

**EMILIO TUQUERO AND SALVACION T. TUQUERO, PETITIONERS, VS.
EMPLOYEES' COMPENSATION COMMISSION &
GOVERNMENT SERVICE INSURANCE SYSTEM (BUR. OF ELEM.
EDUCATION), RESPONDENTS.**

G.R. No. L-46271. 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. 0197 (Jesus Tuquero, Deceased) entitled "Emilio Tuquero, Ap-pellant, versus, Government Service Insurance System (Bur. of Elem. Education), Respondents" affirming the decision of the Government Service Insurance System dismissing the claim for death benefit.[1]

On October 22, 1975, Emilio Tuquero filed a claim for death benefits with the Government Service Insurance System under Presidential Decree No. 626 by reason of the death of his son, Jesus Tuquero, who was a teacher in the public elementary school of the Bureau of Elementary Education, Division of Catanduanes, assigned at Quirino Elementary School, Viga, Catanduanes.[2]

In a letter dated October 29, 1975, the Assistant General Manager (Medicare-Employees' Compensation Commission) of the Government Service Insurance System informed Emilio Tuquero that the claim could not be given due course on the ground that the cause of the death of his son, Jesus T. Tu-quero, diagnosed as viral encephalitis, is not the usual and direct result of his occupation as a teacher.[3]

The claimant filed a motion for reconsideration which the Government Service Insurance System denied because there was no showing that the ailment directly arose from the employment of the deceased Jesus T. Tuquero as teacher of Quirino Elementary School, Quirino, Viga, Catanduanes, or resulted in the nature thereof.[4]

The claimant, Emilio Tuquero, appealed to the Employees' Compensation Commission which rendered a decision dated February 28, 1977 affirming the decision of the Government Service Insurance System and dismissing the case.

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

"The late Jesus Tuquero, a twenty-seven (27) - year old public elementary school teacher, was one of only two class-room teachers at the Quirino Elementary School, Viga, Catanduanes. Aside from his routinary classroom tasks, he was also active in the region's green revolution, poultry and piggery projects. His medical record shows that he was admitted on August 11, 1975 at the Viga Emergency Hospital, where he expired three days thereafter. The cause of his death, which was diagnosed as 'Viral Encephalitis and/or Acute Meningitis,' manifested itself about two weeks prior to his confinement as symptoms of influenza whereby he experienced chills and fever. These conditions persisted despite the administration of therapeutic drugs. On his admission at the said hospital, he complained of sudden, severe headache, projectile vomiting, high fever and profuse sweating."[5]

The Employees' Compensation Commission denied the claim because:

"The fundamental reason why we find ourselves unable to accede to appellant's contention as to the compensability of his son's death, is his failure to establish that the risk of contracting the ailment which resulted in the death of the late Jesus Tuquero was increased by the latter's working conditions as a class-room teacher. This is the cardinal postulate underlying Presidential Decree 626, as amended, and its implementing Rules which would require in short, a clear and palpable showing of a direct causal link between the ailment in question and the working conditions where such ailment is not classified as an occupational disease, as in the case at bar." [6]

From the facts found by the Employees' Compensation Commission, it is evident that the illness of Jesus T. Tuquero, viral encephalitis and/or acute meningitis, could have been caused by the nature of his employment as class-room teacher at Quirino Elementary School, Viga, Catanduanes. Aside from his routine classroom tasks, he was also active in the region's green revolution, poultry and piggery projects. These additional duties required him to be exposed to the elements, many different persons who may be virus carriers and animals. In the green revolution project, he had to do gardening and necessarily had contact with the soil. In participating in the poultry and piggery projects, Jesus T. Tuquero was exposed to manure and other animal wastes. He could have easily been infected by the virus of encephalitis. While it is true that a person, regardless of occupation, is susceptible to the ailment of viral encephalitis, it is unquestionable that Jesus T. Tuquero became more susceptible to the ailment while he was active in the green revolution, poultry and piggery projects.

