

FLORA C. NERI, PETITIONER, VS. EMPLOYEES COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. 60642. February 20, 1984

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition to review the decision of respondent Employees Compensation Commission (ECC) dated March 4, 1982 (Annex "A", Decision, pp. 13-17, rec.) in ECC Case No. 1517, 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 Blasito P. Neri, who joined the government service on August 6, 1948 as clerk-messenger in the Office of the City Assessor of Ozamiz City.

On September 1, 1959, the deceased was transferred to the Ozamiz Branch of the Development Bank of the Philippines (DBP) as emergency clerk-typist.

The deceased rose from the ranks and on April 18, 1974, he was appointed cashier of the bank, the position he held at the time of his death on October 19, 1979.

Sometime in 1977, the first symptoms of his ailments were manifested in the form of off-and-on epigastric pains. The pain was at the time relieved by food intake and antacids or anti-spasmodic tablets. He used to consult the DBP retainer physician, Dr. Adolfo S. Murallon, who advised him to submit to a G.I. Series (Comment of respondent, pp. 37-46, ECC rec.).

By 1979, Neri's condition had already worsened, the epigastric pains became frequent and were accompanied by nausea and vomiting. He became jaundiced and exhibited occasional high fever. Likewise, he had severe melena and developed ascites (Annex "A", Decision, pp. 13-17, rec.).

On September 6, 1979, the deceased submitted himself to a G.I. Series conducted by one Dr. Alejo A. Tiu, a radiologist at the Cebu Doctors Hospital. The results of the examination was negative, thereby ruling out the diagnosis of peptic ulcer and leaving the diagnosis of the ailments for hepatoma and liver cirrhosis (Annex "A", Decision, pp. 13-17, rec.).

When he started to bleed, he was brought to the Misamis Community Hospital on October 3, 1979 and was transferred after six days to the Cebu Doctor's Hospital. Blasito P. Neri thereafter died on October 18, 1979.

On account of his death, the surviving spouse, herein petitioner, filed a claim for death benefits under P.D. 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.

The said decision was affirmed by respondent Employees Compensation Commission in its decision dated

March 4, 1982, stating among others:

"x x x x x x.

"After a careful review of the records of the case, we affirm respondent's decision disallowing the instant claim. x x x.

"Hepatoma, according to medical authorities, is a primary tumor of the liver destroying the parenchyma arising from both liver cell and bile duct elements. It develops most frequently in the previous cirrhotic liver. A higher fraction of patients with postnecrotic cirrhosis develop hepatoma than that with postal alcoholic cirrhosis. This may reflect the more active necrotic and regenerative processes in the post necrotic cirrhosis liver. Most large series indicate that 60% or more of hepatomas develop in a previously cirrhotic liver. The cirrhosis of hemochromatosis seen particularly liable to hepatomas; as high as 20% of patients with hemochromatosis die from this cause. (Harrison Principles of Internal Medicine, 5th edition, p. 1072).

"On the other hand, cirrhosis is a term often used loosely by physician to mean any form of chronic liver disease with scarring. To qualify as cirrhosis to the pathologist, a condition must involve extensive destruction of the liver with diffuse fibrosis and regeneration that destroys the normal lobular architecture. Etiology of liver cirrhosis are: (a) alcoholic or portal (b) postnecrotic (c) biliary (d) congestive (e) inherited. Bleeding from ruptured esophageal varices occur as complication. (The Merck Manual of Diagnosis and Therapy; 11th ed.; p. 929).

"Postnecrotic cirrhosis - this form of chronic liver disease is the most common type of cirrhosis on a worldwide basis. The cause of postnecrotic cirrhosis is still unknown, but epidemiological and serological evidence suggest that viral hepatitis is an antecedent factor in many instances. A small percentage of cases stems from documented intoxications with industrial chemicals, poisons or drugs. Postnecrotic cirrhosis should be suspected in non-alcoholic patients with evidence of chronic liver diseases. (Barrison, Principles of Internal Medicine, 7th edition, p. 1543).

"It is evident from the aforequoted medical report that the predisposing factors for the development of the deceased's ailments are manifestly not inherent or peculiar to his employment or employment conditions as cashier in the DBP Ozamiz branch. Medical experts enumerate alcoholism, malnutrition, exposure to chemicals, drug poisoning and heredity as possible causes of liver cirrhosis.

"x x x x x x x x x" (Decision, pp. 13-17, rec., Italics supplied).

On June 4, 1982, petitioner, assisted by counsel, filed the instant petition, the only pertinent issue being whether or not her husband's death from hepatoma and postnecrotic cirrhosis 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 fact that when the deceased entered into the DBP in 1959, he was found to be physically and mentally healthy. She further contends that when her husband was holding the position of "cashier" at the DBP from April 18, 1974 until he died, he had been counting money paper bills which undeniably contained germs of various kinds that caused his illness which eventually led to his death (Petition, pp. 2-9, rec.). Moreover, petitioner submits that the deceased has always been sent to different places during his employment with the DBP to effect collection and campaign for depositors and it was during the course of his travels that he must have contracted the illnesses which caused his death.

