reads:

"The decision dated September 24, 1975 should be set aside. Claimant was declared totally and permanently disabled and no amount of medical treatment could restore him to his former physical capacity for labor. It would be unfair on respondent's side to be continuously paying the medical expenses, as it will be an endless obligation. In fact, claimant was already given the maximum amount of P6,000.00 provided for by the Act, as amended. Hence, claimant is no longer entitled to any further amount of reimbursement of medical expenses."

From this decision, petitioner filed this petition.

I. The claim (p. 52, rec.) made by counsel for petitioner in his memorandum [pp. 49--53, rec.] filed on August 6, 1976 and served on same date to the Solicitor General, that the September 24, 1975 decision awarding reimbursement of medical expenses was already final and executory when the Solicitor General filed on February 4, 1976 his Petition for Relief from Judgment with the respondent Commission, is not only undisputed as it failed to draw a word from respondent Republic which filed its memorandum on August 24, 1976; but is also supported by the records.

No appeal was seasonably filed by respondent Republic allegedly because of the "volume and pressure of work of the Trial Attorney in charge of the case x x"; instead a Petition for Relief from Judgment predicated mainly on the aforesaid ground was filed on February 4, 1976 (or after a period of 127 days from receipt of the decision on September 30, 1975) by respondent Republic with the respondent Commission; clearly beyond the periods provided in Section 3 of Rule 22 of the Rules and Regulations of the respondent Commission: within 30 days from knowledge of the decision and within 3 months from entry thereof. Consequently, with the lapse of the 15-day reglementary period and without a Petition for Relief from Judgment timely filed with and favorably acted upon by respondent Commission, it had no more jurisdiction and authority to pass upon the merits of the case as by then the same had become final and executory (*Pantoja vs. WCC*, L-43317, Dec. 29, 1978; *Bilbao vs. Republic*, 80 SCRA 177-180 [1977]; *Quintos vs. Republic*, 78 SCRA 547 [1977]; *Pepito vs. WCC*, 78 SCRA 39 [1977]; *Soliven vs. WCC*, decided jointly with *Malijan vs. Republic*, 77 SCRA 518 [1977]; *Martinez vs. WCC*, 73 SCRA 271 [1976]; *Ranada vs. WCC*, 73 SCRA 263 [1976]; *Luzon Stevedoring Corp. vs. Reyes*, 71 SCRA 655 [1976]).

Moreover, the said petition was not based on a valid ground as WE have consistently ruled that volume and pressure of work do not constitute mistake or excusable negligence as to warrant relief from judgment which is available only in exceptional cases (*Pantoja vs. WCC*, supra; *Bilbao vs. Republic*, supra; *Pepito vs. WCC*, supra; *Martinez vs. WCC*, 73 SCRA 271 [1976]; *Ranada vs. WCC*, supra). WE deem it appropriate to state what was pronounced by this Court, through the First Division with Justice Teehankee as ponente, in *Bilbao vs. WCC*, thus:

"Respondent Commission itself (in contrast to the case at bar) had correctly denied similar belated petitions for relief from judgment by the Solicitor General in the *Luzon Stevedoring Corporation* cases finding no merit in the contention that volume and pressure of work had prevented the taking of a timely appeal as such ground is 'not among those provided for by the Rules of the Commission' and ruling that at any rate 'the Commission has no longer any jurisdiction to review the decision(s), the same being already final and executory.' As held by this Court in the said cases, the lapse of the 30-day reglementary period from knowledge or notice of judgment within which to avail of the statutory last chance to file a timely petition for relief from judgment for the grounds and reasons stated in the Rule is fatal.

"The Court has consistently adhered to this settled doctrine of finality of judgments that '(the) basic rule of finality of judgments is applicable indiscriminately to one and all regardless of whether respondent employer be a public or private employer, since the rule is grounded on fundamental considerations of public policy and sound practice that at risk of occasional error, the judgments or courts and award of quasi-judicial agencies must become final at some definite date fixed by law,' and '(I)t is of course beyond question that the perfection of an appeal within the statutory or reglementary period is mandatory and jurisdictional and that failure to so perfect an appeal renders final and executory the questioned decision and deprives the appellate court of jurisdiction to entertain the appeal. The lapse of the appeal period deprives the courts of jurisdiction to alter the final judgment.'"

II. Because of the important significance and/or implications of a pronouncement on the transcendental issue

posed -- whether a totally and permanently disabled claimant, like herein petitioner, is still entitled to continued hospital, medical and surgical services as well as further reimbursements of his medical expenses -- in relation to the social justice clause of the Constitution, its protection to labor injunction, and the ideals and objectives of a compassionate society, a basic postulate of our welfare State, WE shall also grapple with and decisively resolve the said issue.

Petitioner contends that under Section 13 of the Workmen's Compensation Act, as amended, there is no limit on the employer's obligation to reimburse the medical expenses incurred by the employee, for as long as the employee's ailment is not arrested or cured, the employer's obligation subsists. Consequently, despite payment of P7,183.14 as reimbursement of his medical expenses, petitioner is still entitled to further reimbursement of P4,965.41 representing additional medical expenses on account of further necessary treatment of his work-connected ailment.

Petitioner also contends that the defense invoked by respondent in its petition for relief from judgment was available before and during the hearing conducted before the Regional Office and should have raised the same in its pleadings or during the trial. Having failed to plead or raise such defense, respondent is now estopped from raising the defense in its petition for relief from judgment.

The Office of the Solicitor General, upon the other hand, asserts that it is not liable for the reimbursement of further medical expenses incurred by petitioner, considering that upon payment of his full disability compensation, the employer's obligation for further medical services is already terminated or ended.

It is further asserted that to grant further medical expenses (to petitioner who was found to be totally or permanently disabled for labor and for which disability he has been fully compensated) would be stretching the employer's obligation under Section 13 of the Workmen's Compensation Act. For the unlimited reimbursement to petitioner of further medical expenses, long after his employment had ceased as he had retired precisely because of his disability, would result in an endless obligation of the employer and would produce an absurd result that the law does not contemplate.

The law applicable is Section 13 of the Workmen's Compensation Act, as amended on June 20, 1964, which provides, in part:

"SEC. 13. Services, appliances and supplies. -- Immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of disability, the employer or insurance carrier shall provide the employee with such services, appliances and supplies as the nature of his disability and the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity.

"The word 'services' used herein shall include medical, surgical, dental, hospital and nursing attendance and treatment as well as the proper fitting and training in the use of appliances and the necessary training for purposes of rehabilitation; 'appliances' shall include crutches, artificial members and other devices of the same kind, and the replacements or repairs of such artificial members or such devices unless the replacement or repair is made necessary by the lack of proper care by the employee; and 'supplies' shall include medicines, as well as medical, surgical and dental supplies." (Underlined portions are amendments introduced by Section 7 of Republic Act 4119 of June 20, 1964).

As will be seen from this law, it imposes upon the employer the obligation "to provide the employee with such services, appliances and supplies as the nature of his disability and the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity." This law does not provide a maximum either as to the amount to be paid or the time within which such rights may be availed of. To

sustain, therefore, the proposition that petitioner's disability being total and permanent, respondent's liability to furnish him with further medical and hospital expenses is terminated, would, in effect, qualify Section 13, *supra*, by adding what is not provided in the law or subtracting what is therein embodied which is legally impermissible. This would constitute "judicial fiat." This Court, therefore, shall limit itself to the clear intendment of the law.

Before the 1964 amendment, but as amended by Republic Act 772 on June 20, 1952, Section 13 reads:

"Sec. 13. Medical attendance. - Immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of disability, the employer shall provide the employee with such medical, surgical, and hospital services and supplies as the nature of the injury or sickness may require.

"The pecuniary liability of the employer for the necessary medical, surgical, and hospital services and supplies shall be limited to the amount ordinarily paid in the community for such treatment of an injured person of the same standard of living if the treatment had to be paid for by the injured person himself."

Under the above-quoted 1952 amendment - prior to the 1964 amendment - WE already ruled that the employer's liability for medical services subsists during the period of disability or "lasts as long as the employee is sick."

Thus, on October 19, 1961, WE ruled in *La Mallorca-Pambusco vs. Isip, et al.* (L-16495, Oct. 19, 1961 3 SCRA 242, 244):

"We are inclined to uphold this contention of respondent. In the first place, in the order of the Commission dated November 20, 1955 acting favorably on the claim of respondent it was expressly stated that petitioner should provide him 'further medical, surgical and hospital services and supplies as the nature of his sickness may require until it is cured or arrested.' Said order became final for lack of protest or appeal on the part of petitioner. Then we have the document signed by respondent entitled 'satisfaction of Award or Decision', dated February 7, 1956, which embodies the so-called compromise agreement entered into between them, and from this document we find that while respondent received the sum of P5,302.05 in full satisfaction of the award, the same is qualified by the following condition: 'except with respect to further hospital or medical treatment, whenever necessary.' Finally, we have the provisions of Section 13 of Act No. 3428, as amended (Workmen's Compensation Act), which postulate, among others, that 'during the subsequent period of disability, the employer shall provide the employee with such medical, surgical, and hospital services and supplies as the nature of the injury or sickness may require.' These provisions justify the subsequent award made by the Commission.

"It is true that under the Workmen's Compensation Act the amount of compensation to which an injured employee is entitled in case of disability shall not in any case exceed the total sum of P4,000.00, but this limitation only applies to the compensation for disability, and not to medical attendance (Sections 12, 14, 16, 18, Act No. 3428, as amended). In fact, this subject is governed by a different section of law (Section 13, *Idem*)." [3 SCRA 242, 244; italics supplied].

Then on September 31, 1963, WE reiterated the aforesaid ruling in *Itogon-Suyoc, Inc. vs. Fruto Dulay, et al.* (L-18974, Sept. 31, 1963, 9 SCRA 199, 202-203):

"The decision orders petitioner 'to provide him (Fruto Dulay) with continuous medical and hospital service and supplies until his illness is cured or arrested, pursuant to Section 13 of the Act.' Petitioner assails this portion of the decision on the ground that Dulay is no longer in its employ and than its liability for medical care can not extend beyond 208 weeks. There is no merit in the contention. Section 13 does not require employer-employee relationship as a condition for the employer's liability. As long as the illness was contracted during the employee's employment, the employer's obligation subsists. This obligation lasts for as long as the employee is sick. The limit of 208 weeks, like the limit of P4,000.00, refers to the liability of the employer for compensation (Secs. 12, 14, 16, 18, Act No. 3428, as amended) and has no reference at all to the employer's liability for medical care (Sec. 13) which lasts during the 'period of disability' (See *La Mallorca-Pambusco vs.*

Isip, et al., G.R. No. L-164951, Oct. 19, 1961)" [Italics supplied].

