

LUZON STEVEDORING COMPANY, PETITIONER, VS. HON. CESAREO DE LEON, COMMISSIONER OF THE WORKMEN'S COMPENSATION COMMISSION, AND TERESA JAVIER VDA. IKE GUZMAN, ET AL., RESPONDENTS.

G.R. No. L-9521. November 28, 1959

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

This is a petition to review on certiorari a decision of the Workmen's Compensation Commission, awarding compensation to some of the children of an employee who met death as a result of an accident arising out of and in the course of employment.

The facts are not in dispute and they are set forth in the decision of the Referee as follows:

"Teresa Javier Vda. de Gonzales is the widow of the late Maximino Gonzales, and Jovita, Antonio, Purificacion, Leonardo and Natividad, all surnamed Gonzales, are their children. Maximino Gonzales was a pre-war employee of the company (respondent). These facts are admitted by the respondent.

In the morning of October 14, 1941, while Maximino Gonzales was on board the ship 'S.S. Admiral' checking the cargoes that were then being unloaded in Pier 7, he met an accident by being hit by a box which dropped from a crane used in unloading the cargoes from the vessel. This caused him to fall into the hold of the said boat. His fellow workers carried him to the deck where he was fetched by an ambulance. But before the ambulance reached the hospital, he died.

"He was a checker of the respondent company before and at the time of the accident. After its occurrence, the widow was called by a representative of the company and was informed of her husband's accident and death, which caused her to faint. Due to the outbreak of the war, she was not able to file a claim for compensation. It was only in 1949, when she filed it, according to her, but the records show that the 'Notice of Injury and Sickness and Claim for Compensation' and her 'Affidavit' stating that she had not filed her claim within the prescribed period, both duly signed by her are both dated April 22, 1952.

"The deceased employee was earning P2.50 a day as checker of the respondent. Sometimes he worked overtime. There were times when he had no work for one or two days. Mrs. Teresa Javier Vda. de Gonzales had no income of her own during the lifetime of her husband, and together with their children, she was living with and dependent upon the deceased before and on the date of the accident. She does not remember the amount of burial expenses, but these expenses were met by voluntary contributions from his friends and co-workers.

"In the year 1949, Mrs. Teresa Javier Vda. de Gonzales went to the respondent to ask for help or any amount on account of the death of her husband and because she had many children. Through the arrangement of one Atty. Cirilo Tiongson of the company, she was given P200.00 as voluntary aid. This amount is evidenced by a voucher marked Exhibit 'A' for the claimant and Exhibit '1' for the respondent. The policy of the company is to help its former employees and their dependents. The respective ages of the children are shown by their

respective birth certificates marked Exhibits 'B', 'C', 'D' 'E' and 'F'."

On April, 22, 1952, claim for compensation was filed with the Workmen's Compensation Division,[1] Bureau of Labor, by the widow of the deceased employee on behalf of herself and their children. The petitioner company objected to the claim on the ground of prescription. The referee assigned to hear the case sustained the objection with respect to the widow and the eldest child, Jovita, but awarded compensation to the other children. The award having been confirmed by the Commissioner, the company brought the present petition for certiorari.

It is not disputed that the claim for compensation with respect to the widow and the eldest child (Jovita) is already barred. The only questions now for determination is whether the claim is also barred with respect to the other children—Antonio, Purificacion, Leonardo and Natividad—who, at the time of their father's death, were 11, 9, 6 and 3 years old, respectively.

Section 24 of the Workmen's Compensation Act provides:

"SEC. 24. Notice of the injury and claim for compensation.—No compensation proceeding under this Act shall prosper unless the employer has been given notice of the injury or sickness as soon as possible after the same was received or contracted, and unless a claim for compensation was made not later than two months after the date of the injury or sickness, or in case of death, not later than three months after death, regardless of whether or not compensation was claimed by the employee himself. Such notice may be given and such claim made by any person considering himself entitled to the compensation or by any other person in his behalf. In case medical, surgical, and hospital services and supplies have been furnished voluntarily by the employer, notice of the injury or sickness within the time limit above mentioned shall not be necessary, and if the employer has voluntarily made the compensation payments, the claim for compensation to be made within the time limits above established shall no longer be necessary."

This section establishes a condition precedent to the maintenance of any compensation proceeding under the Act. It requires previous notice of the injury or sickness as well as previous claim for compensation within a period fixed in either case. Non-compliance with that requirement bars recovery for compensation. However, the time limits provided for giving the notice for making the claim are, in the case of dependent minors and mentally incapacitated persons, subject to the qualifications contained in section 28 of the Act, which reads:

"SEC. 28. Limitation as regards minors and insane, persons.—None of the time limits provided for in this Act shall apply to a person mentally incapacitated or to a dependent minor so long as he has no guardian or next friend."

In the present case, the employer did not have to be notified of the injury and death of the employee because it already had knowledge of that fact, it appearing that it was a representative of the employer who notified the accident to the widow of the deceased. But as to the claim for compensation, it appears that this was not made within the three months fixed in section 24, and the earliest intimation of such claim was made only in 1949 when the widow asked the employer for financial help on account of the death of her husband. The question thus arises as to whether failure to make claim for compensation within three months after the employee's death is, even in the case of dependent minors, a bar to compensation proceedings under the Act. Resolution of this question depends upon the interpretation of the phrase "guardian or next friend" used in section 28.

It is contended for the petitioner company that the word "guardian" in the quoted phrase may refer to either a natural guardian or a legal guardian since no qualifying word is used, and that as the minor children had a natural guardian in the person of their mother the time limits provided in section 24 should apply to them. This contention cannot, in our opinion, be sustained. The said phrase as used in workmen's compensation laws in the United States is taken to mean "one authorized to maintain an action for and in the name of another who is non sui juris."

