

ADELAIDA E. VDA. DE CALADO, FELISA CALADO, WILLIAM CALADO, ROMEO CALADO AND AGUSTIN CALADO, PETITIONERS, VS. HON. WORKMEN'S COMPENSATION COMMISSION AND ACOJE MINING COMPANY, IN...

G.R. No. L-26149. April 30, 1971

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal from the decision of the Workmen's Compensation Commission in its ROI-WC No. 1830 wherein, upon review of the decision of its Acting Referee awarding physical disability benefits to petitioners upon a claim filed by them for death benefits, the Commission reversed said decision and completely absolved respondent company, hereinafter to be referred to as Acoje, from any liability under the Workmen's Compensation Act, notwithstanding it is undisputed that the deceased, upon whom, it is unquestioned, petitioners were dependent, died of tuberculosis contracted during and in the course of employment, the Commission holding that since the deceased died more than two years after contracting the disease, petitioners are not entitled to any death benefits and that the claim they had filed therefor could not be converted into a claim for physical disability benefits, since none was filed by the deceased, as to whom it was exclusively personal.

The background facts stated in the Commission's decision, as gathered and adopted by it from the decision of the Acting Referee, are as follows:

"Tomas Calado worked with the respondent company, first as an underground miner and then as a head miner from March 8, 1948 to December 17, 1959. x x x. The works of a miner were to timber, drill holes, put the track rails, shovel area and blast dynamites; while the duties of a head miner were to direct the work of the miners, mucking machine operators, muckers and timbermen. The head miner also helped his men when they raised the timber and cap, dug the foundation of the track rails and drilled holes.

"On December 18, 1959, Tomas Calado vomitted blood for the first time during his employment and so he was brought to the Acoje Mines Hospital. On said date, an x-ray examination of his lungs was taken by Dr. Mario A. Bataclang, Jr., which showed a finding that the patient was suffering from advance pulmonary tuberculosis. The patient was treated in the hospital until March 17, 1960 because after that date he left the hospital, although there was still a need for further treatment of his advance pulmonary tuberculosis. x x x. Tomas Calado asked for vacation leave but the company denied it because he was always asking for vacation. Instead, the company let him sign(ed) his resignation paper so that he resigned voluntarily on April 11, 1960 and went to his home at Bayto, Sta. Cruz, Zambales.

"Evidence further disclosed that Calado died on June 4, 1962 of pulmonary hemorrhage due to PTB (Exh. 'A')."

Significantly omitted here, however, is the very relevant specific finding of the Acting Referee, which does not appear to be denied by Acoje, that when Calado left the company hospital on March 17, 1960, Dr. Bataclang, Jr.,

the company physician did not issue a release paper allowing the patient to work.

As already stated, upon these facts, the Acting Referee denied petitioners' claim for death benefits but granted them physical disability benefits. Acoje's motion for reconsideration having been denied, the case was elevated to the Commission where Commissioner Cesario Perez rendered the decision absolving Acoje and reversing that of the Acting Referee upon the following rationale:

"On the basis of the foregoing facts, we agree with the Acting Referee that the claimant and her four minor children, who are the dependents of Calado, may no longer recover death benefits because his death had occurred more than two years from the date his pulmonary tuberculosis became compensable on December 18, 1959. The provision of law in point is Sec. 8 of the Workmen's Compensation Act, pertinent portion of which, for convenience, is hereunder quoted:

'Sec. 8. Death Benefits. - If the disease contracted or injury received by the employee as provided in section 2 hereof causes his death within two years from the date of such injury or sickness, the employer shall pay the compensation to the persons entitled thereto. x x x.'

"From the above-quoted provision, it can easily be gleaned that recovery of death benefits can only be had if two indispensable requisites concur, and they are:

"1. That the injury or illness must satisfy the requisite conditions prescribed in Section 2 of the Act; and

"2. That death should occur within two years from the date the injury or illness was received or contracted.