And again, on February 29, 1964, in the case of Cebu Portland Cement Co. vs. WCC, et al. (L-19164, Feb. 29, 1964 10 SCRA 420, 423-425) WE ruled:

"It may be observed that the law, in imposing on the employer the obligation to provide medical attendance to an injured or sick employee, unlike those provisions relating to compensation for disability (Secs. 14, 16, 17 and 18 of Act No. 3428, as amended) does not provide maximum either in the amount to be paid or the time period within which such right may be availed of by the employee. On the contrary the law imposes on the employer the obligation to 'provide the employee with such medical, surgical, and hospital services and supplies as the nature of the injury or sickness may require.' The implication is that, such medical expenses as may be necessary until the work-connected injury or sickness ceases, may be charged against the employer. In the United States, from where our labor compensation law is derived, the two kinds of benefits for physical injury or sickness are, like in our law, treated differently. The wage-loss payments based on the concept of disability are invariably limited in both amount and duration, while payments of medical benefits, that is, hospital and medical expenses occasioned by any work-connected injury, regardless of wage-loss or disability, vary in the different states of the Union. In twelve states such benefits are unlimited as to duration and amount; in nineteen, the preliminary limits are subject to extension by the administrative agency for indefinite periods as the case warrants; in eight, there are fixed limits subject to extension for limited additional periods; and in nine, there are fixed limits with no provision for extension (Arthur Larson on 'The Law of Workmen's Compensation,' Vol. 2 [1952], p. 82). In construing the compensation act's provision requiring the employer to furnish medical, surgical and hospital services 'reasonably required to cure or relieve the employee from the effects of the injury', it was there held that 'in the absence of express statutory authority, this court is powerless to place a definite limitation upon the time such medical, surgical and hospital services shall be rendered in any particular case' (W.J. Newman v. Industrial Commission, 187 N.E. 137, 353 Ill. 190, 88 A.L.R., 1188). This was based on the theory that workmen's compensation acts are a humane law of a remedial nature, and wherever construction is permissible, their language should be liberally construed in favor of the employee. And, this is supported by the prevailing rule in compensation cases.

'Acts not containing any limitation as to the period during which the employer may furnish or pay for medical, surgical, or hospital services have been construed as imposing liability on the employer as long as such services are required to cure or relieve the injured employee from the effects of his injury' (Florczak v. Industrial Commission, 187 N.E. 137, 353 Ill. 190, 88 A.L.R. 1188).

"Thus, an employee who contracted tuberculosis while employed at a state tuberculosis hospital, and where the infection was never arrested from the time it was contracted until his death, was declared entitled to continued treatment, the governing statute not having limited the time of treatment (Carrol v. State, 64 N.W. 2d 166, 242 Minn. 70)". [Italics supplied].

In several cases WE granted medical benefits to employees who were not entitled to disability compensation because they continued working despite ailment. Thus, as late as February 27, 1979, in the case of Corales versus ECC and GSIS, WE reviewed all such cases, to wit:

"A fair interpretation of these provisions allows payment and/or reimbursement of medical expenses to one who suffered work-connected illness or injury or disability, regardless of whether it results to wage-loss or not. For said section commands the employer or the insurance carrier to provide the employee with services, appliances and supplies immediately after he has suffered an injury or contracted sickness, and during the subsequent period of disability, even if he continues to report to work until he reaches the compulsory age of retirement.

"In the case of Mondejar vs. WCC, et al., WE granted the claimant, a water meter reader of the NWSA for 26 years since 1948, both disability compensation and medical services, including reimbursement for such expenses therefor, as well as attorney's fees, in spite of the fact that he continued to work until he voluntarily

retired at age 60 because of the economic demands of his family as he was the only breadwinner in the family, although 'he made leaves with the office and went home to Maasin, Iloilo, where he consulted Dr. Numeriano Jalbuena and was found to be suffering from the same sickness and on August 12, 1974, he finally retired from the service' (77 SCRA 301-304, L-43154, May 31, 1977).

"In Evangelista vs. WCC, et al., the teacher-claimant, who continued working notwithstanding her ailment, until her voluntary retirement at age 61, was granted disability compensation, medical services, including reimbursement of expenses therefor, attorney's fees and administrative costs (77 SCRA, 497-500, L-43572; June 30, 1977).

"In Ibañez vs. WCC, et al., teacher-claimant, despite her ailment, continued to work until her voluntary retirement at age 64. She was also granted the same benefits, including Attorney's fee and administrative costs (77 SCRA 501-508, L-44123, June 30, 1977).

"In, Ilingan vs. WCC, et al., the claimant-employee of the Philippine National Railways was likewise granted similar benefits although he continued and never stopped working until his voluntary retirement at age 63; because he 'may not wait for his body to waste away or his condition to worsen by applying for retirement at the age of 65, when he is entitled under the law to an earlier retirement' (79 SCRA 345-347, L-40174, Oct. 11, 1977; see also Dimaano vs. WCC, et al., L-43553, Aug. 31, 1977, 78 SCRA, 507-511)." [L-44063, Feb. 27, 1979].

WE further stated in the Corales case, supra, that:

"WE need not rely on the cases abovesited; because here in the Supreme Court, all Associate Justices and employees are enjoying the medical facilities in the clinic and the services of its doctors whenever they are afflicted with a disease or ailment, which does not disable them from performing their official functions.

"The claimant in the case at bar sacrificed and endured his pain and suffering by reporting to work because he needed his salary for the support of himself and his family, and in the process saved the government money which would have been granted him as disability compensation if he went on sick or vacation leave with or without pay. It is rather disheartening to observe that the officials and agencies designated by the law to implement the social justice guarantee in the Constitution and the social legislation in favor of the working man, lack the heart and the compassion to accord a liberal interpretation of the Workmen's Compensation Law and to resolve all doubts in favor of the employee as mandated by both the New Labor Code, the New Civil Code, and the relevant jurisprudence.

"It must also be noted that disability compensation benefits and medical benefits are covered by separate sections. Section 13 for medical benefits and Section 14 for disability compensation benefits. And while Section 14 adheres to the wage-loss factor as the basis of award for disability compensation benefits, implicit from its requirement that no compensation shall be allowed for the first three calendar days of incapacity resulting from an injury except the benefits provided in the preceding section, Section 13 does not. It is not therefore difficult to conclude that wage-loss is not necessary for the award of medical benefits.

"Jurisprudence in the United States shows that 'workmen's compensation benefits fall initially into two categories: benefits to the workman for physical injury, and benefits to dependents in case of death. Benefits for physical injury, in turn, are of two kinds: wage-loss payments based on the concept of disability; and payment of hospital and medical expenses occasioned by any work-connected injury, regardless of wage-loss or disability. Wolf v. City of Altamonte Springs, 148 So. 2nd 13 (Fla. 1962); Shepherd v. Gas Serv. Co., 186 Kan. 699, 352 P.2d 48 (1960); Howerton v. Goodyear Tire & Rubber Co., 191 Kan. 449, 381 P.2d 365 (1963).' [Larson's Workmen's Compensation Law, Vol. II, 10-1, 10-2].

"In the abovesited case of Shepherd, respondent contended that since the trial court found that the claimant suffered no disability, and inasmuch as he remained in respondent's employment at the same work and wage as

before the injury he is not entitled to compensation. The Supreme Court of Kansas ruled as follows:

'[4] We will start with the assumption that the workmen's compensation act is founded broadly upon considerations of public policy. Its purpose is to provide protection to workmen within the limits established by the act. To this end this court is committee, in many decisions unnecessary to review, to a liberal interpretation of the act in favor of the employee. x x x

'While the trial court found that claimant suffered no temporary total or permanent partial disability since he did not miss any work, the court did not find that claimant did not suffer a temporary partial disability. It found that claimant met with personal injury by accident and ordered that respondent furnish medical and hospital treatment in the sum specified for medical care necessary as a result of claimant's accidental injury to his back. Inherent in the trial court's finding is a finding that the claimant did suffer a temporary partial disability by reason of accidental injury and the same could be corrected by medical and hospital attention. It allowed compensation by way of medical treatment but inasmuch as claimant was working at the same wage made no allowance for compensation in weekly payments. x x x' (pp. 50-51)."

The Office of the Solicitor General, however, contends that since the petitioner had been declared totally and permanently disabled, the liability of the employer to furnish medical, surgical and hospital services ceases, citing 10 Workmen's Compensation Text, Schneider, page 109, that:

"Where the evidence discloses that further medical, surgical, and hospital services would not definitely improve the condition of an injured employee, the liability of the employer to furnish reasonable medical and hospital services, as and when needed, ceases (Paulsen vs. Glenn L. Martin - Nebraska Co. 26 N.W. 2d. 11, Jan. 31, 1947, citing Wilson vs. Brown-McDonald Co. 278 N.W. 264, 256, March 4, 1938)".

But the foregoing 1947 Nebraska decision was based on the old Nebraska law providing for limited liability. Thereafter, said law was amended allowing unlimited liability as to time and amount, thus making Nebraska one of the 12 states providing for such unlimited liability as to time and amount even for total and permanent disability, together with California, Connecticut, District of Columbia, Hawaii, Idaho, Illinois, Minnesota, New York, North Dakota, Puerto Rico, and Wisconsin (see Samuel B. Horovitz "Injury and Death under Workmen's Compensation Laws", 1948 ed., p. 294; see also Larson, supra).

From 1948 to 1975, the number of states in the American Union providing for medical benefits which are unlimited as to duration and amount, has increased from 12 to 43:

"61.11 Statutory summary

"An integral and important part of the benefit scheme of all compensation acts is the provision of hospital and medical benefits. These benefits account for about one-third of the total benefits paid to injured workmen.

"In forty-three states such benefits are essentially unlimited as to duration and amount; in one there is a fixed limit subject to extension for a limited additional amount; in three there are fixed limits with no provision for extension; and in three, there are limits only as to silicosis and related diseases.

"It is interesting to observe that in the space of about thirty years the number of states providing full medical coverage has risen from about a dozen to almost four times that number. This appears to evince agreement with the finding of an authoritative study that 'it is impossible fully to relieve pain and to assure restoration of seriously disabled persons when medical care is arbitrarily limited. Equally important is the convincing evidence that unlimited medical benefits are economically the soundest benefit; that over the long term, they become the least expensive'" Sec. 61.11, Larson, The Law of Workmen's Compensation, 1976 ed., italics supplied).

Larson continues to state that "medical benefits ordinarily include not only medical and hospital services, but

necessary incidentals such as transportation, apparatus, and nursing care, which may be compensable even when supplied at home by a member of claimant's family. Palliative measures are included under the decisions of most jurisdictions, to relieve pain even after all hope of cure is gone. Rehabilitation is becoming an increasingly important part of the compensation program, under such provisions supplying additional maintenance and compensation during the rehabilitation period as well as curative and retraining centers to restore earning power to handicapped workers" (Sec. 61, Larson, *The Law of Workmen's Compensation*, 1976 ed., italics supplied).

To repeat, the prevailing interpretation of Section 13 is consistent with the law and jurisprudence of the States of Hawaii, Minnesota and New York (see Table 14, 4 Larson, *The Law of Workmen's Compensation*, 574-10-574.11 [1979]), upon whose compensation statutes our own compensation act was patterned. It was originally adopted by our Philippine Legislature in Spanish from the Statutes of the Territory of Hawaii (*Nava v. Ynchausti Steamship Co.* 57 Phil. 751 [1932]; Fernandez and Quiason, *Labor Standards and Welfare Legislation*, 401 [1964]; Pucan and Besinga, *Comments and Annotations on the Workmen's Compensation Act*, as amended, 5-6 [1971]).

Section 13 of our compensation law mandates the employer to provide the employee medical benefits immediately after he has suffered an injury and during the subsequent period of disability "as the nature of his disability and the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity", regardless of whether the disability is permanent or temporary.

