

BATANGAS TRANSPORTATION COMPANY, PETITIONER, VS. TOMAS PEREZ AND THE WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G. R. No. 19522. August 31, 1964

Ponente: BENGZON, C. J.

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BENGZON, C. J.:

Certiorari to review the judgment of the Workmen's Compensation Commission ordering; petitioner to pay compensation to respondent Tomas Perez under the Workmen's Compensation Act.

Tomas Perez worked as bus driver for Batangas Transportation Co., from May 31, 1952 up to March 2, 1958. He plied the rough, dusty route between Lobo. Batangas, and Manila, working 8 hours, and 2 to 3 hours overtime each day. On January 20, 1957, while he was driving petitioner's bus in the course of his work, another truck, driven by one Max Chamorro, bumped against it causing some damage to said petitioner's bus. Perez suffered contusions in his back with abrasion in the scapular region left, and forearm and right hand. However, he continued to work for petitioner. Soon after the accident, he began to cough profusely, and Dr. Bienenfeld, petitioner's company physician, attended to his ailment. On March 2, 1958, after an X-ray was taken, 'Perez was given certain medicines. He stopped working on that day because of the loss of his voice, and general weakness; and thereafter submitted himself for regular treatment and check-up at the Quezon Institute Hospital. On July 26, 1958, Dr. Miguel Cnfiizurcs, the Director of the Quezon Institute, issued certificate declaring rcrcncient pick of pulmonary tuberculosis. On October 18, 1958 Perez was officially dismissed by petitioner because of his absence from work.

His last treatment nt the Quezon Institute was on April 17, 1959, when the following findings were made; Right Hemithorax-Enlarged hilus; Left-Hemithorax-stationary (Exh. "G" X-ray card of claimant's X-ray service).

On the basis of these facts, the hearing officer rendered on October 28, 1960, a decision ordering the Batangna Transportation Company to pay compensation to Tomas Perez in the amount of P3,303.72 plus P23.94 a week starting October 29, 1960, until the illness of Perez, shall have been cured or arrested, or up to and including the 208th week after March 3, 1958, or until the total compensation paid to Perez reaches P4,000.00 the maximum amount of allowable compensation.[1] The Batangas Transportation Co. was further ordered to provide Perez with such medical, surgical and hospital services as his illness might require.

On November 22, 1960, the Batangas Transportation Co. filed a motion for reconsideration with the hearing officer, whereupon the Regional Office elevated the record to the Workmen's Compensation Commission. Perez did not file any appeal or motion for reconsideration.

On December 6, 1961, the Workmen's Compensation Commission thru its chairman, rendered its award, the dispositive portion of which reads:

"* * * viewed in the light of the established facts of the case now on hand, the claimant's cause may, and should

be sustained. The injuries suffered by claimant as a result of the accident that befell him on January 20, 1957, while actually in the performance of his duty as a driver, must have reduced his vitality and lowered his power of resistance against disease, and, to that extent, he became more susceptible to its attack. Thus the latent, symptomless tuberculosis that must have been in his lungs became active in his system forcing him to stop working; as driver of the respondent. This conclusion is irresistible considering that, one month and five days after said accident, or on February 25, 1957, he consulted Dr. Pablo A. Buenaño, respondent's physician, for severe coughing. There is no showing that claimant was already suffering from pulmonary tuberculosis before he met the accident. And when he was found on March 2, 1958, afflicted with the disease after the said incident on January 20, 1957, the causal relation between claimant's employment and his pulmonary tuberculosis upon which he based his claim for compensation, cannot be doubted.

We therefore find the pulmonary tuberculosis of the claimant to have been the result of the nature of his employment and he is, therefore, entitled to an award of compensation under the Workmen's Compensation Act as amended. The records having failed to disclose any proof tending to show that claimant's pulmonary tuberculosis has already been arrested or cured, he should be entitled to compensation and further medical treatment until said illness is shown by the respondent to have already been cured or arrested. The total amount of compensation, however, should not exceed P4,000.00."

The respondent Workmen's Compensation Commission also ordered that it order to pay to Perez P300.00 as attorney's fees.

After the respondent Commission en banc had resolved to deny its motion for reconsideration, petitioner perfected this appeal by certiorari.

Its brief assigns the following errors:

- Respondent Commission committed a grave abuse of discretion in finding that the illness (pulmonary tuberculosis) of respondent Tomas Perez was "the result of the nature of his employment".
- Respondent Commission committed a grave abuse of discretion and an error in law in ordering the petitioner to pay respondent Tomas Perez P 1,000.00 as compensation.
- Respondent Commission committed an error in law in ordering the petitioner to provide respondent Tomas Perez with medical, surgical and hospital services and supplies.
- Respondent Commission committed an error in law in ordering the petitioner to pay respondent Tomas Perez P300.00 as attorney's fees.

FIRST ASSIGNMENT OF ERROR: Petitioner disputes the finding of the Workmen's Compensation Commission that Perez' pulmonary tuberculosis "was the result of the nature of his employment", by citing the testimony of Dr. Pablo A. Buenaño, the company's physician, who declared that the "simple injuries" sustained by respondent Perez in the accident that befell him on January 20, 1957, could not have produced or resulted in the incipient pulmonary tuberculosis with which Perez was found afflicted on March 2, 1958, more than a year after the accident.

Under Sec. 2 of the Workmen's Compensation Act, a claimant may recover from his employer, if his illness

- (a) was directly caused by the employment;
- (b) or was aggravated by the employment;
- (c) or was the result of the nature of his employment.

