

**PASCUALA D. VDA. DE LARON, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES
(DEPARTMENT OF HEALTH), RESPONDENTS.**

G.R. No. L-43344. September 29, 1976

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

This is a claim for compensation filed by Pascuala D. Vda. de Laron with Regional Office No. I, Department of Labor, Dagupan City, against the Department of Health, Republic of the Philippines, for the illness of her husband, Marcelo Laron, incurred in the course of his employment resulting in his death on May 24, 1973.

The Hearing Unit of Regional Office No. 1 dismissed, on August 25, 1975, the claim for alleged lack of interest of claimant to submit affidavits to substantiate her case. Claimant's counsel filed a manifestation with a prayer that the order of dismissal be set aside on the ground that the affidavits and documentary evidence were sent since the first week of August, 1975. The motion was denied by the referee and so the case was elevated to the Workmen's Compensation Commission for review; however, the Commission affirmed the dismissal for lack of sufficient evidence to sustain the claim.

Claimant is now before Us and invokes settled jurisprudence laid down by this Court which justifies a reversal of the decision of the respondent Commission.

The following facts cannot be disputed on the basis of the record of the case:

Marcelo Laron was employed on a monthly salary as a laborer-cook at the government-owned "Doña Gregoria Memorial Hospital" operated by the Department of Health in Agoo, La Union.[1] As cook, Laron prepared the meals of the patients and of the hospital staff no less than three times a day and was exposed to the heat of the ordinary firewood which at the time was used in the hospital for cooking purposes. He was also in charge of cleaning the kitchen and at times was called upon to perform other manual work. While thus employed, Laron complained of loss of appetite and of abdominal pains which resulted in his confinement at the hospital where he was working from November 1 to 3, 1972, after which he was transferred to the Baguio General Hospital in Baguio City for further diagnosis and treatment of his ailment which finally was diagnosed as cancer of the stomach. A few months later, more particularly on May 24, 1973, Marcelo Laron died of cancer of the stomach at the age of 63 and was survived by his widow, the herein petitioner.

On November 2, 1973, Marcelo Laron's widow filed a "Notice of injury or sickness and claim for compensation" to which was attached a physician's report signed by Dr. Benjamin Estepa and a medical certificate accomplished by Dr. Santos D. Padilla both of "Doña Gregoria Memorial Hospital" attesting to the confinement of Marcelo Laron in said hospital from November 1 to 3, 1972, and to his transfer to the Baguio General Hospital, Baguio City, on November 4, 1973.[2]

It is indeed lamentable that notwithstanding the above-narrated facts, respondent Workmen's Compensation

Commission failed to act favorably on petitioner's claim thereby disregarding settled juris-prudence on at least two points:

- (1) Failure on the part of the employer to controvert the right to compensation of an employee after having notice of the latter's illness or disability, constitutes a renunciation of non-jurisdictional defenses and is an ultimate admission of compensability.

The employee, Marcelo Laron, was confined in the very hospital where he was working, hence, his employer was fully aware of his illness, and yet controversion was never made as required in Sec. 45, par. 2, of Act. 3428. The employer-hospital which is operated by the Department of Health cannot claim ignorance of the illness of its employee Marcelo Laron for the simple reason that its physicians, Dr. Santos D. Padilla, and Dr. Benjamin Estepa, examined the patient and diagnosed the ailment on first impression to be peptic ulcer but which upon further tests conducted at the Baguio General Hospital was found to be cancer of the abdomen. The records show that at no time from the confinement of Marcelo Laron at the "Doña Gregoria Memorial Hospital" from November 1 to 3, 1972, up to the time of Laron's death on May 24, 1973, did respondent Department of Health ever give notice of its controversion.

In *Manila Railroad Company vs. Workmen's Compensation Commission*, this Court sustained an award of compensation in favor of a trackman of the Manila Railroad Company who contracted pulmonary tuberculosis in the course of his employment, the Court holding inter alia that there was no timely controversion. The employer having knowledge of the employee's illness failed to controvert within 14 days from disability or 10 days after it had knowledge of the alleged illness as required in Sec. 45 of Act 3428, hence, by operation of law, the employer waived or renounced the right to dispute its liability for said compensation.[3]

In *Development Bank of the Philippines vs. Workmen's Compensation Commission*, where the employee, a mailing clerk of the Development Bank of the Philippines, Naga City Branch, was hospitalized for fever, backache, and cough and who finally died due to massive pulmonary hemorrhage, which fact was known to the employer, the Court through Justice Felix V. Makasiar ruled that the failure of the employer to submit its report of injury or illness as soon as possible after its occurrence as required in Section 37 of the Workmen's Compensation Act, and to controvert the same pursuant to Sec. 45 thereof, resulted in the employer's forfeiture of its right to any defense.[4]

In *Philippine Graphic Arts, Inc. vs. Mariano, et al.*, the employee-claimant was a composer whose duties consisted of ar-ranging lead metals into different molds, who became sick of "chronic mononeuritis" for which he consulted the company's physician, and notwithstanding that fact, the employer failed to controvert or contest the ailment, and this Court, through Justice Salvador V. Esguerra, citing a long line of decisions reiterated the ruling that where the injury is sustained by the employee-claimant in the course of his employment and the employer fails to controvert the right of the claimant within the ten-day period prescribed in Section 45 of the Workmen's Compensation Act, the compensability of the claim, its reasonableness and validity are beyond challenge, and that the absence of controversion is fatal to any defense that the employer may interpose, and this rule is true even if the employee-claimant filed his claim for compensation benefits after he had tendered his resignation from the company.[5]

