

LUZON STEVEDORING CORPORATION, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND LEONARDA VDA. DE HAYSON, RESPONDENTS.

G.R. No. L-37896. July 22, 1981

Ponente: GUERRERO, J.

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GUERRERO, J.:

Petition for review of the decision dated July 16, 1973 of the Workmen's Compensation Commission en banc in WCU Case No. ROXII-602-70 affirming the WCC Referee's award of compensation benefits in favor of the widow and children of the late Pantaleon Hayson, an employee of petitioner corporation.

The facts as found by WCC Referee Conchita Martinez of Regional Office No. XII, Department (now Ministry) of Labor, Davao City, after the case was heard on the merits, are:

"That the deceased (Pantaleon Hayson) was employed by the respondent Luzon Stevedoring Corporation as a Gang Boss or capataz with a daily wage of P9.00. That the nature of the business of the respondent is stevedoring and lightering. On February 16, 1970 at about 9:00 o'clock in the evening, he was on duty as such capataz on board the M/V President Aguinaldo. While the deceased and his co-workers, Segundo "Nonoy" Catalan, Felimon Caparas, Francisco Toralba and another laborer were waiting for the cargoes and telling stories to pass the time, the 3rd Officer of the M/V President Aguinaldo approached them. Since there was a party on board the boat at that time and since it was a cold night, the deceased asked for something to drink from the 3rd Officer. So, the 3rd Officer left them for a while and when he returned the latter gave them a half-filled bottle of pocket-size Tanduay Rhum. The group then took turns in drinking from the said bottle with the deceased taking the first drink. After his co-workers drank from the supposed bottle of Tanduay Rhum they found out that the contents of the said bottle was not liquor but oil of wintergreen. About an hour after that the late Pantaleon Hayson complained of stomach pain and he was immediately brought to the San Pedro Hospital where he died on February 17, 1970 at around 4:40 A.M. due to poisoning according to the findings of the attending physician, Dr. Alex Panuncialman, and which was confirmed by the autopsy performed by Dr. Juan M. Abear, Jr., Medico Legal Officer, City of Health Office, Davao City (Exhibit "E").

"It was also established that the deceased was not a heavy drinker as testified to by Segundo Catalan also an employee of the respondent and who was present at the incident because he was on duty together with the deceased. He was presented as witness for the respondent. x x x

"It was further established that claimant Leonarda Vda. de Hayson was legally married to the deceased (Exhibit "B"), and that out of their union they begot two children, namely: Epifania Hayson and Norma Hayson (Exhibits "C" and "D")."[1]

From the facts as established, the Referee ruled that the death of Pantaleon Hayson arose out of and in the course of his employment as capataz, and ordered Luzon Stevedoring Corporation to pay:

"1. To claimant Leonarda Vda. de Hayson and to minors, Epifania and Norma, both surnamed Hayson, thru this Office, the sum of FIVE THOUSAND TWO HUNDRED PESOS (P5,200.00), as compensation, plus the further

sum of TWO HUNDRED PESOS P200.00), as burial expenses or the total of FIVE THOUSAND FOUR HUNDRED PESOS (P5,400.00);

2. To Atty. Jose B. Guyo, Jr., thru this Office, the sum of TWO HUNDRED SEVENTY PESOS (P270.00), as attorney's fees, pursuant to Section 31 of the Act; and

3. To this Office, the sum of FIFTY-FIVE PESOS (P55.00), as fee pursuant to Section 55 of the Act."

Respondent (now herein petitioner) filed on March 9, 1971 a motion for reconsideration of the Referee's decision raising as sole ground the allegation that Pantaleon Hayson was notoriously negligent, hence, his death is not compensable under Section 4 of Act 3428, as amended. Referee Martinez, in a resolution dated March 26, 1971, denied the motion for reconsideration. The entire record of the case was thus elevated to the Workmen's Compensation Commission for review.

