

A. L. AMMEN TRANSPORTATION CO., INC., PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION, ET AL., RESPONDENTS.*G.R. No. 20219. September 28, 1964*

Ponente: BAUTISTA ANGELO, J.

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On April 4, 1961, Josefa Baluis Vda. de Jacob filed with the regional office of the Department of Labor in Naga City a claim for compensation against the A. L. Ammen Transportation Co., Inc., alleging, among others, that on October 11, 1960, at about 3:00 o'clock p.m., her deceased husband Agripino Jacob, who was then employed by said company as a line inspector, was attacked by a co-employee with a bolo causing his death on October 12, 1960. The company, upon being informed of Jacob's death, filed within the reglementary period the required employer's report of accident stating therein that it would oppose any claim for death compensation that may be filed by any party in interest on the ground that the death of Agripino Jacob did not arise out of or in the course of his employment but it occurred while he was on leave of absence.

The hearing officer to which the case was assigned received the evidence and rendered decision dismissing the complaint on the ground advanced by the company. Not satisfied with this decision, the complainant moved to have it reconsidered, and the same having been denied, the hearing officer elevated the case to the Workmen's Compensation Commission for review. On July 3, 1962, the Commission, thru Chairman N. Baens del Rosario, reversed the decision declaring the claim compensable. Hence, it ordered the company to pay the claimant P4,000.00 as compensation, P200.00 as funeral expenses, P300.00 as attorney's fees, and P46.00 as docket fee under Section 55 of the Workmen's Compensation Act. In due time, the company filed the present petition for review.

The stipulation of facts shows that the deceased Agripino Jacob was employed as a line inspector by petitioner with a salary of P165.00 a month. He was at the time of his death the incumbent president of the Bicol Transportation Employees Mutual Aid Association, BITEMAA for short, an organization which is entirely independent of the company and wherein the latter had nothing to do with its internal affairs. He was then on leave of absence thru a request duly approved by the company and when on October 11, 1960 at about 3:00 p.m. he attended a meeting of the board of directors and officers of BITEMAA he was attacked by a co-employee with a bolo causing his death on the next day.

Upon the foregoing facts, respondent Commission found Agripino Jacob's death compensable even if it did not actually arise out of his employment. The factors that were considered by it, are: the deceased at the time of his aggression was still in the employ of the company though he was then on leave of absence. One of the purposes of the BITEMAA was to promote better understanding between the employer and its employees and anything taken up in the meeting would in the long run inure to the welfare of the company's business. The meeting was with the approval of the company. While it appears that the purpose of the meeting was to consider the lifting of the

expulsion of one Simeon Vellez from its board of directors, there is nothing in the record to show any motive that could have been the cause of the hacking of the deceased. However, since Agripino Jacob had the role of working for the benefit of the employees as well as promoting good relations with the management it is possible that what precipitated his assault was a matter taken up by him which in the eyes of the members was a move in favor of the management. It is, therefore, fair to consider Jacob's death as one arising out of or in the course of his employment.

Considering the philosophy behind the requirement that to be compensable the death must occur while the worker is performing some work in the course of his employment or doing something arising out of his employment, the authorities are to the effect that to come within the purview of such requirement three things must concur: the injury must be received during the period covered by the employment, the worker must be shown to have been injured at the time and place where the performance of his work requires him to be, and the worker must have been doing something in pursuance of his work.[1] And so it has been held that a wound received by a worker outside the performance of his duties and in a place other than where the performance of his work requires him to be is injury not "arising out of or in the course of his employment" (*Sunga vs. City of Manila*, 57 Phil., 869).

Here these requirements are not present for admittedly the deceased when assaulted was not performing any work in pursuance of his duties and was neither in the place where his work required him to be, but was at the time presiding a meeting of a labor association the internal affairs of which are entirely independent of the company where he was then employed.

It is true that at the time of his assault the deceased was still an employee of the company for he has not yet severed his employment with it, but the fact that he was then on leave of absence is clear proof that he was not then performing his usual duties as inspector, nor doing anything in relation thereto, to come within the purview of the phrase "arising out of and in the course of employment." The presumption, therefore, of the law that the claim is deemed to be valid unless the contrary is shown does not here apply, mainly for the reason that the deceased's leave of absence takes this case out of its purview.

The finding of respondent Commission that since the deceased was then the president of an association whose purpose is to promote better understanding between the employer and its employees it is reasonable to suppose; that what precipitated the attack is a matter taken up by him which appears in the eyes of the members as a move in favor of the management, not only does not find support in the evidence, but is easily refuted by the fact that the avowed purpose of the meeting was to take up the expulsion of one Simeon Vellez from its board of directors. No other matter appears in the agenda for discussion, nor is there any inkling as to what had motivated the hacking of the deceased. While the modern trend of progressive labor legislation tends to foster harmonious relations between unions and management,—a matter which should be encouraged,—we are not prepared to relax the rule that would open the door to abuse and extreme liberalism. A happy medium should be sought which would be fair to both management and labor without doing violence to the law. The conclusion we have reached is in line with this point of view.

