

BAYANI DATOR, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. 57416. January 30, 1982

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Employees' Compensation Commission in ECC Case No. 1458, entitled "Bayani Dator, Appellant, versus Government Service Insurance System, (Municipal Government of Lopez, Quezon), Respondent," affirming the denial by the Government Service Insurance System of the claim for benefits under PD No. 626, as amended, for the death of Wenifreda Dator.[1]

The petitioner, Bayani Dator, is the surviving spouse of the late Wenifreda Dator who was a municipal librarian of the Municipal of Lopez, Quezon when she died of Bronchogenic Carcinoma with Pleural Effusion on December 2, 1972.

The facts, as found by the Employees' Compensation Commission, are:

"The deceased was a municipal librarian of Lopez, Quezon from 1963 up to November 11, 1978 when she was forced to seek disability retirement due to her ailment. She sought treatment from the Magsaysay Memorial Hospital in Lopez, Quezon and the Quezon Institute in Quezon City but her condition did not improve. Subsequently, she was admitted at the Philippine General Hospital where she finally succumbed to her illness of February 2, 1979.

"Blaming the decedent's employment as librarian for her death, the appellant herein filed a claim for death benefits under PD 626, as amended, with the respondent System. Respondent, however, denied appellant's claim on the ground that the decedent's illness is not an occupational disease considering her particular work."[2]

The Employees' Compensation Commission denied the claim because:

"Bronchogenic carcinoma is the most common form of malignancy in males, reaching a peak between the fifth and seventh decades and accounting for 1 in 4 male cancer deaths. The sex incidence is at least 5 to 1, male to female. Extensive statistical analysis by medical authorities has confirmed the relationship between lung cancer and heavy cigarette smoking. It has been demonstrated that the more cigarettes a person smokes, the greater is his risk of developing lung cancer. Other factors that may have potential roles are air pollution, exposure to ionizing radiation, exposure to chromates, metallic iron and iron oxides, arsenic, nickel, beryllium and asbestos. There is no conclusive evidence, however, that community air pollution is a causal factor. On the other hand, pleural effusion is the presence of fluid in the pleural cavity and when present in a patient with a lung cancer is an indication that, the pleura is already affected. (Ref: Harrison's Principles of Internal Medicine by Wintrobe et al., 7th ed., pp. 1323-1324)"[3]

Until 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. The deceased worked as a librarian for about 15 years. During all that period she was exposed to dusty books and other deleterious substances in the library under unsanitary conditions.

In *Cristobal vs. Employees' Compensation Commission*,^[4] this Court said:

"The deceased died of rectal cancer on May 27, 1977. Concededly, the exact cause or etiology of this disease is still unknown. Even respondent ECC's own medical officer, Dr. Mercia C. Abrenica, certified that 'the cause of rectal carcinoma as of any other malignancies is still unknown' (p. 9, ECC rec.). Its cause and development are insidious, imperceptible to the naked eye, and defies expert analysis. Therefore, whether or not the disease rectal cancer was caused or the risk of contracting the same was increased by the decedent's working conditions remains uncertain. This uncertainty, of course, cannot eliminate the probability that the ailment was work-connected as it had been established that the deceased was exposed to unhygienic working conditions, various chemicals and intense heat which are generally considered as predisposing factors of cancer. At this point, there is need to reiterate that when the deceased started working in 1964, he was free from any kind of disease."

Although, Wenifreda Dator died only on December 2, 1979, it is possible that the disease must have supervened before the Amended Labor Code took effect.

Even if the illness occurred after the Amended Labor Code had taken effect, the illness of the deceased should be considered compensable. In the same case of *Cristobal vs. Employees' Compensation Commission*, *supra*, this Court said:

"To establish compensability of the claim under the said theory, the claimant must show proof of work-connection. Impliedly, the degree of proof required is merely substantial evidence, which means 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion' (*Ang Tibay vs. The Court of Industrial Relations and National Labor Union, Inc.*, 69 Phil. 635) or clear and convincing evidence. In this connection, it must be pointed out that the strict rules of evidence are not applicable in claims for compensation. Respondents however insist on evidence which would establish direct causal relation between the disease rectal cancer and the employment of the deceased. Such a strict requirement which even medical experts in the field cannot support considering the uncertainty of the nature of the disease would negate the principle of liberality in the matter of evidence. Apparently, what the law merely requires is a reasonable work-connection and not a direct causal relation. This kind of interpretation gives meaning and substance to the liberal and compassionate spirit of the law as embodied in Article 4 of the new Labor Code which states that 'all doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations shall be resolved in favor of labor.'

"In urging that the disease rectal cancer is not compensable since its nature or cause is unknown and petitioner was not able to show proof of direct causal relation, respondents would instruct us to ignore the above provision of law and the policy of the State of giving maximum aid and protection to labor as We have stated earlier in the main decision. As the agents charged by the law to implement the social justice guarantee secured by both the 1935 and 1973 Constitutions, respondents should adopt a more liberal attitude in deciding claims for compensation especially when there is some basis in the facts for inferring a work-connection. This should not be confused with the presumption of compensability and theory of aggravation under the Workmen's Compensation Act. While these doctrines may have been abandoned under the new Labor Code (the constitutionality of such abrogation may still be challenged), it is significant that the liberality of the law, in general, still subsists. All these factual and legal grounds were considered in relation to each other constituting substantial evidence clearly convincing Us to resolve that rectal cancer is compensable."^[5]

Under the established facts of the case, the death of Wenifreda Dator caused by bronchogenic carcinoma with

pleural effusion is compensable.

WHEREFORE, the decision appealed from is hereby set aside and the Government Service Insurance System is ordered:

- (1) To pay the petitioner the sum of TWELVE THOUSAND PESOS (P12,000.00) as death benefits.
- (2) To reimburse the petitioner medical and hospital expenses duly supported by proper receipts; and
- (3) To pay petitioner the sum of ONE THOUSAND TWO HUNDRED PESOS (P1,200.00) as funeral expenses.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, and Plana, JJ., concur. Melencio-Herrera, J., For the reason that bronchogenic carcinoma is not an occupational disease considering the deceased's particular work as municipal librarian, nor has the claimant shown proof of work-connection, votes to affirm the decision of the Employees' Compensation Commission.

[1] Annex "A", Rollo, pp. 18-21.

[2] Idem., pp. 18-19.

[3] Idem., pp. 19-20.

[4] 103 SCRA 329-335.

[5] Ibid., pp. 336-337.

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