

HONORATA M. AGUIRRE, PETITIONER, VS. THE HONORABLE WORKMEN'S COMPENSATION COMMISSION AND THE REPUBLIC OF THE PHILIPPINES (DIVISION OF LEYTE, BUREAU OF PUBLIC SCHOOLS, DEC), RES...

G.R. No. L-44115. November 17, 1978

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Honorata M. Aguirre was a permanent elementary grade school teacher of the Bureau of Public Schools at Tacloban City who on March 5, 1975, filed a "Notice of injury or sickness and claim for compensation" with the Workmen's Compensation Unit, Regional Office No. 9, Tacloban City.[1] In her claim, Honorata M. Aguirre alleged that on December 13, 1974, she was forced to stop teaching due to an illness which was diagnosed by Dr. Salvador R. Abad, Jr. as "meningoencephalitis, aseptic, acute and anemia moderate." Because of her ailments she was confined at the Bethany Hospital, Tacloban City from December 25, 1974 to January 13, 1975, as per certification of Dr. Abad,[2] and had to go on extended leaves of absence.

A Notice dated March 19, 1975 was sent by the Regional Office to the Office of the Solicitor General regarding the filing of the claim.[3] Notwithstanding said notice it was only on May 16, 1975, that a controversion of the claim was filed.[4]

The claim was set for hearing on various dates with notices sent to the claimant, respondent employer, and the Solicitor General.[5]

The evidence of claimant consisted of:

(a) Medical Certificate dated February 6, 1975 of Dr. Salvador R. Abad, Jr., physician of the Bethany Hospital, certifying that the ailments of Honorata M. Aguirre were "meningo-encephalitis, aseptic, acute and anemia, moderate" and that she was confined from December 25, 1974 to January 13, 1975, marked as Exhibit "A"; (p. 72, WCC record)

(b) A certification of Dr. Archimedes Jao of the Daniel Z. Romualdez Memorial Hospital dated March 31, 1975 showing the other ailments suffered by Honorata M. Aguirre, to wit: "acute gastritis and polyneuritis"; (p. 71, WCC record) and

(c) Report of Dr. Ester De Paz-Abuyabor, Compensation Rating Medical Officer, dated October 3, 1975, with findings from which We quote in part: ". . . complaining of frequent headache, numbness and weakness of left arm. O?nted to her environment. Left side of the face - slight impairment to pinprick sensation. Moderate

weakness of the grasping power of left hand. xxx xxx xxx

xxx xxx xxx

DATE OF ACCIDENT: December 13, 1974

NATURE OF INJURY: Acute Gastritis; Polyneuritis; Meningo-Encephalitis, aseptic, acute; anemia, moderate.
Permanent Partial Disability: 24% NSD." (p. 80 WCC record)

On October 30, 1975, the Hearing Officer, Fernando T. Collantes, issued an award granting compensation to herein claimant, the dispositive portion of which follows:

"Award, therefore, is hereby entered in favor of the claimant of the aforementioned compensation benefits, and the respondent is directed to pay the following:

1. To the claimant, thru this Office, the sum of THREE THOUSAND SEVEN HUNDRED FIFTY FOUR and 73/100 PESOS (P3,754.73) as compensation;

2. To this Office, the amount of THIRTY EIGHT PESOS (P38.00) as fee pursuant to Section 55 of the Act, for which Bill No. R9 2187-75 is enclosed;

3. To the claimant the further sum of THREE THOUSAND FIVE HUNDRED TWELVE and 90/100 PESOS (P3,512.90) as reimbursement of duly receipted & evaluated medical expenses pursuant to Section 13 of the Act;

4. To Atty. Sabas Astorga the sum of ONE HUNDRED EIGHTY SEVEN & 73/100 PESOS (P187.73) as attorney's fee pursuant to Section 31 of the Act." (p. 92, WCC record)

Hence, this petition for review filed by claimant (now petitioner) which We find meritorious.

It is indeed incomprehensible, to say the least, how respondent Commission could state in its decision that the herein claimant did not suffer any disability for labor when the evidence adduced by her is very clear that since December 13, 1974 she stopped teaching by reason of the ailment she sustained which principally was diagnosed to be "meningo- encephalitis" and that she had to be confined in the hospital and in fact had to go on leave during her confinement and on subsequent dates from January up to November, 1975, even without pay.

As We have stated in *Bello v. Workmen's Compensation Commission, et al.*, disability occurs when an employee is disabled from rendering further service due to his physical inability to perform work in the usual and customary way. For purposes of the Workmen's Compensation Act there is disability when there is a loss or diminution of earning power which is due to an injury arising out of and in the course of the employment. It is not the injury which is compensated but rather it is the incapacity to work resulting in the impairment of one's earning

capacity.[6]

Medically, meningo-encephalitis is the inflammation of the brain, and the membranes which cover it, i.e., the meninges,[7] and aseptic meningitis is a self-limiting clinical syndrome of multiple causes in which there is fever, meningeal signs and symptoms, and usually headache. Often, patients with aseptic meningitis also have encephalitis signs and symptoms and are thus described as having meningo-encephalitis. The disease is characterized by fatigue, irritability, persistent spasms, weakness or paralysis of specific muscle groups.[8]

Claimant having suffered from such kind of an ailment, it is understandable why she became physically and mentally incapacitated to pursue her teaching work especially since handling classes with children of tender age is generally accompanied by undue mental strain, the latter resulting in the aggravation of the ailment.

