

MARIA LACSON, PETITIONER, VS. THE SECRETARY OF LABOR, THE COMPENSATION APPEALS & REVIEW STAFF, THE WORKMEN'S COMPENSATION COMMISSION AND THE DEVELOPMENT BANK OF THE PHILIPPINES,...

G.R. No. L-45896. August 21, 1980

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review filed on May 19, 1977 of the decision dated March 22, 1976 of the Workmen's Compensation Commission and the Order of the Secretary of Labor, acting concurrently as Chief or Head of the Compensation Appeals and Review Staff, dated March 1, 1977, which reversed the award for death benefits made by the Acting Referee in favor of the petitioner on the ground that the illnesses of the deceased daughter of petitioner -- diabetes mellitus, pyelonephritis with uremia and hypertension -- were not compensable under the Workmen's Compensation Act, as amended.

In her lifetime, Felicidad Lacson Ramirez, 63 years of age, widowed daughter of herein petitioner Maria Lacson, was employed by the Development Bank of the Philippines, hereinafter referred to as respondent employer. She started working in the defunct Rehabilitation Finance Corporation on August 24, 1954 as clerk. When the RFC was abolished and replaced by the DBP, the late Felicidad Ramirez was not only absorbed by the respondent DBP but was likewise promoted to senior clerk. On October 5, 1966 she was again promoted to Loan Examiner. At the time of her death on October 4, 1973, the deceased was a Loan Account Analyst receiving a salary of P7,032.00 per annum.

Records of the case show that the late Felicidad Ramirez stopped working with the respondent Development Bank of the Philippines on July 11, 1973. She was hospitalized at the UST Hospital where the attending physician, Dra. Helen Paulino-Abundo, found her suffering from "diabetes mellitus, pyelonephritis with uremia, hypertension" (Annex "B", p. 22, rec.). As a result of her inability to work, she filed a Notice of Injury or Sickness and Claim for Compensation, dated August 17, 1973, before the Labor Regional Office No. 4, Manila (Annex "A" p. 21, rec.).

On October 4, 1973, pending adjudication of her claim for compensation, Felicidad Ramirez died without any surviving heirs except her mother, Mrs. Maria Lacson. On November 20, 1973, Mrs. Maria Lacson, now petitioner herein, filed a claim for death compensation before the same Regional Office of the Department of Labor, stating that her deceased daughter contracted diabetes mellitus, pyelonephritis with uremia, hypertension in the course of her employment and said illnesses were aggravated by the nature of her employment (Annex "C", p. 23, rec.). On December 4, 1973, respondent employer controverted the claim alleging that "the circumstances under which the illness or death was received does not satisfy the requisite conditions set forth under Section 2 of the Workmen's Compensation Act" (p. 19, WCC rec.).

On February 19, 1975, after several hearings, Acting Referee Manases T. Cruz promulgated a decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered, ordering the respondent Development Bank of the Philippines:

"1. To pay Maria Lacson, claimant herein, the sum of FOUR THOUSAND THREE HUNDRED SIXTY PESOS and 00/100 (P4,360.00) as death compensation benefits and burial expenses;

"2. To reimburse claimant, likewise thru this office, the sum of FIFTEEN THOUSAND THREE HUNDRED EIGHTY NINE and 60/100 (P15,389.60) as medical expenses legitimately incurred;

"3. To pay claimant's counsel of record, Atty. Reynaldo Libanan, the sum of TWO HUNDRED EIGHT PESOS (P208.00) as attorney's fee; and

"4. To pay this office the sum of FORTY TWO (P42.00) as administrative fee pursuant to Section 55 of the Act" (p. 33, rec.).

On April 3, 1975, respondent DBP moved to have the award reconsidered, but the same was denied and the entire records of the case were elevated to the respondent Commission for review at the instance of herein respondent DBP.

On March 22, 1976, respondent Commission -- per Associate (Medical) Commissioner Herminia Castelo-Sotto, M.D. -- reversed the decision of the Acting Referee giving award to petitioner and absolved respondent DBP from any liability under the Workmen's Compensation Act, holding that --

"The illnesses complained of, which caused the death of Felicidad Lacson Ramirez are hereby considered idiopathic diseases. An idiopathic disease is one which develops gradually or at least imperceptively. While it may be attributable to external conditions, it also depends, in part, on conditions inherent in the individual.

