

LEOPOLDO TOLOSA, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (PHILIPPINE NATIONAL RAILWAYS), RESPONDENTS.

G.R. No. 60509. May 08, 1985

Ponente: MAKASIAR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-60509/>

MAKASIAR, J.:

This is a petition for review on certiorari to modify and/or set aside the decision of respondent Employees' Compensation Commission (ECC) dated March 12, 1982, in ECC Case No. 1544 affirming the decision of the Government Service Insurance System (GSIS) denying permanent total disability benefits under P-D. 626, as amended, to claimant Leopoldo Tolosa.

Petitioner Leopoldo Tolosa started working at the Philippine National Railways (PNR) on January 16, 1936, as a crossing keeper until the outbreak of World War II. He resumed his employment with the PNR on October 1, 1956 as a crane operator. He then became a crane driver and a crane machine operator-mechanic, which position he held last until his retirement on May 15, 1975.

In the course of his employment as a crane operator-mechanic, petitioner contracted pulmonary tuberculosis sometime in 1967. Its manifestation consisted of loss of appetite, loss of weight, fever and afternoon rise of temperature. On September 8, 1967, while doing rush overhauling work, petitioner spat fresh blood. He was immediately confined at the Quezon Institute for almost one month. Upon his discharge, petitioner resumed the performance of his duties.

On May 25, 1974, petitioner was confined at the PNR Hospital for several days, again on account of his tuberculosis. Sometime in April 1975, petitioner was also hospitalized, and was found to be afflicted with advance pulmonary tuberculosis and arachnoiditis. On April 21, 1975, petitioner, now paralyzed due to his arachnoiditis, was operated on. This proved unsuccessful, and petitioner was forced to retire from the service on May 15, 1975 at the early age of fifty-six. Since then, petitioner's condition worsened, as even his personal necessities like urinating, eating and defecating, needed the assistance of his family (pp. 1-3, petition, pp. 5-7, rec).

Petitioner, on account of his ailments, filed a claim for compensation benefits under the provisions of the Employees' Compensation Law (P.D. 626, as amended) with the respondent Government Service Insurance System. Petitioner's claim was denied by the GSIS on October 29, 1975, on the ground that petitioner's ailments were not work connected. After two motions for reconsideration filed by petitioner, the respondent GSIS, on September 5, 1979, amended its earlier decision by awarding petitioner permanent partial disability benefits amounting to P-1,274.42 and with a note that no forthcoming benefits shall be due. According to the GSIS:

"xxx xxx xxx"

"As found by the Medical Officer of the GSIS, petitioner's pulmonary tuberculosis is only minimal, not

advanced. His arachnoiditis, on the other hand, is not amply corroborated by the medical records he submitted. At any rate, using as guide the 'Medical Handbook on Workmen's Compensation and Principle of Disability Evaluation by Dr. Fidel M. Guilatco,' the GSIS Medical Officer held that: 'The nature and degree of (petitioner's) ailment does not satisfy the criteria for permanent total disability and it falls under 12% NSD (non-scheduled disability) only.' It may be pointed out that in this same book, far advanced PTB falls under 90% NSD. Since petitioner's PTB was only minimal, a lower percentage was used and the ailment was classified as permanent partial disability only.

"xxx xxx xxx"(pp. 20-21, rec).

Petitioner filed a motion for reconsideration of the September 5, 1979 decision, which was denied by the GSIS. Thereafter, petitioner appealed to the Employees' Compensation Commission (ECC) praying that he be awarded permanent total disability benefits instead of permanent partial disability benefits as awarded by respondent GSIS.

On March 12, 1982, respondent ECC affirmed the decision of the GSIS, the pertinent portion of which reads:

"xxx xxx xxx"

"The remaining issue for our resolution is whether or not appellant is entitled to additional benefits in the light of the new evidence submitted.

"We answer in the negative. We have thoroughly examined the records of the case including the additional evidence submitted by appellant, and failed to find any basis for granting additional benefits to herein appellant. We note that the additional evidence submitted — chest X-ray dated July 30, 1980 — shows no change at all from his previous chest X-rays. Hence, we have no recourse but to deny the instant claim.

