

BAYANI R. SANTOS, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND PHILIPPINE ENGINEERING AND CONSTRUCTION CORPORATION, RESPONDENTS.

G.R. No. L-43243. February 28, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition to review the January 11, 1976 Order of the Workmen's Compensation Commission which affirmed the October 29, 1975 Order of the Acting Referee dismissing petitioner's claim for compensation.

On March 29, 1976, We denied the aforesaid petition for late payment of legal fees (p. 17, rec.). WE however reconsidered said denial on May 3, 1976, upon a motion for reconsideration thereof filed by petitioner, and required respondent company to comment on the petition (p. 24, rec.).

After receipt and consideration of the aforesaid comment, We resolved on June 7, 1976 to treat the petition as a special civil action (p. 31, rec.). Petitioner then submitted his memorandum on July 15, 1976, while private respondent company filed its memorandum on August 13, 1976. On August 20, 1976, the case was deemed submitted for decision.

Disclosed by the records are the following facts: Petitioner was employed as a carpenter by respondent company with a daily wage of ten (P10.00) pesos, working seven (7) days a week. On November 10, 1973 (pp. 24-26, WCC rec.), while petitioner, together with some co-workers, was carrying a water pump in the course of his employment, his right foot sank in a muddy place and was twisted. He instantly felt a crack in his back that caused pain from his right leg to the upper portion of his body. Eduardo Arciaga, petitioner's foreman, has personal knowledge of the accident. Believing that it was just a case of pulled muscle, petitioner continued to work until November 27, 1973, when he could no longer bear the pain from his right foot to his waist. Petitioner immediately submitted himself to a medical examination at the company-engaged Cotton Hospital and was therein hospitalized up to January 13, 1974. He was again hospitalized for the same injury from March 28, 1974 to April 4, 1974. Thereafter, he was allowed regular treatment, free of charge, at the same Cotton Hospital. Without his injury being completely cured, the free treatment was stopped and the respondent company extended to petitioner the amount of seven hundred fifty (P750.00) pesos as financial assistance. That was on August 26, 1975.

Petitioner then filed his position paper on October 6, 1975 (p. 23, WCC rec.) on his claim for compensation earlier filed on March 13, 1975 with the Workmen's Compensation Commission. The case was assigned to Acting Referee Celso C. Ladera, a member of the Task Force. After the parties had submitted their respective affidavits and evidence, the Acting Referee issued on October 29, 1975 an Order dismissing petitioner's compensation claim on the ground that petitioner was not an employee of the respondent.

On appeal, the Commission en banc, while finding that there existed an employer-employee relationship between petitioner and respondent, company, nevertheless, affirmed the dismissal order of the acting referee on the ground

that petitioner failed "x x to prove the particular ailment or injury he suffered on November 13 (should be 10), 1973 and its causal connection with the nature of his employment with the respondent." The Commission en banc said:

"Notwithstanding the existence of employer-employee relationship, however, at the time when the alleged accident happened, we are inclined to affirm the order of dismissal for failure of the claimant to prove the particular ailment or injury he suffered on November 13 (should be 10), 1973 and its causal connection with the nature of his employment with the respondent. What is clear is that, he suffered pains on his right leg that went up to his back without establishing any disabling ailment or injury. Claimant has therefore failed to establish his claim by substantial evidence." (P. 14, rec.).

The instant order of dismissal is a clear case of a grave abuse of discretion on the part of the Commission. It was a patent error and therefore must be set aside.

Section 2 of the Workmen's Compensation Act, Act No. 3428, as amended, is explicit that "[W]hen an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts x x x 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 person hereinafter specified. x x x" In the present case, there can be no question that the personal injury that disabled herein petitioner was the result of an accident arising out of and in the course of employment; for the respondent company never presented evidence to the contrary. And the chain of events subsequent to the accident that befell petitioner on November 10, 1973, as narrated by petitioner in his affidavit --

"4. Na noong Novembre 10, 1973, mga alas 10 ng umaga apat (4) kaming mga manggagawa na nagbubuhay ng isang motor ng tubig doon sa General Motor, Las Pinas, Rizal, nang sa aking pag-lalakad ay biglang nabaon sa putik at napilipit ang aking kanang paa, na sa aking pag-aakalang ito ay hindi malubha at tila litid lamang ang nagkaroon ng deferencia, nagpatuloy ako sa trabaho hanggang noong ika-27 ng Novembre, 1973, na ako ay naospital sa Cotton Hospital sa Ortigas, Pasig, Rizal, dala ng masidhing sakit sa aking kanang paa na umabot sa aking bayawang; na ako ay naospital hanggang Enero 13, 1974 at ibinalik muli noong March 28, 1974 hanggang Abril 4, 1974; Na ang aking pagka-ospital ay ibinalikat ng pagawaan at dito'y may tulong rin ang Medicare;

