

**EXALTACION VDA. DE TORBELA, PETITIONER, VS.
EMPLOYEES' COMPENSATION COMMISSION AND
GOVERNMENT SERVICE INSURANCE SYSTEM (BUREAU OF PUBLIC
SCHOOLS), RESPONDENTS.**

G.R. No. L-42627. February 21, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Employees' Compensation Commission in ECC Case No. 0009 (Jose P. Torbela, Deceased) entitled "Exaltacion Vda. de Torbela, Appellant, versus, Government Service Insurance System" affirming the decision of the Government Service Insurance System which denied the claim of Exaltacion Vda. de Torbela on the ground that the death of her husband, Jose P. Torbela, Sr., is not compensable."^[1]

The petitioner, Exaltacion Vda. de Torbela, filed a claim for compensation dated March 20, 1975 with Regional Office VII, Workmen's Compensation Unit, Iloilo City, for the death of her husband, Jose P. Torbela, Sr., who was a secondary school principal of the Bureau of Public Schools in Hinigaran, Negros Occidental when he died in a vehicular accident on March 3, 1975. The petitioner also filed an application for compensation dated April 4, 1975 with the Government Service Insurance System. The claim was denied by the Government Service Insurance System on the ground that the death of Jose P. Torbela, Sr. was not the result of an employment accident.

The claimant, petitioner herein, appealed to the Employees' Compensation Commission which affirmed the decision of the Government Service Insurance System.

The facts, as found by the Employees' Compensation Commission, are:

"Jose P. Torbela, Sr., in his lifetime, was employed as a Secondary School Principal of the Bureau of Public Schools. He died on March 3, 1975 at about 5:45 o'clock A.M. due to injuries sustained by him in a vehicular accident while he was on his way to school from Bacolod City, where he lived, to Hinigaran, Negros Occidental, where the school of which he was the principal is located. In his possession at the time of the accident were official papers he allegedly worked on in his residence on the eve of his death."^[2]

The Employees' Compensation Commission affirmed the decision denying the claim because:

"The appealed decision denying the instant claim for compensation is hereby affirmed. Under Presidential Decree No. 626 and its implementing rules, for the injury and the resulting death to be compensable, the injury must be the result of an employment accident satisfying all of the following conditions: (1) the employee must have sustained the injury during his working hours; (2) the employee must have been injured at the place where his work required him to be; and (3) the employee must have been performing his official functions. The evidence on record unerringly points to the fact that not even one of these conditions, which must all concur, has been satisfied. On the contrary, the evidence shows that the deceased was merely engaged in ordinary

travel from home to work, during which time he was not even doing something related or incidental to his duties as Secondary School Principal; that the accident occurred at a time not encompassed by his official working hours; and that the place of the accident is not where his work required him to be or so proximate thereto as to be deemed a part of his workplace, he being not on special errand for his employer at the time he met his death, his possession of official papers notwithstanding. Thus, we find that there is sufficient factual and legal bases for the GSIS conclusion that the death in question is not the result of an injury from an employment accident and, therefore, such findings should not be disturbed." [3]

It is a fact that Jose P. Torbela, Sr. died on March 3, 1975 at about 5:45 o'clock in the morning due to injuries sustained by him in a vehicular accident while he was on his way to school from Bacolod City, where he lived, to Hinigaran, Negros Occidental where the school of which he was the principal was located and that at the time of the accident he had in his possession official papers he allegedly worked on in his residence on the eve of his death.

The claim is compensable. When an employee is accidentally injured at a point reasonably proximate to the place of work, while he is going to and from his work, such injury is deemed to have arisen out of and in the course of his employment. [4]

WHEREFORE, the decision of the Employees' Compensation Commission appealed from is hereby set aside and the Government Service Insurance System is ordered to pay the petitioner the sum of Twelve Thousand Pesos (P12,000.00) as death benefit, the sum of One Thousand Pesos (P1,000.00) as funeral expenses pursuant to Section 19, P.D. No. 1146, and the sum of One Thousand Two Hundred Pesos (P1,200.00) as attorney's fees.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.
Melencio-Herrera, J., dissents in a separate opinion.

[1] Annex "C", Rollo, pp. 15-17.

[2] Rollo, p. 15.

[3] Rollo, pp. 15-16.

