

FELIPE JUALA, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. 57623, March 29, 1984

Ponente: MAKASIAR, Actg. C.J.

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MAKASIAR, Actg. C.J.:

This is a petition to review the decision of respondent Employees' Compensation Commission (ECC) dated November 7, 1980 (Annex "A", Decision, pp. 23--27, rec.) in ECC Case No. 1416, which affirmed the decision of respondent government Service Insurance System (GSIS), denying petitioner's claim for death benefits under P.D. No. 626, as amended.

The facts are not disputed.

Petitioner is the widower of the late Candelaria Juala. The deceased was first employed on January 19, 1954 with the Highway District Engineer's Office in San Jose, Antique. Her service record shows that she started working as a computer aide, then clerical aide, clerk I, clerk II, and finally senior clerk, the position she held from 1972 up to the time of her death on October 13, 1975 (Comment of Respondent, pp. 40-52, rec.).

Prior to her death, Candelaria Juala was in charge of the Personnel and Training Unit of the Highway District Engineer's Office at San Jose, Antique, with the principal task and responsibility of preparing the renewal of daily wage appointments (p. 41, rec.). Moreover, she took care of the processing of applications for leaves of absence and preparation of the monthly plantilla of personnel as well as applications for retirement and other fringe benefits that may be owing to the employees (p. 16, rec.).

Medical records disclose that her ailment started as early as July, 1975 in the form of pain at the left lumbar region and buttocks. She was given immediate treatment by her family physician, Dr. Guillermo Javier, who treated her until she recovered on August 31, 1975. She reported back to work on September 1, 1975.

On September 19, 1975, she was hospitalized at the Antique Doctor's Hospital because of severe anemia (p. 16, rec.). She was discharged on September 29, 1975.

Unfortunately, she was again hospitalized three days later at the Iloilo Doctor's Hospital where she underwent transverse colostomy. Despite medical efforts, the deceased succumbed on October 13, 1975 at the Iloilo Doctor's Hospital due to ruptured tumor secondary to hepatic flexure. She was then 44 years of age, and had approximately twenty-one (21) years of government service which started on January 19, 1954 (p. 42, rec.).

On account of her death, the surviving spouse, herein petitioner, filed a claim for death benefits under P.D. No. 626, as amended. The respondent System denied the claim on the basis of its medical findings negating any causal relationship between the subject diseases and the deceased's employment (Letter of GSIS dated Dec. 11, 1975, p. 2, ECC rec.). The motion for reconsideration was likewise denied on October 5, 1977 (p. 9, ECC rec.).

The said decision was affirmed by respondent Employees' Compensation Commission in its decision dated November 7, 1980, stating among others:

"After a thorough and pain-staking evaluation of the evidences on record, we conclude that the decision of the respondent System is in accord with the evidences presented and the provisions of the law applicable thereto.

"Medical authorities disclose that 'tumor of the hepatic flexure' is a tumor affecting certain portions of the colon. Although the causes of colonic malignancy are not established, there appears to be an intimate relation between the adenomatous polyps and the development of carcinoma. All stages of car-cinomatous changes have been recognized in polyps and there appears to be a definite risk of malignant polypoid growth and of malignancy in the colons of patients who have polyps. Congenital multiple polyposis of the colon has high malignant potential; chronic inflammatory disease of the colon as seen in ulcerative colitis, also seems to potentiate or stimulate the development of carcinoma in the diseased bowel. As with malignant disease generally, familial aggregates of the disease are well-documented, and multiple malignant lesions have been shown to occur in certain mem-bers of such families (Reference: Harrison's Principle of Internal Medicine by Withrobe, et al., 7th Ed., pp. 1505-1506) [Italics supplied].

"xx xx 'nephrolithiasis' is the presence of stones in the kidney. Stones on calculi formed in the urinary tract are due to precipitation of chemical salts in the urine. Several factors may play a role in stone formation, viz: 1) high concentration of crystalline salts in the urine; 2) encrustation of solid material with urinary salts is also a factor of im-portance; 3) urinary obstruction; and 4) hyperparathyroidism: the greatly increased urinary secretion of the calcium and phosphorous in the urine and the tendency to deposit of calcium salts in the renal tissue result in calculus formation in up to 70% of cases of hyperparathyroidism (Reference: Pathology, W.A.D. Anderson, 5th ed., pp. 638-639).

"xxx x The facts and circumstances of the case have failed to even remotely link the decedent's ailment to the nature and conditions of her work. Tumor of the hepatic flexure is not characteristic of or peculiar to the decedent's employment as senior clerk. We do not deny that the work of the late Candelaria Juala as a senior clerk involved stress and strain; these employment conditions however, do not serve as sufficient factors for us to assume that the said conditions led to the deceased's tumor of the hepatic flexure. xx xx xx Although the basic cause or causes of tumor of the hepatic flexure is unknown, current medical studies indicate that polyps and chronic inflammatory diseases of the colon play an important role. xx xx (Harrison, Principles of Internal Medicine, *ibid.*). xx xx" [pp. 25-27, rec., Italics supplied].

On October 16, 1981, petitioner Felipe Juala filed the instant petition, the only pertinent issue being whether or not his wife's death from nephro-lithiasis and ruptured tumor secondary to hepatic flexure, is compensable under the law.

