

**DIONISIA C. SANTE, IN REPRESENTATION OF HER DECEASED
HUSBAND SEVERINO T. SANTE, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION, RESPONDENT.**

G.R. No. 84415. June 29, 1989

Ponente: FELICIANO, J.

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FELICIANO, J.:

Severino T. Sante, husband of petitioner Dionisia C. Sante, was, before his death on 23 February 1984, a driver of the then Ministry of Public Works and Highways, stationed in San Fernando, La Union. Severino Sante started his government service as a mechanic/helper in July 1962.

Sometime in 1979, Severino Sante experienced the physical weakening of his right hand, which condition gradually progressed to include his right upper arm. Two years later, he experienced difficulty in breathing and speaking, and also dysphagia or difficulty in swallowing. This condition compelled him to seek medical attention at the Baguio General Hospital where he was confined from 6 to 14 May 1981 and from 17 to 25 June 1981. Dr. Servando Liban, attending physician of Severino T. Sante at the said hospital, diagnosed the latter's illness as amyotrophic lateral sclerosis.[1]

Severino Sante's condition continued to deteriorate. He was then forced to retire from his employment on 1 October 1981. He thereafter filed a claim for disability benefits under the Labor Code as amended by P.D. No. 626. The Government Service Insurance System ("GSIS") however denied his claim upon the ground that his illness was not among those listed under the Regulations of the Workmen's Compensation Commission as an occupational disease, and that he had failed to present evidence showing that the conditions under which he worked as a driver of the Ministry of Public Works and Highways had increased the risk of his contracting that ailment. Upon appeal by Severino Sante, the Employees' Compensation Commission ("ECC") affirmed the decision of the GSIS. In an order dated 6 November 1985, the ECC held that the GSIS had correctly ruled that Severino Sante's illness, amyotrophic lateral sclerosis, was not an occupational disease in respect of his particular job as a driver. The ECC went on to say that since the illness was not listed as an occupational disease, claimant Severino Sante must show proof that the risk of contracting that illness had been increased by his working conditions. The ECC noted that the claimant had not submitted any such proof. Accordingly, the ECC remanded the records of the case back to the GSIS for reception of additional evidence from claimant Sante and thereafter for re-evaluation by GSIS and determination, Whether the illness of Sante was a compensable one under the theory of aggravation of risk.

Meantime, however, Severino died on 23 February 1984. petitioner Dionisia Sante picked up and continued to prosecute Severino's claim. On 15 February 1988, petitioner Dionisia Sante wrote to the GSIS requesting the latter to reconsider its stand on the basis of the Supreme Court decision in *Mercado, Jr. vs. Employees' Compensation Commission*,[2] which held according to petitioner, that when the cause of the disease is unknown, there is no duty to prove the causal link between the deceased's working conditions and the ailment. GSIS, in a

letter dated 24 March 1988, advised petitioner that her request could not be acted upon in view of her failure to present factual and medical evidence to show a link between the disease and the decedent's working conditions. On 12 April 1988, petitioner wrote to the ECC again requesting re-evaluation of her earlier claim and once more invoking *Mercado, Jr. vs. Employees' Compensation Commission*. The ECC referred petitioner's letter to the GSIS. Petitioner, however, instead of presenting additional evidence before the GSIS, filed the present Petition for Certiorari.

The sole issue presented by this case is whether or not petitioner has a duty to establish facts and circumstances showing that her late husband's illness had been caused or aggravated by the conditions under which he had worked as a driver of the Ministry of Public Works and Highways, even though the cause of his disease was still unknown.

Petitioner stresses that the cause of amyotrophic lateral sclerosis is not known to medical science and quotes the following material:

"Amyotrophic Lateral Sclerosis implies muscle wasting combined with signs of damage to the cortico-spinal tracts in the lateral columns of the spinal cord. It is common for wasting of the arms to be followed by spasticity of the legs, but rarely the latter may be present feature (sic). There is no sensory loss, which is a point of distinction from many other causes of progressive spastic paraparesis x x x.

xxx The speed of deterioration varies greatly but few patients live more than three years from the first symptom, bulbar paralysis being obviously the most dangerous as it immediately threatens life. No cause has been found or reasonably conjectured xxx. (Matthews and Miller *Diseases of the Nervous System*, Oxford: Blackwell Scientific Publications, 1975, p. 286.

xxx The disease runs a slow course, but makes steady progress. It lasts an average of 3-4 years and ends lethally.

