

VENUSTO PANOTES, PETITIONER, VS. EMPLOYEES’ COMPENSATION COMMISSION, GOVERNMENT SERVICE INSURANCE SYSTEM (MINISTRY OF EDUCATION AND CULTURE), RESPONDENTS.

G.R. No. 64802. September 23, 1985

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

On March 29, 1984. WE rendered a decision in this case granting compensation benefits (pursuant to P.D. 626, as amended) to petitioner Venusto Panotes for the death of his wife, Agustina Garfin Panotes. The fatal disease, colonic malignancy or cancer of the colon, was considered by this Court as having been contracted due to or at least the risk of contracting the same had been increased by the working conditions to which the deceased had been subjected as a public school teacher, and accordingly, ordered respondent Government Service Insurance System:

- to pay petitioner the sum of P12,000.00 as death benefits;
- to reimburse the petitioner's medical and hospital expenses, duly supported by proper receipts;
- to pay the petitioner the sum of P1,200.00 as funeral expenses;
- and
- to pay the petitioner the sum of P1,200.00 as attorney's fees.

On May 2, 1984. respondent GSIS filed a motion for reconsideration based on the following grounds:

- reasonable work-connection is required by the law for all employees' compensation claims, the alleged fact of impossibility of proof notwithstanding;
- the legal requirement of work-connection should prevail upon the general liberality of the law;
- award of attorney's fees is not within the contemplation of the law and which this Court had previously reduced to 5% (p. 82, rec).

WE find the motion of respondent GSIS devoid of merit.

In this motion before US. respondent GSIS brings up the issue of the relation between the standard of reasonable work-connection established by this Court in compensation cases and the Court's statement in the case at bar that the cause of the fatal disease is unknown (*italics supplied*). Respondent's theory that, by granting petitioner's claim, the standard of reasonable work-connection for compensation cases was rendered meaningless because this Court's findings in the present case that the cause of the fatal disease — cancer of the colon — is still unknown, belies the finding that said fatal disease was caused by the nature of the work and or the risk of contracting the same was increased by the working conditions of the deceased. Respondent further submits the proposition that ""if the cause of the ailment is unknown, then it cannot also be said that the ailment is work-connected under the

increased risk doctrine" (p. 73. rec. italics supplied). "To declare as compensable all ailments whose causes are unknown would be to place the claimants with such types of ailments in a far better or superior position than those whose causes are known but cannot be proved as work-connected." respondent adds (p. 71, rec).

WE ruled in the case of *Cristobal vs. Employees' Compensation Commission* (F-49280. Feb. 26. 198 1. 103 SCRA 329. 335-336). thus:

"The deceased died of rectal cancer on May 27, 1977. Concededly, the exact cause or etiology of this disease is still unknown. Even respondent ECC's own medical officer, Dr. Mercia C. Abrenica, certified that 'the cause of rectal carcinoma as of any other malignancies is still unknown' (p. 9. ECC rec). Its cause and development are insidious, imperceptible to the naked eye, and defies expert analysis. Therefore, whether or not the disease rectal cancer was caused or the risk of contracting the same was increased by the decedent's working conditions remains uncertain. This uncertainty, of course, cannot eliminate the probability that the ailment was work-connected as it had been established that the deceased was exposed to unhygienic working conditions, various chemicals and intense heat which are generally considered as predisposing factors of cancer. At this point, there is need to reiterate that when the deceased started working in 1964, he was free from any kind of disease.

"In ruling on this claim, this Court also applied the theory of increased risk under Section 1 (b) Rule III of PD 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' (italics supplied).

aside from the possibility that the disease might have been contracted prior to the effectivity of the new Labor Code. To establish compensability of the claim 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 as a reasonable mind might accept as adequate to support a conclusion" (*Ang Tihav 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, x x x" (italics supplied).

Under the employees' compensation law, there are two categories of occupational illness or disease deemed compensation: a) those listed as occupational disease by the Commission, and b) any illness caused by the employment, subject to a showing by the employee that the risk of contracting the same is increased by the working conditions (*Jarillo vs. ECC*, 52058. February 25, 1982). In defining the increased risk doctrine, *Larson* states: "the distinctiveness of the employment risk can be contributed by the increased quantity of a risk that is qualitatively not peculiar to the employment" (*Larson's Workmen's Compensation Law*, Vol. 1. S 6.30. pp. 3-4 [1978]).

An occupational disease is thus discussed further as follows:

"An occupational disease generally providing compensation therefor, is a disease which is caused by, or especial!} incident to or the natural consequence of, the particular employment in which the workman is engaged, which results from exposure therein to hazards greater or different than those invoked in ordinary living, which generall} develops gradually over a considerable period of time in the employment, and which industry has not learned to fend against or eliminate.

x x x x x x x x

"In determining the cause of disability and whether the cause was an occupational disease within the

provisions of the statute, all factors must be taken into consideration: and whether a disease is compensable must be determined on the basis of the particular facts involved in each case and the peculiar characteristics of each employment. Thus, while an occupational disease is generally one which from common experience is recognized to be necessarily incidental to the usual and ordinary course of the employment, it has also been held that if the disease is one that results from employment it is an occupational disease, even though the risk of disease was not generally known. Accordingly, the disease need not be a natural and common result, rather than an unexpected one.