Another factor that argues against respondent's claim is that it was filed nearly five months after the death of the deceased contrary to Section 24 of Act 3428, which requires that a claim for compensation should be filed within three months after death. This can only be offset by proof that the employer has voluntarily given some compensation to the employee in relation to the injury, a situation which does not here obtain. Verily, this claim has already prescribed.[2]

WHEREFORE, the decision appealed from is reversed. No costs.

Bengzon, C.J., Concepcion, Reyes, J.B.L., Paredes, Dizon, Regala, Makalintal, Bengzon, J.P., and Zaldivar, JJ.,

concur.

[1] Batangas Transportation Company vs. Rivera, et al., L-7658, May 8, 1956; citing Larson, Workmen's Compensation Law, (1952) p. 193; Murillo vs. Mendoza, 66 Phil., 689.

[2] Luzon Stevedoring Co., Inc. vs. Workmen's Compensation Commission, et al., L-19742, January 31, 1964; Manila Railroad Company vs. Workmen's Compensation Commission, et al., L-18388, June 23, 1963; Luzon Stevedoring Company vs. De Leon, et al., 106 Phil., 563.

RESOLUTION

BAUTISTA ANGELO, J.:

This concerns the motion filed by the widow and children of the late Agripino Jacob dated October 19, 1964 praying that the decision rendered by this Court on September 28, 1964 be set aside and the instant petition for certiorari be dismissed on the ground that petitioner failed to perfect its appeal in the manner provided for by law. This was joined by the counsel for respondent Workmen's Compensation Commission in a similar petition filed on October 18, 1964.

It appears that because of a claim for compensation filed by the widow the hearing officer rendered decision dismissing the complaint but that, on appeal, the Workmen's Compensation Commission ordered petitioner to pay the claimant P4,000.00 as compensation, P200.00 as funeral expenses, P300.00 as attorney's fees, and P46.00 as docket fee under Section 55 of the Workmen's Compensation Act. However, after petitioner had taken the case to this Court in a petition for review, the decision was reversed absolving petitioner from the complaint in a decision promulgated on September 28, 1964. The widow's counsel already called the attention of this Court to the fact that the appeal was not duly perfected but that the point was not considered due to lack of factual basis.

But counsel for respondent Commission, as well as the counsel for the widow and her children, now come once more insisting that this Court has not acquired due jurisdiction over the case in view of petitioner's failure to properly perfect its appeal. They claim that while petitions- filed its petition for review with this Court within the reglementary period, it did not however file any notice of appeal with the respondent Commission as required by Section 1, Rule 43, of the new Rules of Court. Indeed, they contend, its failure is necessarily fatal as it has the effect of defeating the right of appeal of petitioner (*Martha Lumber Mill, Inc. vs. Romana Lagrante, et al.*, L-7599, June 27, 1956).

"There is, however, one point raised by respondents that merit prior consideration. They called the attention of the Court to the fact that although petitioners received a copy of the decision of the Workmen's Compensation Commissioner upholding the ruling of the referee on February 4, 1957 and while it is true that the petition for review of said decision was filed with the Supreme Court on February 14, 1957, the notice of appeal was filed with the Commission only on February 19, 1957. Rule 44 of the Rules of Court, which equally governs appeals from decisions of the Workmen's Compensation Commission, provides:

'Section 1. How to Perfect an Appeal.—An appeal by certiorari from an award, order or decision of the Court of Industrial Relations (or Workmen's Compensation Commission), shall be perfected by filing with SAID COURT, (or Commission) a notice of appeal and with the Supreme Court a petition within ten (10) days from notice of the award, order or decision appealed from, (As amended by C. A. No. 559).

"Under the aforequoted provisions, the petition for review must be filed with the Supreme Court AND a notice of

appeal with the Commission within 10 days from receipt of the decision, order or award sought to be reviewed. And while to the petitioners goes Our sympathy, We cannot obviate the fact that although the petition for review was filed with this Court within the reglementary period, petitioners filed their notice of appeal with the Commission 5 days late or 15 days after they were notified of the decision. This is certainly an error fatal to the present action. (See *Martha Lumber Mill, Inc. vs. Lagrante, et al.*, G. R. No. L-7599, June 27, 1956.)

"In view of the foregoing, We find it unnecessary to pass upon the question of whether or not the Commissioner's ruling is not supported by the evidence on record.

"Wherefore, the instant petition is hereby dismissed, without pronouncement as to costs." (*Heirs of Patricio Pabores vs. The Commissioner, Workmen's Compensation Commission*, L-12034, August 30, 1958.)

Required to comment on the widow's claim that petitioner failed to file its notice of appeal as required by the rule, it failed to do so, which confirms said claim that petitioner has really not perfected its appeal as required by law. Hence, we have no other alternative than to accede to the relief prayed for.

Wherefore, our decision rendered on September 28, 1964 is hereby set aside. The instant petition is dismissed. No costs.

Concepcion, Reyes, J.B.L., Barrera, Paredes, Regala, Makalintal, Bengzon, J.P., and Zaldivar, JJ., concur.

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