

NORMA ORATE, PETITIONER, VS. COURT OF APPEALS, EMPLOYEES COMPENSATION COMMISSION, SOCIAL SECURITY SYSTEM (MANILA BAY SPINNING MILLS, INC.), RESPONDENTS.

G.R. No. 132761. March 26, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the May 14, 1997 Decision[1] of the Court of Appeals[2] in CA-G.R. SP No. 42280, and its January 29, 1998 Resolution[3] denying petitioner's motion for reconsideration.

The undisputed facts are as follows:

On December 5, 1972, petitioner Norma Orate was employed by Manila Bay Spinning Mills, Inc., as a regular machine operator.[4] Her duties included the following:

A) Doffing:

- 1) Obtain empty cones from storage prior to doffing; incl. patrol round trip.
- 2) Prepare empty cones to each spindle prior to doffing; incl. attention to condition of empty cones.
- 3) Doff full cones to bank over machine.
- 4) Take empty cones by L. H. drop ends inside cone or wrap around cones and load to spindle then start spindle.

B) Creeling:

- 1) Remove empty bobbins from creel pin to conveyor.
- 2) Obtain one-full cop from bank and remove tail ends.
- 3) Fit full cop to creel pin and thread to guides
- 4) Find end from running cone and joint-end from full cop; incl. keep clearer free from accumulated cone.
- 5) Remove tail from empty bobbin when necessary. 20%
- 6) Stop spindles. (occasionally when stop motion malfunction. 10%)

C) Repair Breaks:

- 1) Patrol to break-end.
- 2) Stop spindle. (occasionally) 10%
- 3) Get end from full cop and thread to guides.

4) Find end from running cone by R.H. and joint ends by knotter on L. H., then start spindle; including keep cleaner free from accumulated cone.

D) Machine Cleaning Duties once per shift (start of shift):

- 1) Patrol to obtain brush.
- 2) Brush ends of machine.
- 3) Brush creel bar.
- 4) Brush frame beam and stand.[5]

On March 22, 1995, she was diagnosed to be suffering from invasive ductal carcinoma (breast, left),[6] commonly referred to as cancer of the breast. Consequently, she underwent modified radical mastectomy on June 9, 1995.[7] The operation incapacitated her from performing heavy work, for which reason she was forced to go on leave and, eventually, to retire from service at the age of 44.

On November 17, 1995, petitioner applied for employees compensation benefits[8] with the Social Security System (SSS), but the same was denied on the ground that her illness is not work-related. On January 22, 1996, she moved for reconsideration contending that her duties as machine operator which included lifting heavy objects increased the risk of contracting breast cancer.[9] The SSS, however, reiterated its denial of petitioner's claim for benefits under the Employees' Compensation Program. Instead, it approved her application as a sickness benefit claim under the SSS,[10] and classified the same as a permanent partial disability equivalent to a period of twenty-three (23) months.[11] Thus –

Respectfully referred is a letter and copies of EC-Sickness Benefit Claim of subject employee for your further evaluation and review.

Said claim was not considered as EC, however, sickness and disability benefit claims under SSS were approved, computer print-out hereto attached.[12]

Petitioner requested the elevation of her case to the Employees' Compensation Commission (ECC), which affirmed on June 20, 1996, the decision of the SSS in ECC Case No. MS-7938-296. The ECC ruled that petitioner's disability due to breast cancer is not compensable under the Employees' Compensation Program because said ailment is not included among the occupational diseases under Annex "A" of the Rules on Employees' Compensation; and it was not established that the risk of contracting said ailment was increased by the working conditions at Manila Bay Spinning Mills, Inc.[13] The dispositive portion of the ECC's decision reads –

IN LIGHT OF THE FOREGOING, the decision appealed from is hereby AFFIRMED and the instant case is accordingly DISMISSED for lack of merit.