"Diabetes mellitus is an illness which is hereditary in nature or one which is caused by defective metabolism of sugar. It is a disease of the pancreas, caused by the diminution, or failure of the secretion of that gland, thereby resulting in the over supply of sugar in the blood. The other illnesses mentioned in the claim are but complications caused by the principal illness of diabetes mellitus.

xx xx xx

"Nowhere could be find (sic) any medical evidence on record indicative that the illnesses suffered by the deceased had any connection with the nature of her employment. On the contrary, the Physician's report categorically denied that the illnesses were due to and in pursuance of the nature of such employment.

xx xx xx

"Viewed from all the foregoing, the claim under consideration does not satisfy the requirements of Section 2, Act 3428, as amended" (pp. 40-41, rec.).

In a motion dated April 14, 1976, herein petitioner moved for the reconsideration of the decision of Commissioner Sotto with the Secretary of Labor. On March 1, 1977, the Secretary of Labor, Hon. Blas F. Ople, acting concurrently as Chief or Head of the Compensation Appeals and Review Staff (in place of the WCC which was abolished) issued an order to the effect that --

"Finding no justifiable reason to amend, alter or modify, much less reverse, the decision dated March 22, 1976 of the defunct Workmen's Compensation Commission, the Motion for Reconsideration of said decision filed by the claimant is hereby denied" (p. 50, rec.).

Hence, this petition.

Before US, petitioner assigns the following errors committed by the respondent Commission:

I -

That the defunct Commission, as well as the Secretary of Labor and/or the Compensation Appeals and Review Staff committed a grave error in not finding that the respondent employer failed to observe the formalities under Section 45 of Act No. 3428, as amended.

II -

That the defunct Commission, as well as the Secretary of Labor and/or the Compensation Appeals and Review Staff likewise committed a grave error in not finding that the illness of the late Felicidad Ramirez was aggravated by her employment.

The records of the case show that the employer failed to timely and effectively controvert claimant's right to compensation. It must be pointed out that as early as July 11, 1973, the deceased Felicidad Ramirez was already entitled to disability benefits under Section 14 of the Workmen's Compensation Act, as amended, because her illnesses prevented her from reporting to her work for more than three (3) days; and under such a situation, her employer (Development Bank of the Philippines) was obligated under Section 37 of the same Act to file a notice of illness with the Workmen's Compensation Commission and to manifest its intention of whether or not to controvert her right to compensation. There is no showing that respondent employer has complied with its duty under Sections 37 and 45 of the Workmen's Compensation Act, as amended, of filing with the Workmen's Compensation Commission a notice of the initial illness of its employee, Felicidad Ramirez, as well as her subsequent death on October 4, 1973, and of controverting the right to compensation within the prescribed period of fourteen (14) days from the occurrence of the disability or death, or within ten (10) days from knowledge thereof.

It cannot be denied that the respondent employer had knowledge of the illnesses of the late Ramirez even before she stopped working on July 11, 1973, because, on several occasions, she had consulted the respondent employer's physician on her illnesses (p. 30, rec.). Moreover, on the same day that the late Ramirez stopped working, the respondent employer was furnished a copy of the Notice of Injury or Sickness and Claim for Compensation filed by the late Ramirez (Annex "A", p. 21, rec.). Likewise, respondent employer had knowledge of the death of Ramirez on October 4, 1973, as evidenced by the Service Record (Annex "D", p. 24, rec.) of the late Ramirez showing or certifying that she was already "deceased" on said date. Hence, the fact of death could not have escaped the notice or knowledge of the Acting Chief of the Personnel Division, Administrative Department, DBP, who issued the aforestated Service Record of the deceased. Such knowledge of the illnesses and death of Felicidad Ramirez by her own immediate superior, or by the Acting Chief of the Personnel Division, being agents of the respondent employer, is deemed in law knowledge of the respondent employer, which is sufficient to charge it with its duty under Sections 37 and 45 of the Workmen's Compensation Act, as amended (Villones vs. Employees Compensation Commission, 92 SCRA 322 [1979] citing Gallemit vs. Republic, 75 SCRA 382, 383, 385, 386 [1977]; MRR vs. WCC, 10 SCRA 665 [1961]). As already pointed out, there is nothing in the records to indicate that the employer has complied with its duty under Sections 37 and 45 of the Workmen's Compensation Act, as amended, other than the controversion dated December 4, 1973, which was filed two months after the respondent employer had knowledge of the death of Ramirez on October 4, 1973, over three months from the notice of sickness filed on August 17, 1973 and over four months from July 11, 1973 when she stopped working for over three days due to her ailment, hence, beyond the reglementary period set forth under Section 45 of the Act.

