

**LYDIA BUENAVENTURA, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION AND MIN NGAL (HUAT KEE)
KNITTING & SHIRT FACTORY, RESPONDENTS.**

G.R. No. L-42835. April 22, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Review of the decision of respondent Workmen's Compensation Commission, hereinafter referred to as the Commission, dated December 28, 1975 denying petitioner's claim for compensation under the Workmen's Compensation Act, as amended.

The facts of the case are clear.

On October 15, 1973, petitioner, a laborer at MinNgai. (Huat Kee) Knitting & Shirt Factory, hereinafter simply referred to as respondent company, filed a claim for compensation with the Department of Labor's Regional Office No. 4 (p. 28, rec).

Attached to, and made an integral part of, the claim for compensation was a physician's report with a diagnostic finding that claimant is ill with hypertension (p. 13, rec).

Respondent company received a copy of the claim on

November 7, 1973 (pp. 28-29, rec).

Despite knowledge of petitioner's claim, respondent company failed to file any controversion within the time specified by law (p. 21, rec).

Several hearings were scheduled on the case, but respondent company failed to be represented in any of these hearings. Whereupon, the hearing officer required petitioner to have herself examined by the Labor Compensation Rating Medical Officer for the purpose of determining the nature and extent of her injury (p. 19, WCC rec.)- In his report, the said officer described the nature of petitioner's injury as hypertension and stated that her disability was temporary total — from 1965 to 1973 (p. 18, WCC rec).

On October 9, 1975, Hearing Officer Expedito J. Castillo rendered the following verdict:

"It appearing upon perusal of the records that claimant employed as laborer with a compensation at the rate of P6.00 a day, working six (6) days a week, contracted the ailment of Hypertension in August 1965 and stopped working in 1965, thus incapacitating her for labor from 1965 up to 1973 based on the Physician's Report, and it appearing further that respondent failed to controvert the instant claim within the period prescribed by the Act, an outright Decision, under the circumstances, is therefore in order.

XXX XXX XXX

"WHEREFORE, DECISION is hereby entered in favor of the claimant and the respondent is ordered:

"a. To pay claimant thru this Office, the amount of FIVE THOUSAND FOUR HUNDRED NINETY-TWO PESOS & 80/100 as disability compensation benefits; and

"b. To remit to this Office, the sum of FIFTY-FIVE PESOS

(P55.00) as administrative fee pursuant to Section 55 of the Act, as amended.

"SO ORDERED, x x x" (pp. 15-16, rec).

On November 14, 1975, respondent company moved to reconsider the above-quoted verdict on the grounds that the claim of petitioner had been previously settled and that the claim was not work-connected because it (respondent company) was no longer in operation at the time the claim was filed, (pp. 17-19, rec). This motion was denied and the case was elevated to respondent Commission for review (p. 5, rec; p. 6, WCC rec).

On December 28, 1975, respondent Commission rendered the following reversal:

"It appears in the notice and claim filed on October 15, 1975 (should be 1973), that the claimant was employed by the respondent as laborer with a daily wage of P-6.00, working six (6) days a week. Sometime in 1965, she stopped working due to an illness diagnosed as hypertension by Dr. Pastora Zacarias and after she personally notified the respondent's manager in August, 1963.

"Despite knowledge, as evidenced by a Registry Returned (sic) Slip, the respondent did not file an Employer's Report and its controversion required by Section 45. in relation to Section 37 of the Act. This fatal defect operates as a waiver of its right to present non-jurisdictional defenses, as well as to challenge the claimant's right to compensation under the law. This doctrine however, will only apply if the claim is based on illness which under the law is compensable.

"A perusal of the records reveal (sic) that on or before she stopped working with the respondent sometime in 1965, she was suffering from hypertension, which is not an illness but only a symptoms (sic) and under this Act, it is not compensable per se, in the absence of any complication to show that the hypertension was aggravated by employment. The records do not show to this effect. In other words, there is no substantial evidence to support the claim, to come within the purview of the Act. The mere violation of Section 45 of the Act, as amended will not make a claim compensable which is not compensable from the beginning.

"WHEREFORE, the decision appealed from should be, as it is hereby, REVERSED, and the case dismissed for lack of merit." (Pp. 21-22, rec).

Hence, the present petition by petitioner which was subsequently treated by this Court as a special civil action after considering the petition, the comment of the respondent company and the reply thereto of petitioner. With the submission by petitioner and respondent company of their respective memoranda, the Court declared the case submitted for decision on July 28, 1976 (p. 63, rec).

The main issue in this instant case is whether an uncontroverted claim still has to be proved by substantial evidence.

WE hold in favor of petitioner. There was a grave abuse of discretion on the part of the respondent Commission in reversing the order of award of the hearing officer.

Section 45 of the Workmen's Compensation Act, as amended, is crystal clear. Failure to file the required controversion is fatal to the defense of respondent company. It amounts to a waiver of all defenses not otherwise jurisdictional (Talip vs. WCC, et al., 71 SCRA 218 [1976]; Dinero vs. WCC, et al, 70 SCRA 292 [1976]; Abong vs. WCC, 54 SCRA 379 [1973]; Philippine Graphic Arts, Inc. vs. Mariano, 53 SCRA 409 [1973]; General Textiles, Inc. vs. Taay, 42 SCRA 375, 380 [1971]; and National Development Company vs. Galamgam, 38

SCRA495, 498 [1971).

