

TERESITA VDA. DE TORRES, PETITIONER, VS. WARNER BARNES & CO., INC., AND WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. L-42654. February 28, 1978

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

The only issue submitted in this Petition for Review is the correctness of the decision of the Workmen's Compensation Commission rendered on December 13, 1975, whereby the claim for death compensation of the widow of Francisco Torres was dismissed on the ground that it had prescribed, the same having been filed "beyond the prescriptive period of ten years."

The error committed by respondent Commission is evident from the facts of the case as narrated by it in its decision, and from which We quote pertinent portions:

"xxx xxx xxx

"The facts of this case are as follows: The deceased was in his lifetime employed by respondent as Bad Order Checker with a monthly salary of P360.00. In the year 1958, while the deceased was in the course of his employment, he fell from an ocean-going vessel with a height of 25 feet from the ground and was unconscious for three (3) days following the accident; that Mr. Baloloy, manager of respondent Warner Barnes took him to the American Hospital at Aduana St., Intramuros, Manila; that the cause of death was due to severe anemia (Post Master Certificate of Death); that he is survived by his sole widow-claimant; that this claim was filed on March 26, 1975; that a copy of the claim was furnished to the respondent and received on May 6, 1975, evidenced by the imprint proof of service; that respondent controverted the claim in the form of Employer's Report of Accident or Sickness which was filed on May 9, 1975.

"Records show that the late Francisco Torres, while on duty on board the ocean-going vessel in 1958 fall from a height of 25 feet to the ground, rendering him unconscious for 3 days following the accident. Hence, the accident occurred in line of duty. The accident supervened in the course of the employment and the law presumes that it arose out of and in the course of the employment. The burden of proof to show by substantial evidence, the absence of work-connection and that of his occupation lies at the door of the employer, which the latter failed to discharge in this case, hence, the claim is considered compensable.

"The claimant's right to compensation was not controverted on time. Respondent was aware of the accident that befell the deceased in 1958 thru Mr. Baloloy, respondent manager. Yet, it was only on May 9, 1975, when

it filed its notice of controversion in the form of Employer's Report of Accident or Sickness. Having failed to controvert the claim on time, respondent by operation of law forfeited its right to question the validity of the claim. Consequently, all non-jurisdictional defenses, such as prescription or the like are barred. It is deemed to have admitted the compensability of the claim." (pp. 15-16, rollo)

Respondent Commission however dismissed the claim by applying Section 8 of the Workmen's Compensation Act which provides:

"SEC. 8. Death benefit. - If the disease contracted or injury received by the employee as provided in Section two hereof causes his death within two years from the date of such injury or sickness, the employer shall pay to the persons entitled thereto, or, in case there shall be none, to the person representing the deceased employee x x x."

It reasoned out that inasmuch as the employee died "16 years, 10 months, and 9 days," from the date of the alleged accident in 1958, his death is no longer compensable under the aforequoted Sec. 8 which requires that the death should have occurred within two years from the date of the injury. The Commission ruled further that neither disability benefits could be granted under the doctrine laid down by this Court in *Calado v. Workmen's Compensation Commission, et al.*, L-26149, April 30, 1971, because the death claim was filed beyond the prescriptive period of ten years, citing *Perez v. WCC, et al.*, L-21071, June 29, 1965.

We have here a case of one who under the findings of the Commission was at the time of his death employed with Warner Barnes and Co. as a "Bad Order Checker" since 1958 and who on October 9, 1974 died of severe anemia. Under these facts and on the basis of settled jurisprudence on the legal presumption of compensability of a claim pursuant to Section 44 (1) of the Workmen's Compensation Act, an award for death benefits is wholly justified.

The records of the Commission show that Francisco Torres who gave his occupation as a Bad Order Checker of Warner Barnes & Co. was admitted in the University of Sto. Tomas Hospital on August 28, 1974; he was found to be suffering from severe anemia but was discharged on September 2, 1974, against the doctor's advice.[1] Because of the worsening condition of his health, Francisco Torres was brought to the Philippine General Hospital where he died on October 9, 1974. The cause of death as certified by the examining physician was "severe anemia." [2]

This claim was filed on March 26, 1975, barely five months after Torres' death, hence, it was a grave blunder for the Commission to compute the prescriptive period from the date of the alleged fall of Torres in 1958. If that incident was given by the claimant widow it was only to stress the fact that since that date Torres' health had deteriorated until he succumbed on October 9, 1974.

