

**FIRESTONE, TIRE & RUBBER COMPANY OF THE PHILIPPINES,
PETITIONER, VS. VICENTE TUPAS AND WORKMEN'S
COMPENSATION COMMISSION, RESPONDENTS.***G. R. No. 10150. May 29, 1957*

Ponente: MONTEMAYOR, J.

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This is an appeal by certiorari by the Firestone Tire & Rubber Company, later referred to as the Firestone Co., from the decision of the Workmen's Compensation Commissioner on a claim by Vicente Tupas, appellant's former employee, ordering appellant company to pay Tupas the amount of P464.53 for alleged partial permanent disability suffered by him.

The record shows the following facts: On, March 12, 1948, while Tupas, under the employ of the Firestone Co., was unloading boxes from the latter's truck, one of the boxes rolled down from the pile and caused injury to his head. He was sent to the Eiverview Hospital, where he was confined for about twenty-one days. Notice of the injury and claim for compensation was filed by him with the Workmen's Compensation Division of the Bureau of Labor on June 21, 1948. Tupas was referred to the Medical Inspection Division of the Department of Labor for medical examination, after which Dr. Jose S. Santillan, Chief Medical Officer, and Dr. Teofilo V. Gonzales, Assistant Medical Officer, submitted their report on February 23, 1949, saying:

"A walking individual fairly nourished and with normal gait. He answers questions intelligently. He complains of occasional dizziness especially during hot weather. Examination shows that heart and lungs are normal ...

"In my opinion the injury will not result to permanent disability. The dizziness which he is complaining, is only occasional and temporary. . . .

"ESTIMATE OF DISABILITIES:

Temporary Total: Received full pay since accident

Temporary partial: None

Permanent partial: None

"Tupas was released from the hospital and he resumed work with the Firestone Co. on April 12, 1948 in different capacities. In the meantime, computation was made of the amount due to him for his temporary disability, particularly, the time that he was in the hospital, unable to work, and the Firestone Co. paid to him P78.00 and spent P550.09 for his hospital and medical expenses. In view of said payment, Mrs. Nieves Baens del Rosario, Chief of the Workmen's Compensation Division of the Bureau of Labor, submitted a memorandum to the Director of Labor showing: said payment and recommending that the case be closed. Acting upon said recommendation, Felipe E. Jose, Director of Labor, closed the case by approving said recommendation on March 25, 1949.

From what we gather from the brief for the Firestone Co., it would appear that when Tupas reported for work after his release from the hospital, he was assigned as laborer in the company's warehouse at a daily wage of P4.00, and continued in that capacity until 1949, when he was assigned and became a watchman, and at the same time as

driver of Office Manager A. L. Bartolini, at the same compensation of P4.00 plus extra compensation as such driver from Bartolini. After the departure of the manager in March, 1953, Tupas was transferred temporarily to the office as messenger to take invoices and other papers from one department to another, with compensation of P5.00 to P6.50 a day, until the latter part of July, 1953, when he was transferred to the warehouse. He was discharged on September 28, 1953, due to alleged insubordination, frequent absences, defaults, and irregularities in the performance of his duties, refusal to take errands, and abandonment of his work without permission from his immediate superior.

Shortly after his dismissal, he filed a claim with the office of the Workmen's Compensation Commissioner, a new office created in the Department of Labor, by Republic Act No. 772, approved on June 20, 1952, which Act abolished the old Workmen's Compensation Division of the Bureau of Labor, under Act No. 3428. The claim was for alleged partial permanent disability, supposedly supported by a medical report or certificate of one Dr. Jose Jose, dated October 14, 1953, saying that:

"To all appearances corroborated by the clinical history of the patient and the injury received, the patient has suffered from cerebral contusion and concussion and possible fracture at the time of the injury with the late sequelae and complicating traumatic epilepsy and changed personality."

