

**ATANACIA M. CALING, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES
(PROVINCIAL AUDITOR'S OFFICE, PROVINCE OF NUEVA
ECIJA), RESPONDENTS.**

G.R. No. L-43209. May 31, 1977

Ponente: MARTIN, J.

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MARTIN, J.:

Petition for review of the decision of the Workmen's Compensation Commission affirming the dismissal letter of the Chief, Workmen's Compensation Commission Unit, Regional Office No. III, Department of Labor, of the claim for death benefits filed by the petitioner in RO3-WCC Case No. 10532.

Jose Caling, the deceased husband of the petitioner, during his lifetime was employed as Section Chief in the Provincial Auditor's Office, Province of Nueva Ecija, with an average weekly salary of P110.00. During the time of his employment, he contracted an illness which was diagnosed by his attending physician as myocardial infarction for which he was treated at the Nueva Ecija General Hospital. However, he succumbed to said illness on December 23, 1971.

On June 23, 1974 or about two years thereafter, petitioner filed a claim for death benefits (WCC Form No. 4) with Regional Office No. III of the Department of Labor at San Fernando, Pampanga, attaching therewith, the Physician's Report of Sickness or Accident and her affidavit of dependency (WCC Form No. 7).

On June 17, 1974, the respondent Republic of the Philippines (Provincial Auditor's Office, Province of Nueva Ecija) thru the office of the Solicitor General, was required by the Regional Office of the Department of Labor to accomplish and submit within ten (10) days the Employer's Report of Accident or Sickness. However, this requirement was not complied with. In the meantime, no schedule of hearing was set for the case.

On November 11, 1975, the Chief, Workmen's Compensation Unit, RO3, issued a letter stating that the claim of petitioner is being dropped from the calendar of activities of said office. On December 1, 1975, petitioner filed a motion for reconsideration of the letter of dismissal. Because of said motion, the entire record of the case was elevated to the Workmen's Compensation Commission for review.

On January 14, 1976, the Workmen's Compensation Commission rendered its decision the dispositive portion of which, reads:

"WHEREFORE, the dropping of the instant case from the calendar of the Regional Office should be, as it is hereby AFFIRMED. The claim is dismissed for lack of merit."

Petitioner now assails said decision contending that:

1. The Chief, Workmen's Compensation Unit, Regional Office No. III, in his letter dismissal dated November 11, 1975 and the Workmen's Compensation Commission in its decision dated January 14, 1976, which

affirmed the letter dismissal, seriously erred and committed grave abuse of discretion amounting to lack of jurisdiction when they decided the case without hearing and notice, hence, depriving herein petitioner her constitutional right to due process of law.

2. The Chief, Workmen's Compensation Unit, Regional Office No. III and the Commission seriously erred and committed grave abuse of discretion amounting to lack of jurisdiction in dismissing petitioner's claim being contrary to law and evidence on record.

We find merit in the claim of the petitioner. To begin with, the dismissal of petitioner's claim by the Regional Office of the Workmen's Compensation Commission on the ground that it was filed after the lapse of two years from the death of her husband is erroneous. While it is true that under Section 24 of the Workmen's Compensation Act a claim for compensation shall be made not later than three months after death, nevertheless, a delay in the filing of the claim is considered as a non-jurisdictional defect unless it is shown that the employer has been prejudiced thereby.[1] In the case of *Operators vs. Cacatian*[2] this Court speaking through Justice Fernando, said:

"It is much too late in the day to complain about the long delay in instituting the claim here of seven years. This court in 1965 categorically declared that failure to file a claim within the statutory period does not affect the jurisdiction of the Workmen's Compensation Commission (*Manila Railroad Co. vs. Perez*, L-21071, June 29, 1965). Such a doctrine found mention in a 1968 decision, *Pampanga Sugar Mills vs. Vda. de Espeleta* (22 SCRA 325), citing two cases decided the year before (*Nat. Dev. Co. vs. Ayson*, 20 SCRA 192 and *Nat. Dev. Co. vs. Rongavilla*, 20 SCRA 1172). In the first, it took the claimant eight years and in the second, nine years before the right to compensation was sought to be enforced. Its non-jurisdictional character was stressed anew in *Victorias Milling Co., Inc. vs. Workmen's Compensation Commission*, announced less than two months later (22 SCRA 1215). To the same effect are later cases likewise of 1968 vintage (*Surigao Consolidated Milling Co. vs. WCC*, 23 SCRA 820; *Manila Railroad Co. vs. Rivera*, 23 SCRA 922; *San Miguel Brewery vs. Vda. de Joves*, 23 SCRA 1093). We have had occasion this year to rule similarly (*Victorias Milling Co. vs. Dadivas*, 27 SCRA 413)."

