

MARIO GARCIA, PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION AND COLUMBIA TOBACCO COMPANY, INC., RESPONDENTS.

G.R. No. L-42526. August 31, 1984

Ponente: DE LA FUENTE, J.

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DE LA FUENTE, J.:

In RPO Case No. C-7396 petitioner Mario Garcia filed a claim for workmen's compensation benefits, which was dismissed by Acting Referee Manuel P. Asuncion[1] upon a finding that there was no causal relation between the work of his deceased wife Emelita Garcia, an employee of private respondent Columbia Tobacco Company, Inc., and her last illness. On appeal, the defunct Workmen's Compensation Commission affirmed the said dismissal. Its decision recites the following pertinent findings and pronouncement:

"A perusal of the records disclosed that deceased Emelita Garcia was a packer of the respondent Columbia Tobacco Company and in the course of employment, claimant Mario Garcia, husband of the deceased, stated per notice and claim, the deceased contracted acute tuberculosis meningitis [sic]. Per physician's report on record of Dr. Antonio R. Lusena it is stated that the cause of the illness diagnosed as acute severe tuberculosis meningitis [sic], which proved fatal to deceased Emelita Garcia, was caused by tuberculosis infection and possibly aggravated by the employment. He did not explain, much less discuss, how the illness could have been possibly aggravated by the employment. The Acting Referee observed that the place of work of the deceased was sanitary and not conducive to tuberculosis infection and concluded that the illness which proved fatal to the deceased was not in any way connected with her work. For failure, therefore, to establish a causal link between the illness to such extent that it could be so traceable to the nature of the employment, the Acting Referee dismissed this case.

"We shall not disturb the findings of the Acting Referee for the records disclosed that there is no sufficient evidence presented by the claimant that would tend to prove that the illness of tuberculosis meningitis which caused the death of Emelita Garcia was traceable to the nature of her work in order to warrant compensability pursuant to Section 12 of the Act.

"WHEREFORE, premises considered, the decision appealed from is hereby, as it is affirmed without pronouncement as to the payment of administrative fee and cost of review.

"SO ORDERED."

Petitioner has elevated the case to this Court for review, praying that the questioned judgment be reversed and another one rendered in his favor.

We find the petition impressed with merit.

The defunct WCC erred in absolving the private respondent from liability, concurring in the referee's finding that "there is no sufficient evidence presented by the claimant that would tend to prove that the illness of tuberculosis meningitis [sic] which caused the death of Emelita Garcia was traceable to the nature of her work...". (Italics

supplied.)

It is well settled, in the absence of proof that the injury or death supervening in the course of one's employment has arisen because of the nature of the same, that the death or injury is by law presumed compensable, unless the employer clearly establishes that it was not caused or aggravated by such employment or work.[2] The burden of overthrowing said presumption pertains to the employer and the employee is relieved of showing causation.[3]

It appears from the record that the private respondent failed to adduce any substantial evidence to show that the illness of the deceased employee could not have been caused by the nature or conditions of the employment of Emelita, wife of the petitioner. Thus, the statutory presumption of compensability stands un rebutted and the claim becomes conclusive.[4] On the other hand, according to the attending physician's report,[5] the illness of Emelita which was diagnosed as acute tuberculosis meningitis, and which proved fatal to the deceased, was caused by TB infection and "possibly" aggravated by her employment. Said statement may be given credence, as normally, no physician would make a false certification report or statement for the sake of a mere laborer or employee.[6] That no explanation was added by the said physician to show how the illness could have been aggravated by the employment of the deceased is not sufficient ground to reject the claim. On the other hand, a mere opinion of a physician that there is no causal relation between the sickness and the nature of the employment cannot outweigh or would not suffice to overthrow the presumption of compensability.[7]

Besides, the last illness of Emelita may be deemed work-connected in the light of certain facts or circumstances: She began working for the private respondent in 1970 or about 4 years prior to her said illness, 8 hours a day and six days a week; her work as a cigarette packer exposed her to conditions peculiar to the cigarette industry such as air pollutants, e.g., tobacco dust; early in 1974 she started complaining of headaches after the air-conditioning at her place of work was shut off by her employer to conserve energy; she had dizzy spells thereafter; then on November 9, 1974, the last day she reported for work, she was again suffering from a headache when she left her place of work and went home; at about 10:00 o'clock p.m. of same day, she was brought by her husband to the Provincial Hospital at Pasig, Rizal; because her condition did not improve she was transferred to another hospital where she died of "acute tuberculosis meningitis" on November 12 or within a period of four days from her last day of work; and, as noted by the resident physician, Rizal Provincial Hospital, Emelita's "severe frontal headache... has been intermittently present for 1 month now."