"While Calado's pulmonary tuberculosis which resulted in his death might have been aggravated by, or the result of the nature of his employment with the respondent company, the stubborn fact remained that he died after two years from the time his pulmonary tuberculosis became compensable on December 18, 1959. Hence, his dependents could no longer recover any benefits under said Section 8 of the Act.

"However, although the present claimant was denied the benefits under the afore-quoted provision of law, the Acting Referee awarded her compensation under Section 14 of the Act. We believe this is error on the part of the Acting Referee. The right to the benefits emanating from the different sections of the Workmen's Compensation Act relating to physical disability for labor, whether temporary or otherwise, except death benefits under said Section 8, is a right that personally belongs to the injured or sick worker and the same is not transferred to his dependent upon his death. In other words, said right, if not enforced by the worker concerned during his lifetime, is extinguished upon his death. The following authority on this particular point is very enlightening:

'Claimant contends that if she is not entitled to death benefits she should, however, be entitled to the total disability benefits that the late Elias Moraña, her deceased husband, should have received before his death. We find this argument to be without merit. The right to the benefits emanating from the different sections of the Workmen's Compensation Act, as amended, relating to the physical disability for labor, whether temporary or otherwise, except death benefits under Section 8 of the said Act, is purely personal to the injured worker and the same is not transferred to his dependents upon his death. This should easily be gleaned from the context of our Decision in the following case:

"x x x. The decisive issue involved appears to be whether death benefits may still be recovered by the dependents of a deceased worker even if such death occurred after two years from the illness was contracted in the course of work. The unjudicated claim filed by his widow, claimant in this case, seeking compensation under Section 14 of the Act, has become unenforceable upon his death. The right of the widow or other dependents to claim compensation under the Act is governed by Section 8 in conjunction with Section 2 of Act 3426, as amended. x x x." (Moraña, et al. vs. Acoje Mining Co., Inc., WC Case No. 1617-ROI-January 11, 1966,

citing *Maria Vda. de Cas-tro vs. Acoje*, Case No. 101, February 18, 1960).

"IN VIEW OF THE FOREGOING, the de-cision, under review, should be, as it is hereby, REVERSED, and the re-spondent absolved from any liability under the Workmen's Compensation Act. No pronouncement as to costs."

Petitioners' motion for reconsideration filed with the Commission en banc was denied on March 16, 1966, hence this appeal wherein the following alleged errors are assigned:

"I. RESPONDENT WORKMEN'S COMPEN-SATION COMMISSION ERRED IN HOLDING THAT RIGHTS TO DISABILITY COMPENSA-TION BENEFITS UNDER SEC. 14, ACT 3428 AS AMENDED, IS PERSONAL TO THE INJURED OR SICK LABORER AND THAT SAME BENEFITS DO NOT ACCRUE TO HIS LEGAL HEIRS UPON HIS DEATH; and

"II. RESPONDENT WORKMEN'S COM-PENSATION COMMISSION ERRED IN ABSOLVING RESPONDENT COMPANY OF LIA-BILITY UPON A GROUND WHICH IS A MATTER OF DEFENSE TO RESPONDENT COMPANY BUT WHICH IS NOT BEING IN-VOKED BY SAID COMPANY."

We do not hesitate to reverse the Commission's de-cision. It is clear to Us that the Acting Referee's de-cision which the Commission refused to affirm is more in consonance with the humane spirit of the Workmen's Compensation Act as a measure of social justice. In-deed, to recognize petitioners' claim as covered by the law, one does not have to resort to generous liberality in construing its provisions; all that needs be done is to apply them fairly and reasonably so that the clearly discernible noble objective of their enactment may not be defeated. There is no controversy that Tomas Calado was employed with Acoje, that he contracted tuberculo-sis that arose out of and in the course of such em-ployment and that he eventually died of said illness. Neither is there any question that petitioners were his dependents. That tuberculosis is a compensable sick-ness is expressly recognized in Section 2 of the law. Acoje does not and cannot dispute the fact that from the first time Calado vomitted blood and exhibited other symptoms of the disease, he repaired to the Company hospital and was treated thereat; he was not cured; when he left the hospital, the company physician refused to issue to him any release paper allowing him to work; he asked for a sick leave, Acoje denied; instead, he was made to sign resignation papers; scarcely over two years thereafter, he died of the same malady. Outside of hos-pital and medical services, the record does not show that Acoje ever paid either Calado, in his lifetime, or his dependents, herein petitioners, after his death, any compensation in any form. Worse, Acoje denies it is liable for any compensation under the Workmen's Compen-sation Act; its only defense: prescription, because alledgedly Calado did not file any claim during his life-time, while, on the other hand, the fact that he died more than two years after he contracted tuberculosis has deprived petitioners of any right to claim any death benefit.

