

## **NATIONAL DEVELOPMENT COMPANY, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND GERTRUDES LUCAS VDA. DE RAYMUNDO, RESPONDENTS.**

*G.R. No. 21724. April 27, 1967*

Ponente: REGALA, J.

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### **REGALA, J.:**

On April 27, 1960, respondent Gertrudes Lucas vda. de Raymundo filed a claim for workmen's compensation for the death of her husband, Luis Raymundo, on January 23, 1954. In a complaint before Regional Office No. 3 of the Department of Labor, she averred that her husband was employed at the National Development Co., petitioner in this case, for more than 12 years, his last designation being machine tender in the Finishing Department; that as machine tender, Luis Raymundo's work consisted of lifting heavy loads, pushing a wagon loaded with dyed and wet cloth and mixing chemicals for use in dyeing and printing textiles and that because of strenuous work done mostly at night and because of exposure to sudden changes in temperature, her husband began to lose weight, complained of backaches and chest pains and later spat blood. On account of poor health, Luis Raymundo retired from the service of petitioner on May 6, 1953; eight months after (on January 23, 1954), he died of pulmonary tuberculosis.

In due time, petitioner filed its answer denying liability. It alleged that Luis Raymundo never contracted tuberculosis while in its employ and that at any rate "tuberculosis is not an occupational disease incident and/or peculiar to the work of the claimant (sic)." It further averred that the claim was barred by prescription, the complaint having been filed beyond the three-month period provided in section 24 of the Workmen's Compensation Act, Act No. 3428.

Hearings were held after which a decision was rendered ordering petitioner to pay to respondent the sums of P4,000 as death compensation and P200 as reimbursement for burial expenses. In addition, a fee of P41 was assessed against petitioner.

On review, this decision was affirmed by the Workmen's Compensation Commission.[1] Subsequent attempt to have the award reconsidered proved unsuccessful as the Commission en banc found nothing to warrant a modification, much less a reversal, of its decision.[2] Petitioner appealed to this Court.

The issues in this case are: (1) whether the evidence presented by respondent is admissible to support an award in her favor; (2) whether death benefits could be recovered where as here the illness which caused the death of an employee was not contracted while in the employment of petitioner but was merely aggravated by the nature of such employment; and (3) whether respondent's claim could still be presented despite the lapse of more than three months from the date of the death of Raymundo.

In affirming the award made in favor of respondent, the Commission said:

"That the deceased contracted pulmonary tuberculosis while in the employ of the respondent (now petitioner)

can fairly be inferred from the evidence. Furthermore, the work that he performed, which involved heavy lifting cannot be considered light by any standard. As a matter of fact, it would not be an exaggeration to say that such kind of work may be considered as strenuous and taxing for a man of his advanced age and weak physical condition. Inasmuch as he died of pulmonary tuberculosis, barely eight months after he was retired from the service, the inescapable conclusion is that the nature of his work must have had an adverse effect on his illness which shortly led to his death."

In reaching this conclusion, the Commission relied partly on the testimony of respondent and on the following:

Exhibit "E" - Death certificate which states that Luis Raymundo died on January 23, 1954 of pulmonary tuberculosis.

Exhibit "F" - Affidavit of Dr. Crisanto S. Vito Cruz in which he states that he treated Luis Raymundo for pulmonary tuberculosis from December, 1952 to January 22, 1954.

Exhibit "G" - Petitioner's letter, dated May 6, 1953, advising Luis Raymundo of the termination of his employment.

Petitioner contends, however, that both respondent's testimony as well as Exhibits "E", "F" and "G" should have been excluded, because the first is self-serving while the second are hearsays. Petitioner adds that while the death certificate (Exh. "E") is admissible to prove the fact and date of death, it is not competent to prove the cause thereof.

Section 49 of the Workmen's Compensation Act provides in part:

"x x x All parties in interest shall have the right to be present at any hearing in person or by counsel or by any other agent or representative, to present such testimony as may be pertinent to the controversy before the Commissioner and to cross-examine the witnesses against them. The Commissioner may receive as evidence and use as proof of any fact in dispute the following matters, in addition to the sworn testimony at open hearing:

- "1. Reports of attending examining physician.
- "2. Reports of investigators appointed by the Commissioner.
- "3. Reports of the employer, including copies of time sheets, book of accounts or other records.
- "4. Hospital records in relation to the case."

