

LUZ G. CRISTOBAL, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (NATIONAL SCIENCE DEVELOPMENT BOARD), RESPONDENTS.

G.R. No. L-49280. April 30, 1980

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petition for review on certiorari of the June 21, 1978 decision of the Employees' Compensation Commission filed by petitioner in forma pauperis.

The deceased, Fortunato S. Cristobal, was employed as Supervising Information Officer II of the National Science Development Board (NSDB for short) based in Bicutan, Taguig, Rizal. His original appointment was dated February 26, 1964 (p. 16, ECC rec.). On April 8, 1976, he developed loose bowel movement which later worsened and his excrement was marked with fresh blood. Self-administered medications were made but symptoms persisted until April 22, 1976 when he was brought to the Hospital of Infant Jesus and was there treated by Dr. Willie Lagdameo, who diagnosed his illness as rectal malignancy. On May 28, 1976, he was discharged with improved conditions but just one year thereafter, he was again confined at the UST Hospital for the same ailment. A second operation became necessary because of the recurrence of malignancy in the pelvis. Despite earnest medical efforts, he succumbed to his illness on May 27, 1977 (p. 6, rec.).

The petitioner herein, as the decedent's widow and beneficiary, filed with the Government Service Insurance System (GSIS for short), a claim for income (death) benefits under Presidential Decree No. 626, as amended. The said claim was denied by the GSIS and in a subsequent request for reconsideration, the System reiterated its decision stating that -

"Under the present law on compensation, the listed occupational diseases are compensable when the conditions set therein are satisfied. It also allows certain diseases to be compensable whenever the claimant is able to prove that the risks of contracting such diseases were increased by the working conditions attendant to the deceased's employment. This is provided under Sec. 1(b) Rule III of the Rules and Regulations Implementing Presidential Decree No. 626 which took effect on January 1, 1975. As far as the degree of proof is concerned, the claimant must be able to show at least by substantial evidence that the development of the ailment was brought largely by the working conditions present in the nature of employment. In the case of your husband, it will be noted that the ailment which resulted in his death on May 27, 1977 was Rectal Malignancy. This ailment, not being listed as an occupational disease, therefore, required such degree of proof as mentioned above. On the basis, however, of the papers and evidence on record which you have submitted, it appears that you have not established that the deceased's employment has any direct causal relationship with the contraction of the ailment. While it is admitted that the aforementioned ailment supervened in the course of the deceased's employment as Supervising Information Officer II in the National Science Development Board, Bicutan, Taguig, Rizal, there has not been any showing that the same directly arose therefrom or resulted from the nature thereof" (GSIS letter dated February 20, 1978 denying the request of petitioner for reconsideration).

The petitioner appealed to the ECC, which affirmed the decision of the GSIS.

Hence, this petition.

In resolving the issue of compensability, the respondents herein failed to consider these outstanding facts patent from the records. The deceased, as Supervising Officer II of the NSDB, was actually assigned to the Printing Department of the said agency where he was exposed to various chemicals and intense heat. This fact was corroborated by the affidavit of one Angel Peres, a co-employee of the deceased, to the effect that -

"I know personally Fortunato Cristobal because he was my Supervisor in the Bureau of Printing;

"During the employment of Fortunato Cristobal at the Bureau of Printing, he contracted sickness which was later diagnosed as ano-rectal cancer which caused his death;

"Fortunato Cristobal continued working at the aforementioned Bureau of Printing even when he was already suffering from a rectal illness and he had been complaining to me that said illness became more painful whenever he performs his job in the Bureau;

"I also noticed that he oftentimes eat food in the Bureau without washing his hands;

"The place where Fortunato Cristobal was assigned in the Bureau of Printing is very unhygienic and polluted with chemicals and he oftentimes complain to me that the odor of the chemicals make him feel dizzy always;

"Fortunato Cristobal always handle chemicals in the Bureau of Printing while in the performance of his duties" (Annex C, Petition).

These statements find relevance in the medical certificate issued by Dr. Rufo A. Guzman stating that "the illness may be aggravated by the unhygienic conditions in the Bureau of Printing where he works. Handling of chemicals for printing, eating without proper washing of hands, tension due to the pressure of work, plus neglected personal necessity which may be attributed to the inadequate facilities in the Bureau of Printing" (Annex D, Petition).

