

GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND FELONILA ALEGRE, RESPONDENTS.

G.R. No. 128524. April 20, 1999

Ponente: ROMERO, J.

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ROMERO, J.:

May a moonlighting policeman's death be considered compensable? This is the crux of the controversy now at bar.

The records^[1] disclose that private respondent Felonila Alegre's deceased husband, SPO2 Florencio A. Alegre, was a police officer assigned to the Philippine National Police station in the town of Vigan, Ilocos Sur. On that fateful day of December 6, 1994, he was driving his tricycle and ferrying passengers within the vicinity of Imelda Commercial Complex when SPO4 Alejandro Tenorio, Jr., Team/Desk Officer of the Police Assistance Center located at said complex, confronted him regarding his tour of duty. SPO2 Alegre allegedly snubbed SPO4 Tenorio and even directed curse words upon the latter. A verbal tussle then ensued between the two which led to the fatal shooting of the deceased police officer.

On account of her husband's death, private respondent seasonably filed a claim for death benefits with petitioner Government Service Insurance System (GSIS) pursuant to Presidential Decree No. 626. In its decision on August 7, 1995, the GSIS, however, denied the claim on the ground that at the time of SPO2 Alegre's death, he was performing a personal activity which was not work-connected. Subsequent appeal to the Employees' Compensation Commission (ECC) proved futile as said body, in a decision dated May 9, 1996, merely affirmed the ruling of the GSIS.

Private respondent finally obtained a favorable ruling in the Court of Appeals when on February 28, 1997, the appellate court reversed^[2] the ECC's decision and ruled that SPO2 Alegre's death was work-connected and, therefore, compensable. Citing *Nitura v. Employees' Compensation Commission*^[3] and *Employees' Compensation Commission v. Court of Appeals*,^[4] the appellate court explained the conclusion arrived at, thus:

"[T]he Supreme Court held that the concept of a 'workplace' cannot always be literally applied to a person in active duty status, as if he were a machine operator or a worker in an assembly line in a factory or a clerk in a particular fixed office.

It is our considered view that, as applied to a peace officer, his work place is not confined to the police precinct or station but to any place where his services, as a lawman, to maintain peace and security, are required.

At the time of his death, Alegre was driving a tricycle at the northeastern part of the Imelda Commercial Complex where the police assistance center is located. There can be no dispute therefore that he met his death literally in his place of work.

It is true that the deceased was driving his tricycle, with passengers aboard, when he was accosted by another

police officer. This would lend some semblance of viability to the argument that he was not in the performance of official duty at the time.

However, the argument, though initially plausible, overlooks the fact that policemen, by the nature of their functions, are deemed to be on a round-the-clock duty."

Aggrieved, GSIS comes to us on petition for review on certiorari reiterating its position that SPO2 Alegre's death lacks the requisite element of compensability which is, that the activity being performed at the time of death must be work-connected.

We grant the petition.

As stated at the outset, the sole issue for the Court's resolution is whether the death of SPO2 Alegre is compensable pursuant to the applicable laws and regulations.

Under the pertinent guidelines of the ECC on compensability, it is provided that "for the injury and the resulting disability or death to be compensable, the injury must be the result of an employment accident satisfying all of the following conditions:

- (1) The employee must have been injured at the place where his work requires him to be;
- (2) The employee must have been performing his official functions; and
- (3) If the injury is sustained elsewhere, the employee must have been executing an order for the employer."[5]

Actually, jurisprudence is rather scant with respect to the above rules' application in the case of police officers. Nevertheless, owing to the similarity of functions, that is, to keep peace and order, and the risks assumed, the Court has treated police officers similar to members of the Armed Forces of the Philippines with regard to the compensability of their deaths. Thus, echoing *Hinoguin v. Employees' Compensation Commission*,^[6] a case involving a soldier who was accidentally fired at by a fellow soldier, we held in *Employees' Compensation Commission v. Court of Appeals*,^[7] that "members of the national police are by the nature of their functions technically on duty 24 hours a day" because "policemen are subject to call at any time and may be asked by their superiors or by any distressed citizen to assist in maintaining the peace and security of the community."

