

DIOSA DE LEON, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES, GOVERNMENT SERVICE INSURANCE SYSTEM, MINISTRY OF NATIONAL DEFENSE (PHILIPPINE ...

G.R. No. 55539. November 19, 1982

Ponente: MAKASIAR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-55539/>

MAKASIAR, J.:

This is a petition for certiorari which seeks to set aside the decision of respondent Employees' Compensation Commission (ECC) dated October 23, 1980 (Annex "B", Petition, pp. 10-13, rec.) in ECC Case No. 1495, which affirmed the decision/letter-denial of respondent Government Service Insurance System (GSIS) dated December 12, 1979 (Annex "A", Petition, p. 9, rec.) denying petitioner's claim for income (death) benefits under Presidential Decree No. 626 for the death of her husband Ruben de Leon on September 5, 1978.

The undisputed facts are as follows:

Petitioner Diosa de Leon is the widow of the late Ruben de Leon, who joined the Philippine Navy on June 13, 1955 (Service Record, p. 4, ECC rec.). During the term of his employment, he was principally doing the duties of an electrician and repairman such as welding metals, repairing batteries, and other similar jobs connected with electricity.

Sometime in 1969 the deceased was first treated by Dr. T. D. Iniguez for acute tonsillitis (Annex "B", Memorandum for the Petitioner, pp. 53-64, rec.). In 1975, the deceased was also treated by Dr. Fortunato Montaos for pulmonary tuberculosis (Annex "C", Memorandum for the Petitioner, pp. 53-64, rec.). From 1976 up to 1978, the deceased was continuously treated by Dr. T. D. Iniguez for pulmonary tuberculosis (Annex "D", Memorandum for the Petitioner, pp. 53-64, rec.).

On May 25, 1978, the deceased was confined at the AFP Medical Center, V. Luna Road, Quezon City, and was found to be suffering from carcinoma of the nasopharynx metastatic to lymph node (cancer of the throat). The surgical operation performed on him in an effort to check the development of his cancer, proved futile and he succumbed on September 5, 1978 at the age of forty-three (Certificate of Death, p. 1, ECC rec.).

Upon the death of the deceased, herein petitioner, surviving spouse of the deceased, initially lodged her claim with the Philippine Navy for death benefits under Presidential Decree No. 626, as amended. The latter, in a letter dated January 26, 1979 transmitted said claim to the respondent GSIS for resolution.

Accordingly, respondent GSIS in its letter of denial dated December 12, 1979 stated:

"We are sorry to inform you that after a careful study and appraisal of the supporting documents submitted by you, the above-mentioned claim cannot be favorably considered for the reason that the injury/sickness that caused his death is not due to circumstances of the employment or in the performance of the duties and responsibilities of said employment. The evaluation shows that: Carcinoma of the nasopharynx or throat is the

most common malignant tumor of the said area which is a transitional cell carcinoma. These new growth may be of slow-growing variety or more rapidly growing anaplastic growth. Genetic influence is considered as a predisposing factor on the basis of the Medical Evaluation.

"Your claim therefore, is regrettably denied" (Annex A, Petition, p. 9, rec., underscoring supplied).

Upon receipt of the aforesaid letter of denial, petitioner in a letter dated January 16, 1980 moved for reconsideration "for the following reasons:

"1. That my husband died while in the service;

"2. That the principal duties of my husband is an electrician in the Philippine Navy, and due to the nature of his duties in welding metals, he used to inhale chemicals that necessarily produce his sickness;

"3. That medical findings show that there is no definite cause for cancer and, therefore, the cause of death of my husband was con-nected to the nature of his employment; and

"4. Finally, it has been legally considered that cancer is an occupational disease and is com-pensable" (p. 14, ECC rec., Italics supplied).

Unfortunately, the aforesaid motion for reconsideration was likewise denied by respondent GSIS prompting herein petitioner to elevate the case to respondent Employees' Compensation Commission (ECC) for review.

Respondent Commission however, in its decision en banc dated October 23, 1980, affirmed the decision of the respondent System dismissing the claim of petitioner (Annex B, Petition, pp. 10-13, rec.). Thus, pertinent portions of the respondent Commission's decision are hereunder quoted:

"xx xx xx.