Undisputed is the fact that the deceased entered the government free from any kind of disease. Likewise, it is admitted that the deceased husband's ailment super-vened in the course of his employment with the NSDB. The ECC, however, failed to appreciate the evidence submitted by the petitioner to substantiate her claim. In denying the claim, it merely relied on the fact that the certification issued by the physician of the deceased failed to indicate the actual causes or factors which led to the decedent's rectal malignancy. This Court, however, is of the opinion that the affidavit of Angel Peres substantiated by the medical certificate issued by Dr. Rufo A. Guzman (in relation to the medical findings of Dr. Willie Lagdameo of the Hospital of Infant Jesus [p. 17, ECC rec.] and Dr. Mercia C. Abrenica, its own medical officer [p. 9, ECC rec.]) sufficiently establish that the risk of contracting the disease is increased, if not caused, by the working conditions prevailing in the respondent's (NSDB) premises.

In the case of *Eliseo vs. Workmen's Compensation Commission* (84 SCRA 188), this Court held:

"We cannot agree with the private respondent that the claim of the petitioner is without any factual or legal basis nor with the respondent Workmen's Compensation Commission that there is no evidence substantial enough to show that this leukemia which caused the death of Isabel Eliseo has a causal relation to the nature of her work with the respondent G & S Manufacturing Corp. 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 in 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 *Laron vs. Workmen's Compensation Commission, et al.*, 73 SCRA 84, We held that in testing the evidence or the relation between the injury or disease and the employment, probability and not certainty, is the touchstone, reiterated in *National Housing Corp. vs. WCC*, 79 SCRA 281."

Section 1(b), Rule III of the Implementing Rules and regulations of P.D. 626 provides -

"For sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease listed under Annex 'A' of these Rules with the conditions set therein satisfied; otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions."

This Court is convinced that the petitioner, by clear and convincing evidence, has adequately satisfied the second part of the aforequoted provision, following the theory of increased risk as laid down in the case of *Amparo vs. GSIS*, ECC Case No. 0046 (August 18, 1976) and reiterated in *Corales vs. ECC*, 84 SCRA 762 (August 25, 1978).

Furthermore, in the case of *Sepulveda vs. Employees' Compensation Commission* (84 SCRA 771 [August 25, 1978]), this Court stated that -

"x x x the respondent Commission, under Resolution No. 223 dated March 16, 1977, adopted, as a policy, the institution of a more compassionate interpretation of the restrictive provisions of Presidential Decree No. 626, as amended, by its administering agencies, the Social Security System and the Government Service Insurance System, with respect to, among others, Myocardial Infarction and other borderline cases. x x x"

In the instant case, it is evident that rectal cancer is one of those borderline cases. Likewise, it is clear that the purpose of the resolution is to extend the applicability of the provisions of P.D. 626, thereby affording a greater number of employees the opportunity to avail of the benefits under the law. This is in consonance with the avowed policy of the State, as mandated by the Constitution and embodied in the New Labor Code, to give maximum aid and protection to labor. The Employees' Compensation Commission, like the defunct Court of Industrial Relations and the Workmen's Compensation Commission, is under obligation at all times to give meaning and substance to the constitutional guarantees in favor of the working man, more specially, the social justice guarantee; for otherwise, these guarantees would be merely "a lot of meaningless patter" (*Santos vs. WCC*, 75 SCRA 371 [1977]).

As pointed out by no less than the respondent ECC itself in its Comment dated January 5, 1978 -

"It may not be amiss to mention that the ECC has time and again expanded the list of occupational diseases. This comes about after continuing studies made by the ECC. Indeed, cancer has already been included as a qualified occupational disease in certain cases --

Occupational Disease

Nature of Employment

1. Cancer of the epithelial lining of the bladder (Papilloma of the bladder)

Work involving exposure to alphanaphthylamine, beta-naphthylamine or benzidine or any part of the salts; and auramine or magenta;

2. Cancer epithellomatons or ulceration of the skin or of the corneal surface of the eye due to tar, pitch, bitumen, mineral oil or paraffin or any compound product or residue of any of these substances

The use of handling of, exposure to, tar, pitch, bitumen, mineral oil (include paraffin) soot or any compound product or residue of any of these substances

xx xxxx xx

16. Cancer of the stomach and other lymphatic and blood-forming vessels; nasal cavity and sinuses;

Woodworkers; wood products industry carpenters, loggers and employees in pulp and paper mills and plywood mills;

17. Cancer of the lungs, liver and brain.

Vinyl chloride workers, plastic workers.