It is not necessary for Us to inquire into the exact cause of claimant's sickness for all that is important is that the ailment occurred and/or was aggravated in the course of employment. Thus, in *Mulingtapang v. Workmen's Compensation Commission, et al.*, the Court, speaking through Justice Felix V. Makasiar, stated that it "has applied with pedantic rigor the aforesaid legal presumption of compensability even in the absence of a definite finding or knowledge of the precise medical cause of the claimant's illness as long as the illness and/or death supervened in the course of employment. For precisely, the vital function of legal presumption is to dispense with the need for proof." [9]

We stress once more the oft-repeated rule that a claim for compensation is presumed compensable under Section 44 of the Workmen's Compensation Act.[10]

In the recent case of *Isabel Lopez Eliseo v. Workmen's Compensation Commission, et al.*, where the petitioner-claimant died of leukemia, the Court through Justice Juvenal K. Guerrero ruled that:

"x x x leukemia which caused the death of Isabel Eliseo has a causal relation to the nature of her work with the respondent G & S Manufacturing Corporation. It may be true that the job of a reviser or quality controller, which was the work of claimant Isabel Eliseo, does not entail physical exertion. It may also be true that all that is required is alertness of the eye to see and detect any defect or flaw in a garment being revised and to point out those defects for correction or repair before a garment can pass for distribution and use. However, it must be admitted that the nature of the work of the claimant required her to deal with textiles or fabrics which involved chemicals of various kinds and composition and this exposure of the deceased to these chemicals private respondent's establishment probably led to the development of the disease of leukemia or at least aggravated the illness of the claimant from which she died as a result. In other words, the probability that the claimant became sick of leukemia as a result of her handling different fabrics or clothing materials which in the process of their manufacture contained chemicals, or was at least aggravated by the nature of her work is not only clear and cogent but the strong link or causal connection between them is apparent and evident

"xxx xxx xxx

"In the case at bar, the claimant having manifested the serious symptoms of leukemia on December 14, 1973, and was admitted and treated successively at the St. Anne's Hospital, the Chinese General Hospital and the Philippine General Hospital for leukemia and from which she succumbed on April 28, 1975, it cannot be denied that her illness or disease supervened in the course of her employment and therefrom arises the legal presumption that the claim comes within the provisions of the Workmen's Compensation Law for the reason that said illness or disease is presumed to have arisen because of the nature of said employment or was at least

aggravated by such employment or work." (L-43468, July 21, 1978 italics supplied)

It is significant to note that the respondent employer failed to present during the hearing any evidence which would overthrow this presumption of compensability.

Added to the above is the fact that the claim of Honorata M. Aguirre was not controverted on time. As stated earlier, the notice of the filing of the claim was sent to the Office of the Solicitor General as early as March 1975. The Solicitor General filed a controversion only on May 16, 1975; by that time the ten-day period after notice required under Section 45 of the Workmen's Compensation Act for the employer to controvert the claim, had expired, not to mention the fact that as of December 13, 1974, the employer Bureau of Public Schools had notice that its teacher had stopped teaching. Having failed to file on time its controversion, the employer is deemed to have renounced all non-jurisdictional defenses and thereby admits the compensability of the claim.[11]

One last argument of respondent employer is that:

"Article 206 of the New Labor Code, as amended by Presidential Decree No. 622, which took effect on January 1, 1975 specifically provides that the provisions of Title II thereof shall apply to injury, sickness, disability or death occurring on or after January 1, 1975. It appearing that there was no disability for work prior to January 1, 1975 to make the claim compensable under the provisions of the Workmen's Compensation Act, the disability suffered by petitioner clearly falls outside the scope and coverage of the Workmen's Compensation Act. Such being the case and pursuant to the New Labor Code, the claim for disability compensation filed by claimant should be considered under the provisions of the New Labor Code and no compensable claim may be granted under the Workmen's Compensation Act. Said claim, if compensable, should have been filed directly with the Government Service Insurance System which has the power to process the same and determine whether or not the disability is compensable pursuant to Rule XVII, Sections 2 and 3 of the Rules on Employees Compensation." (pp. 36-37, rollo)

The above argument is not new.

In the case of *De Castro Jr. v. Workmen's Compensation Commission, et al.*, the Solicitor General speaking for respondent Republic of the Philippines also argued that:"

"... what was filed here was a death claim and consequently, the cause of action arose not in 1974 but on February 1, 1975, the date of death; that no claim for sickness or disability benefits was ever filed by the employee during her lifetime which could be transmitted to her heirs upon her death; that inasmuch as the approved leave of absence of the employee ended on January 2, 1975, it is to be assumed that she was no longer sick and was able to return to work after that date during which time the New Labor Code was already in effect and the Government Service Insurance System and the Employees' Compensation Commission had acquired jurisdiction over the claim."

