

JESUS DE JESUS, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION, GOVERNMENT SERVICE INSURANCE SYSTEM (PHILIPPINE NATIONAL RAILWAYS), RESPONDENTS.

G.R. NO. 56191. May 27, 1986

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This is a petition to review the decision of the Employees' Compensation Commission which affirmed the decision of the Government Service Insurance System denying the claim for death benefits under Presidential Decree No. 626, of petitioner Jesus de Jesus, surviving spouse of the late Ester P. de Jesus.

On April 13, 1945, Ester P. de Jesus was employed by the Philippine National Railways (PNR) as a telephone operator assigned at its San Fernando, Pampanga railway station. She was transferred in 1964 to the switchboard of the PNR Hospital at Caloocan City. De Jesus worked every other day during the night shift, for continuous periods of 16 hours starting from 4:00 p.m. to 8:00 a.m. of the following day.

From November 10, 1978 to April 5, 1979, she was hospitalized four times at the PNR hospital. Her attending physician, Dr. Juan Pineda, Chief of Clinics, PNR hospital, diagnosed her ailments as chronic pyelonephritis, diabetes mellitus, anemia and modular pulmonary metastases which is also known as lung cancer.

According to Dr. Pineda, the ailments of Mrs. de Jesus started sometime in August, 1978 when she experienced progressive loss of weight and sudden loss of appetite accompanied by body weakness and easy fatigability with no other accompanying signs and symptoms except frequent urination. Despite medications, no improvement was noted and she soon complained of non-productive cough and mild lumbar pains. On December 8, 1978, after more than 33 years of service and at the age of 55 years she applied for retirement under Commonwealth Act 186, as amended by Republic Act 1616 and Republic Act 4968 which was approved effective March 1, 1979. Retirement benefits were thereafter given under Retirement Gratuity No. 65520.

Ester P. de Jesus died of her ailments on June 20, 1979. Petitioner Jesus de Jesus, the deceased's husband, filed a claim for death benefits under P.D. 626, as amended, on August 17, 1979. The claim was denied by the Government Service Insurance System (GSIS) on the ground that the deceased's ailments were not occupational diseases under the Labor Code. According to the GSIS:

"Diabetes mellitus is a hereditary disorder of carbohydrate metabolism due to inadequate production of insulin by the pancreas. Contributing factors for its occurrence are obesity, excessive consumption of sugar and fat, disorders of endocrine glands and most important, hereditary. Symptoms include excessive thirst and urination, itching, hunger, weakness and loss of weight.

"Anemia is a condition in which the normal amount of red blood cells is reduced. This may be a complication of" the above diseases.

"Chronic pyelonephritis is a slowly progressive infection in the renal pelvis and parenchyma, frequently bilateral. It is associated with some obstructive lesions such as kidney stones and structural abnormalities in the renal tract.

"Moreover, there is also no showing that your position as telephone operator in the Philippine National

Railways, Manila, had increased the risks of contracting said ailments."

This decision was affirmed on review by the Employees' Compensation Commission on January 15, 1981.

Hence, the instant petition.

Since the ailments of the deceased, as found by her attending physician, manifested themselves in 1978 or beyond January 1 1975, the law governing the petitioner's claim is the New Labor Code (Art. 208, P.D. 442, as amended).

Under Article 167 (L) of the New Labor Code and Section I(b), Rule III of the Amended Rules on Employees' Compensation, 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 the 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.

In this case, it is the petitioner's contention that the condition of the deceased's work increased the risk of her contracting the diseases which caused her death.

After a careful examination of the case, we find the petitioner's claim without merit. The petitioner has failed to prove by competent evidence that the risk of contracting said diseases was indeed increased by the working conditions concomitant with the deceased's employment.

In affirming the GSIS' decision, the respondent Employees' Compensation Commission cited the following medical discussions to negate causal relation of the deceased's work to her ailments.

""Nodular pulmonary metastases is a phenomenon which results from infarction with tumor emboli carried by the peripheral veins. Sarcomas, hypernephromas, melanomas and tumors of the breast, thyroid, and pancreas seem to find the lung an especially favorable site for the growth of metastases. On x-ray, nodular pulmonary metastases may appear as a solitary 'cannonball' nodule, multiple nodules, or miliary dissemination known as lymphangitis carcinomatosa. Dyspnea, and pleuritic pain are the cardinal symptoms of lung metastases. (Reference: Harrison, T.R.: Principles of Internal Medicine, McGraw Hill, N.Y.: 5th Edition, 1966, pp. 945-946). On the other hand, 'anemia' is a condition in which the amount of blood in the body is decreased. From a practical standpoint, the anemia means a reduction in the number of erythrocytes and the amount of hemoglobin per unit of blood. The Medical Division of Commission discusses the etiologic classification of anemia, as follows: (1) loss of blood; (2) deficiency of factors in erythropoiesis; (3) excessive destruction of red corpuscles; (a) Congenital or hereditary, (b) Acquired; (1) infection; (2) chronic diseases; (3) plumbism, following irradiation, drug sensitivity; (4) endocrine deficiencies; (5) myelophthisic anemia; (6) hypersplenism; (7) idiopathic bone marrow failure; (c) miscellaneous hypersideremic anemias. Reference: Harrison, T.R.: Principles of Internal Medicine; McGraw Hill; N.Y.; 5th edition, 1966, p. 153.'

