

**RODOLFO MONSALE, FOR HIMSELF AND HIS MINOR CHILDREN
ERROL AND ARDEN, BOTH SURNAMED MONSALE, PETITIONERS, VS.
REPUBLIC OF THE PHILIPPINES (DEPARTMENT OF HEALTH) AND
WORKMEN’S COM...**

G.R. No. L-40691. November 29, 1977

Ponente: MARTIN, J.

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MARTIN, J.:

This is a petition for review^[1] of the decision of the Workmen's Compensation Commission reversing the decision of the Hearing Officer of Regional Office No. 7, Iloilo City, ordering respondent Republic of the Philippines (Department of Health) to pay the petitioner the sum of P5,400.00 as death compensation benefits and burial expenses plus the corresponding attorney's fees and the administrative fee. The petitioner herein, Rodolfo Monsale is the surviving husband and petitioners Errol and Arden, both surnamed Monsale are the legitimate minor children of the late Zenaida M. Monsale.

It appears that Zenaida M. Monsale during her lifetime was employed in the Department of Health assigned to the Regional Health Office No. 5, Iloilo City starting July 1, 1964 as a temporary vaccinator up to July 5, 1964. On January 5, 1965, she was appointed as a nurse attendant in a temporary capacity and worked as such up to June 30, 1965. On September 15, 1965, she was appointed Midwife II in a provisional capacity, working as such up to September 14, 1966. Finally on September 15, 1966 she was given a permanent appointment as Midwife II, continuously serving in such capacity up to her last day of service on July 1, 1970 with the salary of P2, 952.00 per annum. As Midwife II, Zenaida M. Monsale was stationed in Barrio Nalumban, Guimbal, Iloilo which was four or five kilometers away from her residence located in Miag-ao, Iloilo. Her main duties consisted of cleaning the barrio clinics, attending and administering medicines to patients everyday, answering to calls of patients, making house to house immunization work and delivering babies even at night time whenever summoned. She performed these duties six (6) days a week, two days in the town of Guinabad I and four days at the clinics in the barrios. In making her house to house immunization campaign, she was often delayed in her meals and forced to take lunch in the house which she visited. She used to report for duty in the barrio clinic in the morning, most often by foot for lack of transportation.

On July 9, 1972, Zenaida M. Monsale entered the Iloilo Provincial Hospital, Iloilo City for an ailment which later on was diagnosed as "Portal Cirrhosis". At the time of her admission, she was found to be suffering from enlargement of the liver, loss of weight, loss of energy, presence of dispeptic disturbance with no pain and presence of fluid in the abdominal cavity. On July 12, 1970, after being discharged from the hospital upon her own request, she died of "C.A. of the liver."^[2]

After her death, the petitioner herein filed a Notice of Claim for Compensation with the Workmen's Compensation Unit in Iloilo City for compensation benefits on his behalf and on behalf of the minor children. Respondent employer controverted the claim after which a hearing on the merits was conducted before the

Workmen's Compensation Unit, Iloilo City.

On September 9, 1971, the Hearing Officer of Regional Office No. 7, Iloilo City rendered a decision the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered ordering the respondent to pay:

(a) To the claimants, thru this Office, the aggregate sum of FIVE THOUSAND FOUR HUNDRED PESOS (P5,400.00) as death compensation and reimbursement of burial expenses;

(b) Attorney's fees to counsels for claimants, Attys. Efrain B. Treñas and Sergio D. Mabunay, equivalent to 5% of the compensation or the sum of TWO HUNDRED SIXTY PESOS (P260.00); and

(c) To this Office, the sum of FIFTY FIVE PESOS (P55.00) as administrative fees as required by Sec. 55 of the Act.

SO ORDERED."

A motion for reconsideration of the foregoing decision was denied by the Hearing Officer who on October 11, 1971 elevated the records of the case to the respondent Workmen's Compensation Commission.

On April 16, 1975, the respondent Commission set aside the decision of the Hearing Officer on the ground that the illness which caused the death of the deceased, Zenaida M. Monsale, had no causal relation with her employment.

Hence, this petition for review.

In reversing the decision of the Hearing Officer of Regional Office No. 7, Iloilo City on the ground that the illness of Zenaida M. Monsale which caused her death has no causal relation to her employment, the respondent Com-mission mainly based its decision on the evaluation report and findings of the Evaluation Division of the Commission to wit:

"Portal Cirrhosis is a chronic disease of the liver characterized by increased connective tissue that spreads from the portal spaces, with distortion of the liver; architecture, and impairment of liver functions. Malnutrition is believed to be the primary etiologic factor. Fatty infiltration (accumulation of fat in the liver) messenchymal inflammatory reaction, fibrosis and parenchymatous changes combine to produce in the usual course of events, a large hard and diffuse-ly modular level. In many cases the enlargement persists until death.

Portal cirrhosis is not inherent in the deceased's work as a nursing attendant or midwife, therefore, her ill-ness could not have been directly caused by her work. We could also say that the nature of claimant's work could not have aggravated her illness because from the physiopathogenesis of portal cirrhosis, medical authorities believe that the destruction of the liver cells are caused by the pressure of intercellular fat droplets on the liver cells obstructing sinusoidal circulation sufficiently to cause anoxic damage centrilobular tissues, and that fibrous deposits forming about extracellular fatty cysts condense into fibrotic trabeculae. Knowing this, we are of the opinion that progress of the disease is not influenced by the nature of her work nor by the activities she performed."