[4] Philippine Fiber Processing Co., Inc. vs. Fermina Ampil, 99 Phil. 1050; Talisay-Silay Milling Co., Inc. vs. Workmen's Compensation Commission, 21 SCRA 366.

DISSENTING OPINION

MELENCIO-HERRERA, J.:

I am constrained to dissent.

Petitioner's husband died in a vehicular accident on March 3, 1975. The provisions of the new Labor Code (PD No. 442, as amended), and its implementing Rules, therefore, are applicable.

"ART. 208. Applicability -- -This Title (Title II, Book IV) shall apply to injury sickness, disability or death occurring on or after January 1, 1975" (New Labor Code).

"x x x

(c) Only injury or sickness that occurred on or after January 1, 1975 and the resulting disability or death shall be compensable under these Rules on Employee's Compensation).

Section 1, Rule III, of the Amended Rules on Employees' Compensation provides:

"SECTION 1. Grounds. -- (a) For the injury and the resulting disability or death to be compensable, the injury must be the result of an employment accident satisfying all of the following conditions:

- (1) The employee must have sustained the injury during his working hours;
- (2) The employee must have been injured at the place where his work requires him to be; and
- (3) The employee must have been performing his official functions."

In the light of the foregoing provision, petitioner's claim was correctly denied by the Government Service Insurance System on the ground that the death of Jose P. Torbela, Sr. was not the result of an employment accident satisfying all the conditions enumerated. He died due to injuries sustained by him in a vehicular accident at 5:45 A.M. while he was on his way to school.

The general rule is that an employee is not entitled to recover for personal injuries resulting from an accident that befalls him while going to or returning from his place of employment because such an accident does not arise out of and in the course of his employment (*Afable vs. Singer Sewing Machine Co.*, 58 Phil. 39). The case of *Ollero vs. Workmen's Compensation, et al.*, (84 SCRA 695 [1978]) also held that:

"Under American Jurisprudence, the general rule is that the hazards encountered by employees while going to or returning from their regular place of work, before reaching or after leaving the employer's pre-mises, are not ordinarily incident to the employment, and for this reason injuries resulting from such hazards are in most instances held not to be compensable as arising out of and in the course of the employment (82 Am Jur 2d, Sec. 255, p. 43, citing: *Voehl v. Indemnity Ins. Co.*, 288 US 162, 77 L Ed 676 53 S Ct 380, 87 ALR 245, and a host of cases).

"The aforementioned general rule however admits various exceptions in most of the States of the Union, and among these are: where the employer provides transportation or remunerates the employee for the time or expense involved, where the employee performs some task in connection with his employment at home or en route, or is on a special mission at his employer's behest, and so on (p. 44, *ibid.*)."

The present case does not fall under any of the exceptions thus enumerated. Nor, under any of the following circumstances, which may well be considered as exceptions to the general rule that injuries sustained by an employee outside the premises of the employer, while going to or returning from work, are not compensable. Thus, where an employee was accidentally injured while he was running to his place of work to avoid rain, slipped and fell into a ditch in front of the factory's main gate -- the ditch in itself being an obvious hazard owing to its proximity to the gate and the employer's inaction to remove the same had contributed in a special way to the occurrence of the accident (*Philippine Fiber Processing Co. vs. Fermina Ampil*, 99 Phil. 1050 [1956]); where injuries are sustained by a workman who is provided with transportation while going to or coming from his work, they are considered as arising out of and in the course of his employment, and therefore, are compensable (*Talisay-Silay Milling Co., Inc. vs. Workmen's Compensation Commission*, 21 SCRA 366, 367 [1967]); where the employer remunerates the employee for transportation expenses and agreed to shoulder 75% of her transportation expenses when employer assigned her to take the place of another teacher in a different place not her regular place of work, said employee was entitled to a disability compensation for she was injured while performing an act-travelling home from school, which was a necessary incident to her employment (*Ollero vs. Workmen's Compensation Commission*, 84 SCRA 695 [1978]); or where a school teacher was on her way home from school and would continue to perform other school work in connection with her employment as school

teacher, her taking the ride in that fatal vehicle can be treated as a necessary incident to her school work, thus her heirs were entitled to the benefits arising from her death as having occurred in connection with her duty (*Bael vs. Workmen's Compensation Commission*, 75 SCRA 181, 182 [1977]); or where the employee is on a special mission (*Unite vs. Workmen's Compensation Commission*, 90 SCRA 289, 313 [1979]).

