

## **NATIONAL MIRROR FACTORY, PETITIONER, VS. ISIDRA SUNGA VDA. DE ANURE, ET AL., AND WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.**

*G.R. No. L-22007. March 28, 1969*

Ponente: RUIZ CASTRO, J.

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### **RUIZ CASTRO, J.:**

This is an appeal by certiorari from the decision of the Workmen's Compensation Commission dated July 31, 1963.

Juan Anure, the deceased husband of the claimant Isidra Sunga vda. de Anure, was employed as driver-laborer of the petitioner company since 1948 up to and until his death on February 14, 1958. Before the start of office hours on that hapless day, the deceased was ordered by the petitioner's manager to remove and change the flat tire a delivery truck belonging to the petitioner. After the flat tire was removed, the deceased was seen panting and gasping for breath, and immediately thereafter was brought to the Mary Johnston Hospital where he eventually died. The record states the cause of death as "acute cardiac failure with slight hypertrophy and congestion edema of both lungs and other visceral organs."

The claimant subsequently received from the petitioner the sum of P700 which she acknowledged, in an affidavit, wherein she stated, inter alia, that her husband "died of natural cause not connected with work" and that she had "no claim and will not entertain any claim of whatever nature against the petitioner."

However, on October 23, 1961, the claimant, in her own behalf and in behalf of her six minor children, filed a complaint with the Department of Labor, docketed as WC Case 1590, for recovery of death benefits under Act 3428 for the death of her husband. On November 15, 1962 the hearing officer dismissed the case for lack of merit and insufficiency of evidence. A petition for review was filed by the claimant on January 21, 1963; the hearing officer affirmed his decision and elevated the case to the Commission on February 4, 1963.

On July 31, 1963 Associate Commissioner Cesareo Perez reversed the decision of the hearing officer, and ordered the petitioner to pay to the claimant the sum of P3,300 as death benefits, P176 as burial expenses; P300 as attorney's fees, and to the Commission P 41 as costs.

Its motion for reconsideration having been denied by the Commission en banc, the petitioner brought this appeal, praying for the reversal of the decision rendered by the Commission on the following grounds:

1. The Workmen's Compensation Commission did not have jurisdiction to try the case because the claim was filed over three years and eight months beyond the three-month period provided by sec. 24 of Act 3428;
2. The claimant is estopped from asserting that the death of her husband was compensable and from claiming compensation benefits from the petitioner;
3. There was no clear, sufficient and convincing evidence to prove the elements of compensation under the

### Workmen's Compensation Act.

We shall first dispose of the motion to dismiss filed by the claimant, assisted by counsel and with the conformity of the petitioner. The ground for dismissal is that the petitioner had completely paid, to the satisfaction of the claimant, the full amount of death benefits and burial expenses awarded to her by the respondent Commission and that she was waiving her right to collect attorney's fees and costs.

The effect of the agreement between the claimant and the petitioner whereby the former waived collection of attorney's fees and costs is to modify the decision of the respondent Commission. Such modification places the agreement on the same footing as an agreement concerning compensation embraced within the purview of sec. 29 of Act 3428 which reads:

"Agreement on Compensation. - In case the employer and the injured laborer or the dependents entitled to compensation arrive at an agreement concerning the compensation provided for by this Act, such agreement in order to be valid, shall provide at least, the same amount of compensation as that prescribed by this Act and must be approved by the Workmen's Compensation Commissioner or any of his duly authorized representative." (emphasis supplied)

Under the aforecited section two requisites must be fulfilled for any agreement concerning compensation to be valid, namely, the amount agreed upon must be at least equal to that provided by the Act, and the agreement must be approved by the Workmen's Compensation Commissioner or his authorized representative. These limitations imposed by law on the right of the parties to settle amicably should be viewed in the light of the avowed policy of the Workmen's Compensation Act of securing the employee and his dependents from becoming objects of charity.[1] The law frowns upon any agreement, scheme or device which seeks to exempt the employer from any liability under the Act either partially or totally and condemns such schemes as nullities.[2]

From the same perspective should any agreement of settlement modifying the award of the Commission be viewed, and with more reason should this Court, charged with vigilance over the rights of the ignorant, indigent and underprivileged, proceed with caution in appraising such agreements, in order to ensure protection of the party at a disadvantage and effect fulfillment of its sacred duty imposed by law. The insistence of this Court on the prior approval of the Commissioner of any agreement modifying the award of the Commission before it may be considered valid, has for its basis, not only the basic policy of the law and the express provision of sec. 29 of the Act but as well sec. 47 which expressly provides:

"Generale power and duties. - The Commissioner shall have full power and authority:

x x x

"(b) ...to approve agreements, make, modify or rescind awards and make findings of facts and rulings of law. ... to assess penalties, compute awards and compromise actions for the collection of awards. ..."

