

WILFREDO D. BAEI, FOR AND IN BEHALF OF THE MINORS: AGNES, BALTAZAR, AND CYNTHIA, ALL SURNAMED BAEI, PETITIONERS, VS. WORKMEN'S COMPENSATION COMMISSION, REPUBLIC OF THE PHILIPPINES...

G.R. No. L-42255. January 31, 1977

Ponente: MARTIN, J.

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MARTIN, J.:

Petition for review[1] of the decision of the respondent Workmen's Compensation Commission denying the award of death compensation benefits made by the Acting Referee, Regional Office No. 4, Workmen's Compensation Unit of the Department of Labor in favor of petitioners.

Lourdes Vda. de Bael was employed by the respondent Bureau of Public Schools as an elementary grade school teacher assigned at Camp Hamac Elementary School, Dipolog City, with a weekly salary of P71.50. On or about July 26, 1975 at about 5:20 o'clock in the afternoon on her way home from her place of work she met a vehicular accident. The jeepney she was riding on rammed against an electric post and turned turtle pinning her to death. At the time of her death she left her husband, Wilfredo D. Bael, and three minor children, Agnes, Baltazar and Cynthia, all surnamed Bael, the petitioners herein.

In due time petitioners filed a Notice of Death and Claim for Compensation with the respondent Bureau of Public Schools. On April 22, 1975, respondent through the Solicitor General, filed a motion to dismiss the claim on the ground that the Office of the Solicitor General as counsel of the Republic of the Philippines, has not been furnished with the copy of the supposed notice of claim. On May 13, 1975, the Dipolog City Sub-Regional Office Hearing Officer denied the motion to dismiss the claim on the ground that the respondent has failed to controvert the claim and has thus waived all available defenses including the right to notice.

Accordingly, the Acting Referee rendered its decision the dispositive portion of which reads as follows:

"AWARD THEREFORE is hereto entered in favor of the above claimant and against the respondent, ordering the latter to pay the following:

1. To the claimant thru this Office, the total sum of SIX THOUSAND AND TWO HUNDRED (P6,200.00) pursuant to Section 8 of the Act; and
2. To the Commission thru this Office, the sum of P61.00 under Section 55 of the Act.

The shares of the minors which is one-half (1/2) of the amount of P6,000.00 shall be deposited in a bank nearest the residence of the said minors pursuant to the Commission Rules.

SO ORDERED."

Upon review of the records of the case by the respondent Workmen's Compensation Commission, the latter set aside the order of the Hearing Officer of Dipolog City Sub-Regional Office and denied the claim of petitioners.

Not satisfied with the decision of the respondent Workmen's Compensation Commission, petitioners have come to this Court on a petition for review raising the following issues:

1. WHETHER LACK OF REPORT OF ACCIDENT AND/OR CONTROVERSION OF THE CLAIM IPSO FACTO RENDERS THE EMPLOYER LIABLE.
2. WHETHER THE DEATH OF AN EMPLOYEE OCCURRING WHILE ON HIS OR HER WAY HOME FROM WORK, OUTSIDE THE EMPLOYER'S PREMISES ALSO IPSO FACTO ENTITLES THE FORMER TO COMPENSATION.

The main argument of respondent is that it is entitled to a copy of the Notice of Death and Claim for Compensation which must be transmitted to the Office of the Solicitor General in its capacity as counsel for the National Government, even in cases where the claim is uncontroverted. Respondent invokes Commission Circular dated January 22, 1973 which provides:

"10. Transmittal of Claim to Solicitor General. - In all claims for compensation against the Republic of the Philippines, the Chief of the Work-men's Compensation Section or Unit shall see to it that a copy of the notice and claim for compensation is transmitted to the Office of the Solicitor General in its capacity as counsel for the National Government even if the claim is uncontroverted. Violation of this mandatory requirement may subject the officer to administrative action as hinted in the case of Republic of the Philippines (Department of Justice) vs. WCC & Cleofe R. Arzaña G.R. No. 29019, May 18, 1972."

