

FELIXBERTO VILLONES, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION, GOVERNMENT SERVICE INSURANCE SYSTEM (DEPARTMENT OF EDUCATION AND CULTURE), RESPONDENTS.

G.R. No. L-46200. July 30, 1979

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review of the decision of the Employees' Compensation Commission affirming the decision of the GSIS Medicare ½ Employees' Compensation, which denied the claim of herein petitioner for income benefits in connection with the death of his son, the late Rolando M. Villones.

The records show that the late Rolando M. Villones was employed as a secondary school teacher in the Department of Education and Culture assigned at Dayhagan Barrio High School in Bongabon, Oriental Mindoro, from July 3, 1972 up to the time of his death on September 2, 1975 with a basic salary of P347.60 per month, plus P50.00 monthly allowance. He died of pulmonary tuberculosis. On December 23, 1975, the deceased's father and herein petitioner, filed with the Government Service Insurance System, in the prescribed form, a claim for income benefits for the death of his son under the provision of Presidential Decree No. 626, attaching thereto a xerox copy of the decedent's death certificate (see pages 1 & 4 of ECC Case No. 0137). On February 4, 1976, additional documents were submitted to the GSIS consisting of: (a) a medical certificate showing that deceased Rolando M. Villones was on sick leave of absence from December 4 to 20, 1972 due to influenza; (b) a medical certificate issued by Dr. Fernando B. Viloria, Municipal Health Officer of Bongabon, Oriental Mindoro certifying that he examined Rolando M. Villones on July 19, 1972 and found him to be physically and mentally fit for employment; and (c) a certification from the principal of Bongabon (South District), Oriental Mindoro to the effect that the actual duties of the deceased as secondary school teacher "were teaching secondary school subjects specifically the following: chemistry, science, history, and English. He also led students in some curricular work like green revolution projects, youth civic programs, and the like. Aside from these, he also did community work like helping in the organization of puroks and barangay youth clubs" (pp. 5, 6 and 8, ECC rec.).

On March 9, 1976, the GSIS Medicare-Employees' Compensation denied the claim on the ground that "the cause of your son's death, Pulmonary Tuberculosis, although listed as an occupational disease, has failed to satisfy other conditions in order to be compensable", stating further that:

"For Tuberculosis and its resulting disability or death to be compensable, the employee manifesting this disease should have an occupation involving close and frequent contact with a source or sources of tuberculosis infection by reason of employment: (a) In the medical treatment or nursing of a person or persons suffering from tuberculosis, (b) As a laboratory worker, pathologist or post-mortem worker, where occupation involves working with material which is a source of tuberculous infection. The nature of your son's duties as a Teacher as well as the working conditions of his employment did not expose him to the source or sources of tuberculous infection afore-mentioned" (p. 7, ECC rec.).

After petitioner's request for reconsideration of the denial of his claim was denied on June 10, 1976 by the GSIS Medicare-Employees' Compensation, the entire record of the case was elevated on September 2, 1976 to the Employees' Compensation Commission for review in accordance with the law and rules (pp. 12-15, ECC rec.).

On February 17, 1977, the Employees' Compensation Commission (En Banc) rendered its decision affirming the earlier denial made by the GSIS Medicare-Employees' Compensation of herein petitioner's claim for income benefits, pertinent portions thereof read as follows:

"Pulmonary Tuberculosis having been ruled out as an occupational disease in the occupation in which the deceased was engaged in, appellant is repudiating pulmonary tuberculosis as the cause of death. Appellant insisted that the Municipal Health Officer might have erred in indicating in the Death Certificate that his son died of Pulmonary Tuberculosis, there being no autopsy conducted. In other words, appellant would like to make it appear that hemoptysis which was the only visible sign immediately before the teacher's death, could have been due to other illness traceable to employment and not necessarily as a result of Pulmonary Tuberculosis.

