

RUTH JIMENEZ, PETITIONER, VS. EMPLOYEES COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. 58176. March 23, 1984

Ponente: MAKASIAR, Acting C.J.

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MAKASIAR, Acting C.J.:

This is a petition to review the decision of respondent Employees Compensation Commission (ECC) dated August 20, 1981 (Annex "A", Decision, pp. 10-12, rec.) in ECC Case No. 1587, which affirmed the decision of respondent Government Service Insurance System (GSIS), denying petitioner's claim for death benefits under Presidential Decree No. 626, as amended.

The undisputed facts are as follows:

Petitioner is the widow of the late Alfredo Jimenez, who joined the government service in June, 1969 as a constable in the Philippine Constabulary (p. 2, rec.).

After rendering service for one year, he was pro-moted to the rank of constable second class. On December 16, 1974, he was again promoted to the rank of sergeant (p. 26, rec.).

Sometime in April, 1976, he and his wife boarded a bus from Tuguegarao, Cagayan, to Anulung, Cagayan. While on their way, Sgt. Jimenez, who was seated on the left side of the bus, fell down from the bus because of the sudden stop of the vehicle. As a result, he was confined at the Cagayan Provincial Hospital for about one (1) week, and thereafter, released (comment of respondent ECC, pp. 25-36, rec.). He was again confined for further treatment from November 7, 1978 to May 16, 1979 at the AFP Medical Center in Quezon City.

While on duty with the 111th PC Company, Tuguegarao, Cagayan, he was assigned as security to one Dr. Emilio Cordero of Anulung, Cagayan (ECC rec., Proceedings of the PC Regional Board, June 6, 1980). In compliance with his duty, he always accompanied the doctor wherever the latter went (p. 26, rec.).

On November 7, 1978, the deceased was again con-fined at the Cagayan Provincial Hospital and then transferred to the AFP V. Luna Medical Center at Quezon City for further treatment. He complained of off-and-on back pains, associated with occasional cough and also the swelling of the right forearm. The doctors found a mass growth on his right forearm, which grew to the size of 3 by 2 inches, hard and associated with pain, which the doctors diagnosed as "aortic aneurysm, medrastinal tumor" (p. 27, rec.).

His condition improved somewhat after treatment and he was released on May 16, 1979. He was advised to have complete rest and to continue medication. He was then given light duty inside the barracks of their company. Unfortunately, his ailment continued and became more serious.

On May 12, 1980, he died in his house at Anulung, Cagayan, at about 9:00 o'clock in the evening. He was barely 35 years old at the time of his death.

The cause of death, as found by the doctors, is "bronchogenic carcinoma" which is a malignant tumor of the

lungs.

On June 6, 1980, an administrative hearing was conducted before the PC Regional Board. It was their official findings that the subject enlisted man "died in line of duty"; that the deceased was a PC member of the 111th PC Company at Tuguegarao, Cagayan; that he died due to "bronchogenic CA"; and that he "died not as a result of his misconduct and did not violate any provisions of the Articles of War" (ECC rec., Proceedings of the PC Regional Board, June 6, 1980).

The Board recommended "that all benefits due to or become due subject EP be paid and settled to his legal heirs" (ECC rec., Proceedings of the PC Regional Board, June 6, 1980). Thus, as per records of the GSIS, petitioner was paid benefits due to her deceased husband under Republic Act. No. 610 (Comment of respondent ECC, p. 27, rec.).

Nevertheless, petitioner filed a claim for death benefits under PD No. 626, as amended with the respondent GSIS. Said claim was denied by the GSIS on the ground that her husband's death is not compensable "for the reason that the injury/sickness that caused his death is not due to the circumstances of the employment or in the performance of the duties and responsibilities of said employment" (Letter of denial by the GSIS dated July 14, 1980, ECC rec.).

The said decision was affirmed by respondent Employees Compensation Commission in its decision dated August 21, 1981, stating among others:

"xx xx xx.

"After an exhausted (sic) study of the evidences (sic) on record and the applicable law on the case, we conclude that the law has been properly applied by the respondent System. x x x.