It is explicit from the foregoing provision that what is mandatorily required of the Chief of the Workmen's Compensation Section or Unit is to see to it that a copy of the Notice and Claim for Compensation is transmitted to the Office of the Solicitor General in its capacity as counsel for the National Government. It does not require the claimant to transmit a copy of the Notice and Claim for Compensation to the Office of the Solicitor General. This is the duty of the head of office or unit. Since the petitioners have already filed their Notice of Death and Claim for Compensation with the proper Workmen's Compensation Unit, there is already a substantial compliance of due process on the part of the petitioners. It is the fault of the head of the office if it does not transmit a copy thereof to the Office of the Solicitor General. As held in Republic (Department of Justice) vs. WCC & Arzaña, G.R. No. 29019, May 18, 1972, a disregard by the office concerned of the provisions of law governing the transmittal of claims against the Government should not prejudice the claimant, worker or employee who has no control over the said official and whom the Workmen's Compensation Act so clearly aims to protect. The Republic's remedy is to proceed administratively against the officer concerned for violation of the regulations involved.

Besides, the records show that respondent Bureau of Public Schools has failed to report about the death of Lourdes Vda. de Bael to the nearest Regional Labor Office of the Department of Labor. Neither has it controverted the claim within the reglementary period provided under Section 45 of the Act and of Memorandum Circular No. 210 issued by the Office of the President on October 29, 1968. As a consequence, the Hearing Officer declared the claim of petitioners uncontroverted and made the corresponding award in favor of respondents.

We are not prepared to hold the Hearing Officer to have abused his discretion in making such award. In our jurisdiction failure to controvert a claim within the prescribed period amounts to a waiver of the right to controvert and a renunciation of all defenses.[2] This means that all non-jurisdictional defenses, such as non-compensability of the illness, prescription, etc. are barred[3] and such legal effect does not violate the requirements of due process.[4] If on this ground alone, the instant petition should be granted.

But even going into the merits of the petition, We are inclined to grant the same. The injury of the deceased that

resulted in her untimely death comes within the purview of the "going to and coming from rule".

In the case before Us, the circumstances attending the death of the deceased constrain Us, to hold that the accident of the deceased comes within the "going to and coming from rule". The records show that right after her work at school she immediately proceeded to go home by taking a jeepney. In going home, she has still other school work to do, like preparing, lesson plan for the next day, correcting papers and preparing school projects. When she therefore took a jeepney on her way home, she was merely commuting to another place to continue with her work. Her taking the ride in that fatal vehicle can be treated as a necessary incident to her school work. The very nature of the work of the deceased, the time required of her after class hours created that special circumstances that qualify her heirs to the benefits arising from her death. In one case, the claimant started working with the Bureau of Public Schools as a classroom teacher as early as July 8, 1953, assigned in one of the barrios of the town of Enrile, province of Cagayan. In going to her place of work, she had to cross the Cagayan River, where she had to board a banca to ferry her to the other side. In one of her trips while alighting from the banca, she slipped causing her to fall and her head bumped on the side of the boat, resulting in the pains and contusions on the head. Here the Supreme Court held that the head injury that induced the tumor which caused her death was incurred in line of duty.^[5] Similarly, in the instant case, We can consider the death of the deceased as having occurred in connection with her duty.

IN VIEW OF THE FOREGOING, the judgment of the respondent Commission, is hereby reversed and set aside and the original award of the Acting Referee, Regional Office No. 4, Workmen's Compensation Unit, revived and reinstated. Without pronouncement as to costs.

SO ORDERED.

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

[1] Treated as Special Civil Action as per Resolution of this Court dated March 22, 1976.

[2] *Development Bank of the Philippines vs. Workmen's Compensation Commission*, 49 SCRA 365; *Philippine Graphic Arts, Inc. vs. Mariano*, 53 SCRA 409.

[3] *Magalona vs. Workmen's Compensation Commission*, L-21849, Dec. 11, 1967; See also *National Development Corp. vs. WCC*, L-20504, March 31, 1965; *Industrial Textile Manufacturing Co. of the Philippines vs. Florzo & WCC*, L-21969, Aug. 31, 1966.

[4] *Guardian Security and Investigation Agency vs. Workmen's Compensation Commission*, L-26875, July 31, 1970, 34 SCRA 29; *Camotes Shipping Corporation vs. Otadoy*, No. L-27699, October 24, 1970, 35 SCRA 456; Cited in SCRA Quick Index, Vol. 2, pages 2180-2181.

[5] *Uy vs. WCC, et al.*, G.R. No. L-38096, May 14, 1975.

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