We find no merit in the argument that the claim for compensation cannot prosper because it was filed out of time (the claim having been filed only on March 26, 1975, or over four months after the death of Emelita, i.e., beyond the mandatory three-month period for filing of compensation claims). For it is also settled that failure to file the notice and claim for compensation within the reglementary period is not jurisdictional, and that the statutory right to compensation prescribes in ten years.[8] It appears, too, that private respondent never denied that it had actual knowledge of the illness and the subsequent death of Emelita. Her husband even received from her employer, private respondent, a "bereavement aid" in the amount of P300.00 sometime in December 1974. Under the circumstances, absence of a formal notice to the employer would not operate to absolve it from liability under the law. [9]

Furthermore, private respondent failed to file a notice to controvert the right to compensation on or before the fourteenth day of disability or death, or within ten days after it had knowledge thereof as required, as provided by Section 45 of the Workmen's Compensation Act. It is deemed to have thereby waived or renounced the right to controvert the claim[10] and the claimant is entitled to an outright award. Such waiver renders moot any question that can be raised against the compensability of the claim, its reasonableness and validity of the claim.[11]

As stated by this Court in *Jesalva vs. WCC*,[12]

"Moreover, the records of the case reveal that respondent employer never complied with its obligations under Sections 37 and 45 of the Act of report-ing to the Commission within fourteen days from occurrence of the injury or death of its employee or within ten (10) days from knowledge thereof; which non-compliance generates [a] the loss of the right to controvert the claim on jurisdictional grounds, and the employer cannot be subsequently heard to com plain that the law was strictly construed against him (Victory Shipping Lines Inc. vs. WCC, 106 Phil. 550[1959]; [b] the renunciation of the right to controvert the claim, barring all defenses available without exception (National Development Co. vs. WCC, 10 SCRA 696[1964], thereby constructively admit-ting that it is compensable; and (c) the waiver of the defense that the claim for compensation was not filed within the statutory period (Vda. de Calado vs. WCC, 10 SCRA 41[1964]). Consequently, herein respondent employer is barred from raising any defense to defeat petitioner's claim."

WHEREFORE, the questioned decision of the defunct Work-men's Compensation Commission is hereby set aside and private respondent Columbia Tobacco Company, Inc., is hereby ordered to pay the petitioner: the sum of six thousand (P6,000.00) pesos as death benefits; attorney's fees in the amount of six hundred (P600.00) pesos; and costs.

SO ORDERED.

Teehankee (Acting C.J.), Melencio-Herrera, Plana, Relova, and Gutierrez, Jr., JJ., concur.

[1] Regional Office IV, Department of Labor.

[2] Naira vs. WCC, 6 SCRA 361, etc.

[3] See Agustin vs. WCC, 12 SCRA 55; Justiniano vs. WCC, 18 SCRA 677; Despe vs. WCC, 75 SCRA 350; Luzon Stevedoring Corporation vs. WCC, 105 SCRA 675.

[4] Cadiente vs. WCC, 100 SCRA 446; Del Rosario vs. WCC, 96 SCRA 280.

[5] Annex D, Petition.

[6] Marte vs. ECC, 96 SCRA 884.

[7] Maria Cristina Fertilizer Corp. vs. WCC, 60 SCRA 228; Lacson vs. Secretary of Labor, 99 SCRA 225; Villasan vs. Republic, 104 SCRA 102.

[8] Capinpin vs. WCC, 103 SCRA 270, and cases cited therein.

[9] Olbes vs. WCC, 117 SCRA 887; MRR vs. Vda. de Chavez, 12 SCRA 142; Rebar Bldg., Inc. vs. WCC, 23 SCRA 485.

[10] Olbes vs. WCC and Capinpin vs. WCC, supra.

[11] NDC vs. Galamgam, 38 SCRA 495; General Textiles, Inc. vs. Taay, 42 SCRA 375.

[12] 95 SCRA 597, 604.

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