We cannot countenance such a narrow view of the Compensation Act which shuts off the human value consi-derations animating its provisions. It just does not appear legally sound, much less morally justifiable, that the case of petitioners be considered as not fal-ling within the ambit of the Act's protection. The fun-damental purpose of the Act is to prescribe and estab-lish a system for the payment by employers of compensa-tion to their employees or the dependents of the lat-ter for any injury or death suffered by them arising out of and in the course of their employment, which, if availed of, it must be emphasized, excludes all other rights and remedies accruing to the employees or work-ers, their personal representatives, dependents or near-est of kin against the employer under the Civil Code and other laws.[1] The elaborate procedure outlined in its provisions for effectuating such basic objective has been designed to facilitate as much as possible the granting of the contemplated relief, surely, not to obstruct or impede the same. Said prescribed procedure imposes upon both parties, the employee or his dependents, on the one hand, and the employer, on the other, the taking of certain steps by which they can preserve and protect their respective rights.

The scheme of the Act is such that the steps required to be taken by the claimants correspond with those to be taken by the employer and vice versa. The injured party or his dependents are obligated to notify the employer of the injury as soon as possible^[2] and to file the corresponding claim within specified periods.^[3] On the other hand, under Section 37 of the Act, the employer is under duty to "keep a record of all injuries, whether fatal or not, received by his employees in the course of their employment, when the same come to his knowledge or attention," and "As soon as possible after the occurrence of an injury resulting in absence from work a day or more, the employer shall give written notice thereof to the Work-men's Compensation Commissioner on blank forms specially prepared by said Commissioner for which the employer shall make requisition in due time, or in case of necessity or emergency, or for lack of forms, on any other paper, containing the information hereinafter prescribed." According to the second paragraph of this same provision, the employer shall set forth in such notice whether the liability for compensation is admitted or controverted.

In connection with these required notices, however, the Act itself dispenses with the requirements of notice and claim by or from the injured party under certain circumstances, such that "in case medical, surgical, and hospital services and supplies have been furnished voluntarily by the employer, notice of the injury or sickness within the time limit (specified) shall not be necessary and if the employer has voluntarily made the compensation payments, the claim for compensation to be made within the time limits (specified) shall no longer be necessary."^[4] It is easily understandable, indeed, why the law so provides. The sole and only purpose in requiring early notice of injury and filing of a claim within the brief periods fixed in the Act, is to afford the employer the earliest opportunity to investigate the facts relating to the injury and to duly controvert or oppose the claim in connection therewith,^[5] thereby making it as hard as it is possible to do so for any false fabricated or excessive claim to be made and paid. Accordingly, where such opportunity appears to have been opened or afforded to the employer, it does not matter that the statutorily required notice has not been given by the injured party or the ones supposed to act for him. Thus, by express provision of the Act, "failure to (give) or delay in giving notice shall not be a bar to the proceeding ... if it is shown that the employer, his agent or representative had knowledge of the accident or that the employer did not suffer by such delay or failure."^[6] In *Hernandez vs. W.C.C.* supra, this Court held that the filing of a request for retirement ... predicated on sickness causing (the worker's) disability from working substantially fulfills the requirement of a claim ... (p. 24) Indeed, earlier, in *Manila Railroad Co. vs. Workmen's Compensation Commission*, 10 SCRA 41, this Court considered the silence of the employer after having notice of an injury or death of any of its workers or employees and his failure to give the Commission the report required by Section 37 as a waiver of the defense that the claim has been filed out of time. (p. 44)

As a matter of fact, failure on the part of the employer to give the notice to the Compensation Commission required by the Act is an offense punishable by fine^[7] and according to Section 45, such "failure shall constitute a renunciation of his right to controvert the claim," which means that he cannot put up any defense at all, except perhaps that of absence of employer-employee relationship. It is easy to see that the reason for this is that in the same manner that the employer is given the opportunity to prepare his defenses by requiring timely notice and claim by the injured party, the latter should also be given early notice of the negative stand of the employer, so that he may opportunely take the necessary care in pre-paring and preserving his evidence.

