

LEONOR S. MULINGTAPANG, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND MARCELO STEEL CORPORATION, RESPONDENTS.

G.R. No. L-42483. December 21, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Appeal from the decision of the Workmen's Compensation Commission in RO4-WC Case No. 160990.

Petitioner is the mother of the late Hernando S. Mulingtapang, who, during his lifetime, was employed by respondent Marcelo Steel Corporation as maintenance lubricator. Hernando S. Mulingtapang died on October 26, 1974, after a bout with pneumonia which he contracted or began to feel on September 3, 1974.

Accordingly, a claim for death benefits was filed on November 29, 1974 with the Department of Labor, Regional Office No. IV. Attached to, and made an integral part of, the claim was a physician's report dated November 25, 1974 with a diagnostic finding that the deceased died of "pneumonia, sec. acute leukemia" (p. 7, WCC rec.).

On October 23, 1975, an acting referee of the Department of Labor's Workmen's Compensation Unit rendered a decision ordering respondent Marcelo Steel Corporation to pay petitioner the sum of Four Thousand One Hundred Sixty (P4,160.00) Pesos as death benefits plus Two Hundred (P200.00) Pesos as burial expenses; and to this Office, the amount of Forty-Two (P42.00) Pesos as administrative fees.

The basic facts of the claim are: the deceased Hernando S. Mulingtapang during his lifetime was employed by the respondent Marcelo Steel Corporation as maintenance lubricator with an annual salary of P3,428.24; that on September 3, 1974, he got sick while on duty and was advised to seek hospitalization by Miss Quinida P. de Vera, company nurse; that on September 10, 1974, the respondent corporation filed its controversion on the ground that Hernando's illness which it claimed as fever, leukemia was not work-connected (p. 43, WCC rec.); that on October 14, 22 and 26, 1974, he was treated for his illness diagnosed as pneumonia, secondary acute leukemia by Dr. Jose E. Abjelina at the Don Juan Mayuga Memorial Hospital, Lemery, Batangas, where he died on October 26, 1974 (p. 7, WCC rec.); and at the time of his death, he was survived by his dependent father and mother, namely, Ruperto M. Mulingtapang and Leonor S. Mulingtapang, but the father subsequently died on January 30, 1975 (p. 16, rec.).

In so awarding death benefits in favor of herein petitioner, the acting referee brushed aside as unmeritorious the defense interposed by the respondent corporation that the "ailment that caused the death of the deceased was not work-connected nor aggravated and therefore, not compensable" as supported by the affidavit of three doctors, namely, Dr. Leonardo C. Aquino, Dr. Nestor A. Laceda and Dr. Rodolfo Ramirez, that the illness of leukemia is not an occupational disease, nor work-caused nor work-aggravated, and could be contracted by any person, irrespective of age, work or station in life. Instead, the acting referee relied on the legal presumption of compensability that arose from its undisputed finding that "x x the ailment which caused the death of the deceased supervened in the course of employment" (emphasis supplied) as well as on the certification of the attending

physician, Dr. Jose Abjelina, to the effect that the illness that caused the death of subject was aggravated by the nature of his work and that strenuous activity of an acute leukemia patient may be a cause of pneumonia (p. 7, WCC rec.).

But upon a motion for reconsideration filed by the respondent corporation, the respondent Commission, although maintaining the basic facts of the case as found by the acting referee, reversed the aforestated decision, thus:

"At the threshold, it may be stated that acute leukemia or pneumonia is not an occupational disease, hence, the same is not compensable per se. It may be argued, however, that having supervened in the course of employment, it is presumed that the illness also arose out of the deceased's employment. There is no quarrel here. On the other hand, it should be pointed out that the statutory presumption of compensability is a rebuttable one. The burden of proof is on the respondent-employer to show that while the illness, subject to the claim, supervened in the course of employment, it does not necessarily follow that it also arose from the employment or at least aggravated by it. In the case at bar, it should be admitted that the illness of the deceased supervened in the course of his employment, hence, inevitably from the start, the claimant enjoys the protective shelter of the statutory presumption that herein claim is compensable. But after carefully examining the records of the case and weighing the evidence of the parties, we find and so hold that the respondent has adduced substantial evidence to overcome the presumption of compensability. Thus, it was shown that the deceased was employed as a lubricator maintenance worker which does not require strenuous work.

"In the light of the foregoing, we are inclined to hold that the illness of the deceased, which caused his death, was not the result of his work. The illness is not peculiar or inherent in the nature and characteristic and condition of his work as a lubricator maintenance laborer. (sic)" [pp. 74-75, WCC rec; emphasis supplied].

The main thrust of the present petition is that respondent Commission gravely abused its discretion in finding and concluding that the evidence presented by respondent corporation was substantial enough to overcome the presumption of compensability.

WE find the petition meritorious. Hence, We reverse the questioned decision of the respondent Commission.