WE have repeatedly ruled that failure to comply with the statutory requirement within the prescribed period constitutes a renunciation of the employer's right to controvert the claim, resulting in the waiver of all its non-jurisdictional defenses, such as the non-compensability of the claim (Cenabre vs. Employees Compensation Commission, G.R. No.L-46802, April 28, 1980 citing Paraiso vs. Castelo-Sotto, 85 SCRA 419 [1978]; Republic

vs. WCC, 85 SCRA 107 [1978]; Lamco vs. WCC, 84 SCRA 401 [1978]; and Cañonero vs. WCC, 81 SCRA 713 [1978]).

The fact that herein petitioner failed to raise the timeliness of the employer's controversion before the Acting Referee is of no moment, as this statutory right cannot be waived expressly or impliedly by the petitioner who, not being a lawyer, is not conversant with the requirements of the law. Moreover, the employer, by its failure to controvert the claim on time, had renounced this non-jurisdictional defense.

The respondent employer's contention that findings of facts made by the Commission are final and conclusive and therefore, not subject to review, deserves no merit, it being clear that said findings are not supported by substantial evidence.

It is undisputed that the illnesses of the late Felicidad Ramirez supervened in the course of her employment with the respondent Development Bank of the Philippines, as she was presumably in good health when she started work as clerk in 1954 with the defunct Rehabilitation Finance Corporation, predecessor of DBP; and it was only in July 1973, or after a period of nineteen (19) years, that she was found to be suffering from diabetes mellitus, pyelonephritis with uremia, hypertension. As noted in the decision of the Acting Referee, the work of the deceased as Loan Examiner and Analyst, involved physical and mental strain and it was during her long and continuous service that she began to feel symptoms of her ailments with manifestations of body weakness, loss of weight, headache, restlessness, muscle twitching, mental disturbance, nausea and vomiting (p. 30, rec.).

Likewise, it is not disputed that the late Felicidad Ramirez had been hospitalized in the course of her employment with the respondent DBP for the various illnesses complained of. The attending physician, Dra. Helen Paulino-Abundo, in her Physician's Report of Sickness or Accident, stated that the deceased's illnesses of diabetes mellitus, pyelonephritis with uremia and hypertension were aggravated by the nature of her work as a Loan Account Analyst (p. 22, rec.).

Such incontrovertible facts call for the application of the rebuttable presumption that said illnesses arose out of or were at least aggravated by, the nature of petitioner's employment; hence, compensable. Consequently, the employer assumes, by force of this presumption, the burden of establishing the contrary by substantial evidence. As there was no evidence presented by the employer to rebut the presumption, there can therefore be no justification for respondent Commission to go out of its way to absolve the petitioner's employer as the presumption of compensability becomes thereby conclusive (*Cenabre vs. ECC*, supra, citing *Pantoja vs. Republic*, 87 SCRA 443, 447 [1978]; *Cañonero vs. WCC*, supra; *Lorenzo vs. WCC*, 2 PHILAJUR, 425, 430, 81 SCRA 434, 438 [1978], *Santos vs. WCC*, 75 SCRA 365, 370 [1977]). Thus, an employee is freed from the burden of proving that his ailment was caused or aggravated by the nature of his work, as long as death or illness supervened in the course of employment and it is not, therefore, necessary for the Court to inquire into the exact cause of petitioner's ailment, for what is important is that said ailment occurred or was aggravated in the course of employment (*Malic vs. WCC and Republic of the Phils.*, G.R. No. L-38056, October 9, 1979; *G. B. Francisco, Inc. vs. WCC, et al.*, L-42565, November 21, 1978; *Aguirre vs. WCC, et al.*, L-44115, November 17, 1978; *Sison vs. WCC, et al.*, L-42817, November 29, 1978).

