

BATANGAS TRANSPORTATION COMPANY, PETITIONER, VS. NARCISO VALENZUELA AND THE WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. 18532. August 31, 1963

Ponente: PAREDES, J.

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PAREDES, J.:

This is a case for compensation, where the petitioner does not contest the fact that the injury is compensable, but questions the amount of award and the duration of the disability.

Respondent Narciso Valenzuela had been employed by the petitioner Batangas Transportation Company as a driver of one of its passenger buses, with a weekly compensation of P40.81. On November 17, 1961, While Valenzuela was putting the padlock of his spare tire, a person, not an employee of the petitioner, operated the truck, which resulted to the pinning of Valenzuela against the wall and causing injuries. Under date of December 17, 1958, Valencia filed with the Workmen's Compensation Commission a "Notice of Injury or Sickness and Claim for Compensation", which was docketed as R03-SP.WC Case No. 10. Thereafter, on March 13, 1961, the petitioner transportation company filed with the WCC, an "Employer's Report of Accident or Sickness", the pertinent portion of which reads—

"32. Probable length of disability: November 17, 1958 to December 10, 1958."

Dr. Gideon G. Pilar, the physician who examined and treated the injuries sustained by Valenzuela, filed with the WCC on March 19, 1958, a "Physician's Report of Sickness or Accident" (R03-WC-Form No. 4), wherein the following appear—

"13. Has the injury caused the workman, temporary total disability for labor? Yes. For what length of time? 3-4 weeks.

"14. After the period of temporary total disability (Item 13) may the workman resume his former occupation right away? Yes."

The claim was heard at San Pablo City, Regional Office No. 3 of the Department of Labor, before Hearing Officer, Atty. Teodorico Ona who rendered judgement, the pertinent portions of which read—

"* * * The claimant is claiming that he be paid compensation for his total disability from the date of his injury, November 17, 1961, up to June 14 1969, basing his contention on Exhibit A, which is attached to the record. On the other hand, the respondent contends that the period of total disability is from the date of the accident which was on November 17, 1958 until around December 10, 1958, or a period of three or four weeks, basing its contention on WCC Form No. 4, Physician's Report of Accident or Sickness.

"In support of the theory of the claimant, besides the contents of Exhibit 'A' he submitted, he testified on the witness stand that on June 11, 1959 he went to the Manila Sanitarium and Hospital, and there he was medically checked up for the injury he sustained on November 17, 1958; he was X-Rayed on said date and medical

certificate was issued to him, and said medical certificate was the said Exh. 'A'.

It will be noted that the hospital where he was checked up on June 11, 1959 was the same hospital whose doctor prepared WCC Form No. 4, Physician's Report of Accident or Sickness, who diagnosed the injury of this claimant when the latter suffered injury on November 17, 1958. The contention of the respondent, on the other hand, that the disability should be from November 17, to December 10, 1958 was based on said WCC Form No. 4, Physician's Report of Accident or Sickness, in questionnaire No. 13 of the said WCC Form No. 4, which says that the injury of this claimant caused temporary total disability for labor for three or four weeks only. The admission of Exhibit 'A' of the claimant was vigorously objected to by the respondent on the ground that it is hearsay and that it is not admissible in evidence. Over said objection, however, this Office sustained the admissibility of Exhibit 'A' on the ground that it is part of the hospital record in relation to the case, and according to section 49 of the Workmen's Compensation Act, as amended, the Commissioner may receive an evidence and use as proof of any fact in dispute this following matters, in addition to sworn testimony presented at open hearing:

1. * * * * *

2. * * * * *

3. * * * * *

4. * * * * *

5. Hospital records in relation to the case.'

* * * * *

In view of the findings of this Office as recorded above, we are inclined to believe the theory of the claimant that the total disability would be from November 17, 1958 up to June 11, 1959, as shown W Exhibit 'A' and for further proof that the claimant is still out of work from the respondent.

In view of all the foregoing, this Office orders, as it is hereby ordered, the respondent to—

(1) Pay the claimant, through this Office, the sum of Seven Hundred Thirteen Pesos & 64/100 (P713.64), in lump sum as it is now due and demandable, computed as follows:—sixty per centum of his average weekly wage of F40.81 for the period he was incapacitated for labor, exclusive of the first three days. In this case he was disabled for work, as shown by Exhibit 'A' and by the contention of the claimant which was sustained by this Office, from November 17, 1958 to June 11, 1959, or 207 days. Deducting therefrom the 3-day waiting period leave 204 days or 29.14 weeks. Sixty per centum of his average weekly wage of P40.81 equals P24.49, and for 29.14 weeks he is entitled to P713.64, (section 14 of the Act);

(2) Provide the claimant with such medical surgical and hospital services or supplies as his illness may require, (Section 13 of the Act); and

(3) Pay to the Workmen's Compensation Fund the sum of P8.00 as fee under Section 55 of the Act."