SO ORDERED.[14]

Petitioner filed a petition for review with the Court of Appeals, docketed as CA-G.R. SP No. 42280. On May 14, 1997, the Court of Appeals reversed the decision of the ECC, and granted petitioner's claim for compensation benefit under the Workmen's Compensation Act (Act No. 3428).[15] It held that petitioner's breast cancer must have intervened before the effectivity of Title II, Book IV of the Labor Code on Employees' Compensation and State Insurance Fund on January 1, 1975, hence, the governing law on petitioner's claim for compensation benefit is Act No. 3428, which works upon the presumption of compensability, and not the provisions of the Labor Code on employees' compensation. The Court of Appeals further ruled that since Manila Bay Spinning Mills, Inc. failed to discharge the burden of proving that petitioner's ailment did not arise out of or in the course of

employment, the presumption of compensability prevails, entitling her to compensation. The dispositive portion of the said decision states:

THE FOREGOING CONSIDERED, the contested Decision (ECC Case No. MS-7838-296) is hereby set aside; petitioner instead should be entitled to the benefits under Act No. 3428, as amended, together with the medical-surgical expenses, including doctor's bill.

SO ORDERED.[16]

Petitioner filed a motion for reconsideration[17] arguing that it is the Labor Code which should be applied to her case inasmuch as there is no evidence that the onset of her breast carcinoma occurred before January 1, 1975. She claimed that the basis of the computation of her compensation benefits should be the Labor Code and not the Workmen's Compensation Act.

On January 29, 1998, the Court of Appeals denied her motion for reconsideration.[18]

Hence, petitioner filed the instant petition insisting that her disability should be compensated under the provisions of the Labor Code and not under the Workmen's Compensation Act.

The resolution of the instant controversy hinges on the following issues: (1) What is the law applicable to petitioner's claim for disability benefits? and (2) Is she entitled under the applicable law to be compensated for disability arising from breast carcinoma?

The first law on workmen's compensation in the Philippines is Act No. 3428, otherwise known as the Workmen's Compensation Act, which took effect on June 10, 1928. This Act works upon the presumption of compensability which means that if the injury or disease arose out of and in the course of employment, it is presumed that the claim for compensation falls within the provisions of the law. Simply put, the employee need not present any proof of causation. It is the employer who should prove that the illness or injury did not arise out of or in the course of employment.[19]

On November 1, 1974, the Workmen's Compensation Act was repealed by the Labor Code (Presidential Decree No. 442). On December 27, 1974, Presidential Decree No. 626 (which took effect on January 1, 1975) was issued. It extensively amended the provisions of Title II, Book IV of the Labor Code on Employees' Compensation and State Insurance Fund.[20] The law as it now stands requires the claimant to prove a positive thing – that the illness was caused by employment and the risk of contracting the disease is increased by the working conditions.[21] It discarded, among others, the concepts of "presumption of compensability" and "aggravation" and substituted a system based on social security principles. The present system is also administered by social insurance agencies – the Government Service Insurance System and Social Security System – under the Employees' Compensation Commission. The intent was to restore a sensible equilibrium between the employer's obligation to pay workmen's compensation and the employee's right to receive reparation for work-connected death or disability.[22]

In *Sarmiento v. Employees' Compensation Commission, et al.*,[23] we explained the nature of the new employees' compensation scheme and the State Insurance Fund, as follows –

The new law establishes a state insurance fund built up by the contributions of employers based on the salaries of their employees. The injured worker does not have to litigate his right to compensation. No employer opposes his claim. There is no notice of injury nor requirement of controversion. The sick worker simply files a claim with a new neutral Employees' Compensation Commission which then determines on the basis of the employee's supporting papers and medical evidence whether or not compensation may be paid. The payment of benefits is more prompt. The cost of administration is low. The amount of death benefits has also been

doubled.

On the other hand, the employer's duty is only to pay the regular monthly premiums to the scheme. It does not look for insurance companies to meet sudden demands for compensation payments or set up its own funds to meet these contingencies. It does not have to defend itself from spuriously documented or long past claims.

The new law applies the social security principle in the handling of workmen's compensation. The Commission administers and settles claims from a fund under its exclusive control. The employer does not intervene in the compensation process and it has no control, as in the past, over payment of benefits. The open ended Table of Occupational Diseases requires no proof of causation. A covered claimant suffering from an occupational disease is automatically paid benefits.

Since there is no employer opposing or fighting a claim for compensation, the rules on presumption of compensability and controversion cease to have importance. The lopsided situation of an employer versus one employee, which called for equalization through the various rules and concepts favoring the claimant, is now absent. . . .