"The issue posed in this appeal is whether the decedent's fatal ailment which he contracted during his employment is compensable under Presidential Decree No. 626, as amended. In denying the claim for income benefits, the respondent System disclaimed causal relationship between the decedent's ailment and his employment. Medical science disclose that nasopharyngeal carcinoma is 'one of the most malignant tumors of the upper respiratory and digestive tracts. The primary tumor remains silent. It is the secondary growth in the upper lymph nodes of the neck which first brings the patient to the surgeon. It is a tumor of youth, occurring more often below the age of thirty years than any other tumor of the head and neck. Indeed the majority of cases occur in children. There is a marked racial susceptibility among orientals. The cause of the malignancy is unknown' Reference: William Boyd, Pathology for the Surgeon, 7th edition; 1959; p. 104).

"We find the respondent System's decision to be in accord with the law and therefore find no compelling reason to disturb the same. Pursuant to the provisions of Presidential Decree No. 626, as amended, in order that a sickness and its resulting disability or death may be compensable, the sickness must be the result of an occupational disease listed under Annex 'A' of the Rules with the con-ditions set therein satisfied; otherwise, proof must be shown that 'the risk of contracting the disease is increased by the subject employee's working conditions. Nasopharyngeal carcinoma is not an occupational disease considering the decedent's particular nature of work. Thus, it is unjustifiable to attribute the decedent's ailment to the nature and conditions of his work considering that we have earlier shown that this type of cancer develops independently from employment. As earlier indicated this type of cancer is a tumor of youth, occurring more often the age of thirty. Clearly, appellant's assertion that the ailment is employment-related is unfounded.

"The report of the Medical Division of this Commission also militates against a conclusion of compensability, viz:

"There is no proof to show that a direct causal relationship exists between the above disease and the late

employee's occupation as 'electrician in the Philippine Navy. x x x.' This case is not compensable and it is therefore recommended that the decision of the GSIS denying the claim be affirmed.'

"We noted that the decedent was also suffering from pulmonary tuberculosis, minimal. This fact to our mind, does not improve appellant's stand. Aside from the fact that subject pulmonary tuberculosis was in its incipient or minimal stage, what should be compensated by the law is not the contraction of an ailment but the impaired or lost earnings of the concerned employee occasioned by the ailment's resulting disability or death. Based on this premise, the decedent's pulmonary tuberculosis, minimal -- a non-disabling illness -- would necessarily fail as a basis for compensation under Presidential Decree No. 626, as amended.

"xxx xxx xxx" (Annex B, Petition, pp. 10-13, rec., *Italics supplied*).

Hence, the instant petition.

WE have ruled in the case of *Dator vs. ECC, et al.*, No. L-57416, January 30, 1982, 111 SCRA 632, 634, that "(U)ntil now the cause of cancer is not known. Despite this fact, however, the Employees' Compensation Commission has listed some kinds of cancer as compensable. There is no reason why cancer of the lungs should not be considered as a compensable disease."

In the same vein, if the etiology of cancer is still unknown despite the advance of modern science, there is no plausible reason why nasopharyngeal carcinoma (cancer of the throat), as in the case at bar, should not be considered as a compensable disease.

It is noteworthy to emphasize that it remains undisputed that sometime in 1969, the deceased was treated for a disease diagnosed by Dr. T. D. Iniguez of Bulacan as acute tonsillitis. In 1975, the deceased was also treated by Dr. Fortunato Montaños for a disease diagnosed as pulmonary tuberculosis. The treatment for the alleged disease of pulmonary tuberculosis was continuous from 1976 to 1978, under Dr. T. D. Iniguez.

The acute tonsillitis suffered in 1969 by the deceased was already one of the symptoms, if not the inception, of the insidious development of cancer of the throat. It must be noted that acute tonsillitis, like carcinoma of the nasopharynx, is a disease of the upper respiratory tract.

Relatedly, it may be relevant to mention the following medical definitions:

"PHARYNX --- the musculomembranous cavity, about 5 inches long, behind the nasal cavities, mouth and larynx, communicating with them and with the esophagus.

The pharynx includes many individual structures and may be divided into three areas: the nasopharynx (top), oropharynx (center, behind the mouth) and laryngopharynx (bottom). The nasopharynx, connected with the nasal cavities, provides passage for air during breathing; it also contains the openings of the eustachian tubes through which air enters the middle ear. The oropharynx and laryngopharynx provide passageways for both air and food. The pharynx also functions as a resonating organ in speech.