Only the petitioner moved for a reconsideration of the above judgment and the case was elevated to the WCC which, on July 6, 1960, handed down an Order, thru Associate Commissioner Cesareo Perez, worded as follows—

"In the interest of justice and to enable the Commission to determine intelligently claimant's disability for labor, temporary or otherwise:

"Let this case be, as it is hereby set for hearing on July 22, 1960 at 9:00 a.m., before Atty. Miguel Calimbas, where the parties may adduce their respective evidence, oral or documentary or both."

After the hearing, as ordered, the Commission, thru Commissioner Perez, handed a decision, upholding the findings and conclusions of the hearing officer, in this wise—

"Apparently, the Medical Certificate issued by Dr. Ismael' Corral and the Physician's Report of Sickness or Accident made by Dr. Gideon Pilar are hearsay evidence, said doctors not having been presented by the parties concerned at the trial of the case. However, through statutory relaxation of the strictness on rules of evidence, and in order to effectuate the objectives envisioned in the enactment of the Workmen's Compensation Act, as amended, these medical reports are admissible in evidence pursuant to Section 49 thereof, Exhibit 'A' falling under the category of 'Hospital records in relation to the case*' and the latter (Physician's Report of Sickness and Accident being a 'report of the* attending physician') * *."

As between these reports, other circumstances being equal, we are inclined to sustain the findings of Dr. Ismael Corral, as what the Hearing Officer did, that the injury had caused the claimant disability for labor up to June 11, 1959. * *.

While confirming the above findings and conclusions, the Commission, however, made a modification by discarding the benefits (medical assistance) provided for under Section IS of the Act, but awarded attorney's fees of f 53.52, in favor of respondent Valenzuela, as provided for in Sec. 6, Rule 26 of the Rules of the WCC and Article 2208 (8) of the New Civil Code. Both parties moved for a reconsideration of the above judgment, which were denied by the Commission en banc on May 26, 1961.

In the petition for review, the Batangas Transportation Company points out that the WCC committed grave abuse of discretion in (1) admitting Exhibit "A" and making it the basis of its decision; (2) finding that Valenzuela had been disable for 29.14 weeks instead of only 3 to 4 weeks; and (3) awarding P53.52 as attorney's fees. Collectively they pose a singular issue—that is —the sufficiency of the evidence adduced by the claimant.

Petitioner's objection to Exhibit "A" is founded on the rule of evidence regarding the admission and giving value to hearsay evidence. The WCC categorically stated that the exhibits presented, which are contradictory on the matter of the duration of the disability, are hearsay evidence. This notwithstanding, it gave probative value to Exhibit A, which was dated June 11, 1959, and made it as the main basis of its holding that the disability of respondent claimant was from November 17, 1958 to said date. The respondent WCC properly admitted Exhibit A, as "hospital records in relation to the case" upon authority of Sec. 49 of the Workmen's Compensation Act. Moreover, the duration of disability is a finding of fact, which, according to well established jurisprudence, is conclusive and binding upon this Court. While it may be argued that this Court, in its discretion, may review such findings, the exercise of such discretion is limited only to cases where factual findings are not supported by substantial evidence. In the case at bar, Wfe find ample evidence to sustain the findings of the hearing officer and which were confirmed by the Commission. It took into account the gravity of the injury as shown by the hospital records and the testimony of the claimant and made the conclusion that 3 to 4 weeks disability, which appeared in the Physician's Report of Sickness or Accident, cannot be correct. As the trial Commissioner has well observed—

"We take judicial cognizance of the fact that, taking into account the seriousness of the injury inflicted upon the claimant, said injury must necessitate a longer period of medication, but surely not for three or four weeks as contained in the physician's report (W.C.C. Form No. 4). This is not to mention the possibility of the injury supervening unfavorable development which may entail as in the instant case, a longer period of treatment."

The basis of the objection to the award of attorney's fees, is the fact that respondent claimant Valenzuela did not appeal from the decision of the Hearing Officer, who did not provide for such fees, and that not having questioned the decision, he could not be awarded more than what appears in the judgment. It cannot be denied that both the Workmen's Compensation Act and the New Civil Code authorize such award (Sec. 6, Rule 26, of the WCC and Art. 2208 [8], of the NCC). The fact that no appeal was interposed contesting the non-award of attorney's fees is

of no moment. We have said:

"Although the Court of First Instance did not provide for attorney's fees in the sum of P3,000.00 and no appeal to the Court of Appeals was interposed on that point, it was not error for the Court of Appeals to award them motu proprio, because attorney's fees are included in the concept of actual damages under the Civil Code and may be awarded whenever the Court deems it just and equitable." (Fores vs. Miranda, Oct. 30, 1961 Off. Gaz., p. 7989).

In view of the foregoing, the decision sought to be reviewed should be, as it is hereby affirmed, with costs against petitioner.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, and Makalintal, JJ., concur.

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