

JOSE B. SARMIENTO, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION & GOVERNMENT SERVICE INSURANCE SYSTEM (NATIONAL POWER CORPORATION), RESPONDENTS.

G.R. No. 65680. May 11, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for review of the decision rendered by the Employees' Compensation Commission in ECC Case No. 2134 on August 25, 1983 which affirmed the decision of the Government Service Insurance System (GSIS) denying the petitioner's claim for death benefits as surviving spouse of the late Flordeliza Sarmiento.

The findings of the respondent Commission are as follows:

"The record shows that the late Flordeliza Sarmiento was employed by the National Power Corporation in Quezon City as accounting clerk in May 1974. At the time of her death on August 12, 1981 she was manager of the budget division. History of the deceased's illness showed that symptoms manifested as early as April 1980 as a small wound over the external auditory canal and mass over the mastoid region. Biopsy of the mass revealed cancer known as "differentiated squamous cell carcinoma." The employee sought treatment in various hospitals, namely, Veterans Memorial Hospital, United Doctors Medical Hospital and Makati Medical Center. In March 1981, a soft tissue mass emerged on her left upper cheek as a result of which her lips became deformed and she was unable to close her left eye. She continued treatment and her last treatment at the Capitol Medical Center on July 12, 1981 was due to her difficulty of swallowing food and her general debility. On August 12, 1981, she succumbed to cardiorespiratory arrest due to parotid carcinoma. She was 40 years old.

"Believing that the deceased's fatal illness having been contracted by her during employment was service-connected, appellant herein filed a claim for death benefits under Presidential Decree No. 626, as amended. On September 9, 1982, the GSIS, through its Medical Services Center, denied the claim. It was pointed out that parotid carcinoma is a 'Malignant tumor of the parotid gland (salivary gland)' and that its development was not caused by employment and employment conditions. Dissatisfied with the respondent System's decision of denial, claimant wrote a letter dated October 8, 1982 to the GSIS requesting that the records of the claim be elevated to the Employees' Compensation Commission for review pursuant to the law and the Amended Rules on Employees' Compensation." (At pp. 17-18, Rollo)

On August 25, 1983, the respondent Commission affirmed the GSIS' decision. It found that the deceased's death caused by parotid carcinoma is not compensable because she did not contract nor suffer from the same by reason of her work but by reason of embryonic rests and epithelial growth.

It may be noted that the petitioner was earlier paid GSIS benefits in the amount of P142,285.03 but the claim for employee's compensation was disallowed.

Hence, the instant petition.

The petitioner, while principally stressing the compensability of the deceased's ailment, attacks the constitutionality of Presidential Decree No. 626, as amended, the law on employees' compensation which superseded the Labor Code and the provisions of the Workmen's Compensation Act. He alleges that the said law infringes upon the guarantees of promotion of social justice, substantive due process, and equal protection of laws, and also permits unjust discrimination and amounts to class legislation in its enforcement. He prays for the application of the Old Workmen's Compensation Act which provided for a presumption of compensability whenever an ailment supervened during the course of the employment.

We dismiss the petition.

We cannot give serious consideration to the petitioner's attack against the constitutionality of the new law on employee's compensation. It must be noted that the petitioner filed his claim under the provisions of this same law. It was only when his claim was rejected that he now questions the constitutionality of this law on appeal by certiorari.

The Court has recognized the validity of the present law and has granted and rejected claims according to its provisions. We find in it no infringement of the worker's constitutional rights. It is now settled jurisprudence (see *Sulit v. Employees' Compensation Commission*, 98 SCRA 483; *Armena v. Employees' Compensation Commission*, 122 SCRA 851; *Erese v. Employees' Compensation Commission*, 138 SCRA 192; *De Jesus v. Employees' Compensation Commission*, 142 SCRA 92) that the new law discarded the concepts of "presumption of compensability" and "aggravation" to restore what the law believes is a sensible equilibrium between the employer's obligation to pay workmen's compensation and the employees' rights to receive reparation for work-connected death or disability.

In the case of *De Jesus v. Employees' Compensation*, (supra), this Court explained the new scheme of employees' compensation as follows:

"The new law establishes a state insurance fund built up by the contributions of employers based on the salaries of their employees. The injured worker does not have to litigate his right to compensation. No employer opposes his claim. There is no notice of injury nor requirement of controversion. The sick worker simply files a claim with a new neutral Employees' Compensation Commission which then determines on the basis of the employee's supporting papers and medical evidence whether or not compensation may be paid. The payment of benefits is more prompt. The cost of administration is low. The amount of death benefits has also been doubled.

"On the other hand, the employer's duty is only to pay the regular monthly premiums to the scheme. It does not look for insurance companies to meet sudden demands for compensation payments or set up its own funds to meet these contingencies. It does not have to defend itself from spuriously documented or long past claims.