The cause of the disease is unknown; there are some indications that it is of infectious nature." (Mozorov and RomaSanko, *Neuropathology and Psychiatry*, Moscow: Peace Publishers, p. 95.)

Petitioner, however, invokes the decision of this Court in *Mercado, Jr. vs. Employees' Compensation Commission*:

"x x x The point is that it is grossly inequitable to require as a condition for an award of compensation that the claimant demonstrate that his ailment — the cause or origin of which is unknown to and undetermined even by medical science — was, in fact caused or the risk of contracting the same enhanced by his working conditions. Plainly, the condition would be an impossible one, especially considering that said claimant is most probably not even conversant with the intricacies of medical science and the claimant invariably bereft of the material resources to employ medical experts to demonstrate the connection between the cause and the disease. Considering the liberal character of the employment compensation schemes the impossible condition should be deemed as not having been imposed." (139 SCRA, pp. 275-276.)

Petitioner also relies upon the case of *Flaviano Nemaria v. Employees' Compensation Commission* and

Government Service Insurance System,[3] where this Court stated:

"Thus the requirement that the disease was caused or aggravated by the employment or work applies only to an illness where the cause can be determined or proved. Where the cause is unknown or cannot be ascertained, no duty to prove the link exists. For certainly, the law does not demand an impossibility."

We must note at once that Mercado, Jr. and Nemaria, to the extent they dispense with proof of work-connection as a requirement for payment of compensation, have been reversed and set aside by this Court in the recent case of *Raro v. Employees' Compensation Commission*.^[4] The claimant in *Raro* was a clerk in the Bureau of Mines and Geosciences. She had been diagnosed as suffering from a brain tumor which impaired her memory, sense of time, vision and reasoning power. Her claim for compensation was denied by the GSIS, a denial which was affirmed by the ECC. Petitioner there argued that, on the basis of the same doctrine embodied in Mercado, Jr. and Nemaria, since medical science had not yet positively identified the causes of various types of cancer, there was no obligation on the part of the claimant for disability benefits to prove that the risk of contracting those types of cancer had been aggravated by the conditions of employment of petitioner. The Supreme Court in *Raro* ruled that:

"The law, as it now stands requires the claimant to prove a positive thing — that the illness was caused by employment and the risk of contracting the disease is increased by the working condition. To say that since the proof is not available, therefore, the trust fund has the obligation to pay is contrary to the legal requirement that proof must be adduced. The existence of proof cannot be presumed.

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To understand why the 'presumption of compensability' together with the host of decisions interpreting the 'arising out of and in the course of employment' provision of the defunct law has been stricken from the present law, one has to go into the distinctions between the old workmen's compensation law and the present scheme.

On January 1, 1975, the Workmen's Compensation Act was replaced by a novel scheme under the new Labor Code. The new law discarded, among others, the concepts of 'presumption of compensability' and 'aggravation' and substituted a system based on security principles. The present system is also administered by social insurance agencies — the Government Service Insurance System and Social Security System — under the Employees' Compensation Commission. The intent was to restore a sensible equilibrium between the employer's obligation to pay workmen's compensation and the employee's right to receive separation for work-connected death or disability. (*Sulit v. Employees' Compensation Commission*, 98 SCRA 483 [1980]; *Armena v. Employees' Compensation Commission*, 122 SCRA 851 [1983]; *Erese v. Employees' Compensation Commission*, 138 SCRA 192 [1985]; *De Jesus v. Employees' Compensation Commission*, 142 SCRA 92 [1986]; *Sarmiento v. Employees' Compensation Commission, et al.*, G.R. No. 65680, May 11, 1988).

Instead of an adversarial contest by the worker or his family against the employer, we now have a social insurance scheme where regular premiums are paid by employers to a trust fund and claims are paid from the trust fund to those who can prove entitlement.