In Hawaii, the obligation of the employer to provide the employee medical benefits subsists "during resulting period of disability"; in Minnesota, "during disability as long as necessary to cure and relieve"; and in New York, "as long as necessary."

The present jurisprudence in these states sanctions unlimited medical benefits, both in time and in amount.

In Florida, the pertinent compensation statutes require the employer "to furnish remedial treatment -- for such period as the nature of the injury or the process of recovery may require" but "all right's for remedial attention -- shall be barred unless a claim therefor is filed or the commission acts on its own initiative within two years after the date of the last remedial treatment or -- payment of compensation." Applying said provisions in the case of *Platzer v. Burger*, 144 So. 2d 507 (Fla. 1962), where the evidence indicated that the claimant would need periodic medical treatment consisting of dilation of the urethra, medical prescriptions, and treatment for prostatitis for the rest of his life, the court ordered medical benefits for the lifetime of the claimant.

It is true that "throughout the Workmen's Compensation Act, the intention of the legislator to limit payable compensation to P6,000.00 is redolent." But this refers only to compensation for loss of income proper or income benefit which is fixed or computed on the basis of the average weekly wages of the claimant; never to medical benefits. For it is likewise pervasive in the law that the legislature has intended a separate and different treatment for medical benefits as shown by the fact that it provided for separate provisions for medical benefits. If the intention of the lawmakers were to put a limit to medical benefits then they would have merged or lumped the two benefits in all the applicable provisions of the law. That they did not, simply means that they intended a different treatment thereof.

It must be re-emphasized that under the Workmen's Compensation Act, benefits for disability are of two general types: (1) Indemnity benefits in the form of cash payments which is designed to compensate the worker for the loss of wages due to his disability sustained or for his death; and (2) medical benefits in the form of medical services, hospitalization, medicine and other matters related to the treatment of the compensable injury or disease (Fernandez and Quiason, *Labor Standards and Welfare Legislation*, 597-1598 [1964]). The first, indemnity or compensation benefits for loss of wages, is limited both as to time and as to amount; while the second, medical

benefits, is unlimited both as to duration and to amount.

The pronouncement in *Esguerra vs. Muñoz Plama* (104 Phil., p. 582, Sept. 24, 1958) that when an injury is compensable, the entirety of the corresponding indemnity is compensation, over which respondent Commission has exclusive jurisdiction, is purely *orbiter dictum* and has no bearing on the issue in this case, because what was therein resolved was the issue of whether the availability of a remedy under the Workmen's Compensation Act precludes the claimant from seeking damages, moral and exemplary, under the new Civil Code from the persons who directly caused his injury. And this Court ruled that claimant "cannot maintain his action for damages against the respondents, because he has elected to seek compensation under the Workmen's Compensation Law, and his claim was being processed at the time he filed this action in the Court of First Instance" (p. 585). The only thing the Court therein stated with respect to compensation, in response to the averment that compensation is not damages, was: "This argument is but a play of words. The term 'compensation' is used in the law (Act 3812 and Republic Act 772) in the sense of indemnity for damages suffered, being awarded for a personal injury caused or aggravated by or in the course of the employment. Although computed on the basis of the weekly wage, such 'compensation' is not the wage itself, since 'compensation' is payable even after the death of the worker. Certainly, the Compensation Acts did not operate to prolong a contract of employment beyond the lifetime of the worker, and entitle him to wages even after his death."

At any rate, whatever significance OUR pronouncement in the *Esguerra* case has on the issue at hand, is now diluted by the subsequent cases of *Saulog* (1958); *La Mallorca Pambusco* (1961); *Itogon Suyoc* (1963) and *Cebu Portland Cement Co.* (1964) recognizing the inapplicability of the time limitations imposed on disability compensation or indemnity benefits under Sections 12, 14, 16 and 18 of the Act, to medical benefits.

The suggestion that the "period of disability" used in Section 13 of the Act refers to the number of weeks fixed in Sections 12, 14, 16 and 18, was already rejected in the *aforecited* cases. Thus, in the *Itogon-Suyoc* case, this Court rules:

"The decision orders petitioner 'to provide him (Fruto Dulay) with continuous medical and hospital services and supplies until his illness is cured or arrested, pursuant to Section 13 of the Act.' Petitioner assails this portion of the decision on the ground that Dulay is no longer in its employ and that its liability for medical care cannot extend beyond 208 weeks. There is no merit in the contention. Section 13 does not require employer-employee relationship as a condition for the employer's liability. As long as the illness was contracted during the employee's employment, the employer's obligation subsists. This obligation lasts for as long as the employee is sick. The limit of 208 weeks, like the limit of P4,000.00, refers to the liability of the employer for compensation (Secs. 12, 14, 16, 18, Act No. 3428, as amended) and has no reference at all to the employer's liability for medical care (Sec. 13) which lasts during the 'period of disability'."

Sections 22 and 29 refer to disability compensation or indemnity benefits; not to medical benefits. Section 22 speaks of compensation fixed by law, referring to the amounts fixed in Sections 12, 14, 16 and 18; not to Section 13 on medical benefits which have no fixed or definite amount. Likewise, Section 29 speaks of "the same amount of compensation as that prescribed by this Act", referring to Sections 12, 14, 16 and 18.

It must likewise be noted that the initial text of Section 13 before its amendment by Republic Act 4119 in 1964 imposed a limitation as to the amount of medical benefits, thus: "The pecuniary liability of the employer for the necessary medical, surgical, and hospital services and supplies shall be limited to the amount ordinarily paid in the community for such treatment of an injured person of the same standard of living if the treatment had to be paid for by the injured himself." That such discriminatory and degrading limitation was amended out of the Act is clearly indicative of the intention of the lawmakers to provide unlimited medical benefits.

In the 1975 North Dakota case of *Heddon vs. North Dakota Workmen's Compensation Bureau*, the claimant was

permanently totally disabled, and was entitled to separate payment for nursing care in a nursing home (189 N.W. 2d 634 N.D. 1971).

In the 1964 Louisiana case of *Brown vs. Travelers Ins. Company*, it was ruled that medical payments are not compensation and are not subject to time limits applied to compensation payments (247 La. 7, 169 So. 2d 540, 1964).

In the 1967 Maryland case of *Andrews vs. Decker*, the claimant required medical treatment 12 years after the last payment of any type under the original award. The Court held that payments for such treatments were not subject to a limitation period; and the carrier and employer were liable for the expenses (245 Md. 459, 226 A 2d. 241, 1967).

In the 1960 California case of *Lockheed Aircraft Corporation vs. Industrial ECC Commission*, the employee sustained an injury in his back but the evidence at that time was insufficient to make a finding on the need for lifetime medical treatment. Over five years later, the Commission found him entitled to lifetime medical treatments. Since the second award was predicated on the first award, the second award was affirmed (183 Cal. App. 2d. 361, 6 Cal. Rptr. 409, 1960).

With respect to palliative measures for incurables to prevent pain and discomfort after all hope of cure is gone, a substantial majority of jurisdictions allows such benefits. Among them are Florida, Idaho, Illinois, Louisiana, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, Oregon, Rhode Island, Washington, Wisconsin (see *Larson, The Law of Workmen's Compensation*, 1975 ed., Sec. 61.14).

"The New Jersey case is *Howard v. Harwood's Restaurant Company*. The claimant, as the result of a brutal assault by a co-employee with a monkey wrench, was unconscious for fifty days and confined to a hospital for a hundred days. She underwent brain and plastic surgery and tracheotomy. Several setbacks and further hospitalizations followed, after which she entered a nursing home. Her left arm and leg were paralyzed. She had a traumatic cataract. Periods of convulsion were frequent. Medical specialists testified that her condition was incurable. All the treatment, medication, and nursing care could, therefore, be said to be for the purpose of relieving pain. The Court dealt with the argument based on the literal conjunctive form of statutory phrase 'cure and relieve' in the following words:

'The effect given the statute by appellant's construction is that in those cases where the injury arising out of the employment is most serious, i.e., where the workman is totally and permanently disabled and without hope of cure, the employer's duty to render medical care and treatment ceases. Thus, in a situation where the injury results in an incurable cancerous condition the employer is not obligated to defray the cost of medical treatment which might ease or mitigate the pain and suffering of the employee, and the employee is left to his own economic resources in acquiring such care as he may be able to afford. We will not, in the absence of a clear legislative intent to the contrary, condone an interpretation of the act so discordant with its benevolent purposes.'

"Minnesota, interpreting a similar statutory phrase, simply said that 'cure and relieve' should be construed to mean 'cure or relieve', and went on to hold that physiotherapy, massage, and heat treatments might be ordered for a claimant who had no hope of cure, if it would relieve his stiffness and discomfort."

Horovitz further states that "the trend is in the direction of increasing the medical liability. Where the legislature has not fettered the courts, the judges have been liberal in construing medical provisions. Even though medical treatment could not return the employee to work, or 'cure' an employee paralyzed for life, and over \$10,000.00 had been spent by an insurer for treatment, further treatment was ordered to 'relieve' the injured worker" (citing *Newman Co. vs. Industrial Commission*, *supra*).

The findings of the Workmen's Compensation Commission, that the petitioner is "totally and permanently

disabled for labor," is no proof that further medical, surgical and hospital services would not definitely improve petitioner's condition, at the very least, relieve him of his pain or other injurious effect of his ailment. Thus, even assuming that further medical treatment would not return the employee to work or cure him, further treatment may still relieve him of his pain or its injurious effects. This is the doctrine laid down in *W.J. Newan Co. vs. Industrial Commission* (187 N.E. 137, June 22, 1933), thus:

"[1-37] This is a novel and exceptional case. Under such circumstances caution is required in construction of the particular statute so as not to extend it or affect its general application to the thousands of other cases not presenting such unusual features. In construing paragraph (a) of Section 8, since the curing of Nee is admittedly impossible, two principal questions confront us, viz: First, whether the services rendered or to be rendered are reasonably necessary to relieve the employee from the effects of his injury; and, secondly, if such services are necessary, whether power is conferred upon this court to say when such services shall be terminated. Reference to the record clearly shows that Nee is beyond hope of cure from medical skill. It further shows that the medical, surgical, and hospital services he had been and is now receiving are not only necessary but also adequate to relieve him, as far as possible, from the effects of his injury. The findings of the Industrial Commission on this phase of the question are unquestionably in accord with the manifest weight of the evidence. We are therefore left solely with the question whether, by a construction of paragraph (a) of Section 8 of the Workmen's Compensation Act, this court can say, not only in this case but in other cases of exceptional nature hereafter presented, that the medical, surgical and hospital services rendered by an employer where no cure is possible, may with justice both to the employer and the injured employee, be terminated after a reasonable length of time, to be determined according to the varying circumstances of each particular case. In other words, can it be said that the last phrase of paragraph (a) should be interpreted to mean that when an employer has done that which is reasonably required to cure an injured employee from the effects of his injury and medical advice indicates that a cure is hopeless, the employer is thereafter relieved from any further liability, under the act, to furnish medical, surgical, and hospital services. We cannot adopt any such literal or strained construction of paragraph (a) as plaintiff in error urges in this case, to the effect that the words 'cure' and 'relieve' mean virtually the same thing. A workman who is cured is, of course, relieved from the effects of his injury, but one who is incurable, as in the present case, may still need skillful attention to relieve him of pain or other injurious effects caused by his injury. This is only the natural and usual meaning of the words used. It is construction in accordance with the general spirit and humane purpose of the act. The Workmen's Compensation Act is a humane law of a remedial nature, and wherever construction is permissible its language should be liberally construed. *City of Chicago vs. Industrial Commission*, 291 I11. 23, 125 N.E. 705; *Chicago Cleaning Co. vs. Industrial Board*, 283 I11. 177, 118 N.E. 989. A strained construction not fairly within the provisions of the act, cannot be supported. *Berry Co. vs. Industrial Commission*, 318 I11. 312, 149 N.E. 278. There was no denial by the employer of liability, and it has been repeatedly held by this court that the furnishing of medical, surgical, and hospital services must be regarded as the payment of compensation under the act. *Goodman Mfg. Co. v. Industrial Commission*, 316 I11. 394, 147 N.E. 394, and cases cited.

