

PERFECTO BONILLA, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION, ET AL., RESPONDENTS.

G.R. No. L-20730. April 30, 1965

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Pedro Bonilla was employed as a latheman (machinist-mechanic) in the Engineering Department of Franklin Baker Company sometime in September, 1952. His work was irregular but his average weekly wage was P39.20. On January 20, 1961, while tightening the independent chuck of the lathe, he felt pain in his "puson" and scrotum for which reason the company physician Dr. Dominador Gesmundo recommended his hospitalization. He was confined at the San Pablo City Hospital where he was treated for hernia for about seven days. He returned to work on February 6, 1961, but after working for about five hours, he stopped because he again felt pain in his scrotum. On June 2, 1961, he was operated on for hernia and was released from the hospital on June 12, 1961. He resumed his work on July 29, 1961 but later was not able to continue for which reason he was given an aid in the amount of P294.26 as benefit under the company's non-occupational sick leave plan.

As a consequence of his sickness, Bonilla filed a claim for compensation before Regional Office No. 5 of San Pablo City of which his employer was duly notified. The latter, while admitting that claimant had been confined for sometime at the San Pablo City Hospital, claims that he was not treated for hernia but of some bodily injury and of chicken pox.

After the claim was heard on the merits, Hearing Officer Domingo A. Reyes rendered decision approving the claim and ordering the employer to pay claimant the sum of P512.02 minus the amount of P294.26 which was already given him under the employer's non-occupational disability plan, plus the amount of P5.00 as filing fee and the amount of P25.00 as attorney's fees.

On appeal taken by the employer to the Workmen's Compensation Commission, Commissioner Cesareo Perez reversed the decision on the ground that there is no causal relationship between the sickness of claimant and the nature of his work. This decision was affirmed by the Commission en banc. The case is now before us on a petition for review.

The only issue to be determined is whether the sickness of hernia which claimant had suffered during his employment arose out of, or was aggravated by, the nature of his work and as such is subject to compensation under the law.

There seems to be no dispute that the sickness of hernia suffered by claimant started while he was still a student with the result that when he began working with respondent company as a latheman or a machinist-mechanic sometime in September, 1952 that sickness had already been contracted. However, it was only on January 20, 1961, or after the lapse of 9 years and 4 months, that claimant complained of the recurrence of that sickness for which reason he was hospitalized. Significantly, during that interregnum, claimant did not make any complaint nor did he ever bring to the attention of the employer's physician that he was suffering from that sickness. This

long silence has given rise to the impression that the recurrence of the sickness was not really due to the nature of the work of the claimant but simply to ordinary causes that come forth because of daily wear and tear of the human body as a concomitant result of his work in the shop of the company.

Nevertheless, to determine in a manner that may set the mind at rest as to the existence, if any, of the causal relation between claimant's sickness and his work, the employer referred the case to the Evaluation Division of the Workmen's Compensation Commission for a medical opinion. And on September 5, 1962, Dr. Fidel M. Gilatco, concurred in by Dr. Jose S. Santillan, both of the same office, submitted a report on the matter wherein an enlightening and exhaustive study of the sickness of hernia in relation to its compensability was made, which we hereunder quote for ready reference:

"We could not, for a moment, believe that such straining would have caused its hernia, since it has been shown by the following testimony of Dr. Gesmundo that this condition has been existing for a long time.

* * * *

"If the nature of his work which he has been doing since 1952 would really aggravate his pre-existing hernia, it would not have waited for almost ten long years before he became bothered by pains in the 'puson' and scrotum.

"The pre-requisites for the compensability of hernia which our Division has been following, and which have almost become the standard criteria in workmen's compensation in the U.S. and Canada, are the following:

- '1. That the hernia is of recent origin.
2. That its appearance was accompanied by pain, discoloration, and evidence of a tearing of the tissue.
3. That it was immediately preceded by some strain out of and in the course of employment
4. That a protrusion or mass appeared in the area immediately following the alleged strain.' (Occupational Diseases by Johnstone. W.B. Saunders Co., 1942, pp. 421-424)

"In the case of Perfecto Bonilla, it has been shown that his hernia is of long-standing, and therefore, is not of recent origin.

"Although he felt some pains after the alleged-strain on Jan. 20, 1961, there is no showing that there was discoloration and evidence of tearing of the tissues which would have necessitated an immediate operation. As to the alleged strain on February 5, 1961, no such discoloration or tearing of the tissue were likewise observed, but only his scrotum loosened (lumalawit) 'everytime I tightened the independent chuck of the lathe I was operating,' a condition which is ordinary in reducible hernia of long-standing. He was finally operated for herniorrhaphy, only after he has been continuously bothered or annoyed by the constant bulging of his scrotum everytime he tightened the independent chuck of the lathe.

"Moorehead stated that in Hernia, 'the protrusion is the final result of previous gradual alteration of the rings, fascia, and muscles. Its appearance may be "silent" or accompanied by mild distress. But no unusual act or endeavor is necessary for its appearance. It may show up with stooping, bending, or lifting at the shop but may just as likely appear while at stool at home.' (Italics supplied)

"In view of all the foregoing, it is our considered opinion that the hernia and the nature of the work of Perfecto Bonilla have no causal relationship; and that the eventual hernia operation was done not because it was aggravated as a result of the alleged strain in the course of his employment but because of the progressive enlargement during the long span of 10 years, of the pre-formed sac filled with intestine or omentum which kept on exerting gradual pressure upon the weakening abdominal rings, fascia and muscles."

In the foregoing report we take note of the following statement: "It is our considered opinion that the hernia and the nature of the work of Perfecto Bonilla have no causal relationship; and that the eventual hernia operation was done not because it was aggravated as a result of the alleged strain in the course of his employment but because of the progressive enlargement during the long span of 10 years, of the pre-formed sac filled with intestine or omentum which kept on exerting gradual pressure upon the weakening abdominal rings, fascia and muscles."

There is nothing in the record to disprove this finding which is based on a careful and serious study made by two doctors of the Workmen's Compensation Commission. This being a question of fact we have no other alternative than to abide by it. The authorities cited by claimant's counsel do not appear to involve facts similar to those obtaining in the present case. Hence, they are not controlling.

WHEREFORE, the decision appealed from is affirmed. No costs.

Bengzon, C.J., Concepcion, Reyes, J.B.L., Barrera. Paredes, Dizon, Regala, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.

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