

JESUS LONTOC, PETITIONER, VS. MINISTRY OF LABOR AND JAI-ALAI CORPORATION OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 55188. October 28, 1988

Ponente: CRUZ, J.

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CRUZ, J.:

We allowed the petitioner to sue as a pauper litigant in challenging on certiorari the decision of the public respondent denying his claim for death benefits under the Workmen's Compensation Act.[1] We ultimately gave due course to the petition and required the parties to submit their respective memoranda for a more comprehensive discussion of the issues. [2]

The petitioner's wife, Soledad Lopez, was an employee of the Jai-Alai Corporation when she died on May 19, 1974, of "septicemia due to pelvic infection and diverticulitis," according to her death certificate.[3] The petitioner claims he thereafter made several requests for payment of the death benefits due him and was repeatedly assured of such payment by the private respondent. Eventually, however, in reply to his written demand dated March 20, 1978, his claim was denied on April 24, 1978, in a letter to him signed by the counsel of the said corporation.[4] The denial was based on prescription under Article 291, third paragraph, of the Labor Code, quoted as follows:

"Workmen's compensation claims accruing prior to the effectivity of this Code and during the period from November 1, 1974 up to December 31, 1974, shall be filed with the appropriate regional offices of the Department of Labor not later than March 31, 1975; otherwise, they shall be forever barred, x x x."

When this claim was elevated to the Ministry of Labor, it was also dismissed, likewise on the ground of prescription. The justification given was not the above-cited article, however, but Section 8 of the Workmen's Compensation Act providing that the claim for death benefits should show that the employee's death occurred within two years from the date the fatal disease was contracted. The order also observed that there was no evidence either that the disease which had caused the employee's death was work-connected.[5]

It is these rulings that the petitioner asks us to reverse for being contrary to law and jurisprudence as applied to the evidence of record.

This case was considered by the Ministry of Labor, and will be decided by this Court, under the old Workmen's Compensation Act. The reason is that this was the applicable law at the time of the death in question, which occurred on May 19, 1974, before the effectivity of the present Labor Code.

On the question of prescription, we rule in favor of the petitioner.

Both the public and private respondents argue in their respective pleadings that the petitioner's claim was not filed on time because it was made only in 1979 when, according to Article 291 of the Labor Code, such a claim should be filed not later than March 31, 1975. It was therefore "forever barred," following the language of the statute. Moreover, even assuming that the said provision was inapplicable, there was also Section 8 of the Workmen's

Compensation Act which would still negate the claim for failure to show that the employee died within two years from the date the fatal disease was contracted. As the clinical history[6] of the deceased employee disclosed, she was afflicted with the disease of diverticulitis in 1962 and died of such ailment much later, in 1974, or after twelve years.

There is a long line of cases where this Court has held that claims for compensation under the Workmen's Compensation Act prescribe in ten years, pursuant to Article 1144(2) of the Civil Code, being based on an obligation created by law.[7] This ten-year period is to be counted from the death of the employee, as we declared in *Baterna v. Workmen's Compensation Commission*,[8] thus:

"The facts are clear and uncontroverted that deceased employee Magno Baterna died on October 25, 1964 and that his widow, petitioner herein, filed his claim for death compensation on October 22, 1974 - a period of 9 years, 11 months and 27 days after employee's death, which is certainly well within the ten-year period prescribed by law for the filing of such claim.

"It would appear that the Commission has adopted private respondent's contention that the ten-year prescriptive period should be reckoned from January 6, 1964, the date when deceased employee was disabled due to illness which caused his separation from the service and ultimately his death. But this argument is clearly untenable. This is a claim for death benefits. Logically, the prescriptive period should run from the date of employee's death and not from the date when he contracted the illness."

Since the employee died in 1974 and the claim for death benefits was filed by the petitioner in 1979, there is no question that it had not yet prescribed at that time.

On the contention that the claim was barred by Article 291 (formerly Article 292) of the Labor Code, having been filed after March 31, 1975, it suffices to recall that in *Villones v. Employees Compensation Commission*,[9] this Court held through Justice Juvenal K. Guerrero:

"As the record shows, petitioner began suffering from functional bleeding from October, 1974 to July, 1975 as stated in the 'Report of Injury/Sickness/Death' signed by Dr. Rogelio B. Cuevas, Chief of the Silay General Hospital. Hence, petitioner's claim for illness, compensation accrued in October, 1974. Article 292 of the new Labor Code which requires that Workmen's Compensation claims accruing prior to the new Labor Code shall be filed with the appropriate regional offices of the Department of Labor not later than March 31, 1975, otherwise they shall forever be barred, does not apply to petitioner who filed her claim on July 24, 1975 with the GSIS because the Supreme Court has held repeatedly in a long line of decisions that the prescriptive period for claims which accrued under the Workmen's Compensation Act, as amended, is ten years, it being a right founded on statute. Petitioner's rights accrued as early as October, 1974 and, therefore, is a vested right. (*Corrales v. Employees Compensation Commission*, supra.)