Relative to these considerations, it is always important to bear in mind that the obligation of employers to pay the compensation provided in the Act is mandatory and that as a matter of public policy expressed in the Act itself, said compensation cannot be renounced or waived by a laborer or beneficiary,^[8] so much so that, as this Court has already ruled, even if the same has in fact been formally waived already by the claimant, such waiver "cannot exempt (the employer) from liability in view of the provisions of Section 7 of Act 3428, (the Compensation Act) as amended, which considers as null and void any contract or device of any sort intended to exempt the employer from all or part of the liability created by said Act."^[9]

It is true that in *Luzon Stevedoring Co. v. Hon. De Leon*, 106 Phil. 562, this Court considered compliance by the claimant with Section 24 of the Act, which re-quires the giving of notice of the injury or death to the employer "as soon as possible" and the filing of a claim "not later than two months after the date of injury or sickness, or in case of death, not later than three months after death", as the "condition prece-dent to maintenance of any compensation proceeding un-der the Act" and that "non-compliance with that re-quirement bars recovery for compensation." (p. 565) And in the resolution of the motion for reconsideration of the decision in *Pantranco vs. W.C.C.*, G.R. No. L-16490, June 29, 1963 (8 SCRA 352) this Court went as far as to clarify that notwithstanding actual notice or knowledge of the injury by the employer, such notice or knowledge does not by itself constitute a claim and that unless a separate claim is filed by the claimants within the period provided therefor in the Act, "an award (would) not (be) warranted in law." (10 SCRA 14, 19.) In other words, it may be said that what the Workmen's Compensation Commission has done in the case at bar in denying petitioners claim, is seeming-ly in line with the above decision, it appearing that neither Calado in his lifetime, nor said petitioners have filed the formal claim prescribed by the Act. What the Commission has failed to perceive, however, is that the said decisions are predicated on the fact that the em-ployer has on his part and notwithstanding the non-compliance by the claimants, complied with the statu-tory requirement to report the accident causing the injury in the manner and within the period provided for in the Act. Otherwise stated, this Court wants to make it clear now, that in line with the spirit and purpose of the Compensation Act and consistent with the public policy therein voiced that claims for compensable in-juries or death are not waivable, any employer who, having actual notice or knowledge, directly or indirectly, of any compensable injury or death suffered by any of his employees or workers, violates Section 37 of the Act by failing to report the same and to controvert its liability therefor within the period stated in said section is under an inescapable obligation to pay the corresponding compensation in full whenever and howso-ever a demand therefor is made by the party entitled thereto, the failure of such party to give the notice or to file the claim required by Section 24 of the Act not-withstanding. We hold that unless this view is adopted, the public policy declaring claims for compensation non-waivable would be open to facile circumvention and might just as well be cast aside.