In addition, section 44 establishes certain presumptions:

"In any proceeding for the enforcement of the claim for compensation under this Act, it shall be presumed in the absence of substantial evidence to the contrary –

- "1. That the claim comes within the provisions of this Act;
- "2. That sufficient notice thereof was given;
- "3. That the injury was not occasioned by the wilful intention of the injured employee to bring about the injury or death of himself or another; and
- "4. That the injury did not result solely from intoxication of the injured employee while on duty; and
- "5. That the contents of verified medical and surgical reports introduced in evidence by claimants for compensation are correct. (As added by sec. 24, Republic Act No. 772)"

It would be easy to dismiss petitioner's contention by citing these provisions of the Act, for after all there are precedents for doing so,[3] but we believe that it is here necessary to set forth the reasons and the policy considerations which underlie these statutory enactments in order to explain their meaning.

The right of a party to be present and give evidence as provided in section 49 would be meaningless if it did not include the right to testify in his own behalf. Indeed, the Rules of Court enjoins that "neither parties nor other persons interested in the outcome of a case shall be excluded." [4] For while a party's interest may to some extent affect his credibility,[5] his interest alone is not a ground for disregarding his testimony.[6] The argument that the testimony of an interested party is self-serving and therefore is inadmissible in evidence misses the essential nature of self-serving evidence and the ground for its exclusion. Self-serving evidence is evidence made by a party out of court at one time; it does not include a party's testimony as a witness in court. It is excluded on the same ground as any hearsay evidence, that is the lack of opportunity for cross-examination by the adverse party, and on the consideration that its admission would open the door to fraud and to fabrication of testimony.[7] On the other hand, a party's testimony in court is sworn and affords the other party the opportunity for cross examination.

Nor is there merit in the claim that Exhibits "E", "F" and "G" were erroneously admitted in evidence. While they may be hearsay by common law rules of evidence, they are nevertheless admissible under section 49 of the Act. Section 49 is patterned after similar legislation in the United States, especially New York, where the widespread adoption of Workmen's Compensation statutes was accompanied by a demand for a more simple and summary method of procedure and proof than those given by the common law. As noted in a leading article:[8]

"Legislatures heeded the deep sense of injustice felt by workers that the burden of proof rested always on them and that probative evidence was often kept out because it was hearsay. A growing distrust of our court system had thus grown up among working men and it was essential to the successful operation of the acts that workmen feel they were treated fairly while at the same time duly protecting the interests of industry and the community's in-terest in economy."

Indeed, enactments of the type of section 49 were precisely aimed at the hearsay rule, for the rejection of hearsay evidence, often of strong probative value, was one of the grievances of working people against the procedure of the old employer's liability laws.[9]

Not that hearsay evidence is adequate to support an award for compensation,<sup>10</sup> but that as aptly observed:<sup>11</sup>

"[A] compensation board which wants to avoid reversal on admissibility-of-evidence grounds can best do so by admitting everything and excluding nothing. It can be presumed to apply the appropriate discount to various kinds of hearsay, but it cannot be presumed to have reached a right result if some important piece of evidence which have swayed the result has been erroneously excluded on technical grounds."

Here, aside from the evidence objected to, there is some other substantial evidence supporting the award. Aside from respondent's testimony, there is in the record the testimony of Bienvenido Dizon, a former co-employee of Luis Raymundo. There is likewise evidence of the payment of gratuity to Raymundo on account of his illness.

In addition, there is a presumption created by section 44 that Raymundo's illness was aggravated by the nature of his employment and that Dr. Vito Cruz' affidavit that he treated Raymundo for tuberculosis is correct. This presumption is intended to reverse the burden of proof and make it the duty of petitioner, as employer, to establish by substantial evidence, that the illness was not in fact aggravated by the nature of the job.<sup>12</sup> Petitioner has failed to overcome the evidence and pre-sumptions in favor of respondent. It has chosen merely to rest its case on the statement of its medical officer that the deceased employee never met an accident while in its employment.