Furthermore -

x x x x x x x x

"Rights accrued and vested while a statute was in force ordinarily survive its repeal.

"The repeal of a statute does not operate to impair or otherwise affects rights which have been vested or accrued while the statute was in force. This rule is applicable alike to rights acquired under contracts and to rights of action to recover damages for torts. Where a new statute continues in force provisions of an old statute, although in form it repeals them at the moment of its passage, a right of action created by the old statute is not thereby destroyed x x x." [10]

The respondents insist, however, that the claim was in any case validly dismissed because of the requirement of Section 8 of the Workmen's Compensation Act. This section provided that the death benefit would be due only "if

the disease contracted or injury received by the employee" caused "his death within two years from the date of such injury or sickness." It is urged that this period should be counted from 1962, when the employee contracted the disease which ultimately led her death twelve years later.

Such a posture was negated by this Court as early as in 1959, when it ruled in *Central Azucarera Don Pedro v. De Leon*[11] that the initial or starting date of the two-year period should be not the date the illness was contracted but the date when it physically incapacitated the employee from continuing to work. As the Court put it, through Justice Angelo Bautista:

"The contention that the claim for death benefits and burial expenses should be dismissed for the reason that Garin died more than two years from his sickness, is not also well founded. The law invoked by petitioner is Section 8 of the Act which we quote in part:

'SEC. 8. Death benefits. -- If the disease contracted or injury received by the employee as provided in section two herein cause his death within two years from the date of such injury or sickness, the employer shall pay the compensation to the persons entitled thereto, and in case there shall be none, he shall pay to the person representing the deceased employee the burial expenses not to exceed two hundred pesos, and shall also pay to or for the following persons, in the order of priority and during the periods hereinafter set forth. x x x.'

"It is petitioner's theory that the two-year period mentioned in the law should be reckoned with from the date the injury is caused or the illness is contracted resulting in death in order that the employee may be entitled to compensation, or that the wording of the law should be interpreted literally in order that the illness or death may be compensable. To this we cannot agree for that would render the law nugatory and ineffective. A reasonable interpretation would be that the two-year period should be counted from the date the disease or illness becomes compensable, or from the date the employee's sickness renders him physically disabled to do the work, which interpretation is in keeping with the general rule in compensation cases that the injuries or diseases that are compensable are only those which produce disability and thereby affect the earning power of the employee. In other words, as long as the employee is able to work and receives his pay even if he is suffering from illness, he is not entitled to compensation."

This ruling was reiterated three years ago in *Tolosa v. Employees Compensation Commission*,[12] where the widow's claim for death benefits was rejected because it was established that her husband died almost nine years after he was physically disabled by his fatal illness. According to Justice Felix V. Makasiar:

"The fact that petitioner died due to his ailments on February 14, 1984 does not entitle his widow to additional death benefits. Under Section 8 of the Workmen's Compensation Act, it is required that before death benefits shall be awarded to the heirs of the deceased employee, the death of the employee due to a work-connected disease, must occur within two years from such sickness. In the cases of *International Oil Factory v. Doriz*, 109 Phil. 553 (1960), and *Central Azucarera Don Pedro v. De Leon*, L-9449, July 29, 1959, this Court ruled that the two-year period shall be counted from the time of the aggravation of the employee's ailment or the time when he was forced to stop working or became physically disabled to do the work. This doctrine was reiterated in the subsequent cases of *Vda. De los Santos v. WCC* (88 SCRA 134 [1979]); *De Lara v. WCC* (83 SCRA [1978]); and *Unite v. WCC* (90 SCRA 289 [1979]). Since petitioner stopped working or became physically disabled to do his work at the time of his retirement on May 15, 1975, and he died on February 14, 1984, or almost nine (9) years after, petitioner's widow is therefore not entitled to death benefits."