In the present case, We have a situation wherein, as already indicated at the outset of this decision, it is not disputed that Tomas Calado, an employee of Acoje, "contract(ed) tuberculosis caused by such employment" and, as a matter of fact, died therefrom barely two years from the time the said sickness was diagnosed by the company physician at the company hospital, and inspite of the fact that nothing in the record shows nor is it even alleged that Acoje ever reported the same, much less controverted its liability therefor as required by Section 37 of the Compensation Act, and merely because Calado did not file any claim for compensation within the period specified in Section 24 of the Act, coupled with the fact that he died more than two years from the time the sickness was discovered, the Workmen's Compensation Commission, the very instrumentality instituted by the Act to implement its provisions and effectuate its hu-mane spirit and objective, held that Calado's heirs, here-in petitioners, are not entitled to compensation. To say the least, We cannot conceive how such a conclusion can be said to be within the contemplation of the Com-pensation Act. Surely, this Court cannot go along with the Commission's reasoning. Indeed, We are surprised that the Commission has taken such a position, for as against the precedents it has cited, namely, its own de-cisions in *Morana et al. v. Acoje*, W.C. Case No. 1617-ROI, January 11, 1966, and *Maria Vda. de Castro v. Acoje*, Case No. 101, February 10, 1960, the Commission had it-self ruled in another case, *Plaza v. Madrigal Shipping Co.*, Workmen's Compensation Commission Case No. 9578, that a failure to present a claim for compensation with-in the statutory period is a defense which must be seasonably pleaded. (See Montemayor, Vol. II, 1967 ed. p. 138.) We feel that to deny compensation to petitioners on the technical grounds invoked by Acoje and the Commis-sion in the appealed decision would be intolerable and shocking to the social conscience.

As We have also indicated earlier above, the Compensation Act imposes upon both the employer and the employee or those acting for the latter the obligation to take certain steps within respectively specified periods, when-ever an injury or death is suffered by the employee which by its nature is compensable under the Act. Now, accord-ing to the Act, the failure of the claimant for compensa-tion, either the employee himself or those who may act for him, to take the steps so required of them would bar recovery, whereas, on the other hand, the failure also of the employer to take the steps also required of him would constitute a waiver of any defenses he might otherwise have against a claim for compensation. The question that is posed before Us in the case at bar is plainly this, inasmuch as both the employee or claimant and the employ-er have failed to comply with the steps required of them by the Act, should compensation be allowed, considering, it should be emphasized, that it is not disputed that, by its own nature, the sickness, tuberculosis, which Calado contracted because of his employment and from which he died is statutorily compensable? We hold that it is ob-vious that an affirmative answer to this question is in-evitable.

In *Kapisanan ng Mga Manggagawa sa Alak etc. vs. Hamilton Distillery Co.*, 35 SCRA 8871, We already pointed out that in deciding labor cases, We should always be guided by the constitutional provision which ordains that "the State shall afford protection to labor" and declares as a principle that "the promotion of social justice to insure the well-being and economic security of all the people should be the concern of the State" as well as Article 24 of the Civil Code which provides that "in all contractual, property or other relations, when one of the parties is at a disadvantage on account of his moral de-pendence, ignorance, indigence, mental weakness, tender age or other handicap, the courts must be vigilant for his protection."

Such, naturally, must be our perspective in re-solving the issues now before Us. As between the employ-ee and the employer, no choice is left as to who should bear the consequences prescribed by the law, when both of them fail to comply with the mutual obligations im-posed upon them by the law. Obviously, it is the employ-er who must assume liability, if only because it is always the employer who can better afford it. When an employee suffers injury, sickness or death caused by his employment, no one should expect that in such predica-ment and faced with the possible loss of all means of subsistence and support, such employee or his dependents, not infrequently ignorant of the intricacies of the mat-ter, would be able to give needed attention to the tech-nical requirements of the law, so that they may be com-pensated. On the other hand, an employer has all the resources and facilities by which he can readily comply with all the technicalities of the law. Withal, when a compensable injury or death takes place, and having knowledge or notice thereof, the employer does not report it to the Commission, it does not lie in the lips of such employer to allege that no claim has been filed by the employee or his dependents because his own failure to report may be considered as an attempt to escape from the legal consequences of such injury or death and his statutory obligations therefor, hence it would be moral-ly untenable to allow him to escape liability in such circumstance. Apart from giving the claimants an oppor-tunity to adequately prepare and preserve the evidence in support of their claim, the more important purpose of the Compensation Act in requiring employers to make the report referred to in Section 37 is to enable the Com-mission to undertake the mission imposed upon it by the public policy contained in the Act to see to it that due compensation is totally paid in all instances of compen-sable injury or death, any formal or implied waiver of the persons entitled thereto notwithstanding.

