

**DONATO JEREZA, CLAIMANT-APPELLANT, VS. LUIS T. MONDIA
AND/OR WORKMEN'S INSURANCE COMPANY,
RESPONDENT-APPELLEE.**

G.R. No. L-42916. August 07, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review the decision of the Workmen's Compensation Commission which reversed the decision of the Workmen's Compensation Unit of Bacolod City and dismissed the petitioner's claim.

In Workmen's Compensation Unit Case No. 921 entitled "Donato Jereza v. Luis T. Mondia and/or Workmen's Insurance Company", the Workmen's Compensation Unit of Bacolod City rendered the following decision:

"A perusal of the records of this case reveals that Donato Jereza became sick with far advanced pulmonary tuberculosis which arose out of and in the course of his employment as wenchman of the respondent. The records further show that the claimant's right to compensation was not controverted by the respondent and as a matter of fact, it appears from the Employer's Supplementary Report (WCC Form No. 5) that the claimant had been paid some amount as advance compensation.

"Under the Workmen's Compensation Act, the following benefits should be extended to the claimant, as follows:

"1. Under Section 14 of the Act, he is entitled to compensation equivalent to sixty (60) percent of his average weekly wages during the period that he was totally incapacitated for labor. In this case, he was incapacitated for labor from April 29, 1972 to November 10, 1975 or 1290 days or 185-4/7 weeks. Sixty percent of his average weekly wages which was P48.00 equals P28.80 and for 185-4/7 weeks, the claimant is entitled to P5,344.46 as compensation.

"2. Under Section 18 of the Act, he is entitled to 90% NSD (far advanced PTB, permanent partial disability) according to the estimate of Dr. Hedy A. Gonzales, to fifty (50) percent of his average weekly wages for 187.2 weeks. Fifty percent of his average weekly wages which was P48.00 equals P24.00 and for 187.2 weeks, the claimant is entitled to P4,492.80 as compensation.

"WHEREFORE, judgment is hereby entered in favor of the claimant and the respondents are ordered:

"1. " To pay the claimant, the total sum of SIX THOUSAND (P6,000.00) PESOS minus whatever amount had been paid to the claimant as advance payment of compensation;

"2.

To Atty. Pedro Requieron, as counsel for the claim-ant, the sum of P300.00 as attorney's fees;

“3.

To this Office, the sum of P61.00 as administrative fees, pursuant to Section 65 of the Act, as amended.”

On appeal by the Workmen's Insurance Co., Inc., the insurer retained by private respondent Luis T. Mondia for his employees, the Workmen's Compensation Commission reversed the foregoing decision and ruled:

"Referee Demetrio P. Correa rendered a decision, granting the claimant disability compensation benefits in the total amount of P6,000.00. Respondent Workmen's Insurance Company Inc., filed a notice of appeal 'on grounds of errors of law and fact.' On the basis of this, this case is now before us for review.

"Respondent Luis T. Mondia does not dispute claimant's employment with it as wenchman for 2 years. The issue is whether the claimant, during his employment with the respondent, had contracted PTB resulting to his incapacity for work beginning June, 1972.

"The claimant claims to have stopped working in June, 1972, due to his alleged PTB. In support of this allegation, he submitted in evidence a physician's report, issued by Dr. Hedy A. Gonzales (Exhibit "A", page 20 of the record). There are no other medical proofs on record. Claimant's attending physician did not state in her report the basis of her diagnosis of the former's lung ailment. We have consistently held in previous cases, and we will not hesitate to hold so here, that mere physician's report, without the accompanying x-ray reading report, does not prove such an ailment as PTB. The claimant claims to have undergone treatment at the Doña Corazon Locsin Montelibano Memorial Hospital and that he was found afflicted with PTB. He could have submitted in evidence such finding to support the existence of the illness complained of. Without any explanation therefor, he failed to do this. It could be that if the same is produced, the effect is adverse to his course.

