

**RODITO T. SARIL, FOR HIMSELF AND IN BEHALF OF HIS CHILDREN,
NAMELY: ROMIL, MARIFE AND RUDY, ALL SURNAMED SARIL,
PETITIONERS, VS. WORKMEN'S COMPENSATION
COMMISSION AND REPUBLIC...**

G.R. No. L-43204. July 31, 1978

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

The following facts are undisputed in the instant case:

Mila Luz T. Saril was employed as teacher at the To-oy Elementary School in Himamaylan, Negros Occidental, at a monthly compensation of P245.00. On March 26, 1971, while in her classroom, Mila suddenly suffered acute stomach pains and was rushed to the Biscom Hospital in Binalbagan where she died on the following day, March 27, due to "internal hemorrhage secondary to acute enterocolitis." At the time of her death, Mila Saril was six (6) months pregnant. She was survived by her husband, Rodito T. Saril, and three (3) minor children aged nine, six, and five respectively. Rodito Saril immediately reported the death to Mr. Bartolome Tranco, District Supervisor assigned at Himamaylan, who appointed a substitute to take the place of the deceased.

On May 14, 1971, Rodito Saril filed with Sub-Regional Office No. VII, Workmen's Compensation Unit in Bacolod City a "Notice of claim for compensation in death cases" copy of which was sent to the Solicitor General and the Director of Public Schools on May 27, 1971. On July 7, 1971, the Sub-Regional Office in Bacolod City received a letter from Assistant Solicitor General Eduardo Abaya stating that "(P)ending receipt from the office concerned of pertinent information" a "tentative controversion" was being entered on the claim filed by Rodito Saril on the ground that from the notice of claim it was not clearly shown that the cause of death was due to or aggravated by the nature of her employment.[1]

On October 14, 1971, a notice of hearing was issued by Unit Chief & Referee, Felicito D. Ciocon. The records show that the hearing was postponed from date to date. In the month of September, 1974, Rodito Saril submitted his affidavit and documentary evidence.[2] On October 25, 1974, Hearing Officer Ciocon directed respondent Bureau of Public Schools, represented by the Provincial Fiscal of Negros Occidental, to submit its memorandum and supporting affidavits within five (5) days from receipt of notice.[3] Assistant Provincial Fiscal, Jose T. Solancho, in a pleading dated November 6, 1974, asked for an extension of time up to the first or second week of December, 1974, to comply with the aforementioned order.[4] Not having complied with the order, Referee Ciocon issued another notice to the Provincial Fiscal dated March 3, 1975, giving the latter thirty days within which to submit his memorandum and supporting affidavits.[5] Notwithstanding this latest order, no compliance was made, hence, claimant Saril in his motion dated June 10, 1975, moved that the case be considered submitted for decision.[6]

Accordingly, on the basis of claimant's evidence, the Hearing Officer issued on July 28, 1975, an award, the dispositive portion of which follows:

"AWARD, therefore, is hereby entered in favor of the claimant of the aforesaid compensation benefits, and the respondent is hereby directed to pay:

"1. To the claimant, thru this Office, the total sum of SIX THOUSAND TWO HUNDRED PESOS (P6,200.00), as compensation and reimbursement of burial expenses; and to Atty. Bernardo B. Pablo counsel for the claimant the amount of P300.00;

"2. To the Workmen's Compensation Fund, c/o this Office, the sum of SIXTY ONE PESOS (P61.00) as fee pursuant to the provisions of Section 55 of the Act, Bill No. VII-646-76 covers same." (p. 31, WCC records)

A motion to set aside award was filed by the Office of the Solicitor General on behalf of the Republic of the Philippines (Bureau of Public Schools), claiming that respondent failed to present its evidence as the Solicitor in charge of the case did not receive any of the orders of the Hearing Officer. This motion was opposed by claimant's counsel principally on the ground that the Provincial Fiscal who represented the Bureau of Public Schools was duly notified and was given all the opportunity to present his evidence, but, he failed to do so.

