

**MANILA RAILROAD COMPANY, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION, AND PERPETUA BINOSA, IN HER
BEHALF AND IN REPRESENTATION OF HER MINOR CHILDREN,
RESPONDENTS.**

G.R. No. L-18264. May 26, 1964

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is a petition for review by writ of certiorari of the decision of Associate Commissioner Cesareo Perez of the Workmen's Compensation Commission dated January 10, 1961, and of the resolution of the Commission dated February 1, 1961 in RO3-WCC Case No. 717, entitled "Perpetua Binosa, etc., vs. Manila Railroad Company."

Perpetua Binosa, petitioner below and respondent before us, is the widow of Jesus Binosa, who was employed as a temporary bus driver of herein petitioner Manila Railroad Company from April 16 to October 20, 1957, during which period he rendered intermittent service for 129 days. On September 22, 1958, some eleven (11) months after he stopped working, Jesus Binosa died of pulmonary tuberculosis. More than three months thereafter, or on January 22, 1959, his widow filed a notice and claim for death benefits with Regional Office No. 3 of the Department of Labor. On August 6, 1959 the Regional Administrator of said office ruled against the claim on the ground that the records of the case failed to show that the illness of which the deceased had died arose out of and in the course of his employment as driver, or was aggravated by the nature of such employment. The claimant was notified of the ruling on August 15, 1959 and advised that if the same was unsatisfactory to her she should submit additional evidence to support her claim within 15 days, otherwise the case would be considered closed.

No additional evidence was submitted during the time stated. On November 3, 1959, however, Perpetua Binosa filed a formal complaint for death compensation, to which, after notice, petitioner Manila Railroad Company filed an answer within the reglementary period. Among the special defenses raised in the answer was that the claim had already prescribed in view of the provision of Section 24 of the Workmen's Compensation Act (Act No. 3428).

On April 27, 1960 the hearing officer rendered a decision awarding compensation to the claimant. Petitioner sought a review and the decision was upheld by Commissioner Cesareo Perez on January 10, 1961 and again, on motion for reconsideration, by the Commission en banc in its resolution of February 1, 1961.

The instant petition for review by certiorari poses only one question: Whether or not the Workmen's Compensation Commission had jurisdiction over the claim, considering that the same was filed more than three months after the death of the employee concerned.

Section 24 of Act No. 3428 as amended provides as follows:

"Notice of Injury and Claim for Compensation. - No compensation proceeding under this Act shall prosper unless the employer has been given notice of the injury or sickness as soon as possible after the same was received or contracted and unless a claim for compensation was made not later than two months after the date

of in-jury or sickness, or in case of death, not later than three months after death, regardless of whether or not compensation was claimed by the employee himself, x x x"

This Court has already ruled in several cases that non-compliance with the requirements of Section 24 of Act No. 3428 bars recovery of compensation.

"This Section establishes a condition precedent to the maintenance of any compensation proceeding under the Act. It requires previous notice of the injury or sickness as well as previous claim for compensation within a period fixed in either case. Non-compliance with that requirement bars recovery for compensation. x x x." (Luzon Stevedoring Co. vs. Cesareo de Leon, et al., 106 Phil., 562.)

The foregoing ruling was reiterated in Manila Railroad Co. vs. WCC, L-18388, June 28, 1963, and in Pangasinan Transportation Co. Inc., vs. WCC, L-16490, June 29, 1963. In our resolution on the motion for reconsideration filed in the case last mentioned (Jan. 30, 1964) it is stated:

"Since it is clear that the only statutory excuse for a late claim is the making by the employer of compensation payments, in part or in full (section 24), and since no such payments were proved to have been made in this case by the employer, Pangasinan Transportation Co., Inc., the award by the Compensation Commission is not warranted in law."

The great majority of decisions in the United States (from which we derived our own Compensation Act) is to the effect that failure to present a claim for compensation within the legal time limit is fatal, because its presentation in due time is a condition precedent to the compensation proceedings and of jurisdictional import (see 78 AIR, p. 1294). This Court has expressed the same views in Luzon Stevedoring vs. Workmen's Compensation Commission, L-18388, June 28, 1963."

The doctrine was reiterated in Luzon Stevedoring Co., Inc., vs. WCC, L-19742, January 31, 1964, although it was there held that the requirement of Section 24 was substantially satisfied by the fact that the employer was actually notified of the death of the employee three days thereafter (although no formal claim was filed) and was asked to extend financial aid to the latter's family.

In the instant case petitioner had no knowledge of Jesus Binosa's death (after he quit the service) until his widow filed for the first time a notice of claim for death benefits on January 22, 1959, that is, after the lapse of the three-month statutory period. There is even a conflict between the parties as to whether petitioner was notified of such claim. Commissioner Perez found that such notice was duly given; petitioner avers the contrary, and the record before us contains no showing one way or the other. On the basis of its finding that notice was actually given the Commission ruled that the fact that the claim was not filed within the statutory period of three months became unimportant and immaterial because petitioner failed to file a controversion of such claim seasonably pursuant to Section 45 of the Workmen's Compensation Act.

The ruling is an error. Petitioner's failure to controvert the notice and claim filed on January 22, 1959 did not cure its fatal infirmity proceeding from non-compliance with Section 24 of the Workmen's Compensation Act. Furthermore the said claim was decided by the Regional Administrator, before whom it had been filed, in favor of herein petitioner on August 6, 1959. It was turned down on the ground that the death of the deceased Jesus Binosa was not compensable. That was the end of the claim as far as that particular phase was concerned, and petitioner's failure to controvert did not operate to its prejudice. The subsequent decision of Commissioner Perez dated January 10, 1961 and the resolution of the Commission en banc of February 1, 1961 were rendered not in connection with the original claim of January 22, 1959 which allegedly was not controverted, but on the new and formal complaint for death compensation filed by respondent Perpetua Binosa on November 3, 1959. And to that complaint an answer disclaiming liability, both on the merits of the case and on the ground of lack of jurisdiction, was filed by herein petitioner within the reglementary period.

The decision of January 10, 1961 and the resolution of the Commission en banc dated February 1, 1961 are therefore reversed and set aside, without costs.

Bengzon, C.J., Padilla, Bautista Angelo, Concepcion, Reyes, J.B.L., Paredes, and Dizon, JJ., concur.

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