"Bronchogenic carcinoma, medical authorities disclose, is the most common form of malignancy in males reaching a peak between the fifth and seventh decades and accounting for one in four male cancer deaths. The sex incidence is at least 5 to 1, male to female. Extensive statistical analysis by medical authorities have confirmed the relationship between lung cancer and cigarette smoking. Other factors that may have potential roles are exposure to ionizing radiation, exposure to chromates, metallic iron and iron oxides, arsenic, nickel, beryllium and asbestos (Harrison's Principles of Internal Medicine by Wintrobe, et al., 7th Edition, p. 1322).

"Although Presidential Decree. No. 626, as amended was envisioned to give relief to workingmen, who sustain an injury or contract an ailment in the course of employment and that to best attain its lofty objective, a liberal interpretation of the law should pervade in its implementation, this precept, however, may not be invoked as not even a slight causal link between the development of the ailment and the decedent's (sic) duties and working conditions as a PC sergeant could be deduced from the records of this case. The respondent System's ruling that appellant's claim does not fall within the beneficiary provisions of Presidential Decree No. 626, as amended, and therefore the same should be denied, is in full harmony with the law and the facts obtaining herein.

"xx xx xx" (Decision, pp. 10-12, rec.).

On September 28, 1981, petitioner, assisted by counsel, filed the instant petition, the only pertinent issue being whether or not her husband's death from bronchogenic carcinoma is compensable under the law.

The petitioner contends that her husband's death is compensable and that respondent Commission erred in not taking into consideration the uncontroverted circumstance that when the deceased entered into the Philippine Constabulary, he was found to be physically and mentally healthy. She further contends that as a soldier, her husband's work has always been in the field where exposure to the elements, dust and dirt, fatigue and lack of sleep and rest was the rule rather than the exception. The nature of work of a soldier being to protect life and

property of citizens, he was subject to call at any time of day or night. Furthermore, he was even assigned as security to one Emilio Cordero and always accompanied the latter wherever he went. Exposed to these circumstances for several years, the deceased's physical constitution began to deteriorate, which eventually resulted to his death from bronchogenic carcinoma (Petition, pp. 2-9, rec.).

On the other hand, respondent Commission maintains that while the deceased soldier may have been exposed to elements of dust and dirt and condition of lack of rest and continued fatigue by virtue of his duties to protect the life and property of the citizens, such conditions have no causal relation to his contraction of bronchogenic carcinoma. It is also the opinion of the respondent that since there is evidence of the deceased to be a smoker, "the late Sgt. Jimenez may have indulged heavily in smoking and drinking, not merely 'occasionally'. And it has been demonstrated medically that the more cigarettes a person smokes, the greater the risk of developing lung cancer" (Memorandum, p. 62, rec.). In short, the respondent alleges that the deceased was responsible to a large degree for his having contracted bronchogenic carcinoma that led to his demise.

WE find the petitioner's claim meritorious.

Primary carcinoma of the lung is the most common fatal cancer and its frequency is increasing (The Merck Manual, 13th Edition, p. 647). Admittedly, cancer of the lungs (bronchogenic carcinoma) is one of those borderline cases where a study of the circumstances of the case is mandated to fully appreciate whether the nature of the work of the deceased increased the possibility of contracting such an ailment. In the case of *Laron vs. Workmen's Compensation Commission* (73 SCRA 90), WE held, citing Schmidt's Attorney's Dictionary of Medicine, 165 Sup. 143; *Beerman vs. Public Service Coordinated Transport*, 191 A 297, 299; Words and Phrases, 6 Permanent Edition 61, "The English word 'cancer' means 'crab'; in the medical sense, it refers to a malignant, usually fatal, tumor or growth." Findings of fact by the respondent points out that bronchogenic carcinoma is a malignant tumor of the lungs. WE have ruled in the case of *Dator vs. Employees Compensation Commission* (111 SCRA 634, L-57416, January 30, 1982) that "(U)ntil now, the cause of cancer is not known." Indeed, the respondent has provided an opening through which petitioner can pursue and did pursue the possibility that the deceased's ailment could have been caused by the working conditions while employed with the Philippine Constabulary.

Respondents maintain that the deceased was a smoker and the logical conclusion is that the cause of the fatal lung cancer could only be smoking which cannot in any way be justified as work-connected. However, medical authorities support the conclusion that up to now, the etiology or cause of cancer of the lungs is still largely unknown as provided for in the following:

"Although the etiology of cancer in humans cannot yet be explained at the molecular level, it is clear that genetic composition of the host is important in cancer induction. Related immunologic factors may predispose the host to a putative carcinogen. There is some evidence that viruses may play a role in the neoplastic process. In addition, both environmental and therapeutic agents have been identified as carcinogens" (Harrison, Principles of Internal Medicine, 9th Edition, 1980, p. 1584).

