

ILOILO DOCK & ENGINEERING CO., PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION AND PABLO SANTIAGO, RESPONDENTS.

G. R. No. 17283. July 31, 1962

Ponente: PAREDES, J.

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PAREDES, J.:

Pablo Santiago was an employee (iron worker), of petitioner Iloilo Dock & Engineering Company, receiving a weekly compensation of P38.64. On August 16, 1955, while repairing one of the Lighters of the petitioner, he suffered "slight compression fracture of the 12th thoracic vertebrae" which prevented him from performing his work for 14-6/7 week or until November 30, 1955. Dr. Jose P. Cocjin, Company physician, certified that Santiago suffered "partial permanent disability of the back due to slight stiffness at the 12th thoracic vertebrae—20% (of back)". Petitioner company filed the corresponding Employer's Report of Accident, wherein it stated that it will not controvert Santiago's right to claim for compensation.

On December 1, 1955, Santiago reported for work and performed his usual task before the accident without any complaint regarding any effect of the injury he suffered due to the accident. He was given the same wages he used to receive.

Before the manifestation of the petitioner that it will not controvert the right for compensation, the Regional Administrator of the Department of Labor, Regional Office No. V, Iloilo City, computed the compensation benefits and awarded Santiago the total sum of P1,148.10, as per letter-computation dated January 16, 1958:

"Under Section 13 of the Act, he is entitled to such medical, surgical and hospital services and supplies as the nature of injury may require.

Under Section 14 of the said Act, he is entitled to 60 per cent of his average weekly wages for the period he was incapacitated for labor, exclusive of the first 3 days. In this case, he was disabled for work from August 16, to November 30, 1955 or 107 days. Deducting therefrom the 3-day waiting period, leaves 104 days or 14-6/7 weeks. Sixty per centum of his average weekly wage which was P38.64 equals P23.18 and for 14-6/7 weeks, he is entitled to P344.39.

Under Section 18, for his 20% permanent partial disability, (estimate of the Comp. Rating Medical Officer of this Bureau) to 50% of P38.64 or P19.32 for 41.6 weeks (20% of 208 weeks) or the sum of P803.71."

The first two (2) items of the letter-computation were settled by the petitioner company, but it took exception of item 3, giving an award to Santiago under section 18 of the Workmen's Compensation Act. The case was elevated to the Commissioner, who on April 6, 1960, rendered judgment affirming the ruling of the Labor Administrator. The appeal to the Commission en banc was, on July 11, 1960, also denied.

The above judgment is now the object of the present action for certiorari, petitioner alleging that the Labor Administrator had no jurisdiction to make the award and that the Commission erred in considering the injury of

Pablo Santiago compensable under Section 18 of the Workmen's Compensation Act.

In its first assignment of error, petitioner argued that there was no hearing conducted wherein it could have presented its evidence to contest the claim for compensation. It appears, however, that the petitioner informed the Hearing Officer that it was not controverting respondent's claim. The rules of the Workmen's Compensation Commission provide that where an employer fails to controvert the employees' right to compensation within the period and manner stated therein, he shall be deemed to have renounced his right to controvert and the Hearing Officer may, if a claim has already been filed, receive evidence for the claimant, if necessary, and treat the same as uncontested (Sec. 3, Rule 40). This being the case, the Labor Administrator's task was to make, as he did, the award, in accordance with law, considering the presentation of evidence unnecessary, which award was affirmed by the Commission en banc. The Commission acted with jurisdiction and had not committed any abuse, much less grave abuse of discretion (*The Bachrach Motor Co., Inc. vs. The Commission, et al.*, 99 Phil. 238; 52 Off. Gaz (7) 3583).

The pertinent provisions of section 18, WCA, states—

"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 or impairment by the Commissioner at the request of an interested party: Provided, however, That the weekly payments shall in no case be continued for period longer than two hundred and eight weeks. * * *." (As amended by section 13, of Republic Act 772).

In arguing that the above provision is not applicable to the case of Santiago, petitioner claims that there was no amputation at all and that the said section refers "to other amputations like a rib, or other parts of the human body". It further contends that the compensation cannot be computed because when Santiago returned to work, he was given the same rate of pay he was receiving before he met with the accident and that whatever disability he suffered as a result thereof, has already been cured. We do not share petitioner's views. The mere fact that the section is entitled "amputation" does not exclude other kinds of injuries of similar nature. In fact, serious disfigurement of the face or head is also included. A cursory reading of the section referred to will readily show that the case of Santiago comes within the purview of paragraph 4, which provides, among others, "in all other cases of this kind of disability not mentioned in other sections of this Act." He suffered "slight compression fracture of the 12th thoracic vertebrae" or "partial permanent disability of the back due to slight stiffness", which is akin or germane to those mentioned in the said section and which is not described or covered by other sections of the law. The argument that there was no basis for computation of the compensation awarded under said section because there is no difference between the average weekly wages of the injured person before the accident and his wages when he resumed work after the accident, cannot also be sustained. This is so because " * * * an injured laborer's capacity for work is not measured solely by the wages he receives, or his earning, after the injury, since

the amount of such wages or earning may be affected by various extraneous matters or factors, * * * for 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" (*Azucarera de Don Pedro vs. de Leon & Alia*, 102 Phil. 784; 56 Off. Gaz. (31) 4922). In other words, the criterion under the law is the earning capacity and not the wages given. As fittingly observed by the respondent Commission, "It is sufficiently clear that once a workman sustains a permanent impairment he is entitled to what the law provides for such condition regardless of the actual remuneration he receives after the injury. A laborer who lost an arm in an accident may still have the fortune of landing a job where the rate of pay is the same as what he was receiving before the accident but surely his lost arm should be compensated because it is a permanent partial disability contemplated under Workmen's Compensation Law."

Respondent claims that Santiago had not suffered 20% permanent partial disability, contrary to the finding of no less than the physician of the petitioner company, and the Commission itself. Evidently, this is a question of fact which We are not authorized to pass upon on review by certiorari.

Moreover, it has been held that the Workmen's Compensation Act should or must be constructed fairly, reasonably or liberally in favor, or for the benefit, of employees and their dependents, all doubts as to the right to compensation being resolved in their favor, and all presumptions indulged being in their favor (*Francisco, et al. vs. Consing*, 63 Phil., 354; *Libron vs. Binalbagan Estate Inc.*, G. R. No. 41474, July 27, 1934; See also Art. 1702, New Civil Code).

Conformably with all the foregoing, the petition is dismissed, and the decision subject of review is hereby affirmed, with costs against petitioner.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Barrera, Dizon, Regala, and Makalintal, JJ., concur.

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