

**CELEDONIA O. VDA. DE ACOSTA, ALFREDO, MANUEL, GUADALUPE, LETICIA, LOLITA, DELIA AND TERESITA ALL SURNAMED ACOSTA, PETITIONERS, VS. THE WORKMEN'S COMPENSATION COMMISSION AND THE ...**

*G.R. No. 19772. October 21, 1964*

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**CONCEPCION, J.;**

This is an appeal, taken by petitioners Celedonia O. Vda. de Acosta and her children, as heirs of the deceased Bernardo Acosta, from a decision of the Chairman of the Workmen's Compensation Commission, affirmed by the latter, absolving respondent Manila Railroad Company, hereinafter referred to as the Company, from the claim for compensation filed by said petitioner on account of the death of Acosta as an employee of the Company. As stated in the decision appealed from:

"It is not disputed that the late Bernardo Acosta was employed for more than twenty years as switchman of the respondent at its station in the barrio of Quesada, Malasique, Pangasinan. In the physical examination conducted by the respondent in 1947, 1949, 1950 and 1953, the deceased was found to have a normal lung condition.

"On March 15, 1956, the examination conducted by the Dagupan City Chest Clinic of the Philippine Tuberculosis Society, he was found suffering from pulmonary tuberculosis with the following findings: 'right hemithorax-slight infiltrations; left hemithorax-moderate infiltrations.'"

"On January 16, 1960, he stopped working on account of his illness. On February 20, 1960, he was again examined from pulmonary tuberculosis, for advance, bilateral. He retired on May 1, 1960, and on June 25, 1960 at the age of 59 he died of the disease."

The main issue in this case is whether the illness of the deceased was due to or aggravated by the nature of his employment. In this connection, the hearing officer had the following to say:

"From the foregoing recital of facts, it was shown that due to the nature of the work of the late Bernardo Acosta, he contracted his sickness of pulmonary tuberculosis as a switchman or switch tender with the respondent company. To support this view, we have considered the fact that from 1939 to 1953, his lung conditions was normal; that from 1956 to 1958, Dr. Ordona found him with weak left lung; that on March 15, 1956, Dr. Vicente M. Samson found him slight infiltrations in the right hemithorax and moderate infiltrations in the left hemithorax and on February 20 and 26, 1960, he was suffering from pulmonary tuberculosis, fur advance bilateral; that on March 22, 1960, he was found by Dr. Jose M. Gaerlan with moderate and fibro-caseous T. B., all over both lung fields; and that his illness started to prevent him from his work on January 16, 1960, until his death on June 25, 1960.

"In this connection, our Supreme Court in the case of Juan Reyes and Leocadio Braza vs. Blue Bar Coconut Company, G. R- J,-7242, held:

"Under these circumstances, two alternatives are open namely: (1) the illness may have been contracted

between the date of the medical examination conducted in 1951 and September 17, 1952, in the case of Reyes, and October 27, 1952, in the case of Braza; (2) being in latent stage, or in such a condition that it would not be detected at the time of said examination, the sickness must have been aggravated subsequently thereto, by the nature of the employment.'

"Moreover, even if we assume that factors other than the deceased's employment also played a part in the aggravation of his illness, such fact will not affect his right to compensation. Under the Workmen's Compensation Law, it is not required that the employment has contributed, even in a small degree, to the aggravation of the illness.

Another troublesome problem is that of mixed risks, in which both personal cause and an employment cause combine to cause the harm.\*\*\*. In the broadest theoretical outline, the rule is quite simple. The law does not weigh the relative importance of the two causes, nor look for primary or secondary factor. If it was, the concurrence of the present cause will not defeat compensability/ (Larsen's Workmen's Compensation Law, Vol. 1, p. 50.)

"After a careful examination and review of the evidence submitted by the parties, documentary as well as testimonial, the undersigned is of the opinion that the pulmonary tuberculosis suffered by Bernardo Acosta, was contracted during his employment with the respondent or caused by the nature of his employment with the respondent and as a result of which he died on June 25, 1960, and is therefore within the coverage of section 2 of the Workmen's Compensation Act No. 3428. as amended, and to hold the respondent liable to pay compensation benefits."

Accordingly, he sentenced the Company:

"1. To pay to the claimants Celedonia O. Vda. de Acosta and her four (4) minor children. Leticia, Lolita, Delia and Teresita. all surnamed Acosta, thru this Office the sum of Four Thousand Pesos (P4,000.00). One-third (1/3) of P4,000.00 or P1,333.33 should belong to Mrs. Celedonia O. Vda. de Acosta in her own behalf and the two thirds (2/3) of P4,000.00 or P2,666.66. should be deposited share and share alike among the four (4) minor children in a reputable Banking Institution of the Philippines and no withdrawal is allowed without the written authority of this office;

"2. To be reimbursed to the dependents of the late Bernardo Acosta the amount of P451.00. which was incurred for his (Bernardo Acosta) medical treatment and the amount of P200.00 as burial expenses;

"3. To pay the claimants the sum of Two Hundred Pesos (P200.00), as attorney's fee; and

"4. To pay to the Workmen's Compensation Fund as Administrative Costs, pursuant to section 55 of the Act, also thru this Office, to wit;

(a) P1.00 for the decision ..... P1.00

(b) P1.00 for every hundred pesos of award which in this case is P4,000.00 ..... P40.00

Total ..... P41.00

On motion for reconsideration filed by the Company the Chairman of the Workmen's Compensation Commission rendered the decision appealed from, reversing that of the hearing officer. Subsequently, the Commission en banc sustained the decision of its Chairman. Hence the present petition for review by certiorari.

