

**GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS.
FELICITAS ZARATE, AS SUBSTITUTED BY HER HEIRS, NAMELY,
MELANIE, JOCELYN, ANALIE AND HENRY JOSEPH, JR., ALL
SURNAMED ZARATE, ...**

G.R. No. 170847. August 03, 2010

Ponente: BRION, J.

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BRION, J.:

We review, through the petition for review on certiorari[1] filed by the Government Service Insurance System (GSIS), the October 12, 2005 decision and the December 19, 2005 resolution of the Court of Appeals[2] (CA) in CA-G.R. SP No. 73993 (entitled Felicitas Zarate v. Government Service Insurance System). The CA decision and resolution reversed the Employees' Compensation Commission's (ECC's) affirmation of the GSIS' denial of death benefits to Felicitas Zarate for the death of her husband Henry.

The Background Facts

The CA related the facts as follows:

The deceased Henry Zarate was a native of Pangasinan who joined the Bureau of Fire Protection as a fireman on June 1, 1978. He was promoted to the rank of Fireman First Class, Fire Corporal and, finally, Senior Fire Officer on July 1, 1992. Five years later, on June 15, 1997, while he was assigned at the Pinagkaisahan Fire Sub-Station in Cubao, Quezon City, he met a traffic accident that cost him his life. As found by the ECC, Zarate went to Rosario, La Union on June 15, which was a Sunday, to visit his ailing mother. In order to report to his station the next day, Monday, he headed back to Metro Manila on the same day, June 15, aboard a Philippine Rabbit bus with plate number CVE-786. At around 2:45 P.M., at Kilometer 80, North Expressway, Cacutud, Angeles City, Pampanga, the bus he was riding on collided with a Swagman Travel Shuttle bus. He sustained severe injuries and was rushed to the Angeles University Foundation. He was pronounced dead on arrival.

Zarate's demise was recorded in the sub-station's log book in the following morning of June 16. The entry stated that SFO2 H. Zarate met a vehicular accident while on off-duty status. A subsequent investigation conducted by the Inspectorate Section of the Bureau confirmed that although off-duty, he was on his way back to Metro Manila from his mother's residence at La Union when the accident occurred. It was acknowledged that Zarate had the permission of his superior to take the trip to La Union on condition that he returned the next day. He was fated to meet his end on the same day. While his mother pleaded to him to stay a little longer, he insisted on returning to be on time for duty on Monday. Had he heeded the advice of his mother, he would still be alive today.[3]

Henry's wife, Felicitas, filed a claim for death benefits with the GSIS, under Presidential Decree No. 626. The GSIS denied the claim by ruling as follows:

The death of the late Henry Zarate did not arise out of nor was it in the course of his employment. Records also

disclosed, that the accident occurred while the subject employee was on off-duty status[.][4]

Felicitas appealed the GSIS ruling to the ECC. In its decision dated October 22, 2002,[5] the ECC dismissed Felicitas' appeal on the ground that Henry's death was indeed not work-related. Said the ECC:

To be compensable, an injury must have resulted from an accident arising out of and in the course of employment. It must be shown that it must be sustained within the scope of employment while an employee was performing an act reasonably necessary or incidental thereto or while following the order of his superior. Indeed, the standard of work-connection must be satisfied even by one who invokes the 24-hour duty doctrine.[6]

It reasoned out that Henry had gone to La Union to visit his ailing mother and was on his way back to Manila when he figured in the accident that killed him. To the ECC, "It is clear that the accident transpired while he was not in the actual performance of his occupation as Fireman x x x the circumstances in the present case do not call for the application of the 24-hour duty doctrine because the deceased was neither at his assigned workplace nor in pursuit of orders of his superior."[7]

Felicitas next brought her case on appeal to the CA pursuant to Rule 43 of the Rules of Court. The CA, in its assailed decision[8] of October 12, 2005, reversed the ECC ruling. It maintained that there was a reasonable work connection in Henry's death and that it is the policy of the law to extend state insurance benefits to as many qualified employees as possible.

The ECC challenges the CA decision in this petition, and submits the following:

Issue

The Honorable Court of Appeals committed a reversible error in granting the respondent's claim for death benefits under P.D. No. 626, as amended, disregarding the fact that the cause of the death of the respondent's late husband, SFO2 Henry Zarate, did not arise out of and in the course of employment.[9]

The Court's Ruling

We dismiss the petition for lack of merit and, accordingly, affirm the CA's decision.

We note that at the time of his death, Henry was a Senior Fire Officer in Quezon City and had occupied this position for five years. A fireman's work is essentially to prevent and suppress all destructive fires on buildings, houses and other structures, land transportation vehicles and equipment.[10] Henry's position as Senior Fire Officer necessarily included duties more difficult than those of an ordinary fireman.

Henry's place of work was the Pinagkaisahan Fire Substation in Cubao, Quezon City, located just five minutes away from the bustling heart of Quezon City - the Araneta Center, the Gateway Mall, the Ali Mall, and the intersection of the Light Rail Transit System (LRT) and the Metro Rail Transit System (MRT). There are several high-rise commercial buildings, a public school, a market, and bus stations in the immediate vicinity. Thousands of commuters get off at the MRT/LRT intersection during the morning and afternoon rush hours. In case of a fire or an accident, the responses required would be more complicated and more challenging than what one might expect in a smaller city or rural municipality. A Senior Fire Officer knows the extent of the responsibilities of this position, i.e., that he should be at peak condition when he reports for duty and be ready to efficiently respond as dictated by his duties. We expect no less from Henry who bothered to secure the permission of his superior officer to visit his mother, and who rushed back on the very same day to return to his base.

