

**ALATCO TRANSPORTATION, INC., PETITIONER, VS. THE
WORKMEN'S COMPENSATION COMMISSION AND PIO
ROSALES, DECEASED, SUBSTITUTED BY MARIA DE ROSALES,
CARMEN ROSALES, ANTONIO ROSALES, C...**

G.R. No. L-30258. November 29, 1971

Ponente: CASTRO, J.

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CASTRO, J.:

From 1949 to 1964 the Alatco Transportation, Inc. (herein-after referred to as the petitioner) employed Pio Rosales[1] (herein-after referred to as the claimant) as a regular driver of its passenger buses plying the Naga-Partido route. The claimant started working after undergoing a pre-employment physical examination given by the petitioner's company physician who found him healthy and without physical defect. The claimant received a starting monthly salary of P120, which was raised to P135 after a year of service. Sometime in 1955, he became a driver on commission basis, earning about P280 to P300 per month.

On October 15, 1964 he filed with the regional office no. 6 in Naga City a claim for compensation; he alleged that because of his continuous work as a driver and the concomitant strain and fatigue, he contracted pulmonary tuberculosis, among other afflictions. A report of the petitioner's company physician, accompanying the aforesaid claim, attributed the illness of the claimant to the nature of his work. The physician recommended his assignment to a desk job.

The petitioner, on November 12, 1964, filed its report of sickness, disclaiming knowledge of anything that happened to the claimant on October 15, 1964.

Hearing on the merits by referee Estanislao D. Sarto followed; on July 31, 1966, the said referee rendered a decision in favor of the claimant, finding that the latter had contracted his sickness in the course of his employment. The decision ordered the petitioner (1) to pay the claimant the amount of P2,728 as compensation, covering the period from June 15, 1965 to July 31, 1966, pursuant to section 14 of the Workmen's Compensation Act, as amended; (2) to pay the claimant the amount of P46.49 every week after July 31, 1966, subject to the limitations on the duration and amount of payment provided for by the aforesaid law, and to extend further medical services to the said claimant until his sickness is pronounced cured; (3) to pay the claimant's counsel the amount of P136.41 as attorney's fees; and (4) to pay the regional office the amount of P28 as administrative fees.

The referee denied a motion for reconsideration filed by the petitioner and, considering the said motion as partaking of the nature of a petition for review, forwarded the record of the case to the Workmen's Compensation Commission.

On July 13, 1967 the Workmen's Compensation Commission (hereinafter referred to as the Commission), through Chairman Nieves Baens del Rosario, rendered a decision affirming the findings of the referee, and ordering the

petitioner (1) to pay the claimant the sum of P4,914 as compensation, covering the period from June 16, 1965 to July 16, 1967, pursuant to section 14 of the Workmen's Compensation Act, as amended; (2) to pay the claimant a weekly compensation of P45.50 starting July 22, 1967 until his sickness is pronounced cured, the total sum payable not to exceed P6,000; (3) to continue providing the claimant with medical services, appliances and supplies until his sickness is pronounced cured; (4) to pay the claimant's counsel the sum of P491.40 as attorney's fees; and (5) to pay to the workmen's compensation fund the sum of P55 for administrative costs.

The petitioner subsequently sought reconsideration of the aforesaid decision of affirmance. On February 5, 1969 the Commission en banc denied the petitioner's motion for reconsideration.

Hence, the present petition for certiorari, filed on March 7, 1969.

The questions presented for resolution relate to the matter of the compensability of the illness of pulmonary tuberculosis contracted by the claimant, and the grant to him of disability compensation and medical benefits by the Commission.

1. At the threshold, the petitioner claims that no basis exists to sustain the award of compensation to the claimant, alleging as fundamental error the finding of the Commission that the claimant's pulmonary tuberculosis arose out of and in the course of his employment and that his work aggravated his illness. The petitioner stresses that the claimant was no longer suffering from the illness complained of in October, 1964 when he applied for compensation; this fact, the petitioner adds, renders incongruous the finding of the Commission that the claimant's work aggravated his pulmonary tuberculosis, then pronounced cured and/or arrested by the petitioner's company physician.

The Commission found

"... that the cause of the sickness was in pursuance of his (the claimant's) employment or that it was the result of the nature of such employment. And that all the pertinent symptoms and signs disappeared on confinement and came back only when actually on duty. It is therefore clear that his sickness was the result of or aggravated by the nature of his employment as driver of the respondent company..."

The Commission also found the work assigned to the claimant deleterious to his health, making him an easy prey of the dreadful tubercle bacilli.

We find no cogent reason to disregard the findings of fact arrived at by the Commission. Modification or reversal of the findings of fact made by the Commission may be justified only by the absence of substantial evidence in support thereof.[2] Repudiation of the conclusions reached must be based on a patent showing of failure on the part of the Commission to properly evaluate the evidence on record or to consider fundamental and clear logical relationships in the evidence.[3]

We have carefully examined the record; we find that the Commission's findings of fact are amply supported by the record.