Upon examination of the Court of Appeals' reasoning, we believe that the appellate court committed reversible error in applying the precepts enunciated in the cited cases. While we agree that policemen, like soldiers, are at the beck and call of public duty as peace officers and technically on duty round-the-clock, the same does not justify the grant of compensation benefits for the death of SPO2 Alegre based on the facts disclosed by the records. For clarity, a review of the cases relevant to the matter at hand is in order.

In *Hinoguin*, the deceased Philippine Army soldier, Sgt. Limec Hinoguin, together with two other members of his detachment, sought and were orally granted permission by the commanding officer of their company to leave their station in Carranglan, Nueva Ecija to go on overnight pass to Aritao, Nueva Vizcaya. As they were returning to their headquarters, one of his companions, not knowing that his M-16 rifle was on "semi-automatic" mode, accidentally pulled the trigger and shot Sgt. Hinoguin who then died as a result thereof. Ruling for the grant of death compensation benefits, this Court held:

"The concept of a 'workplace' referred to in Ground 1, for instance, cannot always be literally applied to a soldier on active duty status, as if he were a machine operator or a worker in assembly line in a factory or a clerk in a particular fixed office. Obviously, a soldier must go where his company is stationed. In the instant case, Aritao, Nueva Vizcaya was not, of course, Carranglan, Nueva Ecija. Aritao being approximately 1-1/2 hours away from the latter by public transportation. But Sgt. Hinoguin, Cpl. Clavo and Dft. Alibuyog had

permission from their Commanding Officer to proceed to Aritao, and it appears to us that a place which soldiers have secured lawful permission to be at cannot be very different, legally speaking, from a place where they are required to go by their commanding officer. We note that the three (3) soldiers were on an overnight pass which, notably, they did not utilize in full. They were not on vacation leave. Moreover, they were required or authorized to carry their firearms with which presumably they were to defend themselves if NPA elements happened to attack them while en route to and from Aritao or with which to attack and seek to capture such NPA elements as they might encounter. Indeed, if the three (3) soldiers had in fact encountered NPAs while on their way to or from Aritao and been fired upon by them and if Sgt. Hinoguin had been killed by an NPA bullet, we do not believe that respondent GSIS would have had any difficulty in holding the death a compensable one."

Then came the case of Nitura, likewise involving a member of the Philippine Army, Pfc. Regino S. Nitura, who was assigned at Basagan, Katipunan, Zamboanga del Norte. At the time he met his death, he was instructed by his battalion commander to check on several personnel of his command post who were then attending a dance party in Barangay San Jose, Dipolog City. But on his way back to the camp, he passed, crossed and fell from a hanging wooden bridge which accident caused his death. Reversing the ECC which earlier denied death benefits to the deceased's widow, the Court ruled:

"A soldier must go where his company is stationed. In the case at bar, Pfc. Nitura's station was at Basagan, Katipunan, Zamboanga del Norte. But then his presence at the site of the accident was with the permission of his superior officer having been directed to go to Barangay San Jose, Dipolog City. In carrying out said directive, he had to pass by the hanging bridge which connects the two places. As held in the Hinoguin case (supra.), a place where soldiers have secured lawful permission to be at cannot be very different, legally speaking, from a place where they are required to go by their commanding officer.

As to the question of whether or not he was performing an official function at the time of the incident, it has been held that a soldier on active duty status is really on a 24 hours a day official duty status and is subject to military discipline and military law 24 hours a day. He is subject to call and to the orders of his superior officers at all times, seven (7) days a week, except, of course, when he is on vacation leave status. Thus, a soldier should be presumed to be on official duty unless he is shown to have clearly and unequivocally put aside that status or condition temporarily by going on approved vacation leave."

The more recent case which was cited by the appellate court in support of its decision is Employees' Compensation Commission v. Court of Appeals. This time, the claim for death compensation benefits was made in behalf of a deceased police officer, P/Sgt. Wilfredo Alvaran, who, at the time of his death, was a member of the Mandaluyong Police Station but assigned to the Pasig Provincial Jail. Findings showed that the deceased brought his son to the Mandaluyong Police Station for interview because the latter was involved in a stabbing incident. While in front of the said station, the deceased was approached by another policeman and shot him to death. Both the GSIS and the ECC denied the claim by the deceased's widow on the ground that Sgt. Alvaran was plainly acting as a father to his son and that he was in a place where he was not required to be. The Court of Appeals reversed said denial which decision was affirmed by this Court, declaring that:

"But for clarity's sake and as a guide for future cases, we hereby hold that members of the national police, like P/Sgt. Alvaran, are by the nature of their functions technically on duty 24 hours a day. Except when they are on vacation leave, policemen are subject to call at anytime and may be asked by their superiors or by any distressed citizen to assist in maintaining the peace and security of the community.