The pharynx is separated from the mouth by the soft palate and its fleshy V-shaped extension or flap, the uvula, which hangs from the top of the back of the tongue. In swallowing, the uvula lifts up, closing off the nasopharynx as food passes from the mouth through the lower parts of the pharynx to the esophagus. On each side of the entrance to the pharynx from the mouth, and behind the nasal passage, are the TONSILS and ADENOIDS, masses of lymphoid tissue.

The most common disorders of the pharynx are PHARYNGITIS and the inflammation and discomfort resulting from TONSILLITIS " (Miller-Keane, *Encyclopedia and Dictionary of Medicine and Nursing*, p. 728, *Italics supplied*).

"PHARYNGITIS --- inflammation of the pharynx. acute p., inflammation with pain in the throat, especially on swallowing, dryness, followed by moisture of the pharynx, con-gestion of the mucous membrane and fever. Called also catarrhal p. atrophic p., chronic pharyngitis which leads to wasting of the submucous tissue. catarrhal p., acute p. chronic p., that which results from repeated acute attacks or is due to tuberculosis or syphilis. It is attended with excessive secretion, and in the severe ulcerated varieties by pain and dysphagia. croupous p., mem-branous p. diphtheric p., diphtheria of the pharynx. follicular p., sore throat with enlargement of the pharyngeal glands. gangrenous p., a form 'characterized by gangrenous patches. glandular p., follicular p. granular p., a chronic variety in which the mucous membrane becomes granular. p. herpetica. membranous or aphthous sore throat. A form of acute pharyngitis characterized by the formation of vesicles, which give place to excoriations. hypertropic p., a chronic form which leads to thickening of the submucous tissues. p. keratosa, pharyngomycosis. membranous p., pharyngitis with a fibrous exudate leading to the formation of a false membrane. phlegmonous p., acute parenchymatous tonsillitis attended with the formation of abscesses. p. sicca, an atrophic pharyngitis in which the throat becomes dry. p. ulcerosa, ulcerated or hospital sore throat; pharyngitis with fever, pain, and prostration, and the formation of ulcers covered by a yellow, membrane-like deposit (Dorland's Illustrated Medical Dictionary, p. 1140, 24th ed., /authorized reprint/, under-scoring supplied).

"TONSIL --- a small mass of spongy lymphoid tissue.

There are three different kinds of tonsils. The structures usually referred to as the tonsils are the palatine tonsils, a pair of oval-shaped structures, about the size of almonds, partially embedded in the mucous membrane, one on each side of the back of the throat. Below them, at the base of the tongue, are the lingual tonsils. On the upper rear wall of the mouth cavity are the pharyngeal tonsils, or adenoids, which are of fair size in childhood but which usually shrink after puberty.

These tissues are part of the lymphatic system and help to filter the circulating lymph of bacteria and any other foreign material that may enter the body, especially through the mouth and nose. In the process of fighting infection, the palatine tonsils and the adenoids sometimes become enlarged and inflamed " (Miller-Keane, Encyclopedia and Dictionary of Medicine and Nursing, p. 964, Italics supplied).

Considering the location, proximity and relation of the pharynx, tonsils and lungs, it is possible that any physiological disorder of one may generate also physiological changes in the others. Consequently, any symptom diagnosed as generating from an illness of one of the aforesaid organs could not with certainty be said to be truly independent of or not interrelated to an ailment occurring in the other two organs. It is not uncommon that the symptoms of one ailment may be mistaken as symptoms of other diseases, especially if the manifestations are quite similar or identical. Thus, for instance, bronchial carcinoma (cancer of the throat) may be mistaken for pulmonary tuberculosis or another disease.

"BRONCHIAL CARCINOMA.

"INCIDENCE --- Extensive investigations of the incidence of cancer of the lungs have indicated that there has been an alarming increase in the number of fatal cases during the last half century in most of the industrialized areas of the world, and that the rate is still rising. The magnitude of the increase is largely a matter of condependent since vital statistics are dependent in large measure upon the degree of accuracy of clinical diagnosis from one period to another. Facilities for diagnosis have steadily improved over the years, but there are still wide discrepancies between the diagnoses recorded on death certificates and those determined by post-mortem examination. These differences were much greater during the earlier part of the century. It is reasonably certain that in the past many cases of lung cancer have been inaccurately recorded as pulmonary tuberculosis, lung abscess, mediastinal tumor, or other lesions of the chest" (W.A. Anderson, 3rd ed., p. 674; citing Hueper, W.C.: Occupational Tumors and Allied Diseases, Springfield, Ill., 1942, Charles C. Thomas; Gilliam, A.G.: Cancer 8: 1130, 1955 [accuracy of statistics]; Italics supplied).

