

ANICIA VDA. DE GALANG, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND PROCTER AND GAMBLE, INC., RESPONDENTS.

G.R. No. L-42531. March 30, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petition for review on certiorari of the decision rendered on December 31, 1975 by the Workmen's Compensation Commission denying petitioner-widow of the late Lorenzo Galang death compensation benefits under the Workmen's Compensation Act.

The records show that the late Lorenzo Galang had been employed since May 23, 1947 as a factory worker by private respondent Procter and Gamble PMC, a corporation engaged in the manufacture of soap, edible oil and detergents (Annex "D", Employer's Report of Accident or Sickness, p. 36, rec.). His last position was that of a deodorizer operator working five (5) days a week, eight (8) hours a day. At the time of his death on December 9, 1970 at the Our Lady of Lourdes Hospital, Manila, he was receiving P21.42 per day.

It was on May 8, 1970, according to private respondent, that it first knew through its foreman of decedent's sickness. The deceased submitted himself to medical treatment. On June 15, 1970, while confined at the Manila Medical Center, he was operated on and found to have bronchogenic carcinoma of the left lung.

On June 30, 1970, the factory personnel manager of private respondent addressed a letter to Regional Office No. 4, Workmen's Compensation Unit, Manila, giving notice of its controversion of the right to compensation of Lorenzo Galang.

On December 9, 1970, Galang died at the Our Lady of Lourdes Hospital in Manila. The cause of said death as certified to by his last attending physician, Dr. Benjamin Felipe, was "bronchogenic carcinoma, left lung" (Annexes "A" and "A-1", p. 32, rec.).

On January 3, 1975, Anicia Vda. de Galang, widow of the deceased, filed a notice and claim for death compensation with Regional Office No. 4, Workmen's Compensation Section, Manila, stating among others, that the "deceased contracted an ailment of PTB in the course of employment resulting in his death on December 9, 1970."

On January 13, 1975, private respondent filed its employer's report of accident or sickness with the same Workmen's Compensation Section and among the matters stated therein was its controversion of the aforesaid claim for death compensation benefits "on the ground that the illness which resulted in the death of employee, Lorenzo Galang, is not work connected or aggravated by the nature of his job."

On March 3, 1975, the acting chief of section of Regional Office No. 4, acting on said claim for death compensation benefits, which was docketed as R04-WC Case No. 161444, rendered an award in favor of claimant Anicia B. Vda. de Galang (herein petitioner) and against private respondent Procter and Gamble PMC (p. 14,

rec.).

On March 15, 1975, counsel for private respondent filed a petition for review and/or to reopen the case. There being no opposition filed by the claimant, the entire record of the case was elevated to the Workmen's Compensation Commission for review.

On December 31, 1975, the Workmen's Compensation Commission en banc rendered a decision reversing the award made by the acting chief of section, thus prompting herein petitioner to institute the instant petition, which was treated by this COURT as a special civil action.

By resolution dated February 16, 1976, this COURT required respondents to submit their comments on said petition within ten (10) days from notice thereof.

On April 2, 1976, respondent Workmen's Compensation Commission submitted its comment justifying its assailed decision of December 31, 1975 in the following tenor:

"In reversing the award, the Com-mission found that, indeed, the deceased did not die due to PTB as found by the regional office and as alleged in the Notice and Claim for Compensation but due to cancer of the left lung. Even the petition (page 3, par. 1) points out the real cause of death. It reads:

'An outright Award was granted in this case, basing the ailment of PTB (sic) [pulmonary tuberculosis] the truth of the matter, (sic) Lorenzo Galang died on December 9, 1970, due to cancer of left lung ailment (sic). Thus, the Award was based on PTB as the cause of death whereas, the death certificate shows Lorenzo Galang succumbed to cancer of the left lung. Attached herewith is a xerox copy of the death certificate issued by the local civil registrar, marked as Annex 'B' and made an integral part hereof.'

