

MILAGROS F. VDA. DE FORTEZA, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND PHILIPPINE CHARITY SWEEPSTAKES OFFICE, RESPONDENTS.

G.R. No. L-21718. January 29, 1968

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by Milagros P. Vda. de Forteza from the decision of the Workmen's Compensation Commission in WC Case No. R04-1115 dated November 19, 1962, and its resolution entered on July 1, 1963, reversing the decision of the Hearing Officer, Regional Office No. 4, Department of Labor, of February 12, 1962 which awarded claimant P2,515.36 as death compensation benefits under Act 3428, as amended.

The facts, as found by the Workmen's Compensation Commission are as follows:

"AMADEO R. FORTEZA, the deceased in this case, worked as watchman in the Philippine Charity Sweepstakes Office from July 1, 1950 up to January 17, 1955, with a salary of P1,320.00 a year. He was more than 60 years old and was suffering from hypertension when he entered the respondent's service, for which reason he was considered by the Government Service Insurance System as "a poor insurance risk." As watchman, he was assigned to the PCSO, Manila Jockey Club, Manila, and his duties consisted in (1) guarding the properties of the respondent therein kept; (2) recording the pass slips of employees and the properties which were brought in and out of the premises; (3) closing the windows of the administration building located at the third floor at the close of office hours; and (4) going around the building for check-up. He had table and a chair which he ordinarily used as his station post. His tour of duty was from 3:00 p.m., but, as correctly stated by the hearing officer, he 'continue his duty up to the following day' in case his 'substitute fails to report, On January 17, 1955, at about 11:00 in the evening, he was found slumped on the floor, near his table, and unconscious. He was brought to the North General Hospital for treatment, but every effort to revive him was in vain as he died of 'CEREBRAL HEMORRHAGE SECONDARY TO ARTERIOSCLEROTIC HYPERTENSION VASCULAR DISEASE' at 2:00 a.m., the following day. He was survived by his widow and five children who are of age. For his death, his widow received from the respondent benefits provided for under Section 699 of the Revised Administrative Code, as amended, including reimbursement of burial expenses (Annex E attached to the Petition for Review)."

On November 22, 1960, petitioner, the surviving spouse, for herself and in behalf of her children, filed a claim with the Regional Office No. 4 (Manila), Department of Labor, for the recovery of death compensation benefits under Act 3428, as amended, and burial expenses in the sum of P312.00.

After due hearing, the Hearing Officer rendered judgment ordering the respondent Philippine Charity Sweepstakes Office to pay petitioner, through Regional Office No. 4, the amount of P2,575.36 as total death compensation benefits under Act 3428, as amended, and to pay the Office the amount of P24.00 as fees under Section 55 of said Act.

A petition for review on the grounds of: (1) lack of jurisdiction, (2) that the ailment causing employee's death had

no causal relation with the nature of his work, and (3) that the claim had prescribed under Section 24 of the law (failure of claimant to notify within the 3-month period) was denied by the Hearing Officer on March 28, 1962. Thereafter, the case was properly elevated to the Workmen's Compensation Commission for review. On November 19, 1962 the latter rendered judgment reversing that of the Hearing Officer, thereby absolving the Philippine Charity Sweepstakes office from paying petitioner any compensation under Act 3428. A motion for reconsideration subsequently filed by petitioner was denied by the Commission on July 1, 1963. Hence, the present appeal.

The only issue to be resolved is whether or not, under the facts of the case, petitioner and her children are entitled to death compensation benefits under Section 2 of Act 3428, as amended, which provides:

"When an employee x x x 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 persons herein specified x x x."

Petitioner claims that her deceased husband's illness-hypertension - at the time he was employed by respondent was aggravated by the nature of his work, thus hastening the cerebral stroke which caused his death.

Upon the other hand, respondents contend that the disease of hypertension - characterized by the thickening, hardening and loss of elasticity of the arterial walls, with inflammatory, degenerative or hyperplastic changes, the Etiology of which has been variously attributed to abnormal metabolism of fats, toxin and infection - cannot be considered as an occupational disease in the particular trade the deceased was engaged in the course of his employment and as understood under the Workmen's Compensation Law, i.e., disease which is due to causes and conditions which are characteristics of and peculiar to a trade, occupation, process or employment. They further argue that from the fact that the deceased employee had been working for five years without a stroke, it may be inferred that his work did not in any way cause his death.

