

**CONRADO A. ZARAGOSA, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION, CALTEX (PHIL.) INC., AND THE
LIVERPOOL AND LONDON & GLOBE INSURANCE CO., LTD.,
REPRESENTED BY WISE & CO.,...**

G.R. No. L-32982. November 05, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

This petition for review seeks a modification of a decision of the now defunct Workmen's Compensation Commission granting a limited award to petitioner-claimant Conrado Zaragosa.

The petitioner was employed by private respondent Caltex (Phil.) Inc. from September 27, 1954, to November 2, 1965, as a laboratory tester in its refinery in Bauan, Batangas.

On September 28, 1965, he was found by the medical officer of Caltex, Dr. Jose Leviste, to be suffering from allergic or contact dermatitis. The test on the petitioner showed that he became distinctly reactive to cracked naphtha and benzene, hydrocarbons which he had been handling in his work for the past 11 years. Dr. Leviste recommended that direct contact with said hydrocarbons be avoided or minimized. From September 29, 1965, up to September 21, 1966, the petitioner was treated successively by Dr. Rosalina Rosete, Dr. Lourdes Atienza and Dr. Luis Torres.

On October 28, 1965, the petitioner requested transfer to another department, but Caltex denied the request, explaining that it had in fact an excess of personnel. Zaragosa was constrained to accept an offer for the termination of his services due to redundancy, for which he received the sum of P10,799.67 as cash separation settlement. He was already 47 years old at that time.

The petitioner subsequently filed a claim for compensation with the Regional Office No. 5 Workmen's Compensation Unit at San Pablo City against Caltex, and Liverpool and London and Globe Insurance Co. Ltd., the insurance carrier, represented by Wise and Co. Inc. as agent.

On January 11, 1967, Acting Referee Antonio Atienza rendered a decision, disposing as follows:

WHEREFORE, in view of the foregoing, respondents are hereby directed, jointly and severally:

1. To pay the claimant, through this Office, the sum of One Hundred Seventy-Eight Pesos and Thirty-Three Centavos (P178.33) as compensation, computed as follows:

"Compensation of 60% of his average weekly wage from October 15, 1965 to November 2, 1965, a period of 19 days, or 2-5/7 weeks. Sixty per centum of his average weekly wage which was P109.50 equals P65.70 and for 2-5/7 weeks he is entitled to P178.33."

2. To pay counsel for the claimant five per centum (5%) of the compensation due (P178.33 x .05) or Eight Pesos and Ninety-Two Centavos (P8.92) as attorney's fee under the provision of Section 31 of the Act;

3. To pay this Office the sum of Five Pesos (P5.00) as fee due the Workmen's Compensation Fund, under the provision of Section 55 of the Act;

4. To have the claimant examined immediately by a medical specialist at their expense and have him treated, also at their own expense, until his allergic dermatitis is pronounced cured and/or arrested.

SO ORDERED.

The petitioner appealed to the Workmen's Compensation Commission. He argued that he was entitled to compensation under Section 14 or 16 of the Workmen's Compensation Act, as well as to reimbursement of the doctors' fees and the cost of the medicines he had purchased.

In a decision dated October 28, 1970, Commissioner Paciano Villavieja affirmed the appealed decision except as to the amount of attorney's fees and the administrative fees, which were increased. The Commissioner said:

The first error raised by claimant's counsel cannot be sustained. We have reviewed the entire records and evidence and we fail to see whether the referee committed an error. Precisely, the compensation awarded the claimant in this case is based on Section 14 of the aforesated Act.

For clarity let us quote hereunder the said section of the Act, relied upon by appellant in his petition for review, in order to substantiate our stand.

"SEC. 14. Total disability. – In case the injury or sickness causes temporary total disability for labor the employer shall, during such disability, pay to the injured employee a weekly compensation equivalent to sixty per centum of his average weekly wage but not less than fourteen pesos per week, except in the case provided for in the next following paragraph. No compensation shall be allowed for the first three calendar days of incapacity resulting from an injury except the benefits provided for in the preceding section; but if the incapacity extends beyond that period, compensation shall be allowed from the first day of such incapacity. Such weekly payments shall in no case continue after the disability has ceased, nor shall the aggregate sum paid as compensation exceed in any case six thousand pesos. But no award of permanent disability shall take effect until after two weeks have elapsed from the date of the injury."