In the decision dated July 16, 1973, the Workmen's Compensation Commission affirmed the decision appealed from.[2]

Resolving the sole issue raised by respondent Luzon Stevedoring Corporation that the deceased was notoriously negligent for which reason his death falls outside the compensatory coverage of the Workmen's Compensation Act, the WCC defined the concept and degrees of negligence, thus:

"In the case of Soriano v. Davao Gulf Lumber Corporation, WCC Case No. 84, this Commission had the occasion to construe notorious negligence as something more than a simple or contributory negligence. "By notorious negligence is meant such entire want of care as to raise a presumption that a person at fault is conscious of the probable consequences of his carelessness and is indifferent to the danger of injury to himself and other persons. The negligence necessary to exempt an employer must amount to reckless disregard of the safety of persons and property. Notorious negligence is practically equivalent to the doing of an intentional wrong."

Accordingly, the WCC held that the deceased could not have been notoriously negligent because he was unaware of the probable consequences of his act. Nowhere was there an iota of proof evidencing his intent to put an end to his life. If at all, his attitude constituted simple negligence which thus brings this claim within the compensatory coverage of the beneficent provisions of the Workmen's Compensation Act, as amended. Hence, the WCC's stamp of affirmance on the award made by Referee Martinez in favor of Pantaleon Hayson's widow and children.

Not satisfied with the WCC decision, Luzon Stevedoring Corporation on September 8, 1973 sought reconsideration thereof but the WCC, failing to find sufficient justification to warrant reversal or modification of its decision, denied on October 11, 1973 the motion for reconsideration. Hence, the instant recourse to Us on a petition for review on certiorari.

The sole issue now before Us for resolution is whether this claim for compensation benefit on account of Pantaleon Hayson's demise due to accidental poisoning when he mistook oil of wintergreen for Tanduay Rhum falls within the coverage of the Workmen's Compensation Act, as amended.

Petitioner insists that the deceased was notoriously negligent because he drank from the bottle containing oil of wintergreen not only once but continued to do so despite the unanimous opinion of his companions. We agree, however, with the ruling of the WCC which is fully justified and supported by clear, competent, and substantial evidence, to wit:

"Quoting from the testimony of the companions of the deceased, respondent pointed out that the deceased drank the contents of the bottle of Tanduay Rhum, knowing well that it contained oil of wintergreen, hence his attitude constituted notorious negligence that brought out his death from the coverage of the Act. This pretense

of respondent is far from being tenable. In the case at bar, it was established that the deceased was not a heavy drinker and at the time they asked something to drink from the 3rd Officer of the boat, the deceased or his companions were not shown to have drunk any liquor or anything that could have affected the mental state of the deceased at the time he asked a drink from the said Officer. Nor was it shown that previous to the incident, the deceased was so despondent that there was an intention on his part to end his life. All that they did in asking for a drink from the Officer is what ordinary persons would do under the circumstances. It was a cold night on board the boat and they were waiting for work, then, it was but natural that they want to do something to alleviate the cold. In the nature of their job, occasional drinking is quite ordinary and does not in any way violate standard rules and regulations, unless of course the same is done to the extent of causing drunkenness. Being not a drinker as he was, the deceased could not be expected to know the different tastes of wines. That what he drank contained oil of wintergreen made no difference to him because as stated, he was not a drinker and could not have distinguished the taste of the kind of wine, so much so, that when his companions tasted the wine later, and told him that it contained oil of wintergreen, he even bragged that it was stateside, an act which projected his innocence. And even if he drank after he was told that the bottle contained oil of wintergreen, still the same could not constitute notorious negligence on his part, because there was no showing that he admitted knowledge that the contents of the bottle was oil of wintergreen, nor was there a warning made by his companions that drinking the same could be fatal to him. To constitute notorious negligence, it must be shown that the act of the deceased entirely wants in care as to raise a presumption that he was conscious of the probable consequences of his carelessness and indifferent to the danger of injury to himself and other persons. It must be equivalent to the doing of an intentional wrong. Certainly, this Commission cannot consider the attitude of the deceased in the case at bar to constitute notorious negligence, because he was not aware of the probable consequences of his act, nor was it shown that there was an intent on his part to end his life. If at all, his attitude simply constitutes simple negligence, which is well within the compensatory coverage of the Act."^[3]