Petitioner's contention must be upheld. It is a fact that because he had to work at nighttime, Forteza was exposed to colds, inadequate rest/relaxation, proper sleep, and tension due to his duty to guard the premises of his employer. It is also a fact that he had to go up and down the 3-story building (without elevator) where the offices of his employer were located, to check up the premises. These working conditions and factors, coupled with the fact that the deceased was afflicted with minimal tuberculosis in 1954-1955 - just before his death - could have certainly caused or materially contributed to produce the stroke that caused his death. The fact that the deceased suffered the stroke near his working table in the third floor of the office building while performing his routine duties further justifies petitioner's claim that the death of her husband was in the course of his employment and was brought about - in part, at least - by the strenuous nature of his work. This makes such death compensable under the law. Along this line is our ruling in the *Naira* case, as follows:"

"x x x. In demanding that the claimant should establish that the cause of death was directly brought about by the employment, or aggravated by the nature of the employment, the Workmen's Compensation Commission has chosen to ignore the presumption expressly established in Section 43(1) of the Workmen's Compensation Act (No. 3428), as amended by Republic Act 772:

'SEC. 43. 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.'

"In other words, in the absence of proof that the injury or death supervening in the course of employment has arisen because of the nature of the same, the death or injury is, by law, compensable, unless the employer clearly establishes that it was not caused or aggravated by such employment or work. Mere absence of

evidence that the mishap was traceable to the employment does not suffice to reject the claim; there must be credible showing that it was not so traceable (*Batangas Trans. Co. vs. Vda. de Rivera*, G. R. No. L-7658, May 8, 1956; *Bohol Land Trans. Co. vs. Vda. de Madanguit*, 70 Phil. 685). In fact, in the *Batangas Transportation* case, we held that where the cause of death supervening in the course of employment is unknown, the death is compensable. In the case now before, the fact that the illness followed closely the exertions of the deceased in unloading the employer's barge strongly supports the inference that the thrombosis leading to his death was at least precipitated by strain. (*Naira vs. Workmen's Compensation Commission*, G. R. No. L-18066, Oct. 30, 1962)."

Furthermore, it is the rule in *Workmen's Compensation* cases that it need not be proven that his employment was the sole cause of the death or injury suffered by the employee, it being enough, to entitle him or his heirs to compensation benefits under the law, that there be a showing that his employment had contributed to the aggravation or acceleration of his death or ailment. This has been sufficiently proven to be the case in the one before Us.

With respect to the amount of compensation due to be petitioner, the pertinent portion of the decision rendered by the Hearing Officer on February 12, 1962 (Annex C of the Petition for Review) reads as follows:

"Under Section 8(a) of the Act, the claimant widow is entitled to 45 per centum of the average weekly wage of the deceased for 208 weeks. Forty Five per centum of the average weekly wage of the deceased which was P25.38 (P1,320.00 to 52 weeks) equals P11.42 and for 208 weeks, the claimant widow is entitled to P2,375.36, as death compensation benefits.

"Pursuant to the first paragraph of Section 8 of the Act, as amended, the herein claimant widow is entitled to reimbursement of burial expenses not to exceed P200.00. In the instant case, said claimant widow spent P312.00, hence, she is entitled to reimbursement by the respondent of P200.00 only.

"All in all claimant Milagros F. Vda. de Forteza, is entitled to an amount of P2,575.36, as total benefits under the Act.

"WHEREFORE, the respondent PHILIPPINE CHARITY SWEEPSTAKES OFFICE, is hereby ordered:

'1. To pay in lump sum MILAGROS F. VDA, DE FORTEZA, through this Office, the amount TWO THOUSAND FIVE HUNDRED SEVENTY-FIVE PESOS AND 36/100 (P2,575.36), as total death compensation benefits under the Act.

'2. To pay this Office the amount of TWENTY-FOUR PESOS (P24.00) as fees pursuant to Section 55 of the Act."

We agree with the above.

WHEREFORE, the decision appealed from is hereby reversed and, as a result, another is rendered sentencing the respondent Philippine Charity Sweepstakes Office to pay the amounts awarded to petitioner in the decision of the Hearing Officer reproduced above. Without costs.

Concepcion, C.J., Reyes, J.B.L., Bengzon, J.P., Sanchez, Angeles, Makalintal, Zaldivar, Castro, and Fernando, JJ., concur.

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