

CRISPULO GAROL, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (MINISTRY OF HEALTH), RESPONDENTS.

G.R. No. 55233. November 29, 1988

Ponente: FELICIANO, J.

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FELICIANO, J.:

In this Petition, Mr. Garol asks the Court to review a Decision of the Employees' Compensation Commission (ECC) affirming a Decision of the Government Service Insurance System (GSIS) which had denied his claim for death benefits under P.D. No. 626, as amended.

Petitioner's wife, Emeteria Garol was for about twenty-nine (29) years employed as a midwife by the Ministry (now Department) of Health. Her last assignment was in Bondoc Peninsula, San Narciso, Quezon Province, a remote area and apparently beset by difficulties of transportation.

Sometime in October 1978, Emeteria Garol started to exhibit a "yellowish discoloration of the sclera [eyes]." [1] On 1 January 1979, she was admitted to the Andaman Maternity and Surgical Clinic in Lucena City and there her illness was diagnosed as liver cirrhosis. Despite medication, her ailment persisted. There was a noticeable enlargement of her abdomen, accompanied by jaundice and anorexia. She was discharged from the Andaman Maternity and Surgical Clinic and transferred to the UST Hospital in Manila. She died twelve (12) days after admission to the UST Hospital. The cause of her death was stated as "hepatic failure due to liver cirrhosis." [2]

Petitioner, as the surviving spouse of Emeteria, filed a claim for death benefits with the GSIS, upon the ground that his wife's illness which culminated in her death was caused by the conditions of her employment. The GSIS denied the claim, holding that her death was not attributable to the nature and conditions of her employment. The GSIS stressed that cirrhosis of the liver is not an occupational disease, the same not being characteristic of or peculiar to Emeteria Garol's employment as a midwife.

Petitioner appealed to respondent ECC which, as above-mentioned, affirmed the decision of the GSIS denying petitioner's claim.

The sole issue raised in this Petition is whether or not the death of Emeteria Garol, caused by liver cirrhosis, is legally compensable under P.D. No. 626, as amended.

We are compelled to resolve this issue in the negative.

The record shows that the earliest date of the decedent's hospitalization and treatment for liver cirrhosis was 1 January 1979. Dr. Potenciano A. Andaman, her physician, certified, however, that her illness had started about three (3) months earlier. [3] The decedent's illness, having supervened after 1 January 1975, must be governed by the provisions of the Labor Code. [4]

Article 167 (1) of the Labor Code, as amended, defines "sickness" for purposes of the Code's Title on

"Employees' Compensation and State Insurance Fund" in the following manner:

"'Sickness' means any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment subject to proof by the employee that the risk of contracting the same is increased by working conditions. For this purpose, the Commission is empowered to determine and approve occupational diseases and work-related illnesses that may be considered compensable based on peculiar hazards of employment." (Underscoring supplied)

The above provision is clarified to some degree by Rule III, Section 1 (b) and (c) of the Amended Rules and Regulations on Employees' Compensation, as follows:

"RULE III. COMPENSABILITY

Section 1. Grounds. -- x x x

x x x x x x x x

(b) For the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease listed under Annex 'A' of these rules with the conditions set therein satisfied, otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions.

(c) Only injury or sickness that occurred on or after January 1, 1975 and the resulting disability or death shall be compensable under these Rules." (Underscoring supplied)

Under the above provisions, in order that an illness and the resulting death may be compensable, the employee's illness must be among those listed in Annex "A" of the above Amended Rules or, alternatively, the claimant is able to prove that the risk of contracting such illness was increased by the conditions of the employment of the deceased employee. In the instant case, as aforesaid, petitioner's wife died of cirrhosis of the liver. It is not disputed that cirrhosis of the liver is not listed in Annex "A" of the Amended Rules. Petitioner's claim, therefore, may be granted only upon a showing that the conditions of employment of petitioner's wife increased the risk of contracting cirrhosis of the liver.

