

JOSE NEGRE, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND MAXIMA VDA. DE SOLIVIO, FOR HERSELF AND IN BEHALF OF HER MINOR CHILDREN, NAMELY, VIVIAN, MIGUEL, JR., AND LEONA...

G.R. No. L-43795. April 15, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The petitioner charges the defunct Workmen's Compensation Commission with abuse of discretion amounting to lack of jurisdiction in declaring the decision in WC Case No. 923 final and executory without resolving his motion for reconsideration, thus depriving him of his right to appeal under the commission's own rules.

Petitioner Jose Negre is the owner of a fishing boat named "Sonny". Miguel Solivio and his son Manuel Solivio were among the crew members of the fishing boat. While they were fishing off the coast of Masbate, typhoon "Klaring" passed their way, wrecking and completely destroying the boat, resulting in the drowning of all the crew members. The bodies were never recovered.

Private respondent Maxima Vda. de Solivio is the widow of Miguel Solivio and mother of Manuel Solivio. Stating that both Miguel and Manuel were the employees of Jose Negre, Maxima filed two separate claims for death compensation against Jose Negre before the Workmen's Compensation Unit in Bacolod City. The claims based on the death of Miguel Solivio were docketed as WC Case No. 923.

In her claim, Maxima alleged that Miguel was employed as master fisherman locally known as "maestro" of the fishing boat (basnigan) while Manuel was just a member of the crew; that Miguel received a monthly salary of P250.00 plus his percentage in the catch which, could not be less than P400.00 monthly, and that Manuel received a monthly salary of P150.00 plus a percentage in the catch which netted him the minimum amount of P200.00. She added that after the accident she asked for the payment of compensation for the death of Miguel and Manuel but Jose Negre made promises without paying her until after several months when he gave her the amount of P700.00.

In his controversion, Jose Negre while admitting that Miguel Solivio was a "maestro" of his fishing boat "Sonny" denied any employer-employee relationship between them. He described the operation of his fishing business in the following manner:

"In the operation of his 'basnigan', he requested the master fisherman or 'maestro' to recruit fishermen with license and the 'maestro' whom he requested was Miguel Solivio and the arrangement were that after the catch, the expenses for the trip like rice, crude oil, gasoline and other expenses needed for the trip were deducted and the remainder was divided, one half goes to him and the other half to the members of the crew. The shares for the crew members are further divided in proportion to the nature of their respective jobs. He furnished the boat and all the expenses while the crew members merely contributed their labor."

In effect, Jose Negre claimed that Miguel was his business partner with him providing the capital and Miguel contributing his labor.

As regards Manuel Solivio, Jose Negre denied that he was his employee because he was then a minor and if he was on board the boat when the accident happened, the fault could be attributed to his father. He also denied that Miguel Solivio received a monthly salary from him.

After both parties submitted their respective memoranda, the Workmen's Compensation Unit of Bacolod rendered a decision finding Jose Negre the employer of the decedents. Thus, Jose Negre was ordered to pay Maxima Vda. de Solivio and her minor children as follows:

"1. To pay the claimant, thru this Office, the total sum of NINE THOUSAND EIGHT HUNDRED THIRTY NINE & 68/100 PESOS (P9,839.68 minus P700.00 already paid or a balance of P9,139.68 as compensation;

"2. To Atty. Pedro Requieron, counsel of record for the claimants, the sum of FOUR HUNDRED NINETY ONE AND 98/100 PESOS (P491.98) as attorney's fees;

"3. To this Office, the sum of NINETY NINE PESOS (P99.00) as administrative fees, pursuant to Section 55 of the Act, as amended."

When the case was elevated to the Workmen's Compensation Commission, (WCC) the decision below was affirmed except for the attorney's fees which were raised to P983.96. Jose Negre filed his motion for reconsideration but the same was not acted upon. Subsequently, he received an order from the Workmen's Compensation Commission asking him to remit the following: P9,139.68 as compensation for claimant; P983.68 as attorney's fees and P104.00 as administrative fees payable to the Workmen's Compensation Commission on the ground that the decision of the Workmen's Compensation Commission had already become final and executory.

In this petition, the petitioner contends that the Workmen's Compensation Commission committed grave abuse of discretion in not acting upon his motion for reconsideration and in ordering him to pay the aforesated amounts pursuant to Rule 17, Section 4 of the Rules of the Workmen's Compensation Act which provides that upon motion for reconsideration by any party the Commission en banc shall resolve the case. Petitioner maintains that the Workmen's Compensation Commission did not follow the above-cited rule. Questioning the declaration of the decision as final and executory, the petitioner contends that he was deprived of his right to appeal said decision pursuant to Rule 18 of the Rules of the Commission in relation to Rule 43 of the Rules of Court.

We note that this case was decided after the process of phasing out the Workmen's Compensation Commission had commenced.

Under Letter of Instruction No. 190, dated June 3, 1974, the Secretary of Labor was instructed to effect the orderly abolition of the workmen's compensation system by taking "such remedial steps as may be necessary to expedite the determination and/or settlement under such terms as he may consider fair and just, of the backlog of the compensation cases pending before the workmen's compensation units in the regional offices of the Department of Labor as well as in the Workmen's Compensation Commission to the end that said backlog may be liquidated by the end of the transaction period."

Pursuant to this mandate the Secretary of Labor on July 17, 1974, issued Department Order No. 3, Series of 1974 providing, among others, the following:

"Section 5. Decision by the Commission en banc, when final. -Within ten (10) days from receipt of an appealed case, the Commission en banc shall review and decide said case. Two affirmative votes shall decide the case.