On the matter of notorious negligence, this Court in the case of *Paez v. WCC, et al.*, L-18438, March 30, 1963, 7 SCRA 588, 594, said:

"It is finally contended that the respondent WCC erred in not finding that the accident was caused through the notorious negligence of the deceased (Sec. 4 of Act No. 3428). x x x That defense should be proven by the party invoking it. Notorious negligence is something more than mere or simple negligence, or contributory negligence; it signifies a deliberate act of the employee to disregard his own personal safety. In the case at bar, there is no showing at all that deceased Barawid had deliberately disregarded his safety; no intention was attributed to him to end his life or that he wantonly courted death. The deceased wanted to return home as it was getting late, and even helped in the loading and unloading of the palay to the banca and truck, to finish the work that day. It is claimed that the deceased wanted to return home, because he was to drive the new truck of his brother-in-law, and he was in such a hurry that he unheeded the suggestion of his companion not to embark anymore, as it was dark and the banca was fully loaded. Conceding this to be true, for the purpose of argument, (Barawid can no longer contradict it, his lips having been sealed by death), still the disregard of the warning cannot be considered as notorious negligence. Disobedience to rules, orders and/or prohibition does not in itself constitute notorious negligence, if no intention can be attributed to the injured to end his life. And if in the case at bar, there was any negligence at all, the case cannot be considered notorious or evidence. The deceased did not act with the full knowledge of the existence of a danger that ordinary prudence would counsel him to avoid such a case. x x x"

The above doctrine is clearly applicable to the instant case.

In *A. L. Ammen Transportation Co., Inc. v. WCC, et al.*, No. L-20219, September 28, 1964, 12 SCRA 27, 30, the Supreme Court set down the conditions for compensability of death claims, as follows:

"Considering the philosophy behind the requirement that to be compensable the death must occur while the worker is performing some work in the course of his employment, the authorities are to the effect that to come

within the purview of such requirement, three things must concur: the injury must be received during the period covered by the employment; the worker must be shown to have been injured at the time and place where the performance of his work requires him to be; and the worker must have been doing something in pursuance of his work."

In the instant case, We hold and rule that the above conditions have been established and met.

Indeed, acts reasonably necessary to health and comfort of an employee while at work, such as satisfaction of his thirst, hunger, or other physical demands, or protecting himself from excessive cold, are incidental to the employment and injuries sustained in the performance of such acts are compensable as arising out of and in the course of the employment (58 Am. Jur. sec. 236, p. 742, citing numerous cases).

And further reviewing the decision appealed from in the light of the rule emphasized in Cuyno, Jr. vs. WCC, et al., No. L-44271, September 22, 1977, 79 SCRA 100, 106, declaring that when an employee dies in line of duty, or when actually at work as in this case, his death is presumed to be service-connected and is compensable and that when doubts on the cause and/or aggravating factors of illness of the claimant arise, they must be resolved in favor of the claimant and his heirs, the affirmance of the respondent Commission's judgment is clearly inevitable and justifiable.

The law presumes that a claim is compensable, absent substantial evidence to the contrary. So this Court has consistently and resolutely adhered to the doctrine that even where the cause of death is unknown, the right to compensation subsists, the underlying philosophy being that the Workmen's Compensation Act is a social legislation formulated in obedience to the social justice guarantee of the Constitution, its raison d'etre being to alleviate and ameliorate the plight of the workingman, and thus uplift the quality of life of the laboring class. And so, it has been reiterated in a long chain of workmen's compensation cases elevated to and resolved by this Court that the Workmen's Compensation Law should be construed fairly, reasonably and liberally in favor of and for the benefit of employees and their dependents and all doubts as to the right of compensation as well as all presumptions resolved in their favor.

WHEREFORE, IN VIEW OF THE FOREGOING, the decision under review is hereby **AFFIRMED**. No costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, and Melencio-Herrera, JJ., concur.

[1] Annex "A", Records, pp. 22-23.

[2] Annex "C", Records, pp. 28-32.

[3] Annex "C", Records, pp. 30-32.

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