

FLAVIANO NEMARIA, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (MINISTRY OF EDUCATION AND CULTURE), RESPONDENTS.

G.R. No. 57889. October 28, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari seeking to set aside the decision of the Employees' Compensation Commission in ECC Case No. 1398 affirming the decision of respondent Government Service Insurance System, denying petitioner's claim for compensation benefits.

Petitioner Rosario Nemaria was appointed classroom teacher in November, 1948. She was first assigned in the poblacion of Badian, Cebu. Later she was transferred to the municipality of Ronda, Cebu. From September 8-25, 1978, Rosario Nemaria was confined at the Southern Islands' Hospital, Cebu City, for on and off severe abdominal pains, anorexia, weight loss and jaundice indicative of cancer of the liver, duodenal ulcer and cancer of the breast. These ailments did not respond to medications and she died on October 16, 1978. She was at the time of her death 58 years of age (Rollo, p. 31). The service record of the decedent shows that she rendered government service for about thirty years (Rollo, p. 4).

Alleging that the cause of his wife's death was due to her employment as a classroom teacher, herein petitioner filed with the respondent Government Service Insurance System (GSIS) a claim for death benefits under Presidential Decree No. 626 as amended.

Subsequently, the GSIS through its medical evaluation and underwriting denied the claim. Upon receipt of the order of denial, petitioner appealed his case to the now respondent Employees Compensation Commission for review.

On August 13, 1980, respondent Employees Compensation Commission affirmed the decision of respondent GSIS denying the petitioner's claim for death benefits under Presidential Decree No. 626 as amended, the dispositive portion of which reads:

"For all the foregoing, the decision appealed from should be, as it is hereby affirmed and the instant case dismissed.

"SO ORDERED." (Rollo, p. 31)

In a letter-appeal dated October 13, 1980, the petitioner expressed his desire to appeal his case to the Supreme Court, but he could not come to Manila nor could he hire a lawyer because he was very poor (Rollo, p. 1).

In the resolution of November 19, 1980, the Second Division of this Court referred petitioner's case to the Citizens Legal Assistance Office, Ministry of Justice, for possible legal assistance (Rollo, p. 12).

Hence, this petition.

Upon manifestation of counsel for petitioner, the latter was allowed to litigate as pauper in the resolution of August 26, 1981 (Rollo, p. 5). In the resolution of September 21, 1981, this Court without giving due course to the petition required the respondents to comment thereon (Rollo, p. 52). In compliance therewith, respondent Government Service Insurance System filed its comment on November 19, 1981 (Rollo, pp. 65-77), and respondent Employees Compensation Commission on February 2, 1982 (Rollo, pp. 84-91).

Acting upon the petition for review on certiorari as well as all subsequent pleadings filed, the Court resolved in the resolution dated August 30, 1982 to give due course to the petition (Rollo, p. 97). Petitioner's brief was filed on January 20, 1983 (Rollo, pp. 105-108) while the Solicitor General's brief as counsel for respondent Employees Compensation Commission was filed on April 8, 1983 (Rollo, p. 110). Finally, petitioner filed his reply-brief on June 1, 1983 (Rollo, pp. 120-126).

The sole issue in the instant case is whether or not petitioner's wife's death is compensable under Presidential Decree No. 626.

The petition is impressed with merit. A careful review of the records shows that the question must be answered in the affirmative.

It is not disputed that the ailments of the deceased were not listed/enumerated under Annex "A" of the Amended Rules on Employees Compensation with respect to public school teachers but petitioner anchors his claim under the theory of "increased risks", that is, when said illness is caused by employment subject to proof that the risk of contracting the same is increased by the working conditions (Brief for Petitioner, pp. 3-4).

Respondents, however, insist that the causes of the decedent's death, which are cancer of the liver, duodenal ulcer and cancer of the breast, had nothing to do with her work as a teacher and, therefore, do not fall within the compensable coverage of the law. They pointed out in particular that hepatoma is not an occupational disease in the decedent's particular employment (Rollo, p. 87). They further claim that the predisposing factors deemed largely responsible for the development of the decedent's ailments which resulted in her death were not inherent in or peculiar to her employment as a classroom teacher. Cancer of the liver has something to do with liver cirrhosis, while predisposition to duodenal ulcer is traceable to one afflicted with cancer of the liver (Rollo, p. 89).

To establish compensability of the claim under the theory of increased risk under Section 1 (b) Rule 111 of P.D. 626, the claim must show proof of reasonable work connection and not necessarily a direct casual relation. Impliedly, the degree of proof required is merely substantial, which means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." (*Cristobal v. Employees Compensation Commission*, 103 SCRA 330 [1981]). Strict rules of evidence are not applicable in claims for compensation. There are no stringent criteria to follow. The degree of proof required under P.D. 626 is merely substantial evidence (*Sarmiento v. E.C.C. et al.*, G.R. No. 68648, Sept. 24, 1986). Thus, it has been ruled that a reasonable work-connection is all that is required or that there was a showing that the risk of contracting the disease is increased by the working conditions (*San Valentin v. E.C.C.*, 118 SCRA 160 [1982]).

The Court ruled further, that the uncertainty as to whether or not the disease was caused or the risk of contracting the same was increased by the decedent's working conditions cannot eliminate the probability that the ailment was work-connected (*Cristobal v. E.C.C.*, *supra*).

