

PEDRO ELEGADO, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND THE UNITED BUS LINE, RESPONDENTS.

G.R. No. L-44762. June 29, 1979

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review of the decision of the Workmen's Compensation Commission dated December 29, 1975, which reversed the award of Regional Office No. 4 of the Department of Labor.

It appears from the records that claimant Pedro Elegado was employed as a regular bus driver of respondent United Bus Line. Sometime in October, 1971 he contracted illness in the course of his employment described as PTB, rheumatism and peptic ulcer. On September 15, 1973, he stopped working due to his illness. Despite due notice, respondent United Bus Line did not file an employer's report nor controvert the claim of herein petitioner; for which reason an outright award was issued by Regional Office No. 4 of the Department of Labor, ordering respondent to pay (1) claimant the sum of P2,184.00 as compensation, and (2) P22.00 as administrative fee. This award was, however, reversed by the Workmen's Compensation in its decision which reads:

"It appears in the notice and claim filed on May 31, 1974, that the claimant was employed by the respondent as driver. On September 15, 1973, he stopped working, due to an illness diagnosed as 'PTB far advanced, peptic ulcer and rheumatism,' by Dr. Pastora R. Zacarias.

"Despite due notice, respondent did not file an Employer's Report and its controversion required by law. This patent defect operates as a waiver of its right to present non-jurisdictional defenses, as well as to challenge the claimant's right to compensation under the law, in a claim compensable per se.

"However, the claim anchored on a service-connected PTB failed to show its credibility. The only medical proof on records is a Physician's Report purporting to show that claimant is allegedly suffering from PTB, but sad to state, the same is not corroborated by any laboratory report or chest x-ray examination to prove that claimant is really suffering from PTB on or before he stopped working on September 15, 1973.

"The award, whose only foundation is the respondent's failure to file an Employer's Report prescribed by law, is of no moment, since it cannot make the claim compensable in the absence of substantial evidence required by the rules of the Commission. Therefore, we are constrained to reverse the award on appeal, for lack of merit."

This decision must be reversed. The uncontroverted physician's report of sickness submitted by Dr. Pastora R. Zacarias, the physician of the Department of Labor, who treated and examined petitioner, diagnosed the illness of Pedro Elegado as PTB advanced, peptic ulcer and rheumatism. According to said medical report, petitioner lost 100% of his body use and he can do only light but not gainful work. In other words petitioner incurred permanent total disability.

The illness of petitioner occurred during the period of his employment with respondent, giving rise to the

presumption that it was caused or aggravated by his work. This presumption has not been rebutted by respondent. The nature and condition of his work as bus driver, exposed to the polluted air of the dusty road, heat, cold, and changes of weather conditions, with no fixed time to eat, certainly weakened his body resistance and made him susceptible to illness.

By its failure to seasonably controvert the claim the respondent cannot invoke any non-judicial defense.

The claim of respondent bus line that it is not a corporation, a juridical or natural person or an entity authorized by law to sue and be sued is without merit. It may be true that the name United Bus Line is merely a trade or business name of public utility buses operated by JAR Silva, Inc.. United Bus Line is the extension of the personality of its operator, which should not escape liability by the simple expedience of its utilizing a different trade or business name. The judgment against the United Bus Line is a judgment against its operator.

WHEREFORE, THE DECISION OF THE RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY REVERSED AND RESPONDENT UNITED BUS LINE OR ITS OPERATOR JAR SILVA, INC. IS HEREBY ORDERED

- (1) TO PAY PETITIONER PEDRO ELEGADO THE AMOUNT OF SIX THOUSAND PESOS [P6,000.00] AS DISABILITY COMPENSATION;
- (2) TO REIMBURSE PETITIONER ALL HIS MEDICAL AND HOSPITAL EXPENSES; AND
- (3) TO PAY SIXTY-ONE PESOS [P61.00] AS ADMINISTRATIVE FEE.

SO ORDERED.

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

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