

ZAIDA G. RARO, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (BUREAU OF MINES AND GEO-SCIENCES), RESPONDENTS.

G.R. No. 58445. April 27, 1989

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-58445/>

GUTIERREZ, JR., J.:

Jurisprudence on the compensability of cancer ailments has of late become a source of confusion among the claimants and the government agencies enforcing the employees' compensation law. The strongly lingering influence of the principles of "presumption of compensability" and "aggravation" found in the defunct Workmen's Compensation Act but expressly discarded under the present compensation scheme has led to conflict and inconsistency in employees' compensation decisions.

The problem is attributable to the inherent difficulty in applying the new principle of "proof of increased risk." There are two approaches to a solution in cases where it cannot be proved that the risk of contracting an illness not listed as an occupational disease was increased by the claimant's working conditions. The one espoused by the petitioner insists that if a claimant cannot prove the necessary work connection because the causes of the disease are still unknown, it must be presumed that working conditions increased the risk of contracting the ailment. On the other hand, the respondents state that if there is no proof of the required work connection, the disease is not compensable because the law says so.

The petitioner states that she was in perfect health when employed as a clerk by the Bureau of Mines and Geo-Sciences at its Daet, Camarines Norte regional office on March 17, 1975. About four years later, she began suffering from severe and recurrent headaches coupled with blurring of vision. Forced to take sick leaves every now and then, she sought medical treatment in Manila. She was then a Mining Recorder in the Bureau.

The petitioner was diagnosed at the Makati Medical Center to be suffering from brain tumor. By that time, her memory, sense of time, vision, and reasoning power had been lost.

A claim for disability benefits filed by her husband with the Government Service Insurance System (GSIS) was denied. A motion for reconsideration was similarly denied. An appeal to the Employees' Compensation Commission resulted in the Commission's affirming the GSIS decision.

The following issues are raised in this petition:

"1. Whether brain tumor which causes are unknown but contracted during employment is compensable under the present compensation laws.

"2. Whether the presumption of compensability is absolutely inapplicable under the present compensation laws when a disease is not listed as occupational disease." (p. 17, Rollo)

The key argument of the petitioner is based on the fact that medical science cannot, as yet, positively identify the causes of various types of cancer. It is a disease that strikes people in general. The nature of a person's employment appears to have no relevance. Cancer can strike a lowly paid laborer or a highly paid executive or one who works on land, in water, or in the bowels of the earth. It makes no difference whether the victim is employed or unemployed, a white collar employee or a blue collar worker, a housekeeper, an urban dweller or a resident of a rural area.

It is not also correct to say that all cancers are not compensable.

The list of occupational diseases prepared by the Commission includes some cancers as compensable, namely --

"Occupational Diseases

Nature of Employment

xxx xxx

xxx xxx

16. Cancer of stomach and other lymphatic and blood forming vessels; nasal cavity and sinuses

Woodworkers, wood products industry carpenters, loggers and employees in pulp and paper mills and plywood mills.

17. Cancer of the lungs, liver and brain.

Vinyl chloride workers, plastic workers."

(Annex A, Amended Rules on Employees' Compensation)

The petitioner questions the above listing. We see no arbitrariness in the Commission's allowing vinyl chloride workers or plastic workers to be compensated for brain cancer. There are certain cancers which are reasonably considered as strongly induced by specific causes. Heavy doses of radiation as Chernobyl, USSR, cigarette smoke over a long period for lung cancer, certain chemicals for specific cancers, and asbestos dust, among others, are generally accepted as increasing the risks of contracting specific cancers. What the law re-quires for others is proof.

The first thing that stands in the way of the petition is the law itself.

Presidential Decree No. 422, as amended, the Labor Code of the Philippines defines "sickness" as follows:

ART. 167. Definition of Terms. - As used in this Title, unless the context indicates otherwise:

xxx xxx xxx

"(1) Sickness means any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment subject to proof by the employee that the risk of contracting the same is increased by working conditions. For this purpose, the Commission is empowered to determine and approve occupational disease and work-related illnesses that may be considered compensable based on peculiar hazards of employment. (PD 1368, May 1, 1978)."