(Words and Phrases, Permanent Edition, Vol. 28 A, p. 204, citing Lockhart's Guardian vs. Bailey Pond Creek Coal Co., 30 S. W. 2d. 955, 957, 235 Ky. 278.) As the Workmen's Compensation Act Is patterned after similar legislation in the United States, we may assume, unless a contrary intention appears, that the terms used in that Act were intended to have the same signification as they had in the model legislation. Adopting* that same interpretation, the question for us now to determine is whether under our laws at the time the claim for compensation should have been made, the widow, as the natural guardian of the minor children, had authority to bring and maintain an action in behalf of the latter.

Under the law before the new Civil Code, the father, or in his absence, the mother, was the natural guardian of his or her minor children but was not their legal representative before the court and, unless appointed legal guardian, had no right to maintain an action in their behalf particularly with regard to the minors' properties, for the reason that natural guardianship did not extend to such properties. (Code of Civil Procedure, sees. 116, 117, 553, and 558; Palet vs. Aldecoa & Co., 15 Phil., 232; Pobre vs. Blanco, 17 Phil., 156; Gayondato vs> Treasurer of the Phil., Islands, 49 Phil., 244; Samian vs. Leus and Leus, 37 Phil., 967.) Not having the authority to represent her minor children in litigation, the mother, in the present case, as mere natural guardian, cannot be considered the "guardian or next "friend" of the minors within the meaning of the Workmen's Compensation Act.

There is, we think, good reason for interpreting the phrase "guardian or next friend" as referring only to "one authorized to maintain an action for and in the name of another who is non sui juris", for one not so authorized could hardly be counted upon to do whatever was needful that purpose or be held legally accountable for failure to do it. And to impute such failure to the legally incapacitated person or allow it to prejudice the latter would certainly defeat the intention of the Workmen's Compensation Act which is liberally .construed in favor of persons to" be benefited.

It may not be amiss to cite in this connection the case of Rosario, et al. vs. Manila Railroad Co. (22 Phil., 140), which was an action for damages for the death of defendant company's foreman caused by a collision between two of its cars. The action was brought by the widow of the deceased in her own behalf and as guardian ad litem of their dependent children. With the case pending in court, the widow signed a sworn statement admitting that her husband's death was due solely to his own fault; that the sum of P100 she and her children had children from the company was paid to them as a mere gratuity and as an indemnity; and that in view thereof, they considered the matter closed and would make no further claim. Thereafter, the action was dismissed as to the widow but continued as to the minor children and judgment was rendered in favor of the latter. In affirming that judgment, this Court held that "the mother, as such, or as the natural guardian of her minor children, can not in their name waive the right which legally pertains to them to claim damages, for there exists an express prohibition against the sale, cession of rights or compromise of the interests and property of minors by their parents without judicial authorization first had for the benefit of the said minors."

Conformably to the above, we hold that under the law prior to, the new Civil Code, the failure or neglect of the mother as a natural guardian of her minor children to present within the period provided in section 24 the claim for compensation, which is a property right, could not be imputed to the minors, and consequently, in the absence of a properly appointed guardian, the running of that period was tolled during their minority.

Of course, under the new Civil Code, the guardianship of the father or mother over children under parental authority extends to both the persons and the properties of their wards, albeit a bond has to be given, with court approval, where such properties are worth more than P2,000. (Arts. 320 and 326.) But the new Civil Code took effect only in 1950 and, as already stated, in 1949 the mother of the herein minor claimants asked the petitioner company for financial help on account of the death of her husband. As the essential function of presenting the claim to the employer is to appraise the latter of the employee's or his dependents' intention to assert their claim

and substantial compliance with the requirement is sufficient, petitioner should be considered as having such knowledge since 1949, and therefore the requisite claim to the employer should be deemed to have been made in that year. At that time all the four awardees were still minors and three of them—Purification, Leonardo and Natividad were still minors on April 22, 1952 when the present proceeding was filed in their behalf by their mother, who was appointed guardian ad litem during the hearing of the case. There can, therefore, be no question that the right of these three claimants is not barred by the statute.

As to the claim of Antonio, who had already reached the age of majority when the action was filed, it will be noted that prescription did not run against him during his minority because he had no legal guardian (*Wenceslao et al. vs. Calimon*, 46 Phil., 906) and he had two years after his disability was removed within which to bring his action (sec 45, Act No. 190). The action to recover compensation under the Workmen's Compensation Act is based on liability created by statute (*Cajes, et al. vs. Phil. Manufacturing Co.*, CA-G. R. No. 7286, May 16, 1941; *Pan Phil. Corp. vs. Workmen's Compensation Commission, et al.*, 101 Phil., 66), and prescribes in 6 years under the Code of Civil Procedure, or in 10 years under the new Civil Code. Considering that Antonio was only 6 months and 8 days past the age of majority when claim for compensation was filed on April 22, 1952 with the Bureau of Labor, and only 11 months and 6 days over that age when on September 1, 1952 the Workmen's Compensation Commission was completely organized and began to operate pursuant to Republic Act No. 772—not to mention that the obligations arising under the Workmen's Compensation Act are included in the operation of the Debt Moratorium Law (*Oching, et al. vs. Rodas, et al.*, 78 Phil., 846; 45 Off. Gaz. 209)—it is apparent that whether April 22, 1952 or September 1, 1952 be considered as the day when the present proceeding was commenced, his claim, likewise, cannot be said to have already prescribed.

Wherefore, the judgment awarding death benefits to claimants Antonio, Purificacion, Leonardo and Natividad Gonzales is affirmed, with costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Endencia, and Barrera, JJ., concur.

[1] Later absorbed into the Workmen's Compensation Commission created by Republic Act No. 772 and formally organized on September 1, 1952.'

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