

SEVEN-UP BOTTLING COMPANY, INC., ILOILO, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND HENRIETTA VDA. DE PENAFLORIDA FOR HERSELF AND IN BEHALF OF HER MINOR CHILD WILLENE...

G.R. No. L-31284. June 11, 1975

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is a petition for review of the decision of the Workmen's Compensation Commission dated August 26, 1969 in its WCC Case No. R07-8957.

On October 2, 1962, at about 5:30 o'clock in the afternoon, a hand grenade exploded inside the office of the Seven-Up Bottling Company, Iloilo Plant, in Iloilo City, instantly killing William Penaflorida, a stock clerk of the company, and Felixberto Herrera, the branch cashier. Another employee, Victorino Trespeces, was wounded seriously.

Within the reglementary period the Seven-Up Bottling Company filed with the Workmen's Compensation Unit in Iloilo City its Employer's Report of Accident or Sickness regarding the death of William Penaflorida and indicating therein its intention to controvert any claim for compensation. On November 2, 1962 the deceased employee's widow, Henrietta Vda. de Penaflorida, filed a notice and claim for compensation in her own behalf and that of her minor child. In answer, the employer disclaimed any liability.

When the case was heard the employer presented Victorino Trespeces, who testified that the late William Penaflorida was intoxicated at the time of the fatal incident and was himself the one who exploded the hand grenade. It also submitted the police investigation report tending to corroborate the testimony of said witness. In view of the extended stay in Manila of the claimants' rebuttal witness, Dr. Teodoro Centeno, the medico-legal officer of the Iloilo Police Department at the time of the incident, the case was submitted for decision without his testimony.

On September 11, 1964 the Acting Referee rendered a decision holding that the claim was not compensable, thus:

"After carefully evaluating the evidence and facts of the instant case, it is the considered opinion of this Office that the claim is not compensable, it not having arisen out of and in the course of employment. Granting arguendo, that the deceased died during his working hours the claim arising therefrom could not be automatically construed as compensable inasmuch as it lacks the vital element of causal relationship between the death of the employee concerned and his employment. Stated otherwise, his death must be service-connected in order that the claim could well prosper.

"It was unequivocally shown at the hearing that William Penaflorida was a stock clerk at the time of the fatal incident and as such he had no right toying a hand grenade which is not used in connection with the business of respondent, a company engaged in the manufacture of soft drinks, much less threaten his fellow workers should they fail to come across with the loan requested by him. The actuations of the deceased on that eventful

day of October 2, 1962 can be interpretative of either of the following: intent to inflict injury upon himself or upon others or horseplay or larking in order to display his bravado, so much so that fortified with liquor and armed with a hand grenade, he strode forth and accosted his two fellow workers (Trespeces and Herrera) for a loan of money and threatening to explode the hand grenade if refused by Herrera. Whether what transpired later on was intentional or accidental, the grenade exploded, killing its possessor and the cashier and wounding Trespeces."

On October 2, 1964 the claimants moved to reopen the case to enable Dr. Teodoro Centeno to testify but were turned down. Their subsequent petition for review was also denied for having been filed allegedly out of time.

Unable to secure a reconsideration of the last order of denial, the claimants filed a petition with the Workmen's Compensation Commission for it to require the Acting Referee to give due course to their appeal. By order of January 26, 1965 the Commission directed that the record of the case be elevated to it, but on June 9, 1967 remanded the case back to the office of origin for the reception of additional evidence. Pursuant to said order the Acting Referee received the testimony of Dr. Teodoro Centeno to the effect that he did not find any trace of liquor in the body of the late William Penaflorida and that the hand grenade "could have been thrown from somewhere."

Finding that William Penaflorida's death arose out of and in the course of his employment, the Workmen's Compensation Commission in its decision dated August 26, 1969 reversed that of the Acting Referee and awarded compensation to the claimants. Said the Commission:

"In dismissing the case at bar, the referee had relied so much on the police report which pictured the deceased William Penaflorida in the state of intoxication, holding a live grenade and threatening the cashier, Mr. Felixberto Herrera to let off said grenade should his (Penaflorida's) request for loan of P5.00 be denied. Without the least casting any aspersion on the good standing of the police department that investigated the fatal accident, we say that its report on the matter should not, hook, line and sinker, be taken into account lest, a grave injustice is (sic) committed against the dependents of the deceased Penaflorida. For while it is stated in said report that Penaflorida was drunk at the time of the explosion, the medico-legal officer (Dr. Teodoro Centeno) of same department who, together with the Chief of Police and Assistant Fiscal, went immediately to the scene of the accident and autopsied the prostrate corpse of the deceased Penaflorida, did not find traces of liquor in the latter's body. This bluntly belies Trespeces' (respondent's witness) allegation or testimony that Penaflorida was intoxicated at the time of the fatal accident.

"Whether or not the deceased Penaflorida was drunk is a matter for the medico-legal officer to determine. For this reason, we are more inclined to give more weight to Dr. Centeno's finding than to that of the police report on the matter. And if the deceased was not in a state of inebriety, then necessarily a denial of compensation predicated on the theory of intoxication is believed not in order.