Section 1(b), Rule III of the Amended Rules on Employees Compensation clearly defines who are entitled. It provides:

"SECTION 1.

xxx xxx .xxx

"(b) 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."
(Emphasis supplied)

The law, as it now stands requires the claimant to prove a positive thing - that the illness was caused by employment and the risk of contracting the disease is increased by the working conditions. To say that since the proof is not available, therefore, the trust fund has the obligation to pay is contrary to the legal requirement that proof must be adduced. The existence of otherwise non-existent proof cannot be presumed.

In *Navalta v. Government Service Insurance System* (G. R. No. 46684, April 27, 1988) this Court recognized the fact that cancer is a disease of still unknown origin which strikes people in all walks of life, employed or unemployed. Unless it be shown that a particular form of cancer is caused by specific working conditions (e. g. chemical fumes, nuclear radiation, asbestos dust, etc.) we cannot conclude that it was the employment which increased the risk of contracting the disease.

To understand why the "presumption of compensability" together with the host of decisions interpreting the "arising out of and in the course of employment." provision the defunct law has been stricken from the present law, one has to go into the distinctions between the old work-men's compensation law and the present scheme.

On January 1, 1975, the Workmen's Compensation Act was replaced by a novel scheme under the new Labor Code. The new law discarded, among others, the concepts of "presumption of compensability" and "aggravation" and substituted a system based on social security principles. The present system is also administered by social insurance agencies -- the Government Service Insurance System and Social Security System -- under the Employees' Compensation Commission. The intent was to restore a sensible equilibrium between the employer's obligation to pay workmen's compensation and the employee's right to receive reparation for work-connected death or disability. (*Sulit v. Employees' Compensation Commission*, 98 SCRA 483 [1980]; *Armena v. Employees' Compensation Commission*, 122 SCRA 851 [1983]; *Erese v. Employees' Compensation Commission*, 138 SCRA 192 [1985]; *De Jesus v. Employees' Compensation Commission*, 142 SCRA 92 [1986]; *Sarmiento v. Employees' Compensation Commission*, et al., G. R. No. 65680, May 11, 1988).

Instead of an adversarial contest by the worker or his family against the employer, we now have a social insurance scheme where regular premiums are paid by employers to a trust fund and claims are paid from the trust fund to those who can prove entitlement.

In *Sarmiento v. Employees' Compensation Commission* (supra), we affirmed the validity of the new law by explaining the present system as follows:

"We cannot give serious consideration to the petitioner's attack against the constitutionality of the new law on employee's compensation. It must be noted that the petitioner filed his claim under the provisions of this same law. It was only when his claim was rejected that he now questions the constitutionality of this law on appeal by certiorari.

"The Court has recognized the validity of the present law and has granted and rejected claims according to its provisions. We find in it no infringement of the worker's constitutional rights."

xxx xxx xxx

"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. x x x."

"The petitioner's challenge is really against the desirability of the new law. There is no serious attempt to assail it on constitutional grounds.

"The wisdom of the present scheme of workmen's compensation is a matter that should be addressed to the President and Congress, not to this Court. Whether or not the former workmen's compensation program with its presumptions, controversions, adversarial procedures, and levels of payment is preferable to the present scheme must be decided by the political departments. The present law was enacted in the belief that it better complies with the mandate on social justice and is more advantageous to the greater number of working men and women. Until Congress and the President decide to improve or amend the law, our duty is to apply it." (at pp. 4, 5, and 6).

The non-adversarial nature of employees' compensation proceedings is crucial to an understanding of the present scheme. There is a widespread misconception that the poor employee is still arrayed against the might and power of his rich corporate employer. Hence, he must be given all kinds of favorable presumptions. This is fallacious. It is now the trust fund and not the employer which suffers if benefits are paid claimants who are not entitled under the law. The employer joins its employees in trying to have their claims approved. The employer is spared the problem of proving a negative proposition that the disease was not caused by employment. It is a government institution which protects the stability and integrity of the State Insurance Fund against the payment of non-compensable claims. The employee; this time assisted by his employer, is required to prove a positive proposition, that the risk of contracting the disease is increased by working conditions.