While Perez' illness cannot be subsumed under the first, it is obvious that the accident that Perez met on January 20, 1957, established the causal relation between his employment and his disease as to make his illness compensable under either the second or the third. As found by the respondent Commission, the impact of the accident must have reduced his vitality and lowered his power of resistance against disease, and, to that extent, he became more susceptible to its attack." This, indeed, is the only topical inference that can be drawn from the fact that soon after the accident, Perez began to cough profusely. The ailment was diagnosed by Dr. Buenafe, petitioner's physician, first as bronchitis, next as insomnia, later as pharyngitis acute, still later as neuralgia, and finally, on March 2, 1958, as pulmonary tuberculosis. That it was only on March 2, 1958, or thirteen months after the accident, that Perez was found to be conclusively afflicted with the disease should not discount the accident as the main cause or contributing cause of Perez' tuberculosis. Because tuberculosis is not an instantaneous disease; it is an imperceptible germ disease that feeds on the lungs, whose presence in the body cannot be as easily discerned as a splintered spine or a fractured knee. Its incipient stage may not readily be discovered.

But even assuming that the causal relation between the accident and the disease is not as clear as the petitioning company thinks it is, Perez may still be allowed to recover on the theory that the nature of his employment definitely aggravated the injuries which respondent sustained on account of the accident, and hastened the attack of the disease. The record shows that soon after the accident and up to March 2, 1958, a total of thirteen months, the respondent performed the usual taxing labors that he had been doing since he was employed as company driver on May 31, 1952. He would rise at three in the morning, prepare the bus, pull out at four and travel the tortuous distance between Lobo, Batangas, and Manila, through dusty and pitted roads, through wet and mud—all depending on the climate or season. At 1:15 in the afternoon, he would begin to retrace the route back to Lobo only to reach it at 8:15 in the evening. Thereafter, he would clean the truck of the mud or the dust, of grease and oil, and of the dirt and incidentals of the passengers, which task took him up to nine at night. It was only then that he was able to retire and rest, in preparation for another equally grueling day. All these went on seven days a week, four weeks a month, from the time of the accident up to March 2, 1958, the day he was definitely found to be sick of tuberculosis.

In any case, the question of causality or connection is mainly factual for the Commission to decide.

SECOND ASSIGNMENT OF ERROR: Petitioner argues that it was error for the respondent Commission to order the payment of P4,000.00 to respondent Perez as compensation in light of the alleged testimony of Dr. Cirilo Santos of the Quezon Institute Hospital, who supposedly claimed that Perez' disability ceased in April, 1959. This argument is entirely devoid of merit. The part of the T.S.N. taken February 26, 1960, which petitioner cites to support its argument reads:

"Q.—Now, when you prepared this Exhibit 'D' and you made this finding[2] pulmonary tuberculosis chronic, minimal, did you examine Tomas Perez personally, or you based on the clinical records?

"A.—From the X-ray film.

"Q.—And that X-ray film was taken long before you prepared this Exhibit 'D'?

"A.—I don't know when I prepared this.

"Q.—But it is possible, doctor, that when you prepared this document long time has elapsed after the X-ray film was taken?

"A.—Maybe.

"Q.—So when you prepared this document you cannot positively state under oath that Tomas Perez is still suffering from pulmonary tuberculosis?

"A.—Yes.

"Q.—And it is possible that by that time he was already cured of his TB?

"A.—Maybe.

One looks in vain for any part of this testimony which supports petitioner's theory that Perez' disability had ceased as of April, 1959. Dr. Santos' testimony merely stated a possibility; the doctor did not state that the disease had in fact been cured. On the other hand, the respondent Perez testified on March 18, 1960, that up to that time he was still, on Dr. Canizares' advice, taking daily doses of medicine (delta-vit forte) and milk, and that he was still jobless as he was "still coughing" his body being- "still weak".

This Court has always ruled that the Workmen's Compensation Act, being a social legislation designed to give relief to workman, must be liberally construed to attain the purpose for which it has been enacted. (*Eneria vs. Atlantic Gulf and Pacific Co., Inc.*, 40 Off. Gaz. 4020, 4021-4026, September 15, 1941; *Industrial Commission vs. Corwin Hospital*, 126 Colo, 358, 250 2d. (1952). Besides, the Commission's findings in this regard are generally binding upon this Court and they cannot, except in cases of gross abuse, be disturbed on certiorari.

THIRD ASSIGNMENT OF ERROR: Petitioner also assails the order of the commission which grants the respondent Perez medical, surgical and hospital services and supplies on the ground that "there is no evidence which would possibly support a finding that respondent Perez was still suffering from pulmonary tuberculosis on the date when the decision of the respondent Commission was rendered." Our view in regard to the first error applies to this one too. Factual issues are mainly for the Commission to decide.

Again, petitioner contends that "to justify the Questioned pronouncement, it must appear that at the date thereof, an employer-employee relationship exists." And since Perez was no longer employed by the petitioner on December 6, 1961, the date when respondent Commission rendered its decision, the said award is void.

This argument is of course absurd. If the validity of a judgment or order of the Workmen's Compensation Commission were made to depend on the existence of an employer-employee relationship at the time the judgment is rendered, then the latter could "with impunity avoid all its obligations under the Act by the simple expedient of dismissing its employees as soon as indications of their injury or illness arise.

FOURTH ASSIGNMENT OF ERROR: Respondent Commission allegedly committed an error in law in ordering the petitioner to pay respondent Tomas Perez P300.00 as attorney's fees because Perez did not appeal from the decision of the Hearing Officer. There is merit to this argument. In an appellate court no additional award may be given to a party who has not appealed.

In view of the foregoing, with the elimination of the amount for attorney's fees, the judgment of the Workmen's Compensation Commission is hereby affirmed. So ordered.

Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Regala and Makalintal, JJ., concur.

[1] Computation is not here disputed.

[2] "The last entry in Exhibit 'D' is dated April 17, 1959 (pp. 5, 17 and 22, t.s.n., Feb. 26, 1960).

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