Still it is claimed that the award of death benefits in this case is erroneous because section 8 of the Act allows

such benefits only "If the disease contracted or injury received by the employees as provided in section two hereof causes his death within two years from the date of such injury or sickness" and the point is made that here the illness was not contracted but was merely aggravated by the nature of Raymundo's work. The phrase "illness x x x aggravated by x x x the nature of such employment" as ground for compensation was inserted in section 2 of the Act by Republic Act No. 772 on June 20, 1952. While a corresponding change should have been made in section 8, it is nevertheless clear that the omission was a mere oversight. After all, section 8 governs only the amount of compensation while section 2 provides the grounds for compensation. Section 8 therefore must be deemed to cover also cases in which the illness was not contracted but merely aggravated by the nature of employee's job.

Finally, it is argued that respondent's claim is barred because more than three months had elapsed from the date (January 23, 1954) Raymundo died to the date (April 27, 1960) the claim was filed.<sup>13</sup>

There are several reasons why petitioner cannot set up this defense. First, petitioner failed to controvert the claim,<sup>14</sup> which means that it cannot now be heard to say that the claim was not filed on time.<sup>15</sup> Second, it paid gratuity to Raymundo under a policy of retiring employees suffering from tuberculosis. Under this circumstance the delay in the filing of the claim is excused.<sup>16</sup> Third, petitioner has shown no damage as a result of the delay in the filing of this case, another circumstance which, under section 27, excuses delay in filing claims.<sup>17</sup>

WHEREFORE, the decision of May 29, 1963 and the resolution of August 5, 1963 of the Workmen's Compensation Commission are hereby affirmed without costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

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[1] Decision, May 29, 1963.

[2] Resolution, August 5, 1963.

[3] E.g., *Uy Kiva v. Tomas Lim*, G. R. No. L-9232, May 31, 1957; *Industrial Textile Mfg. Co. of the Phil. v. Florzo*, G.R. No. L-21969, Aug. 31, 1966; *Pangasinan Trans. Co. v. Workmen's Compensation Commission*, G.R. No. L-16490, June 29, 1963.

[4] Rule 130, sec. 18.

[5] Rule 133, sec. 1.

3 Cf. *United States v. De los Santos*, 24 Phil. 329 (1913).

[7] See 2 B. Jones, *The Law of Evidence* sec. 335 (5th ed.)

[8] Ross, *The Applicability of Common Law Rules of Evidence in Proceedings before Workmen's Compensation Commissions*, 36 Harv. L. Rev. 263 (1923).

[9] *Id.* at 275.

10 The rule is stated in the leading case of *Carroll v. Knickerbocker Ice Co.*, 218 N.Y. 435, 113 N.E. 507 (1916) as follows: "The act may be taken to mean that while the Commission's inquiry is not limited by the common law or statutory rule of evidence of by technical or formal rules of procedure, and it may in its discretion, accept any evidence that is offered, still in the end there must be a residuum of legal evidence to support the claim before an award can be made." (Act 509) See also *Doca v. Federal Stevedoring Co.* 308 N.Y. 44, 123 N.E. 2d (32 (1954).

11 2 A. Larson, Workmen's Compensation Law sec. 79.10 (1962).

12 See Naira v. Workmen's Compensation Commission, G. R. No. L-18066, October 30, 1962.

13 Section 24 of the Act provides that "no compensation proceeding x x x shall prosper unless x x x a claim for compensation was made not later than two months after the date of the injury or sickness, or in case of death, not later than three months after death."

14 Id. sec. 45.

15 National Development Co. v. WCC, G. R. No. L-19863, April 29, 1964.

16 Workmen's Compensation Act sec. 24. National Dev. Co. v. WCC, G. R. No. L-21796, Aug. 29, 1966; Philippine Engineering Corp. v. Florentino, G.R. No. L-16569, May 30, 1964.

17 Saulog v. Del Rosario, 55 O.G. 1556 (1958).

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