It would appear that the Medical Officer of the Workmen's Compensation Commission also examined Tupas and submitted a medical report, dated November 6, 1953, to the effect that the claimant had suffered a 24% nonscheduled disability, permanent, partial. On the basis of said report, the Commission issued a letter computation, dated November 23, 1953, showing that the Firestone Co. was called upon to pay Tupas the amount of P41.25 under Section 14 of the Workmen's Compensation Law as amended, and P493.02 under Section 18 of the same law, or a total of P534.27. The Firestone Co. answered the claim of Tupas and moved that it be dismissed. The case was referred to a referee of the Commission, Mr. Juan M. Gerardo. At the hearing held by him, the Firestone Co. reiterated its motion for dismissal on the ground that after the case was closed on March 25, 1949 by the Workmen's Compensation Division of the Bureau of Labor, which closure was approved by the Director of Labor, its successor, the Workmen's Compensation Commission no longer had jurisdiction to reopen the case.

Acting upon said motion and over the objection of counsel for claimant Tupas, the referee issued a resolution on February 20, 1954, dismissing the proceedings, on the ground that the case could no longer be reopened for the purpose of awarding claimant Tupas additional compensation; that although Republic Act No. 772, particularly, Section 13 thereof, amending the Old Workmen's Compensation Act (Act No. 3428), providing that after a claimant, has been paid for any disability specified by the Act, the Workmen's Compensation Commissioner may from time to time cause the examination of said disabled laborer with a view to extending¹, if necessary, the period of compensation, nevertheless, said legal provision can only be applied to cases arising after its promulgation on June 20, 1952, and cannot possibly cover the case of Tupas which arose in March, 1948, this, for the reason that in the absence of a clear intention of the Legislature to the contrary, the Act should be given a prospective effect.

Tupas took the resolution to the Commissioner for review, and said Commissioner rendered a decision on December 9, 1955, reversing the resolution and awarding to Tupas the sum of P464.53, which is the amount of his total compensation of P542.53 minus the sum of P78.00 previously paid to him by the Firestone Co. in 1948.

The law involved and applied by the referee and by the Commissioner is Section 18 of Act No. 3428, as amended by Section 18 of Republic Act No. 772, which for purposes of reference, we reproduce below:

"Sec. 18. Amputation.—Amputation between elbow and wrist shall be considered as equivalent to the loss of a

hand. Amputation between knee and ankle shall be considered as loss of a foot. Amputation at or above the elbow shall be considered as equivalent to the loss of an arm. Amputation at or above the knee shall be considered as equivalent to the loss of a leg.

"Compensation for the injuries above specified shall exclude all other compensation except the benefits provided for in sections thirteen, fourteen, and fifteen.

"In case of an injury producing a serious disfigurement of the face or head, the Commissioner may, at the request of an interested party, determine and award such compensation as may seem fair and proper in view of the nature of the disfigurement, but which shall not exceed four thousand pesos.

"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 the 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 payments shall in no case be continued for a period longer than two hundred and eight weeks.

"The total compensation prescribed in this and the next preceding section and the total compensation prescribed in sections four-teen and fifteen of this Act shall, together, not exceed the sum of four thousand pesos: Provided, however, That after the payment has been made for the period specified by the Act in each case, the Workmen's Compensation' Commissioner may from time to time cause the examination of the condition of the disabled laborer, with a view to extending, if necessary, the period of compensation which shall not, however, exceed the said amount of four thousand pesos."

On this point, we quote a portion of the decision of the Commissioner: "The counsel for both parties as well as the trial referee are laboring under the impression that the award of 24% non-scheduled disability, permanent partial, in this particular case, was based on the provisions of the last paragraph of Sec. 18 of the Act. "We would like to point, however, that the right to this benefit was based on the penultimate paragraph of Sec. 18, which speaks of other cases of permanent partial disabilities and which provision of law was already in "existence prior to the enactment of Rep. Act No: 772. In other words, it refers to those permanent partial disabilities which are not scheduled and are aside from the disabilities mentioned in Sees. 14, 15, and 17 of the Act, like the loss of a spleen, or kidney. On the other hand, the last paragraph of Sec. 18, as amended by Rep. Act 772, speaks of the extension of the period of compensation by the Commissioner, if the case so warrants, after payment has been made for the period specified by law in each of the different sections of the Act applicable to

the case but said compensation shall not exceed the total amount of P4,000.00.

