

MANILA RAILROAD COMPANY, PETITIONER, VS. CONCHITA VDA. DE CHAVEZ, IN HER OWN BEHALF AND AS GUARDIAN AD LITEM FOR HER MINOR CHILDREN, ROSA, LILIA AND TOMAS, ALL SURNAMED DE CHAVE...*G.R. No. L-20103. September 30, 1964*

Ponente: CONCEPCION, J.

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Petitioner, Manila Railroad Company, hereinafter referred to as the Company, seeks the review by certiorari of a resolution of the Workmen's Compensation Commission affirming a decision of its Chairman sentencing the Company to pay: (1) to respondent Conchita Vda. de Chavez and her children the sum of P3,656.64, as compensation, plus P200.00 as burial expenses, and P274.25 as attorney's fees; and (2) to the Workmen's Compensation Fund the sums of p37.00 as fee for the award and P5.00 as costs.

Said Mrs. Chavez is the widow of Eugenio Chavez who worked for the Company from February 1946 to March, 1957, as crossing keeper at the San Andres Bukid station, Manila. From November 22 to December 2, 1956, he was confined at the Manila Sanitarium Hospital for pulmonary tuberculosis. Then he resumed his work; but, soon thereafter, or on March 15, 1957, he was confined at the San Lazaro Hospital, owing to his moderately advanced pulmonary tuberculosis. Discharged from this hospital on April 23, 1957, he died of said illness on August 10, 1957. Hence, the present claim for compensation with the aforementioned result. The Company maintains that the decision and resolution above mentioned should be reversed upon the ground. (1) that the death of Eugenio Chavez is not compensate; and (2) that the claim for compensation is barred by the statute of limitation of actions.

As regard the first ground it is urged, not only that the death of Chavez was caused by a disease "not contracted by nor the result" of his employment, but, also, that the nature of his work could not have caused said disease or aggravated the same. The record shows, however, that Chavez had been submitted to a medical examination on July 5, 1947, and that he was then apparently found to be in good physical condition. As a consequence, his pulmonary tuberculosis must have been contracted subsequently, during his employment in the Company. Moreover, the Commission found, and this is supported by the record, that two factors establish that the death of Chavez is compensate, namely: a) his night work service; and b) his place of work.

Indeed, Chavez was assigned to work for fifteen (15) days, from 8:00 a.m. to 4:00 p.m., followed by fifteen (15) days from 4:00 p.m. to midnight, and then by another fifteen (15) days from midnight to 8:00 a.m., "after which the entire process was repeated over and again"; and that as a consequence, he had to be on duty, continuously for thirty (30) days out of forty five (45) days, or two-thirds of the entire period of his service, on hours which are normally used for resting or sleeping. The Commission stressed "the debilitating effects of night work on a worker's physique, especially to one already afflicted with advanced pulmonary tuberculosis".

The decision appealed from further states:

"The second factor considered to have an aggravating influence on the illness of the deceased was his place of work. The records reveal that the crossing keepers at the San Andres Bukid Station were miserably provided with a lean-to which had no walls and merely provided shade the extent of which was no bigger than the surface area of an ordinary office table. It had no flooring and no benches. A big piece of stone served as a seat. Considering the size of this shelter wherein the deceased had to stay for eight hours during his tour of duty, we can imagine that it could hardly afford him any protection against the elements, especially during the rainy season. Unlike other ordinary employees, the nature of the work of the deceased required him to stay at his post, rain, shine or storm and to stay awake at night practically two-thirds of the 45 days rotation period." (Italics ours.)

Then it concludes:

"There is no doubt that the work of the deceased which merely involved the raising and lowering of the crossing bar several times a day was not strenuous. If this were the only factor to be considered in determining the compensability of this case, it would not be difficult to reach a conclusion. However, the presence of the first two factors above discussed changes entirely the complexion of the case. In conscience, we have to take them into account in deciding the case, and in so doing, we cannot escape the conclusion that these two factors could not but have an adverse effect on a person suffering from pulmonary tuberculosis. In other words, said factors may be considered as contributory causes to the worsening of the pulmonary tuberculosis of the deceased."

Upon the record before us, we do not feel justified in disturbing the foregoing conclusion.

The second ground for review relied upon by the Company is Section 24 of the Workmen's Compensation Act, reading:

"Notice of injury and claim for compensation.—No compensation proceeding under this Act shall prosper unless the employer has been given notice of the injury or sickness as soon as possible after the same was received or contracted, and unless a claim for compensation was made not later than two months after the date of the injury or sickness, or in case of death, not later than three months after death, regardless of whether or not compensation was claimed by the employee himself. * * *."

The Company maintains that the claims of Mrs. Chavez is barred by this provision, because she had neither given the requisite notice of injury nor filed the claim for compensation within the statutory period. It should be noted, however, that Chavez was confined at the Manila Sanitarium due to pulmonary tuberculosis from November 22 to December 2, 1956; that the company must have known about it, not only because he has to be absent from his post, during said period of time, but, also, because, according to Hermogenes Reboltan, who testified for the Company, Chavez was, therefore, assigned only to the day shift, from 8:00 a.m. to 4:00 p.m.; that, about a week before March 12, 1957, Chavez asked the Company to allow his son to relieve him from his duties on account of his illness; that, the Company had apparently consented thereto, for a son of Chavez substituted him in his work from March 13 to 26, 1957; that when Chavez vomitted blood on March 12, 1957, Mrs. Chavez reported it to G. Tolentino, the head of the General Services Department of the Company; that the day after the burial of Chavez, his widow demanded from the Company the corresponding compensation; that, although made orally, this demand is borne out by the fact that two (2) days later, said Tolentino informed the Government Service Insurance System of the death of Chavez, stating that its cause was pulmonary tuberculosis; and that, in fact, the Company helped Mrs. Chavez collect the corresponding gratuity from the Government Service Insurance System.

In short, the Company had actual knowledge of the illness of Chavez and of his death, as well as of the cause thereof, and, hence, the absence of a formal notice of either cannot exempt the Company from its liability under the Workmen's Compensation Act. Moreover, the Company failed to report to the Workmen's Compensation Commission, within the period set forth in Section 45 of said Act, the aforementioned illness and death of

Chavez, and, consequently, it is deemed to have renounced the right to controvert the corresponding claim for compensation (Victorias Milling Co., Inc. vs. WCC, L-10533, May 13, 1957; Tan Lim Te vs. WCC, 104 Phil., 522; Dangué vs. Franklin Baker Co. of the Philippines, 107 Phil., 1083; General Shipping Co. vs. WCC, 109 Phil., 60; Caltex (Phil.) Inc. vs. Villanueva, L-16658, August 21, 1961; Iloilo Dock & Engineering Co. vs. WCC, L-17283, July 31, 1962; Manila Railroad Co. vs. WCC, L-19773, May 60, 1964).

ACCORDINGLY, the decision and the resolution appealed from are hereby affirmed, with costs.

IT IS SO ORDERED.

Bengzon, C.J., Paredes, Dizon, Regala, Makalintal, Bengzon, J.P., and Zaldivar, JJ., concur.
Reyes, J.B.L., J., concurs on the basis that the employer forfeited its right to controversion.

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