In all of the above-cited precedents, WE did not inject the qualification that an uncontroverted compensation claim to erectly stand must still be substantiated. For to do so would not only unduly or gratuitously relieve the respondent company of the above-stated disastrous consequence visited on it for its failure to controvert but would likewise unreasonably deny to petitioners the beneficent effects flowing from the unrebutted legal presumption of the compensability of her illness.

For it is now beyond question that once an illness supervened in the course of employment there arises the rebuttable presumption that the same arose out of, or at least was aggravated by, such employment. Consequently, the burden to disconnect. by substantial evidence, the illness from the employment is shifted to the employer. In the present case, the preliminary link between petitioner's illness and her employment was clearly established by her and even the Commission acknowledged this fact when it stated in its decision of reversal that "[A] perusal of the records reveal (sic) that on or before she stopped working with the respondent sometime in 1965, she was suffering from hypertension x x x." Hence, the respondent Commission gravely erred in ignoring its own findings and the legal presumption of compensability.

The respondent Commission likewise unceremoniously disregarded the effects of non-controversion, which barred the respondent company from interposing non-jurisdictional defenses.

Consequently, the herein petitioner was entitled to an outright award in her favor, which the hearing officer correctly did.

It is now claimed by respondent company for the first time in this appeal that it had timely and properly controverted this compensation claim. Basic is the rule however, that issues or questions-not raised below cannot be raised for the first time on appeal. Furthermore, the record clearly shows that the hearing officer, who decided in favor of petitioner, and the respondent Commission, which found for respondent company, both found that the instant claim for compensation was not controverted. Neither has respondent company explained either in its comment to the petition filed on April 7, 1976 (pp. 24-32, rec.) and in its memorandum filed on July 22, 1976 (pp. 46-53, rec.) with this Court why it failed to question in its November 14, 1975 motion for reconsideration the express finding of the hearing officer in his decision that the claim for compensation was not controverted. Also, the record of the case forwarded to this Court by the Workmen's Compensation Commission did not contain a copy of the alleged controversion presented to this Court by respondent company as Annex "C" of its comment (p. 30. rec).

Furthermore, this Court notes that the respondent Commission reversed the order of award made by the hearing officer on a ground not invoked by respondent company. The grounds of respondent company in its motion for reconsideration were (1) the previous amicable settlement of the claim of petitioner, and (2) the lack of work-connection for the reason that the claim was filed at the time when respondent company was no longer in operation. But the Commission's decision of reversal was grounded on the failure of the claimant to present substantial evidence to support her claim for compensation. The amicable settlement referred to is that one entered in a claim for separation pay filed with the NLRC (Case No. ME 2527) between the same parties wherein petitioner was paid the amount of P-400.00. But that settlement apparently covered only her separation pay and furthermore the NLRC has no jurisdiction over workmen's compensation claims Understandably, respondent has not invoked that amicable settlement in its comment and memorandum filed before this Court.

That altitude of the respondent WCC has been condemned b> this Court in the past. Thus:

"It is not good policy in regard to social legislation like the Workmen's Compensation Act for the Workmen's Compensation Commission to go out of its way in absolving an employer from habilitas for compensation for

work-connected injury or death of his employee or worker by upholding grounds not invoked by the employer himself as defense before it" (Vda. de Calado vs. WCC, 38 SCRA 569, 585-586-[1971]).

The manner in which this compensation claim was decided by the respondent Commission is indeed lamentable as it reflects the Commission's disregard of the social justice clause of the Constitution.

WHEREFORE, THE DECISION OF THE RESPONDENT COMMISSION IS HEREBY SET ASIDE AND RESPONDENT COMPANY IS HEREBY ORDERED.

A. TO PAY

1. THE CLAIMANT THE SUM OF FIVE THOUSAND FOUR HUNDRED NINETY-TWO PESOS AND 80/100 (P-5,492.80) AS DISABILITY COMPENSATION BENEFITS;
2. THE COUNSEL FOR CLAIMANT AN AMOUNT EQUIVALENT TO 10% OF THE COMPENSATION AWARD;
3. THE COMMISSION THE AMOUNT OF SIXTY-ONE PESOS (P61.00) AS ADMINISTRATIVE FEES; AND
4. THE COSTS; AND

B. TO PROVIDE THE CLAIMANT WITH SUCH SERVICES, APPLIANCES AND SUPPLIES AS THE NATURE OF HER DISABILITY AND THE PROCESS OF HER RECOVERY MAY REQUIRE AND THAT WHICH WILL PROMOTE HER EARLY RESTORATION TO THE MAXIMUM LEVEL OF HER PHYSICAL CAPACITY.

SO ORDERED.

Teehankee (Chairman), Muñoz Palma, Concepcion Jr., and Martin, JJ., concur.

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