The public respondent's argument that the illness which resulted in the employee's death was not work-connected is not supported by the prevailing jurisprudence on this matter based on the provisions of the Workmen's Compensation Act. We have held in a long line of cases, the latest being *Espejo v. Workmen's Compensation Commission*,[13] that:

"Under Section 2 of the Workmen's Compensation Act, as amended, an illness was compensable if it was

work-connected, i.e., the result of the nature of the employment or directly caused or aggravated by it. The legal presumption was that when the sickness supervened during employment, such sickness arose out of or was at least aggravated by the nature or conditions of the employee's work. The burden was then imposed upon the employer to overcome this presumption with convincing proof; otherwise, the employee's claim would be sustained in line with the policy of liberality in favor of the working class. Thus, Section 44 of said Act specifically provided:

'SEC. 44. Presumption. - 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 of another;

'4. That the injury did not result solely from the 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.'[14]

x x x

"Once the claimant has established that the illness, upon which the claim is premised, supervened during the time of his employment, there is a rebuttable presumption that the illness arose out of or was at least aggravated by his employment."[15]

"The law presumes, in the absence of substantial evidence to the contrary, that the claim is compensable. The burden to disconnect, by substantial evidence, the injury or sickness from employment, is laid at the employer's door. So rigid is the rule that even where the cause of the employee's death is unknown, the right to compensation subsists. Reason for this is that the Workmen's Compensation Law is a social legislation. Therefore, to effectuate its purpose, it must be liberally construed."[16]

Coming back to the two-year period during which the illness must have caused the employee's death, we note that there is no direct evidence as to the date when the petitioner's wife was actually disabled from working. However, from the clinical history invoked by the respondents, it may be gathered that the employee's ailment aggravated only "during the last year or so of her life," when "she was anorectic (sic), weak and remained at home and was confined to bed for the most part of the last six months."[17] Moreover, one of the presumptions decreed in Section 44 is that "the claim comes within the provisions of this Act."

This same presumption may also apply against the contention that the petitioner was not a dependent of his deceased wife, in line with the principle of liberal interpretation in favor of the working class.[18] Section 9 of the Workmen's Compensation Act, as amended, considered as a dependent entitled to compensation "the widower, only if incapable of supporting himself, and actually dependent, totally or partly, upon the deceased on the date of the accident." (Emphasis supplied.) On this matter, the private respondent merely alleged (and perhaps only as an afterthought) that the petitioner was gainfully employed when his wife died but offered no evidence to support this bare assertion. Surely, this was not enough to rebut the presumption.

WHEREFORE, the petition is GRANTED and the challenged Order dated August 20, 1980, is SET ASIDE. The petitioner is hereby AWARDED the amounts of P6,000.00 as death benefits, P200.00 for burial expenses, and P63.00 as administrative fees pursuant to Sections 8 and 55 of the Workmen's Compensation Act. This decision is immediately executory.

SO ORDERED.

Narvasa, Gancayco, Aquino, and Medialdea, JJ., concur.

[1] Rollo, pp. 81-82.

[2] Ibid., p 131.

[3] Id., p. 78.

[4] Id., pp. 79-80.

[5] Id., p. 81

[6] Id., pp. 107-108.

[7] Galanida v. ECC, 154 SCRA 232, citing Leonardo v. WCC, 88 SCRA 58; Central Azucarrera Don Pedro v. WCC, 154 SCRA 581, citing Corales v. ECC, 88 SCRA 547; Cepeda v. Bacolod Murcia-Milling Co., Inc., 135 SCRA 505, Negre v. WCC, 135 SCRA 651; Villones v. ECC, 96 SCRA 111; Magpantay v. WCC, 73 SCRA 533 and the cases cited therein.

[8] 75 SCRA 409.

[9] 92 SCRA 320.

[10] 82 CJS 1010 cited in Villones v. ECC, 92 SCRA 320

[11] 105 Phil. 1141.

[12] 136 SCRA 335.

[13] G.R. No. L-45388, September 19, 1988.

[14] Ibid.

[15] Id., citing Justiniano v. WCC, 18 SCRA 677, Agustin v. WCC, 12 SCRA 55, Hernandez v. WCC, 14 SCRA 219, National Development Co. v. WCC, 19 SCRA 861, Naira v. WCC, 6 SCRA 361, A.D. Santos, Inc. v. De Sapon, et al., 16 SCRA 791, and Pangasinan Transportation Co., Inc. v. WCC, 8 SCRA 352.

[16] Id., citing Industrial Textile Manufacturing Co. v. Florzo, et al., 17 SCRA 1104, and Vda. de Acosta v. WCC, 12 SCRA 168.

[17] Rollo, p. 108.

[18] Alvarado v. City Government of Tacloban, 139 SCRA 230; Baldebrin v. WCC, 132 SCRA 510; De los Santos v. WCC, 120 SCRA 730; Luzon Stevedoring Corp. v. WCC, 105 SCRA 675; Manahan v. ECC, 104 SCRA 198.

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