Thus, the medical history of the deceased shows:

"History of present illness: (Give exact date, if possible and include signs and symptoms up to the time of this report).

"The present condition started a week ptc as cough, productive, with accompanying chest pains and back pains, colds on and off, afternoon rise in temperature and easy fatigability. Con-sulted a private physician and gave cough syrup. INH TABS and vitamins but no avail. A day ptc the condition got worse. Cough became severe with slight hemoptysis.

Medicine given: Myambutol INH B3 tabs Litec tabs, Decolsin caps. Chloromycetin 250, (illegible) Forte caps. (August 1977)"

"Final Diagnosis:

PTB, Minimal to Hemoptysis

"Pertinent P.E. Findings & Laboratory procedures:

"Throat - inflamed tonsils with pus.

Neck - lymph glands palpable

Chest – crepitant left lung field

Heart - Incomplete right (Illegible) block.

Abdomen- No palpable (illegible)

Extremities - No physical defects." (GSIS Employees Compensation Income Benefits Claim for Payment, p. 24, ECC rec., Italics supplied).

It is probable therefore that the deceased was already suffering from pharyngeal carcinoma as early as 1969 but its symptoms were inaccurately recorded/diagnosed as those of acute tonsillitis and pulmonary tuberculosis by Drs. T. D. Iniguez and Fortunato Montaos of Saluysoy, Bulacan, who may not have the modern facilities to detect cancer of the throat.

As mentioned hereinbefore, the deceased was principally doing the duties of an electrician and repairman such as welding metals, repairing batteries and other similar jobs connected with electricity for a period of twenty-three (23) years. The nature of the deceased's duties visibly resulted into his constant exposure to different chemicals emitted or coming from batteries, welding and electrical devices, which may generally be considered as pre-disposing factors of cancer.

Thus recent research points out to other ailments that electricians may suffer arising from constant exposure to emissions from electric lights and devices.

"Anglo-Australian research has produced evidence that exposure to fluorescent lights can increase the risk of malignant skin moles. This is the first time the two have been linked.

"Four medical researchers from the London School of Hygiene and Tropical Medicine and the University of Sydney say in a joint report to The Lancet medical magazine that a study of more than 300 men and women with the disease shows that the risk to working women in offices with fluorescent lighting is double compared to those working in other places, or with other lighting.

"Men also show a significant increase in risk under similar cir-cumstances but exposure to fluorescent lights in the home does not seem so risky.

"The researchers say until more information is accumulated their findings must be viewed cautiously. The report explains: Such an association has not been reported before, but it is plausible and could explain many of the paradoxical features of the epidemiology of melanoma .

"xx xx xx.

"The study shows that the risk grows with increasing duration of exposure. The findings cannot be explained by the differences in histories of sunlight exposure, in skin or hair color, or in any other factor.

"Adding weight to the team's findings is the fact that both in Australia and Britain, malignant skin moles are more often found among professional and office workers than people working outdoors.

"Emissions from fluorescent light extend into the potentially carcinogenic range and have been shown to cause mutations in cultures of mouse embryo cells. The higher frequency of fluorescent light used in recent years has coincided with the increase in malignant skin moles. 'There are other similarities between the two' says the report" (Philippines Daily Express, p. 29, October 14, 1982, Italics supplied).

It is the posture of the respondents that the alleged adverse working conditions of the deceased are not accepted medical causes of the development of cancer of the throat. Clearly, respondents heavily relied on the medical authorities stating that nasopharyngeal carcinoma is "one of the most malignant tumors of the upper respiratory and digestive tracts" and that it is "a tumor of youth, occurring more often below the age of thirty years than any other tumors of the head and neck."

The records show that the deceased died at the age of forty-three (43), a relatively young age. The mere fact that the deceased contracted the ailment when he was already above the age of thirty (30) does not militate against the claim of herein petitioner. On the contrary, it only strengthens the assertion that the adverse working conditions engendered by the very nature of the job of the deceased greatly increased the risk of contraction of the ailment such that the age factor was insignificant as to the deceased's vulnerability to the disease.

