

**MARIA CRISTINA FERTILIZER CORPORATION, PETITIONER, VS.
WORKMEN'S COMPENSATION COMMISSION AND EPIFANIA
VDA. DE CASTILLO, RESPONDENTS.**

G.R. No. L-29998. October 21, 1974

Ponente: MAKALINTAL, C.J.

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MAKALINTAL, C.J.:

This is a petition for review of the decision of the Workmen's Compensation Commission dated July 24, 1968, awarding compensation benefits to the claimants, and of the resolution of the Commission en banc dated September 24, 1968, denying the motion for reconsideration.

The late Alfonso Castillo was a laboratory technician in the fertilizer plant of the Maria Cristina Fertilizer Corporation with a monthly salary of P175.00 at the time of his death. He started working in said plant as a laboratory helper in 1953 when it was still owned by the National Power Corporation. Inside the laboratory where he worked the temperature was warmer than the temperature outside and the air was polluted by different gases (ammonia gas, ammonium sulfate gas, sulphur dioxide gas, sulphur trioxide gas, banadium pentoxide gas), dust (iron dust, silicon dust) and fumes from various kinds of chemical matter.

On December 1, 1962 Castillo started having abdominal pains which disabled him for his usual work. He was treated by Dr. James Echiverri, Medical Director and Plant Physician of the fertilizer firm, who provisionally diagnosed his illness as schistosomiasis of the liver and had him confined at Dr. Uy's Clinic in Iligan City. When his condition improved he was discharged from said clinic, but after a week the symptoms reappeared, so he was hospitalized again. This time he was confined at the Mindanao Sanitarium and Hospital, also in Iligan City, where his ailment was diagnosed as primary carcinoma of the liver. After a biopsy was performed the carcinomatous condition of the liver was confirmed. Upon advice of Dr. Buendia, one of the attending physicians, Castillo was airlifted to Manila and taken to the North General Hospital, where he died on January 9, 1963 of cancer of the liver.

Meanwhile, on January 5, 1963, the Marcelo Steel Corporation, as operators and managers of the Maria Cristina Fertilizer Plant, sent by registered mail to the Regional Office No. XI, Department of Labor, in Cagayan de Oro City, a notice controverting any claim for compensation should one be filed by or on behalf of Alfonso Castillo. On January 14, 1963, or five days after his death, the employer sent by registered mail to the Regional Office (1) the "Employer's Report of Accident or Sickness," with a similar statement of controversion, and (2) the "Physician's Report for Sickness or Accident."

Acting on the aforementioned reports, the Regional Office set the case for hearing on February 22, 1963 and issued the corresponding notice therefor. However, the hearing as scheduled was postponed.

On June 24, 1963 the counsel for the employer was furnished a copy of the Notice and Claim for Compensation in Death Cases signed by the late employee's widow, Epifania Vda. de Castillo, in her own behalf and that of her minor children.

After both parties presented evidence the Chief Referee of the Workmen's Compensation Unit, Regional Office No. XI, Department of Labor, rendered his decision, dated September 29, 1966, dismissing the claim on the ground that the cause of death was not service connected. The claimant filed a petition for review of the decision the Chief Referee denied it in his order dated November 28, 1966 and had the entire record of the case elevated to the Workmen's Compensation Commission for review.

On July 24, 1968 the Commission, through Associate Commissioner Paciano C. Villavieja, reversed the decision of the Chief Referee and ordered the respondent to pay; (1) the claimants, thru the Commission, the sums of P4,000.00 as death compensation and of P200.00 as burial expenses; (2) the claimant's counsel, thru the Commission, the sum of P420.00 as attorney's fees; and (3) the Commission the sum of P43.00 as costs. Unable to obtain a reconsideration of the decision, the respondent filed the instant petition for review.

The petitioner now contends, that the respondent Commission erred: (1) in holding that "the respondent, by legal dictum, is deemed to have waived its right to controvert the claimant's right to compensation benefits under the law;" and (2) in not dismissing the claim.

We first take up the issue of compensability raised in the second assignment of error. The petitioner claims that Castillo's death was not service-connected, for cancer of the liver is not an occupational disease of its employees at the fertilizer plant, and that the hazards of the work therein may cause or aggravate respiratory diseases only, but not cancer of the liver because said organ is not accessible thru the respiratory system but thru the gastro-intestinal tract. The petitioner adverts to the testimony of Dr. Leonida C. Buendia, the medical witness for the private respondent, that everybody may be affected with cancer of the liver and that there is no specific cause of said ailment; and to the testimony of its plant physician, Dr. James L. Echiverri, that aside from the late Alfonso Castillo, he did not know of any other employee of the company who had had cancer of the liver. The petitioner also invokes the dissenting opinion of Associate (Medical) Commissioner Herminia Castelo-Sotto holding that there was no causal relation between Castillo's employment and the illness that caused his death.

The petitioner cannot be sustained. Even granting that cancer of the liver is not an occupational disease of its employees, it is not an obstacle to the compensability of the illness. In the case of *Manila Electric Company vs. Workmen's Compensation Commission*,^[1] this Court affirmed the award for death caused by brain tumor, although it was ruled out as an occupational disease. It may be noted in the instant case that the late Alfonso Castillo worked for more than nine (9) years in the laboratory of the petitioner and was exposed daily to dust, gases, and fumes of various chemical matters. While the liver is not accessible through the respiratory system, nevertheless there is the strong probability that the hazards in the laboratory where he worked for so many years so affected his health and reduced his body resistance that it could not withstand the infection of the liver, which later became cancerous. At the very least the conditions of work, as found by the respondent Commission, aggravated his illness.

The foregoing conclusion is not without legal basis. It is now well-settled that once it is established that the illness supervened during employment, as in this case, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by it;^[2] and the employer has the burden of proving the contrary by substantial evidence. Here the petitioner failed to discharge that burden. It did not adduce substantial evidence tending to show that the disease which caused the death of the late Alfonso Castillo was not service connected. The mere opinion of its plant physician that there was no causal connection between cancer of the liver and the nature of Castillo's employment cannot prevail over the said presumption.^[3]

With the resolution of the issue of compensability, We do not deem it necessary to go into the question of the timeliness of the controversion of the claim.

WHEREFORE, the decision of the Workmen's Compensation Commission, dated July 24, 1968, and its resolution, dated September 24, 1968, are hereby affirmed, with costs against the petitioner.

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

Castro, J., took no part.

Eligio C. Dajao, 65 O.G. 1758; Administrative Order No. 188 re Dionisio Marfil, 65 O.G. 12993; Administrative Order No. 190 re Felix Saniel, 65 O.G. 12996; Administrative Order No. 191 re Cesar Zayas, 65 O.G. 12998; Administrative Order No. 340 re Wenceslao L. Cornejo, 68 O.G. 7776-11

[1] G.R. No. L-31591, June 30, 1971 (39 SCRA 669)

[2] Justiniano vs. Workmen's Compensation Commission, No. L-22779, November 21, 1966, 18 SCRA 677; Magalona vs. Workmen's Compensation Commission, No. L-21849, No. L-23489. March 27, 1968, 22 SCRA 1278.

[3] Magalona vs. Workmen's Compensation Commission, supra; Abana vs. Quisumbing, supra.

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