"5. Na nang ako ay pumasok sa nasabing pagawaan, ay sinuri ako o 'medical and physical check-up' ng nasabing ospital at taon-taon ay isinagawa ito ng pagawaan bilang patakaran;

xx xx xx xx

"8. Na noong Agosto 26, 1975, nang ang aking maybahay ay pinapunta ko sa aming pagawaan, upang hingin na ako ay ipasok sa ospital dala ng aking karamdaman, siya ay binigyan ng P750.00 bilang 'financial assistance' dala na aking karamdaman at kalakip nito ang sulat at ACCEPTANCE na tinanggap at napirmahan na eking asawa xx x;

"9. Na maliban sa tabletas na inirecita sa aking upang maalis ang sakit na aking paa, ako ay hindi na nagpapagamot dala ng kawalan at kahirapan;

"10. Na ang salaysay na ito ay akin isinagawa upang ihanap ng katarungan ang nangyari sa akin na hanggang sa ngayon'y may karamdaman at hindi na makapaghanapbuhay buhat ng nasabing aksidente."

easily leads to the conclusion that petitioner did suffer personal injury from the November 10, 1973 accident that rendered him inutile. The causal and circumstantial connection between his personal injury and employment is but too apparent under the facts of the case.

The basis of the Commission's Order dismissing the compensation claim which is the alleged failure of the

petitioner "x x to prove the particular ailment or injury he suffered on November 13 (should be 10), 1973 and its causal connection with the nature of his employment with respondent x x" is not only clearly unfounded, but likewise betrays the Commission's distorted shifting of the burden of proof in compensation cases in relation to the presumption of compensability. From the documentary evidence on record, there can be no denying the fact that indeed petitioner was injured in that November 10, 1973 accident which thereafter disabled him from work. And furthermore, petitioner's SSS Medical Certificate shows that he is suffering from Herniated Nucleus Pulposus L5 SI, L5 Root Radiculopathy. This final diagnosis was dated August 26, 1974 (pp. 46-47, WCC rec.). Indeed, this Court is amazed at the cavalier manner the Commission disposed of this compensation claim, particularly the bases of its conclusion.

Either the respondent Commission overlooked the entire evidence on record, specially the SSS Medical Certificate attached to the record, or ignored them.

There are reasonable bases to conclude that petitioner's illness of hernia was the direct result of or is traceable to that accident of November 10, 1973 and/or the nature of his work. Petitioner's work with respondent company was described by a coworker of his as follows: "x x na masasabi kong may kabig-atan ang trabaho namin sa nasabing pagawaan (construction) at sari-sari uring trabahong karaniwan ay mabig-at ito (pag-insulat ng tubo, pagbubuhat ng bakal, paghuhukay para sa tubo, pag-akyat sa itaas ng gusaling planta upang maglagay ng andanyo, at iba pa, bukod sa nasa labas kami ng ulanan at arawan;" (p. 26, WCC rec.).

According to Horovitz (4 NACCA L.J., 71-73), where disease results from a personal injury, the sickness (illness) constitutes an injury by accident and therefore a compensable physical harm (Fernandez & Quiazon Labor Standards and Welfare Legislation, 484 [1964]). To be thus compensable the disease must come from, or be, an accident arising from the nature of his work or employment and occurred in the course thereof (Ibid., p. 484, citing Rolan vs. Perez, 63 Phil. 80). American courts have held that hernia due to strain over a period of a few months (Mill's case, 155 N.E. 423) or resulting from strain suffered in such activities as lifting heavy timbers, lifting heavy bundles of paper, pushing a heavy box of pipe across a floor, pushing a heavy wheelbarrow, picking up a log, pulling a tong chain, lifting a bale of wire, and pushing a coal car in a mine, have been held compensable even though the injury itself constituted the only mishap (5 SCHNEIDER Workmen's Compensation Text, 578-579 [permanent Ed.]). The case of herein petitioner is analogous to the foregoing cases.

Hence, even precluding any actual injury sustained by petitioner on the very day of the accident (November 10, 1973), his compensation claim can still stand on his illness of hernia; which as aforesaid can be reasonably attributed or traceable to the accident that befell petitioner and/or the nature of his work with respondent.

