

OFELIA G. DURAN, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. 52363, March 30, 1982

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition to review the October 31, 1979 decision of the Employees' Compensation Commission in ECC Case No. 1190 affirming the decision of the Government Service Insurance System denying the claim for death benefits under P.D. No. 626, as amended (pp. 8 and 17, rec., and p. 99, ECC rec.).

Petitioner Ofelia G. Duran is the widow of Municipal Judge Restituto Duran, who died on April 28, 1977 at the age of 63 years after more than 33 years of service in the government, almost 25 years of which were spent in the Judiciary (p. 71, ECC rec. and per attached service record).

The records show that petitioner's late husband entered the government service on October 15, 1941 as an employee in the Department of Finance. He joined the Judiciary on May 31, 1952 as justice of the peace of the municipalities of Basay, Sta. Rita and Marabut, province of Samar (pp. 8 and 72, rec.). He was the municipal judge of Sta. Rita, Samar when, after prolonged (5 years) ailments, he succumbed to acute monocytic leukemia on April 28, 1977 (p. 71, ECC rec. and p. 10, rec.).

The medical history of the deceased judge reveals that from March, 1972 to April, 1977 he was treated and hospitalized for castralgia, angina pectoris, gouty arthritis, myofascitis, coronary insufficiency, hypo-calcemia with cramps and monocytic leukemia. He also underwent an operation of his left big toe termed as tophectomy. Specifically, Judge Duran's medical history is thus traced:

1. Initially treated for castralgia at the Regional Health Office No. 1 in Catbalogan, Samar (date not determined) [p. 17, rec.].
2. March 14-18, 1972 - confined at Bethany Hospital, Tacloban City, for treatment of angina pectoris - ASHD, gout arthritis, myofascitis (back) and labile hypertension (pp. 32 and 33, rec.).
3. April 11-14, 1973 - hospitalized in aforementioned hospital for arthritis (gouty with tophie), coronary insufficiency and hypocalcemia with cramps [p. 25, rec.].
4. October 8-18, 1973 - confined for treatment of arthritis (gouty, with tophaceous deposits ear, big toes), coronary insufficiency; underwent tophectomy [p. 26, rec.].
5. November 10 - 17, 1976 - hospitalized for gouty arthritis (multiple, severe, knee joints, wrist, metacarpophalangeal, metatarsophalangeal knee and ankle joints) [p. 27, rec.].
6. March 1 - 8, 1977 - confined for treatment of gouty arthritis (multiple, severe, wrist, metacarpophalangeal, metatarsophalangeal, knee and ankle joints, recurrent) wound [infected, terminal end, 4th digit, foot, left] and

coronary insufficiency (mild, acute) [p. 28, rec.].

7. April 11 - 14, 1977 - hospitalized for gouty arthritis (chronic, recurrent) and monocytic leukemia [p. 29, rec.], and

8. April 28, 1977 - death due to acute monocytic leukemia (p. 18, rec. and p. 71, ECC rec.).

On March 14, 1978, petitioner filed her claim with the GSIS for income (death) benefits under Presidential Decree No. 626, as amended, which claim was denied on March 28, 1978 [pp. 80 and 83, ECC rec.].

Petitioner filed her letter requesting reconsideration of aforesaid denial on June 23, 1978 (p. 85, ECC rec.). In its letter of June 30, 1978, the GSIS denied reconsideration of its previous action (p. 86, ECC rec.).

On January 19, 1979, petitioner appealed to respondent Commission.

Respondent Commission, in its decision dated October 31, 1979 affirmed the denial of the claim by the GSIS. The Commission thus ruled:

"We find the respondent System's ruling to be in accord with the law and therefore find no cogent reason to disturb the same. Under the present Employees' Compensation Program, in order that a sickness and its resulting disability or death is deemed compensable, the sickness must be the result of an occupational disease listed under Annex 'A' of the Rules with the conditions therein satisfied; otherwise, it must be proven that the risk of contracting the same is increased by the working conditions. Definitely, leukemia is not an occupational disease considering the decedent's work. It is therefore farfetched to attribute said ailment to the nature and conditions of his work, considering that it is medically accepted that such ailment is caused by external factors unrelated to employment" (pp. 21 and 22, rec. and pp. 93 and 94, ECC rec.).