Petitioner claims, firstly, that his wife contracted liver cirrhosis during her employment by the Ministry of Health and that while so employed, she succumbed to that illness. This is not disputed by respondents. Petitioner suggests that the fact that Emeteria Garol contracted liver cirrhosis during employment indicated "presumptively, if not conclusively, that the said illness was directly caused by her employment." [5] As has been pointed out by this Court, however, the presumption of compensability (in effect a presumption of work-relatedness) [6] under the old Workmen's Compensation Act (Act No. 3428, as amended) was discarded in the Labor Code. This Code established a scheme of compensation which, among other things, placed upon the employee the burden of proving a relationship of causation (or heightened risk) between the conditions of employment and the illness for which compensation is sought. [7] Thus, the simple fact that the deceased Emeteria Garol first manifested symptoms of cirrhosis of the liver during employment, does not give rise to any presumption that such employment, or the conditions thereof, caused or increased the risk of contracting such ailment.

In *De Jesus v. Employees' Compensation Commission*, [8] the Court speaking through Mr. Justice Gutierrez explained at some length the structural assumptions underlying the re-locating of the burden of proving the work-related character of a particular illness:

"In this case, however, there is no dispute that the governing law is the New Labor Code, which according to settled jurisprudence (*Sulit v. Employees' Compensation Commission*, 98 SCRA 483; *Armena v. Employees' Compensation Commission*, 122 SCRA 851; *Felipe U. Erese v. Employees' Compensation Commission*, GSIS, Metro Manila, G.R. L-45662, August 20, 1985), discarded the aforesaid concepts to 'restore a sensible equilibrium between the employer's obligation to pay workmen's compensation and the employee's rights to

receive reparation for work-connected death or disability.'

The new law establishes a state insurance fund built up by the contributions of employers based on the salaries of their employees. The injured worker does not have to litigate his right to compensation. No employer opposes his claim. There is no notice of injury nor requirement of controversion. The sick worker simply files a claim with a new neutral Employees' Compensation Commission which then determines on the basis of the employee's supporting papers and medical evidence whether or not compensation may be paid. The payment of benefits is more prompt. The cost of administration is low. The amount of death benefits has also then doubled.

On the other hand, the employer's duty is only to pay the regular monthly premiums to the scheme. It does not look for insurance companies to meet sudden demands for compensation payments or set up its own funds to meet these contingencies. It does not have to defend itself from spuriously documented or long past claims.

The new law applies the social security principle in the handling of workmen's compensation. The Commission administers and settles claims from a fund under its exclusive control. The employer does not intervene in the compensation process and it has no control, as in the past, over payment of benefits. The open ended Table of Occupational Diseases requires no proof of causation. A covered claimant suffering from an occupational disease is automatically paid benefits.

Since there is no employer opposing or fighting a claim for compensation, the rules on presumption of compensability and controversion cease to have importance. The lopsided situation of an employer versus one employee, which called for equalization through the various rules and concepts favoring the claimant, is now absent.

The Employees Compensation and State Insurance Fund was established after actuarial studies and on the basis of the new provisions of the new law. I commiserate with the claimant but compassion should be for all beneficiaries and not specific claimants. If we endanger the stability and liquidity of the Fund through orders compelling payment of benefits where the law never intended such benefits to be paid, we are not compassionate. We endanger the scheme."^[9]

Petitioner also argues that the work of a public health midwife was both physically exhausting and emotionally taxing; that Emeteria Garol was subject to the call of duty at any time of day or night; that she was often aroused from sleep to go out in all kinds of weather to attend to women about to give birth; and that she was exposed to diverse kinds of microorganisms while attending to such women. Petitioner further argues that the position of a midwife commanded only a meager salary, barely of subsistence level, such that malnutrition was an inevitable result. Petitioner invokes a passage in the decision of the respondent ECC to the effect that "malnutrition is believed to be a predisposing factor if not [a] primary etiologic factor [of cirrhosis of the liver]."^[10]

We do not believe that petitioner has discharged the burden of proof which the Labor Code has placed upon him. He has not submitted any support for his above allegations and although the strict rules on evidence are not applicable in claims for Workmen's Compensation, the basic rule that mere allegation is not evidence cannot be disregarded.^[11] Physical hardwork, occasional or periodic exposure to sun and rain, emotional and physical privations accompanying modest salaries are conditions shared by the great majority of public employees, indeed of the bulk of the population of the country. None of the general conditions of Emeteria's employment asserted by the petitioner (and we assume the truth of these assertions for present purposes) has been shown to bear any specific relation to cirrhosis of the liver or to the risk of contracting cirrhosis of the liver.