There is furthermore in favor of petitioner the well-settled doctrine that when an illness supervened during the course of employment, like petitioner's illness, there is the rebuttable presumption that the same arose out of or at least was aggravated in the course of his employment. And with that presumption the burden of proving by substantial evidence that the illness was not work-connected shifts to the employer and the claimant is relieved of the burden to show causation. In the instant case, there was patent failure on the part of respondent company to discharge that burden. Hence, the presumption becomes conclusive; and that alone entitles petitioner to a compensation award.

Finally, there is likewise merit in the contention of petitioner that all the requisites for the compensability of hernia as laid down by the Evaluation Division of the Workmen's Compensation Commission in the case of Bonilla vs. WCC(13 SCRA 748 [1965]), which are: (1) that the hernia is of recent origin; (2) that its appearance was accompanied by pain, discoloration and evidence of tearing of these tissue; (3) that it was immediately preceded by some strain out of and in the course of employment; and (4) that a protrusion or mass appeared in the area

immediately following the alleged strain, are present in this case.

There can be no question as to the presence of the first three requisites. The attendant circumstances of petitioner's injury or illness as earlier described attest to the presence of the said requisites. Although there is no positive evidence on records to show the presence of the last requisite, that, however, can easily be presumed on the basis of the final diagnosis on petitioner's illness as Herniated Nucleus Pulposus.

Under the facts obtaining, petitioner, who appears to be incapacitated from work up to the present, is entitled to the maximum compensation benefits of Six Thousand (P6,000.00) Pesos (Sec. 14, Act 3428, as amended). Since that is the maximum allowed by law, his additional claim of One Thousand and Five Hundred Ten (P1,510.00) Pesos, although undisputed, cannot be awarded. His undisputed claim for medical reimbursement in the amount of Three Hundred Forty-Four (P344.00) Pesos is, however, allowed. Furthermore, because of the facts and circumstances obtaining in this case and considering petitioner's pathetic condition, respondent company is further ordered to comply with Section 13 of the Workmen's Compensation Act.

Before finally disposing of this compensation case, We cannot but express Our strong disapproval over the manner the Commission decided this case. The impugned order of the Commission was indeed a foul blow to the social justice clause of the Constitution and its injunction for the State to afford protection to labor. Respondent Workmen's Compensation Commission, like the defunct Court of Industrial Relations, as an agency of the State is "x x under obligation at all times to give meaning and substance to these constitutional guarantees in favor of the working man; for otherwise these constitutional safeguards would be merely a lot of 'meaning-less patter' (Philippine Blooming Mills Employees Organization, et al. vs. Philippine Blooming Mills Co., Inc., et al., 51 SCRA 189, 210-211 [1973]). Indeed, We had many a time in the past called the attention of the now defunct Workmen's Compensation Commission to its failure to observe fealty to the social justice directive of the Constitution and dissuaded it from assuming such posture (Vda. de Leorna, et al. vs. WCC, et al., L-42543, Sept. 30, 1976). The Workmen's Compensation Act, which the Commission is mandated to implement, is a social legislation designed to provide prompt and reasonable compensation to the workman who had been the victim of an accident in the pursuit of his employment; to the end that he may not become entirely "destitute and possibly a charge upon society."

WHEREFORE, THE DECISION OF THE WORKMEN'S COMPENSATION COMMISSION IS HEREBY REVERSED AND SET ASIDE AND RESPONDENT COMPANY IS HEREBY DIRECTED:

(1) TO PAY THE CLAIMANT --

(A) THE SUM OF SIX THOUSAND [P6,000.00] PESOS AS DISABILITY COMPENSATION;

(B) THREE HUNDRED AND FORTY-FOUR [P344.00] PESOS AS REFUND FOR MEDICAL EXPENSES INCURRED;

(C) TEN PER CENT [10%] OF THE TOTAL COMPENSATION AS ATTORNEY'S FEES;

(2) TO PROVIDE THE CLAIMANT SUCH MEDICAL, SURGICAL AND HOSPITAL SERVICE AND SUPPLIES AS THE NATURE OF THE AILMENT REQUIRES;

(3) TO PAY THE SUM OF SIXTY-ONE [P61.00] PESOS AS ADMINISTRATIVE FEE; AND

(4) TO PAY DOUBLE COSTS.

Teehankee, (Chairman), Muñoz Palma, Concepcion, Jr., and Martin, JJ., concur.

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