

**ERENEO DE LA CRUZ, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION, REPUBLIC OF THE PHILIPPINES
(BUREAU OF PUBLIC HIGHWAYS), RESPONDENTS.**

G.R. No. L-43687. September 22, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review of the decision of the Workmen's Compensation Commission which reversed the decision of the Acting Referee of Regional Office No. VII of the Department of Labor.

Claimant entered the government service in 1934 at the age of 24. He worked as "caminero" with the Bureau of Public Highways at Aklan Engineering District with a salary of P0.60 a day, and continued working as "caminero" until June 30, 1973 when claimant retired at the age of 63, with a salary of P8.00 a day.

As a "caminero" claimant's work consisted of repair of roads within the province of Aklan to make the same passable at all times and at all seasons. He worked under the heat of the sun, exposed to the sun's heat, dust and dirt brought about by passing vehicles and rain. In January, 1973, claimant, together with other "camineros" while working, was drenched by rain and as a consequence claimant had fever and began coughing. He was treated at the Aklan Provincial Hospital from January, 1973 to May, 1973 as an Out-Patient under Dr. Judith Ibabao of the said hospital. He was also treated by Dr. Doriaco Icanina of Kalibo, Aklan who diagnosed his ailment as "Pulmonary Tuberculosis Far Advanced." In view of claimant's physical condition brought about by his sickness, he (could) not earn his living and had to be confined in his house, until he retired on June 30, 1975. His X-Ray picture showed that half of the total area of his lungs is damaged and beyond repair. His medical services and medicines amounted to P554.95.

The decision of the Workmen's Compensation Commission must be reversed. There is no question that claimant contracted his illness during the time of his employment with respondent Republic of the Philippines (Bureau of Public Highways). The finding of the Acting Referee of Regional Office No. VII of the Department of Labor that claimant Erenio dela Cruz contracted his present sickness in the course of his employment due to the nature of his job and consequently is entitled to sickness benefits is well supported with evidence. At any rate, all that Section 2 of the Workmen's Compensation Act requires as ground for compensation, among others, is that the employee contracts tuberculosis or other illness directly caused by such employment, or either aggravated by, or the result of the nature of such employment (*Tecla Magpantay, et al. vs. WCC, et al.*, L-43457, Oct. 26, 1976).

The fact that claimant had already reached his retirement age when he filed his claim, does not deprive the WCC of its jurisdiction to entertain the same. The compensation under Workmen's Compensation Act as amended is a liability vested by statute which prescribed in 10 years pursuant to Article 1144(2) of the Civil Code. And there is no showing that employer sustained damage as a result of the delayed filing of the claim (*Domingo Vallo vs. WCC, et al.*, L-41816, Oct. 19, 1976).

Moreover, respondent failed to seasonably controvert the claim, resulting in a waiver of non-jurisdictional

defenses.

WHEREFORE, THE JUDGMENT DECISION OF THE WORKMEN'S COMPENSATION COMMISSION IS HEREBY REVERSED AND RESPONDENT BUREAU OF PUBLIC HIGHWAYS IS DIRECTED:

A. TO PAY CLAIMANT.

(1) THE SUM OF FOUR THOUSAND NINE HUNDRED NINETY-TWO [P4,992.00] PESOS, THE MAXIMUM AMOUNT ALLOWED FOR A TOTAL DISABILITY BASED ON CLAIMANT'S DAILY WAGE OF P8.00;

(2) FIVE HUNDRED FIFTY-FOUR PESOS AND NINETY-FIVE CENTAVOS (P554.95) AS MEDICAL EXPENSES; AND

(3) ATTORNEY'S FEES EQUIVALENT TO TEN PERCENT OF THE RECOVERABLE AMOUNT;

B. TO PROVIDE THE CLAIMANT WITH SUCH SERVICES APPLIANCES AND SUPPLIES AS THE NATURE OF HIS DISABILITY AND THE PROCESS OF HIS RECOVERY MAY REQUIRE AND THAT WHICH WILL PROMOTE HIS EARLY RESTORATION TO THE MAXIMUM LEVEL OF HIS PHYSICAL CAPACITY; AND

C TO PAY SIXTY-ONE [P-61.00] PESOS FOR ADMINISTRATIVE FEES.

NO COSTS.

SO ORDERED.

Teehankee (Chairman), Muñoz Palma, Martin, Fernandez, and Guerrero, JJ., concur.

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