In its decision dated 4 September 1980, respondent ECC said, among other things:

"Basing its findings on generally accepted medical principles, the System, thru its Medical and Underwriting

Group, pointed out that 'Cirrhosis of the liver is any diffuse fibrosis that destroys the normal architecture of the liver. The most common type is Laennec's or alcoholic cirrhosis which is the consequence of a specific type of malnutrition usually related to chronic alcoholism and/or faulty dietary habits. It is generally believed that alcohol reduces food intake and thus, leads to a deficiency of lipotropic substances that affect the lipid content of the liver. As a result, the liver becomes fatty and ultimately undergoes fibrosis.' " (Underscoring supplied)

The Decision of the ECC continued ---

"Medical evaluation revealed that liver cirrhosis is a chronic disease characterized by increased connective tissue that spreads from the portal spaces, distorting liver architecture and impairing liver functions. Portal cirrhosis occurs chiefly in males in late middle life. Malnutrition is believed to be a predisposing factor if not a primary etiologic factor. The role of alcohol is not clearly established. Alcohol probably exerts a direct toxic effect on the liver, and also increases malnutrition by providing calories without essential nutrients. Cirrhosis has been produced in animals by diets low in protein and specifically low in choline. The addition of choline to these diets prevents cirrhosis. Chronic poisoning with carbon tetrachloride or phosphorus produces changes similar to those from portal cirrhosis. Hepatic insufficiency and hyperproteinemia is an end result of liver cirrhosis. (Reference: Lyght, C.E.: The Merck Manual of Diagnosis and Therapy; M.S.D.; M.J.; 11th edition, pp. 928).

It is clear from the foregoing discussion that the predisposing factors responsible for the development of the fatal ailment are manifestly not inherent in or peculiar to the deceased's employment. Hence, it is without basis to trace the disease to the employment itself. We have also scrutinized the record and we find no evidence whatsoever that could suggest, much less substantively provide, that the deceased's employment increased the risk of contracting the fatal ailment. Dr. Luis Mayo Lao of the UST Hospital certified that the deceased had a past history of being an 'alcoholic,' and gives no specific answer as to whether the illness was directly caused by the decedent's duties. (See Attending Physician's Certification, Part III, GSIS Form). Since medical evaluation earlier revealed that alcoholism plays a major role in the development of cirrhosis of the liver, we can only conclude that the decedent's alcoholism was the decisive cause of her ailment which led to death. x x x." [12] (Underscoring supplied)

It thus appears clear that petitioner has not adduced sufficient credible evidence showing that the conditions of employment of the deceased Emeteria Garol had substantially increased the risk of her contracting cirrhosis of the liver. Upon the other hand, the decision of the ECC points out that there is evidence of Emeteria Garol's having been an "alcoholic" (which evidence, per the record, has not been controverted by petitioner) and that alcoholism plays a "major role in the development of the cirrhosis of the liver." These circumstances give rise to the inference that decedent's "alcoholism" was at least a contributory factor in her ailment.

WHEREFORE, the Petition for Review is DENIED and the Decision dated 4 September 1980 of the Employees' Compensation Commission in ECC Case No. 1417 is hereby AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Fernan, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Paras, J., I dissent, The disease here is actually cancer whose cause is really unknown. Petitioner cannot be blamed for failing to prove the impossible.

Narvasa, J., on leave.

[1] Original ECC Record, p. 10.

[2] Decision, p. 2; Original ECC Record, p. 32.

[3] Original Record, p. 10.

[4] *Milano v. Employees' Compensation Commission*, 142 SCRA 52 (1986); and *Corales v. Employees' Compensation Commission, et al.*, 88 SCRA 547 (1979).

[5] Rollo, p. 47.

[6] Sec. 44 (1) in relation to Sec. 2, Act No. 3428, as amended. See also: *Gonzaga v. Employees' Compensation Commission*, 127 SCRA 443 (1984); and *Panangui v. Employees' Compensation Commission*, 121 SCRA 65 (1983).

[7] *Bonifacio v. Government Service Insurance System*, 146 SCRA 276 (1986); *De Jesus v. Employees' Compensation Commission*, 142 SCRA 92 (1986).

[8] 142 SCRA 92 (1986).

[9] 142 SCRA at 99-100.

[10] Rollo, p. 19.

[11] *De Jesus v. Employees' Compensation Commission* (supra); *Top-Weld Manufacturing, Inc. v. ECED, S.A., et al.*, 138 SCRA 118 (1985); and *Lagasca v. De Vera*, 79 Phil. 376 (1947).

[12] Rollo, pp. 19-20.

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