"The question that should have been resolved here is whether the 24% non-scheduled permanent partial disability suffered by the claimant, which had been traced to his previous injury and which manifested its seriousness only at a later date, should be compensated considering that he was not paid therefor by the respondent as no award on the basis of said disability was made by the Bureau of Labor."

In saying that the penultimate paragraph of Sec. 18 was already in existence prior to the enactment of Republic Act 772, the Commissioner apparently overlooked the fact that said penultimate paragraph before its amendment, referred to reconsideration by "a competent court", and not by the Commissioner, so that the latter cannot make the reconsideration except under Republic Act 772.

After a careful study of the case, it appears to us that the legal point involved is whether Section 18, as amended, whether the last or the penultimate paragraph thereof can be applied to the present case, considering that the injury took place in 1948, and Republic Act No. 772 took effect only on June 20, 1952. We agree with Referee

Gerardo that Republic Act No. 772 should be given a prospective effect, according to the well-settled rule, in the absence of a clear intention of the Legislature to give it a retrospective effect. Section 25 of said Republic Act 772 says that this Act shall take effect upon its approval. Nothing is said about its being made effective prior to its approval.

In the case of *Amado vs. Olabarrieta, Inc.*, 95 Phil., 83, we declined to give said Republic Act a retrospective effect. Said this Tribunal through Mr. Justice Roberto Concepcion:

"Plaintiff's claim is admittedly predicated upon Act No. 3428, otherwise known as the Workmen's Compensation Act. The same was amended, first, by Act No. 3812, then by Commonwealth Act No. 210 and, lastly, by Republic Act No. 772. The latter, however, took effect on June 20, 1952 or after the accident upon which plaintiff bases her cause of action. Hence, in the consideration of this case, we shall disregard the provisions of said Republic Act No. 772. * * *."

The injury took place in March, 1948. Two doctors of the then Medical Inspection Division of the Bureau of Labor examined him. Said examination must have taken some time and in all probability not only once but on different occasions, because as already stated, the report was filed only in February, 1949, or about a year after the injury. Said two doctors rendered the opinion that it involved only temporary disability. The fact that he was able to resume work and continue working from April 12, 1948 until he was dismissed on September 28, 1953, a period of about five years, including driving a car from 1949 until March, 1953, apparently without any complaint about his health, reinforces the belief that there was no permanent disability caused by his injury; and bearing in mind that he thought of claiming further compensation for alleged permanent partial disability only after he had been dismissed from the service, said circumstance does not exactly free one from doubt and suspicion about the validity and merit of his claim. Of course, he had himself examined by Dr. Jose Jose, but it should be remembered that the report of a doctor examining a patient is based in great measure upon what said patient tells him about how he feels, his reflexes, the keenness of his senses, etc., this, specially when as in the present case, the alleged illness or incapacity is more mental than physical, over which the doctor has not the time, facility or opportunity to check and conclusively determine. Furthermore, after the payment by the Firestone Co. to Tupas for the money loss he suffered during the time of his confinement in the hospital, and the expenditure for the medical and hospital expenses incurred by him amounting to P553.00, Tupas apparently was fully satisfied; the case was finally settled, and upon recommendation of the Chief of the Workmen's Compensation Division of the Bureau of Labor, the Director of the Bureau closed the case. It would manifestly be unfair, after a period of more than five years, for Tupas and the present Workmen's Compensation Commission to reopen the case and apply a law which had been promulgated long after said closure of the case. Said case had been settled under the law existing at the time, namely, the Workmen's Compensation Act, (Act No. 3428). The Firestone Co. paid due compensation. Besides, under said Act No. 3428, Section 29, it is provided in the last part thereof "that the employer shall be exempt from all liability under this Act as soon as the compensation has been paid in accordance with this section".

We hold that the case had been definitely closed in 1949, under the provisions of the law existing, and without deciding whether Section 13 of Republic Act No. 772 is pertinent to a similar case if arising after the promulgation of said Republic Act, we equally hold that said Republic Act No. 772 cannot be applied to the present case.

In view of the foregoing, the appealed decision of the Workmen's Compensation Commissioner is hereby reversed and the claim of respondent Tupas is hereby dismissed in accordance with the resolution of Referee Gerardo.

Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador, Conception, Reyes, J. B. L., Endencia and Felix, JJ., concur.

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