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"[47] By these successive amendments it may be seen that the Legislature deemed inadequate the original limitation of eight weeks' time and \$200 in amount as to medicine and hospital services, as the amendment of 1919 enlarged the hospital services from two weeks to extend 'during the period for which compensation may be payable,' and also removed any financial limit, except as to medical or surgical services. The amendment in 1925 went further by removing all time or money limitation upon medical and surgical services, and limited medical, surgical, and hospital services to such as might be 'reasonably required to cure or relieve from the effects of the injury.' In the absence of express statutory authority this court is therefore powerless to place a definite limitation upon the time such medical, surgical and hospital services shall be rendered in any particular case. As we have said before, the proof here shows that medical and hospital services are necessary to relieve Nee from the effects of his injury and that such services cannot be rendered in his home. There is no proof indicating any malingering or feigned sickness in this case, or any other circumstance which would enable us

to say that further services are not reasonably necessary to relieve Nee from the effects of his injury.

"As the Legislature has seen fit to amend paragraph (a) of section 8 and to successively omit the former limitations therein imposed upon the furnishing of medical, surgical and hospital services, it would be nothing short of judicial legislation for this court now, in an exceptional case, to impose such a limitation. The limitations of the section in question cannot be definitely fixed except by the Legislature, and the only reasonable interpretation which we are able to place upon it, as said above, is that the employer's liability continues so long as medical, surgical, and hospital services are required in order to relieve the injured employee from the effects of his injury."

Indeed, to follow the modern trend of medical care, the direction is for increased medical liability to be the "third phase of medicine," from "preventive medicine" and "definitive or curative medicine or surgery," to the dynamic concept of "medical rehabilitation," one principal objective of which is to reduce or alleviate the disability to the greatest possible degree (Injury and Death under Workmen's Compensation Law, Samuel B. Horovitz, p. 297; Medical Handbook on Workmen's Compensation and Principles of Disability Evaluation, by Guilatco, 1967 ed., pp. 264-265).

The New Labor Code on medical services provides:

"Art. 185. Medical services. - Immediately after an employee contracts sickness or sustains an injury he shall be provided by the System during the subsequent period of his disability with such medical services and appliances as the nature of his sickness or injury and progress of his recovery may require, subject to the expense limitation prescribed by the Commission" (PD 442).

Concerning rehabilitation services, the New Labor Code likewise stipulates:

"Art. 190. Rehabilitation services. - (a) The System shall, as soon as practicable, establish a continuing program for the rehabilitation of injured and handicapped employees, who shall be entitled to rehabilitation services, which shall consist of medical surgical or hospital treatment, including appliances if they have been handicapped by the injury, to help them become physically independent.

"(b) As soon as practicable, the System shall establish centers equipped and staffed to provide a balanced program of remedial treatment, vocational assessment and preparation designed to meet the individual needs of each handicapped employee to restore him to suitable employment, including assistance as may be within its resources to help each rehabilitee to develop his mental, vocational or social potential" (PD 442).

Both Sections 185 and 190 (a and b) do not discriminate between those permanently disabled and those temporarily incapacitated. Hence, obedience must be accorded to the principle that WE should not distinguish where the law makes no distinction.

It will be noted also that with respect to medical services, the expenses therefor which must be borne by the employer is not definitely quantified or fixed, but is "subject to the expense limitation prescribed by the Commission." But this qualification appears to collide with the social justice guarantee enjoined by the Constitution. Even on the assumption that this power of the Employees Compensation Commission to fix a ceiling on the maximum cost of medical services to be supplied to the disabled employee is constitutional under the social justice guarantee of the Constitution, WE are not aware of any such limitation established by the Commission.

It will likewise be noted that under the aforementioned Article 190 of the New Labor Code, there is no fixed maximum amount or cost for rehabilitation services to be furnished by the employer for the disabled employee. On the contrary, the law assures that the disabled employee shall be entitled to rehabilitation services consisting of medical, surgical or hospital treatment including appliances to enable the disabled employee to become physically

independent. Further, the same Article 190 directs the System (SSS or GSIS) to establish centers equipped and staffed to provide a balanced program of remedial treatment, vocational assessment and preparation designed to meet the individual needs of each handicapped employee to restore him to suitable employment, "including assistance as may be within its resources to help each rehabilitee to develop his mental, vocational or social potential." Thus, a disabled employee who is still suffering the pain and inconvenience of permanent disability and therefore needs medical assistance and hospitalization, is not "physically independent." Furthermore, the obligation of the System does not end with the attainment by the disabled employee of physical independence or ability to move around on his own power without agony or discomfort, but extends to such assistance as may "restore him to suitable employment" which may be different from his previous employment, by reason of which he met the accident or incurred the ailment, as well as to develop his mental, vocational or social potential. That vocational potential may also be distinct from his previous employment from which he was disabled. And certainly, his mental, vocational or social potential does not depend on his physical independence.

In much the same way that euthanasia is not even prescribed as the extreme remedy for what appears to be a terminal case, WE should not be oblivious to the possibility that medical science may devise somehow, sometime during the lifetime of the disabled employee, a remedy to banish his pain and to completely rehabilitate him physically, mentally and socially.

After devoting the best years of their lives to the service of the State, it is only fair and just that the State should take care of its civil servants until they are relieved completely from the effects of an ailment incurred by reason of their employment.

Denial of medical benefits to an employee who is disabled permanently, is to accord more rights to an employee who is suffering only temporary disability or incapacity; because the latter is entitled to continuous medical, surgical and hospital services and appliances as the nature of his injury or ailment may require (Section 13 of the Workmen's Compensation Act, otherwise known as Act No. 3428, as amended); or to be provided "during the subsequent period of his disability with such medical services and appliances as the nature of his sickness or injury and progress of recovery may require, subject to the expense limitation prescribed by the Commission" (Article 184, New Labor Code, which took effect on November 1, 1974), and with [1] "rehabilitation services, which shall consist of medical, surgical or hospital treatment, including appliances if they have been handicapped by the injury, to help them to become physically independent," and [2] "a balanced program of remedial fitness, location, assessment and progression designed to meet the individual needs of each handicapped employee to restore him to suitable employment, including assistance as may be within its resources to help its rehabilitee to develop his mental, vocational and social potential" (pars. a & b, Art. 189, New Labor Code).

It should be stressed that Articles 184 and 189 aforequoted do not distinguish between temporary and permanent disability.

It certainly would be anomalous and would do violence to natural reason and logic as well as it would be an act of inhumanity to favor the temporarily disabled more than the one deemed permanently incapacitated by illness or injury contracted or sustained during his employment.

An employee, whether temporarily or permanently disabled, is entitled (1) to continuous hospital, medical and/or surgical services to relieve the painful effects of his disability; (2) to relief from, or alleviation of the humiliating effects of his injury, like plastic surgery after the first operation that may leave an ugly scar or deformity; (3) to be provided with such facilities, supplies or equipment that will restore the normal use of his senses, faculties, or limbs, such as improved models of wheelchairs, crutches, artificial limbs or hearing or visual aids; and (4) to rehabilitation of his morale and spirit by eliminating psychological effects of the trauma caused by the ailment or

injury so that he can join, and be accepted by, the mainstream of society and lead a normal life.

After the disability benefits have been paid, the disabled employee may remain to be the main support of his family. Denial to him of further hospital, medical or surgical services would be aggravating the economic distress his family is suffering.

Because society does not seem to accept him (like a cured leper) his feeling of depression may drive him to commit suicide or may infect the other members of the family who may, in desperation, commit anti-social acts, which would engender a more serious tragedy for the family.

Then again, to abandon one who is permanently disabled after the first medical treatment, is virtually to consign him to the scrap heap or to the garbage dump of human derelicts, no longer entitled to the concern and solicitude of the State. Nothing would be more inhuman, repugnant to the central core of our democratic welfare state as envisioned by our Constitution and shocking to a compassionate society. As heretofore emphasized, the Government should be the last to give up hope on the recovery and rehabilitation of those who are now considered permanently disabled. Laboratories all over the world are continuously testing and searching for the panacea for all ailments that plague humanity. There is greater possibility that such a cure may be discovered in our time. The right to life rank second to none in the hierarchy of human rights. The entire world is witness to the amazing survival of Karen Quinlan for the last two years after the life-giving apparatus was disconnected from her body.

It is likewise possible that from our own flora and fauna may be discovered the remedy for many ailments or injury. Many of our plants, fruits and vegetables have been found to cure, prevent or minimize serious cardiac ailments, hypertension, arthritis, afflictions of the kidney and bladder, as well as deep wounds. Some of our vegetation are likewise natural disinfectants. Lately, the lowly chichirica and dioscorea have been found to be a cure for cancer (BT or DE, May 13, 1978).

God in His infinite wisdom, has provided the remedies for human diseases, injuries and afflictions. The genius of resourceful man will discover these cures somehow, sometime -- sooner than expected.

As the Florida Supreme Court pragmatically opined in the 1950 case of *Di Giorgio Fruit Corp. vs. Pittman*, "Medicine is not an exact science x x. Moreover, in this modern era of extensive scientific research, it is not possible to with certainty today that any disease is incurable for no one knows but that tomorrow will herald a new miracle drug" (49 So. 2d 600, 6603).

A Filipino eye specialist gave the information that blindness due to glaucoma may in time be a thing of the past.

Specialists have provided relief to those afflicted with cardiac and kidney diseases through transplanting healthy hearts and kidneys for diseased or impaired ones.

Social legislations which constrict the rights of labor, should yield to the social justice guarantee of the new Constitution which stresses that:

"Sec. 6. The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment and disposition of private property, and equitably diffuse property ownership and profits" (Art. II, 1973 Constitution, italics supplied).

To underscore this obligation of the State, Section 9 of Article II likewise directs that:

"The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and

just and humane conditions of work. The State may provide for compulsory arbitration" (1973 Constitution, italics supplied).

The conservative view limiting the right of the injured or ailing employee to only one surgical or medical service prevailing in some States of the American Union should not find adherence in our jurisdiction; because such States seem to be still dominated by the capitalistic philosophy as they do not provide in their respective constitutions any guarantee of social justice in favor of their citizens. If, on the other hand, the humanitarian view which sustains the right of the ailing or injured employee to continuous medical and surgical services until he has been fully rehabilitated, is espoused by the progressive states of the United States of America despite the absence of any social justice guarantee in their respective constitutions; a fortiori such compassionate approach should be followed in our jurisdiction, where our Constitution expressly guarantees social justice "to ensure the dignity, welfare and security of all the people" (Sec. 6, Art. II, 1973 Constitution), while commanding the State to "afford protection to labor" and "assure the right of workers to x x x just and humane conditions of work" (Section 6, Art. II, 1973 Constitution).