Constant inhalation of and exposure to obnoxious chemicals hastened the physical weakening of the body of the deceased rendering him more susceptible to the contraction of diseases. At the very least therefore, the ailment of the deceased was aggravated by his employment. The ailment of carcinoma of the nasopharynx may not have been immediately detected. But this is not surprising considering the generally insidious nature of cancer. Medical authorities are not in disagreement that most types of cancer are capable of detection only during the advanced stage. Thus as persuasively pointed out by petitioner:

"x x x (t)he deceased was first treated for acute tonsillitis some-time in 1969 as shown by a Medical Certificate (Annex 'B'). And sometime thereafter, and while still in the service the deceased was again treated in 1975 for pulmonary tuberculosis (Annex 'C') which ailments are closely related, if not connected with the medical findings that he had been sick of carcinoma of the nasopharynx (cancer of the throat) which unfortunately abbreviated his life.

"Let it be emphasized that the nature of the duties of the deceased while in the service is an electrician and other related jobs consisting of repairing batteries, welding metals which forced him to inhale chemicals that have caused his sickness. To make more patent, the position of the petitioner that the deceased was physically fit for employment is the fact that he was physically examined before being appointed to his first position in 1955, a requirement mandatory before his application was approved by his employer. Be that as it may, it is indisputable that the deceased's ailment occurred while he was in the service, and by virtue of the nature of his duties, the same was aggravated. This situation was not rebutted by the respondents, and instead merely made an evaluation based on the documents submitted in support of petitioner's claim" (pp. 3-4, Memorandum for the Petitioner, pp. 55-56, rec.).

Likewise, it may not be amiss to reiterate OUR ruling in the case of Cristobal vs. ECC, et al., G.R. No. L-49280, April 30, 1980, that:

"x x x It is palpable that the respondent ECC recognizes, as it is duty bound to, the policy of the State to afford maximum aid and protection to labor. Therefore, to require the petitioner to show the actual causes or factors which led to the decedent's rectal malignancy would not be consistent with this liberal interpretation. It is of universal acceptance that practically all kinds of cancer belong to the class of clinical diseases whose exact etiology, cause or origin, is unknown. It is in this regard that the evidence sub-mitted by the petitioner deserves serious consideration" (*Italics supplied*).

Moreover, in the case of Bihag vs. WCC, No. L-43162, February 28, 1977, 75 SCRA 357, 358, wherein the deceased also died of carcinoma of the nasal pharynx, WE gave weight to the medical theory that certain chemical, mechanical or thermal stimuli resulting in irritation contributed to the slow and insidious development of carcinoma of the nasopharynx.

Furthermore, it being established from the fore-going facts that the ailment of pharyngeal carcinoma was contracted as early as 1969 or long before the effectivity of the new Labor Code, WE are constrained to resolve the merits of the present case under the beneficial provisions of the old Workmen's Compensation Act, which was then in full force and effect.

This has been the consistent pronouncements of this Court that where the cause of action accrued during the effectivity of the old Workmen's Compensation Act and hence prior to the effectivity of the new Labor Code, the same shall be resolved under the former law (*Calvero vs. ECC, et al., G.R. No. 52059, Sept. 30, 1982; LaO vs. ECC, et al., 97 SCRA 780, 790; Balatero vs. ECC, et al., 95 SCRA 608, 612 [1980]; De los Angeles vs. ECC, et al., 94 SCRA 308, 312 [1979]; Villones vs. ECC, et al., 92 SCRA 320, 327 [1979]; Corales vs. ECC, et al., 88 SCRA 547 [1979]*).

Finally, fidelity to the social justice guarantee of the Constitution should be maintained, strengthened by the statutory injunction that all doubts should be resolved in favor of the hapless and helpless employee.

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

1. TO PAY HEREIN PETITIONER THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS DEATH BENEFITS;
2. TO REFUND PETITIONER'S MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS;
3. TO PAY PETITIONER BURIAL EXPENSES IN THE AMOUNT OF TWO HUNDRED (P200.00) PESOS; AND
4. TO PAY PETITIONER SIX HUNDRED (P600.00) PESOS AS ATTORNEY'S FEES.

SO ORDERED.

Concepcion, Jr., Guerrero, De Castro, and Escolin, JJ., concur.

Abad Santos, J., in the result.

Aquino, J., no part.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.