

CAROLINA CLEMENTE, PETITIONER, VS. GOVERNMENT SERVICE INSURANCE SYSTEM DEPARTMENT OF HEALTH- DAGUPAN CITY) AND EMPLOYEES' COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. L-47521. July 31, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review the decision of the Employees' Compensation Commission in ECC Case No. 0509 which affirmed the decision of the Government Service Insurance System (GSIS) and denied the claim for death benefits filed by Carolina Clemente, widow of the late Pedro Clemente.

The undisputed facts of the case are summarized in the memorandum for the respondent Government Service Insurance System, as follows:

"Petitioner's husband, the late Pedro Clemente, was for ten (10) years a janitor in the Department of Health (Dagupan City), assigned at the Ilocos Norte Skin Clinic, Laoag City. He was hospitalized from November 3 to 14, 1976 at the Central Luzon Sanitarium, Tala Sanitarium, Tala, Caloocan City, due to his ailment of 'nephritis', as per medical certification of his attending physician, Dr. Winifredo Samson. He was also found to be suffering from such ailments as portal cirrhosis and leprosy, otherwise known as Hansen's Disease.

"On November 14, 1976, Pedro Clemente died of uremia due to nephritis. Thereafter, petitioner filed with the GSIS a claim for employees' compensation under the Labor Code, as amended.

"On February 4, 1977, the GSIS denied the claim of the petitioner because the ailments of her husband are not occupational diseases taking into consideration the nature of his work and/or (sic) or were not in the least causally related to his duties and conditions of work.

"On March 9, 1977, petitioner requested for reconsideration of the GSIS' denial of her claim, stating that the ailments of her husband were contracted in the course of employment and were aggravated by the nature of his work. Petitioner alleged that her husband, as janitor of the Ilocos Norte Skin Clinic (Laoag City), worked in direct contact with persons suffering from different skin diseases and was exposed to obnoxious dusts and other dirt which contributed to his ailment of Hansen's disease. Citing further the cases of *Seven-Up Bottling Co., of the Phil., v. Rimerata*, L-24349, December 24, 1968 and *Avana v. Quisumbing*, L-23489, March 27, 1968. Petitioner stated that her husband's ailment recurred in the course of employment presumably due to his direct contact with persons suffering from this ailment.

Acting upon petitioner's request for reconsideration, the GSIS, on April 11, 1977, reiterated its previous denial of her claim.

"On April 14, 1977, treating the request for reconsideration as an appeal, the GSIS forwarded the records of the petitioner's claim for review by the ECC.

"On October 26, 1977, respondent ECC affirmed the GSIS' action of denial and rendered its own decision dismissing petitioner's claim (ECC Case No. 0509).

"Respondent ECC'S decision was anchored upon the findings that the ailments are not listed as occupational diseases; that there was no substantial evidence of causal connection; and that, in fact, the evidence was that the deceased had already contracted the Hansen's disease before his employment. In the exact words of the ECC:

" 'In the case at bar, since the deceased's ailments are not listed as occupational diseases, appellant herein must prove that such ailments were caused by deceased's employment and that the risk of contracting the same was increased by his working conditions in order to be compensable.

"A mere cursory reading of the evidences on record, however, will disclose that appellant failed to submit the required proof of causation. There is no substantial proof in the record from which we could draw the conclusion that indeed the nature of deceased's employment as Janitor of Ilocos Norte Skin Clinic could be traced as the direct cause of his ailment. Hence, in the absence of such evidence, we are not disposed to disturb on appeal the findings of the respondent System.

"On the contrary, we find the records that the deceased, prior to his employment in this office, was already suffering from his ailment of Hansen's disease. This proves that his working conditions did not increase the risk of his contracting the same. If at all, his employment merely aggravated his ailments. Unfortunately, however, aggravation of a pre-existing illness, a rule under the old law, is not anymore a ground for compensation under the new law. Thus, the cases cited by the appellant cannot be raised as authorities to support her claim."

"Petitioner now seeks a review of the ECC decision." (pp. 76-78, Rollo)

There is no question that the claim falls under the provisions of the Labor Code, as amended. Under Article 167(L) of the Labor Code and Section 1(b) Rule III of the Amended Rules on Employees' Compensation, for the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease listed under Annex "A" of the Rules with the conditions therein satisfied; otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions (*De Jesus v. Employees' Compensation Commission*, 142 SCRA 92, 96).

As the illnesses of the deceased are admittedly, not listed under Annex "A" of the Rules as occupational diseases, the petitioner bases her claim under the theory of increased risk. She alleges that the deceased, as janitor of the Ilocos Norte Skin Clinic, was exposed to patients suffering from various kinds of skin diseases, including Hansen's disease or leprosy. She avers that for ten years, the deceased had to clean the clinic and its surroundings and to freely mix with its patients. She claims that it was during this time that he was attacked by other dreadful diseases such as uremia, cancer of the liver, and nephritis.