The fear that this humane, liberal and progressive view will swamp the Government with claims for continuing medical, hospital and surgical services and as a consequence unduly drain the National Treasury, is no argument against it; because the Republic of the Philippines as a welfare State, in providing for the social justice guarantee in our Constitution, assumes such risk. This assumption of such a noble responsibility is, as heretofore stated, only just and equitable since the employees to be benefited thereby precisely became permanently injured or sick while invariably devoting the greater portion of their lives to the service of our country and people. Human beings constitute the most valuable natural resources of the nation and therefore should merit the highest solicitude and the greatest protection from the State to relieve them from unbearable agony. They have a right to entertain the hope that during the few remaining years of their life some dedicated institution or gifted individual may produce a remedy or cure to relieve them from the painful or crippling or debilitating or humiliating effects of their injury or ailment, to fully and completely rehabilitate them and develop their "mental, vocational and social potential", so that they will remain useful and productive citizens.

Finally, the New Labor Code itself commands that "all doubts in the implementation and interpretation of this Code, including its implementing rules and regulations, shall be resolved in favor of labor" (Section 4, Presidential Decree No. 442, as amended). This echoes Article 1702 of the Civil Code of the Philippines, which provides that:

"In case of doubt, all labor legislations and all labor contracts shall be construed in favor of safety and decent living for the laborer."

The school of thought that resists the expansion of the social rights of employees and workers is essentially capitalistic, conservative, reactionary and selfish. The invocation of the due process clause to challenge the validity of social and labor legislation as violative of the freedom of contract and an undue deprivation of property had long been discarded in America since the 1937 case of *West Coast Hotel vs. Parrish* (300 U.S. 379) affirming the validity of minimum wage laws. In our country, such a view was repudiated after the 1924 case of *People vs. Pomar* (46 Phil. 440). Thereafter, other social legislations followed and survived the constitutional test such as our own minimum wage law, the 8-hour labor law, and various amendments to the workmen's compensation law, and employer's liability act, law on maternity leave with pay, and laws for the protection of women and minors employed in dangerous industries and occupations. Such statutes were held not to trench upon the Constitution, even in the states of the American Union whose constitutions do not expressly guarantee social justice specifically in favor of the working class, as heretofore stated.

Then again, the fear that continued hospitalization and medical treatment of employees who are permanently

disabled would constitute an intolerable burden on the employer, whether governmental or private, is more fancied than real. Firstly, no statistics have been cited to show that there are many permanently disabled and needing continued medical treatment or hospitalization for a long period. Secondly, the employer can always secure or purchase insurance against such possible liability.

In the instant case, the government is the employer against whom such liability for continued hospitalization, medical services and medical supplies, is being raised. The government can always appropriate the necessary funds for the purpose.

The government has been losing revenues, either through graft and corruption or failure to honestly and fully collect such revenues. These amounts of which the government has been mulcted by dishonest public officers, private contractors or suppliers or which the government failed to collect by reason of the criminal neglect or dishonesty of its collecting agencies, may aggregate hundreds of millions, if not billions, of pesos yearly. The financial exposure of the government to provide medical and hospital services for its unfortunate employees rendered permanently disabled but still suffering pain or humiliation or degradation by reason of such permanent disability is practically minimal, or not substantial, compared to the millions of pesos that the country is losing all these years through graft and corruption. The government has failed not only to prosecute many big-time tax dodgers, grafters and corruptors but also to recover even a portion of the unpaid revenues or the amounts embezzled or stolen from its coffers. Until the guilty parties are brought before the courts, the tribunals cannot do anything.

But in this particular case of an employee who served the government faithfully and satisfactorily risking his health and life and who prays for a second refund of medical expenses amounting to only P4,965.41, this Court has the singular opportunity to afford him relief from his misery and not to let him deteriorate until his body is finally and totally decomposed and dissolved into dust. Any gratuity that he might have received, aside from the first compensation for wage loss and the first refund for hospitalization and medical treatment, would not be even sufficient to maintain his family for the remaining few years of his life. With his retirement gratuity (if qualified) and disability compensation already exhausted by now, he and his family are exposed to complete misery. The government or the court that does not lift a hand to rescue the ailing employee and his family from such abject penury cannot rightly claim to be an agency of social justice, much less pretend to be compassionate.

We may yet escape the judgment of history that this Supreme Tribunal was once found wanting in "moral vision" and abdicated ITS role as an active implementing "instrument of reform."

WHEREFORE, THE DECISION OF THE RESPONDENT COMMISSION IS HEREBY REVERSED AND SET ASIDE AND THE RESPONDENT BUREAU OF FORESTRY OR ITS SUCCESSOR, THE BUREAU OF FOREST DEVELOPMENT, IS HEREBY DIRECTED TO PAY CLAIMANT JULIO BISCARRA THE SUM OF FOUR THOUSAND NINE HUNDRED SIXTY FIVE PESOS AND 41/100 (P4,965.41) AS REIMBURSEMENT FOR MEDICAL EXPENSES.

Fernando, C.J., Barredo, Concepcion, Jr., Santos, Fernandez, Guerrero, Abad Santos, and De Castro, JJ., concur.
Teehankee, and Melencio-Herrera, JJ., dissents in a separate opinion.
Aquino, J., dissents and voted to affirm the decision of the WCC.

DISSENTING OPINION

TEEHANKEE, J.:

We are called upon to set aside at this late stage respondent commission's decision that under the old Workmen's Compensation Act (repealed and superseded as of December 31, 1974 by the New Labor Code) the Republic of the Philippines as employer may not be held liable to pay without limit as to time and amount the lifelong medical, surgical and hospital expenses of an employee after he had been declared totally and permanently disabled for work and had been paid fully the maximum P6,000. – compensation for such disability and had been reimbursed the medical expenses attendant thereto in the sum of P7, 183.14.

Here, petitioner-claimant after having retired at age 58 in 1970 and having been declared totally and permanently disabled for work upon his uncontroverted claim and having received in 1972 the full compensation and reimbursement of his medical expenses therefor, submitted anew five (5) years later (at age 63) in January, 1975 another claim for reimbursement of medical expenses subsequently incurred by him, which the referee granted in the amount of P4, 965.41.

I hold that respondent commission properly issued its en banc order of March 10, 1976 setting aside the referee's decision and ruling in consonance with its consistent official interpretation and implementation of the Workmen's Compensation Act ever since its inception in 1928[1] that "Claimant was declared totally and permanently disabled and no amount of medical treatment could restore him to his former physical capacity for labor. It would be unfair on respondent's side to be continuously paying the medical expenses, as it will be an endless obligation. In fact, claimant was already given the maximum amount of P6,000.00 provided for in the Act, as amended. Hence, claimant is no longer entitled to any further amount of reimbursement of medical expenses."[1-a]

1. The key provision of the Workmen's Compensation Act on payment of medical expenses and services is found in section 13 thereof which principally provides that "Immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of disability, the employer or insurance carrier shall provide the employee with such services, appliances and supplies as the nature of his disability and the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity."[2]

This key provision is read in conjunction with section 14 on total disability, section 15 on total and permanent disability, section 16 on partial disability and section 17 on permanent partial disability. It is readily seen from these provisions of the Workmen's Compensation Act that the disability of the employee is classified according to the extent thereof into either total or partial; and according to the duration, into either temporary or permanent. Total disability in turn may be either temporary or permanent. Where it is temporary, since the disability although total is merely temporary, the employee is given weekly disability payments much less than the maximum granted by the Act for total and permanent disability (as well as for survivors' death benefits) in the sum of P6,000.00 according to the formula set by the Act during the temporary period that the employee is unable to earn wages because of his temporary disability. In such cases of total but temporary disability, section 13 of the Act requires the employer to defray the medical services and expenses that will promote his "early restoration to the maximum level of his physical capacity" and get him back on the job. Hence, the employee is entitled to reimbursement of medical expenses while his curative treatment lasts.

Upon the other hand, where the disability is total and permanent, the employee's total and permanent disability or incapacity to perform gainful work is so declared.[3] Thus, the employer's liability for the employee's medical services and expenses in connection with the injury or sickness that caused such permanent and total disability is ended upon payment of the P6,000.-maximum lump sum compensation therefor and of the medical expenses

incurred in connection therewith. Section 13 of the Act can no longer be invoked for the payment or reimbursement of subsequent medical expenses of the employee after his retirement from work as a result of his total and permanent disability because it is obvious that such expenses are no longer curative and no amount of medical treatment can restore him to his lost physical capacity for work or labor.

2. It will thus be seen that an employee who has been declared to be totally and permanently disabled and who has received the maximum P6,000. - disability compensation therefor and has been reimbursed the medical expenses attendant to the injury or illness which rendered him so incapacitated is not entitled under the Act and more particularly under section 13 to any further payment or reimbursement for subsequent medical expenses. The Act has never burdened the employer, be it the government itself, (and this has always been the official construction and implementation of the Act as heretofore stated) with the obligation of making unlimited payments for subsequent medical services and expenses for as long as the permanently and totally disabled employee lives. Not even in the case of the State as employer has such a limitless burden been imposed, for the cost thereof would be staggering, if not altogether prohibitive, not to mention that no provision for such an open-ended and endless obligation has ever been provided in the budget for the half-century that the Workmen's Compensation Act has been in force. The employer's obligation ceases upon payment of the maximum and fixed P6,000. - disability compensation for total and permanent disability and the medical expenses attendant thereto (which generally have amounted to about the same sum fixed as maximum compensation).

The situation is akin to that cited in *Republic vs. Amil*[4] where the claimant-employee was given an award for 15% permanent disability and discharged as cured from the Orthopedic Hospital for an injury of his left knee, wherein the Court said that "the claimant was deemed cured in the sense of requiring no further hospitalization or treatment, since the 15% loss of his leg activity was permanent and could not be improved by further medication." In the same manner, in cases of total and permanent disability the employer is deemed relieved of any liability for subsequent hospitalization or treatment since further medication could not cure the total and permanent disability nor restore the permanently disabled employee to his former physical capacity for work.

3. The cases of *La Mallorca-Pambusco, Itogon-Suyoc, Inc. and Cebu Portland Cement Co.*[5] cited in the majority decision holding the employer liable to pay for the medical expenses of the employees' illness until the same was "arrested and cured" without limitation as to time and amount all precisely deal with a temporary disability. All the employees-claimants in said three cases had fallen ill with pulmonary tuberculosis (the only illness expressly mentioned by name as compensable in the Workmen's Compensation Act[6]) and therefore section 13 of the Act was properly applied and the employers required to defray the medical expenses until the employees were restored to the maximum level of their physical capacity for work. Where the disability is temporary or curable (such as pulmonary tuberculosis) and where the treatment may restore the employee to the maximum level of his physical capacity and put him back on the job, section 13 of the Act has been applied accordingly.