The aforequoted ruling on non-compensability was anchored on the report of the ECC medical officer which states that -

"The cause of death in the instant case is acute monocytic leukemia. There are no indications from the records of the instant case that the deceased, a former Municipal Judge, in the course of his work had been exposed to factors listed above that may have caused the disease. It has been alleged that the disease could have resulted from the prolonged treatment that he underwent for gouty arthritis. Granting, however that this is true, the same still could not be considered compensable since the disease for which the treatment was given is not occupational nor work-connected" (p. 91, ECC rec.).

Hence, this petition.

Petitioner alleges that "as a municipal judge, Restituto Duran conducted hearings, went on ocular inspections, settled disputes between parties by amicable settlement or by mediation outside of the courtroom, and accepted speaking engagements at conferences and seminars. In the performance of his duties as a judge, it was not unusual for him to wade through brooks and streams in an effort to implement the government policy of bringing the courts closer to the people. As a consequence of this work schedule of Judge Duran which continued for a period of more than 20 years of dedicated service, he developed arthritis and simultaneously, he began to show symptoms of a heart disease. At one time, he collapsed while holding session and he was rushed by means of a pumpboat to the Bethany Hospital in Tacloban City where he was medically found "to be suffering from coronary insufficiency which was aggravated by his arthritis" (pp. 9, 95 and 96, rec.).

In ruling out compensability of this claim, respondent Commission, through the Solicitor General, contends that "while Restituto Duran contracted his illness (coronary insufficiency) during his employment, his death for which his wife seeks compensation was not due to this sickness but to leukemia. This rules out the recovery of death benefits under the Workmen's Compensation Act, for coronary insufficiency. Neither may recovery be had under

the Labor Code of the Philip-pines. Article 166 thereof is explicit that employees and their dependents may secure income benefits and medical or related benefits, in case of work-connected disability or death" (pp. 76-77, rec.).

WE fully agree with petitioner. And WE find respondent Commission's affirmance of the denial of the claim by the GSIS as a refusal to adhere to OUR previous pronouncements on compensation cases and recognize certain established medical findings on the matter. The decision of respondent Commission reflects its stereotyped handling of compensation claims long recognized as predicated on the social justice clause of our Constitution.

The deceased judge started working as justice of the peace in 1952. His station covered the towns of Basay, Sta. Rita and Marabut. He became the municipal judge of Sta. Rita on April 1, 1964. He was afflicted with and initially treated for angina pectoris on March 14 to 18, 1972. During the succeeding years -- 1973 - 1977 -- he was treated and hospitalized for gouty arthritis, coronary insufficiency, myofascitis and labile hypertension. He finally died of acute monocytic leukemia on April 28, 1977.

Petitioner has sufficiently established and respondent Commission has in fact admitted that as justice of the peace and judge, deceased served in three municipalities which did not have adequate transportation facilities. Sta. Rita alone where Judge Duran spent his last 13 years as municipal judge has 31 barrios. Obviously, land transportation was not then developed nor easily available since Judge Duran travelled mostly by foot or banca. It has also been shown and admitted that aside from his regular duties of conducting hearings and making ocular inspections, he went beyond his courtroom to settle disputes between parties by amicable settlement or mediation and to speak at conferences and seminars. And in the per-formance of such duties, it was normal to see him wade through streams or ride in bancas.

It requires simple imagination to picture the experience that the deceased judge had gone through just so he could dispense justice even if it meant giving more of himself than what was normally expected of him. He walked long distances and forged streams under variable weather conditions. He was literally exposed to the elements -- the sun, rain, water and rough roads. He worked as if he were a fieldman; he was a roving judge. The tedious work coupled with unhealthy exposure bore down on him after 20 years. He must have been a strong, healthy person when he first joined the Judiciary because it took all of 20 years before he suffered from angina pectoris, gouty arthritis, coronary insufficiency and monocytic leukemia. Needless to say, the human body can only take so much physical and mental pressures.

Some courts of the United States have ruled that an illness caused by unusual exposure may be a disease resulting from accidental injury (Idaho-Hoffman v. Consumers Water Co., 99 P. 2d 919, 920, 61 Idaho 226), as where it was caused by working with portions of deceased's body under water under unusual conditions [Ala.-Pow v. Southern Const. Co., 180 So. 2d 288, 235 Ala. 580], or by undue exposure to extreme cold, or to sudden changes in temperature, or by an unexpected exposure to cold drafts (p. 549, Vol. 99, C.J.S.).