The petitioner presses the point that the claimant, at the time he filed his claim on October 15, 1964, was no longer suffering from active pulmonary tuberculosis. The Commission's pertinent findings on this point, which indicate the contrary, deserve attention. Primarily, the referee found - a finding subsequent affirmed by the Commission - that the petitioner knew of the claimant's illness even prior to the filing of the claim in October 1964 "despite its earnest pretensions to the contrary." Then, the Commission also found that the claimant, due to his illness, stopped working on September 6, 1964. Then, on June 16, 1965, the claimant, by letter, informed the petitioner of his urgent need for money for his hospitalization and operation expenses, which the said petitioner failed to provide. Believing that his separation from the service constituted the most immediate of means of

obtaining the much-needed money, he applied for separation which the petitioner, without hesitation, granted. Subsequently, the petitioner gave the claimant separation pay in the amount of P1,200 corresponding to the period from July 1, 1949 to September 6, 1964.

We thus gather, evident from the foregoing findings of the Commission, that at the time the claimant sent the letter seeking monetary aid and requesting severance from the service, he was still in the employ of the petitioner. More important, during the intervening period from September 6, 1964 (when the claimant ceased working due to his illness) to June 15, 1965 (when he sought separation from the service) he evidently was still suffering from the affliction complained of; otherwise, there would have been no urgency in his appeal for financial help to meet his hospitalization expenses.

2. The second question relates to the disability compensation granted to the claimant. The petitioner vigorously objects to the order of the Commission requiring it to pay the claimant the amount of P4,914 as compensation corresponding to the period from June 16, 1965 to July 16, 1967 and the amount of P45.50 as weekly compensation starting July 22, 1967 until full treatment of the claimant's illness. The petitioner alleges error on the part of the Commission in obligating it to pay the claimant weekly compensation from July 22, 1967, contending that the claimant's separation from service on June 16, 1965 resulted in the termination of employer-employee relationship. And since section 14 of the Workmen's Compensation Act contemplates compensation for the period of disability while the employer-employee relationship subsists, the petitioner submits that it is no longer liable to pay the claimant any compensation.

The record reveals that the Commission computed the amount due from the petitioner from June 16, 1965 - the date of the claimant's actual separation from the service. The claimant's disability, however, actually started on September 6, 1964 when his illness compelled him to stop working. Disability compensation represents lost or impaired earnings of a claimant due to his illness and becomes due from the time his earning power is lost or impaired. The liability, therefore, of the petitioner to pay the disability compensation accrued on September 6, 1964 (when the claimant's illness impaired his earning capacity) and subsisted only until June 16, 1965 (when the claimant was actually separated from service or, more particularly, when the employer-employee relationship between the petitioner and the claimant ceased). As modified, the amount of disability compensation owing from the petitioner computed in accordance with section 14 of the Workmen's Compensation Act amounts to only P1,820, arrived at as follows: the claimant's daily wage of P10.83 (per finding of the Commission) multiplied by 7 working days equals P75.81 - the said claimant's weekly average wage. Sixty percentum of P75.81 is P45.50; P45.50 multiplied by 40 weeks corresponding to the period from September 6, 1964 to June 16, 1965 amounts to P1,820. We find no basis to sustain the grant of compensation after June 16, 1965 - the date of termination of the employer-employee relationship between the petitioner and the claimant.

3. The petitioner finally questions the order of the Commission requiring it to provide the claimant with further medical services, appliances and supplies.

Fundamentally, the liability of an employer to provide medical attendance and hospital services and supplies subsists during the entire period of the employee's disability, notwithstanding the cessation of employer-employee relationship. It suffices that the employee contracted his illness during his employment or that the nature of his work aggravated his illness. This obligation of the employer relating to medical attendance lasts until arrest of the illness subject of compensation.[4] Only the unreasonable refusal of the disabled employee to accept the medical services extended by his employer and his voluntary obstruction of such services constitute justifiable grounds to defeat this right of the employee to medical attendance.[5]

Section 13 of the Workmen's Compensation Act, in obligating the employer to furnish medical services to a sick

employee, provides neither the maximum amount payable by the employer nor the maximum time period during which the employer's liability for medical expenses subsists. Contrari-ly, the said section requires the employer to furnish the employee with such medical, surgical, and hospital "services, appliances and supplies as the nature of his disability and the process of his recovery may require." Thus, implied from the foregoing, the employer shoulders such medical expenses, as necessity demands, until the work-connected injury or illness of the employee ceases.[6]