On the other hand, the respondent Employees' Compensation Commission contends that the petitioner failed to prove by substantial evidence that the deceased's ailments were indeed caused by his employment. It maintains that the deceased merely had a recurrence of a pre-existing illness aggravated possibly by the nature of his employment and that there is no evidence on record showing that the nature of the deceased's employment was the direct cause of any of his illnesses.

The respondent Government Service Insurance System concurs with the views of the respondent Commission. It, however, argues that it should be dropped as a party respondent in this case. It claims that the petitioner has no cause of action against it, the subject of judicial review being the adverse decision of the respondent Commission.

We rule for the petitioner.

In *Sarmiento v. Employees' Compensation Commission* (144 SCRA 421, 426), we held that:

"Strict rules of evidence are not applicable in claims for compensation (*San Valentin v. Employees' Compensation Commission*, 118 SCRA 160; *Better Building, Inc., v. Pucan*, 135 SCRA 62). There are no stringent criteria to follow. The degree of proof required under P.D. 626, is merely substantial evidence which means, 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion' (*Cristobal v. Employees' Compensation Commission*, supra, citing *Ang Tibay v. Court of Industrial Relations and National Labor Union, Inc.*, 69 Phil. 635; and *Acosta v. Employees' Compensation Commission*, 109 SCRA 209). The claimant must show, at least, by substantial evidence that the development of the disease is brought largely by the conditions present in the nature of the job. What the law requires is a reasonable workconnection and not a direct causal relation (*Cristobal v. Employees' Compensation Commission*, supra; *Sagliba v. Employees' Compensation Commission*, 128 SCRA 723; *Neri v. Employees' Compensation Commission*, 127 SCRA 672; *Juala v. Employees' Compensation Commission*, 128 SCRA 462; and *De Vera v. Employees' Compensation Commission*, 133 SCRA 685). It is enough that the hypothesis on which the workmen's claim is based is probable. Medical opinion to the contrary can be disregarded especially where there is some basis in the facts for inferring a working connection (*Delegente v. Employees' Compensation Commission*, 118 SCRA 67; and *Cristobal v. Employees' Compensation Commission*, supra). Probability not certainty is the touchstone (*San Valentin v. Employees' Compensation Commission*, supra).

In this case, we find sufficient evidence on record to sustain the petitioner's view. The records disclose that in resisting the petitioner's claim, the respondent Commission cited the following medical authorities:

"Uremia refers to the toxic clinical condition associated with renal insufficiency and retention in the blood of nitrogenous urinary waste products (azotemia). Renal insufficiency may be due to (1) nephritis, bilateral pyelonephritis, polycystic kidney disease, uretral or bladder obstruction, SLE, polyarteritis, amyloid disease, or bilateral cortical necrosis; (2) acute tubular necrosis resulting from transfusion reaction, shock, burns, crushing injuries, or poisons; (3) sulfonamides precipitated in the kidneys or ureters; (4) nephrocalcinosis resulting from extreme alkalosis, diabetic acidosis, dehydration, or congestive heart failure may result in azotemia, or may predipitate (sic) severe uremia in the presence of already damaged kidneys.

Reference: Lyght, Charles E.: *The Merk Manual of Diagnosis and Therapy*; M.S. & D. Research Lab.; 11th Edition, 1966, pp. 257-258.

"Portal Cirrhosis: A chronic disease characterized by increased connective tissue that spreads from the portal spaces, distorting liver architecture and impairing liver functions. Etiology, Incidence and pathology: Portal cirrhosis occurs chiefly in males in late middle life. Malnutrition is believed to be a predisposing if not a primary etiology factor. The role of alcohol is not clearly established. Alcohol probably exerts a direct toxic effect on the liver, and also increases malnutrition by providing calories without essential nutrients. Cirrhosis has been produced in animals by diets low in protein and specifically low in choline. The addition of choline to these diets prevents cirrhosis. Chronic poisoning with carbon tetrachloride or phosphorus produces changes similar to those from portal cirrhosis. The liver is diffusely nodular, scarred and dense. Microscopic section shows parenchymal degeneration cellular infiltration, proliferation or scar tissue and areas of regeneration. Fatty changes are present in the early states.

Reference: Lyght, C.E.: *The Merk Manual of Diagnosis and Therapy*; M.S. & D. N.J. 11th Edition, 1966, p. 928.

"Hepatoma (Liver cancer) refers to malignant primary tumor of the liver destroying the parenchyma arise (sic) from both liver cell and bile duct elements. It develops most frequently in the previous cirrhosis liver. A higher fraction of patients with post necrotic cirrhosis develop hepatoma than those with portal alcoholic cirrhosis. This may reflect the more active necrotic and regenerative processes in the post necrotic cirrhosis liver. Most large series indicate that 60% or more of hepatomas develop in a previously cirrhotic liver. The cirrhosis of

hemochromatosis seems particularly liable to hepatomas as high a fraction as 20% of patients with hemochromatosis die from this cause.

Reference: Harrison, T.R.: Principles of Internal Medicine; McGraw Hill; N. Y., 5th Ed.; 1966, p. 1072.