Both petitioner and respondents are in accord that although the cause of liver cancer is not known, still it has been found to be mostly associated with liver cirrhosis, which in turn is caused by alcoholic ingestion plus impaired nutrition; that a high percentage of hepatoma has been discovered also in Asia and Africa which was found to be

due to certain hepatic carcinogens ingested in food stuffs. (Brief of Petitioner, p. 3).

The decedent, a public school teacher assigned in a municipality several kilometers away from the provincial capital, rendered her services for more or less twenty-nine (29) years. She started in November 1948 as classroom teacher assigned in the poblacion of Badian, Cebu and from thence she was assigned to the Municipality of Ronda, Cebu, which is a blighted area, where she continued to discharge her duties as classroom teacher (Rollo, p. 68). Under those circumstances, the possibility would not be remote, that she suffered impaired nutrition and while working in a far-flung rural area where foodstuffs are not closely examined before being eaten, it is not too far-fetched to consider that she was exposed to hepatic carcinogens which reportedly were ingested therein (ibid.).

Corollary thereto, it is undisputed that the deceased was in good health when she entered the government service, otherwise, she would not have been accepted for insurance purposes by the Government Service Insurance System. The conclusion is therefore inevitable, that the decedent's ailments developed during her employment while working under conditions which predisposed her thereto.

"It is enough that hypothesis on which the workmen's claim is based is probable. Medical opinion to the contrary may be disregarded especially where there is some basis in the facts for inferring a work-connection. Probability not certainty is the touchstone" (Sarmiento v. E.C.C. et al., supra).

Respondent Employees Compensation Commission in its decision based its conclusion merely on the findings of the Medical Evaluation and Underwriting Group and the medical opinion on references in medical etiology (Rollo, p. 38), concluding that no direct cause factors triggered the contraction of her ailments resulting in death (Rollo, p. 42). What the law requires is a reasonable work-connection and not a direct causal relation (Sagliba v. E.C.C., 128 SCRA 723; Guevara v. E.C.C., 146 SCRA 64-72).

In the case of *Marte v. E.C.C.*, 96 SCRA 884, the Court ruled: "x x x. The findings, however, of the doctors and the Chief Medical Officer of the GSIS and ECC respectively are not binding on this Court as they are not considered experts. Opinion of the Medical Rating Officer who did not physically examine the claimant cannot be relied upon" (*Nuguid v. WCC*, 93 SCRA 374).

The Labor Code is clear that it does not only confine compensable diseases to those enumerated therein as occupational. It also contemplates illness caused by employment where the risk of contracting the same is increased by the working conditions thereof (2nd paragraph, Art. 208, P.D. 626). The Court has ruled that cancer of the liver though not an occupational disease, may be deemed work-connected (*Abadiano v. GSIS*, 111 SCRA 509, Jan. 30, 1982). Moreover, in the case of *Abana v. Quisumbing*, 22 SCRA 1279, the Court held that under the law, it is not required that the employment be the sole factor in the growth development or acceleration of claimant's illness to entitle him to the benefits provided for. It is enough that his employment had contributed even in a small degree.

The Supreme Court applied a liberal interpretation in the case of *Mercado, Jr. v. Employees Compensation Commission*, 139 SCRA 270 citing *Cristobal v. ECC*, 103 SCRA 329, as follows:

"While the presumption of compensability and the theory of aggravation espoused under the Workmen's Compensation Act may have 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.

"x x x As agents charged by the law to implement social justice guaranteed and secured by both 1935 and 1973 Constitutions, respondents should adopt a more liberal attitude in deciding claims for compensability especially where there is some basis in the facts for inferring a work connection, 103 SCRA 329, 336).

"x x x Where however, the causes of an ailment are unknown to and or undetermined even by medical science,

the requirement of proof of any casual link between the ailment and the working conditions should be liberalized so that those who have less in life will have more in law x x x.

"x x x The point is that it is grossly inequitable to require as a condition for an award of compensation that the claimant demonstrate that his ailment - the cause or origin of which is unknown to and undetermined even by medical science - was, in fact caused or the risk of contracting the same enhanced by his working conditions. Plainly, the condition would be an impossible one, specially considering that said claimant is most probably not even conversant with the intricacies of medical science and the claimant invariably bereft of the material resources to employ medical experts to demonstrate the connection between the cause and the disease. Considering the liberal character of employment compensation schemes, the impossible condition should be deemed as not having been intended and/or imposed. (139 SCRA, pp. 275-276).

"x x x As an employee, he had contributed to the funds of respondent for 34 years until his forced retirement. In turn respondent should comply with its duty to give him the fullest protection, relief and compensation benefits as guaranteed by law." (Ibid., p. 277).

Thus, the requirement that the disease was caused or aggravated by the employment or work applies only to an illness where the cause can be determined or proved. Where cause is unknown or cannot be ascertained, no duty to prove the link exists. For certainly, the law cannot demand an impossibility.

Moreover, cancer being a disease which is often discovered when it is too late, the possibility that its onset was even before the effectivity of the New Labor Code cannot be discounted. As a consequence the presumption of compensability and the theory of aggravation under the Workmen's Compensation Act cannot be totally disregarded.

PREMISES CONSIDERED, the petition is hereby GRANTED, The decision of the respondent Employees Compensation Commission is SET ASIDE and another is rendered ordering the respondents to pay the herein petitioner the full amount of compensation under Presidential Decree No. 626 as amended.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Gancayco, JJ., concur.

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