

GREGORIO G. YARCIA, PLAINTIFF AND APPELLEE, VS. PHILIPPINE EDUCATION CO., INC., AND EDWIN E. ELSE, DEFENDANTS AND APPELLANTS.

G.R. No. 43475. December 20, 1935

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the defendants Philippine Education Co., Inc., and. Edwin E, Elser from the decision of the Court of First Instance of Manila, the dispositive part of which reads as follows:

"Wherefore, judgment is hereby rendered ordering the said defendants to pay to the plaintiff the amount of P273.87, with legal interest thereon from the filing of the complaint, and to pay the costs. It is so ordered."

In support of their appeal, the appellants assign six alleged errors as committed by the court a quo in its said judgment, which will be discussed in the course of this decision.

When the case was called for hearing, the parties submitted to the court the following stipulation of facts:

"Come now the plaintiff and defendants by their respective attorneys and to this Honorable Court respectfully submit the following stipulation of facts:

"That they admit the allegations contained in paragraphs 1, 2 and 3 of plaintiff's complaint.

"That from July to September, 1933, the total wages earned by plaintiff and paid by defendant Philippine Education Co., Inc., to him, amounted to the sum of P113.75 which fact was known only by defendant E. E. Elser after payments were made as stated in paragraphs 4 and 5 of this stipulation.

"That on October 26, 1933, at about 9.30 a. m., plaintiff, while engaged in his usual work of stamping badges or aluminum checks for McCullough Printing Co., owned and operated by defendant Philippine Education Company, Inc., had his left finger below the nail (first joint below the nail of the left index finger) cut accidentally owing to the sudden fall of the stamping machine, in consequence of which injury he was sent by the said company to Saint Joseph's Hospital for treatment and then to Dr. Waterous at the expense of defendant E. E. Elser amounting to the sum of P70.

"That from October 26, 1933, to January 17, 1934, after deducting the first seven days, defendant Philippine Education Co., Inc., paid plaintiff full wages amounting to the sum of P165.94 and thereafter, up to March 1, 1934, defendant E. E. Elser paid plaintiff the sum of P54 based on 60 per cent of a weekly average wage of P15, as compensation for the temporary total disability of said plaintiff.

"That after plaintiff's temporary total disability, he was paid a compensation in the sum of P56.25, computed on the basis of 50 per cent loss to the index finger at the rate of P3.75 for 15 weeks, caused by the loss of the first joint below the nail of the left index finger of said plaintiff resulting in the permanent partial disability suffered by him."

In addition to the above quoted stipulation of facts, the plaintiff Gregorio C. Yarcia, testifying for himself,

attempted to prove that his duty before the accident in question was to engrave and cut metals as well as to insert plates in the machine; that his severed left index finger was the one that guided him in making letters and designs and was the only finger that could keep the lines straight and prevent them from deviating from their course; that he has not reported for duty since the accident but that he tried the work in his house and found that his efficiency before the accident has decreased by £ or i; and that his right arm is the principal helper.

The parties admit that, as a result of the accident, a part of the first phalanx of the left index finger of plaintiff Gregorio C. Yarcia was cut below the nail thereby sustaining a temporary total disability followed by another permanent partial disability.

The first question to be decided in the present appeal, which is raised in the third assignment of alleged error, is whether or not the plaintiff Gregorio C. Yarcia, by reason of the accident in question, lost his efficiency for work and, consequently sustained a partial disability.

The plaintiff, testifying at the hearing, stated that in the work in which he was engaged at the time of the accident, namely to engrave, cut metals and insert plates in the machine, his left index finger, which was cut, was the only one used to keep the letters in straight line and to prevent them from deviating from their course, and was the one that guided in tracing said letters and designs and that after the accident, he tried to do the same work and found that his efficiency was diminished by £ or I of its normal capacity.

The defendants presented no evidence to disprove the plaintiffs testimony.

While it is incumbent upon the plaintiff to prove the damage provided in section 16 of Act No. 3428, said Act does not require exact and precise proof of the extent of the diminution of capacity in order to be entitled to the corresponding indemnity. Said section 16, in providing that the amount to be paid to the injured laborer shall be 50 per cent of the difference between his average weekly wages before the accident and the weekly wages which "he could probably earn thereafter", bases the amount of the weekly wages after the accident and, hence[^] the indemnity, on a mere estimate founded on the nature of the injury caused in relation to the work in which the laborer was engaged at the time of the accident. The courts are given ample discretion to determine the degree of diminution of capacity for work, taking into account the circumstances of the case and the injured person, as well as the proofs adduced at the hearing. (Schneider, Workmen's Compensation Law, vol. II, section 407, p. 1356, etc.)

As to the question raised in the second assignment of alleged error, it has been found that the plaintiff-appellee, Gregorio C. Yarcia, has suffered a temporary total disability for work during the period of 112 days that he was confined in the hospital under medical treatment for the loss of a part of the first phalanx of the index finger of his left hand, which loss later caused him permanent partial disability of or of his former capacity.

Section 16 of Act No. 3428, as amended by section 6 of Act No. 3812 of the Philippine Legislature, provides for the case in which an employee sustains an injury causing partial disability for work, and that in which partial disability sets in after a temporary total disability. The partial disability for work referred to in section 16 above cited is temporary in character inasmuch as said section provides that the weekly compensation therein provided shall stop when the disability ceases. In the present case, there was temporary total disability during the time the plaintiff-appellee was confined in the hospital, followed by a permanent partial disability. Therefore, the legal provision applicable is that contained in section 17 inasmuch as from the time his temporary total disability ceased, his permanent partial disability began and it would be anomalous to hold that a person can sustain a temporary partial disability and a permanent partial disability at the same time. If after temporary total disability his permanent partial disability for work began, such permanent partial disability cannot be broken into temporary partial disability for work.