"Any decision or Order on the merits of the Commission en banc shall become final and executory if no appeal is taken to the Supreme Court within ten (10) days from notice in accordance with the law.

Since the questioned decision bears the concurrence of the chairman and an associate commissioner, it is apparent that the commission followed this directive and immediately reviewed the case en banc. Hence, the commission was merely implementing the rules for a speedy and orderly transaction to the new compensation system when it did not act on the petitioner's motion for reconsideration. At any rate, we have gone into the merits of the case and considered all issues raised by the petitioner in the records. The declaration of finality has not resulted in a denial of due process.

The petitioner objects to the death compensation benefits awarded to the private respondent insisting that Manuel Solivio and Miguel Solivio were not his employees.

The petitioner admittedly owns four fishing boats which he uses in his fishing business. For this purpose, he engages a considerable number of fishermen, with one master fisherman locally known as "maestro" in charge of recruiting the others to complete the crew members. At the time of death, Manuel Solivio acted as "maestro" while Miguel Solivio was among those present in the petitioner's boat named "Sonny" when it capsized and was wrecked due to typhoon "Klaring".

We have defined an employee to be "x x x any person in the service of another under a contract for hire, express, or implied, oral or written." (*Uy v. Workmen's Compensation Commission*, 97 SCRA 255, *Natividad v. Workmen's Compensation Commission*, et al., L-42021, November 21, 1979; *Villones v. Employees Compensation Commission*, et al., L-46200, July 30, 1979; *Mesina v. Republic*, L-43517, May 31, 1979, 90 SCRA 489; *Dulay v. Workmen's Compensation Commission*, et al. 89 SCRA 659; *Marasigan v. Workmen's Compensation Commission*, et al., 89 SCRA 259; *Vega v. Workmen's Compensation Commission*, 89 SCRA 141; and *Capinpin v. Workmen's Compensation Commission*, 103 SCRA 270).

There is no doubt that under the facts of the case, Manuel Solivio falls under this decision. The pretense of the petitioner that Manuel was his business partner is not supported by the evidence. The fact that Manuel is paid on a commission basis does not support the petitioner's partnership theory.

In *Abong v. Workmen's Compensation Commission* (54 SCRA 379), we held that fishermen crew-members hired and working under the same circumstances as Manuel and Miguel are employees and not industrial partners.

Miguel Solivio was an employee of the petitioner. His presence in the fishing boat "Sonny" at the time of the fatal accident points to no other conclusion but that he was among those who were recruited by Manuel Solivio to be a crew member for his employer, the petitioner. In the absence of convincing evidence on record, Miguel's being a minor at the time does not support the petitioner's allegations that he was not his employee. We ruled in *Uy v. Workmen's Compensation Commission* (97 SCRA 255):

"x x x it is true that the existence of employer-employee relationship is often difficult of determination because it was purposely made so by employers bent on evading liability under the Workmen's Compensation and Nationalization Laws.

"Hence, if the object of the law is to be accomplished with a liberal construction, the creation of the relationship should not be adjudged strictly in accordance with technical legal rules, but rather according to the actualities and realities of industrial or business practice (*Fernandez & Quiazon*, *Labor Standards & Social Legislation*, 414 [1964]; *Pucan & Besinga*, *Comments & Annotations on the Workmen's Compensation Act*, as amended, 32 [1971], citing the case of *Asia Steel Corporation v. Workmen's Compensation Commission*, L-7636, June 27, 1955)."

It is within the spirit of the statutory requirements of the Workmen's Compensation Act and the mandate expressed in Section 5, Article II of the 1935 Constitution that "the promotion of social justice to insure the well-being and economic security of all the people should be the concern of the state" for us to declare the existence of an employer-employee relationship between the petitioner and the deceased father and son. (*Manapat v. Workmen's Compensation Commission*, 119 SCRA 156)

The petitioner also contends that the claim has already prescribed under Section 24 of the Workmen's Compensation Act as amended.

The records show that the private respondent filed the claim on February 26, 1974 which was approximately eight (8) years after the death of Manuel Solivio and Miguel Solivio. The claim is well within the statutory period to file a claim for compensation which is ten years. (*St. Anne's Hospital v. Workmen's Compensation Commission*, 85 SCRA 721, 725; *Balanga v. Workmen's Compensation Commission*, 83 SCRA 721, 725; *Cañonero v. Workmen's Compensation Commission*, 81 SCRA 713, 720; *Romero v. Workmen's Compensation Commission*, 77 SCRA 482, 487; and *Capinpin v. Workmen's Compensation Commission*, 103 SCRA 270).

Under the foregoing circumstances, the private respondent is entitled to compensation benefits arising from the deaths of her husband and son. However, we find the money awards incorrect. In all similar cases, we have consistently awarded the maximum amount of P6,000.00 as death compensation benefits; P600.00 as attorney's fees and P61.00 as administrative fees pursuant to the provisions of the Workmen's Compensation Act. To this extent, the Commission's decision is modified.

WHEREFORE, the Workmen's Compensation Commission's decision is MODIFIED to the effect that the petitioner is hereby ordered to pay the private respondent:

1. The sum of TWELVE THOUSAND PESOS (P12,000.00) as death benefits minus SEVEN HUNDRED PESOS (P700.00) already paid;
2. The sum of ONE THOUSAND TWO HUNDRED PESOS (P1,200.00) as attorney's fees; and
3. The sum of ONE HUNDRED TWENTY TWO PESOS, (P122.00) as administrative fees to the Ministry of Labor and Employment.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Relova, De La Fuente, and Alampay, JJ., concur.

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