

THE PHILIPPINE MANUFACTURING COMPANY, PETITIONER, VS. JESUS NABOB, RESPONDENT.

G.R. No. 47565. November 25, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

This is an appeal by certiorari from the decision of the Court of Appeals affirming the judgment of the Court of First Instance of Manila, by virtue of which the petitioner herein is ordered to pay the respondent Jesus Nabor, the sum of P513.17 with interest at the legal rate from the date of the filing of the complaint, as compensation due the latter under sections 14 and 17 of the Workmen's Compensation Act (Act No. 3428, as amended), plus costs.

The court below found that for some time before July 2, 1938, the respondent had been one of the pressmen of the petitioner, and on that date was on the night shift of the petitioner's oil mill working from 11 at night until 7 in the morning; that a short while before closing time, as he was planing a copra cake, a particle got into his right eye, and he asked his fellow-worker, Juan Villareal, to try and take it out; that the latter was not able to see it, although the eye was red, and as the respondent went on complaining of pain in that eye, he told him to take a rest; that the respondent did so and washed his eyes under the tap, but as the pain persisted he sat down until his shift ended; that he then reported it to his foreman, Federico Sudio, in compliance with the regulations of the petitioner; that the respondent did not return to the mill until the afternoon of July 5th, to take up his wages, because there was no work for anyone during the week following July 2d, as had previously been announced; that on August 29, 1938, less than two months later, he went back to the mill to consult the company physician about the injury to his eye; that it appears that the respondent intended to apply for reinstatement, and wanted to know if the injury to his eye would be counted against him; that the company physician, Dr. De Dios, found an ulcer in the cornea of his right eye, and treated him for a number of days; that unable to improve the condition, Dr. De Dios sent him to Dr. Alcantara, a specialist, who confirmed the diagnosis, and told the respondent that his right eye would be permanently useless; that upon receipt of this information, the respondent filed a notice of injury and a claim for compensation with the Bureau of Labor on September 18, 1938; that the latter's medical inspector, Dr. Santillan, also confirmed the diagnosis and declared that the vision of the right eye would be limited to the perception of light; that on September 29, 1938, the Bureau formally notified the petitioner of the notice and claim for compensation, and upon the latter's disclaimer of liability, instituted the action which gave rise to the present appeal.

But two questions need be considered for the final determination of this case in this instance: (1) Did the verbal report made by the respondent of his accident to the foreman, Federico Sudio, dispense with the necessity of a written notice of the injury as required by section 24 of the Workmen's Compensation Act; (2) Should the two-month period prescribed by the same section of the same Act within which the claim for compensation should be made, be counted from July 2, 1938, the date of the respondent's accident, or from August 29, 1938, the date when he learned for the first time that the injury resulted to be serious?

Section 27 of the Workmen's Compensation Act provides, among other things, that "failure to or delay in giving

notice shall not be a bar to the proceeding herein provided for, if it is shown that the employer, his agent or representative had knowledge of the accident." It is insisted by the petitioner that Federico Sudio is not its agent or representative within the meaning of this section, and that even if he were, he did not acquire knowledge of the accident in view of his testimony to the effect that he did not hear very well what the respondent had told him because he was attending to his work. This contention was disposed of by the Court of Appeals in its resolution denying petitioner's motion for reconsideration, in the following language:

"In the motion for reconsideration filed by the defendantappellant, it is insisted 'that although the accident to the appellee of July 2d, 1938, was reported to the foreman, Federico Sudio, the latter did not thereupon acquire knowledge of such accident.' We cannot accept this conclusion although it was so testified by said foreman; because assuming that he was sincere (and we do not think so) the fact that he took no pains to find out what it was the plaintiff had told him, shows obvious negligence, for a foreman is appointed over his men not only to serve as a means of communication between them and the company, and even to look after their welfare in representation of the company. This being so, the foreman's negligence can certainly not be held out against the plaintiff or serve as a ground for denying him recovery."

The petitioner places great reliance on the Walkden's case, 237 Mass., 115, 129 N. E., 396, in which it was held that the second hand or boss foreman was not an agent of the employer and his knowledge of the accident did not relieve the claimant of the statutory requirement for written notice. The decision in the case cited is no authority upon which to rest the decision in the present case for the reason that the factual basis is not similar. Here, it is admitted that Federico Sudio is a section foreman who has charge of the press section, and there is evidence to show that the report was made to him in compliance with the regulations of the petitioner. We are, therefore, satisfied that Federico Sudio, as section foreman, exercises direct and immediate supervision over the press-men, one of whom was the respondent herein, and numerous cases have held that a "foreman" or "boss" in charge of a crew or gang of men is an agent or representative of the employer whose knowledge of the injury is sufficient under the statute. (Fell's Case, 226 Mass. 380, 115 N. E. 430; In re Simmons, 117 Me. 175, 103 Atl. 68; Hornbrook Price Co. v. Stewart [Ind. App.] 118 N. E. 315; Joilet Motor Co. v. Industrial Board, 280 Ill. 148, 117 N. E. 423; R. F. Conway & Co. v. Industrial Board, 282 Ill. 313, 118 N. E. 705; State ex rel v. Pennington County, 132 Minn. 251, 156 N. W. 278; In re Bloom, 222 Mass. 431, 111 N. E. 45; Parker Washington Co. v. Industrial Board, 274 Ill. 498, 113 N. E. 976; In re Murphy, 226 Mass. 60, 115 N. E. 40; Bates & Rogers Const. Co. v. Allen, 183 Ky. 815, 210 S. W. 467.)

The second question raised by the petitioner is not of first impression in this court and has already been laid at rest in the case of Libron vs. Binalbagan Estate, G. R. No. 41475, promulgated July 27, 1934, wherein the following doctrine was enunciated:

"The fact that the law requires that a notice of the injury shall be presented within a reasonable time and that the claim for compensation shall be presented within two months after the date of the injury, indicates that the injury must be of such a nature as to entitle the injured person to compensation. Since the injury to the plaintiff, at the time of the accident, was apparently unimportant and, therefore, did not warrant the filing of a claim for compensation until it became evident that the plaintiff was in imminent danger of losing the sight of the injured eye, he could not exercise his right to claim compensation within two months from the date of the accident. This right accrued and became available when he finally learned that he had lost the sight of one of his eyes.

"The Workmen's Compensation Act should be interpreted so as to accomplish, not defeat, the purpose for which it was enacted by the legislature. In this case a seemingly unimportant accident occurred which later resulted to be so serious as to cause the loss of an eye. It would have been absurd for the plaintiff to have filed a claim for compensation based upon the sole fact that a particle of coal had entered his eye. Experience teaches that such an accident ordinarily does not result seriously."

The respondent's claim for compensation having been filed with the petitioner on September 29, 1938, exactly one month from August 29, 1938, the date when, upon undergoing Dr. De Dios' examination he learned for the first time that his right eye was diseased, we hold that the claim was seasonably made in accordance with Section 24 of the Workmen's Compensation Act.

Finding no reversible error in the decision appealed from, the same must be, as it is hereby affirmed, with costs against the petitioner. So ordered.

Avanceña, C.J., Imperial, Diaz, and Horrilleno, JJ., concur.

Judgment affirmed.

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