In workmen's compensation cases, the governing law is determined by the date when the claimant contracted the disease. An injury or illness which intervened prior to January 1, 1975, the effectivity date of P.D. No. 626, shall be governed by the provisions of the Workmen's Compensation Act, while those contracted on or after January 1, 1975 shall be governed by the Labor Code, as amended by P.D. No. 626.[24] Corollarily, where the claim for compensation benefit was filed after the effectivity of P.D. No. 626 without any showing as to when the disease intervened, the presumption is that the disease was contracted after the effectivity of P.D. No. 626. [25]

In the case at bar, petitioner was found to be positive for breast cancer on March 22, 1995. No evidence, however, was presented as to when she contracted said ailment. Hence, the presumption is that her illness intervened when P.D. No. 626 was already the governing law.

The instant controversy is not on all fours with the cases where the Court applied the "presumption of compensability" and "aggravation" under the Workmen's Compensation Act, even though the claim for compensation benefit was filed after January 1, 1975. In the said cases, the symptoms of breast cancer manifested before or too close to the cut off date – January 1, 1975, that it is logical to presume that the breast carcinoma of the employee concerned must have intervened prior to January 1, 1975. Thus –

(1) In *Avendaño v. Employees' Compensation Commission*, [26] the Workmen's Compensation Act was applied to a claim for disability income benefit arising from breast carcinoma, though the said claim was filed only in 1976, after the effectivity of the Labor Code. Per certification of the physician of the claimant, her breast cancer was contracted sometime in 1959, although the clinical manifestations thereof started only in 1969.

(2) In *Cayco, et al. v. Employees' Compensation Commission, et al.*, [27] the deceased employee's breast carcinoma first showed up in 1972 or 6 years before she died on April 26, 1978. We ruled therein that the presumption on compensability under the Workmen's Compensation Act governs since her right accrued before the Labor Code took effect.

(3) In *Ajero v. Employees' Compensation Commission, et al.*, [28] the claimant was confined and treated for pulmonary tuberculosis and cancer of the breast from January 5 to 15, 1976. In granting the employee's claim for income benefit, it was held that her ailments, especially pulmonary tuberculosis, must have supervened several years before, when the Workmen's Compensation Act was still in force.

(4) In *Mandapat v. Employees' Compensation Commission, et al.*, [29] we held that since the deceased underwent radical mastectomy on May 10, 1975, it is obvious that the tumor in her right breast started to develop even before

1975. We further noted “[t]hat the onset of cancer is quiet and gradual, in contrast [to] many diseases ... It takes six to twelve months for a breast cancer to grow from a size which can just be found to the size actually encountered at the time of surgery.”

(5) In *Nemaria v. Employees’ Compensation Commission, et al.*,^[30] the deceased employee was confined for cancer of the liver, duodenal cancer, and cancer of the breast, from September 8-25, 1978, before she succumbed to death October 16, 1978. In the said case, we recognized that cancer is a disease which is often discovered when it is too late. Hence, we surmised that the possibility that its onset was even before the effectivity of the New Labor Code cannot be discounted.

(6) In *De Leon v. Employees’ Compensation Commission, et al.*,^[31] we ruled that the governing law on the claim for income benefit filed by the mother of the deceased on June 8, 1976 is the Workmen’s Compensation Act. The modified radical mastectomy conducted on the deceased on September 16, 1968 obviously showed that she contracted breast carcinoma before the effectivity of P.D. No. 626.

Clearly therefore, the “presumption of compensability” and “aggravation” under the Workmen’s Compensation Act cannot be applied to petitioner’s claim for compensation benefit arising from breast cancer. We are not experts in this field to rule that the onset of her breast carcinoma occurred prior to January 1, 1975, or almost twenty years ago. Hence, the provisions of the Labor Code govern. For breast carcinoma and resulting disability to be compensable, the claimant must prove, by substantial evidence, either of two things: (a) that the sickness was the result of an occupational disease listed under Annex “A” of the Rules on Employees’ Compensation; or (b) if the sickness is not so listed, that the risk of contracting the disease was increased by the claimant’s working conditions.^[32]

There is no dispute that cancer of the breast is not listed as an occupational disease under Annex “A” of the Rules on Employees’ Compensation. As such, petitioner has the burden of proving, by substantial evidence, the causal relationship between her illness and her working conditions.

Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.^[33] In the case at bar, petitioner argued before the SSS and the ECC that her job as machine operator, which required lifting of heavy objects increased the risk of her contracting breast carcinoma. In addition, she contended that her job in the winding department exposed her to cancer-causing dyes used in coloring threads.^[34] In support thereof, she cited the following:

Some industrial chemicals create a cancer hazard for people who work with them. Such chemicals include aniline dyes, arsenic, asbestos, chromium and iron compounds, lead, nickel, vinyl chloride, and certain products of coal, lignite, oil shale, and petroleum. Unless industrial plants carefully control the use of such chemicals, excessive amounts may escape or be released into the environment. The chemicals then create a cancer hazard for people in surrounding areas. (World Book Encyclopedia, Vol. 3, 1992 ed., p. 119)^[35]

Regrettably, however, said bare allegations and vague excerpts on cancer do not constitute such evidence that a reasonable mind might accept as adequate to support the conclusion that there is a causal relationship between her illness and her working conditions. Awards of compensation cannot rest on speculations and presumptions. The claimant must prove a positive proposition.^[36] A perusal of the records reveals that there is no evidence that she was indeed exposed to dyes. Even assuming that she was dealing directly with chemicals, there is no proof that the company where she worked did not implement measures to control the hazards occasioned by the use of such chemicals.

Indeed, cancer is a disease that strikes people in general. The nature of a person’s employment appears to have no relevance. Cancer can strike a lowly paid laborer or a highly paid executive or one who works on land, in water,

or in the deep bowels of the earth. It makes no difference whether the victim is employed or unemployed, a white collar employee or a blue collar worker, a housekeeper, an urban dweller or a resident of a rural area.[37]

It is not also correct to say that all disability or death resulting from all kinds of cancer are not compensable. There are certain cancers which are reasonably considered as strongly induced by specific causes. Heavy doses of radiation as in Chernobyl, USSR, cigarette smoke over a long period for lung cancer, certain chemicals for specific cancers, and asbestos dust, among others, are generally accepted as increasing the risks of contracting specific cancers. What the law requires for others is proof.[38] This was not satisfied in the instant case.

Hence, while we sustain petitioner's claim that it is the Labor Code that applies to her case, we are nonetheless constrained to rule that under the same code, her disability is not compensable. Much as we commiserate with her, our sympathy cannot justify an award not authorized by law. It is well to remember that if diseases not intended by the law to be compensated are inadvertently or recklessly included, the integrity of the State Insurance Fund is endangered. Compassion for the victims of diseases not covered by law ignores the need to show a greater concern for the trust fund to which the tens of millions of workers and their families look to for compensation whenever covered accidents, diseases and deaths occur. This stems from the development in the law that no longer is the poor employee still arrayed against the might and power of his rich corporate employer, hence the necessity of affording all kinds of favorable presumptions to the employee. This reasoning is no longer good policy. It is now the trust fund and not the employer which suffers if benefits are paid to claimants who are not entitled under the law.[39]

WHEREFORE, in view of all the foregoing, the decision of the Court of Appeals in CA-G.R. SP No. 42280, is REVERSED and SET ASIDE. The decision of the Employees' Compensation Commission in ECC Case No. MS-7938-296, dismissing petitioner's claim for compensation benefits under the Employees' Compensation Program is REINSTATED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Carpio and Azcuna, JJ., concur.

[1] Rollo, p. 101.

[2] Special Second Division, composed of Associate Justices: Bernardo LL. Salas (Ponente), Romeo A. Brawner (Member) and Angelina Sandoval-Gutierrez (Chairman).

[3] Rollo, p. 120.

[4] Certification of Manila Bay Spinning Mills, Inc., Rollo, p. 60.

[5] Manila Bay Spinning Mills' guidelines and routine duties for petitioner (Rollo, p. 72).

[6] Surgical Pathology Report of the Philippine General Hospital (Rollo, p. 62).

[7] Discharge Summary, Philippine General Hospital (Rollo, p. 68).