"While there is some authority to the effect that ordinary diseases of life are not compensable unless they follow as an incident of an occupational disease, a disease, to be compensable as occupational, is generally not required to be an extraordinary disease, and one to which the general public is not exposed and it is not essential that the disabling occupational disease should arise solely out of the occupation in which the employee is engaged, in order to make it compensable. Moreover, the fact that an employee's disease may be of a class or nature which members of the general public may acquire under ordinary and usual conditions and circumstances will not exclude it from the benefits of the act if the disease was in fact occasioned as a result of being subjected to the risks afforded by the unusual conditions of work in his employment" (99 CJS Workmen's Compensation, S 169. pp. 566-569 [1958]. *italics supplied*).

Respondent GSIS further alleges that the evidences presented tended to prove a mere case of aggravation and not reasonable work-connection, thus, the following allegations:

"In the case at bar, this Honorable Court went on to describe in detail the physical, mental and emotional pressures undergone by the deceased public school teacher who entered the service in perfect health, was not confined in the classroom but engaged in other school activities, was exposed to the elements, missed her meals because of workloads, etc. — all of which factors weakened her body resistance and made her susceptible to diseases.

"These conditions are invariably present in different types of employment. In fact, even among teachers, these conditions are unavoidably present but there has been no showing that many teachers have succumbed to cancer of the colon. Thus, we humbly ask for clarification as to whether aggravating conditions unconnected to the ailment contracted, are enough to establish reasonable work-connection, though the doctrine of aggravation, as stated by this Honorable Court, has already been removed under the present law (*Ibañez vs. ECC*, L-47008. March 8. 1978)" [p. 73, rec.].

Assuming *arguendo* that the evidences cited in the case at bar were mere aggravating conditions, this Court, in the case of *Acosta vs. ECC* (109 SCRA 210) had occasion to discuss the matter as follows:

"The GSIS itself was inclined to believe that the ailment of the deceased was aggravated by the nature of her work when it stated in the comment that 'it has no relation at all to the work of the deceased as a public school teacher except by way of aggravation.' If this is so, there would be no consistency in respondent denying the claim for compensation on the ground that the risk of contracting the disease was not increased by her working conditions. It is more in keeping with reason to hold that once a situation of aggravation arises, there exists a causal relation between her work and her ailment which caused her death, as shown, respondent GSIS has conceded the possibility of aggravation being present" (*italics supplied*).

It is apparent from respondent's arguments that what it seeks is a direct, actual proof of the causal connection between the fatal disease and the working conditions of the deceased. WE, however, rule in this case as WE did in the other cases that actual proof of causation is not necessary to justify compensability. The degree of proof required to establish proof of work-connection between ailment and the deceased's employment is only substantial evidence or reasonable work-connection (*Cristobal vs. ECC*. L-49280. February 26. 1981. 103 SCRA 329; *Neri vs. ECC*. 127 SCRA 672). Where cause of the employee's death is unknown", the right to compensation subsists (*Najera vs. ECC*, 122 SCRA 697). Proof of causal connection between claimant's disease of tumor and his

employment as a condition of compensability. the causes of which disease cannot be explained, would render nugatory the constitutional principles of social justice and protection to labor (Poral vs. ECC 131 SCRA 602: Merc ado, Jr. vs. ECC, 127 SCRA 664).

In the case of Cristobal vs. ECC (Ibid.) cited earlier, this Court ruled:

"x x x x x x x x

"x x x As the agents charged by the law to implement the social justice guarantee secured by both the 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 for 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. All these factual and legal grounds were considered in relation to each other constituting substantial evidence clearly convincing US to resolve that rectal cancer is compensable."

Let it be pointed out too that the deceased's ailment was one of those falling under the borderline cases and in connection therewith, this Court has ruled in the case of Sepulveda vs. ECC (84 SCR A 771) as cited in the case of San Valentin vs. ECC (118 SCRA 160). that:

"x x x (T)he respondent Commission, under Resolution No. 223. dated March 16, 1977, adopted, us a policy, the institution of a more compassionate interpretation of the restrictive provisions of P.D. 626. as amended fry its administering agencies, the SSS and the GSIS, with respect to, among others. Myocardial Infraction and oilier borderline cases. x x x" (italics supplied)

Thus, the following diseases were deemed compensable: rheumatic heart disease (Panangui vs. ECC. 121 SCRA 65), lung cancer (Dator vs. ECC. G.R. No. 57416. January 30. 1982), senile cataract (Jarillo vs. ECC. 52058. February 25, 1982), liver cancer (Ahadiano vs. GSIS. 52254. January 30. 1 982), pancreatitis (Villavert vs. ECC, 11 0 SCRA 274). rectal cancer (Cristobal vs. ECC. L-49280. Februan 26. 1981. 103 SCRA 29).

The very fact that the cause of a disease is unknown, creates the probability that the working conditions could have increased the risk of contracting the disease, if not caused by it, thus, the increased-risk doctrine was applied in the present case.