The agreement in the case at bar must bear the Commissioner's imprimatur for the further reason that a waiver of costs as obtaining here must be made, not by the claimant but by the respondent Commission to which body the amount is payable.

Were this an ordinary civil action, the admission by the prevailing party of satisfaction of the judgment of the court a quo would be sufficient ground for the dismissal of the appeal. The same result will obtain where the parties arrive at an agreement modifying the judgment, for in such event there would be a novation of the obligation. The rule is however different in workmen's compensation cases, for the law protects the workingman, his family and his dependents by providing safeguards with respect to dubious agreements of this sort. The provisions of sec. 7 of the Act which condemns as a nullity any scheme to exempt, partially or totally, the

employer from his liability under the Act, and the aforecited provision of sec. 29 are clear and unmistakable expressions of public policy.

The prior approval of the Commissioner not having been secured, the agreement is invalid and cannot be invoked for the dismissal of either the case or the appeal. Where the matter in dispute is settled only as to one or more appellants or appellees the appeal cannot be dismissed.[3] It is a salutary practice to over-rule a motion to dismiss an appeal where, as in the case at bar, the facts on which the motion is based are controverted.[4] Since the law favors appeals and a hearing or review on the merits, motions to dismiss are not looked upon with favor, and, in a doubtful case, the appeal will be maintained.[5]

The motion to dismiss must therefore be as it is hereby denied.

We now proceed to the issues posed by the petitioner.

1. It is undisputed that the claim for compensation was filed over three years and eight months beyond the three-month period prescribed by sec. 24 of the Act., Equally undisputed however is the fact that the petitioner did not controvert the claim within the ten-day period prescribed by sec. 47 notwithstanding its knowledge of the death of its deceased employee. Failure on the part of the petitioner to controvert the claim within the period prescribed by law bars it from asserting that the claim for compensation was filed out of time.[6] Time and again, this Court has held that the filing of the claim beyond the three-month period is a non-jurisdictional defect,[7] so that the Commission, even if a claim is filed out of time, can still entertain the same, where, as in the instant case, the employer did not file its notice of controversion in time.[8] Assuming *arguendo* that the petitioner controverted the claim on time, the respondent Commission found, and we agree, that the sum of P700 given by the petitioner to the claimant was a partial payment of compensation and thus excuses the late, filing of the claim, pursuant to sec. 25 of the Act.

2. The affidavit executed by the widow will not estop her from claiming compensation for the reason that such affidavit had the effect of releasing the employer from his liability under the Act and is consequently, a nullity, pursuant to sec. 7 of the Act which provides:

"Contract prohibited. - Any contract, re-gulation or device of any sort intended to exempt the employer from all or part of the liability created by this Act shall be null and void."

We agree with the respondent Commission that the affidavit in question should be voided because its object or purpose is clearly to exempt the petitioner from the obligation of paying compensation under the Act. Being null and void, the affidavit is ineffectual to prove estoppel on the part of the claimant.

3. We are satisfied that the finding of compensability and the award of compensation by the respondent Commission are supported by substantial evidence on record, and we see no reason for disturbing the same.

ACCORDINGLY, the decision appealed from is affirmed in toto with costs against the petitioner.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

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[1] *Murillo v. Mendoza*, 66 Phil. 689.

[2] Section 7, Act 3428.

[3] 5 CJS 1354 (5) p. 424.

[4] 45 CJS 1377 p. 463.

[5] Ibid.

[6] Nadeco v. WCC, L-19863, April 29, 1964; MRE Co. v. Manalang, L-20845, Nov. 29, 1965; A. de Santos, Inc. v. Sapon, L-22220, April 29, 1966.

[7] Victorias Milling Co., Inc. v. Villanueva, et al., L-10533, May 13, 1957; Century Insurance Co., Inc. v. Fuentes, et al., L-16039, August 31, 1961; MRR Co. v. WCC, L-21902, August 10, 1967.

[8] Martha Lumber Mill, Inc. v. WCC, L-7599, June 27, 1956; Iloilo Dock and Engineering Co. v. WCC, L-17283, July 31, 1962

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