For the foregoing considerations, we arrive at the conclusion that the herein plaintiff-appellee is entitled only to the indemnity provided in section 14 for temporary total disability and to that provided in section 17 of said Act No. 3428 for permanent partial disability, but not to that provided in said section 16 for temporary partial disability.

The third question to be decided, which is raised in the first assignment of alleged error, is whether or not the lower court erred in holding that the number of weeks for which indemnity was paid to the plaintiff under section 14 of Act No. 3428 should not be deducted from the number of weeks for which indemnity was paid to said plaintiff under section 17 of said Act.

In the case of *Canete vs. Insular Lumber Co.* (61 Phil., 592), this court through Justice Goddard, said the following:

"An examination of sections 14, 16, and 17 of Act No. 3428, as amended by Act No. 3812, will show that section 14 provides for compensation for temporary as well as permanent total disability; section 16 provides for compensation for temporary partial disability and section 17 provides for compensation for permanent partial disability. The compensation provided in any one of these sections is not exclusive of that provided in the others. The object of the law in allowing compensation during temporary disability is to compensate the laborer for what he might have earned during the period of the treatment of his injury. On the other hand the object of the law in granting compensation for a permanent disability is to compensate the injured laborer for the actual and permanent loss of a member of the body. There may be cases wherein a laborer is injured and treated without any resulting partial or total permanent disability. In such cases the laborer would be entitled only to the compensation provided for in sections 14 or 16 depending on whether or not he was totally or partially disabled temporarily. In cases, however, where a laborer is injured and is treated with a resulting permanent partial disability, after a period of temporary total disability, aside from the compensation to which he is entitled under section 17 by reason of his permanent partial disability, he is undoubtedly entitled to receive compensation during the period he was totally disabled temporarily subject to the limitations prescribed in the Workmen's Compensation Act."

The American doctrines cited by the appellants in their brief in support of their contention are not applicable to the present case inasmuch as they were laid down according to the interpretation given to the provisions of the workmen's compensation act adopted by each state of the United States. In settling questions of this nature, the courts should be guided by the intention of the law expressed in the words and definitions used therein (*Schneider, Workmen's Compensation Law*, vol. II, page 2135). The general principle is that the act should be given a liberal interpretation in favor of the laborer, taking into consideration the purpose of the legislature. {*Id.*, pp. 21322134.)

As to the 4th and 5th assignments of alleged errors, the defendants themselves admit in the stipulation of facts that the plaintiff's average weekly wage before the accident was P15 and not P8.75 as claimed in their brief. In paragraph 4 of said stipulation, the defendants state having paid to the plaintiff the sum of P54 "based on 60 per cent of a weekly average wage of P15, as compensation for the temporary total disability of said plaintiff" while in paragraph 5 thereof, the defendants admit having paid the plaintiff the sum of P56.25 as total indemnity for 15 weeks for permanent partial disability based on P3.75 a week, which is equivalent to 50 per cent of one-half of his weekly salary of P15.

Pursuant, therefore, to section 14 of Act No. 3428, it being admitted by the parties that the plaintiff sustained a temporary total disability for a period of 112 days, deducting the 7 days allowed by the law, there remains a total of 105 days or 15 weeks for which he should be compensated in a sum equivalent to 60 per cent of his weekly salary of P15, or a total of P135.

Under section 17 of the same Act, the plaintiff should be indemnified for the permanent loss of the first phalanx of his left index finger in a sum equivalent to 50 per cent of one-half of his average weekly salary of P15, which is P3.75, for 30 weeks, or a total of P112.50.

According to the stipulation of facts, the plaintiff-appellee has already received from the defendants the sums of P70 for hospital and medical fees, P165.94, P54 and P56.25, as compensation, or a total of P346.19. The sum of P70 paid by the defendants to the plaintiff for hospital and medical fees should not be considered as compensation for disability inasmuch as section 13 of the aforesaid Act No. 3428 requires the employer to defray said expenses on his own account. Deducting the sum of P70 from the total amount of P346.19 leaves a balance of P276.19 representing the amount received by the plaintiff-appellee as compensation for disability sustained by reason of the accident.

The total amount to which the plaintiff-appellee is entitled for temporary total disability and for permanent partial disability under sections 14 and 17 of Act No. 3428, is P247.50. Deducting this amount from P276.19 leaves a balance of P28.69 as excess payment received by said plaintiff from the defendants; but as there was no written agreement between the parties relative to the existence of said excess payment said sum cannot be deducted from the compensation paid under the provisions of section 20 of said Act No. 3428.

In view of the foregoing considerations, we are of the opinion and so hold: (J.) That an employee who, in the pursuance of his employment, loses a part of the first phalanx of the index finger of his left hand and is totally disabled for work for a certain period—for which disability he is entitled to the compensation provided for in section 14 of Act No. 3428—is entitled only to the additional compensation provided for in section 17 of said Act if, as a result of said loss, he is partially and permanently disabled, but not to the indemnity provided for in section 16 of the aforesaid Act, for temporary partial disability; and (2) that the master or employer has no right to deduct the number of weeks prescribed in section 14 from the number of weeks prescribed in section 17 above cited, in determining the total amount of compensation to which the injured employee or laborer is entitled.

Wherefore, the judgment appealed from is reversed and the defendants are absolved from the complaint and the plaintiff from the cross-complaint, without special pronouncement as to costs. So ordered.

Malcolm, Imperial, Butte, and Goddard, JJ., concur.

Judgment reversed.

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