"Leprosy is a chronic, mildly contagious, infectious disease characterized by both cutaneous and constitutional symptoms and the production of various deformities and mutilations. The causative organism is an acid fast rod. *Mycobacterium leprae*, first described by Hansen in 1874. The mode of transmission is obscure, although infection by direct contact appears likely. The disease is found predominantly in tropical and sub-tropical Asia, Africa, and South America. It is endemic in the Gulf States of the USA, Hawaii, the Philippines and Puerto Rico.

Reference: Lyght, C.E.: The Merk Manual of Diagnosis and Therapy;" M.S. & D.; 11th Ed.; 1966, p. 847.

The nature of nephritis, however, was discussed by Mr. Daniel Mijares, GSIS Manager Employees' Compensation Department, in his letter dated February 4, 1977, denying petitioner's claim, as follows:

"Nephritis is an acute, diffuse inflammation of the glomeruli or kidneys. It usually follows previous streptococcal infection mostly in the upper respiratory tract. Because of this, it is always thought that nephritis is the result of an auto-immune or allergic reaction to infection, usually streptococcal." (Rollo, p. 20)

The foregoing discussions support rather than negate the theory of increased risk. We note that the major ailments of the deceased, i.e. nephritis, leprosy, etc., could be traced from bacterial and viral infections. In the case of leprosy, it is known that the source of infection is the discharge from lesions of persons with active cases. It is believed that the bacillus enters the body through the skin or through the mucous membrane of the nose and throat (Miller and Keane, Encyclopedia and Dictionary of Medicine and Nursing, (1972), p. 530).

On the other hand, infectious diseases which give rise to nephritis are believed to be as follows:

"Table 294-1

"Causes of acute glomerulonephritis

"Infectious diseases

"A. Post streptococcal glomerulonephritis

"B. Non-Post streptococcal glomerulonephritis

"1. Bacterial: Infective endocarditis, 'Shunt nephritis,' sepsis, pneumococcal pneumonia, typhoid fever, secondary syphilis, meningococcemia

"2. Viral: Hepatitis B, infectious mononucleosis, mumps, measles, varicella, vaccinia, echovirus, and coxsackievirus

"3. Parasitic: Malaria, toxoplasmosis"

(Harrison's Principles of Internal Medicine, 10th edition, p. 1633)

The husband of the petitioner worked in a skin clinic. As janitor of the Ilocos Norte Skin Clinic, Mr. Clemente was exposed to different carriers of viral and bacterial diseases. He had to clean the clinic itself where patients with different illnesses come and go. He had to put in order the hospital equipments that had been used. He had to dispose of garbage and wastes that accumulated in the course of each working day. He was the employee most exposed to the dangerous concentration of infected materials, and not being a medical practitioner, least likely to know how to avoid infection. It is, therefore, not unreasonable to conclude that Mr. Clemente's working

conditions definitely increased the risk of his contracting the aforementioned ailments. This Court has held in appropriate cases that the conservative posture of the respondents is not consistent with the liberal interpretation of the Labor Code and the social justice guarantee embodied in the Constitution in favor of the workers (*Cabanes v. Employees' Compensation Commission, et al.*, L-50255, January 30, 1982; and *Cristobal v. Employees' Compensation Commission, et al.*, *supra*). It clashes with the injunction in the Labor Code (Article 4, New Labor Code) that, as a rule, doubts should be resolved in favor of the claimant-employee (*Mercado, Jr., v. Employees' Compensation Commission*, 139 SCRA 270, 277).

The respondents admit there may have been aggravation of an existing ailment but point out that aggravation is no longer a ground for compensation under the present law. They contend that the compensable factor of increased risks of contracting the disease is not present in this case.

The fallacy in this theory lies in the failure to explain how a sick person was able to enter the government service more than ten years before he became too ill to work and at a time when aggravation of a disease was compensable. There is no evidence to show that Mr. Clemente was hired in spite of having an existing disease liable to become worse.

The petitioner's arguments of recurrence of an already cured disease or the contracting of the disease due to increased risks become more plausible. When there are two or more possible explanations regarding an issue of compensability that which favors the claimant must be chosen.

We also do not find merit in the respondent GSIS' contention that it should be dropped as a party in this case. This Court has passed upon this issue on several occasions. Thus, in the case of *Cabanero v. Employees' Compensation Commission*, (111 SCRA 413, 419) this Court citing *La O v. Employees' Compensation Commission* (97 SCRA 782), held:

xxx xxx xxx

"x x x [T]his Court is of the opinion that respondent System, as the ultimate implementing agency of the ECC's decision, is a proper party in this case. The fact that this Court chose to require respondent GSIS to comment is an indication that it is a necessary party. It must be noted that the law and the rules refer to the said System in all aspects of employee compensation (including enforcement of decisions (Article 182 of Implementing Rules." (at p. 793).

WHEREFORE, in view of the foregoing, the decision appealed from is hereby SET ASIDE and the respondent Government Service Insurance System is hereby ordered to pay the petitioner:

- 1) The sum of TWELVE THOUSAND PESOS (P12,000.00) as death benefits; and
- 2) The sum of ONE THOUSAND TWO HUNDRED PESOS (P1,200.00) as attorney's fees.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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