"Moreover, the evidence of claimant does not clearly establish the causal connection between the illness (cancer of the left lung) and the employment. The physician's report of sickness or accident states that such causal relation cannot be determined. Never-theless, the evidence shows that the right to compensation was seasonably controverted contrary to the findings of the Regional Office that it was not. The Notice and Claim for Compen-sation was filed on January 4, 1975 and the respondent in controversion of said claim also filed its Employer's Report of Accident or Sickness on January 13, 1975 which is exactly a period of ten (10) days after notice and is, there-fore, well within the reglementary period required by law.

"The claim for compensation is considered (as) already barred by Section 24 of the Workmen's Compensation Act, as amended. The Notice and Claim for Compensation was filed only on January 3, 1975 which is almost five (5) years from the time of death and way beyond the fixed period of 'not later than two (2) months after injury or sickness or not later than three (3) months after death x x x.'

"Considering the fact that the employer had no actual knowledge of death (not) until the filing of the claim in 1975 and there being a timely controversion, the failure to give 'notice of the injury or sickness as soon as possible' and present the claim on time, is jurisdictional" (pp. 83-87, rec.).

On April 3, 1976, private respondent Procter and Gamble PMC submitted its comment (pp. 70-74, rec.).

The private respondent failed to seasonably controvert the claim within fourteen (14) days from the disability or death or within ten (10) days after it had knowledge of the alleged illness or death. The employer need not be notified of the illness or death if he had knowledge of the fact, either personally or through his agent or representative or responsible officer. A foreman or "boss" in charge of a crew or gang of men is an agent or representative of the employer and his knowledge of the injury or death is sufficient under the statute (*Pangasinan Transportation vs. WCC*, L-16490, June 29, 1963, 8 SCRA 352, 355; *Paez vs. WCC*, L-18438, March 30, 1963, 7 SCRA, 588, 594; *Luzon Stevedoring vs. de Leon*, L-9521, Nov. 28, 1959; and *Phil. Manufacturing Co. vs. Nabor*,

40 OG, 9th Supp. p. 164). A verbal report of the accident or illness to the foreman of the company dispenses with the necessity of a written notice (Phil. Manufacturing Co. vs. Nabor, supra).

The record shows that private respondent itself acknowledged that it first knew of the decedent's illness on May 8, 1970 through its foreman. And on June 25, 1970, the deceased was confined at the Manila Medical Center and operated on for bronchogenic carcinoma of the left lung. It was only on June 30, 1970 that the private respondent, through its factory personnel manager, gave notice of its controversion. Section 45 of the Workmen's Compensation Act directs that the controversion shall be made "either on or before the 14th day of disability or within ten (10) days after he (employer) has knowledge of the alleged accident, x x x ."

Such failure to controvert results in the waiver of all non-jurisdictional defenses.

While it is true that the actual cause of death of deceased employee Lorenzo Galang was cancer of the left lung and not PTB, this alone will not preclude payment of compensation benefits in favor of herein petitioner, for it is a settled doctrine in our jurisdiction that the law presumes in the absence of substantial evidence to the contrary that a claim is compensable, and so rigid is the rule that even where the cause of death is unknown the right to compensation subsists, the reason being that the Workmen's Compensation Act is a social legislation designed to give relief to the working man (Industrial Textile Mfg. Co. of the Phil. vs. Florzon, et al., L-21969, August 31, 1966, 17 SCRA 1104 and reiterated in Domingo Vallo vs. The Workmen's Compensation Commission and the Republic of the Philippines, G.R. No. L-41816, Oct. 29, 1976, per Justice Muñoz Palma).

