

ANGELES BRAVO, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. 66174. July 22, 1986

Ponente: FERNAN, J.

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FERNAN, J.:

The issue in this petition for review on certiorari is whether cancer of the colon and peri-appendicitis which caused the death of a former litho-photo engraving supervisor are compensable diseases under the Labor Code.

On May 13, 1959, Evelio Bravo was employed at the Bureau of Coast and Geodetic Survey as a cartographer I. From that position, he was promoted to cartographer II, senior cartographer, litho-photo engraving supervisor, supervising cartographer, senior cartographer engineer until he became a supervising cartographer engineer.

As a litho-photo engraving supervisor, he was involved in drafting and plate printing, developing and processing either dry or wet negatives, and supervising the formulation of light-sensitive lithographic chemicals from reagent of nitric, phosphoric, oleic acids, potassium ferricyanide, ammonium hydroxide and ammonium dichromate in the lithographic laboratory.

Sometime, in November, 1979, Bravo complained of irregular bowel movement, constipation and abdominal pain. A few months later he began losing weight and appetite.

On April 20, 1980, Bravo was admitted to the St. Luke's Hospital. His ailment was diagnosed as "adenocarcinoma sigmoid (colon) Duke's C and chronic peri-appendicitis". He went through a series of operations and incurred hospitalization expenses amounting to P8,650.05.

After his discharge from the hospital on May 21, 1980, Bravo did not return to work. On June 1, 1980, and at the age of forty-eight, he retired under the provisions of Republic Act No. 1616. He received P37,002.31 from the Government Service Insurance System (GSIS) under retirement gratuity No. 72495.

On August 11, 1980, Bravo filed in the GSIS a claim for disability benefits under Presidential Decree No. 626, as amended. That claim was denied.

According to the GSIS, adenocarcinoma of the sigmoid and peri-appendicitis are not occupational diseases in Bravo's particular employment. His working conditions did not increase the risk of contracting them.

Bravo sought reconsideration of the denial of his claim alleging that his work as litho-photo engraving supervisor exposed him to chemicals. That motion for re-consideration was denied on the ground that his exposure to photographic solutions as litho-photo engraving supervisor had no causal relationship to the development of his adenocarcinoma considering that said ailment is traceable to "familial multiple polyposis, chronic ulcerative colitis, chronic lympho-granuloma venereum, chronic granuloma inguinale and perhaps adenoma". (According to Doctor Carmen C. Valero, Chief of this Court's Medical Services, these are pathological conditions definitely

associated with cancer and they are, generally, lesions, polyps and granu- lomatous inflammatory reactions.))[1]

Bravo appealed to the Employees' Compensation Commission. On August 20, 1981, he died. His widow, Angeles, pursued his appeal.

In affirming the decision of the GSIS, the Commission held that Bravo's ailments were "too remote to be related causally to his work and working conditions" at the Bureau of Coast and Geodetic Survey. According to the Commission, Bravo's contention that cancer of the colon could be traced to exposure to photographic solutions was merely a supposition and devoid of medical support because said ailment is associated with multiple polyposis and chronic inflammatory diseases of the colon. The Com-mission added that peri-appendicitis could not have been due to working conditions in the Bureau of Coast and Geodetic Survey as the exact cause of the inflammation of the appendix and its surrounding tissue is largely unknown.

Angeles filed the instant petition for certiorari. She argues that while the causes of colonic malignancy are as yet undetermined, there is a "probability" that the fatal ailment of Bravo was work-connected as shown by the fact that he was exposed to various chemicals which are generally considered predisposing factors of cancer. She cites two decisions of the Commission which considered as compensable deaths caused by cancer of the colon. Angeles believes that said decisions clearly imply that the law merely requires reasonable work-connection because of the liberal interpretation accorded to social legislation.

In her memorandum, Angeles contends that under the theory of increased risk, Bravo's cancer of the colon is a compensable disease because his exposure to chemicals and the "stressful demand" of his work increased the risk of contracting said ailment.

She also calls the attention of this Court to Re-solutions Nos. 2610 and 2677, respectively issued by the Commission on January 19, 1984 and March 30, 1984.[2]

Resolution No. 2610 approves the recommendation of the Commission's Technical Committee on Medical Matters that appealed compensation cases "whose subject contin-gencies concern cancer diseases shall be held compensable, in line with pertinent Supreme Court Decisions, provided that such diseases shall be duly confirmed by formal re-ports on biopsies, or opinions of cancer specialists". That resolution shall be applied prospectively.