From the evidence adduced, it was found by the Commission that Torres' disability to continue working for the company because of his failing health occurred in the latter part of September, 1974. The medical report shows that Torres was discharged from the University of Sto. Tomas Hospital on September 2, 1974 against the doctor's advice, after which he was confined in his home until he had to be brought to the Philippine General Hospital where he died on October 9, 1974. If at all therefore, the period of two years mentioned in Section 8 of the Workmen's Compensation Act is to be counted from September 1974, and not from the year 1958.

In this Petition for Review respondent Warner Barnes & Co. sets up the defense that there is no employer-employee relationship existing between the deceased Torres and the company. It disputes or rejects the findings of fact of respondent Commission that Francisco Torres was a Bad Order Checker of the company for many years, claiming that it had no occasion to question that finding of the Commission because it was not aware of the aforementioned decision. Respondent also contends that upon receipt of the notice of claim for

compensation, it seasonably controverted the claim on two grounds: first, absence of employer-employee relationship, and second, the cause of death was not work-connected. According to respondent company Torres was a mere piece worker who was paid only when there was a vessel of Knutsen Lines Ltd. on call at the port of Manila so that when there was no vessel the deceased did not render any service and accordingly did not receive any pay.

The foregoing contentions of respondent company are not however borne out by any evidence which it could have produced before the Commission during the hearings, although it was then represented by counsel. Furthermore, while it is true that in an order dated August 25, 1975, this case was dismissed by the referee for lack of interest (p. 28, WCC records), nevertheless on a Petition to revive the case, the records were elevated by the acting referee to the Commission for review on October 24, 1975, (p. 31, *ibid.*) and a decision was rendered on December 13, 1975, from which a notice of appeal was made by the claimant on January 20, 1976 copy of which was furnished the counsel of respondent company. (p. 38, *ibid.*) Under these circumstances it is difficult for the Court to believe that during all that period respondent company was not aware or had not received a copy of the decision of the Commission which is now under review.

On the existence, therefore, of employer-employee relationship, the finding of the Commission that Francisco Torres was employed with respondent company as a Bad Order Checker since 1958 is binding and conclusive and is not subject to review by this Court.[3]

Inasmuch as the employer-employee relationship is a proven fact, the presumption of compensability of the claim for the death of Francisco Torres is decisive of the instant case. In *Solite v. WCC and Republic of the Philippines*, the claimant employee was found to be sick of "rheumatoid arthritis with accompanying neuritis, anemia, secondary" by reason of which he had to retire from the service at the age of 57. In awarding the claim for disability compensation, the Court *inter alia* applied the presumption of compensability considering that the illness arose in the course of the employment of the employee.[4] The same principle applies to the deceased Francisco Torres, his "severe anemia" having occurred in the course of his employment as a checker of respondent company which is engaged in the business of servicing foreign cargo vessels.

IN VIEW OF THE FOREGOING, We set aside the decision of respondent Commission and order Warner Barnes and Company to pay:

1. claimant Teresita Vda. de Torres;

- a. Six Thousand (P6,000.00) Pesos as death compensation;
- b. Two Hundred (P200.00) Pesos as burial expenses;
- c. Three Hundred (P300.00) Pesos for attorney's fee; and

2. the Workmen's Compensation Commission, Sixty-One (P61.00) Pesos for the Workmen's Compensation Fund.

So Ordered.

Teehankee, (Chairman), Makasiar, Fernandez, and Guerrero, JJ., concur.

[1] p. 1, WCC Records

[2] pp. 8-9, *ibid.*

[3] See *Abong v. WCC*, (1973) 54 SCRA 379, citing *Sugay & Co., Inc. v. Reyes, et al.*, 12 SCRA 700

[4] 75 SCRA 388, per R. Martin, J.

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