

JUAN BONIFACIO, PETITIONER-APPELLANT, VS. GOVERNMENT SERVICE INSURANCE SYSTEM

G.R. No. 62207. December 15, 1986

Ponente: FERNAN, J.

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FERNAN, J.:

Petition for review on certiorari of the decision of the Employees Compensation Commission dated August 19, 1982, affirming the denial by the Government Service Insurance System of petitioner's claim for benefits under PD No. 626, as amended, for the death of his spouse, Lourdes Bonifacio.

The facts are undisputed.

The late Lourdes Bonifacio was a class-room teacher assigned to the district of Bagamanoc, Division of Catanduanes, Ministry of Education and Culture from August, 1965 until she contracted carcinoma of the breast with metastases to the gastro-intestinal tract and lungs which caused her death on October 5, 1978.

Dra. Corazon Yabes-Almirante of the Ospital ng Bagong Lipunan certified that the late Lourdes Bonifacio underwent radical mastectomy for cancer of the breast in 1973. In 1976, when her ailment was noted to have metastasized to her abdomen, she submitted herself to an operation known as "exploratory laparotomy" in March of the same year. On September 1, 1978, she complained of "abdominal pain, abdominal enlargement, vomiting, and failure to pass stools inspite of laxatives." Upon operation, it was found that her entire gastro-intestinal tract was enveloped by carcinoma. Despite chemotherapy, she died on October 5, 1978 from carcinoma of the breast metastatic to gastro-intestinal tract and lungs.

Thereafter a claim for death benefits under P.D. No. 626, as amended, was filed by petitioner with the GSIS. The same was however denied on the ground that the decedent's principal ailment, carcinoma of the breast with metastases to gastro-intestinal tract and lungs, is not an occupational disease for her particular work as a teacher, nor is the risk of contracting said disease increased by her working conditions.

The Employees Compensation Commission, on appeal, affirmed the decision of the respondent System.

Petitioner now assails the decision of the respondent Commission on the following grounds:

a]

The respondent Commission's affirmance of the denial by respondent System totally ignored the Supreme Court's pronouncements on compensation cases; and

b]

Under the law, in case of doubt in the implementation and interpretation of the provisions of the Labor Code, including its implementing rules and regulations, the same shall be resolved in favor of the laborer.

We hold that the GSIS and the Employees Compensation Commission did not err in denying petitioner's claim.

A compensable sickness means "any illness definitely accepted as an occupational disease listed by the Employees Compensation 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 de-termin[e] and approve occupational diseases and work related illnesses that may be considered compensable based on peculiar hazards of employment." [Art. 167(1) Labor Code as amended by P.D. No. 1368, effective May 1, 1978].

Thus, for the sickness or the resulting disability or death to be compensable, the sickness must be the result of an accepted occupational disease listed by the Employees Compensation Commission [Annex "A" of the Amended Rules on Employees Compensation], or any other sickness caused by employment subject to proof by claimant that the risk of contracting the same is increased by working conditions. [Sec., 1, Rule II, Amended Rules on Employees Compensation].

Carcinoma of the breast with metastases to the gastro-intestinal tract and lungs is not listed by the Commission as an occupational disease. As to the "metastases to the gastro-intestinal tract and lungs" the Commission lists such disease as occupational only in the following employment:

"Occupational Disease"

Nature of Employment

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, see p. 38, Rollo.]

The cancer which affected the deceased not being occupational in her particular employment, it became incumbent upon petitioner to prove that the decedent's working conditions increased the risk of her contracting the fatal illness. This onus, petitioner failed to satisfactorily discharge. We note the following medical report on breast cancer which the Employees Compensation Commission cited in its decision and which the petitioners failed to controvert:

"x x x Recent observations on the epidemiology of breast cancers suggest that it is intimately linked to 'estrogenic hormones' [W.A.P. Anderson, Mosby, Pathology 5th edition, pp. 1217-1218]. Mammary carcinoma is likely to metastasize relatively early to the regional lymph node's axillary and supra clavicular, if the primary site is in the outer half the breast. From thence it spreads primarily to the bones, lungs, skin and subcutaneous tissues generally; less frequently to the brain. [Winrobe, et. al., Harrison's Principles of Internal Medicine, 7th edition pp. 584-585]." (pp. 3-4, ECC decision dated August 19, 1982).

Petitioner's contention that the decision of the Employees Compensation Commission totally ignored the Supreme Court's pronouncements on compensation cases is unmeritorious. The petitioner evidently overlooked that his claim is now within the ambit of the Labor Code and the rulings under the old law, Act No. 3428, as amended, no longer control.

The old law as embodied particularly in Section 43 of RA No. 772 amending Act No. 3812, provided for "the presumption of compensability and the rule on aggravation of illness, which favor the employee", and "paved the way for the latitudinarian or expansive application of the Workmen's Compensation Law in favor of the employee or worker." [Sulit v. ECC, 98 SCRA 483,489] The presumption in essence states that in any proceeding for the enforcement of the claim for compensation under the Workmen's Compensation Act "it shall be presumed in the absence of substantial evidence to the contrary that the claim comes within the provisions of the said Act, that sufficient notice thereof was given, that the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another, that the injury did not result solely from the intoxication of the injured employee while on duty, and that the contents of verified medical and surgical reports introduced in evidence by claimants for compensation are correct."

Thus, under the Workmen's Compensation Law, it is not necessary for the claimant to carry the burden of proof to establish his case to the point of demonstration [Abana vs. Quisumbing, 22 SCRA 1278]. It is "not necessary to prove that employment was the sole cause of the death or injury suffered by the employee. It is sufficient to show that the employment had contributed to the aggravation or acceleration of such death or ailment." [Fontesa vs. ECC, 22 SCRA 282] "Once the disease had been shown to have arisen in the course of employment, it is presumed by law, in the absence of substantial evidence to the contrary, that it arose out of it." [Hernandez vs. ECC, et. al. L-20202, May 31, 1965].

With this legal presumption in the old law, the burden of proof shifts to the employer and the employee no longer suffers the burden of showing causation. Under the present Labor Code, the "latitudinarian or expansive application of the Workmen's Compensation Law in favor of the employee or worker" no longer prevails as the burden of showing proof of causation has shifted back to the employee particularly in cases of sickness or injuries which are not accepted or listed as occupational by the Employees Compensation Commission. As stated in Sulit vs. Employees Compensation Commission, [supra] "the Labor Code abolished the presumption of compensability and the rule on aggravation of illness caused by the nature of the employment."

While we do not dispute petitioner's contention that under the law, in case of doubt in the implementation and interpretation of the provisions of the Labor Code, including its implementing rules and regulations, the doubt shall be resolved in favor of the laborer, we find that the same has no application in this case since the pertinent provisions of the Labor Code leave no room for doubt either in their interpretation or application.

WHEREFORE, the petition is dismissed and the decisions of the GSIS and the Employees Compensation Commission denying the claim, are affirmed. No costs.

SO ORDERED.

Feria, (Chairman), Alampay, Gutierrez, Jr., and Paras, JJ., concur.

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