To determine whether or not an injury is sustained either "in the course of employment" or "out of employment", the case of *Pampanga Sugar Development Co., Inc. vs. Quiroz*, 16 SCRA 785-786 [1966], citing *In re McNicol* (102 NE [1913] 697), held:

"x x x It is sufficient to say that an injury is received 'in the course of' employment when it comes while the workman is doing the duty which he is employed to perform. It arises 'out of' the employment when there is apparent in the rational mind x x x causal connection between the conditions under which the work is required to be performed and the resulting injury x x x. But it excludes an injury which cannot fairly be traced to the employment as a contributing proximate cause and which comes from a hazard to which the workman would have been equally exposed apart from the employment. The causative danger must be peculiar to the work, and not common to the neighborhood. It must be incidental to the character of the business, and not independent of the relation of master and servant. It need not have been foreseen or expected, but after the event, it must appear to have had its origin on a risk connected with the employment, to have flowed from that source as a rational consequence.

"An injury or accident 'be-falls a man in the course of' his employment, if it occurs while he is doing what a man may reasonably do within a time during which he is employed, and at a place where he may reasonably be during that time. 13 NACCA LAW JOURNAL 28-29. And it 'arises out of' the work of the employer, when it results from a risk or hazard which is necessarily or ordinarily or reasonably inherent in or incidental to the conduct of such work or business. (Italics ours)."

Evidently, the injuries and the resulting death suffered by the petitioner's spouse caused by a vehicular accident, could not be distinctly attributed to the peculiarities of his employment as a school principal. A vehicular accident during ordinary travel to and from an employee's place of work is a street peril or hazard common to the public. The deceased, apart from his employment, would have been equally exposed to the same hazard as anybody commuting from one place to another. Thus, as in *Pampanga Sugar Development Co., Inc. vs. Quiroz*, supra, the injury sustained by petitioner's husband is not compensable.

Lastly, the cases granting compensation under the "going-to-and-coming-from rule", among them, *Bael vs. Workmen's Compensation Commission*, 75 SCRA 182 (1977); *Unite vs. Workmen's Compensation Commission*, 90 SCRA (1979); *Talisay-Silay Milling Co., Inc. vs. Workmen's Compensation Commission*, 21 SCRA 366 (1967); *Philippine Fiber Processing Co., Inc. vs. Ampil*, 99 Phil. 1050 (1956); *Ollero vs. Workmen's Compensation Commission*, 84 SCRA 695 (1978), were all decided under the regime of the Workmen's Compensation Act (Act No. 3428), section 2 of which provided as a ground for compensation "any accident arising out of and in the course of his employment", a clause that is elastic and is susceptible of interpretation. In contrast, not only has the Workmen's Compensation Act been expressly repealed by the new Labor Code, but also, the grounds of compensability in Rule III of the Amended Rules on Employee's Compensation (based on PD No. 626, as amended by PD 850, PD 865-A and PD 891) are specific and enumerate the conditions that must be satisfied in order that an injury and the resulting disability or death can be compensable.

The province of the Courts is to apply the statutes and not to construe them beyond the intentment of the legislative. The cases heretofore decided, therefore, must be viewed in the light of present, extant legislation enacted despite full cognizance of doctrinal jurisprudence which has emanated from this Court. By this, there need be no fear of violation of the Constitutional mandate of affording protection to labor and promoting social justice. It is merely applying the clear provisions of the new labor laws. Moreover, enough leeway should be

given to administrative agencies applying the law within their competence. Their opinions and rulings are entitled to great respect (Regalado vs. Yulo, 61 Phil. 173 [1935]; Grapilon vs. Mun. Council of Carigara, 2 SCRA 103 [1961]; Tan vs. Municipality of Pagbilao, Quezon, 7 SCRA 887, 892 [1963]).

"This contemporaneous construction is highly persuasive:

'The practice and interpretive regulations by officers, administrative agencies, departmental heads and other officials charged with the duty of administering and enforcing a statute will carry great weight in determining the operation of a statute.' (2 Sutherland, Statutory Construction, p. 516).

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