In *Dinaro vs. Workmen's Compensation Commission, et al.*, this Court, speaking thru Justice Claudio Teehankee, set aside the respondent Commission's dismissal of Dinaro's claim who was a clerical aide with the District Engineer's Office in Marawi City and who contracted pulmonary tuberculosis and rheumatism in the course of his employment, and the Court emphatically held that the Commission inexplicably failed to apply the express mandate of Sec. 45 of the Work-men's Compensation Act as it had heretofore done in an unbroken line of countless cases, and that the Commission's peremptory dismissal of the claim was clear error which had to be set

aside since a failure to controvert (and in this particular case there was even an express admission of the compensability of the claim) is a renunciation of the right to challenge the claim and a waiver of all non-jurisdictional defenses so that there is nothing that the employer can legally prove in relation thereto.[6]

To the same effect very recently is *Simon vs. Republic of the Philippines* (Supreme Court), where an employee of the Court of First Instance of Cebu who contracted dermoid cyst under her chin was granted compensation on the ground inter alia that here employer, the Supreme Court, failed to controvert the claim of the employee.[7]

2. The second point favorable to petitioner is the equally-settled principle that in the absence of substantial evidence to the contrary, it is presumed under the law that an illness or injury sustained by an employee or worker was caused by or aggravated in the course of his employment.

Section 44 (1) of Act 3428 provides:

"SEC. 44. Presumption. - In any proceeding for the enforcement of the claim for compensation under this Act, it shall be presumed in the absence of substantial evidence to the contrary.

"1. That the claim comes within the pro-visions of this Act;

"xx xx xx xx"

It is undisputable that Laron's ailment occurred while he was working as a cook of the "Doña Gregoria Memorial Hospital"; he has therefore in his favor the presumption in law that his illness was caused or aggravated by the demands of his service.

Apropos to Laron's situation is the case of *Agaton D. Talip*[8] who died of massive myocardial infarction at the age of 59 years while asleep in his house, commonly known as "banguñgot", and whose heirs filed a claim for death compensation benefits but which was denied by the Workmen's Compensation Commission mainly on the ground that the "death, certainly, was not occasioned or precipitated by work--connected factors." This Court ruled that the Commission's decision was patent error and must be set aside

"on the strength of controlling and established jurisprudence that assuming that the deceased employee's illness which caused his death may be ruled out as an occupational disease or that the causal link between the nature of his em-ployment and his ailment has been insufficiently shown, nevertheless it is to be presumed as mandated by section 44 of the Workmen's Compen-sation Act that the employee's illness which super-vened during his employment, either arose out of, or at least was aggravated by, said employment; and with this legal presumption, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation."

Even more relevant is *Simon vs. Republic*, supra, where the employee's ailment dermoid cyst under the chin was held compensable under the presumption established by the law.

With this legal presumption in her favor, it therefore becomes unnecessary for the widow of Marcelo Laron to prove that her husband's cancer of the stomach was directly caused or aggravated by his work in the government-owned hospital.

The English word "cancer", it has been said, is derived from the Latin word "cancer" which means "crab"; in the medical sense, it refers to a malignant, usually fatal, tumor or growth.[9]

The presence of a malignant growth in the stomach of the employee Marcelo Laron manifested itself in the latter's loss of appetite and stomach pains while working as cook in the "Doña Gregoria Memorial Hospital". We can safely presume that the un-usual physical strain of marketing, cooking, cleaning the kitchen, lifting the firewood and other heavy objects in the premises, the ex-posure to the heat of the stove during the greater part of the day,

the mental pressure and extra exertion attendant to the responsibility of feeding the patients and staff of a large institution, all these and other factors contributed to a general weakening of the bodily condition of Marcelo Laron and the lessening of his resistance to the growth of a malignant tumor in his abdomen. At any rate, as stated earlier, it is not for petitioner to establish the causal relation between the illness of her husband and his work for that is presumed under the existing law. But more importantly, this may well be an appropriate occasion for the Court to restate a sound principle compatible with the aforequoted pro-visions of the Workmen's Compensation Act that in testing the evidence on the relation between the injury or disease and the employment, probability and not certainty is the touchstone.[10]

PREMISES CONSIDERED , We hereby set aside the appealed decision of respondent Commission and order respondent Department of Health, Republic of the Philippines, to pay to petitioner as the surviving widow of deceased Marcelo Laron the sum of Six Thousand (P6,000.00) Pesos as death benefits, plus Two Hundred (P200.00) Pesos as burial expenses, and Two Hundred (P200.00) Pesos for attorney's fees.

SO ORDERED.

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

[1] The notice of claim does not indicate the amount of monthly salary of Marcelo Laron, p. 8, rollo.

[2] pp. 8, 9, 13, *ibid*.

[3] per Jose Ma. Paredes, J., L-19773, May 30, 1964, 11 SCRA 305, 310.

[4] L-30428, February 7, 1973, 49 SCRA 365.

[5] L-30979, October 26, 1973, 53 SCRA 409, citing among others *La Mallorca vs. W.C.C.* 30 SCRA 619.

[6] L-42457, March 31, 1976, citing Rule 9, Sec. 1, Workmen's Compensation Act.

[7] L-42510, June 30, 1976, per Martin, J.

[8] *Cirilo Talip, et al. vs. W.C.C.*, L-42574, May 31, 1976, per Teehankee, J., citing *Maria Cristina Fertilizer Corp. vs. W.C.C.*, October 21, 1974, 60 SCRA 228 & others.

[9] *Schmidt's Attorney's Dictionary of Medicine*, 1965 Sup. 143; *Beerman v. Public Service Coordinated Transport*, 191 A. 297, 299; *Words & Phrases*, 6 Permanent Ed. 61.

[10] *Fierro vs. Public Service Coordinated Transport*, 16 A. 2d. 72.

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