

PASTORA ANDAL MANIGBAS, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION, CALTEX (PHILIPPINES) INC. AND THE LIVERPOOL & LONDON & GLOBE INSURANCE CO., INC., RESPONDENTS.

G.R. No. L-29577. March 27, 1984

Ponente: PLANA, J.

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PLANA, J.:

The basic issue in this petition is whether or not the death due to gastroenteritis of Melquiades Manigbas, a mechanic of private respondent CALTEX (Phil.) Inc., is compensable under the Workmen's Compensation Act.

The fatal incident here involved occurred during the effectivity of the Workmen's Compensation Act (Act No. 3428, as amended), when Melquiades Manigbas one day went to work and took his lunch at the cafeteria of private respondent. After two hours or so, he felt abdominal pain. Later, he began vomiting and excreting. He was taken to a hospital where his sickness was diagnosed as acute gastroenteritis, of which he died three days later.

The surviving spouse, herein appellant Pastora Andal Manigbas, filed a claim for death benefits under the Workmen's Compensation Act. Her claim was denied by the Workmen's Compensation Commission which sustained the contention of respondent Caltex that "since the respondent Caltex is neither under obligation to supply food nor to specify the food to be eaten by its employees, Manigbas' death caused by an acute gastroenteritis could not legally be attributed to his employment." Elaborating, the Commission said:

"... In the United States after whose workmen's compensation laws ours was patterned, the overwhelming weight of authority is to the effect that an employer may only be held liable for the illness contracted by its employee on account of the food eaten where such food is given as part of the salary or wage, or where a part of the cost of such food is by agreement borne by the employer." (Rollo, p. 36.)

From the decision of the Workmen's Compensation Commission, the petitioner has taken this appeal.

The appeal must fail. Under the Workmen's Compensation Act, when an employee suffers personal injury from an accident arising out of and in the course of his employment, or contracts an illness directly caused by such employment, or such illness was either aggravated by or the result of the nature of such employment, his employer is liable for compensation benefits. (Act No. 3428, as amended, Sec. 2.) The law, moreover, provides that in any proceeding for the enforcement of any claim for compensation thereunder, it shall be presumed that "the claim comes within the provisions of this Act." (Sec. 44.) Nevertheless, a preliminary link must be shown to exist between the injury/illness and the employment. This link is sufficiently established by proof that the injury/illness occurred or was contracted during the period of employment, at a place where the performance of his work requires him to be, and while he was fulfilling his duties or was engaged in doing something incidental thereto.

"Considering the philosophy behind the requirement that to be compensable the death must occur while the

worker is performing some work in the course of his employment or doing something arising out of his employment, the authorities are to the effect that to come within the purview of such requirement three things must concur: the injury must be received during the period covered by the employment, the worker must be shown to have been injured at the time and place where the performance of his work requires him to be, and the worker must have been doing something in pursuance of his work. And so it has been held that a wound received by a worker outside the performance of his duties and in a place other than where the performance of his work requires him to be is injury not 'arising out of or in the course of his employment' (*Sunga v. City of Manila*, 57 Phil. 869)."

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"It is true that at the time of his assault the deceased was still an employee of the company for he has not yet severed his employment with it, but the fact that he was then on leave of absence is clear proof that he was not then performing his usual duties as inspector, nor doing anything in relation thereto, to come within the purview of the phrase 'arising out of and in the course of employment.' The presumption, therefore, of the law that the claim is deemed to be valid unless the contrary is shown does not here apply, mainly for the reason that the deceased's leave of absence takes this case out of its purview." (*A. L. Ammen Transportation Co., Inc. vs. Workmen's Compensation Commission*, 12 SCRA 27, at 30-31.)

In the case at bar, it does not appear that Melquiades Manigbas was engaged in the performance of his official duties when he was stricken ill. Indeed, there is no indication as to the circumstances that led to the ailment of the deceased, which could be the basis for concluding that the same arose out of and in the course of his employment. As stated in the decision penned by Associate Commissioner Cesario Perez of the Workmen's Compensation Commission -

"... there is really nothing in the record which will indicate that it was the food he ate, if he ever did, at the cafeteria during lunch time and not the food he took for breakfast at his house early in the morning that ultimately caused the intestinal disease." (*Rollo*, p. 37.)

Moreover, the nature of the illness (gastroenteritis) which caused the death of Manigbas negates its causal connection with his employment as mechanic.

WHEREFORE, the appealed decision is affirmed. No costs.

SO ORDERED.

Melencio-Herrera, (Acting Chairman), Relova, Gutierrez, Jr. and De La Fuente, JJ., concur.

Teehankee, J., (Chairman), on official leave.

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