"Be this as it may, a research has been made on the possible causes of hemoptysis. Medical studies show that blood-streaked sputum or gross bleeding coming from the respiratory tract may be caused by: (1) inflammable - inflam-matory causes are those of tuberculosis, extending in severity from the smallest amount to death from rapid exsanguination. Other common causes, mild or profuse, are bronchiectasis bronchitis, lung abscess or pneumonia; (2) Neoplastic-bronchogenic carcinoma or bronchial adenoma; (3) Vascular-mitral stenosis and pulmonary infarct, are the most frequent conditions associated with pulmonary hemorrhage. Other casues are left ventricular failure arteriovenous mal-formations, etc.; (4) Traumatic - such as foreign body or lung contusion; and (5) Hemorrhagic -Hemorrhagic diathesis or anti-coagulant therapy. (Principles of Internal Medicines by Harrison). All of the above causes of hemoptysis are neither related in any way to the nature of the duties of the deceased as a teacher, nor to his working conditions.

"As correctly ruled by the GSIS, the nature and conditions of the deceased's employment could have just aggravated his physical condition. Aggravation of a pre-existing illness is, however, no longer compensable under the present Employees' Compensation Program" (pp. 17-19, ECC rec. in ECC Case No. 0137).

WE find the petition meritorious.

In the case before US, it is undisputed that petitioner's son, the late Rolando M. Villones, who was employed on July 3, 1972 as a secondary public school teacher in Dayhagan Barrio High School in Bongabon, Oriental Mindoro, died on September 2, 1975, which was a working day. The cause of his death, according to the municipal health officer of Bongabon, Dr. Fernando B. Viloria, was PTB, hemoptysis (p. 2, ECC rec.).

The records reveal that the deceased, prior to his employment as a teacher, was physically and mentally fit to perform his duties (p. 5, ECC rec.). While employed as such teacher, he went on sick leave from December 4 to 20, 1972 (16 days). Dr. Fernando B. Viloria, who was his attending physician, diagnosed his sickness as "influenza" (p. 6, ECC rec.). Considering, however, the limited medical facilities in municipal health centers, it is possible that what was diagnosed as influenza was actually pulmonary tuberculosis in its incipient stage, which may not be easily detected by physical examination but by extensive x-ray. In the case of Batangas Transportation Co. vs. Perez and WCC (11 SCRA 793 [1964]) WE stated that: "x x x Tuberculosis is not an instantaneous disease, it is an imperceptible germ disease that feeds on the lungs whose presence in the body cannot be easily discerned and its incipient stage may not be readily discovered" (see also Bautista vs. WCC, L-43027, January 31, 1979; Lorenzo vs. WCC, 85 SCRA 440, 441 [1978], underscoring supplied).

By the very nature of tuberculosis, the deceased could not have instantly acquired such illness on September 2, 1975 and died as a result of that on the same day. And the observation of petitioner's counsel that "pulmonary

tuberculosis does not belong to that category of sickness which is instantaneously fatal to its victim upon contracting thereof, but takes months, if not years, before the person afflicted dies" is realistic as it is confirmed by several compensation cases that reached this Court (p. 5, Petition for Review, p. 11, rec.). Thus, in the case of Manila Railroad Company vs. Ferrer & WCC (109 Phil. 716 [1960]), the employee was found to be afflicted with a moderately advanced PTB on November 19, 1953 but he was able to continue working until a few months before he died of said illness on January 27, 1958, or a period of more than four (4) years from the time he contracted the disease. In Vda. de Calado vs. WCC (38 SCRA 567 [1971]), the employee was diagnosed to be suffering from advanced PTB on December 18, 1959 and died two and a half (2 ½) years later on June 4, 1962. In Lambino vs. Del Rosario (6 SCRA 1017 [1962]), the employee was found to be afflicted with a far advanced PTB in April, 1952 but he was able to work briefly up to the time of his death, by reason of said illness, on May 7, 1953, or after thirteen (13) months. In another case, the employee was treated for pulmonary tuberculosis from December, 1952 until he died of said illness on January 23, 1954 or thirteen (13) months later (National Development Company vs. WCC, 19 SCRA 861 [1967]). And in Manila Railroad Company vs. Vda. de Chavez (12 SCRA 142 [1964]), the employee was confined in the hospital from November 22 to December 2, 1956 for PTB, after which he was able to work briefly only to be confined again, and he died of the aforesaid illness on August 10, 1957 or nine (9) months later.