"But drunkenness does not seem to be the only ground relied on by the referee in dismissing the claim. For it has been intimated all the while that the deceased being the aggressor, as he was the one holding the grenade and threatening the cashier, the claim could not prosper even under the most liberal rule on "horseplay". Having lied in one, he must lie (sic) in all, falsus in uno falsus in omnibus, runs an old Latin Maxim. Trespeces, as shown by Dr. Centeno's finding, had lied on Penaflorida's condition at the time of the incident. If, he, without rancor and compunction, could lie on so important a point as the deceased's mental condition (drunkenness), then it is not really difficult to imagine how he could have again twisted the facts by so stating that the deceased Penaflorida was the one holding and toying with the live hand grenade. Dr. Centeno had advanced the theory which we are inclined to adopt as our own, and with reason, that the grenade must have been thrown by someone from somewhere, judging by the positions of Penaflorida's (right on his back on the floor) and Herrera's (stooping) bodies; and that Penaflorida's wounds were on his abdomen and face.

"Granting, arguendo, that in the face of the foregoing conflicting versions of the incident, no one could really tell, with certain degree of accuracy, who was lying or not, we still believe the scale of justice should be tipped

on the side of the claimants, if only to lend substance to the words of the late President Ramon Magsaysay that "he who has less in life should have more in law". After all, the Workmen's Compensation Act is a social legislation, which, in case of doubt, should be construed in favor of the injured or his dependents. We therefore find that William Penaflorida's death arose out of and in the course of his employment."

In seeking the reversal of the decision of the respondent Commission the petitioner contends that it is not only unsupported by substantial evidence but also entirely contrary to the evidence presented during the hearing of the case. The determinative question is whether or not Dr. Centeno's testimony may be considered "substantial evidence."

In view of the nature of the issue We reviewed the record of this case. Concerning his finding that there was no trace of liquor in the body of the late William Penaflorida, Dr. Teodoro Centeno declared:

"Q.

You also conducted the autopsy of the body of the deceased?

A. Yes, sir.

Q.

And you found no traces of liquor or other beverages in the body of the deceased?

A.

Yes sir.

Q.

How did you come to that conclusion that there was no trace of alcohol found in the body of the deceased?

A.

I had that experience, even by smell only, I can detect the alcoholic smell from the breath of the man.

Q.

Previous to this case, have you also investigated other dead cadaver of persons and have you experienced having also autopsied a person who have drunk alcohol before his death?

A.

Yes. Many because I had been the medico legal officer of the Iloilo Police Department for five years and I

have thousands of cases within these period and usually I encounter dead persons who are alcoholic, and I can usually detect in the breath especially if the cadaver is fresh." (t.s.n., p. 4, hearing of April 3, 1968)

Evidently the medico-legal officer arrived at the conclusion that there was no trace of liquor in the body of the late William Penaflorida because of the absence of alcoholic odor in his breath. There is no showing that the deceased's stomach or intestines were opened and their contents analyzed for possible alcohol contents. Since he was already dead it was impossible to detect the presence of alcohol in his breath. The means employed by the doctor in arriving at his conclusion was inherently unreliable, and his testimony does not meet the test of substantiality of the evidence, let alone its sufficiency to contradict the police investigation report and the positive testimony of Victorino Trespeces.

With respect to the finding that "the hand grenade must have been thrown by someone from somewhere," Dr. Centeno's testimony on direct examination is as follows:

"Atty. Centeno:

All right. Doctor, in your testimony in the affidavit you said that it is possible that the grenade was having (sic) thrown from outside the place where the incident happened?

Atty. Mabunay:

There is no statement here that the grenade was thrown from outside.

Atty. Centeno:

It says here, from somewhere.

Witness:

I concluded in that statement because when I arrived there, the cadaver of Penaflorida was right on his back on the floor and that of Herrera was stooping, so I concluded that the hand grenade could have been exploded from somewhere or it could have been thrown from somewhere.

(t.s.n., pp. 5-6, hearing of April 3, 1968)

On cross-examination Dr. Centeno said:

"Q.

You stated in direct examination that it was your conclusion that the hand grenade was thrown from somewhere.

A.

That is a possibility.

Q.

And a conjecture?

A.

That is a possibility.

Q.

And it can happen.

A.

That is possible.

Q.

It is possible that it could not have been thrown from outside.

A.

It is possible that it was thrown from outside.

Q.

You have no basis for that, only it is possible.

A. It is possible."

(t.s.n., pp. 17-18, hearing of April 3, 1968)

And on re-direct examination, the witness testified:

"Atty. Centeno:

What is the basis of your testimony in your affidavit that it is possible that the hand grenade must have been thrown from somewhere? What is the basis of that statement?

A. In this case, because it is hard and you could not always determine the position there."

(t.s.n., p. 19, hearing of April 3, 1968)

At best Dr. Centeno's testimony on this point is merely a conjecture, an inference without logical basis. Again it cannot be given any weight in the face of the testimony of Trespeces. Even in itself alone it cannot be considered substantial evidence.

WHEREFORE, the decision and the resolution of the Workmen's Compensation Commission dated August 26, 1969 and October 24, 1969, respectively, are hereby set aside and in lieu thereof judgment is rendered reinstating the decision of the Acting Referee, dated September 11, 1964, dismissing the claim for compensation.

Castro, (Chairman), Teehankee, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

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