The ruling in the case of *Pioneer Ceramics vs. Samia*,[3] likewise, bears the same effect. Since there is nothing in the record to show the contrary, We see no possible prejudice that could have been suffered by the respondent Republic due to the late filing of petitioner's claim. The circumstances do not warrant its dismissal.

In its decision, the Workmen's Compensation Commission went further by stating that the dismissal of petitioner's claim should be affirmed as the only evidence submitted by the latter is the attending physician's report which is not verified and therefore, not a convincing proof that the sickness which caused the deceased's death is service connected. We disagree. Under Section 1, Rule 12 of the Rules of the Commission in relation to Section 49 of the Workmen's Compensation Act, "reports of attending and/or examining physicians and hospital records in relation to the case", among others, constitute admissible evidence provided the other party shall be given the opportunity to examine and rebut the same by further evidence (Sec. 2, Rule 12, *supra*). Moreover, notwithstanding the failure to submit them formally as such, they may still be considered as evidence provided that they were previously submitted with the claim and already part of the record.[4] Hence, the non-verification of the physician's report is not such a fatal defect as would totally make the same devoid of evidentiary value. In the case at bar, no evidence was ever presented by the respondent Republic rebutting the physician's report submitted by the petitioner with the claim. The physician's report shows that the deceased, Jose Caling, died of myocardial infarction and at the time of his death, he was still in the service of the respondent Republic. The only issue then that remains to be resolved is whether or not the illness that caused the death of petitioner is service connected. Well settled is the rule that once the illness has supervened in the course of employment, there exists a rebuttable presumption[5] that the same arose out of or was at least aggravated by such employment and the burden to overthrow said presumption shifts to the employer.[6] It is undisputed that Jose Caling died of an illness that supervened during

the time of his employment. The presumption therefore, of causation or aggravation prevails in the premises considering that herein respondent Republic of the Philippines as employer, failed to discharge the burden of overthrowing the same by not presenting any evidence to the contrary. Besides, the Workmen's Compensation Act being a social legislation should be liberally construed in favor of and for the benefit of employees and their dependents and all doubts as to the right of compensation resolved and all presumptions indulged in their favor.[7]

WHEREFORE, judgment is hereby rendered reversing that of the respondent Workmen's Compensation Commission and awarding to the petitioner the sum of P6,000.00, as death compensation benefits, P200.00 as burial expenses; to her lawyer P600.00 as attorney's fees and P61.00 as administrative fee.

No pronouncement as to costs.

SO ORDERED.

Teehankee, Makasiar, Antonio, and Muñoz Palma, JJ., concur.

[1] Central Azucarera Don Pedro vs. WCC, L-24987, July 31, 1968; NDC vs. WCC, L-14936, April 20, 1964; Century Ins. Co. vs. Fuentes, L-16039, Aug. 31, 1961.

[2] L-26173, Oct. 31, 1969.

[3] L-28719, June 23, 1970.

[4] Ang Tibay vs. CIR, 40 O.G. 7th. Supp. 29.

[5] SEC. 44. Presumption. - In any proceeding for the enforcement of the claim for compensation under this Act, it shall be presumed in the absence of substantial evidence to the contrary -

1. That the claim comes within the provisions of this Act;

x x x x x

[6] Pros vs. WCC, L-43348, Sept. 29, 1976, citing Magalona vs. WCC, 21 SCRA 1199, citing Itemcop vs. Florzo, L-21969, Aug. 31, 1966; Vda. de Acosta vs. WCC, L-19772, Oct. 31, 1964; Maria Cristina Fertilizer Co. vs. WCC, 60 SCRA 228; Talip vs. WCC, L-42575, May 31, 1976; Mercado vs. WCC, L-42451, July 30, 1976; Reynaldo vs. Republic, L-43108, June 30, 1976; Simon vs. Republic, L-42510, June 30, 1976; Abana vs. Quisumbing, L-21849, March 27, 1968; Justiniano vs. WCC, L-22774, Nov. 21, 1966, citing Agustin vs. WCC, L-19957, Sept. 29, 1964; Cabinta vs. WCC, L-42639, July 30, 1976; Galang vs. WCC, L-41893, Aug. 27, 1976; Camarillo vs. WCC, L-42831, Oct. 21, 1976.

[7] Francisco vs. Consing, 63 Phil. 354; Vergara vs. Pampanga Bus Co., 34 O.G. 635; Caro vs. Rilloraza and WCC, L-1969, Sept. 30, 1957; Bautista vs. Murillo, L-13374, January 31, 1962; Madrigal Shipping Co. vs. Melad, L-17362, L-17367-69, February 13, 1963.

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