It is thus clear that the amount of compensation awarded in the decision under review is correct, having been computed on the basis of actual number of days or weeks wherein herein claimant was rendered totally but temporarily incapacitated to perform his work.

We find Section 16, invoked by claimant's counsel, inapplicable in this case since there is no partial disability for labor, as this term is understood in this section. Neither can Section 18 of the Act be invoked, because claimant does not suffer from any disfigurement of any kind, since his illness was found to be contact allergy. In other words, so long as claimant does not get in touch with those he used to handle in respondent's laboratory, there would be no reaction. (TSN, p. 30 hearing of Sept. 21, 1966). Likewise, according to one of claimant's doctors, Dr. Luis P. Torres, once the causative agent, the allergen, is avoided, the claimant is free from allergy. (TSN, P. 52, hearing of October 24, 1966).

Furthermore, record shows that on September 28, 1965, the claimant was found, by the medical officer of the respondent company to be suffering from "contact" or allergic dermatitis, hence he was treated by the company doctor on the same date. But claimant continued on working for respondent and only did stop working on October 14, 1965. He was on sick leave with pay from October 15, 1965 up to November 2, 1965 after which he elected to resign voluntarily due to "redundancy" and was thus paid a termination pay amounting to P10,799.67.

His then attending physician, Dr. Rosalina S. Rosette, affirmed the fact that claimant's temporary total disability for labor was only for 12 working days. (Exhibit B, or the Physician's Report). Said lady doctor

likewise declared that claimant was already well, so long as he is not in contact with chemicals such as "cracked naptha and benzene" (Exhibit B and C). In short, claimant cannot return to his former occupation, as laboratory tester of respondent's oil firm, as his illness will recur after contact with said chemicals (Exh. B).

It is, therefore, crystal clear that claimant's disability for labor has already ceased as early as October 28, 1965 when he personally presented himself to the respondent's management requesting that he be assigned to another work in respondent's company, meaning he is or was at that time able and willing to work. Unfortunately, respondent turned down his plea due to "redundancy" or excess of laborers performing the functions claimant wished to do. Instead, claimant was allowed to resign from the company and was granted all his monetary privileges due him upon retirement, effective November 2, 1965.

With respect to the claim for reimbursement of medical expenses the same cannot be allowed not being duly supported by corresponding receipts nor substantiated by the testimony of the attending physicians. (MRR Co. vs. M. Rivera, G.R. No. L-23021, May 29, 1968).

The motion for reconsideration having been denied on December 7, 1970, by the Commission en banc, the petitioner has come to this Court, alleging that:

1. The Workmen's Compensation Commission erred and abused its discretion in holding that your petitioner was rendered totally but temporarily incapacitated instead of totally and permanently incapacitated by his illness of contact or allergic dermatitis under Section 14 of the Workmen's Compensation Law.
2. The Workmen's Compensation Commission erred in not awarding to petitioner P6,000.00 compensation in addition to its order to respondents to have petitioner examined by a medical specialist and have him treated at their expense until his allergic dermatitis is pronounced cured and/or arrested.

There is no question that the petitioner's sickness is compensable. The public respondents had already ruled as much on the basis of the Employer's Report of Accident or Sickness that Zaragosa was suffering from "allergic dermatitis" due to "contact with petroleum products" while he was engaged in his "regular occupation." There was also the memorandum of Dr. Leviste to the personnel manager to the effect that the petitioner was "distinctly reactive to cracked naptha and benzene" and advising that direct contact with the said materials be avoided or minimized. Contact dermatitis is generally recognized as a compensable injury.[1]

The real problem is the amount of disability benefits to which the petitioner is entitled.

The public respondents held that the petitioner merely suffered a temporary total disability for labor during the period from October 15, 1965, to November 2, 1965, when he went on sick leave as advised in the Physician's Report of Sickness or Accident submitted by Dr. Rosalina Rosete. The petitioner contends, on the other hand, that his disability should be categorized as permanent total or that he should at least be awarded P6,000.00, the maximum benefits for temporary total disability.

In the cases of *Romero vs. WCC*,[2] *Gonzales vs. WCC*,[3] and *Corales v. ECC*,[4] this Court declared that:

Disability, as a basis for compensation, is the combination of partial or total physical incapacity and of inability to work, or inability to work with the same ease and competency as before the injury, or the loss, total or partial, of earning power from the injury. (Corpus Juris, Section 535, p. 813).