Henry's mother lived in Rosario, La Union whose approximate road distance from Quezon City is 220 kilometers.

Given this distance, the travel time from Quezon City to Rosario, La Union, by public land transport, is at least five hours.

It is not disputed that Henry visited his mother because she was then ill. Likewise, it is not also disputed that he did not simply leave Quezon City for his visit; he asked for his superior's permission, which was given on condition that he returned the next day.[11] Hence, on that fateful Sunday, June 15, 1997, Henry had his superior's authority to travel and knew that he had to report fresh the following day. Instead of opting to travel to Quezon City on the very same day he was to report for work, Henry returned on the very day of his visit so he could properly report on Monday. In doing this, he did not heed his mother's plea to stay a little longer. These were the facts that the CA considered and positively appreciated.

In the assailed decision, the CA appropriately took note of our rulings on the payment of compensation on returning to and from work situations. Notably, the CA took note of *Valeriano v. ECC*,[12] where we stated that if it can be proven that at the time of injury, the employee was acting within the scope of his employment and performing an act reasonably necessary in his work, his injury is compensable. Valeriano was a fire truck driver who was on his way home, after having dinner with a friend in a restaurant, when the vehicle they were riding figured in a head-on collision, resulting in his death. His widow was denied death benefits because Valeriano was coming from a private dinner on his way home and no immediate relationship to work was established.

The CA also considered *GSIS v. CA*,[13] a case where a policeman's widow was denied death benefits because at the time of his death, the policeman was ferrying passengers for a fee. We did not apply the 24-hour duty doctrine that the ECC cited in its consideration of Henry's case, as this is applicable to policemen only when death is caused by circumstances that are basically police service in character. In this cited case, ferrying passengers for a fee was foreign to the duties that a policeman regularly performs.

The CA cited and relied on our ruling in *Vano v. GSIS*[14] because of the similarity of the obtaining factual situations. Vano was a letter carrier who died as a result of a motorcycle accident while he was on his way from his hometown in Bohol to Tagbilaran City where he worked. The Court found that Vano's death was compensable as an employment accident because Vano was then on his way to work. In Henry's case, the CA granted death benefits on the reasoning that Henry lost his life while traveling from the home of his mother which he had been allowed to visit (and which was no less a home to him) and was on his way back to Quezon City, in compliance with the timeline his superior gave him.

We fully agree with the CA's finding: Henry should already be deemed en route to the performance of his duty when his accidental death occurred. He was on his way back to Manila in order to be on time and be ready for work the next day as Senior Fire Officer of the Pinagkaisahan Fire Substation in Cubao. He was traveling with his superior's permission and was complying with the condition that he return the next day. Under these facts, Henry was in the course of complying with his superior's order when he met his fatal accident. To be sure, he was not in an actual firefighting or accident situation when he died, but returning to work as instructed by his superior is no less equivalent to compensable performance of duty under Section 1, Rule III of the ECC Rules.

In so ruling, we are mindful that Presidential Decree No. 626 on employees' compensation is a legislation aimed at furthering the Labor Code's benevolent policy of affording protection to labor.[15] Consistent with the law's intent, we must give the law on employee compensation a liberal reading, to the point of ruling in favor of labor and of the grant of employee compensation even in marginal situations for as long as a reasonable work connection may be found.[16] This stance is justified no less by Article 4 of the Labor Code which decrees that all doubts in the implementation and interpretation of the provisions of the Labor Code shall be resolved in favor of the employee.

WHEREFORE, premises considered, we hereby DENY the petition for review on certiorari, and, accordingly, AFFIRM the decision of the Court of Appeals dated October 12, 2005 in CA-G.R. SP No. 73993. No costs.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Abad,[*] and Villarama, Jr., JJ., concur.

[*] Designated additional Member of the Third Division effective May 17, 2010, per Special Order No. 843 dated May 17, 2010.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Mario L. Guariña III (retired), and concurred in by Associate Justice Roberto A. Barrios (deceased) and Associate Justice Arturo G. Tayag.

[3] Rollo, pp. 30-31.

[4] Id. at 37.

[5] Id. at 36-38.

[6] Id. at 29-34.

[7] Id. at 37.

[8] Id. at 37-38.

[9] Id. at 18.

[10] R.A. No. 6975 - Department of the Interior and Local Government Act of 1990.

SECTION 54. Powers and Functions. - The Fire Bureau shall be responsible for the prevention and suppression of all destructive fires on buildings, houses and other structures, forest, land transportation vehicles and equipment, ships or vessels docked at piers or wharves or anchored in major seaports, petroleum industry installations, plane crashes and other similar incidents, as well as the enforcement of the Fire Code and other related laws.

The Fire Bureau shall have the power to investigate all causes of fires and, if necessary, file the proper complaints with the city or provincial prosecutor who has jurisdiction over the case.

[11] Rollo, p. 31.

[12] 388 Phil. 1115 (2000).

[13] 365 Phil. 482 (1999).

[14] 259 Phil. 396 (1989).

[15] Article 3, Labor Code.

[16] Lazo v. Employees' Compensation Commission, G.R. No. 78617, June 18, 1990, 183 SCRA 569; Rodrin v. GSIS, G.R. No. 162837, July 28, 2008, 560 SCRA 166.

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