Resolution No. 2677 amends Resolution No. 2610 by adding to the pertinent paragraph thereof the phrase "provided that certain predisposing factors that are me-dically recognized or proven are present".

Resolution No. 2677 also approves the modified guide-lines on cancer of the breast, liver, stomach (gastric), lungs and nasopharynx. As regards "other types of cancer diseases", the guideline states: " An employee's prolonged exposure to chemicals may predispose him or her to contract and develop other types of cancer diseases". For cancer cases decided by the Supreme Court, the guidelines states: "A claim must be resolved in favor of a claimant or appellant if facts of his or her case on record indicate reasonable work-connection of the disease; the disease belongs to borderline or 'twilight' cases; and if the cause of the cancer disease is unknown".

The Solicitor General argues that said resolutions are no more than proofs that the Commission is continuously involved in its task "to initiate, rationalize, and coor-dinate policies of the employees' compensation program". They do not imply that the law merely requires reasonable work-connection because that requirement which was mandated in the repealed Workmen's Compensation Act is different from the present requirement of clear medical basis "where before a mere aggravation or presumption of compensability was sufficient."

Article 167, paragraph (1) of the Labor Code and Rule III, Section 1(b) of the Amended Rules on Employees' Compensation provide that for a sick-ness and the resulting disability or death to be compensable, the said

sickness must be an occupational disease listed under Annex "A" of said Rules, otherwise, the claimant or employee concerned must prove that the risk of contracting the disease is increased by the working condition.

As both cancer of the colon and peri-appendicitis are not listed as occupational diseases for Bravo's kind of employment, petitioner's claim may only be based on the increased risk doctrine.

A claimant who depends on the theory of increased risk must present substantial proof to show that his ailment was contracted during his employment (*Erese vs. Employees' Compensation Commission*, L-45662, August 20, 1985, 138 SCRA 192). He or she must also submit proof that the risk of contracting the ailment was increased by the particular working conditions. Unfortunately, petitioner failed to submit convincing proofs to entitle her to compensation benefits.

Petitioner's arguments are anchored on the ruling of this Court in *Panotes vs. Employees' Compensation Commission*, G.R. No. 64802, March 29, 1984 and September 23, 1985, 138 SCRA 595, that 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.

Unlike in that case and in the *Cristobal* case (G. R. No. 49280, April 30, 1980, 97 SCRA 473 and February 26, 1981, 103 SCRA 329) wherein both claimants presented proofs of the conditions of their employment, in the instant case, all that the petitioner did was to enumerate the chemicals to which Bravo was allegedly exposed as a litho-photo engraving supervisor and rely on the "probability" that those chemicals caused his cancer of the colon.

Strict rules of evidence are not applied in compensation cases (*San Valentin vs. Employees Compensation Commission*, G. R. No. 56909, November 2, 1982, 118 SCRA 160). However, the present scheme and theory of employees' compensation under the Labor Code requires a clear medical basis for a claim for benefits to succeed. There are no more presumptions as to what caused a particular illness because the determination of compensability are medically and scientifically oriented.

We cannot substitute our judgment for the findings of the medical experts of the Commission that it is far-fetched to conclude that Bravo's work and the conditions under which he worked caused the development of his ailments, in the absence of substantial proofs to buttress petitioner's claim for compensation. All that we have in our record is proof that Bravo died of cancer of the colon and peri-appendicitis and petitioner's allegation that as litho-photo engraving supervisor, Bravo was exposed to chemicals.

Neither can Resolutions Nos. 2610 and 2677 bolster Bravo's claim. They are to be prospectively applied. But even if we do apply them to his case, still he failed to submit the formal requirements which are imposed by said resolutions.

We are aware of the mandate that social legislation should be applied in consonance with the principles of social justice and protection to labor. However, we cannot adopt a sweeping interpretation of the law in favor of labor lest we engage in judicial legislation.

WHEREFORE, the decision of the Employees' Compensation Commission is hereby affirmed.

SO ORDERED.

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

[1] Rollo, p. 60.

[2] Rollo, pp. 36 and 37.

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