Considering, therefore, the undisputed nature of the deceased's employment as certified by the principal of Bongabon (South District); and in addition, the fact that he had plenty of homework to do after his regular working hours such as preparing the lesson plans for the next day's classes, correcting test papers and making various school reports and in doing all these, he would usually stay up late at night; that with a meager monthly pay of P397.60, with his parents, a sister, and two (2) brothers depending on him for support, he could barely afford to buy and eat good food; and that as such teacher, it becomes inevitable for him to be in constant contact with students and other types of people who may be afflicted with PTB, which is a highly communicable disease, it is not surprising that he should contract tuberculosis, so that from December 4 to 20, 1972, only five (5) months after he was employed as a teacher, he was forced to go on sick leave by reason of the aforesaid illness. When he was able to resume work, he was again exposed to the same working conditions thus aggravating his illness until he suddenly died on September 2, 1975 of severe hemoptysis due to PTB as certified by Dr. Fernando B. Vilorio.

It has been clearly shown that the deceased did not only engage in teaching such academic subjects as chemistry, science, history and English but he was also assigned to such co-curricular courses like green revolution projects, youth civic action programs (YCAP), and in such other community works as helping organize purok and barangay youth clubs.

And as noted in the decision of the Employees' Compensation Commission, one of the causes of hemoptysis - a condition which includes both blood-streaked sputum or gross bleeding coming from the respiratory tract - is tuberculosis, extending in severity from the smallest amount to death from rapid exsanguination (pp. 17-19, ECC rec.).

Likewise, in her findings submitted to the Employees' Compensation Commission, Dr. Mercia C. Abrenica, a medical officer of the Employees' Compensation Commission, stated that of the inflammatory causes of hemoptysis, tuberculosis is still the major cause, and that while PTB is the most probable diagnosis in the instant case, it can be considered occupational only when the occupation involves exposure to source or sources of tuberculosis infection (p. 10, ECC rec.).

Consequently, in the instant case, the cause of action accrued as early as December 4, 1972 when the late Rolando Villones contracted his illness and continued to run until September 2, 1975 when he died by reason thereof;

hence, the cause of action accrued before the effectivity of the New Labor Code. And WE ruled in *Corales vs. ECC, et al.* (L-44063, February 27, 1979) that the governing law in the prosecution of the cause of action which accrued prior to the effectivity of a new law on the same subject matter, shall be the law in force at the time of the accrual of said cause of action. Since the Workmen's Compensation Act was then in full force and effect, then it should govern in the case at bar. It is based on the principle that

"Rights accrued and vested while a statute was in force ordinarily survive its repeal.

"The repeal of a statute does not operate to impair or otherwise affect rights which have been vested or accrued while the statute was in force. This rule is applicable alike to rights acquired under contracts and to rights of action to recover damages for torts. Where a new statute continues in force provisions of an old statute, although in form it repeals them at the moment of its passage, a right of action created by the old statute is not thereby destroyed x x x" (82 CJS 1010).

It must be pointed out that as early as December 4 to 20, 1972, the deceased Villones was already entitled to disability benefits under Section 14 of the Workmen's Compensation Act, as amended, because his illness prevented him from reporting to his work for more than three (3) days; and under such a situation, his employer (Department of Education and Culture) was obligated under Section 37 of the same Act to file a notice of illness with the Workmen's Compensation Commission and to manifest its intention of whether or not to controvert his right to compensation. There is no showing that respondent employer has complied with its duty under Sections 37 and 45 of the Workmen's Compensation Act, as amended, of filing with the Workmen's Compensation Commission a notice of the initial illness of its employee, Rolando Villones, as well as his subsequent death on September 2, 1975, and of controverting the right to compensation within the prescribed period of fourteen (14) days from the occurrence of the disability or death, or within ten (10) days from knowledge thereof.

