

GENERAL AZUCARERA DON PEDRO, PETITIONER, VS. CESAREO DE LEON, IN HIS CAPACITY AS WORKMEN'S COMPENSATION COMMISSIONER AND LEONARDO ALLA, RESPONDENTS.*G. R. No. 10036. December 28, 1957*

Ponente: REYES, A., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-10036/>**REYES, A., J.:**

Leonardo Alia, who had been hired by petitioner company to mend sugar sacks at P4.00 a day, was injured while engaged in that work on board a freighter on March 19, 1954 when a sack of sugar fell on him as it was being hoisted in a cargo net into the ship's hold. Examined by both the company physician and the medical officer of the Workmen's Compensation Commission, he was found to have suffered "fracture of the pubis ischium and slight bladder injury." He was given free medicine and medical treatment in the company hospital until his discharge there from on May 13, 1954, and for the time he was totally disabled for work—31 $\frac{6}{7}$ weeks—he was paid by the company a compensation equivalent to 60 % of his average weekly wages. While still being paid such compensation, he filed with the Workmen's Compensation Commission on August of that same year notice of injury and claim for additional compensation. At first the Commissioner declared him entitled (1) to medical supplies and hospital services, (2) to 60% of his average weekly wages for the 31-6/7 weeks he was incapacitated for labor, or P458.74, as compensation for temporary total disability, and (3) to 50% of 60% of his average weekly wages for 208 weeks, or P1,497.60, as compensation for permanent partial disability. But upon reconsideration, the Commissioner reduced the compensation for permanent partial disability to 50% of 50 % of the laborer's weekly wages for 208 weeks, or P1,248.00. Not satisfied with this reduction, the company brought the case here for review by certiorari, contending that the compensation awarded for permanent partial disability was excessive.

Petitioner company claims that the disability suffered by the injured employee should not be considered permanent because the medical certificate dated September 9, 1955, issued jointly by its physician and the Commission's own medical officer does not say so, while on the other hand the statement made therein "that at present this laborer is disabled to the extent of 50% N.S.D." implies that his disability is only temporary. The claim is untenable. The certificate mentioned refers to the extent of the disability and not to its duration and does not necessarily impugn the finding of the Commissioner, based on the estimate of the medical officer of the Commission and supported by a certificate issued by the company's own physician that the disability is permanent.

It is further contended that if the injured laborer is at all entitled to compensation for a permanent partial disability such compensation should be payable only from November 1, 1955, the day following the cessation of his temporary total disability, to December 31, 1955, the day before he found a new employment with the Nasugbu Watchmen Agency at a higher salary. But this alleged new employment does not appear to have been duly established and, indeed, even supposing it to be true, that fact would not in itself necessarily affect the laborer's claim for compensation for a permanent partial disability. An injured laborer's incapacity for work is not to be

measured solely by the wages he receives, or his earnings, after the injury, since the amount of such wages or earnings may be affected by various extraneous matters or factors (58 Am. Jur. 780-781) As noted in the American Law Reports, "there are a number of possible explanations of the fact that an employee who receives higher wages after an injury than what he earned before may still have suffered an impairment of earning capacity. Thus, it may indicate: (1) that the employee is the beneficiary of a mere gratuity and does not actually 'earn' his wages; (2) that the employee, by education and training, has fitted himself for more remunerative employment; (3) that the employee works longer hours than he did before his injury, his hourly remuneration having increased; (4) that a general change in wage scales has taken place for the type of work or in the industry; (5) that the new wages are intended as an inducement to him to refrain from pursuing a claim; (6) that the employee, before his injury, was younger or a minor; (7) that the employment in which the employee was employed after the injury was of uncertain duration." (149 ALE 438, citing cases.)

Citing section 17 of the Workmen's Compensation Act, which fixes a schedule of compensation for the loss of specified parts of the body or their use, petitioner company also claims that the award of compensation for 208 weeks for a permanent partial disability is excessive "for the reason", so it says, "that the compensation for disabilities which arise from losses of parts of the body where are more important to the employee than a bone in the pelvic wing is payable for a relatively shorter period." Again, we find the contention without merit. The penultimate paragraph of section 18 of the Workmen's Compensation Act, relied upon by the Commissioner in awarding compensation for a permanent partial disability to the herein injured employee reads:

"In all other cases of this kind of disability not mentioned in other sections of this Act, the compensation shall be fifty per centum of the difference between the average weekly wages of the injured person and his subsequent earning capacity in these same or some other employment, payable while the partial disability lasts; but subject to reconsideration of the degree of impairment by the Commissioner at the request of an interested party: Provided, however, that the weekly payment shall in no case be continued for period longer than two hundred and eight weeks."

The applicability of the above provision to the kind of injury sustained in this case is not disputed, and the provision, as will be noted, authorizes a maximum of 208 weeks' compensation for such injury. The period may be longer than those authorized for more serious injuries under section 17, but from this it does not necessarily follow that the injured laborer will receive more compensation if he is granted a longer period under the above provision of section 18 than what he will get for a lesser period under section 17. For whereas under section 17 the compensation allowed is 50% of his average weekly wages, under the above-quoted paragraph of section 18 the compensation authorized is only 50% of the difference between his average weekly wages before the injury and his subsequent earning capacity in the same or some other employment.

As to the contention that the compensation for temporary total disability already paid to the employee should be deducted from his compensation for permanent partial disability, it is now settled that an injured employee may recover compensation for both temporary total and permanent partial disability. As was said by this Court in the case of *Cañete vs. Insular Lumber Co.*, 61 Phil. 592—

* * * The object of the law in allowing compensation during temporary disability is to compensate the laborer for what he might have earned during the period of the treatment of his injury. On the other hand the object of the law in granting compensation for a permanent disability is to compensate the injured laborer for the actual and permanent loss of a member of the body.

"In other jurisdiction where the workmen's compensation acts provide compensation for different disabilities resulting from an injury, covered by said acts, the court have consistently held that the injured workman is entitled to the compensation provided for each disability.

" Temporary, as distinguished from permanent, disability, under the Workmen's Compensation Act, is a condition that, exists until the injured workman is as far restored as the permanent character of the injuries will permit. So, where, after the period of temporary total disability had ceased, an employee was found to be suffering from a permanent partial disability, he was entitled to an award based upon partial disability permanent in character. (Vishney vs. Empire Steel & Iron Co., 87 N.I.L., 481; 95 At., 143)

" The claimant was awarded compensation for temporary total disability, based upon loss of earning capacity. Later, an award was made for permanent partial disability as provided in "other cases", based upon loss of earning capacity. The employer contended that since both awards were based upon a loss of earning capacity, he would be given credit for the compensation paid under the temporary total disability award. The court held the intent of the compensation law was that the claimant was entitled to the prior award for temporary total disability in addition to any sum paid for permanent partial disability/ (Simpson Fell Oil Co. vs. Tucker (OH.) 12 P. (2) 529 June, 1932.)."

The above ruling was reiterated in the case of Yarcia vs. Philipine Education Co. and Elser, 62 Phil. 634, and we now see no reason for repudiating it.

With respect to the claim that the combined total of the period of compensation for temporary total disability and that for permanent partial disability in this case should not exceed 208 weeks, it will be noted that while the provisions of the Act covering the other kinds of disability limit the total compensable period to 208 weeks, section 18, which is the one applicable in the present case, contains no such limitation. As a matter of fact the last paragraph thereof provides that award may be reopened and modified "with a view to extending, if necessary, the period of compensation" provided the total compensation to be paid does not exceed P4,000.

In view of the foregoing, the decision appealed from is affirmed, with costs against the petitioner.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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