The record shows that the duties of the deceased Acosta required him to wake up and report for work between 3:00 to 4:00 in the morning. Although petitioner's witnesses testified that Acosta remained on duty until 6:00 p.m. and sometimes up to 9:30 p.m. the decision appealed from held that he worked on a broken schedule not

exceeding eight (8) hours a day. At any rate, as stated in the decision of the hearing officer, in the performance of his duties as employee of the Company, Acosta "was exposed to any and all kinds of weather and even under adverse conditions, be it sunny, rainy or stormy, as extreme cold or heat, rains, dews because he goes to work very early in the morning, and plenty of dust carried by passing and arriving trains during dry season, especially by the Ilocos Express train." Moreover,

"Dr. Vicente M. Samson of the Philippine Tuberculosis Society, Dagupan City Chest Clinic Branch, who personally examined Bernardo Acosta made the following findings:

"March 15, 1956—

'Right hemithorax—slight infiltrations

Left hemithorax—moderate infiltrations.'

"February 20, 1960—

'Scattered infiltrations all over, bilateral

Remarks—P.T.B. far advance, bilateral.'

"February 26, 1960—

'Fibro-caseous infiltrations all over, bilateral,

Remarks—P.T.B. far advance, bilateral.'

"Dr. Jose M. Gaerlan, the Supervising Physician Reotgenologist and Radiologist X-rayed Bernardo Acosta with the following findings:

'Right Lung—Moderate T.B. exudative and productive type all over lung field

Left Lung—Fibro-caseous T.B. with pleural thickening upper lobe and over lung field.'

"Dr. Vicente M. Samson stated that the presence of bacilli which might cause infiltrations in the lungs are inhalation of germs into the lungs, poor nourishment, direct exposure to dusts, heat and cold, and strenuous exercise.

"This was confirmed by Dr. Angel O. Domagas who stated that Bernardo Acosta's illness of pulmonary tuberculosis may have been caused by overwork, over fatigue, malnourishment, poor environmental sanitation due to dusty and dampy surroundings, and exposure to heat and cold during rainy season.

"Dr. Benjamin C. Garcia likewise stated that pulmonary tuberculosis is aggravated by contamination, undernourishment, lack of sleep and excessive hard work.

Dr. Armando C. Gonzales, the Chief of the Physical and Medical Division of the Government Service Insurance System in Manila, who passed upon the medical records of Bernardo Acosta that were submitted to him, found out that the late Bernardo Acosta was found to be suffering from far advance tuberculosis of both lung<sup>3</sup> as well as bronchial asthma, and that as a result of these findings the deceased was granted total and permanent disability benefits under the policy of the Government Service Insurance System of which he is a member."

Again, Alejandro Peralta, an employee of the Company testified that Acosta had to post himself opposite the switch when the train is coming and to give the signals to the approaching train, to manipulate the switch in case the train met an accident, to clean the station and its premises, and when shipments arrive, he does not go to the switch anymore and instead he helps to load and unload cargoes because there were no porters or laborers in the

Quesada station. The decision appealed from did not attach much weight to this testimony upon the ground that said station is "only a small and minor one and we are at a loss as to what kind of cargoes the deceased allegedly had to load and unload during arrival and departure of trains. It is also of common knowledge that in most cases the passengers themselves are the ones who load and unload their baggages. We must not lose sight of the fact that aggressive baggage boys abound at stations". It should be noted, however, that said witness for the petitioners was corroborated by a witness for the Company, and employee of the latter, Ponciano Callanta. This, notwithstanding, the decision appealed from states that its writer is in the dark.

"\* \* \* as to when and how the deceased loaded and unloaded cargoes, the nature, size and quantity of these cargoes, how many times a day, or in a week, or in a month he performed this job, so as to give a clear idea as to whether his work was strenuous or not. In the light of the fact that the job of a switchman requires him to be at his post during arrival or departure of trains, either to manipulate the switch or to display the signal the testimony of those witnesses loses their intended value."

and concluded:

"Consequently, we are of the opinion that claimants have not established to our satisfaction the existence of the necessary factors that would cause a workman to contract pulmonary tuberculosis, or cause its aggravation in the case of a pre-existing illness."

We find ourselves unable to agree with this line of reasoning. The very evidence for the Company corroborates that of petitioners to the effect that Acosta had to load and unload cargoes there being no porter or laborers in Quesada station. Besides, once it has been established, as in the case at bar, that the employee's death has been due to a disease contracted in the course of his employment, the presumption is that the nature thereof is the cause of said disease and the burden is upon the employer to prove the contrary.

\*\*\*\* If he was not infected before he was taken in by the company, the fact that he was stricken with the sickness, as shown by haemoptysis, is a strong indication that it was the result of the nature of his work and employment. The claimant has made out his case and the burden of proof shifted to the company. The latter must show that the lessening of the claimant's resistance was due to causes other than the nature of his work or employment, such as dissipation, excesses or lack of sleep and the like." (Blue Bar Coconut Co., et al. vs. Boo, 95 Phil. 867., 53 Off. Gaz., pp. 3471, 3474.)

In the case at bar, the Company has not offset the aforementioned presumption. What is more, the medical testimony and the other evidence introduced by petitioners herein strongly support the aforementioned presumption and the conclusion reached by the hearing officer.

WHEREFORE, the decision and resolution appealed from are hereby reversed and another one shall be entered sentencing respondent Manila Railroad Company to pay the amounts stated in the decision of the hearing officer, with costs against said respondent. It is so ordered.

Bengzon, C.J., Bautista Angelo, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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