At all events, because of the supervening death of the claimant on June 28, 1969 from "parenchymatous nephritis" - a cause apparently distinct and different from the illness subject of the claim herein - we deem it necessary to remand the case to the Commission for determination of the expenses for medical attendance and hospital services advanced by the claimant in connection with his illness of pulmonary tuberculosis. We glean from the record that, during the period from May 22, 1964 to August 27, 1964, the petitioner's company physician extended medical treatment to the claimant relative to his pulmo-nary tuberculosis. The record also shows that the petitioner's company physician ordered the confinement of the claimant for treatment in his medical clinic from September 8, 1964 to the 30th of the same month. After the latter date, or from October 1, 1964, to be exact, the record fails to evince whether or not the petitioner still furnished the claimant with medical services. Presumably, from October 1, 1964, the petitioner no longer extended medical services to the claimant. Hence, we find it reasonable and equitable that the Commission determine the medical expenses advanced by the claimant from October 1, 1964 - in the absence of any showing that from said date the petitioner continued to extend medical attendance to the claimant - until the final arrest of the said claimant's pulmonary tuberculosis, or until June 28, 1969, in the event of evidence adduced showing that the claimant never fully recovered from his illness subject of compen-sation up to the time of his death. Thereafter, the obligation rests on the petitioner to reimburse the heirs of the claimant the amount found by the Commission as having been spent by the said claimant for his medical services and supplies.

Consequently, due to the modified amount of disability com-pensation owing to the claimant, we also recompute the attorney's fees and the administrative expenses the petitioner must pay.

Section 31 of the Workmen's Compensation Act allows, for services of a claimant's lawyer in appealed cases, fees not in excess of ten percent of the total sum of compensation due to the claimant. Ten percent of P1,820 equals P182 - the amount consti-tuting the attorney's fees of the claimant's counsel.

Section 55 of the Workmen's Compensation Act requires the employer in an adverse judgment to pay to the workmen's com-pensation fund the sum of one peso for every one hundred pesos of the entire amount of compensation granted. The same section also requires the payment by an employer seeking review by the Commission of a referee's decision, whenever the former affirms the decision of the latter, of the sum of five pesos. Computed per the aforestated provisions, we find the petitioner liable for the payment of the amount of P18 as administrative expenses and the amount of P5 as cost of review by the Commission, or a total sum of P23, payable to the workmen's compensation fund.

ACCORDINGLY, modifying the decision of the respondent Commission, judgment is hereby rendered ordering the petitioner company

1. To pay to the heirs of the claimant the amount of ONE THOUSAND EIGHT HUNDRED AND TWENTY PESOS (P1,820) as disability compensation pursuant to section 14 of the Work-men's Compensation Act;
2. To pay to the counsel of the claimant the amount of ONE HUNDRED AND EIGHTY TWO PESOS (P182) as attorney's fees, pursuant to section 31 of the Workmen's Compensation Act; and
3. To pay to the workmen's compensation fund the amount of EIGHTEEN PESOS (P18) as administrative costs

and the amount of FIVE PESOS (P5) as cost of review by the Commission, or a total of TWENTY THREE PESOS (P23), pursuant to section 55 of the Workmen's Compensation Act.

The award to the heirs of the claimant of the amount of ONE THOUSAND EIGHT HUNDRED AND TWENTY PESOS (P1,820) is hereby declared immediately executory.

Finally, this case is remanded to the Commission for the sole purpose of determining the amount advanced and spent by the claimant for his medical attendance and supplies in connection with his illness of pulmonary tuberculosis, to be reckoned from October 1, 1964, which amount the petitioner company shall without delay reimburse to the heirs of the claimant. Costs against the petitioner company.

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

[1] Rosales died on June 28, 1969 of "parenchymatous nephritis" per the death certificate issued by the Civil Registrar of Goa, Camarines Sur.

[2] Victorias Milling Co., Inc. vs. Workmen's Compensation Commission and del Rosario, L-25640, March 21, 1968, 22 SCRA 1215; Victorias Milling Co., Inc. vs. Workmen's Compensation Commission, L-25665, May 22, 1969, 28 SCRA 285.

[3] B.F. Goodrich Philippines, Inc. vs. Acebedo and Workmen's Compensation Commission, L-29551, March 25, 1970, 32 SCRA 100; De Macabenta vs. Davao Stevedore Terminal Company, L-27489, April 30, 1970, 32 SCRA 553.

[4] La Mallorca-Pambusco vs. Isip, et al., L-16495, October 19, 1961, 3 SCRA 241; Itogon-Suyoc Mines, Inc. vs. Dulay and Workmen's Compensation Commission, L-18974, September 30, 1963, 9 SCRA 199; Cebu Portland Cement Company vs. Workmen's Compensation Commission and de los Reyes, L-19164, February 29, 1964, 10 SCRA 421.

[5] Cebu Portland Cement Company vs. Workmen's Compensation Commission and de los Reyes, *ibid.*

[6] Cebu Portland Cement Company vs. Workmen's Compensation Commission and de los Reyes, *ibid.*

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