"xxx xxx xxx" (p. i5, rec).

On May 11, 1982, petitioner filed with this Court a petition for review on certiorari of the aforesaid decision of the ECC (pp. 5-12, rec).

A motion filed by petitioner to allow him to litigate as a pauper, was approved by this Court in a resolution dated May 19, 1982 (pp. 1-4, rec).

A motion tiled on April 5, 1984 by Potenciana Tolosa, widow of petitioner Leopoldo Tolosa, whose death on February 14, 1984 was attributed to peptic ulcer due to hypovolemic shock, praying that she be substituted as party, was approved by this Court in a resolution dated June 4, 1984 (pp. 74-79, rec.).

The issue is whether petitioner's ailments entitle him to permanent total disability benefits or permanent partial disability benefits.

WE find that petitioner is entitled to permanent total disability benefits.

From precedents in earlier cases and in the latest case of Poral vs. ECC (131 SCRA 602 [1984], the applicable law to petitioner's claim is the Workmen's Compensation Act, as amended, and not P.D. 626, as amended. Petitioner's pulmonary tuberculosis had its inception way back in 1967. His arachnoiditis, which was only discovered sometime in April 1975, could have been caused by his much weakened body resistance brought about by his advanced stage of tuberculosis. Petitioner's cause of action therefore accrued as early as 1967 during which period the Workmen's Compensation Act was still in effect; thus petitioner had already a vested right based on the old Workmen's Compensation Act.

In the case of Gonzaga vs. ECC (127 SCRA 443 [1984]), this Court had the occasion to reiterate. Us previous rulings as to what constitutes permanent total disability under the Workmen's Compensation Act. This Court enunciated:

"xxx xxx xxx"

"Permanent total disability means disablement of an employee to earn wages in the same kind of work, or work of a similar nature that she was trained for, or accustomed to perform, or any kind of work which a person of her mentality and attainment could do (*Landicho v. WCC, et al., supra, Marcetino v. 7-Up Bottling Co. of the Philippines, et al.*, 47 SCRA 343 [1972]). It does not mean an absolute helplessness but rather an incapacity to perform gainful work which is expected to be permanent (*Landicho v. WCC, et al., supra*). Total disability does not require that the employee be absolutely disabled, or totally paralyzed. What is necessary is that the injury must be such that she cannot pursue her usual work and earn therefrom (*Tenasas v. WCC*, 80 SCRA 464 [1977]). It is not the injury which is compensated but the incapacity to work resulting in the impairment of one's earning capacity (*Herrera v. Republic and WCC*, 85 SCRA 713 [1978]; *Natividad v. WCC and Republic*, 85 SCRA 115 [1978]) [pp. 450-451].

"xxx xxx xxx"

". . . Under the Act, there is no difference between 'loss of a member' and the 'loss of the use thereof' (*Yu Dee Kim v. Zamora*, G.R. No. L-6731, June 16, 1953). In *Romero v. WCC, et al.*, 77 SCRA 480 [1977] and *Gonzales v. WCC, et al.*, 81 SCRA 709 [1978], this Court declared that 'disability is used either in the medical or physical sense, as evidenced by obvious loss of member or by medical testimony that the claimant simply cannot make the necessary muscular movements and exertions; it is used to mean de facto inability to earn wages, as evidenced by proof that claimant has not in fact earned anything.

"xxx xxx xxx" (p. 452).

The deteriorating physical condition caused by petitioner's ailments definitely had impaired petitioner's capability to perform the physically straining task of crane operator-mechanic. In fact, after petitioner's retirement, he was totally helpless to do any kind of physical exertion by which he can earn a living. Even petitioner's personal necessities, like urinating, eating and defecating, need the assistance of his family, as he could hardly sit or walk. He was required to report for regular treatment and medications at the Philippine General Hospital, and on such occasions, he had to be literally carried by his family. There can be no doubt that this physical condition of petitioner is characterized as total and permanent disability. The basis on which respondents GSIS and ECC classified petitioner's ailments as permanent partial disability by applying the New Labor Code and not the Workmen's Compensation Act, is therefore clearly erroneous.