The contention of private respondents to the effect that the notice and claim for death compensation benefits was only filed after almost five (5) years (January 3, 1975) after decedent's death on December 9, 1970 and not within three (3) months after said death, as provided for in Section 24, Act 3428, as amended, and therefore, has already been barred by prescription, is without merit. In Tecla Magpantay vs. Workmen's Compensation Commission and the Republic of the Philippines (G.R. No. L-43457, October 26, 1976), WE held that "[I]t should be stressed that a claim for death benefits under the Workmen's Compensation Act prescribes in 10 years under the New Civil Code (Central Azucarera Don Pedro vs. WCC and P. Villanueva, L-24987, July 31, 1968, 24 SCRA 484; National Development Company vs. Rongavilla and WCC, L-21963, Aug. 30, 1967, 20 SCRA 1172; Manila Railroad Company vs. Perez and WCC, L-20171, June 29, 1965, 14 SCRA 504; and LUZTEVECO vs. De Leon, et al., Nov. 28, 1959, 106 Phil. 562, 569)." This doctrinal rule has been reiterated on October 29, 1976 in Vallo vs. WCC, et al., (supra), when this COURT, through Justice Muñoz Palma, held:

"This is not the first time that such defense of prescription has been raised by the employer, and in Manila Railroad Co. vs. Perez and the Workmen's Compensation Commission, the Court through then Justice, later Chief Justice, Roberto Concepcion, ruled that the failure to file the claim within the period provided in the aforementioned Sec. 24 does not affect the jurisdiction of the Commission to entertain said claim, and that compensation under the Workmen's Compensation Act as amended is a liability vested by statute which prescribes in ten years pursuant to Article 1144 (2) of the Civil Code (L-20171, June 29, 1965, 14 SCRA 504, 510, citing Victorias Milling Co. vs. WCC, L-10533, May 13, 1957; Century Insurance Co. vs. F.A. Fuentes, L-16039, August 31, 1961; Luzon Stevedoring Co. vs. de Leon, L-9521, November 28, 1959). The rule is especially true where there is no showing that the employer sustained damage as a result of the delayed filing of the claim (National Development Co. vs. WCC & Raymundo, per Regala, J., L-21724, April 27, 1967, 19 SCRA 861)."

Since it is not disputed that herein claim for death compensation benefits under the Workmen's Compensation Act was filed within five (5) years from decedent's death, the Regional Office No. 4, Workmen's Compensation Unit of Manila has jurisdiction to entertain said claim.

The next vital issue to be determined and upon which hinges the compensability or non-compensability of herein

petitioner's claim for death compensation benefits is whether cancer of the left lung sustained by and which ultimately caused the death of the deceased was contracted or directly caused by such employment, supervened or was either aggravated by or the result of the nature of such employment, as ground for compensation pursuant to the provisions of Section 2 of the Workmen's Compensation Act. Respondent contends that it is not and laid the burden to prove the contrary on the petitioner.

This contention is untenable. No less than private respondent disclosed the glaring fact that deceased employee Lorenzo Galang was in its employ as a factory worker from May 23, 1947 (Annex "D", Employer's Report of Accident or Sickness, WCC records) up to May 8, 1970, when he was stricken ill resulting ultimately in his hospitalization, operation, medical treatment and subsequent death on December 9, 1970. At the time of his sickness the deceased was a deodorizer operator in private respondent's factory. Therefore, the deceased was in the continuous employ of private respondent for 23 years, 6 months and 16 days working for eight (8) hours, five (5) days a week in the factory which manufactures soap, edible oil, and detergents. It can be rightly presumed that when the deceased started working with private respondent, he was of good and sound health, free from any kind of disease, as a condition precedent for his employment. There is valid ground to make the assumption that within the factory compound of private respondent there predominates the smell of soap, edible oil and detergents, as well as such other chemical necessarily used in the manufacture of said products. There are also present several machines which at times emit smoke (negligible though they may be) which tend to add pollution to the air within the factory compound. Such was the atmosphere to which the deceased employee was exposed at private respondent's factory as a worker for the duration of 23 years, 6 months and 16 days. Taking into account this situation and the absence of substantial proof on the part of respondent that cancer of the lung is not work-connected and/or the result of the nature of decedent's employment, this COURT is not prepared to abandon its oft-repeated rule that a claim for compensation is presumed compensable under the provisions of the Workmen's Compensation Act. WE even went further and held that "so rigid is the rule that even where the cause of death is unknown, the right to compensation subsists, the reason being that the Workmen's Compensation Act is a social legislation designed to give relief to the working man" (*Vallo vs. WCC and the Rep. of the Philippines*, supra, citing *Industrial Textile Mfg. Co. of the Philippines vs. Florzon, et al.*, *ibid.*).