[8] Employees' Notification, SSS Form B-300 (Rollo, p. 70).

[9] Rollo, p. 73.

[10] Rollo, p. 74.

[11] Rollo, p. 75.

[12] Rollo, 74.

[13] Decision, Rollo, p. 77.

[14] Rollo, p. 82.

[15] Rollo, p. 101.

[16] Rollo, p. 113

[17] Rollo, p. 114.

[18] Resolution, Rollo, p. 120.

[19] Valencia v. Workmen's Compensation Commission, et al., G.R. No. L-41554, 30 July 1976, 72 SCRA 242, 247; citing Section 44 of Act No. 3428; A.D. Santos, Inc. v. De Sapon, et al., 213 Phil. 630, 634 (1966); Naira v. Workmen's Compensation Commission, 116 Phil. 675, 677-678 (1962).

[20] This explains why the present law on Employees' Compensation, although part of the Labor Code, is also known as P.D. No. 626.

[21] Raro v. Employees' Compensation Commission, et al., G.R. No. 58445, 27 April 1989, 172 SCRA 845, 849.

[22] Ibid., p. 850.

[23] G.R. No. L-65680, 11 May 1988, 161 SCRA 312, 315-317; citing De Jesus v. Employees' Compensation Commission, et al., 226 Phil. 33, 40-41 (1986); Bonifacio v. Government Service Insurance System, et al., G.R. No. L-62207, 15 December 1986, 146 SCRA 276.

[24] Gonzaga v. Employees' Compensation Commission, et al., 212 Phil. 405, 412 (1984); citing Najera v. Employees' Compensation Commission, 207 Phil. 600, 605 (1983); Segismundo v. Government Service Insurance System v. Court of Appeals, et al., 206 Phil. 238, 246 (1983); Delegente v. Employees' Compensation Commission, 203 Phil. 447, 456 (1982); Ceniza v. Employees' Compensation Commission, 203 Phil. 521, 530 (1982); Evangelista v. Employees' Compensation Commission, 197 Phil. 60, 63 (1982); Corales v. Employees' Compensation Commission, G.R. No. L-44065, 27 February 1979, 88 SCRA 547.

[25] Rosales v. Employees' Compensation Commission, et al., G.R. No. L-46443, 28 June 1988, 162 SCRA 727, 729; Casumpang v. Employees' Compensation Commission, et al., G.R. No. L-48664, 20 May 1987, 150 SCRA 21, 23.

[26] G.R. No. L-48593, 30 April 1980, 97 SCRA 464, 468.

[27] G.R. No. L-49755, 21 August 1980, 99 SCRA 268, 270-271.

[28] G.R. No. L-44597, 29 December 1980, 101 SCRA 868, 871-872.

[29] 191 Phil. 47, 50-51 (1981); citing Illustrated Medical and Health Encyclopedia, Volume 2, pp. 385 and 397.

[30] G.R. No. L-57889, 28 October 1987, 155 SCRA 166, 174.

[31] G.R. No. L-46474, 14 November 1988, 167 SCRA 342, 345.

[32] Government Service Insurance System v. Court of Appeals, et al., 357 Phil. 511, 528-529 (1998).

[33] Reyes v. Employees' Compensation Commission, et al., G.R. No. 93003, 3 March 1992, 206 SCRA 726, 732; citing Magistrado v. Employees' Compensation Commission, et al., G.R. No. 62641, 30 June 1989, 174

SCRA 605.

[34] Rollo, p. 49-51.

[35] Rollo, p. 50.

[36] *Riño v. Employees' Compensation Commission, et al.*, G.R. No. 132558, 9 May 2000, 331 SCRA 596, 603; citing *Kirit, Sr. v. Government Service Insurance System, et al.*, G.R. No. 48580, 6 July 1990, 187 SCRA 224; *Raro v. Employees' Compensation Commission, et al.*, *supra*, at 852.

[37] *Raro v. Employees' Compensation Commission, et al.*, *supra*, at 847-848.

[38] *Id.*, at 848.

[39] *Government Service Insurance System v. Court of Appeals, et al.*, *supra*, at 531-532; *Riño v. Employees' Compensation Commission, et al.*, *supra*, at 603-604.

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