Disability is used either in the medical or physical sense, as evidenced by obvious loss of members or by medical testimony that the claimant simply cannot make the necessary muscular movements and exertions; it is used to mean de facto inability to earn wages, as evidenced by proof that claimant has not in fact earned anything.

This medical and wage-loss aspects of disability may be more clearly illustrated as follows: A claimant may

be, in a medical sense, utterly shattered and ruined, but may by sheer determination and ingenuity contrive to make a living for himself; conversely, a claimant may be able to work, in both his and doctor's opinion, but awareness of his injury may lead employers to refuse him employment.

The problem of the administrators of the Act is the proper balancing of these medical and wage-loss factors. An absolute insistence on medical disability in the abstract would produce a denial of compensation in the latter case, although the wage-loss is as real and as directly traceable to the injury as in any other instance. At the other extreme, "an insistence on the wage-loss as the test would deprive the claimant in the former illustration of an award, thus not only penalizing his laudable efforts to make the best of his misfortune but also fostering the absurdity of pronouncing a man non-disabled in spite of the unanimous contrary evidence of medical experts and of common observation" (Larson, Vol. II, p. 3).

In *Gonzaga vs. ECC*,^[5] we reaffirmed the *Corales Case* and again held that the Workmen's Compensation Act observes the wage-loss factor as basis for the granting of disability benefits.

It is not denied that the petitioner commenced employment at Caltex in 1954 as laboratory tester where he handled hydrocarbons. In that year, he contracted contact dermatitis, the allergen (cause of the allergy) being hydrocarbons. He was treated and was apparently cured. He continued working until his sensitivity to cracked naphtha and benzene again manifested itself on September 28, 1965, forcing him to stop working and go on sick leave from October 15, 1965, to November 2, 1965. Since his continued employment as laboratory tester would further impair his health, and because his request for transfer to another department was denied, he opted to resign and avail himself of separation compensation. After his resignation, he sought other employment but to no avail because of his age and lack of training in other work.

The public respondent's submission that the petitioner is only entitled to the amount of P178.33 as compensation equivalent to 60% of his weekly wage for 2-5/7 weeks is not sustainable. It loses sight of the significance of the petitioner's resignation, the cause of such resignation, and his ensuing continued unemployment. As a consequence of his ailment, the petitioner suffered a de facto inability to earn wages.^[6] And this was not because of lack of effort on his part to have himself re-employed but directly because of the allergic dermatitis which forced his resignation.

Where an employee is constrained to retire at an early age due to his illness and the illness persists even after retirement, resulting in his continued unemployment, such a condition amounts to total disability, which should entitle him to the maximum benefits allowed by law.^[7]

Accordingly, we hold that the petitioner should be allowed the maximum benefits of P6,000.00 under Section 14 of the Act (reproduced above), for temporary total disability. However, his claim for medical expenses should be, and was properly disallowed by the WCC, for lack of supporting receipts.

Conformably to the social justice policy and the constitutional mandate for the protection of labor, the Workmen's Compensation Act should be construed liberally in favor of the worker. This piece of social legislation was in fact enacted for his benefit, to provide him and his dependents with financial assistance when he is no longer able to earn a living as he used to because of the employment-related malady or accident that has afflicted him. The predicament of the petitioner falls squarely under the language and motivation of the benevolent law, and we see no reason why its solicitude should be withheld from him.

WHEREFORE, the decision of the Workmen's Compensation Commission is REVERSED and SET ASIDE and the private respondents are ordered:

1. To pay the petitioner the sum of Six Thousand Pesos (P6,000.00) as compensation benefits;

2. To provide claimant such medical and hospital services as required by the nature of his ailment, if it still persists;
3. To pay attorney's fees in the amount of Six Hundred Pesos (P600.00); and
4. To pay the Workmen's Compensation Commission the sum of Sixty-one Pesos (P61.00) as administrative fees.

SO ORDERED.

Narvasa, (Chairman), Feliciano, Griño-Aquino, and Medialdea, JJ., concur.

[1] 82 Am. Jur. 2d Workmen's Compensation 295, citing Thyer Mfg. Co. v. Mooney; 252 Miss. 629; 173 So 2d 652.

[2] 77 SCRA 482.

[3] 81 SCRA 703.

[4] 88 SCRA 547.

[5] 127 SCRA 443.

[6] Supra.

[7] Laginlin v. WCC, 159 SCRA 91 citing Aribon v. WCC, 139 SCRA 492.

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