Obviously, the respondent Commission only took note of the foregoing evaluation report and findings of its Evaluation Division but not the testimony of Dr. Innocencio Aparicio to the effect that the nature of the employment of the deceased did not preclude the possibility that the illness of Zenaida M. Monsale could have been brought about by the nature of her work. Thus, part of his testimony reads:

"Q. Can this sickness of Zenaida Monsale be caused also by infection?

A. Portal cirrhosis, one of the causes is infection.

Q. And this infection which may have caused her sickness may be due to the water or food that she may have been taking in the barrios that she was assigned.

A. That is possible."^[3]

It has been established at the hearing as Midwife II that she had to attend to the cleaning of the barrio clinics, visiting her patients, going from house to house for immunization work, answering calls of patients even at night and delivering of babies whenever summoned. According to the testimony of Dr. Aparicio the infection might have been made possible by her going from house to house performing immunization work or from the fact that because of her uncertain schedule she was often delayed in taking her meals which she had to take oftentimes the house of her patients. Could it not be possible that she could have acquired her illness in those places where she has to take her meals or drink? Likewise, the very nature of her work which can easily be described as a strenuous one could have contributed to a general weakening of her bodily condition and the lessening of her resistance to the progress of whatever illness she has at the time. While the illness which about the enlargement of the liver, loss of weight, loss brought of energy, presence of dispeptic disturbance with no pain and acitis or presence of fluid in the abdominal cavity all of which amount to cancer of the liver, may not have been caused directly by her employment nor the result of the nature of her employment, it certainly can hardly be doubted that it could have been at least aggravated by the nature of her employment and therefore compensable under Section 2 of the Workmen's Compensation Act.^[4] In one case, it was held that medical cause of the illness is not legally significant as long as the illness supervened in the course of employment. The presumption of causation or aggravation then applies and the function for the presumption is precisely to dispense with the need of proof and 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.^[5]

It cannot be disputed that the deceased Zenaida M. Monsale acquired her illness in the course of her employment. Well-established is the jurisprudence that in the absence of substantial evidence to the contrary it is presumed under the law that an illness or injury sustained by an employee or worker was caused by or aggravated in the course of her employment. Even assuming that the employee's illness which caused the death may be ruled out as an occupational disease or that the causal link between the nature of his employment and his ailment has been insufficiently shown, nevertheless, it is to be presumed as mandated by Section 44 of the Workmen's Compensation Act^[6] that the employee's illness which supervened during the employment either arose out of or at least aggravated by said employment. And with this legal presumption the burden of proof shifts to the employer and the employee relieved of the burden to show causation.^[7] In the case before Us the conclusion arrived at by the respondent Commission that the death of Zenaida M. Monsale has no causal relation with her employment was not based on any substantial evidence presented during the trial before the hearing officer. The evaluation report and findings of the Evaluation Division relied upon by the respondent Commission in its decision was vigorously opposed by the petitioner on the ground that, not having been presented during the trial of the case before the Hearing Officer, petitioner was not able to confront the person who made the report and rebut the evidence. In effect the petitioner claims that the action of the respondent Commission in making the said report as the basis of its conclusion denied him his day in court. In a situation such as this an evaluation report not presented during the trial should not prevail over the substantial evidence established during the hearing of the case.^[8]

IN VIEW OF THE FOREGOING, the judgment of the respondent Commission is hereby reversed and set aside and the decision of the Hearing Officer of Regional Office No. 7, of Iloilo City is reinstated with the modification that the attorney's fees are increased to P540.00. Without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, Fernandez, and Guerrero, JJ., concur.

[1] Treated as Special Civil Action as per Resolution of this Court dated June 27, 1975.

[2] Exhibit F.

[3] T.S.N., p. 26, Calantas.

[4] SEC. 2. Grounds for compensation. - When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the person hereinafter specified. The right to compensation as provided in this Act shall not be defeated or impaired on the ground that the death, injury or disease was due to the negligence of a fellow servant or employee, without prejudice to the right of the employer to proceed against the negligent party.

[5] Magalona vs. WCC and National Shipyards Steel Corp., G.R. No. L-21849, Dec. 11, 1967.

[6] SEC. 44. Presumption. - In any proceeding for the enforcement of the claim for compensation under this Act, it shall be presumed in the absence of substantial evidence to the contrary –

1. That the claim comes within the provisions of this Act;
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the wilful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the in-toxication of the injured employee while on duty; and
5. That the contents of verified medical and surgical reports introduced in evidence by claimants for compensation are correct.

[7] Vda. de De Laron vs. WCC, No. L-43344, Sept. 29, 1976, 73 SCRA 85; See also Talip vs. WCC, L-42574, May 31, 1976; Aranzanso vs. Associate Commissioner Samit, L-40658, June 30, 1976; Mercado vs. WCC, L-42451, July 30, 1976; Jacob vs. WCC, L-43302, Aug. 31, 1976; Pros vs. WCC, L-43348, Sept. 29, 1976; Leorna vs. WCC, L-42543, Sept. 30, 1976; Ayuso vs. WCC, L-42893, Sept. 30, 1976; and Caparas vs. WCC, L-42450, Sept. 30, 1976.

[8] Concepcion Uy vs. WCC, et al., G.R. No. L-38096, May 14, 1975.

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