"In this particular case where the respondent assails the existence of the ailment complained of, the claimant should have presented substantial evidence to prove his claim. While he is not required to prove his case beyond the point of demonstration, the claimant should meet the required quantum of proof in the matter of proving his ailment. Along this score, the claimant has failed. This claim should be dismissed.

"WHEREFORE, the decision appealed from should be, as it is hereby REVERSED, and this case is hereby ordered dismissed for lack of merit."

Hence, this petition for review filed by Donato Jereza on February 13, 1976.

We rule in favor of the claimant-appellant.

It has been a well-entrenched and oft-repeated pronouncement of this Court that under the former Workmen's Compensation Act, once an illness supervened at the time of the employment, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by such employment. There is no question that this claim is covered by the old law, not the new Labor Code provisions.

The function of a presumption is to dispense with the need for proof. The burden to overthrow the presumption and to disconnect by substantial evidence, the injury or sickness from the employment, is laid by the statute at the door of the employer. (*Magalona v. Workmen's Compensation Commission and NASSCO*, 21 SCRA 1199)

It was, therefore, erroneous for the Workmen's Compensation Commission to require that the claimant should have presented additional and more substantial evidence to prove his claim. Moreover, patent from the records and the decisions below is the fact that Luis T. Mondia, claimant's employer, not only failed to controvert the claimant's claim but he also paid the latter advance compensation.

In an unbroken line of cases, we have held that when the employer does not controvert the claim of the employee for compensation, he is also deemed to have waived his right to interpose any defense, and he could not prove

anything in relation thereto. (Dangue v. Franklin Baker Co. and Workmen's Compensation Commission, 107 Phil. 1083, Delgado Brothers Inc. v. Workmen's Compensation Commission, 75 SCRA 343, and Mulingtapang v. Workmen's Compensation Commission, 80 SCRA 610, among others).

Thus, the compensability of the claim, its reasonableness and its validity are rendered beyond challenge. (La Mallorca v. Workmen's Compensation Commission and Zuñiga, 30 SCRA 613)

Where the employer not only did not file any opposition to the claim for compensation within the prescribed period, but admittedly paid compensation by reason of the accident, the compensability of the claim could no longer be disputed. (Bachrach Motors Co., Inc. v. Workmen's Compensation Commission, 99 Phil. 238) As to whether or not x-ray films or reports are needed to prove the veracity of the claim under the Workmen's Compensation Act, as amended, the case of Romero v. Workmen's Compensation Commission, 77 SCRA 482, 488) is applicable and relevant. Thus:

"Respondent Commission therefore erred in ignoring the aforesaid presumption when it ruled that with respect to petitioner's illness of pulmonary tuberculosis, the same 'x x x cannot be established by a mere physician's report. There should be an x-ray reading result in addition to this physician's report.' At any rate, that conclusion of the respondent Commission is erroneous. WE have already ruled that under Section 49 of the Workmen's Compensation Act, as amended, a medical report of an attending physician may be received as evidence and used as proof of the fact in dispute (Vallo v. Workmen's Compensation Commission, et al., L-41816, Oct. 29, 1976, citing the case of NDC v. Raymundo & Workmen's Compensation Commission, 19 SCRA 861, 864). In the instant case, the report of the attending physician was made part of the record and there was no showing that the same is false or erroneous. Likewise, WE have categorically ruled that an x-ray or some other laboratory report is not an indispensable prerequisite to compensation (Vallo v. Workmen's Compensation Commission, et al., supra, invoking Jacob v. Workmen's Compensation Commission, et al. 72 SCRA 575.)"

ACCORDINGLY, judgment is hereby rendered SETTING ASIDE the questioned decision of the Workmen's Compensation Commission. The decision of the Workmen's Compensation Unit of Bacolod City is REINSTATED with the MODIFICATION that attorney's fees are increased to SIX HUNDRED PESOS (P600.00). The administrative fee shall be paid to the Ministry of Labor and Employment.

SO ORDERED.

Makasiar, C.J., Teehankee, Concepcion, Jr., Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, De La Fuente, Cuevas, and Alampay, JJ., concur.

Aquino, J., no part.

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