"The new law applies the social security principle in the handling of workmen's compensation. The Commission administers and settles claims from a fund under its exclusive control. The employer does not intervene in the compensation process and it has no control, as in the past, over payment of benefits. The open ended Table of Occupational Diseases requires no proof of causation. A covered claimant suffering from an occupational disease is automatically paid benefits.

"Since there is no employer opposing or lighting a claim for compensation, the rules on presumption of compensability and controversion cease to have importance. The lopsided situation of an employer versus one employee, which called for equalization through the various rules and concepts favoring the claimant, is now absent." (At pp. 99-100)

The petitioner's challenge is really against the desirability of the new law. There is no serious attempt to assail it on constitutional grounds.

The wisdom of the present scheme of workmen's compensation is a matter that should be addressed to the President and Congress, not to this Court. Whether or not the former workmen's compensation program with its presumptions, controversions, adversarial procedures, and levels of payment is preferable to the present scheme must be decided by the political departments. The present law was enacted in the belief that it better complies with the mandate on social justice and is more advantageous to the greater number of working men and women. Until Congress and the President decide to improve or amend the law, our duty is to apply it.

Under the present law, a compensable illness means any illness accepted as an occupational disease and 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 (*Bonifacio v. Government Service Insurance System*, 146 SCRA 276).

Applying the law to the present case, parotid carcinoma or cancer of the salivary glands is not an occupational disease considering the deceased's employment as accounting clerk and later as manager of the budget division. The petitioner must, therefore, prove that his wife's ailment was caused by her employment or that her working conditions increased the risk of her contracting the fatal illness.

The petitioner alleges that as budget manager, the deceased visited regional and field operations and was, naturally, exposed to the elements. According to the petitioner, the deceased's field trips necessitated her to take frequent plane travels which caused deafening and numb sensations in her ears. This, he says, caused her "differentiated carcinoma" which, according to the certificate of Dr. Ariston Bautista, "apparently started on external auditory canal."

We find these allegations as mere conjectures. As with other kinds of cancer, the cause and nature of parotid carcinoma is still not known. A medical authority, however, declares that:

"SALIVARY GLANDS —

"Painless swelling of the parotid glands is often noted in hepatic cirrhosis, in sarcoidis, in mumps, following abdominal surgery, or associated with neoplasm or infections. The common factors may be dehydration and inattention to oral hygiene. The latter promotes the growth of large numbers of bacteria which, in the absence of sufficient salivary flow, ascend from the mouth into the duct of a gland. Another cause of a painful salivary gland is sialolithiasis (salivary duct stone). The submandibular glands are most commonly affected. Pain and swelling associated with eating are characteristic. Saliva promotes retention of artificial dentures because of its mucin content. Thus, conditions characterized by diminished saliva flow often adversely affect the ease with which dentures may be worn. Calcium phosphate stones tend to form because of a high pH and viscosity of the submandibular gland saliva which has a high mucin content. Stones are removed by manipulation or excision.

"Autoimmune sialosis is the Mikulicz — Sjogren Syndrome, a unilateral or bilateral enlargement of the parotid and/or submandibular gland, and often the lacrimal glands. Occasionally painful, it is associated with xerostomia (dry mouth) due to impaired saliva formation that is most common in older women." (Berjow, et al. *The Merck Manual*, 14th Edition, pp. 2095-2096).

Another author states the following regarding squamous cell carcinoma:

"Moreover, when the salivary gland is almost totally destroyed and replaced by epidermoid cancer it may be difficult or even impossible to ascribe the origin (if the growth is to salivary gland tissue. Indeed many squamous cell carcinomas, especially of the parotid, may be metastatic lesions that develop in lymph nodes included

within the parotid. And it is important to stress that the juxta- and intraparotid lymph nodes are not merely accumulations of lymphoid tissue but nodes with efferent and afferent lymphatics.

"Squamous cell carcinomas of the major salivary glands are generally fixed to the skin and underlying tissues and, in the case of the parotid, are often the cause of facial palsy.

"Epidermoid cancers grow swiftly and the clinical course is usually rapid. A few tumours, however, have been present for as long as two years before the patient seeks advice. Some patients remain alive and asymptomatic after radical surgery, but ordinarily the lesions are highly malignant, infiltrating locally and metastasizing to the regional nodes. Distant metastasis is seldom a prominent clinical feature. In the case of the submandibular gland the tumor may simulate osteomyelitis of the mandible or an abscess in the gland itself, and if such lesions are incised a chronic sinus is liable to persist until radical treatment is undertaken." (Evans and Cruickshank. Epithelial Tumours of the Salivary Glands. Vol. 1. p. 254)

Given the preceding medical evaluations, we affirm the findings of the public respondents which found no proof that the deceased's working conditions have indeed caused or increased the risk of her contracting her illness.

WHEREFORE, the petition is DISMISSED. The decisions of the Government Service Insurance System and the Employees' Compensation Commission denying the claim are AFFIRMED.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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