

JUANITA VDA. DE PAGALING, (FOR HERSELF AND FOR AND IN BEHALF OF HER MINOR CHILDREN, NAMELY: CORAZON, AGUSTIN, LUCINA, CONCEPCION AND AMELITA, ALL SURNAMED PAGALING), PETITIONE...

G.R. No. L-42625. December 29, 1978

Ponente: GUERRERO, J.

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GUERRERO, J.:

Petition for review[1] of the decision of the Workmen's Compensation Commission in RO11-WCU Case No. 10345 which reversed the award of death compensation and burial benefits to herein petitioners.

On January 12, 1973, Juanita Vda. de Pagaling filed a "Notice and Claim for Compensation in Death Cases" with the Labor Regional Office No. XI at Cagayan de Oro City against the Philippine Packing Corporation.[2] The records show that her deceased husband Juan Pagaling, Sr. was employed as laborer of private respondent; that he was 43 years of age at the time of his demise; that he was receiving wages in the amount of P87.50 per week; that the accident (Bleeding Esophageal Varices-Massive Liver Cirrhosis with Portal Hypertension, Hepatic Coma) occurred on December 31, 1972 at the private respondent's compound; and that death took its toll on him on January 3, 1973 at the Philippine Memorial Hospital.

On February 14, 1973, the Chief of the Workmen's Compensation Unit served notice of petitioners' claim upon the Philippine Packing Corporation, requiring it to submit WCC Form No. 3 (Employer's Report of Accident or Sickness).

On February 22, the Philippine Packing Corporation thru the Senior Department Head of its Industrial Relations Department informed the Chief of the Workmen's Compensation Unit that its controversion was received by the Department of Labor on January 5, 1973. In its "Employer's Report of Accident or Sickness" private respondent alleged that the deceased was employed as janitor; was 42 years of age with 20 years service at the time of injury; that death occurred on January 3, 1973 at 4:45 a.m.; that the deceased was not injured in regular occupation; and that it provided medical attention to said deceased.

On July 25, 1974, the Chief Referee entered award in favor of claimants as follows:

"1. To claimant, widow, Mrs. Juanita B. Vda. de Pagaling, the amount of P2,000.00 or 1/3 of the total amount for death as her share plus P200.00 as burial expenses;

2. To claimants, minor children, namely Corazon, Agustin, Lucina, Concepcion, and Amelita, all surnamed Pagaling, the amount of P4,000.00 or 2/3 of the total amount for death as their share, apportioned as follows:

Corazon.....P800.00
Agustin.....P800.00
Lucina.....P800.00
Concepcion.....P800.00

Amelita.....P800.00

3. To claimant's counsel, Atty. Francisco Alas, the amount of P300.00 as attorney's fee pursuant to Section 31 of the Act;

4. To this Office, the amount of P61.00 as service fee pursuant to Section 55 of the Act."

On August 12, 1974, private respondent thru counsel, moved for reconsideration of the Award but finding the petition for review not meritorious, the Referee on August 21, 1974 denied the same and pursuant to Section 4, Rule 15 of the Rules of Workmen's Compensation Commission elevated the entire records of the case to the Chairman, Workmen's Compensation Commission, Department of Labor.

On December 17, 1975, the Workmen's Compensation Commission thru Associate Medical Commissioner Herminia Castelo-Sotto, concurred in by Associate Commissioner Eugenio I. Sagmit, Jr. reversed the decision appealed from and absolved respondent Philippine Packing Corporation from any liability, articulating thus:

"The only issue in this appeal is whether or not deceased's illness of cirrhosis of the liver falls within the coverage of the Act, as amended.

There is no dispute regarding filiation and dependency. Claimant-widow is the legal wife of the late Juan Pagaling, Sr. and all the minor co-claimants herein are all their legitimate issues and all living with and fully dependent upon the deceased for support during his lifetime.

There is also no doubt that the deceased was a former employee of respondent as a janitor who started to work for respondent on November 3, 1952, even before he got married up to his death.

After going over the evidence medical and legal, we are of the view and so hold that the referee committed a reversible error.

