

ALFONSO ESGUERRA, PETITIONER, VS. HON. CECILIA MUÑOZ PALMA, AS JUDGE OF THE COURT OF FIRST INSTANCE OF LAGUNA, FLORA GUILATCO, DR. DOMINADOR GESMUNDO AND FRANKLIN BAKER COMPANY ...

G. R. No. L-11983. September 24, 1958

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

This is a petition for certiorari taken against an order of the Court of First Instance of Laguna (Branch III, presided by Judge Cecilia Muñoz Palma) ordering the dismissal of the action for damages (Civil Case SP-47) filed against the defendants-appellees.

The facts involved are not controverted. The appellant, Alfonso Esguerra (plaintiff in the court below), was regularly employed as a sheller by the Franklin Baker Company. On April 13, 1956, while doing his work, Esguerra felt an unusual pain in the waist. Tormented by the pain and unable to withstand it, he repaired to the company medical clinic for consultation. There he was examined by the company physician, Dr. Gesmundo, who prescribed an injection of the drug irgapyrine. Pursuant to the doctor's instructions, the clinic nurse, Flora Guilatco, administered the injection in the patient's right arm. Right afterward, the arm became swollen, compelling Esguerra to enter the hospital, where he was confined for eight months, until December, 1956.

On June 21, 1956, Esguerra filed a claim for permanent partial loss of the use of his right arm with the Workmen's Compensation Commission (Case No. 44549). While these proceedings were pending, Esguerra initiated the instant case in the Court of First Instance, to recover compensatory as well as moral and exemplary damages from Dr. Dominador Gesmundo and nurse Flora Guilatco, and to hold the employer Franklin Baker Co. subsidiarily liable. Upon motion, the trial court dismissed the action for lack of jurisdiction, declaring that the case fell under the exclusive jurisdiction of the Workmen's Compensation Commission.

Plaintiff, unable to have the dismissal reconsidered, resorted to this Court, praying for a writ of certiorari to review the order of the court below.

It is petitioner's stand that the availability of a remedy under the Workmen's Compensation Acts does not preclude him from seeking damages, moral and exemplary, under the new Civil Code from the persons who directly caused his injury.

The remedies of the injured employee against a tortfeasor other than the employer is governed by section 6 of the Compensation Law (Act 3812 as amended by Republic Act No. 772), that provides:

"SEC. 6. Liability of third parties.—In case an employee suffers an injury for which compensation is due under this Act by any other person besides his employer, it shall be optional with such injured employee either to claim compensation from his employer, under this Act, or sue such other person for damages, in accordance with law; and in case compensation is claimed and allowed in accordance with this Act, the employer who paid

such compensation or was found liable to pay the same, shall succeed the injured employee to the right of recovering from such person what he paid: Provided, That in case the employer recovers from such third person damages, in excess of those paid or allowed under this Act, such excess shall be delivered to the injured employee or any other person entitled thereto, after deduction of the expenses of the employer and the costs of the proceedings. The sum paid by the employer for compensation or the amount of compensation to which the employee or his dependents are entitled under the provisions of this Act, shall not be admissible as evidence in any damage suit or action."

From the text quoted, the following propositions can be inferred:

- (1) Since the injured employee has a choice to either look to his employer for compensation or proceed against the tortfeasor by ordinary action for damages, then, following the ordinary rules of election of remedies, he can not pursue both courses of action simultaneously.
- (2) That if compensation is claimed and awarded, and the employer pays it, the employer becomes surrogated to and acquires, by operation of law, the worker's rights against the tortfeasor; thereafter the work can no longer proceed against the latter.

As applied to this case, petitioner Esguerra can not maintain his action for damages against the respondents (defendants below), because he has elected to seek compensation under the Workmen's Compensation Law, and his claim (case No. 44549 of the Compensation Commission) was being processed at the time he filed this action in the Court of First Instance. It is argued for petitioner that as the damages recoverable under the Civil Code are much more extensive than the amounts that may be awarded under the Workmen's Compensation Act, they should not be deemed incompatible. As already indicated, the injured laborer was initially free to choose either to recover from the employer the fixed amounts set by the Compensation Law or else, to prosecute an ordinary civil action against the tortfeasor for higher damages. While perhaps not as profitable, the smaller indemnity obtainable by the first course is balanced by the claimant's being relieved of the burden of proving the causal connection between the defendant's negligence and the resulting injury, and of having to establish the extent of the damage suffered; issues that are apt to be troublesome to establish satisfactorily. Having staked his fortunes on a particular remedy, petitioner is precluded from pursuing the alternate course, at least until the prior claim is rejected by the Compensation Commission. Anyway, under the proviso of Section 6 aforequoted, if the employer Franklin Baker Company recovers, by derivative action against the alleged tortfeasors, a sum greater than the compensation he may have paid the herein petitioner, the excess accrues to the latter.

Petitioner also avers that compensation is not damages. This argument is but a play on words. The term "compensation" is used in the law (Act 3812 and Republic Act 772) in the sense of indemnity for damages suffered, being awarded for a personal injury caused or aggravated by or in the course of the employment. Altho computed on the basis of the weekly wage, such "compensation" is not the wage itself, since "compensation" is payable even after the death of the worker. Certainly, the Compensation Acts did not operate to prolong a contract of employment beyond the lifetime of the worker, and entitle him to wages even after his death.

That the petitioner's claim is within the coverage of the Workmen's Compensation Act is hardly disputable. Sec. 1 of the Act specifies that:

"the right to compensation as provided in this Act shall not be defeated or impaired on the ground that the death, injury or disease was due to the negligence of a fellow servant or employee, without prejudice to the right of the employer to proceed against the negligent party." (emphasis supplied)

Being a compensable injury, it lies within the jurisdiction of the Workmen's Compensation Commission to adjudicate the corresponding indemnity; and the authority is exclusive, once it has attached.

"Republic Act No. 772 is very clear that on and after June 20, 1952 all claims for compensation shall be decided exclusively by the Workmen's Compensation Commissioner, Subject to appeal to this Supreme Court" (Castro vs. Sagales, 50 Off. Gaz. (No. 1) p. 94; 94 Phil., 208.)

And this Court, through Mr. Justice Bengzon, in *Manalo vs. Foster Wheeler Corp., et al*, 52 Off. Gaz. (No. 5) 2514, 98 Phil., 885 has ruled as follows:

"We are of the opinion that the law has been properly applied. It being quite clear, there is no possibility of interpreting it—as appellant has tried to do—in the sense that 'where claims for compensation have already been filed with the Workmen's Compensation Commission, no further claims for the same injury may be filed under either the New Civil Code or other laws.'

The Legislature evidently deemed it best, in the interest of expediency and uniformity, that all claims of workmen against their employers for damages due to accidents suffered in the course of employment shall be investigated and adjudicated by the Workmen's Compensation Commission, subject to the appeal the law provided."

No error was, therefore, committed in dismissing the action as not legally maintainable.

Another reason for denying the remedy sought here is the procedural point that even if the order of the court below were erroneous, certiorari is not the proper remedy to correct it. The order dismissing the action was final, and not interlocutory, in nature; hence, the proper course for petitioner was to appeal it in due time.

The petition for certiorari is dismissed, and the order complained of is affirmed, with costs against petitioner. So ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Endencia, and Felix, JJ., concur.

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