The petitioner contends that the death of his wife is compensable and that respondent Com-mission erred in not taking into consideration the fact that when the deceased began to work in the Office of the Highway District Engineer in 1954, she was found to be physically and mentally healthy. He further contends that because of the magnitude of the responsibilities of the deceased on account of her duties, she was almost always overworked. Petitioner submits that the long hours spent by the deceased in her work led her to neglect often her personal comfort such as to answer the call of nature. It would not be therefore surprising if she eventually contracted ailments of the kidney known as nephrolithiasis (p. 18, rec.).

The respondent Commission, on the other hand, maintains that the deceased's clerical work did not call for daily, continuous and sustained personal attention and labor which would be a predisposing factor towards her ailments. Furthermore, work-connection is negated by the medical etiology of the ailments know as nephrolithiasis or presence of stones in the kidney and tumor of the hepatic flexure or cancer of the colon which are caused by non-work-connected factors (p. 48, rec.).

WE find the petitioner's claim meritorious.

In the case of *Acosta vs. Employees' Compensation Commission* (L-55464, Nov. 12, 1981), this Court, speaking through Justice Pacifico P. de Castro, held:

"It is generally accepted that the exact origin of practically all types of cancer is not yet determined. Scientists and medical experts are still in the process of discovering the most effective cure for the malady. With this back-drop, one should not expect ordinary persons like petitioners to prove the real cause of the ailment of the deceased when the experts themselves are still in the dark."

WE have ruled in the case of *Dator v. ECC* (L-67416, 111 SCRA 634 [Jan. 30, 1982]) that "(U)ntil now, the cause of cancer is not known." The respondent, in admit that the causes of colonic malignancy (cancer of the colon) are not established, has provided an opening through which petitioner can pursue and did pursue the possibility that the deceased's ailments could have been caused by the working conditions while employed with the Highway District Engineer's Office at San Jose, Antique.

Medical authorities support the claim that the etiology or cause of cancer of the colon is still unknown as provided for in the following:

"xx xx The colon is the second most common site for carcinoma in both males and females. xx xx The cause of colon cancer is unknown. The greater incidence in Western society suggests that dietary factors may be involved, but the association may be circumstantial rather than causal. As mentioned above, while there is a possibility that adenomatous polyps may become malignant, villous adenomas are definitely associated with cancer. It appears that a colon bearing a polyp may develop a cancer elsewhere, congenital multiple polyposis of the colon has an astonishingly high malignant potential; ulcerative colitis also seems to potentiate or stimulate the development of carcinoma in the diseased bowel" (Harrison, *Principles of Internal Medicine*, 9th Ed., p. 1434).

"Cancer may be associated with, or lead to, an altered host immune response; however, the cause-and-effect relationship remains to be determined" (Harrison, *Principles of Internal Medicine*, 10th Ed., 1983, p. 755).

"What emerges from such concepts is the belief that cancers in man do not appear suddenly 'out of the blue.' They represent the unhappy endpoint of a long, dynamic process of evolution having its origin years or even decades before the first clinical evidence of the neoplasm appears. Moreover, there need not be a single etiology or pathogenesis. Many influences may be at work during the evolution of the lesion and many pathways may be involved. Indeed, the term cancer may embrace a multiplicity of diseases of diverse origins" (Robbins, *Pathologic Basis of Disease*, 2nd Ed., 1979, p. 185; underlining supplied).

This Court applies the theory of increased risk under Section 1(b), Rule III of P.D. 626, as amended, which states that:

"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."

WE had the occasion to interpret the theory of increased risk in the case of *Cristobal vs. ECC* (L-49280, 103 SCRA 336-337 [Feb. 26, 1981]), thus:

"To establish compensability 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 to support a decision' (*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. xx xx Apparently, what the law merely requires is a

reasonable work-connection and not a direct causal relation.

"xx xx As the agents charged by the law to implement the social justice guarantee secured by both 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 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" xx (Italics supplied).

The statement of the Employees' Compensation Commission to the effect that the "decedent's tumor of the hepatic flexure had nothing to do with her employment" (p. 27, rec.), is so sweeping and un-tenable considering the facts on record. WE are dealing with possibilities and medical authorities have given credence to the possibility that the deceased's ailment could have developed while employed with the Highway District Engineer's Office at San Jose, Antique.

The records show that the deceased was found to be mentally and physically healthy when she entered the government service in 1954. From a mere computer aide, she rose from the ranks through perseverance and hard work. Even the respondent Commission admitted her being subject to long work hours and pressures on the job (Comment of respondent ECC, p. 47, rec.). The stress and pressure combined with long working hours and exposure to different working conditions, not to mention psychological strain and other similar factors have possibly taken their toll, including continuous or prolonged sitting down. WE find a reasonable showing on the part of the petitioner to merit compensation.

WE reiterate the doctrine in the case of *Neri vs. ECC* (L-60642, Feb. 20, 1984), citing *Aba-diano vs. GSIS & ECC* (111 SCRA 509) that:

"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 con-sistent with this liberal interpretation."

This is in line with the avowed policy of the State as mandated by the Constitution (Article II, Section 9) and reiterated in the new Labor Code (Article 4), to give maximum aid and protection to labor.

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 (P12,000.00) PESOS AS DEATH BENEFITS;
2. TO REIMBURSE THE PETITIONER'S MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS; AND
3. TO PAY THE PETITIONER THE SUM OF ONE THOUSAND (P1,000.00) PESOS FOR BURIAL EXPENSES.

SO ORDERED.

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

Aquino, J., he dissents. The disease was not work-connected. The claim has no merit. He votes for the affirmance of the decision of the Employees Compensation Commission.

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