

NATIVIDAD VDA. DE ROMERO, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM(BUREAU OF TELECOMMUNICATIONS), RESPONDENTS.

G.R. No. 62920. December 27, 1985

Ponente: ALAMPAY, J.

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ALAMPAY, J.:

This petition for certiorari seeks to set aside the decision of respondent Employees' Compensation Commission dated June 10, 1982 (Annex "B", pp. 21-25, Record) in ECC Case No. 1551 affirming the decision of the Government Service Insurance System (GSIS) denying the claim for death benefits under P.D. 626, as amended, to claimant Natividad Romero, wife of the deceased Filemon Romero.

The undisputed factual background as found by the respondent ECC is as follows:

"The late Felimon Romero started out as laborer at the BUTEL's main office on December 13, 1955. Thereafter, he was promoted to lineman. His duties included maintenance of communication lines, delivery of telegrams and janitorial services. Records show that starting December 15, 1976, the subject decedent frequently went on sick leave due to his ailments diagnosed by Dr. Eduardo Arevalo of the Olongapo City General Hospital as hepatoma and essential hypertension. His ailments soon led to his premature retirement on November 11, 1977 at the age of 59.

"Subsequently, he filed a claim for disability benefits under PD 626, as amended, which claim was initially denied by the respondent system.

"A motion for reconsideration of the adverse ruling was filed by counsel in behalf of claimant who by then had already succumbed. Death was recorded during the pendency of his claim on January 6, 1980. Subsequently, the widow, appellant herein, substituted the deceased. On the basis thereof, respondent re-evaluated subject decedent's claim after which his legal beneficiaries were awarded permanent partial disability (PPD) benefits for his ailment of hypertension in the amount of P1,379.20 corresponding to the period of 6 months.

"Dissatisfied with the award granted by respondent, the surviving spouse, appellant herein, thru her counsel sought a second reconsideration of the claim alleging that she should be entitled to the full amount of P12,000.00 death benefits for her husband's demise due to pneumonia, partial intestinal obstruction and GIT malignancy or cancer of the colon.

"In denying appellant's motion, the System declared:

'xxx please be informed that under the aforementioned decree, compensation benefits are extended only to an employee who sustains a work connected contingency (illness, injury or death). For purposes of determining the date when employer-employee relationship ceases to exist, the reckoning date is not the date when your husband died on January 6, 1980, but rather the date when he retired from the service which was on November 11, 1977. It is clear, therefore, that during the interim, he was no longer considered an employee within the contemplation of the law, hence, the death claim cannot be given due course.'

"xxx" (pp. 21-23, Record).

The petitioner failed in his motion for reconsideration of the decision of respondent GSIS. The case was then elevated to the ECC which ruled that "the subject ailments are due to factors which are not related to employment", and considered that "cancer of the colon occurs even in children, thus dispelling the notion that it is occupational", and that "intestinal obstruction on the other hand is a mere complication of cancer of the colon". On these considerations, the ECC found no sufficient basis for issuing a reversal ruling and thus affirmed respondent GSIS' decision denying petitioner's claim.

Hence, this petition for certiorari.

The sole and crucial issue which the Court has now to determine is whether or not the death of Filemon Romero on January 6, 1980, more than two years after he had already retired from the government service on November 11, 1977, is still compensable.

We are constrained to rule in the negative. Consequently, We sustain the decision of the respondent Employees' Compensation Commission which the petitioner herein appeals from and challenges.

Significantly, Filemon Romero retired at the age of fifty-nine (59) on November 11, 1977 because of entirely different ailments, which are said to be essential hypertension and hepatoma which relates to the liver. The death of Filemon Romero is said to be due to pneumonia, intestinal obstruction and GIT malignancy or cancer of the colon. The time interval counted from the date of his retirement in November, 1977 to the date of his death in January, 1980, conclusively excludes the existence of any employer-employee relationship between him and the Bureau of Telecommunications during such period. This time interval will also suffice to indicate that if pneumonia or intestinal obstruction or cancer was a disease already contracted by the deceased during the period of his employment, then he would have most probably already succumbed to it soon after he retired. That it took more than two years after his retirement before Filemon Romero died in January, 1980, leads to a more reasonable conclusion or inference that the actual cause of his death arose after he had already retired and would, therefore, not be attributable to his past employment, and hence, not compensable.

We fail to see any medical opinion or acceptable theory that hypertension and/or hepatoma would inevitably lead to or produce pneumonia, intestinal obstruction or cancer of the colon. Petitioner's claim for compensation after he had long retired from the government service was, therefore, rightfully disallowed. If a claimant dies of an ailment unconnected with the related illness he was suffering at the time of his retirement from the service, then such death is not compensable. It is imperative to consider that at the time when the illness which caused claimant's death was contracted, he had already ceased to be an employee of the Bureau of Telecommunications as he had voluntarily retired from the government service since November, 1977. No award should be granted on a claim based on mere conjectures.

Petitioner's plea that the law of compensability be literally applied cannot permit the Court to exceed what the law authorizes. In this regard, it may not be amiss to note that Filemon Romero, during his lifetime, had filed a claim for disability benefit under P.D. 626, as amended, which claim was initially denied by the respondent Government Service Insurance System. Subsequently, his widow who thereafter was substituted for the deceased, presented a motion for reconsideration of such adverse ruling of the GSIS. On the basis of said motion, the respondent ECC re-evaluated the claim made in behalf of the deceased and his legal heirs were in fact awarded permanent partial disability benefits for his ailment of hypertension in the amount of P1,379.20, corresponding to said ailment which had given rise to his retirement on November 11, 1977.

IN VIEW OF ALL THE FOREGOING, the petition in this case is hereby DISMISSED for lack of merit. Without

pronounce-ment as to costs.

SO ORDERED.

Abad Santos, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, Cuevas, and Patajo, JJ., concur.

Aquino, C.J., Teehankee, and Concepcion, Jr., JJ., no part.

Melencio-Herrera, J., on leave.

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