

EUNILA MARAPO, FOR HERSELF AND FOR AND IN BEHALF OF HER MINOR CHILDREN, NAMELY, SAMUEL, ELIZABETH, BERNADETTE, CARMILITA, WILLIAM, LYDIA, MYRNA, LEOPOLDO AND MERCEDITA, ALL SURN...

G.R. No. L-42390. January 31, 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 affirming the order of the Referee of the Workmen's Compensation Unit, Regional Office No. XI of the Department of Labor, Cagayan de Oro City dismissing the claim for death compensation benefits of petitioners. The claim is being considered under the Workmen's Compensation Act (Act No. 3428) before its amendment by the new Labor Code (P.D. No. 442).

Eliseo Marapo was employed by the respondent Philippine Packing Corporation on June 14, 1954 up to the time of his death on April 20, 1971 or approximately for a period of 16 years and 10 months as Security Guard. He used to work for six (6) days a week for eight (8) hours a day with a monthly salary of P400.00 and overtime pay for working at night. Respondent corporation, however, claims that Eliseo Marapo used to receive a weekly salary of P59.52.

On April 4, 1971 Eliseo Marapo complained of an illness which necessitated his confinement at the Philipps Memorial Hospital owned by the respondent corporation where after examination he was found to be suffering from amoebic liver abscess. He was operated on April 17, 1971 and three days thereafter he died. Surviving him are his legitimate wife Eunila Marapo and their nine (9) minor children, the petitioners herein, who filed a claim for death compensation benefits with the Workmen's Compensation Unit, Regional Office No. XI, Cagayan de Oro City. On June 11, 1971, Eunila Marapo filed a Notice of Death and Claim for Compensation arising from the death of her husband with the Workmen's Compensation Unit, Regional Office No. XI, Cagayan de Oro City. On August 21, 1973 an ocular inspection of the premises of the deceased was conducted by the Referee of the Workmen's Compensation Unit and considering all the evidences submitted, he rendered a decision dismissing the claim for compensation on the ground that the illness that caused the death of the deceased Eliseo Marapo was not compensable per se and that the said illness was not caused nor was it even aggravated by the nature of the deceased's work. Petitioner appealed to the respondent Workmen's Compensation Commission imputing two errors allegedly committed by the Referee of the Workmen's Compensation Unit:

1. THAT THE REFEREE ERRED IN HOLDING THAT AMOEBIC LIVER ABSCESS IS NOT COMPENSABLE PER SE.
2. THAT THE REFEREE ERRED IN FAILING TO GIVE CREDENCE TO THE TESTIMONY OF CLAIMANT, EUNILA MARAPO

The respondent Commission affirmed the decision of the Referee by holding that amoebic liver abscess is not an occupational disease and therefore not compensable per se.

Hence, this petition for review.

The main thrust of petitioner's argument is that the deceased acquired the disease during the course of his employment and therefore falls within the legal presumption that it arose out of the employment or was at least aggravated by such employment invoking a long line of cases to this effect, more particularly the case of *Lourdes Vda. de Magalona vs. WCC*,^[2] which held:

"It is now unquestionable that once the illness supervened at the time of the employment there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by such employment. The claimant is relieved from the burden of proving causation once the illness or the injury is shown to have arisen in the course of employment. Thus the precise medical cause of the illness is not legally significant, as long as the illness supervened in the course of the employment. The presumption of causation or aggravation then applies. The function of the presumption is precisely to dispense with the need for proof." (Citing *Justiniano vs. WCC*, L-22774, November 21, 1966; *Agustin vs. WCC*, L-19957, September 29, 1964).

Respondent Philippine Packing Corporation however contends that the legal presumption of compensability is a rebuttable one and the burden of proof is on the respondent to show that while the deceased's illness and subsequently his death supervened in the course of his employment, it did not follow that it arose out of employment or was at least aggravated by the nature of his employment. According to respondent Commission the respondent corporation has adduced substantial evidence to overcome the presumption of compensability. Obviously the respondent Commission gave credit to the testimony of Dr. Alberto Sison to the effect that after a periodic laboratory examination of the source from where the deceased got his water, he found the same to be potable without considering the claim of the petitioners that the toilet system provided by the respondent corporation was in a poor sanitary condition and that the faucet from where they got their water was only three (3) feet away from the open toilet bowls in the toilet and laundry area. It might be true that the source from where petitioners got their supply of water was potable but not necessarily the water from the faucet where they obtained water which was only three (3) feet from the open toilet bowls in the toilet and laundry area. According to the evidence the faucet from where the deceased got his supply for drinking was not brought direct to the house of the deceased but only near his house. This made the faucet exposed to contamination. Besides, the illness of the deceased could not have come only from the water supply, but also from the food that he ate. Since the area where the deceased lived was exposed to contamination, it is not improbable that he could have been exposed to any kind of illness. Even conceding that respondent corporation had done its best to keep the place in a sanitary condition, this does not preclude the possibility that any of its employee could get the disease of the liver due to infected food. The fact is the deceased acquired the illness while living in the area provided by respondent corporation for its employees and during the course of his employment, in which case the legal presumption mandated by Section 44^[3] of the Workmen's Compensation Commission that the illness arose out of or was at least aggravated by the nature of his employment, holds true in favor of the deceased.

IN VIEW OF THE FOREGOING, the judgment of the respondent Commission denying the claim of petitioners is hereby reversed and set aside and another one rendered ordering the respondent corporation to pay the petitioners the amount of P6,000.00 as death compensation benefits plus the amount of P200.00 as burial expenses for the deceased, with costs against respondent corporation.

SO ORDERED.

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

[1] Treated as Special Civil Action as per Resolution this Court dated August 6, 1976.

[2] G.R. No. L-21849, December 11, 1967; See also Talip vs. WCC, G.R. No. L-42575, May 31, 1976; Maria Cristina Fertilizer Corp. vs. WCC, 60 SCRA 228.

[3] "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 intoxication 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.

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