On November 20, 1975, the Referee denied the employer's motion to set aside his award, and the case was forwarded to the Commission en banc for review.[7]

On December 30, 1975, the Commission set aside the award. It reasoned out that even if respondent employer had failed to contest or controvert the claim and present its evidence, still there was no basis for granting an award in favor of the claimant for the reason that in the physician's report which was part of the evidence of the claimant, it was therein stated that the ailment which caused the death of Mila Saril had no causal relation with her work, and that even if the presumption of compensability were to be applied, it was still necessary for the claimant to show by his evidence that "internal hemorrhage secondary to enterocolitis" has "legal linkage" to the nature of the work of the deceased especially since enterocolitis is an infection of the intestines caused by eating contaminated food and drinking polluted water.[8]

Claimant Rodito Saril in his behalf and of his minor children now assails the foregoing decision of respondent Commission.

There can be no doubt as to the merits of this Petition.

1. The claim for compensation was not controverted on time.

It is clear from the records of this case that the District Supervisor, Mr. Bartolome Tranco, was immediately notified of the death of Mila Saril, and that notice was a valid and sufficient notice to the employer, Bureau of Public Schools. Notwithstanding knowledge of the death of Mila Saril, no employer's report contesting any possible claim for compensation was ever filed. While it is true that a "tentative controversion" was made on July 7, 1971, this was not followed by any formal controversion. Furthermore, notices were sent to the Provincial Fiscal who was representing respondent employer requiring him to present his evidence if any, but from October 14, 1971, when the first notice of hearing was issued up to the month of July, 1975, when the referee's award was rendered, or for a period of a little less than four years, no attempt was ever made by the employer to present evidence in its behalf to support its "tentative controversion."

Section 45, paragraph 2, of the Workmen's Compensation Act expressly provides:

"xxx xxx xxx

"In case the employer decided to controvert the right to compensation, he shall, either on or before the fourteenth day of disability or within ten days after he has knowledge of the alleged accident, file a notice with the Commissioner, on a form prescribed by him, that compensation is not being paid, giving the name of the claimant, name of the employer, date of the accident and the reason why compensation is not being paid. Failure on the part of the employer or the insurance carrier to comply with this requirement shall constitute a renunciation of his right to controvert the claim unless he submits reasonable grounds for the failure to make the necessary reports, on the basis of which grounds the Commissioner may reinstate his right to controvert the claim. xxx xxx" (emphasis supplied)

As emphasized in a very recent case decided by this Court, "it has long been established in an unbroken line of cases, since the early 1957 case of *Victorias Milling Co., Inc. vs. Compensation Commissioner, et al.*, that 'having renounced by operation of law the right to contest the employee's right to compensation, by failure to file a timely controversion within the statutory period or by an express statement of non-controversion, the employer is deemed also to have waived the right to interpose any defenses and hence, there is nothing it can legally prove in relation thereto.'"[9]

Thus, inasmuch as the claim was not properly and/or timely controverted nor was there any evidence submitted by the employer, the Referee was justified in issuing an outright award in favor of the claimant herein.

2. The legal presumption of compensability is available to the heirs of the deceased, Mila Saril.

Section 44 of the Workmen's Compensation Act establishes in favor of the workman the presumption of compensability of a claim filed under the Act. The argument of respondent Commission that the cause of death of Mila Saril was not work-connected or work-aggravated but was the result of eating contaminated food or drinking polluted water ignores the legal presumption of compensability provided for in Section 44. This Court has consistently held that where an illness of an employee or worker occurs in the course of employment, it is presumed under the law that such illness was directly caused by or arose out of the employment or was aggravated by it.

In the case of *Aguedo del Rosario vs. Hon. N. Baens del Rosario, et al.*, decided in 1962, the Court, through then Justice, later Chief Justice Roberto Concepcion, affirmed a decision of the Workmen's Compensation Commission which awarded compensation to the heirs of a fishpond worker who died outside of working hours due to food poisoning which resulted from eating contaminated rice.[10]

The rationale of the above-mentioned del Rosario decision was followed in *Abana vs. Quisumbing*, 1968, wherein the taxi driver employed by respondent Quisumbing suffered a heart attack in the course of his employment and was disabled to continue with his work in view of his deteriorating health condition. An award for disability compensation was given by the hearing officer but this was set aside by the Workmen's Compensation Commission. On appeal to this Court, that decision was reversed, and the Court stated *inter alia*:

"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." (per Angeles, J., 22 SCRA 1282)

In *Maria Cristina Fertilizer Corp. vs. Workmen's Compensation Commission, et al.*, 1974, wherein the employee died of cancer of the liver, the Court, through then Chief Justice Querube Makalintal, affirmed the award in favor of the heirs of the deceased employee, and stressed inter alia:

" x x x It is now well-settled that once it is established that the illness supervened during employment, as in this case, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by it, and the employer has the burden of proving the contrary by substantial evidence. Here the petitioner failed to discharge that burden. It did not adduce substantial evidence tending to show that the disease which caused the death of the late Alfonso Castillo was not service-connected. The mere opinion of its plant physician that there was no causal connection between cancer of the liver and the nature of Castillo's employment cannot prevail over the said presumption." (60 SCRA 228-232, citing *Justiniano vs. Workmen's Compensation Commission*, L-22774, November 21, 1966, 18 SCRA 677; *Magalona vs. Workmen's Compensation Commission*, L-21849, December 11, 1967, 21 SCRA 1199)

And in *Belmonte vs. Workmen's Compensation Commission, et al.*, 1974, where a letter-carrier died due to hypertension, and the Workmen's Compensation Commission denied death compensation rationalizing that "the deceased at the time of his death was almost 55 years old, an age where hypertension due to arteriosclerosis brought about by the aging process is very common," and that "fatigue and exposure to too much heat while inspecting his rice fields could have triggered the stroke," this Court brushed aside such an argument, holding that, in the words of Justice Claudio Teehankee who wrote the Decision for the Court, "(M)anifestly, respondent Commission's mere conjecture in its decision that 'fatigue and exposure to too much heat could have triggered the stroke' is utterly inadequate to discharge the presumption." [11]

The foregoing easily disposes of the argument of respondent Commission in the instant case that the ailment of Mila Saril was caused by eating contaminated food and/or drinking polluted water.

Lastly, the argument of respondent Commission that the claimant's physician's report contained a "No" answer to question No. 9, to wit: "Was the illness contracted directly caused by the workman's employment or the result of the nature of such employment?", is without merit. That negative answer in the physician's report, even if the latter is part of the documentary evidence of the claimant, is insufficient in itself to destroy the legal presumption of compensability, in the same manner that mere opinions of doctors presented by the employer or that of the Commission's medical rating officer which would disconnect the employee's ailment from his employment, cannot prevail over the presumption of compensability mandated by law, as held in *Jabasa, et al., vs. Workmen's Compensation Commission and Atlas Consolidated Mining & Dev. Corp.*, L-43354, *Cama vs. Workmen's Compensation Commission and Republic of the Philippines (Bureau of Public Schools)*, L-43122, and *Consolacion Amador vs. The Workmen's Compensation Commission and Far Eastern University*, L-45399. [12]

WHEREFORE, We find the decision under review to be contrary to law and existing jurisprudence, and We accordingly set aside the same, and reinstate the award of referee Ciocon with the modification that an additional attorney's fee of Three Hundred (P300.00) Pesos is to be paid to claimant's counsel, Atty. Bernardo Pablo, in connection with the present appeal.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, and Guerrero, JJ., concur.

[1] p. 85, WCC records

[2] pp. 54-62, *ibid.*

[3] p. 53, *ibid.*

[4] p. 49, *ibid.*

[5] p. 34, *ibid.*

[6] p. 32, *ibid.*

[7] p. 18, *ibid.*

[8] pp. 13-16, *ibid.*

[9] *Jose Tria vs. Republic of the Philippines (Court of Agrarian Relations) and the Honorable Workmen's Compensation Commission*, L-41707, and *Nicanor Rejuso vs. Republic of the Philippines (Bureau of Public Schools) and Workmen's Compensation Commission*, L-43074, per Teehankee, J., with eight other accompanying cases, June 30, 1978, quoting from 101 Phil. 1208, 1957.

[10] 116 Phil. 1352

[11] 58 SCRA 138

[12] per Teehankee, J., June 30, 1978, citing *Visayan Stevedore & Transportation Co. vs. Workmen's Compensation Commission, et al.*, 59 SCRA 89.

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