"Worth nothing is the fact that the above types of cancer have no known etiology. Yet, they are regarded as occupational. The clear implication is that the law merely requires a reasonable work-connection" (pp. 59-60, rec., italics supplied).

From the foregoing statements, it is palpable that the respondent ECC recognizes, as it is duty bound to, the policy of the State to afford maximum aid and protection to labor. Therefore, to require the petitioner to show the actual causes or factors which led to the decedent's rectal malignancy would not be consistent with this liberal interpretation. It is of universal acceptance that practically all kinds of cancer belong to the class of clinical diseases whose exact etiology, cause or origin, is unknown. It is in this regard that the evidence submitted by the petitioner deserves serious consideration.

As persuasively pointed out by the petitioner in her memorandum addressed to this Court dated April 6, 1979 -

"x x x x

"The respondent GSIS said, 'It is unfortunate that despite the relatively fast pace in the march of progress, science to this day has not given us the cause of cancer' (p. 11, GSIS Comment). Hence medical scientists are still venturing into the unknown, so to speak. x x x

"x x x x.

"Evidently, GSIS has trodden the grounds on an unsure foot. It would seem to insinuate that petitioner must blame science for having not yet discovered the actual cause of her husband's fatal illness. Why is it then that petitioner must be required to prove causation - that her husband's cancer was caused by his employment - if science itself is ignorant of the cause of cancer? x x x."

WE give due consideration to the respondent's application of P.D. 626 in ruling on the claim since petitioner's husband died on May 27, 1977, after the effectivity of the provisions of the New Labor Code on Employees' Compensation. Moreover, medical records did not disclose the date when the deceased employee actually contracted the disease, rectal malignancy having been discovered only on April 22, 1976 when the deceased sought hospital confinement.

From the above discussion, it is undeniable that the petitioner is entitled to her claim.

WHEREFORE, THE DECISION OF RESPONDENT EMPLOYEES' COMPENSATION COMMISSION IS HEREBY SET ASIDE AND THE RESPONDENT GSIS IS HEREBY DIRECTED

- TO PAY THE PETITIONER THE SUM OF TWELVE THOUSAND (P12,000.00) PESOS AS DEATH BENEFITS;
- TO REIMBURSE PETITIONER MEDICAL, SURGICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS;
- TO PAY PETITIONER THE SUM OF SEVEN HUNDRED (P700.00) PESOS AS FUNERAL EXPENSES; AND
- TO PAY THE PETITIONER ATTORNEY'S FEES EQUIVALENT TO TEN (10%) PERCENT OF THE DEATH BENEFITS.

SO ORDERED.

Teehankee, (Chairman), Fernandez, Guerrero, and De Castro, JJ., concur.
Melencio-Herrera, J., see dissent.

DISSENTING OPINION

MELENCIO-HERRERA, J.:

The cause of death of petitioner's husband was rectal malignancy. It is not listed as an occupational disease (Annex "A" of the Amended Rules on Employees' Compensation). Hence, it is not compensable (Section 1(b), Rule III, *ibid.*).

Even assuming that rectal malignancy may be classified as a borderline case under cancer diseases, it is evident from the list that not all cancer ailments are considered occupational diseases. Until it is so listed, I believe that we should not substitute our judgment for that of respondent Commission, which should be deemed to have the necessary expertise to decide on the matter.

The dreaded disease of cancer of the rectum can develop irrespective of the conditions of work. That petitioner's husband was exposed to various chemicals, intense heat and unhygienic working conditions does not necessarily lead to the conclusion that the deceased became more prone to rectal malignancy.

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