We are inclined to hold that the illness of the deceased Juan Pagaling, Sr. which caused his death on January 3, 1973, is not the result of the nature of his former employment nor was it aggravated by the same. The said illness is not peculiar nor inherent to the nature and conditions of his work as clean up man, or janitor of respondent.

It should be observed that liver cirrhosis occurs chiefly in males in late middle life. Malnutrition and alcoholism are the primary etiologic factors. The common complication is the rupture of the esophageal varices, which usually leads to death. With or without work the illness will progress and will ultimately result in death.

xxx xxx xxx

In the case at bar, we fail to see any relation between the illness of the deceased which resulted to his death and the nature as well as incidents of his employment as such janitor of respondent. x x x"

We reverse respondent Workmen's Compensation Commission's decision. Being manifestly violative of the controlling jurisprudence on workmen's compensation cases as well as the intent and spirit of the Workmen's Compensation Act, the denial of petitioners' claim by the Workmen's Compensation Commission constitutes grave abuse of discretion.

1. The illness which ultimately resulted in the demise of Juan Pagaling, Sr. supervened in the course of his employment, hence presumption of compensability is decidedly in his favor.

The records indubitably evince that the deceased having been employed by private respondent when he was in his early twenties (demise at 43 years of age with 20 years' service),[3] his illness, cirrhosis of the liver, supervened

in the course of his employment. We pointed out in *Mercado v. WCC*[4] that if after 10 years of continuous work with the company, the deceased began to suffer pains in his stomach which turned out to be "cirrhosis of the liver," it is evident that his illness supervened in the course of his employment or at least aggravated by it. Thus, in *Magalona v. WCC* [5] We ruled:

"It is now unquestionable that once the illness supervened at the time of the employment there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by such employment. Thus, the precise medical cause of the illness is not legally significant, as long as the illness supervened in the course of the employment. The presumption of causation or aggravation then applies. The burden to overthrow the presumption and to disconnect by substantial evidence the injury or sickness from employment is laid by the statute at the door of the employer."

Again, in *Maria Cristina Fertilization Company v. WCC*,[6] We emphatically reiterated:

"It is now well-settled that once it is established that the illness supervened during the employment, ... there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by it; and the employer has the burden of proving the contrary by substantial evidence."[7]

Likewise strongly buttressing petitioners' claim is the rule that when an employee dies in line of duty, or when actually at work as in this case, his death is presumed to be service-connected and is compensable. When doubts on the cause and/or aggravating factors of the illness of the claimant arise, they must be resolved in favor of the claimant or the heirs of the deceased.[8]

2. Respondent has not submitted sufficient evidence to rebut the legal presumption established by law in favor of compensability of petitioners' claim.

Private respondent presented two witnesses, Fermin Baconguis, the immediate supervisor of the deceased, and Dr. Alberto Sison, a medical expert, to overthrow the presumption of compensability. Private respondent's evidence through the testimony of Fermin Baconguis tended to show that deceased used to work as clean-up man in the pineapple cannery of the Philippine Packing Corporation situated in Bugo, Cagayan de Oro City; rendered service 8 hours a day, 6 days a week and his job was to clean machinery with water by means of a water hose. At the time of his death, his assignment was as janitor using a broom and dustpan to clean the premises of the cannery which is housed in a well-ventilated building made of steel beams and asbestos roof and walls. His work was light manual labor and there are many safety devices provided for private respondent's employees because the factory has to maintain a high hygienic standard, being a manufacturer of canned goods.

Baconguis also alleged that the deceased was a heavy alcoholic drinker and that he was only 43 years old when he died.

Private respondent's other witness, Dr. Sison, testified that Liver Cirrhosis is mainly caused by chronic alcoholism and malnutrition and alleged that since there is uncontroverted evidence of deceased Juan Pagaling, Sr. being an alcoholic drinker, it follows that the cause of death is not service-connected. No aggravation could also be attributable to his work because it was light manual labor.