Moreover, in such a situation where the employer has violated the Act, it is not unreasonable and We hold it to be plainly within the spirit of the Act, to cons-true its Section 25 which provides that the notice may include the claim", in the sense that in the cases of implied claims or excusably delayed notices, as those al-ready ruled upon by this Court as well as in similar instances, such implied or excusably delayed notices should be considered to be in legal contemplation, at the same time the claims required by the Act, with the result that in such situations, the employer may no longer be heard to invoke the defense that no claim has been filed. After all, We have already

held in many cases that there is no required form for notices and claims for compensation in all instances where the employer has actual knowledge of the injury or death. (See cases cited under comments on Sections 25-27 in Montemayor, Labor, Agrarian Social Legislation, 1967 ed., pp. 109-111.)

Before closing this discussion, We wish to make it very clear that although We did hold in the cases of Lu-zon Stevedoring and Pantranco, referred to above, that an employer is not bound to pay compensation if no claim therefor has been filed within the period specified in Section 24, this was because timely report and controversion were made by the employers in said cases. We could not have meant otherwise, since on the very day the Pantranco resolution was promulgated, January 30, 1964, We held in another case, Manila Railroad Co. v. Workmen's Compensation Commission, G.R. No. L-19377, that if "in spite of the notice (of injury), the company remain(s) silent and fail(s) to give to the Commission the report required by Section 37 of the Workmen's Compensation Act, ... the company is deemed to have waived its defense that the claim is not compensable because of the claimant's failure to file it within the statutory period." (10 SCRA 41, 44)

We shall now turn to the other aspect of respondent's position. According to respondents, because Caelado died more than two years after his tuberculosis was first discovered or diagnosed, it would be violative of Section 8 of the Act which provides that:

"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 the burial expenses in the amount of two hundred pesos, and shall also pay to or for the following persons, in the order of priority and during the periods hereinafter set forth, compensation equivalent to the following percentages of the average weekly wages of the employee as determined in Section nineteen of this Act: x x x."

to allow petitioners, his dependent heirs, to recover. In this particular respect, the respondents may be technically correct. We cannot, however, sanction their corollary conclusion that Acting Referee Pedro A. de Leon erred in holding that although petitioners may not be entitled to death compensation benefits, they may, however, receive disability benefits corresponding to the period from the day he fell sick up to the time of his death under Section 14 of the Act which provides:

"SEC. 14. Total disability. - In case the injury or sickness causes temporary total disability for labor, the employer shall, during such disability, pay to the injured employee a weekly compensation equivalent to sixty per centum of his average weekly wage but not less than fourteen pesos per week, except in the case provided for in the next following paragraph. No compensation shall be allowed for the first three calendar days of incapacity resulting from an injury except the benefits provided for in the preceding sections but if the incapacity extends beyond that period, compensation shall be allowed from the first day of such incapacity. Such weekly payments shall in no case continue after the disability has ceased, nor shall the aggregate sum paid as compensation exceed in any case six thousand pesos. But no award of permanent disability shall take effect until after two weeks have elapsed from the date of injury."

The reason given by the Commission for denying the claim of petitioners is that "the right to the benefits emanating from the different sections of the Workmen's Compensation Act relating to physical disability for labor, whether temporary or otherwise, except death benefits under said Section 8, is a right that personally belongs to the injured or sick worker and the same is not transferred to his dependents upon his death." (p. 3, Decision of the Workmen's Compensation Commission, Annex A of the Answer). Acoje, in turn argues, rather stoically, that "Where, therefore, an injured or sick employee fails to file a claim for disability benefits during his lifetime, such failure should not be laid at the door of the employer. If the employee slept on his rights and failed to exercise them when he could, the fault is his." (pp. 5-6, Acoje's brief.) In other words, respondents posit that petitioners are not entitled to any compensation whatsoever because whereas petitioners cannot invoke Section 8,

since Calado's death took place beyond the two-year period therein fixed, neither can they rely on Section 14, considering that Calado did not personally or thru an authorized person file any claim for disability compensation during his lifetime.