The social insurance aspect of the present law is the important feature which distinguishes it from the old and familiar system.

Employees' compensation is based on social security principles. All covered employers throughout the country are required by law to contribute fixed and regular premiums or contributions to a trust fund for their employees. Benefits are paid from this trust fund. At the time the amount of contributions was being fixed, actuarial studies were undertaken. The actuarially determined number of workers who would probably file claims within any given year is important in insuring the stability of the trust fund and making certain that the system can pay benefits when due to all who are and in amounts fixed by law.

We have no actuarial expertise in this Court. If diseases not intended by the law to be compensated are inadvertently or recklessly included, the integrity of the State Insurance Fund is endangered. Compassion for the victims of diseases not covered by the law ignores the need to show a greater concern for the trust fund which the tens of million of workers and their Families look for compensation whenever covered accidents, diseases, and deaths occur. As earlier stated, if increased contributions or premiums must be paid in order to give benefits to those who are now excluded, it is Congress which should amend the law after proper actuarial studies. This Court cannot engage in judicial legislation on such a complex subject with such far reaching implications.

We trust that the public respondents and the Social Security System are continually evaluating the actuarial soundness of the trust funds they administer. In this way, more types of cancers and other excluded diseases may be included in the list of covered occupational diseases. Or legislation may be recommended to Congress either increasing the contribution rates of employers, increasing benefit payments, or making it easier to prove entitlement. We regret that these are beyond the powers of this Court to accomplish.

For the guidance of the administrative agencies and practising lawyers concerned, this decision expressly supersedes the decisions in *Panotes v. Employees' Compensation Commission* [128 SCRA 473 (1984)]; *Mercado v. Employees' Compensation Commission* [127 SCRA 664 (1984)]; *Ovenson v. Employees' Compensation Commission* [156 SCRA 21 (1987)]; *Nemaria v. Employees' Compensation Commission* [155 SCRA 166 (1987)] and other cases with conclusions different from those stated above.

WHEREFORE, the petition is hereby DISMISSED. The questioned decision of the public respondents is AFFIRMED.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Cruz, Feliciano, Gancayco, Padilla, Bidin, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Paras and Sarmiento, JJ., dissents in a separate opinion.

Raro vs ECC : L-58445 : April 27, 1989 : J. Paras : En Banc : Dissenting Opinion Clean 6 pt 6 pt 0 3
MicrosoftInternetExplorer4 st1:*{behavior:url(#ieooui) } /* Style Definitions */ table.MsoNormalTable
{mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes;
mso-style-parent:""; mso-padding-alt:0in 5.4pt 0in 5.4pt; mso-para-margin:0in; mso-para-margin-bottom:.0001pt;
mso-pagination:widow-orphan; font-size:10.0pt; font-family:"Times New Roman";}

Dissenting OPINION

PARAS, J.:

This is a petition for review on certiorari of the decision dated August 27, 1981 of respondent - Employees' Compensation Commission (ECC) in ECC Case No. 1692 entitled "Zaida G. Raro vs. Government Service Insurance System (GSIS)", which dismissed the claim of petitioner Zaida G. Raro for compensation benefits under Presidential Decree No. 626 as amended for her ailment diagnosed as "brain tumor."

Petitioner assigns the following alleged, errors:

First

THE SYSTEM AND THE COMMISSION ERRED IN HOLDING THAT BRAIN TUMOR IS ALLEGEDLY NOT A LISTED OCCUPATIONAL DISEASE, HENCE, PETITIONER IS REQUIRED TO PROVE BY

SUBSTANTIAL EVIDENCE THAT IT WAS CAUSED BY HER EMPLOYMENT.

Second

THE SYSTEM AND THE COMMISSION ERRED IN HOLDING THAT BRAIN TUMOR WHICH CAUSE IS UNKNOWN CANNOT BE CAUSED BY THE NATURE OF PETITIONER'S EMPLOYMENT.

Third

THE SYSTEM AND THE COMMISSION ERRED IN NOT CONSIDERING BRAIN TUMOR AS A BORDERLINE CASE, HENCE COMPENSABLE.