But where the employee's disability has been declared total and permanent as in the case at bar (with the petitioner found to have incurred various ailments of diabetes mellitus, hypertensive cardiovascular disease, arteriosclerosis and chronic pyonephritis) and he has been paid the maximum P6,000.-disability compensation and reimbursed all medical expenses before he was declared totally and permanently disabled for work and he has retired from his employment with the corresponding retirement benefits, respondent commission properly ruled that section 13 was not applicable and respondent Republic's liability to furnish him with subsequent medical and hospital expenses had terminated because no amount of medical treatment could restore him to his former physical capacity for work.

Thus, not a single instance of the numerous cases in our jurisprudence has been cited where the Court has reversed such uniform and consistent ruling of the commission and instead held the respondent employer liable

for lifelong medical expenses in case of total and permanent disability as the majority would now belatedly hold in the case at bar. Such petitions for review of the commission's adverse ruling denying further medical expenses and payments to permanently and totally disabled employees have generally been denied due course, as per the Court's resolution of February 27, 1978 in Case L-47179, "Umani vs. Shell Co. of the Philippines."

4. It must be borne in mind that under the Workmen's Compensation Act the employer is not the insurer of the employee's health nor of his medical needs. This is not to say that the State thereby consigns the permanently disabled to the "scrap heap or to the garbage dump of human derelicts."

It is generally recognized that it is a prime concern of the State to provide for the medical needs and services of the sick and for the rehabilitation of the disabled and the handicapped. Precisely in pursuance thereof, the State has established Medicare which provides for the medical needs and services of the citizenry. The New Labor Code has now done away with the Workmen's Compensation Act whereby the limited responsibility to provide disability compensation and medical expenses devolved upon the employer, private and public, and in its place has adopted the concept of State insurance of the employees' health and medical needs and provided for an Employees' Compensation Program administered by the Government Service Insurance System for public employees and by the Social Security System for private employees, by means of a compulsory coverage in the State Insurance Fund for all employers (with even one employee) and their employees not over 60 years of age. (The program has preserved for purposes of compensation or disability benefits the classification of disability into Temporary Total Disability [TTD] and Permanent Total Disability [PTD] with PTD being defined to include among others TTD that lasts continuously for more than 120 days and being entitled to monthly income benefits under the formula set in the Code not to exceed P12,000.00 nor paid longer than 5 years. At the same time, it has sought to constrict the number of "occupational" or work-connected or-aggravated illnesses considered as compensable by providing a limited list thereof.)

Under section 185 which is the counterpart of section 13 of the old Workmen's Compensation Act, it is provided that "Immediately after an employee contracts sickness or sustains an injury he shall be provided by the System during the subsequent period of his disability with such medical services and appliances as the nature of his sickness or injury and progress of his recovery may require, subject to the expense limitation prescribed by the Commission." [7]

Two (2) things stand out in this new provision of the New Labor Code compared to the old counterpart provision, to wit:

(a) The phrase in the old provision (section 13 of the old Workmen's Compensation Act) providing that the employer will provide for the medical services "which will promote [the employee's] early restoration to the maximum level of his physical capacity" has been eliminated, meaning to say that the classification between the different kinds of disability (total or partial, temporary or permanent) for purposes of medical services and expenses has been cast aside. Hence, the former limitation that totally and permanently disabled employees were not entitled to payment of their subsequent medical expenses since they could no longer be restored to the maximum level of their physical capacity for work has been eliminated with the result that the totally and permanently disabled are now entitled to payment of such subsequent medical expenses; and

(b) Presumably by virtue of the inclusion now in the new program of such totally and permanently disabled employees and the uncertain expenses that may possibly be incurred for their medical needs, it is now expressly provided that such medical services and expenses shall be subject to the expense limitation prescribed by the [Employees' Compensation] Commission.

In conjunction with the foregoing, a new provision, viz, Art. 190 of the New Labor Code now expressly provides

for rehabilitation services of the permanently disabled, as follows:

"ART. 190. Rehabilitation services. - (a) The System shall, as soon as practicable, establish a continuing program for the rehabilitation of injured and handicapped employees, who shall be entitled to rehabilitation services, which shall consist of medical, surgical or hospital treatment, including appliances if the have been handicapped by the injury, to help them become physically independent.

"(b) As soon as practicable, the System shall establish centers equipped and staffed to provide a balanced program of remedial treatment, vocational assessment and preparation designed to meet the individual needs of each handicapped employee to restore him to suitable employment, including assistance as may be within its resources to help each rehabilitee to develop his mental, vocational or social potential."

This indeed would discharge the State's obligation and concern for the permanently disabled and handicapped - a burden which could not possibly be borne by the average employer without the risk of insolvency or bankruptcy. This project of providing rehabilitation services is of such magnitude that even now, five years after the issuance of the New Labor Code, the Minister of Labor has not yet announced any definite plans for the implementation of this provision to provide free rehabilitation services to the permanently disabled workers and to establish rehabilitation centers.

5. It should be underscored that during our deliberations in the case at bar whereby the established administrative interpretation of the Workmen's Compensation Act to the effect that totally and permanently disabled employees cannot claim for continuing and indeterminable open-ended medical, surgical and hospital expenses would now be retroactively set aside, the fear of the possibility that the government would now be swamped with claims for such continuing medical, surgical and hospital services that "would unduly drain the national treasury" as taken note of by the majority^[8] was brushed aside with the statement that the State can and should be able to afford it "as a welfare State." I have grave doubts about this since no funds have ever been appropriated for the purpose during the subsistence for 50 years of the Workmen's Compensation Act and the bill could run into enormous amounts that would jeopardize the setting up of the rehabilitation program and services contemplated by the New Labor Code, *supra*. It should also be made clear that in our deliberations, this decision was expressly limited to the government as the employer and that the question of whether the same ruling of now holding the government as employer liable for indefinite lifelong medical, surgical and hospital expenses of totally and permanently disabled employees would also apply to the private employers, many of whom could possibly be thrown into bankruptcy should this ruling be also applied to them (considering the prevailing high costs of such medical expenses), was left open and unresolved.

To paraphrase Justice Malcolm in *Vergara vs. Pambusco*,^[9] we in the court have heretofore given repeated evidence of our desire and resolve to see a spirit of liberality and social justice characterize the construction and implementation of the Workmen's Compensation Act. We have always endeavored to interpret the Act to promote its purposes. We have even gone so far by virtue of the Act's presumption of compensability to declare compensable under the Act practically all the known forms of human illness and disease that have supervened during the course of employment including leprosy and cancer in all their various forms. But as Justice Malcolm stressed, "we cannot and should not reconstruct the Act to fit particular cases" or to retroactively disturb and set aside the official administrative interpretation and implementation of the Act that has received our sanction for decades.

Especially should this be so when the Workmen's Compensation Act has already been repealed and this Court is now on the verge of clearing its dockets of the hundreds of compensation cases that flooded us because of the precipitate and hasty denials of claims by the Workmen's Compensation Commission during its last days of existence in order to meet its deadline for determination of such claims. The remedy for the plight of the

permanently disabled who were not taken care of by the old Workmen's Compensation Act lies not with the Court but with the lawmakers. This they can give by simple remedial legislation providing the necessary funds and directing that the medical and rehabilitation services contemplated and provided for under the above-cited Articles 185 and 190 of the New Labor Code are made applicable and shall be available to the employees and workers who incurred permanent and total disability under the Workmen's Compensation Act.

I vote accordingly for affirmance of the appealed decision.

[1] Act No. 3428, the Workmen's Compensation Act, became a law on December 10, 1927, and as provided in section 44 thereof became effective six months thereafter on June 10, 1928.

[1-a] Italics supplied.

[2] Idem.

[3] Cf. Fernandez & Quiazon, Labor & Social Legislation in the Philippines, p. 595.

[4] 10 SCRA 669, 672, per Reyes, J.B.L., J.

[5] 3 SCRA 242, 9 SCRA 199 and 10 SCRA 420, respectively.

[6] "SEC. 2. Grounds for compensation. - When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the persons hereinafter specified. x x x."

[7] Italics supplied.

[8] At page 17.

[9] 52 Phil 820 (1936).

DISSENTING OPINION

MELENCIO-HERRERA, J.:

I am constrained to dissent from the majority decision. The views which have induced me to do so can be expounded as follows:

1. Exercise of the judicial power. (a) The main responsibility of Courts is to interpret and construe the laws, constitutional and statutory. They should not legislate except interstitially (16 CJS 728); that is, except to fill in the small gaps left in statutes by the legislative. But what Courts may fill in into those gaps should still be in accordance with the lawmaker's purpose.

(b) Before the effectivity of the Labor Code, employers could be classified into two groups: the first group being composed of those substantially affected by the Workmen's Compensation Act (the OLD ACT, for short), and the second group being composed of those whose concern with the OLD ACT is minimal. Among those in the second group are mainly the professionals: lawyers, accountants, advertising agents, etc.

It is conceivable that an accountant, or a lawyer, can say that: (i) The Supreme Court has construed the OLD ACT so liberally in favor of employees that employers who have actually faced claims for compensation have in the

main been held liable, even when illnesses, strictly speaking, were not really work connected; (ii) Individual employers so held liable were heavily burdened with increased costs of operation; (iii) The Government has recognized the plight of employers in the first group who have actually been required to bear the cost of workmen's compensation and, to alleviate their situation, the OLD ACT was repealed, and the cost of employees' compensation was distributed among all employers, regardless of whether any of their employees have suffered work connected injuries or illnesses; (iv) Accountants or lawyers have now to pay employees' compensation where, before the Labor Code, they never had to bear any expense for workmen's compensation; (v) Employers in the first group have welcomed the Labor Code in the thought that with the payment of premiums for employees' compensation, they need not worry about workmen's compensation; and (vi) A result of the present system could be the relaxation of safety measures on the part of employers.

c) A dissent is a "voice in the wilderness." Nevertheless, and, on principle, I would still like to express my thoughts on the issue involved in this case, bearing in mind the primordial requirement that Courts should interpret statutes and should not construe them beyond the legislator's purpose.

2. Simplification of the Problem. (a) This case involves the interpretation or meaning to be ascribed to SECTION 13 of the Workmen's Compensation Act (the OLD ACT, for short), which provides:

"SEC. 13. Services, appliances and supplies. - Immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of disability, the employer or insurance carrier shall provide the employee with such services, appliances and supplies as the nature of his disability and the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity.

The word 'services' used herein shall include medical, surgical, dental, hospital and nursing attendance and treatment as well as the proper fitting and training in the use of appliances and the necessary training for purposes of rehabilitation; 'appliances' shall include crutches, artificial members and other devices of the same kind, and the replacements or repairs of such artificial members or such devices unless the replacement or repair is made necessary by the lack of proper care by the employee; and 'supplies' shall include medicines, as well as medical, surgical and dental supplies.

In case the employer or insurance carrier cannot furnish the aforementioned services, appliances and supplies promptly, the injured or sick employee may acquire the same at the expense of the employer or insurance carrier.