The Employees' Compensation Commission is correct in finding that viral encephalitis is not the usual and direct result of the occupation of Jesus T. Tuquero as a teacher. However, as found by the said Commission, Jesus T. Tuquero performed other duties aside from routine classroom tasks. Having actively taken part in the green revolution, poultry and piggery projects he became more susceptible to viral encephalitis.

In view thereof, the illness of Jesus T. Tuquero which caused his death can be properly considered as compensable.

In support of their contention that the ailment of Jesus T. Tuquero which caused his death is compensable, the petitioners cite the following authorities:

"In TEXTBOOK OF MEDICINE, by Cecile and Loeb, 12th edition, pp. 58, and 100 to 105, the following epidemiology of Viral Encephalitis is discussed, thus:

'Spread is primarily by contact with an infected person, and the healthy carrier is as infectious as the frank case. Dissemination is greatest in areas of poor sanitation with a high density of young school children, who are the most frequent virus carriers. Although one virus tends to be dominant and to account for the bulk of illness at any given time and place, it is not unusual during epidemic or endemic periods to find several agents circulating at the same time, causing similar illness including meningitis.

'Almost all cases can be associated with rural or sylvan exposure, primarily in recreational pursuits of picnicking, camping, fishing, or hunting in or adjacent to woods or subtropical vegetation. These habitats breed an abundance of a variety of man-biting mosquitoes, mostly Aedes species, from which numerous strain of encephalitis virus has been isolated.

'Of known or potential epidemiologic importance are inapparent infections in many vertebrate species that follow peripheral inoculations or tick-bite. Such infection in goats (and also in cows, hogs and sheeps) results not only in viremia but also in viral shedding in milk. Significant viremia also occurs in some birds and various wild rodents, and may persist from prolonged periods during hibernation in hogs, dormice and bats. Transovarial transmission had been demonstrated in the natural tick vector after experimental infection.'

"And in W.A.D. Anderson's PATHOLOGY, 4th edition, pp. 308 to 317, one may find the following:

'In several types of encephali-tis and encephalimyelitis a viral etiology has been established by transmission to animals, while other types are of suspected but unproved viral etiology. Some of the viral encephalitis are characteristically sporadic in occurrence and are ac-quired by contact with man or animals.

"The viruses persist in natural foci by means of interchange between lower vertebrate hosts and the principal tick vectors, Ixodes Persulcatus and J. Ricinus. Human infections di-rectly caused by tick-bite vary with tick exposure, which may re-sult from residence, occupation, or recreation. Residents of rural, forested areas, especially agricultural and forest workers, are at highest risk. Ingestion of raw milk (so far only from goats) is an important indirect means of human infection which reaches urban-suburban residents with high attack rates in children and fa-milial clustering of cases. Louping ill attacks chiefly sheep farmers, veterinarians, and abat-toir workers handling tick-infected sheep. Sero-epidemiologic studies indicate that a high proportion of human infections are inapparent.""[7]

In the performance of his duties, Jesus T. Tuquero was ex-posed to the animals and chicken as well as to school child-ren who are frequent virus carriers. All these activities increased the risk of contracting the ailment diagnosed as viral encephalitis and/or acute meningitis. The illness of Jesus T. Tuquero is compensable.

WHEREFORE, the decision sought to be reviewed is hereby set aside and the Government Service Insurance System is ordered to pay the petitioners the amount of Twelve Thousand Pesos (P12,000.00) as death compensation benefit; the amount of One Thousand Pesos (P1,000.00) as reimbursement of funeral expenses; and the amount of One Thousand Two Hundred Pesos (P1,200.00) as attorney's fees.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, and De Castro, JJ., concur.

Melencio-Herrera, J., I concur, since I find that the evidence sufficiently establishes that the risk of contracting viral encephalitis which resulted in the death of Jesus Tuquero was increased by his working conditions.

[1] Annex "D", Rollo, pp. 22-24.

[2] Annexes "A", "A-1" and "A-2", Rollo, pp. 17-19.

[3] Annex "B", Rollo, p. 20.

[4] Annex "C", Rollo, p. 21.

[5] Annex "D", Rollo, p. 22.

[6] Annex "D-1", Rollo, p. 23.

[7] Rollo, pp. 9-10.

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