It cannot be denied that respondent employer had knowledge of the illness of the deceased Villones because he applied for sick leave from December 4 to 20, 1972 which presumably was acted upon by his principal and/or supervisor, they being his immediate superiors (*Gallemit vs. Republic*, 75 SCRA 382, 383, 385, 386 [1977]). Likewise, respondent employer had knowledge of the subsequent death of Rolando Villones on September 2, 1975 because he died on a regular working day; hence, the fact of death could not have escaped the notice or knowledge of the principal and/or supervisor. Such knowledge of the illness and death of Rolando Villones by the principal and/or supervisor, being agents of the respondent employer, is deemed in law as knowledge of the respondent employer, which is sufficient to charge it with its duty under Sections 37 and 45 of the Workmen's Compensation Act, as amended (*Gallemit vs. Republic*, supra; *MRR vs. WCC*, 10 SCRA 41 [1964]; *MRR vs. Vda. de Oliveros*, 2 SCRA 665 [1961]). WE have repeatedly ruled that failure to comply with said sections constitutes a renunciation of the employer's right to controvert the claim, resulting in the waiver of all its non-jurisdictional defenses, such as the non-compensability of the claim (*Paraiso vs. Castelo-Sotto*, 85 SCRA 419 [1978]; *Republic vs. WCC*, 85 SCRA 107 [1978]; *Lamco vs. WCC*, 84 SCRA 401 [1978], and *Cañonero vs. WCC*, 81 SCRA 712 [1978]).

Moreover, this Court, in consistently holding that the disease of tuberculosis is an occupational disease or work-connected in such occupations as that of a teacher, laborer, driver, land inspector and such other occupations, hence compensable, aptly stated and WE quote: "Medical science has it that tuberculosis as an ailment is latent in man regardless of his age, sex and occupation. When given favorable conditions, this disease becomes active and prominent. Some of these favorable conditions are: too much physical exertion without the corresponding rest; exposure to excessive heat and cold; lack of good food as to weaken the body constituents and contact with people suffering from tuberculosis x x x" (*Corales vs. ECC*, supra).

It is heartening to note that the ECC, in its Resolutions Nos. 233 and 432, respectively dated March 16, 1977 and

July 20, 1977, adopted a more compassionate construction of the otherwise restrictive provisions of the new Labor Code (PD No. 442, as amended by PD Nos. 570-A, 626, 643, 823, 849, 850, 865-A, 891, 928, 1389) by including in the list of compensable ailments and diseases, cardiovascular disease which comprehends myocardial infarction, pneumonia and bronchial asthma (*Sepulveda vs. ECC, et al.*, L-46290, Aug. 25, 1978).

Finally, the grant of compensation benefits to herein petitioner will not be impaired even if he (petitioner himself) entertains doubts as to the real cause of the death of his son when he stated that no autopsy was made nor was there anybody who actually examined the deceased prior to or after his death. At any rate, as aforesaid, pulmonary tuberculosis is concededly one of the causes of hemoptysis. Even unexplained deaths, the occasion and circumstances of which are unknown or undetermined, are usually deemed compensable, as long as there is some basis in the facts for inferring a work-connection, a causal relation between the death and the employment (*Mulingtapang vs. WCC*, 80 SCRA 610 [1977]; *Castro vs. WCC*, 75 SCRA 179 [1977]; *ITEMCOP vs. Florzo*, 16 SCRA 2104 [1966]). And, in case of doubt in the implementation and interpretation of the provisions of the Labor Code, including its implementing rules and regulations, the same shall be resolved in favor of the laborer (Art. 4, PD No. 442, as amended; Art. 1702, New Civil Code).

WHEREFORE, THE DECISION OF RESPONDENT EMPLOYEES' COMPENSATION COMMISSION IS HEREBY SET ASIDE AND THE GOVERNMENT SERVICE INSURANCE SYSTEM IS HEREBY ORDERED

1. TO PAY HEREIN PETITIONER THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS DEATH BENEFITS;
2. TO REFUND PETITIONER'S MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS;
3. TO PAY PETITIONER BURIAL EXPENSES IN THE AMOUNT OF TWO HUNDRED (P200.00) PESOS;
4. TO PAY PETITIONER SIX HUNDRED (P600.00) PESOS AS ATTORNEY'S FEES; AND
5. TO PAY ADMINISTRATIVE COSTS.

SO ORDERED.

Teehankee, (Chairman), Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

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