Thus, in Lao vs. Employees' Compensation Com-mission, et al., L-50918, May 17, 1980, 97 SCRA 780, WE enunciated:

"It should be stressed that as early as 1960, this Court, in the case of MRR vs. WCC & Pineda, ruled that compensability is not affected by the pressure of extraneous factors causing or accelerating a claimant's illness. In reiteration, it further stated that 'while there is that possibility that factors other than the employment of the claimant may also have contributed to the aggravation of his illness is not a drawback to its compensability. For, under the law, it is not required that the employment be the sole factor in the growth, development or acceleration of claimant's illness to entitle him to the benefits provided for. It is enough that his employment had contributed, even if a small degree, to the development of the disease'. xx xx xx."

Respondent Commission drastically ruled that "leukemia is not an occupational disease considering the decedent's work" and that "it is therefore far-fetched to attribute said ailment to the nature and conditions of his work, considering that it is medically accepted that such ailment is caused by external factors unrelated to employment." While aforesaid averment may be given weight, the same is not altogether accurate considering that respondent Commission miserably failed to consider the established medical finding that leukemia could be a complication or an after-effect of prolonged treatment of coronary insufficiency and gouty arthritis. The following medical findings must have been overlooked or simply ignored by respondent Commission:

"Cause. The precise cause of leukemia unknown. Much research has been directed toward exploring the possibility of a virus or a genetic defect as the cause. Experiments have produced findings that support viral origin in animals. Evidence of possible viral origin in humans is inconclusive" (p. 532, Encyclopedia & Dictionary of Medicine & Nursing, Miller-Keane, 1972 ed, underlining supplied).

"In acute leukemia unregulated accumulation of immature leukocytes results in a compromise of organ function most marked in the bone marrow but also occurring in other tissues that become infiltrated with the immature cells. The cause of acute leukemia is unknown, but both genetic and environmental factors are important. Acute leukemia is a complication of irradiation, benzene exposure, and marrow aplasia due to chloramphenicol, arsenic, and phenylbutazone (p. 269, Manual of Clinical Problems in Internal Medicine, Annotated with Key References, Second Edition by Jerry L. Spivak, M.D. & H. Verdain Barnes, M.D., underscoring supplied).

"Chemical agents. The leukemia which follow exposure to chemical agents are unusually of the varieties of acute or chronic myelogenous leukemia rather than the lymphocytic type. Occupational exposure to benzol and possibly other chemicals is associated with an increased incidence of leukemia. Certain drugs, such as chloramphenicol and phenylbutazone, which are known to cause bone marrow depression, are probably also leukemogenic, although the risk is not great. xx xx" (Harrison's Principles of Internal Medicine, p. 1768, Eighth Edition, emphasis supplied).

It must be borne in mind that from March, 1972 to April 28, 1977, decedent was treated and hospitalized for angina pectoris, coronary insufficiency, gouty arthritis and finally, acute monocytic leukemia. As part of his treatment, he was continuously given analgesics and antibiotics. As shown by the afore-quoted medical findings, chloramphenicol is the technical name for antibiotics and phenylbutazone for anti-rheumatic drugs. It has also been found that such medicines, when taken consistently for a long period of time, can be leukemogenic or can cause monocytic leukemia as a complication. There is an element of certainty in aforesaid findings; otherwise, medical authorities will not attest to the same.

Very significantly, respondent Commission has somehow provided an opening through which petitioner can pursue and did pursue her assertion that there is all the possibility that the fatal disease of monocytic leukemia could have been directly caused by the prolonged medication for gouty arthritis and coronary insufficiency. The following portion of the report of the ECC Medical Division which has been quoted by said Commission thus reveals:

"xx xx xx.

"It has been alleged that the disease could have resulted from the prolonged treatment that he underwent for gouty arthritis. Granting, however, that this is true, the same still could not be considered compensable since the disease for which the treatment was given is not occupational nor work-connected" (p. 22, rec.).

Since the work-connection or causal relationship upon which the above assumption would be based has been sufficiently established, cause of the fatal ailment of decedent now becomes a fact.