"The decedent's other ailments, namely: diabetes mellitus and chronic pyelonephritis are likewise not traceable to her employment and employment conditions. 'Diabetes mellitus', according to medical science is:

'A hereditary or developmental disorder of carbohydrate metabolism due to an absolute or relative insufficiency of the action of insulin appearing at any age as hyperglycemia, glycosuria, polyuria, polydipsia, polyphagia, pruritus, weakness and weight loss. Etiology and incidence: Insufficient insulin action from causes still unknown is responsible for most cases of diabetes mellitus. Decreased effectiveness of insulin, which may or may not be associated with the presence of antagonist to insulin, is probably of greater etiologic importance than is an inadequate production of insulin by the B-cells of the islets of Langerhans.

'Although the exact cause of diabetes has not been found, some contributory factors are recognized. Hereditary is important, since there is a familiar history of diabetes in as many as 50% of cases. Obesity has been indicted. Disorders of endocrine glands other than the pancreas may be associated with the development of diabetes mellitus. Infection is a common precursor to the appearance or exacerbation of the disease, probably making a latent diabetes manifest. Pancreatitis, pancreatic tumors and hemochromatosis are responsible for occasional cases of diabetes. In certain persons who may be more susceptible to the eventual development of diabetes

(e.g. strong positive family history) the use of certain drugs may be associated with the appearance of overt diabetes. Such drugs include adrenocortical steroids and thiazide diuretics.'

Reference: Lyght, C.E.: The Merck Manual of Diagnosis and Therapy; M.S.D.; N.J.; 11th ed., 1966; pp. 325-326.

"Chronic pyelonephritis refers to a slowly progressing infection in the renal pelvis and parenchyma, frequently bilateral. The condition may have its origin an acute pyelonephritis in childhood, especially in females, or during pregnancy. In males, it is usually associated with some obstructive lesion, such as renal calculi or prostatic hypertrophy. The common etiologic agent is the colon bacillus, *P. vulgaris*, or a related organism. Less frequently, one of the gram-positive cocci may be responsible. Reference: C.E. Lyght: The Merck Manual of Diagnosis and Therapy, M.S., N.J.; 11th ed., p. 255."

On the other hand, the petitioner alleges that the deceased's continuous night shift duties coupled with the offensive odor of some medicine and dirty linens that were dumped regularly near her office, afflicted her weakening lungs and induced the development of lung cancer and anemia.

To bolster his claim, he submits a clinical history of the deceased and a letter certification both prepared by Dr. Juan Pineda, who was the attending physician of the deceased.

We regret to note, however, that the allegations have not been substantiated by the petitioner. While this court has always maintained that the strict rules of evidence are not applicable in claims for compensation (*Neri v. Employees' Compensation Commission*, 127 SCRA 672), the basic rule that a mere allegation is not evidence (*Topweld Manufacturing, Inc. v. Court of Appeals, et al.*, G.R. No. 44944, August 9, 1985; *Lagasca v. de Vera*, 79 Phil. 376) should not be disregarded.

As to the medical view of Dr. Pineda, his endorsement that the deceased's working condition "contributed immeasurably to the insidious development of her lung lesion" and that her "unusual and prolonged working hours finally sapped her strength leading to physical exhaustion" which, together with diabetes and anemia, provided a "groundwork for pulmonary metastases" (Rollo, p. 16), implies aggravation of the disease rather than its direct causation.

We are, therefore, powerless under the law to reject the respondents' view that the diseases which the deceased suffered are not caused by employment. As the medical authorities reveal, those ailments are common to all mankind — whether employed or unemployed, and if employed, regardless of the nature of the employment.

Under the old Workmen's Compensation Act, as amended, which provided for the concepts of "presumption of compensability" and "aggravation" it was possible to stretch the work related nature of an ailment beyond seemingly rational limits.

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. No. 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 been 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 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.

WHEREFORE, we hold that the decision appealed from should be, as it is, hereby AFFIRMED.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and Paras, JJ., concur.

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