However, We disregarded such argument and ruled that "the fact that Aida's death occurred during the effectivity of the New Labor Code did not divest the Workmen's Compensation Commission of its jurisdiction over the claim for compensation as the death was the direct result of an illness which supervened at a time when the Workmen's Compensation Act was in full force and effect." [12]

Similarly, in this case of Honorata M. Aguirre, her ailment as well as her disability arising therefrom commenced on December 13, 1974, at a time when the Workmen's Compensation Act was in full force and effect and therefore the latter is the law to be enforced.

PREMISES CONSIDERED, We set aside the decision of respondent Commission, and it appearing that petitioner's ailment resulted in a permanent and total disability which prevents her from continuing with her teaching job, We modify the referee's award and render judgment as follows:

Respondent employer is directed:

- To pay Honorata M. Aguirre the maximum amount of SIX THOUSAND PESOS (P6,000.00) as disability compensation, plus THREE THOUSAND FIVE HUNDRED TWELVE and 90/100 PESOS (P3,512.90) as reimbursement of medical expenses duly supported by proper receipts;
- To pay Atty. Sabas B. Astorga the amount of SIX HUNDRED PESOS (P600.00) as attorney's fee; and
- To pay to the Workmen's Compensation Fund SIXTY-ONE PESOS (P61.00) as administrative fee.

SO ORDERED.

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

Makasiar, J., concurs in a separate opinion.

[1] p. 68, WCC record

[2] p. 72, WCC record

[3] p. 69, *ibid.*

[4] p. 76, *ibid.*

[5] p. 77, *ibid.*

[6] 80 SCRA 153 citing "Labor Standard and Welfare Legislation" by Fernandez and Quiazon and Vicente Francisco's Labor Laws of the Philippines, 4th Ed. Vol. II, p. 492. See also *Romero v. WCC, et al.*, 77 SCRA 482; *Roma v. WCC, et al.*, 80 SCRA 170; *Tenasas v. WCC, et al.*, 80 SCRA 461.

[7] Schmidt's Attorneys' Dictionary of Medicine, p. 495

[8] pp. 832-833, Current Diagnosis 3 by Conn and Conn

[9] 80 SCRA 610, 615

[10] *Guevarra v. Republic of the Philippines*, 77 SCRA 292 *Caling v. WCC, et al.*, 77 SCRA 309 *Evangelista v. WCC, et al.*, 77 SCRA 497 *Romero v. WCC, et al.*, 77 SCRA 482 *Vda. de Flores v. WCC, et al.*, 78 SCRA 17 *Espino v. WCC, et al.*, 78 SCRA 189 *Dimaano v. WCC, et al.*, 78 SCRA 506 *Bautista v. WCC, et al.*, 80 SCRA 313 *Monsale v. WCC, et al.*, 80 SCRA 448 *De Vera v. WCC, et al.*, 8 SCRA 456 *Pillsbury Mindanao Flour Milling Co., Inc., et al. v. WCC, et al.*, 81 SCRA 306

[11] *Pros v. WCC, et al.*, 1976, 73 SCRA 92, citing: *Apolega v. Hizon*, 25 SCRA 336; *National Mirror Factory v. Vda. de Anure*, 27 SCRA 719; *Victorias Milling Co. v. WCC*, 28 SCRA 285; *Northwest Airlines v. WCC*, 28 SCRA 877; *La Mallorca v. WCC & Zuñiga*, 30 SCRA 613; *A.D. Santos v. Vasquez*, 22 SCRA 1156, citing *A.D. Santos v. De Sapon*, L-22220, April 29, 1966; *Itemcop v. Florzo*, L-21969, Aug. 31, 1966; *Nadeco v. Rongavilla*, L-21963, Aug. 30, 1967; *Rio y Compania v. WCC*, L-21467, Aug. 30, 1967; *Pampanga Sugar Mills v. Espeleta*, L-24973, January 30, 1968.

[12] L-43280, Feb. 28, 1977, per Muñoz Palma, J.

SEPARATE CONCURRING OPINION

MAKASIAR, J.:

I concur with the additional opinion that the respondent employer should likewise be directed to provide the claimant with such medical, surgical and hospital services as well as appliances and supplies as the nature of her disability and the progress of her recovery may require and which will promote her early restoration to the maximum level of her physical capacity. It is my consistent view that the provisions of Section 13 of the Workmen's Compensation Act, as amended, and Article 185 of the New Labor Code confer such right on the disabled employee, whether her disability is temporary or permanent. This is in compliance with the social justice guarantee of both the 1935 and 1973 Constitutions and in obedience to the directive of Article 4 of the New Labor Code that "all doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor", which is a re-statement of existing jurisprudence as well as Article 1702 of the New Civil Code. To limit such right to a temporarily disabled employee would inflict gross injustice on those permanently disabled, who still need to be relieved from the pain, trauma, social ostracism or humiliation generated by such permanent disability.

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