If it is shown before the Commission or its authorized representative that the injured or sick employee voluntarily refused to accept without justifiable cause, the services, appliances and supplies provided by the employer or insurance carrier or voluntarily obstructed without justifiable cause the giving of such services, appliances and supplies, such refusal or obstruction shall be construed as a waiver of all or part of his rights to the same and in this case the employer or insurance carrier shall be liable only for the disability of any nature that would have ensued if the injured or sick employee had accepted the services, appliances and supplies tendered by the employer or insurance carrier: Provided, however, That the refusal as well as the kind of disability that would have been the result of the injury or illness if the injured or sick person had accepted such services, appliances and supplies shall be set forth in an affidavit made within twenty-four hours after such refusal by the physician or other person called to render such services or furnish such appliances or supplies. What shall constitute justifiable cause shall be determined by the representative of the Commission who may, on his own initiative, determine the necessity, character and sufficiency of any service, appliance and supplies furnished by the employer or insurance carrier or acquired by the employee himself at the employer's or insurance carrier's expense, and order a change of such service, appliance and supplies when in his judgment such change is desirable or necessary.

No claim for such services, appliances or supplies shall be valid and enforceable against the employer or insurance carrier unless the attending physician or other person concerned, within twenty days following the first treatment, attendance, or furnishing of supplies and thereafter within the same period following every treatment, attendance, or furnishing of supplies, furnish the employer or insurance carrier and the Commission a report of such injury and treatment on a form prescribed by the Commission.

The liability of an employer or insurance carrier for the aforementioned services, appliances and supplies shall not be affected by the fact that his employee was disabled through the fault or negligence of a third party."

(b) The majority has interpreted or construed the foregoing SECTION 13 as requiring the employer to provide the employee with "services, appliances and supplies" for recurrences of illness as long as he lives (hereinafter called LIFELONG MEDICAL EXPENSES).

In this case, petitioner was retired on October 31, 1970, because of diabetis millitus, hypertensive cardiovascular disease, arterio-sclerosis, and chronic pyonephritis. He was paid P6,000.00 for total and permanent disability and, because of his confinement after retirement, he was awarded P7,183.14 under SECTION 13 on September 15, 1972. On January 3, 1975, he had again applied for reimbursement for medical expenses incurred after September 15, 1972. The Workmen's Compensation Commission disallowed the claim for the P4,965.41, stating it would be unfair for the employer to be continuously paying the medical expenses, as it will be an endless obligation. It is that ruling of the Workmen's Compensation Commission which is being set aside by the majority which holds that the employer is subject to the payment of LIFELONG MEDICAL EXPENSES.

(c) On the other hand, I am of opinion that SECTION 13 should be interpreted (and need not be construed) such that the employer is required to provide the employee, after the injury or illness has been suffered, with "services, appliances and supplies", or medical expenses, only for the "hospitalization", "immediately . . . during the subsequent period of disability (hereinafter called the IMMEDIATE MEDICAL EXPENSES). The factors supporting my opinion will hereinafter be discussed.

3. Agreements on employer's liability. - Sections 22 and 29, as amended, of the OLD ACT provide:

"SEC. 22. Payments in a lump sum. - Whenever the Commissioner considers it most advantageous and convenient, the liability of the employer as regards the compensation may be discharged totally or in part by payment in a lump sum or sums as may be the case, under the condition that if the sum or sums to be paid are less than that fixed by the law, the reduction shall not be more than eight per centum: Provided, however, That any agreement or contract made for this purpose between the parties shall not be valid unless it be in conformity with the provisions of this section in so far as the amount of compensation is concerned, and be made in the form of a public document acknowledged before the justice of the peace of the locality and attested by two witnesses, one of whom shall be the municipal treasurer or the person acting in his stead if the agreement is entered into outside the City of Manila; subject to the approval of the Workmen's Compensation Commissioner and if in the City of Manila, before the Workmen's Compensation Commissioner or any of his authorized representative. Before the acknowledgment of the instrument, the justice of the peace shall fully inform the injured laborer or dependent person or persons executing the instrument in his stead, of all their rights and privileges under this Act reading and translating to them into the vernacular dialect they know in case they do not understand English or Spanish, the provisions of this Act establishing the amounts and period of compensation and other privileges to which they are entitled by reason of the accident, and shall certify in the acknowledgment clause that all these requisites have been complied with. The expenses of the acknowledgment of the contract shall be borne by the employer."

"SEC. 29. Agreement on compensation. - In case the employer and the injured laborer or the dependents entitled to compensation arrive at an agreement concerning the compensation provided for by this Act, such agreement in order to be valid, shall provide, at least, the same amount of compensation as that prescribed by

this Act and must be approved by the Workmen's Compensation Commissioner, or any of his authorized representative: Provided, however, That the employer shall be exempt from all liability under this Act as soon as the compensation has been paid in accordance with this section, saving the provisions of section six of this Act."

The foregoing provisions, to my mind, run counter to the interpretation of SECTION 13 in the Opinion of the majority to the effect that an injured workman is entitled to LIFELONG MEDICAL EXPENSES up to the end of his natural life. Following that Opinion of the majority, Sections 22 and 29 would be meaningless because any and all agreements under those paragraphs, specially the employer's further liability for LIFELONG MEDICAL EXPENSES, would be contrary to the provisions of SECTION 13 as construed by the Majority. The lawmaker would not have provided for exemption from further liability of the employer under Section 29 if, after all, the employer has to assume liability to the injured employee for LIFELONG MEDICAL EXPENSES.

4. Insurance coverage. - Section 30 of the OLD ACT requires employers, without adequate "financial ability", to secure insurance against liability under the statute from an insurance company authorized to do business in the Philippines. The section, in part, reads:

"SEC. 30. Security for payment of workmen's compensation. - Employers shall secure the payment of compensation and other benefits to their employees or laborers and their dependents:

(1) By insuring and keeping insured the full payment of such compensation and other benefits with an insurance company authorized to do business in the Philippines; or

(2) By furnishing satisfactory proof to the Bureau of Workmen's Compensation of their financial ability to shoulder such liabilities directly in accordance with paragraph one hereof. An employer securing payment of such liabilities in accordance with this paragraph shall be known as self insurer."

The section assumes that compensation should be paid by a domestic insurance company, the solvency of which is more or less assured; rather than the employer who might turn out to be insolvent. The provision seeks to protect the employee. The exception covers employers who can furnish satisfactory proof of their financial ability to shoulder the payment of compensation. The important factor to note is that employers who take out insurance from domestic insurance companies are those who cannot prove their financial ability to shoulder liabilities under the OLD ACT.

An insurance policy, as a practical measure, cannot ordinarily be obtained by an employer to cover himself against liability for LIFELONG MEDICAL EXPENSES under the SECTION as construed by the majority. If an insurance Company should agree to a policy covering the employer's undeterminable and unlimited liability under SECTION 13 for LIFELONG MEDICAL EXPENSES, the premium will be prohibitive, and would not be within the means of the employer to pay because his application for the insurance policy presupposes that he is not possessed with "financial ability to shoulder" the liabilities for compensation. That result could not have been the intention of the legislator in requiring employers to secure insurance coverage. SECTION 13 should not be construed to produce inequitable situations, which would be the result under the ruling in the majority Opinion.

Under the present Labor Code, employees' compensation has to come from a state insurance fund to which employers pay insurance premiums. Even the insurance coverage under the present Labor Code cannot support unlimited and undeterminable liability for LIFELONG MEDICAL EXPENSES which the majority would like insurance companies under the OLD ACT to bear in respect of unlimited and undeterminable liability under SECTION 13. Thus, Article 185 of the Labor Code provides:

"Art. 185. Medical services. - Immediately after an employee contracts sickness or sustains an injury, he shall be provided by the System during the subsequent period of his disability with such medical services and

appliances as the nature of his sickness or injury and progress of his recovery may require, subject to the expense limitation prescribed by the Commission."

The foregoing paragraph is rather similar to the first paragraph of SECTION 13. It will be seen that the Labor Code, although it knows the enormity of the state insurance fund, will not allow LIFELONG MEDICAL EXPENSES. If the liability for LIFELONG MEDICAL EXPENSES under the OLD ACT is assessed from the point of view of a single employer, or of a single domestic insurance company, whose resources would be fractions compared to the state insurance fund, then it should not be difficult to conclude that it could not have been the legislator's intention in SECTION 13 to have an individual employer liable for LIFELONG MEDICAL EXPENSES, taking account of his very limited means vis-a-vis the state insurance fund.

5. SECTION 13 and Article 185 of the Labor Code. - It can be presumed that, in regards to the Labor Code, the lawmaker knew of the construction made by this Court of SECTION 13. The lawmaker must have considered that construction unwarranted and impractical and, in transposing SECTION 13 as Article 185 of the Labor Code, he added the clause to the Article "subject to the expense limitation prescribed by the Commission". As I have said before, it is entirely conceivable that the Government has realized that the OLD ACT has been construed by this Court beyond the intendment of the legislative, and that was the motivation for the repeal of the OLD ACT and its replacement by the provisions on Employees' Compensation and State Insurance Fund incorporated into the Labor Code.

6. The general purpose of the OLD ACT. – Throughout the OLD ACT the intention of the legislator to limit payable compensation to P6,000.00 is redolent. The following are the relevant provisions:

"SEC. 12. Sundry provisions regarding death benefits. - In Computing death benefits, the average weekly wages of the deceased employee shall not be reckoned at more than fifty pesos nor less than fourteen pesos; but the total weekly compensation shall not in any case exceed the average weekly wages computed in accordance with Section nineteen of this Act, nor shall the compensation paid in any case exceed in its aggregate the sum of six thousand pesos."

xxx xxx xxx

"SEC. 14. In the case of an employee whose average weekly wages are less than fourteen pesos per week, the weekly compensation shall be the entire amount of such average weekly wages; but if the disability is permanent, the compensation shall be fourteen pesos in such case. In the event that the total disability begins after a period of partial disability, the amount of compensation due for the latter and for any other disability shall not exceed the maximum amount of six thousand pesos."

"SEC. 16. Partial disability. - In case the injury or sickness causes partial disability for labor, the employer, during such disability and except as herein after provided, shall pay to the injured or sick employee for a period of not to exceed two hundred and eight weeks, beginning with the first day of disability, a weekly compensation equal to fifty per centum of the difference between his average weekly wages before the accident and the weekly wages which he could probably earn thereafter; but not more than eighteen pesos per week. The weekly payments shall not in any case continue after the disability has ceased, and in case partial disability sets in after a period of total disability, such period of total disability, shall be deducted from the total period of two hundred and eight weeks and the amount of the compensation paid shall not in any case be in excess of the total sum of six thousand pesos. No award for disability shall be made before a lapse of two weeks counted from the date of the injury."

"SEC. 18. In case of an injury producing a serious disfigurement of the face or head, the Commission may, at the request of an interested party, determine and award such compensation as may seem fair and proper in view of the nature of the disfigurement, but which shall not exceed six thousand pesos.

The total compensation prescribed in this and the next preceding section and the total compensation prescribed in Sections fourteen and fifteen of this Act, shall, together, not exceed the sum of six thousand pesos: Provided, however, That after the payment has been made for the period specified by the Act in each case, the Workmen's Compensation Commission may from time to time cause the examination of the condition of the disabled laborer, with a view to extending, if necessary, the period of compensation which shall not, however, exceed the said amount of six thousand pesos."

It has to be conceded that medical expenses under SECTION 13 can be in addition to the P6,000.00 limit. But the medical expenses should be considered only as a supplement, and they should not be much more than a small fraction of the P6,000.00 limit. That is how the purpose of the legislator has to be assessed. It cannot be that the amount of expenses under SECTION 13 can exceed P6,000.00, which could easily be the case with LIFELONG MEDICAL EXPENSES. The supplement should not exceed the main or principal.