In *Simon vs. Republic of the Philippines* (1-42510, June 30, 1976), this COURT held:

"x x x assuming the employee's illness may be ruled out an occupational disease or that the causal link between the nature of his employment and his ailment has been insufficiently shown, nevertheless, it is to be presumed as mandated by Section 44 of the Workmen's Compensation Act that the employee's illness which supervened during his employment either arose out of, or was at least aggravated by said employment and with this presumption, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation" (*Talip vs. WCC No. 425*, May 31, 1976; see also *Maria Cristina Fertilizer Corp. vs. WCC*, 60 SCRA 228).

In controverting petitioner's claim for compensation, respondent merely made it of record that it "gives its notice of controversion on the right to compensation of Lorenzo Galang" (Letter to Regional Office No. 4 by respondent's factory personnel manager dated June 30, 1970) and said controversion was reiterated in its employer's report of accident or sickness dated January 13, 1975 "on the ground that the illness which resulted in the death of employee, Lorenzo Galang, is not work connected or aggravated by the nature of his job". These alone do not comply with the "substantial evidence rule" needed to overcome the presumption of compensability under the Workmen's Compensation Act and the jurisprudence on the matter laid down by this COURT in favor of the grant of compensation benefits to employees. At any rate, in case of doubt the case should be resolved in favor of the claimant for the reason that the provisions of the Workmen's Compensation Act as a piece of social legislation must be liberally construed to attain the purpose for which it was enacted (*Ramon vs. Poblete, et al.*, 40

OG 3474). Thus, Courts have generally held that a spirit of liberality should characterize the interpretation of the Workmen's Compensation Act, for the reason that it is to be classed as remedial legislation (International Harvester Co. v. Industrial Commission, 157 Wis. 167, 147 N.W. 53, Am. Case 1916 B, 330).

Expert medical testimony need not be required to demonstrate that cancer can be induced by abrasive detergent chemicals like those involved in the manufacture of soap and other detergents which is the business of private respondent (Bihag, et al. vs. WCC, et al., L-43162, Feb. 28, 1977; Simon vs. RP, L-42510, June 30, 1976, 71 SCRA, 643; and Laron vs. WCC, et al., L-43344, Sept. 29, 1976).

WHEREFORE, THE DECISION DATED DECEMBER 31, 1975 OF THE RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY REVERSED AND SET ASIDE AND THE PRIVATE RESPONDENT PROCTER AND GAMBLE, PMC IS HEREBY DIRECTED:

1. TO PAY THE CLAIMANT, ANICIA B. VDA. DE CALANG:

A. THE AMOUNT OF SIX THOUSAND PESOS (P6,000.00) AS DEATH COMPENSATION BENIFITS; AND

B. THE SUM OF SIX HUNDRED PESOS (P600.00) AS ATTORNEY'S FEES;

2. TO REIMBURSE CLAIMANT HER EXPENSES FOR MEDICAL, HOSPITAL AND BURIAL SERVICES SUPPORTED BY PROPER RECEIPTS;

3. TO PAY:

A. THE WORKMEN'S COMPENSATION COMMISSION THE AMOUNT OF SIXTY-ONE (P61.00) PESOS AS ADMINISTRATIVE FEES; AND

B. THE COSTS.

SO ORDERED.

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

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