"Considerable attention has been directed to the potential role of air pollution, exposure to ionizing radiation and numerous occupational hazards, including exposure to chromates, metallic iron and iron oxides, arsenic, nickel, beryllium and asbestos" (Harrison, Ibid., p. 1259).

"The lungs are the site of origin of primary benign and malignant tumors and receive metastases from many other organs and tissues. Specific causes have not been established but a strong dose-related statistical association exists between cigarette smoking and squamous cell and undifferentiated small (oat) cell bronchogenic carcinomas. There is suggestive evidence that prolonged exposure to air pollution promotes lung neoplasms" (The Merck Manual, 13th Edition, p. 647).

"What emerges from such concepts is the belief that cancers in man do not appear suddenly 'out of the blue'. x x 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 embrace a multiplicity of diseases of diverse origins" (Robbins, Pathologic Basis of Disease, 2nd Edition, 1979, p. 185, italics supplied).

WE cannot deny the fact that the causes of the illness of the deceased are still unknown and may embrace such diverse origins which even the medical sciences cannot tell with reasonable certainty. Indeed, scientists attending the World Genetic Congress in New Delhi, India, have warned that about 25,000 chemicals used around the world could potentially cause cancer, and Lawrence Fishbein of the U.S. National Center for Toxicological Research pointed out that humans were daily exposed to literally hundreds of chemical agents via air, food, medication, both in their industrial home and environments (Evening Post, December 16, 1983, p. 3, cols. 2-3).

The theory of increased risk is applicable in the instant case. WE had the occasion to interpret the theory of increased risk in the case of Cristobal vs. Employees Compensation Commission (103 SCRA, 336-337, L-49280, February 26, 1981):

"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 v. 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 cannot support considering the uncertainty of the nature of the disease would negate the principle of the 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 of the provisions of this Code, including its implementing rules and regulations shall be resolved in favor of labor.'

"x x x 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. x x x" (italics supplied).

The sweeping conclusion of the respondent Employees Compensation Commission to the effect that the cause of the bronchogenic carcinoma of the deceased was due to his being a smoker and not in any manner connected with his work as a soldier, is not in accordance with medical authorities nor with the facts on record. No certitude can arise from a position of uncertainty.

WE are dealing with possibilities and medical authorities have given credence to the stand of the petitioner that her husband developed bronchogenic carcinoma while working as a soldier with the Philippine Constabulary. The records show that when the deceased enlisted with the Philippine Constabulary in 1969, he was found to be physically and mentally healthy. A soldier's life is a hard one. As a soldier assigned to field duty, exposure to the elements, dust and dirt, fatigue and lack of sleep and rest is a common occurrence. Exposure to chemicals while handling ammunition and firearms cannot be discounted. WE take also fact that he became the security of one Dr. Emilio Cordero of Anulung, Cagayan, and he always accompanied the doctor wherever the latter went (p. 26, rec.). Such assignment invariably involved irregular working hours, exposure to different working conditions, and

body fatigue, not to mention psychological stress and other similar factors which influenced the evolution of his ailment.

WE held in the case of *San Valentin vs. Employees Compensation Commission* (118 SCRA 160) that:

"xx xx xx.

"In compensation cases, strict rules of evidence are not applicable. A reasonable work-connection is all that is required or that the risk of contracting the disease is increased by the working conditions."

In the case of *Dator vs. Employees Compensation Commission* (L-57416, January 30, 1982), WE held the death of Wenifreda Dator, a librarian for 15 years, caused by bronchogenic carcinoma compensable. Being a librarian, "she was exposed to dusty books and other deleterious substances in the library under unsanitary conditions" (*Ibid.*, 632). WE do not see any reason to depart from the ruling in the said case, considering that a soldier's duties and environment are more hazardous.

This is in line with the avowed policy of the State as mandated by the Constitution (Article II, Section 9) and restated 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 HEREBY 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 TWO HUNDRED (P1,200.00) PESOS FOR BURIAL EXPENSES.

SO ORDERED.

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

Aquino, J., he dissents. Bronchogenic carcinoma was not work-connected. The ECC did not err in denying death benefits.

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