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We hold that by analogy and for purposes of granting compensation under P. D. No. 626, as amended, policemen should be treated in the same manner as soldiers.

While it is true that, "geographically" speaking, P/Sgt Alvaran was not actually at his assigned post at the Pasig Provincial Jail when he was attacked and killed, it could not also be denied that in bringing his son --- as a suspect in a case --- to the police station for questioning to shed light on a stabbing incident, he was not merely acting as father but as a peace officer."

From the foregoing cases, it can be gleaned that the Court did not justify its grant of death benefits merely on account of the rule that soldiers or policemen, as the case may be, are virtually working round-the-clock. Note that the Court likewise attempted in each case to find a reasonable nexus between the absence of the deceased from his assigned place of work and the incident that led to his death.

In Hinoguin, the connection between his absence from the camp where he was assigned and the place where he was accidentally shot was the permission duly given to him and his companions by the camp commander to go on overnight pass. According to the Court, "a place which soldiers have secured lawful permission cannot be very different, legally speaking, from a place where they are required to go by their commanding officer" and, hence, the deceased is to be considered as still in the performance of his official functions.

The same thing can be said of Nitura where the deceased had to go outside of his station on permission and directive by his superior officer to check on several personnel of his command who were then attending a dance party.

As for P/Sgt. Alvaran in the Employees' Compensation Commission case, although he was not given any directive or permission by a superior officer to be at the Mandaluyong Police Station, his presence there was nonetheless justified by the peacekeeping nature of the matter he was attending to at the time that he was attacked and shot to death, that is, bringing his son to the police station to answer for a crime, a basic duty which any policeman is expected and ought to perform.

Taking together jurisprudence and the pertinent guidelines of the ECC with respect to claims for death benefits, namely: (a) that the employee must be at the place where his work requires him to be; (b) that the employee must have been performing his official functions; and (c) that if the injury is sustained elsewhere, the employee must have been executing an order for the employer, it is not difficult to understand then why SPO2 Alegre's widow should be denied the claims otherwise due her. Obviously, the matter SPO2 Alegre was attending to at the time he met his death, that of ferrying passengers for a fee, was intrinsically private and unofficial in nature proceeding as it did from no particular directive or permission of his superior officer. In the absence of such prior authority as in the cases of Hinoguin and Nitura, or peacekeeping nature of the act attended to by the policeman at the time he died even without the explicit permission or directive of a superior officer, as in the case of P/Sgt. Alvaran, there is no justification for holding that SPO2 Alegre met the requisites set forth in the ECC guidelines. That he may be called upon at any time to render police work as he is considered to be on a round-the-clock duty and was not on an approved vacation leave will not change the conclusion arrived at considering that he was not placed in a situation where he was required to exercise his authority and duty as a policeman. In fact, he was refusing to render one pointing out that he already complied with the duty detail.[8] At any rate, the 24-hour duty doctrine, as applied to policemen and soldiers, serves more as an after-the-fact validation of their acts to place them within the scope of the guidelines rather than a blanket license to benefit them in all situations that may give rise to their deaths. In other words, the 24-hour duty doctrine should not be sweepingly applied to all acts and circumstances causing the death of a police officer but only to those which, although not on official line of duty, are nonetheless basically police service in character.

WHEREFORE, the petition is hereby GRANTED. The assailed decision of the Court of Appeals in CA-G. R. SP No. 42003 dated February 28, 1997, is hereby REVERSED and SET ASIDE.

No pronouncement as to costs.

SO ORDERED.

Vitug, Panganiban, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Rollo, pp. 10-12; 20-21; 47

[2] Decision penned by Associate Justice Oswaldo D. Agcaoili. Imperial and Guerrero, JJ, concurring.

[3] 201 SCRA 278 (1991).

[4] 257 SCRA 717 (1996).

[5] Section 1 (a), Rule III, AMENDED RULES ON EMPLOYEES COMPENSATION.

[6] 172 SCRA 350 (1989).

[7] Cf. Note 2.

[8] Rollo, p. 58

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