As We have already indicated earlier above, respondents' purely legalistic posture can never win the sympathy of this Court. Respondents' approach is manifestly inconsistent with the evident intent of the Compensation Act to make employers liable for compensation for any work-connected injury or death of any of their employees or workers which the employers do not report to the Workmen's Compensation Commission or do not disclaim liability for by means of a formal controversion as required by the Act within the period therein provided. Thus, had the respondent Commission only properly analyzed all the relevant circumstances of this case in the light of the considerations We have discussed in this opinion, it would have undoubtedly realized that in law and in equity, and precisely because Acoje failed to comply with the mandatory requirement of the Act for it to report Calado's illness and controvert its resulting liability therefor, an omission for whose consequences it should naturally suffer, Calado should be deemed as having effectively filed the required claim for disability compensation, within the meaning of Section 25 of the Act, the moment he reported to the company hospital and physician and was actually diagnosed and treated thereat for tuberculosis, a statutory compensable disease. So, even assuming without deciding that, as Acoje contends and the respondent Commission has held, the right to file a claim for disability compensation is "purely personal to the injured worker and the same is not transferred to his dependents upon his death", We hold that petitioners may not be prejudiced by said ruling of the respondent Commission, for the simple reason that, as a matter of law, Calado must be considered as having actually filed the required claim, and, in consequence, his right to compensation for disability corresponding to the period up to his demise, had already accrued before his death and, accordingly, the same constitutes an asset of his estate transmissible to his heirs, herein petitioners, free, on account of its special nature, from any liens or obligations. Resort to the American authorities cited by petitioner on this point is unnecessary because, after all, the decisions referred to would make the transmissibility of the right in question dependent upon respective statutory provisions. We prefer to lay down Our own construction of the Compensation Act of Our own country in the sense expressed in this opinion even if there should be any contrary opinion in other jurisdictions.

It is to Us indisputable that it is the clear intention of our Workmen's Compensation Act to make it the inescapable duty of employers to pay disability compensation to any employee and worker who suffers a work-connected injury for as long as he is so disabled, and in the event that should such employee or worker should die later as a result of the same injury, to pay death benefits to his dependent heirs, in addition to the disability benefits that might have already been paid, provided that such death takes place within two years from the date of the injury, such that disability benefits are supposed to be distinct, separate and apart from death benefits and, consequently, the loss of the right to claim the latter because of the expiration of the two-year period, should all the more preclude the possibility of denial of the former, as otherwise, the public policy of the Act of making the payment of compensation for all work-connected injuries mandatory and non-waivable would be rendered nugatory. It is, likewise, clear to Us that under the Act, the most decisive factor in determining the liability of an employer in compensation cases is his strict compliance with the duty to file with the Workmen's Compensation Commission, within the period fixed in the Act, a corresponding notice of the injury or death, whether work-connected or not, suffered by any of his employees or workers, and to formally controvert its liability therefor, if it is not work-connected or is otherwise totally defective, within the time also fixed in the Act, which duty naturally begins to attach from the moment the injury comes to his knowledge in one way or another and, particularly, when the employee avails of the medical or hospital services which the employer is required by the Act to provide (Section 13) and, consequently, the filing of a formal claim by the party entitled is only of secondary importance, considering that a controversion may even be filed before any claim is made, and may, at

least, be invoked only when a controversion is duly filed by the employer, considering that the Act expressly provides that the absence of such controversion "shall constitute a renunciation of his right to controvert." (Sec. 45)

At this juncture, We note that, significantly, respondent Acoje is completely silent in its brief regarding petitioners' third assignment of error to the effect that respondent Commission should not have relieved Acoje from liability on the ground of non-filing of any claim for disability compensation by Calado, since that defense was not pleaded by Acoje before the Commission. Petitioners cite *Manila Railroad Company vs. Perez*, G.R. No. L-20171, June 29, 1965, 14 SCRA, 504 in which Our present Chief Justice held for the Court thus:

"Moreover, the question of whether a disability resulting from aggravation taking place before the effectivity of Republic Act No. 772 is compensable under said original Workmen's Compensation Law was not raised in the Commission, not even in the motion for reconsideration of the decision of its Acting Chairman. It was not even one of the grounds alleged in support of the petition for review by certiorari filed with this Court. Hence, the defense must be deemed waived and cannot be, as it is, raised for the first time in petitioner's brief. As held in *Viaña vs. Al-Lagadan* (54 Off. Gaz. 664):

"The first ground is untenable, petitioner not having invoked it before the rendition of the Referee's decision on Feb. 23, 1953. The objection to the application of Act No. 3428, upon said ground, was made for the first time when petitioner sought a review of said decision by the Workmen's Compensation Commissioner. The non-applicability of said Act is, however, a matter of defense, which cannot be availed of unless pleaded in the employer's answer to the claim for compensation filed by the employee or his heirs. Petitioner herein having failed to do so, said defense may not be entertained (*Rolan v. Perez*, 63 Phil. 80, 85-86)." (See, also, *Manila Yatch Club, Inc. v. Workmen's Compensation Commission*, L-19258, May 31, 1963.)"

Whether or not the foregoing ruling is squarely applicable to the case at bar, We are of the view that in line with the principle therein contemplated, it is not good policy in regard to social legislation like the Workmen's Compensation Act for the Workmen's Compensation Commission to go out of its way in absolving an employer from liability for compensation for work-connected injury or death of his employee or worker by upholding grounds not invoked by the employer himself as a defense before it.

Lastly, Acoje, without making any specific assignment of error on the point, would like this Court to hold that Acting Referee de Leon's award is excessive because it covers the period after April 11, 1960 "when Tomas Calado resigned from his work" and up to his death. (pp. 15-16, Acoje's Brief) Under the rules on appellate procedure, generally, an alleged error may not be considered by the court, without a corresponding specific assignment thereof. (Sec. 7, Rule 51) On this ground alone, We could ignore Acoje's plea. In any event, Our reading of the factual findings of the Commission is that Calado did not spontaneously resign. According to said findings, he was asking for a sick leave due to his tuberculous condition but Acoje "denied it because he was always asking for vacation. Instead, the Company let him sign(ed) his resignation paper, so that he resigned voluntarily on April 11, 1960 and went to his house at Bayto, Sta. Cruz, Zambales." (Decision of the Commission, p. 1, Annex B of the Answer.) Ordinarily, the findings of the Commission bind this Court, but under the peculiar circumstances of this case, for this Court to uphold the conclusion of the Commission, which, at best, is an erroneous inference or deduction from Calado's bare act of signing resignation papers presented to him by the company, that Calado resigned voluntarily would be, to say the least, tantamount to giving premium to a practice that is plainly a circumvention of the Workmen's Compensation Act, which should, on the contrary, be roundly denounced as being close to being anti-social and inhuman.

IN VIEW OF ALL THE FOREGOING, the appealed decision of the respondent Workmen's Compensation Commission is reversed and the decision of Acting Referee de Leon is affirmed in toto, with triple costs against

respondent Acoje.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Teehankee, Villamor, and Makasiar, JJ., concur.

Fernando, J., concurs except as to that paragraph in the opinion, which assumes the continuing vitality of the resolution in Pangasinan Transportation v. WCC, as to which he expresses no view.

[1] Sec. 5, W.C.A.; *Hudencial v. S. P. Marcelo & Co., Inc.*, L-23969, Feb. 27, 1971.

[2] Sec. 24, Workmen's Compensation Act, as amended.

[3] "Not later than 2 months after the date of injury or sickness, or in case of death, not later than 3 months after death." (*Id.*)

[4] *Id.*

[5] *Hernandez v. W.C.C.*, 14 SCRA 219, 224.

[6] Sec. 27, Workmen's Compensation Act.

[7] Last par. Sec. 37.

[8] *Elago v. Phil. Sugar Estates Dev. Co.*, G. R. No. 41855, Oct. 26, 1943.

[9] *Jose C. Aquino et als. v. W.C.C.*, 15 SCRA, 631, G. R. No. L-18333, Dec. 29, 1965.

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