Furthermore, the ailments of petitioner had undeniably caused his early retirement. In the same case of *Gonzaga v. ECC supra*, this Court ruled that the early retirement of an employee due to work-related ailments only proves that indeed (he employee was disabled totally to further perform his assigned tasks. This Court said:

"xxx xxx xxx"

"Petitioner could not in all honesty be deemed entitled to merely partial disability benefit; because she has been forced out of work and has been rendered incapable of further pursuing her usual job which is teaching. It was not only her 'ability to perform her usual task' which was impaired, and her 'efficiency and competence for work as well as earning capacity' which was reduced; but ultimately, herein petitioner had to let go of her job as a teacher. She was forced to retire because her illness rendered her incapable of teaching (*Landicho v. WCC, et al., supra; Marcelino v. 7-Up Bottling Co. of the Philippines, supra*).

"4. Furthermore, the fact of an employee's disability is placed beyond question with the approval of the employee's optional retirement for such is authorized only when the employee is 'physically incapable to render sound and efficient service' under C.A. 186, as amended by Republic Act 4968 in conjunction with Memorandum Circular No. 133 of the Office of the President on October 19, 1967 (*Faicol v. WCC and Republic of the Philippines*, 93 SCRA 811 [1979]; *Roma v. WCC and Bureau of Public Schools*, 80 SCRA 170 [1977]; *Romero v. WCC and Bureau of Public Schools*, 77 SCRA 842 [1977])" [pp. 452-453].

Finally, denying petitioner's permanent total disability benefits, who for more than 20 years had rendered his best service unblemished and only because his ailments forced him to retire, would subvert the very essence of the Workmen's Compensation Act to implement the social justice provision of the Constitution (Gonzaga vs. ECC, supra).

The fact that petitioner died due to his ailments on February 14, 1984 does not entitle his widow to additional death benefits. Under Section 8 of the Workmen's Compensation Act, it is required that before death benefits shall be awarded to the heirs of the deceased employee, the death of the employee due to a work-connected disease, must occur within two years from such sickness. In the cases of *International Oil Factory v. Doriz*, 109 Phil. 553 (1960), and *Central Azucarera Don Pedro vs. De Leon*, 1-9449, July 29, 1959, this Court ruled that the two-year period shall be counted from the time of the aggravation of the employee's ailment or the time when he was forced to stop working or became physically disabled to do the work. This doctrine was reiterated in the subsequent cases of *Vda. de los Santos v. WCC* (88 SCRA 134 [1979]; *De Lara v. WCC* (83 SCRA 528 [1978]; and *Unite v. WCC*, 90 SCRA 289 [1979]. Since petitioner stopped working or became physically disabled to do his work at the time of his retirement on May 15, 1975, and he died on February 14, 1984, or almost nine (9) years after, petitioner's widow is therefore not entitled to death benefits.

Petitioner is not entitled to recover attorney's fees because he was not assisted by a counsel as evidenced by the fact that he personally signed his own pleadings.

WHEREFORE, THE DECISION DATED MARCH 12, 1982, OF RESPONDENT EMPLOYEES' COMPENSATION COMMISSION IS HEREBY SET ASIDE AND THE PHILIPPINE NATIONAL RAILWAYS IS HEREBY ORDERED:

1. TO PAY PETITIONER THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS PERMANENT TOTAL DISABILITY COMPENSATION BENEFITS;
2. TO PAY THE SUM OF ONE THOUSAND (P1,000.00) PESOS REPRESENTING FUNERAL BENEFITS;
3. TO REIMBURSE PETITIONER HIS MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS; AND
4. TO PAY ADMINISTRATIVE COSTS.

SO ORDERED

Teehankee (Acting C.J.), AbadSantos, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, Cuevas, and Alampay, JJ., concur.

Melencio-Herrera, J., Except for funeral benefits since we are holding that there is no entitlement to death benefits.

Aquino, J., took no part.

Fernando, CJ. and Concepcion, Jr., J., on leave.

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.