The evidence relied upon by private respondent cannot stand to rebut the presumption of compensability. It must be stressed that the substantial evidence or degree of contrary proof necessary to overcome the presumptions established by law must do more than create a doubt or set up non-compensable alternative explanations of the accident. It must be an evidence such as a reasonable mind must accept as adequate to support a conclusion.[9]

On the alleged alcoholism and malnutrition of the deceased which contributed to his illness, the ruling of this Court articulated in *Abana v. Quisumbing*[10] is controlling. We said that:

"The mere fact that factors other than the claimant's employment may also have contributed to the aggravation of his illness, the same is not a drawback to its compensability. For under the law, it is not required that the employment be the sole factor in the growth, development or acceleration of claimant's illness to entitle him to the benefits provided for. It is enough that his employment had contributed, even in a small degree, to the development of the disease. Under the Workmen's Compensation Law, it is not necessary for a claimant to carry the burden of proof to establish his case to the point of demonstration. It is sufficient to show that the hypothesis on which he bases his claim is probable. Again it is to be presumed that petitioner's illness, which supervened at the time of his employment, either arose out of, or was at least aggravated by said employment. With this legal presumption, the burden of proof shifts to the employer, and the employee is relieved of the burden to show causation. The mere opinion of doctors presented by petitioner as evidence cannot prevail over the presumption established by law."

3. Section 7 of Republic Act No. 772, which became effective on June 20, 1952 as amendatory to the Workmen's Compensation Act, provides that if the disease contracted or injury received by the employee causes his death within two years from the date of such injury or sickness, the employer shall pay the compensation to the persons entitled thereto.[11]

Finally, We must again underscore the consistent and firmly-entrenched policy of this Court to construe fairly, reasonably and liberally in favor of employees and/or their dependents the provisions of the Workmen's Compensation Act, resolving and positing all presumptions for their favor, benefit and well-being.

The records show that the deceased Juan Pagaling, Sr. was hospitalized at the Philippine Memorial Hospital from December 31, 1972 up to the time of his death on January 3, 1973. For the medical and hospital expenses incurred by him during the period of his confinement, he is entitled to be reimbursed therefor, duly supported by receipts, pursuant to Section 13 of the Workmen's Compensation Act, as amended.

WHEREFORE, the decision of the respondent Workmen's Compensation Commission is hereby set aside and respondent Philippine Packing Corporation is hereby ordered to pay

(1) Claimant, Juanita Vda. de Pagaling, for herself and in behalf of her five (5) minor children, namely, Corazon, Agustin, Lucina, Concepcion and Amelita, all surnamed Pagaling:

(a) The sum of Six Thousand Pesos (P6,000.00) as compensation benefits and the sum of Two Hundred Pesos (P200.00) as reimbursement of burial expenses;

(b) The hospital and medical expenses duly supported by receipts incurred by the late Juan Pagaling, Sr. during his confinement at the hospital from December 31, 1972 to January 3, 1973.

(2) To petitioners' counsel, Atty. Francisco Alas, the sum of Six Hundred Pesos (P600.00) for and as attorney's fees; and

(3) The Workmen's Compensation Commission the sum of Sixty-One Pesos (P61.00) as administrative fee.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Santos, and Fernandez, JJ., concur.

[1] Treated as special civil action per resolution dated July 7, 1976.

[2] WCC Form No. 2, p. 53, WCC Records.

[3] See Memorandum for Private Respondent, pp. 50-51, Records of Case.

[4] No. L-42451, July 30, 1976, 72 SCRA 261, 264.

[5] No. L-21849, Dec. 11, 1967, 21 SCRA 1199, 1203.

[6] No. L-29998, Oct. 12, 1974, 60 SCRA 229, 232.

[7] See also *Justiniano v. WCC*, L-22774, November 21, 1966; *Agustin v. WCC*, L-19957, September 29, 1964; *Blue Bar Coconut Co. vs. Braza*, L-7243, Sept. 2, 1954.

[8] *Cuyno, Jr. v. WCC*, L-44271, September 22, 1977, 79 SCRA 100, 106.

[9] *Travellers Ins. Co. v. Cardillo*, 140 F2d 10; cited in *De los Reyes Vda. de Santiago v. WCC, et al.*, L-13115, February 29, 1960.

[10] No. L-23489, March 27, 1968, 22 SCRA 1279, 1282 cited in *Saril v. WCC*, L-43204, July 31, 1978.

[11] *Vda. de Mallari v. National Development Co.*, L-17914, October 31, 1962, 6 SCRA 538.

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