The situation obtaining in the case at bar generates doubts, which by principle and in keeping with the law. should be resolved in favor of labor. To warrant the arguments of respondent would render futile the provision of Article 4 of the New Labor Code, expressly providing that:

"All doubts in the implementation and interpretation of the provisions of this Code, its implementing rules and regulations, shall be resolved in favor of labor" (italics supplied).

The preceding law is a direct implementation of the constitutional mandate on social justice and protection to labor as embodied in Article II. Sections 6 and 9. herein quoted as follows:

"Sec. 6. The State shall promote social justice to ensure . . . the dignity, welfare, and security of all the people x x x."

"Sec. 9. The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration" (italics supplied).

Social justice in workmen's compensation cases is not equality but protection of the laborer as against the employer (*De los Santos vs. WCC*. 120 SCRA 730).

Respondent GSIS refuses to appreciate the evidence substantiating the claim of petitioner. It cited the evidences in the decision which allegedly are at most, aggravating conditions only. Respondent, however, failed to take these evidences in the light of other equally compelling factors. The deceased worked as an elementary school teacher from 1949 until she contracted the fatal disease in 1979. She was in perfect health when she entered the government service. She was not only teaching and confined within the protection of the classroom, but she was saddled as well with other outdoor activities. This Court takes judicial notice of the fact that public school teachers are made to take up the burden of attending to various activities, both for the school and the community, aside from and in addition to their duties as a teacher. This is a fact obvious and known to everyone familiar with our public school system and yet, ironically, we close our eyes to it.

Finally, with respect to the award of attorney's fees, respondent argues that the award is not proper or should have been reduced to only 5% of the compensation claim. The argument is devoid of merit. There is no prohibition against imposing attorney's fees on the employer, for the benefit of the counsel for the claimant (*Marte vs. ECC*. L-46362, January 30, 1982).

In *Cristobal vs. ECC* (*supra*), this Court has ruled that:

x x x x x x x x

"A close examination of the aforequoted provision reveals that the intent of the law is to free the award from any liability or charge so that the claimant may enjoy and use it to the fullest. It is the claimant who is exempt from liability for attorney's fees. The defaulting employer or government agency remains liable for attorney's fees; because it compelled the claimant to employ the services of counsel by unjustly refusing to recognize the validity of the claim of petitioner. This actually is the rationale behind the prohibition. Nothing is wrong with the court's award of attorney's fees which is separate and distinct from the other benefits awarded. Besides, in the instant case, the participation of petitioner's counsel was not limited to the preparation or filing of the claim but in appealing petitioner's case before this Court necessitating submission of pleadings to establish his cause of action and to rebut or refute the arguments of herein respondents. Fairness dictates that the counsel should receive compensation for his services; otherwise, it would be entirely difficult for claimants, majority of whom are not learned in the intricacies of the law, to get good legal service. To deny counsel compensation for his professional services, would amount to deprivation of property without due process of law" (*italics supplied*).

There is a clear difference, from the standpoint of legal policy, between attorney's fees to be paid by the laborer and fees awarded by the court to be paid by the employer. The plain intent of the statute is that the compensation to be received by the injured workman should not be reduced by more than 10% on account of lawyer's fees. This purpose is attained where the fees are to be paid by the employer, since the compensation receivable by the workman is then in no way diminished. In the latter eventuality, all that the law requires is that the counsel's fees should be reasonable (*NDC vs. WCC*. L-19863. April 29, 1964. 10 SCRA 696). Thus, the award of 10% attorney's fees is proper. There is no prohibition in the law as to such an award nor as to the proper amount that should be awarded. The amount is actually discretionary upon the Court so long as it passes the test of reasonableness.

WHEREFORE. THE DIVISION DATED MARCH 29, 1984 IS HEREBY AFFIRMED. THE MOTION FOR RECONSIDERATION IS HEREBY DENIED FOR LACK OF MERIT. AND THIS DENIAL IS FINAL AND EXECUTORY. LET ENTRY OF JUDGMENT BE MADE.

SO ORDERED.

Conception Jr., Plana, Escolin, De la Fuente, Cuevas, Alampay, and Patajo, .JJ., concur.

Melencio-Herrera and Relova. JJ., concur with Justice Gutierrez in his dissent.

Gutierrez Jr., J.,. dissents.

Teehankee, Aquino, and Abad Santos JJ., took no part.

DISSENTING OPINION**GUTIERREZ, JR., J.:**

I vote to grant the motion for reconsideration filed by the respondent GSIS. The risk of contracting cancer of the colon is common to all mankind. Whether a person is employed or not makes no difference. The risk remains the same. There is nothing in the records of this case which indicates in the least bit how the employment of the petitioner's wife could have contributed to the risk of contracting colonic malignancy. As I have stated in earlier cases, employees' compensation benefits are not life insurance benefits. Death by itself does not automatically entitle the heirs to employees' compensation. This Court is enacting its own employment compensation law, contrary to the existing law passed by the proper law-making authority, when it rules that any and all causes of death or disability are valid grounds for the payment of employees' compensation benefits.

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