I. The conclusion of the respondent Commission that the work of the deceased Hernando S. Mulingtapang as lubricator maintenance worker did "x x not require strenuous work," finds no support in the records. WE find in the records no evidence, and the respondent corporation does not claim to have presented any, on the nature of the deceased's work with the respondent corporation which would indeed show that the actual work of the deceased was not strenuous.

II. Because the only evidence presented by the respondent corporation before the acting referee consisted of the affidavits of the three doctors earlier mentioned, it is thus safe to conclude that the respondent Commission anchored its express finding of substantial evidence of respondent corporation as having overcome the presumption of compensability on the said affidavits, all of which, as earlier stated, merely opined that the illness of leukemia is not an occupational disease; nor work-connected or -aggravated and which could be contracted by any person irrespective of age, work or station in life. In so basing its aforesaid conclusion of substantial evidence, the respondent Commission committed a patent error amounting to a grave abuse of discretion. For the evidence necessary to destroy the aforesaid legal presumption of compensability must do more than create a doubt. It must be such as a reasonable mind must accept as adequate to support a conclusion. Hence, We have repeatedly ruled that the mere opinions of doctors on the non-causal connection between illness and/or death and the nature of claimant's work, presented as evidence by the employer, do not meet the required quantum of evidence as aforestated; and therefore, such opinions cannot prevail over the presumption of compensability established by law (*Simon vs. Republic*, 71 SCRA 646 [1977]; *Maria Cristina Fertilizer Corporation vs. WCC*, 60

SCRA 228 [1974]; Abana vs. Quisumbing, 22 SCRA 1282-1283 [1968]; and Magalona vs. WCC, 21 SCRA 1203 [1967]).

Furthermore, WE have applied with pedantic rigor the aforesaid legal presumption of compensability even in the absence of a definite finding or knowledge of the precise medical cause of the claimant's illness as long as the illness and/or death supervened in the course of employment. For precisely, the vital function of legal presumptions is to dispense with the need for proof.

Thus, in *Castro vs. WCC* (75 SCRA 179-180 [1977]), WE reiterated that WE stated in *ITEMCOP vs. Florzo* (16 SCRA 2104 [1966]) that:

"At any rate, the law presumes, in the absence of substantial evidence to the contrary, that the claim is compensable. The burden to disconnect by substantial evidence the injury or sickness from employment, is laid at the employer's door. So rigid is the rule that even where the cause of the employee's death is unknown -- as petitioners claim -- the right to compensation subsists. Reason for this is that the Workmen's Compensation Act is a social legislation; it is designed to give relief to the workmen; therefore, to effectuate its purpose, it must be liberally construed x x."

III. The records likewise show that petitioner's claim for death benefits filed on November 29, 1974 was not effectively controverted; because it did not dispute that it had knowledge of the death of its deceased employee, through its company physician, as of the very date of his death or on October 26, 1974 (pp. 13-14, rec.). The Employer's Report filed only on December 9, 1974 was too late and therefore did not constitute a timely compliance with the requirement that the same should be filed within ten days from knowledge of the disability or within 14 days from the disability or death (Section 45 of the Workmen's Compensation Act, as amended). Respondent corporation cannot avail of the controversion it filed on September 10, 1974 (p. 43, WCC rec.) on the ground of non-work connection, because the same was filed in connection with the illness (which it claimed as high fever, leukemia) contracted on September 3, 1974 by Hernando which it acquired knowledge of on even date through its foreman (p. 15, WCC rec.); and not his death on October 26, 1974 by reason of pneumonia, secondary acute leukemia (p. 7, WCC rec.). As the records stand, the claim for death benefits of petitioner was not timely controverted. Being an uncontroverted claim, its disposition must therefore proceed from the premises that the respondent corporation has renounced its right to challenge the validity of the claim as it was thereby barred by such failure from interposing non-jurisdictional defenses, such as non-compensability of the claim. Hence, respondent Commission likewise erred in ignoring the aforesaid effects of non-controversion in disposing the petitioner's claim for death benefits.

IV. It appearing that petitioner was represented by counsel only before this Court, a corresponding award of attorney's fees should be made equivalent to five (5) percent of the total benefits herein awarded.

WHEREFORE, THE DECISION OF THE RESPONDENT COMMISSION IS HEREBY REVERSED AND SET ASIDE AND RESPONDENT MARCELO STEEL CORPORATION IS HEREBY DIRECTED TO PAY

I. THE CLAIMANT

A. DEATH BENEFITS IN THE AMOUNT OF SIX THOUSAND (P6,000.00) PESOS;

B. BURIAL EXPENSES IN THE SUM OF TWO HUNDRED (P200.00) PESOS; AND

C. ATTORNEY'S FEES EQUIVALENT TO FIVE PERCENT (5%) OF THE BENEFITS AWARDED;

II. THE WORKMEN'S COMPENSATION COMMISSION THE AMOUNT OF SIXTY-ONE (P61.00) PESOS; AND

III. THE COSTS.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, Martin, Fernandez, and Guerrero, JJ., concur.

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