The respondent Commission, on the other hand, maintains that no reasonable finding nor logical conclusion may be drawn from the fact that the deceased employee's provincial trips directly resulted in his illnesses or that the risk of contracting them was likewise increased. It also maintained that medical findings of the ECC do not substantiate the fact that exposure to germs while handling paper money bills caused the illness of the deceased.

Thirdly, it is argued that such medical findings strengthen the stand of respondent Commission on the non-compensability of the instant claim, as cancer of the liver is compensable only among vinyl chloride and plastic workers (Memorandum, pp. 53-63, rec.).

WE find the petitioner's claim meritorious.

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', is derived from the Latin word 'cancer' which means 'crab'; in the medical sense, it refers to a malignant, usually fatal, tumor or growth (underscoring supplied). The decision of the Employees Compensation Commission shows that hepatoma is a primary tumor of the liver. 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 ailments could have been caused by the working conditions while employed with the DBP.

Medical authorities support the above decision that the etiology or cause of cancer and postnecrotic cirrhosis is still unknown as provided for in the following:

"The cause of postnecrotic cirrhosis is still unknown, but epidemiologic and serologic evidence suggests that viral hepatitis is an antecedent factor in many instances. x x x

"Some patients have bouts of upper abdominal pain, the sudden onset of unexplained ascites, episodes of hepatic encephalopathy, or massive variceal hemorrhage as the major or initial clinical feature. The signs and symptoms of postnecrotic cirrhosis resemble those of alcoholic cirrhosis and reflect the loss of liver cell reserve, advancing portal hypertension, and disorders of salt and water metabolism" (Harrison, *Principles of Internal Medicine*, 9th Edition, 1980 p. 1476; Italics supplied).

"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).

"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 Edition, 1983, p. 755).

"What emerges from such concepts is the belief that cancers in man do not appear suddenly 'but 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 Edition, 1979, p. 185, underscoring supplied).

It is indubitable that the causes of the illnesses of the deceased, specifically, hepatoma and postnecrotic cirrhosis, are still unknown and may embrace such diverse origins which even the medical sciences cannot tell with reasonable certainty. 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 US 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).

This Court applies the theory of increased risk under Section 1(b) Rule III of P. D. 626, 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."

This Court had the occasion to interpret the theory of increased risk under the above-mentioned law 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 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. 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 statement of the Employees Compensation Commission to the effect that the "predisposing factors for the development of the deceased's ailments are manifestly not inherent or peculiar to his employment or employment conditions as cashier in the DBP Ozamiz Branch (p. 16, rec.) is untenable and not in accordance with the facts on record. From a position of uncertainty, one cannot draw a conclusion of certainty.

WE are dealing with possibilities and medical authorities have given credence to the possibility that the deceased developed hepatoma and postnecrotic cirrhosis while working as cashier in the DBP branch in Ozamiz City.

The records show that the deceased was found to be physically and mentally healthy when he entered the bank as emergency clerk-typist in 1959. WE cannot discount the fact that in his position, physical contact with various chemicals in the form of carbon paper, erasing fluids and other materials is inevitable. When the deceased was promoted to the position of bank cashier, he was often assigned to follow up accounts and solicit deposits. This fact was even admitted by respondent Employees Compensation Commission. Such assignments invariably involved irregular working hours and exposure to different working conditions, body fatigue, not to mention psychological stress and other similar factors, which influenced the evolution of his ailments. WE add to this the possibility that the deceased could have contracted his illnesses from contact with germs while counting paper money bills.

In the case of *San Valentin vs. Employees Compensation Commission* (118 SCRA 160, L-56909, November 2, 1982), this Court, speaking through, Mr. Justice de Castro, held:

"x x x x x x x x x x.

"In compensation cases, strict rules of evidence are not applicable. 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."

Moreover, WE do not see any reason to depart from the ruling of this Court in the case of *Abadiano vs. Government Service Insurance System and Employees Compensation Commission* (111 SCRA 509, L-52254, January 30, 1982) citing *Cristobal vs. Employees Compensation Commission* (97 SCRA 473) that:

"x x x x x x 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 consistent 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 embodied in the new Labor Code (Article 4), to give maximum aid and protection to labor.

WE have repeatedly held that respondent Commission should remain vigilant as to its obligation at all times to give meaning and substance to the constitutional guarantees in favor of the working man (*Cristobal vs. Employees Compensation Commission*, 97 SCRA 473, citing *Santos vs. WCC*, 75 SCRA 371).

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;
3. TO PAY THE PETITIONER THE SUM OF ONE THOUSAND TWO HUNDRED (P1,200.00) PESOS FOR BURIAL EXPENSES; AND
4. TO PAY THE PETITIONER THE SUM OF ONE THOUSAND TWO HUNDRED (P1,200.00) PESOS AS ATTORNEY'S FEES.

SO ORDERED.

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

Aquino, J., no part.

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