Furthermore, in the case of *Sevilla vs. Workmen's Compensation Commission, et al.* (G.R. No. L-44221, August 31, 1978), this Court, with Justice Cecilia Muñoz Palma as ponente, ruled in favor of compensability of the disease diabetes mellitus. The same ruling was also reiterated in the recent case of *Flores vs. Workmen's Compensation Commission* (G.R. No. L-43540, March 14, 1979, 89 SCRA 89). In the oft-cited case of *Abana vs. Quisumbing*, (22 SCRA 1278, 1282), this Court stressed:

"While there is that possibility that factors other than the employment of the claimant may also have

contributed to the aggravation of his illness, this is not a drawback to its compensability. For, under the law, it is not required that the employment be the sole factor in the growth, development or acceleration of claimant's illness to entitle him to the benefits provided for. It is enough that his employment had contributed, even in a small degree, to the development of the disease. It has been repeatedly held that under the Workmen's Compensation Law, it is not necessary for a claimant to carry the burden of proof to establish his case to the point of demonstration. It is sufficient to show that the hypothesis on which he bases his claim is probable."

In the case at bar, respondent DBP relied solely on the medical opinion of Associate (Medical) Commissioner Dra. Herminia Castelo-Sotto, that the illnesses of the late Felicidad Ramirez are inherent in the individual and cannot be caused or aggravated by the nature of her employment. WE hold that such a stand utterly falls in the face of the ruling that mere opinion of doctors cannot prevail over the presumption of compensability mandated by law (*Barga vs. ECC*, G.R. No. L-49227, April 25, 1980 invoking *Rabanes vs. WCC* and the Province of Misamis Oriental, 86 SCRA 54 [1978]; *Flores vs. WCC*, supra; *Belmonte vs. WCC*, et al., G.R. No. L-38322, July 26, 1974, 58 SCRA 138; *Abana vs. Quisumbing*, supra).

As correctly computed by the Acting Referee, herein petitioner, mother of the deceased, is entitled to 40% of the average weekly wage of her deceased daughter pursuant to Section 8(d) in relation to Sections 10 and 12 of the Workmen's Compensation Act, as amended.

WHEREFORE, THE DECISION OF RESPONDENT COMMISSION DATED MARCH 22, 1976 AND THE ORDER OF THE SECRETARY OF LABOR AND/OR THE COMPENSATION APPEALS AND REVIEW STAFF DATED MARCH 1, 1977 WHICH AFFIRMED RESPONDENT COMMISSION'S DECISION, ARE HEREBY VACATED AND SET ASIDE AND RESPONDENT DEVELOPMENT BANK OF THE PHILIPPINES IS HEREBY ORDERED

- TO PAY PETITIONER THE SUM OF FOUR THOUSAND ONE HUNDRED AND SIXTY (P4,160.00) PESOS AS DEATH COMPENSATION BENEFITS;
- TO PAY PETITIONER THE SUM OF TWO HUNDRED (P200.00) PESOS AS REIMBURSEMENT OF BURIAL EXPENSES;
- TO REIMBURSE PETITIONER-CLAIMANT THE SUM OF FIFTEEN THOUSAND THREE HUNDRED EIGHTY NINE PESOS AND 60/100 (P15,389.60) AS MEDICAL EXPENSES; AND
- TO PAY ATTORNEY'S FEES EQUIVALENT TO TEN PER CENT (10%) OF THE RECOVERABLE AMOUNT.

SO ORDERED.

Teehankee, (Chairman), Guerrero, De Castro, and Melencio-Herrera, JJ., concur.
Fernandez, J., on leave.

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