Thus, in *Enriquez vs. WCC, et al.* (L-42640, September 28, 1979, 93 SCRA 366), WE stated:

"Where the primary injury is shown to have arisen in the course of employment, every natural consequence that flows from the injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to claimant's own negligence or misconduct (1 *Larson Workmen's Compensation Law* 3 279 [1972]). Simply stated, all the medical consequences and sequelae that flow from the primary injury are compensable (*ibid.*)."

It has been also held that "where, without the fault of the employee, his original compensable injury is aggravated by medical or surgical treatment, there is such a causal connection between the original injury and the resulting disability or death as to make them compensable" (*Cal. - Corpus Juris* cited in *Heaton v. Karland*, 166 P. 2d, 857, 859, 27 C. 2d 716) "even though the treatment was skillful" [*Ala.-Tennessee Coal, Iron & R. Co. v. Shelby*, 106 So. 499, 214 Ala. 87] and "regardless of whether the doctor was furnished by the employer, insurer, or was selected by the employee" (*Cal.-Fitzpatrick v. Fidelity & Casualty Co. of New York*, 60 P. 2d 276, 7 C2d 230) [p. 670, C.J.S. Vol. 99].

Thus, too, it has been ruled that "if the employee suffers a compensable injury and thereafter suffers further disability which is the proximate result of the original injury received, such further disability is compensable" (*U.S.-Cyr v. Crescent Wharf & Warehouse Co., C.A. Cal.* 211 F. 2d 454) [p. 607, Vol. 99, C.J.S.].

In deciding on the compensability of petitioner's claim for death benefits, WE reiterated in *LaO vs. ECC, et al.* (*supra*):

"In the *Abana* case, this Court further stated that the mere opinion of doctors regarding the non-causality of unknown illnesses cannot prevail over the presumption established by law. It is, therefore, clear, as in the instant case, that where the cause of the illness of the claimant or of the death of the deceased is not definitely determinable, the medical report of the findings presented by respondent employer (the ECC or GSIS) does not or cannot constitute substantial evidence to prevail over the presumptions of compensability and aggravation and thus defeat the compensability of the claim.

"xx xx xx.

"Furthermore, in the case of *Flores vs. WCC, et al.* (L-43540, March 14, 1979), this Court emphatically ruled that the exact medical cause of the illness of an employee is not significant, for, granted for argument's sake, that the evidence of the claimant is sufficient to show a causal link between the nature of his employment and his ailment, it is to be presumed that the claimant's illness which supervened at the time of his employment, either arose out of, or was at least aggravated by, said employment, and that with this legal presumption, the burden of proof shifts to the employer, and the employee is relieved of the burden to show causation."

Evidently, petitioner's claim for death benefits falls within the coverage of the Workman's compensation Act since decedent's original ailments were contracted in March, 1972 when the cause of action accrued and before the effectivity of the New Labor Code (*Corales vs. ECC, et al.*, 88 SCRA 547, 1979).

WHEREFORE, THE DECISION OF THE RESPONDENT COMMISSION IS HEREBY SET ASIDE AND THE GOVERNMENT SERVICE INSURANCE SYSTEM IS HEREBY ORDERED

1. TO PAY THE PETITIONER THE SUM OF TWELVE THOUSAND (P12,000.00) PESOS AS DEATH BENEFITS;
2. TO REIMBURSE PETITIONER'S MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS;
3. TO PAY PETITIONER ONE THOUSAND (P1,000.00) PESOS AS FUNERAL EXPENSES; AND

4. TO PAY PETITIONER A SUM EQUIVALENT TO FIVE (5%) PERCENT OF THE CLAIM AS ATTORNEY'S FEES.

SO ORDERED.

Fernandez, Guerrero and Plana, JJ., concur. Melencio-Herrera, J., see dissent. Teehankee, J., (Chairman), in the result.

DISSENTING OPINION

MELENCIO-HERRERA, J.:

I am constrained to dissent.

"Acute monocytic leukemia" can by no means be considered an occupational disease. Nor was the risk of contracting it increased by the working conditions of petitioner's husband, a Municipal Judge.

There was no abuse of discretion on the part of respondent Commission in applying the law as is. It is our judicial pronouncements that, in my opinion, have strayed beyond the reaches of the law.

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