Fourth

THE SYSTEM AND THE COMMISSION DISOBEYED THE STATUTORY MANDATE THAT ALL DOUBTS SHALL BE RESOLVED IN FAVOR OF LABOR AND IGNORED THE NATURE OF LABOR LAWS AS SOCIAL LEGISLATIONS.

The undisputed facts, summarized by the Office of the Solicitor-General, are as follows:

Petitioner was hired as clerk on March 17, 1975 by the Bureau of Mines and Geo-Sciences at its office in Daet, Camarines Norte.

In the course of her employment, petitioner contracted an ailment which was diagnosed as brain tumor. Petitioner stopped working because of said ailment.

On January 7, 1980, petitioner filed with respondent GSIS a claim for disability benefits under P.D. 626, as amended.

On November 24, 1980, respondent GSIS denied petitioner's claim on the ground that brain tumor was not an occupational disease. Respondent GSIS also denied petitioner's motion for reconsideration.

On appeal, respondent ECC sustained the GSIS decision.

We find this petition impressed with merit.

While "brain tumor" is not expressly or specifically referred to as an occupational disease, and while admittedly its precise causes are still unknown, We may say that the disease is akin to "cancer of the brain" and should therefore be regarded as either compensable or a borderline case. At any rate, the precise work of the petitioner at the Bureau of Mines and Geo--Sciences consisted of the following:

"As Mining Recorder II, to record and file mining instruments and documents in the Mining Recorder's Section and to type correspondence and other documents pertaining to the same action. (See Petitioner's Brief, Rollo, p. 13).

It will readily be seen that her work required at times mental concentration. Whether this is specifically causative of brain tumor is of course still unknown but doubts must generally be resolved in favor whenever compensation for disease is concerned. It would certainly be absurd to throw upon petitioner the burden of showing that her work either caused or aggravated the disease, particularly when both the GSIS and ECC profess ignorance themselves of the causes of the disease.

Nowhere is this truism more glaring than in cancer, the most dreaded of all diseases mankind has ever known. Held the Supreme Court in the case of *Acosta v. Employees' Compensation Commission* (L-55464, Nov. 12, 1981): "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 backdrop, one should not expect ordinary persons to prove the real cause of the ailment of the deceased when the experts themselves are still in the dark."

In a case like the present one, even medical experts have not determined its cause, and therefore the duty to prove does not exist for it is absurd for the law to require an impossibility. Thus in the case of *Mercado, Jr. v. Employees Compensation Commission*, 139 SCRA 270 citing *Cristobal v. ECC*, 103 SCRA 329, We ruled as follows:

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

In the more recent case of *Flaviano Nemaria*,^[1] *Petitioner versus Employees' Compensation Commission and Government Service Insurance System (Ministry of Education and Culture)*, Respondents, promulgated October 28, 1987 and following the rule We enunciated in the *Mercado* case, We stated:

"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."

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

[1] G.R. No. 57889

mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-parent:"";
mso-padding-alt:0in 5.4pt 0in 5.4pt; mso-para-margin:0in; mso-para-margin-bottom:.0001pt;
mso-pagination:widow-orphan; font-size:10.0pt; font-family:"Times New Roman";}

DISSENTING OPINION

SARMIENTO, J.:

I do not think that the Labor Code intended to do away with the "presumption of compensability" prevailing under the old Workmen's Compensation Act. It must be noted that as a social legislation, the Code is fundamentally a measure intended to afford protection unto the working class. If any protection should be given to labor, it is in workmen's compensation cases that protection is a felt need.

The primacy that the majority would give to the integrity of the trust fund "to which the tens of millions of workers and their families look for compensation whenever covered accidents, diseases, and deaths occur"[1] is correct but, in my view, hardly the point. In granting the petitioner compensation, I do not believe we would have dissipated substantially the State Insurance Fund, and considering the fact that the petitioner is a victim herself.

It must likewise be noted that the petitioner is suffering from cancer (brain tumor), whose cause medical science is yet to unravel. It would then be asking too much to make her prove that her illness was caused by work or aggravated by it, when experts themselves are ignorant as to what brings it about.

I do not believe, finally, that the question is a matter for legislation. Compassion, in my view, is reason enough.

[1] Decision, 9.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.