7. Time frame of SECTION 13. The first paragraph of SECTION 13 reads:

"SEC. 13. Services, appliances and supplies. - Immediately after an employee has suffered an injury or contracted sickness and

During the subsequent period of disability.

The employer or insurance carrier shall provide the employee with such services, appliances and supplies as the nature of his disability and the process of his recovery may require; and

That which will promote his early restoration to the maximum level of his physical capacity."

(a) The word "immediately". The relevant clause in connection with the word is: "Immediately after an employee has suffered an injury or contracted sickness.... the employer or insurance carrier shall provide the employee with such services." It is rather clear to me that, if the services have to be provided immediately after the injury or illness and have to be paid, SECTION 13 has only provided for immediate medical expenses, and not for LIFELONG MEDICAL EXPENSES. *Expressio unius est exclusio alterius*.

(b) The "period of disability". The phrase "period of disability" is also used in Section 20 of the OLD ACT as follows:

"SEC. 20. Voluntary payments. - Payments made by the employer or his insurer to the injured laborer during the period of his disability or to his dependents, which under the provisions hereof were not due or payable when they were made, shall, upon being duly established, by agreement between the parties concerned, a certified copy of which shall be sent to the Workmen's Compensation Commissioner, or subject to the decision of the Commissioner, be deducted from the sum to be paid as compensation: Provided, That in case of disability, the deduction shall be made by reducing the period of time during which the compensation is to be paid, and not by reducing the weekly payment to be made in accordance with sections fourteen, fifteen, sixteen and seventeen of this Act."

It should be rather clear that the "period of disability" used above refers to the weeks envisaged in Sections 14, 16 and 17 during which weekly compensations are payable. The said clause "period of disability" cannot refer to a period after the weekly compensations have been completed. The general rule is that words and clauses used several times in a statute should have the same meaning. Hence, the clause "period of disability" in SECTION 13 cannot be up to the end of the natural life of an injured employee, or after the termination of the weeks when weekly compensations have to be paid.

Moreover, "period of disability", as used in the OLD ACT, inclusive of its use in SECTION 13, must be coupled with employment. If a person is no longer employed, he cannot have a "period of disability". Under the majority

Opinion upholding the employer's liability for LIFELONG MEDICAL EXPENSES, the employer's payments will no longer be during "period of disability". It should be clear, therefore, that SECTION 13, according to the legislative purpose, is not to make medical expenses payable after an employment has terminated. If that is so, then LIFELONG MEDICAL EXPENSES should be held as not within the legislative purpose in SECTION 13.

(c) Singularity of "period". In the term "period of disability", the word "period" is in the singular. his insurer to the injured laborer during the period of his disability or to his dependents, which under the provisions hereof were not due or payable when they were made, shall, upon being duly established, by agreement between the parties concerned, a certified copy of which shall be sent to the Workmen's Compensation Commissioner, or subject to the decision of the Commissioner, be deducted from the sum to be paid as compensation: Provided, That in case of disability, the deduction shall be made by reducing the period of time during which the compensation is to be paid, and not by reducing the weekly payment to be made in accordance with sections fourteen, fifteen, sixteen and seventeen of this Act."

It should be rather clear that the "period of disability" used above refers to the weeks envisaged in Sections 14, 16 and 17 during which weekly compensations are payable. The said clause "period of disability" cannot refer to a period after the weekly compensations have been completed. The general rule is that words and clauses used several times in a statute should have the same meaning. Hence, the clause "period of disability" in SECTION 13 cannot be up to the end of the natural life of an injured employee, or after the termination of the weeks when weekly compensations have to be paid.

Moreover, "period of disability", as used in the OLD ACT, inclusive of its use in SECTION 13, must be coupled with employment. If a person is no longer employed, he cannot have a "period of disability". Under the majority Opinion upholding the employer's liability for LIFELONG MEDICAL EXPENSES, the employer's payments will no longer be during "period of disability". It should be clear, therefore, that SECTION 13, according to the legislative purpose, is not to make medical expenses payable after an employment has terminated. If that is so, then LIFELONG MEDICAL EXPENSES should be held as not within the legislative purpose in SECTION 13.

(c) Singularity of "period". In the term "period of disability", the word "period" is in the singular. This is further proof that the legislative intendment was that medical expenses will be paid for a single "period". Hence, several "periods" of disability for LIFELONG MEDICAL EXPENSES cannot be deemed within the intendment of the legislator in SECTION 13.

(d) The word "subsequent". Under the majority Opinion, SECTION 13 is being construed as applicable to all subsequent periods of disability; That is, if an employee is hospitalized immediately after contracting compensable illness, say in 1972, and is again hospitalized in 1975, as happened in this case, the 1975 hospitalization is still a subsequent period of disability. A similar question as to what is "subsequent" was resolved in *McIntosh v. S. A. Heally Construction Company*, 236 N.Y.S. 2d 189. In that case, it was held, without reference to cause, that a second disablement was not a "subsequent" disability to the first, for purposes of entitling an employer to reimbursement from a special disability fund. Similarly, under SECTION 13, a second hospitalization should not be deemed to be a "subsequent period of disability".

8. Administrative Interpretation. - In this case, the Workmen's Compensation Commission has ruled that when an injured employee has been totally and permanently disabled, it would be unfair for the employer to be continuously paying his medical expenses as it will be an endless obligation. That ruling of the Commission is against the position taken by the majority in regards to the meaning of SECTION 13 and is being set aside. The Commission has actually interpreted SECTION 13 as not providing for LIFELONG MEDICAL EXPENSES.

In rejecting the Opinion of the Commission, the majority has not given due consideration to the doctrine

enunciated in the following cases:

"This contemporaneous construction is highly persuasive:

'The practice and interpretive regulations by officers, administrative agencies, departmental heads and other officials charged with the duty of administering and enforcing a statute will carry great weight in determining the operation of a statute.' (2 Sutherland, Statutory Construction, p. 516).

'In the construction of a doubtful and ambiguous law, the contemporaneous construction of those who are called upon to act under the law, and were appointed to carry its provisions into effect, is entitled to very great respect.' (Edwards Lessee vs. Darby, 12 Wheat. 206, 210).

Commenting on the above rule, Erwin N. Criswold of the Harvard Law School, wrote:

'Another reason why contemporaneousness is an important factor is its bearing on the need for certainty and predictability in our tax laws. This is where the notion of the Court's function in the scheme of judicial tax administration becomes important. A statute is enacted. A regulation is issued. It will, in the normal course of events, be five or six years, and very likely more, before the construction of the statute, in the light of the regulation, will come before the Supreme Court. In the meantime, people will go on living, and transactions will be conducted under the statute, perhaps all the transactions that are ever to be conducted under the statute. Thus, it seems that a strong argument can be made in favor of giving very heavy weight to a contemporaneous regulation, so that taxpayers may rely upon it and have some certainty that it will be followed by the courts. ***' (A Summary of the Regulations Problem, 54 Harvard Law Review, p. 398, 406)." (Lim Hoa Ting vs. Central Bank of the Phils., 104 Phil., 580).

"Opinions and rulings of officials of the Government called upon to execute or implement administrative laws command much respect and weight" (Regalado v. Yulo, 61 Phil. 173; Grapilon v. Mun. Council of Carigara, L-12347, May 30, 1961; Tan v. Municipality, 7 SCRA 887, 892).

"Great weight should be given to the construction placed upon a revenue law, whose meaning is doubtful, by the department charged with its execution." (Madriral and Paterno vs. Rafferty and Concepcion, 38 Phil., 415).

Giving weight to administrative interpretation of statutes is salutary, and is being implemented by recent grants, for instances, to the Securities and Exchange Commission, to the Bureau of Mines, and to the National Housing Administration to resolve controversies in regards to matters within their jurisdictions. The administrative agencies, more than the Courts, can better resolve questions as to matters which are their concern. In a sense, the Commission is the "expert" in the field of workmen's compensation and, because it is not palpably wrong, its opinion should be upheld.

9. Article 298, Labor Code. - That SECTION 13 of the OLD ACT was not meant to provide for LIFELONG MEDICAL EXPENSES is also shown in the following Article 298 of the Labor Code:

"ART. 298. Continuation of insurance policies and indemnity bonds. - All workmen's compensation insurance policies and indemnity bonds for self-insured employers existing upon the effectivity of this Code shall remain in force and effect until the expiration dates of such policies or the lapse of the period as such bonds, as the case may be, but in no case beyond December 31, 1974. Claims may be filed against the insurance carriers and/or self-insured employers for causes of action which accrued during the existence of said policies or authority to self-insured."

It should be plain that the Labor Code assumes that insurance policies and indemnity bonds of self-insured employers were not intended to cover LIFELONG MEDICAL EXPENSES; otherwise, the Labor Code would not have provided for the termination of such policies and indemnity bonds after December 31, 1974.

If a workmen's compensation insurance policy should be analyzed, it will most likely be held that neither

employer nor insurer had intended to insure the employer against LIFELONG MEDICAL EXPENSES; and that fact can be established through the actuarial studies made for the determination of the premium. As previously stated, the premium for a policy covering LIFELONG MEDICAL EXPENSES would be prohibitive.

It can be presumed that, in regards to the Labor Code, the lawmaker knew the extent of coverage of insurance policies under the OLD ACT, and that the policies did not cover LIFELONG MEDICAL EXPENSES. The invalidation of the policies by December 31, 1974 would show that the Labor Code has not envisaged that, under the OLD ACT, SECTION 13 provides for LIFELONG MEDICAL EXPENSES.

10. Developing and developed; haves and have-nots. - The majority Opinion is replete with citations from the United States of America, a highly developed and have country. The citations show that many States in that country, apparently the majority, provide for LIFELONG MEDICAL EXPENSES in their Workmen's Compensation Acts. However, there are still some States, even in that well developed have-country, which adhere to IMMEDIATE MEDICAL EXPENSE. So, if we have to follow foreign patterns, the Philippines can still have the option of joining the minority of the American States in living with IMMEDIATE MEDICAL EXPENSE.

Our country is only a developing one, and it is definitely a have-not. The query is whether we should keep up with the Joneses, and through Court action establish the LIFELONG MEDICAL EXPENSES plan; or, within our still developing economy, abide with the minority of American States with the IMMEDIATE MEDICAL EXPENSE plan.

To me there is only one choice. As a developing have-not nation, we should not emulate the highly developed have-States across the Pacific who provide for LIFELONG MEDICAL EXPENSES.

11. The Welfare State: (a) I cannot quite agree with the majority Opinion that ours is a welfare state. Whether we are a welfare state or not could be a constitutional question which need not be resolved in this case at all.

(b) Welfare programs are, indeed, a major function in virtually every government. However, the serious burden on the treasury, such as that of the British, which has one of the more comprehensive of all social security programs, is already felt. (The Dynamics of Modern Government, Meehan, Roche & Stedman, p. 349; 354-355). While in the United States, the welfare system has posed a "real problem." in that marginally employed people see their jobs as 'no better than welfare' and that 'continuing on welfare' is deemed by them as 'a very reasonable substitution for working' (see U. S. News & World Report, January 22, 1979, p. 22). I doubt it very much whether we are desirous of duplicating this situation in the Philippines.

The foregoing are the reasons for my dissent notwithstanding the relatively minimal amount involved.

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