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The non-adversarial nature of employees compensation proceedings is crucial to an understanding of the present scheme. There is a widespread misconception that the poor employee is still arrayed against the might and power of his rich corporate employer. Hence, he must be given all kinds of favorable presumptions. This is fallacious. It is now the trust fund and not the employer which suffers if benefits are paid to claimants who are not entitled under the law. The employer joins its employees in trying to have their claims approved. The employer is spared the problem of proving a negative proposition that the disease was not caused by employment. It is a government institution which protects the stability and integrity of the State Insurance Fund against the payment of non-compensable claims. The employee, this time assisted by his employer, is required to prove a positive proposition, that the risk of contracting the disease is increased by the working conditions.

The social insurance aspect of the present law is the other important feature which distinguishes it from the old and familiar system.

Employees' compensation is based on social security principles. All covered employers throughout the country are required by law to contribute fixed and regular premiums or contributions to a trust fund for their employees. Benefits are paid from this trust fund. At the time the amount of contributions was being fixed, actuarial studies were undertaken. The actuarially determined number of workers who would probably file claims within any given year is important in insuring the stability of the trust fund and making certain that the system can pay benefits when due to all who are entitled and in the increased amounts fixed by law.

We have no actuarial expertise in the Court. If diseases not intended by the law to be compensated are inadvertently or recklessly included, the integrity of the State Insurance Fund is endangered. Compassion for the victims of diseases not covered by the law ignores the need to show a greater concern for the trust fund to which the tens of millions of workers and their families look for compensation whenever covered accidents, diseases, and deaths occur. As earlier stated, if increased contributions or premiums must be paid in order to give benefits to those who are now excluded, it is Congress which should amend the law after proper actuarial studies. This Court cannot engage in judicial legislation on such a complex subject with such far reaching implications.

We trust that the public respondent and the Social Security System are continually evaluating the actuarial soundness of the trust funds they administer: In this way, more types of cancers and other excluded diseases may be included in the list of covered occupational diseases. Or legislation may be recommended to Congress either increasing the contribution rates of employers, increasing benefit payments, or making it easier to prove entitlement. We regret that these are beyond the powers of this Court to accomplish.

For the guidance of the administrative agencies and practicing lawyers concerned, this decision expressly supersedes the decisions in *Panotes v. Employees' Compensation Commission* (128 SCRA 473 [1984]); *Mercado v. Employees' Compensation Commission* (111 SCRA 664 [1984]); *Ovenson v. Employees' Compensation Commission* (156 SCRA 21 [1987]); *Nemaria v. Employees' Compensation Commission* (155 SCRA 166 [1987]) and other cases with conclusions different from those stated above." (Italics supplied)

Since amyotrophic lateral sclerosis is not included in the list of occupational diseases which forms part of the present Amended Rules of the ECC, and because petitioner did not present to the GSIS additional evidence showing that the deceased Severino Sante's working conditions as a driver at the Ministry of Public Works and Highways had aggravated the risk of contracting that illness, we must regretfully deny petitioner's claim. We agree, however, with the Solicitor General that petitioner should be given another opportunity to present whatever evidence she may have to show work-connection or work-aggravation.

It will be seen that while *Raro* held that under the law as it stands today, the claimant must prove a positive thing — that is that the illness was caused by the conditions of employment or that the risk of contracting such ailment was increased by such working conditions, the court in *Raro* did not require that work-causation or work-connection be proved by direct evidence. We believe that what the court in *Raro* required is that a claimant must submit such proof as would constitute a reasonable basis for concluding either that the conditions of employment of the claimant caused the ailment or that such working conditions had aggravated the risk of contracting that ailment. What kind and quantum of evidence would constitute an adequate basis for a reasonable man (not necessarily a medical scientist) to reach one or the other conclusion, can obviously be determined only on a case-to-case basis. That evidence must, however, be real and substantial, and not merely apparent; for the duty to prove work-causation or work-aggravation imposed by existing law is real (and this is the thrust of *Raro*) not merely apparent.

WHEREFORE, the Petition for Review is DENIED and the Order of the Employees' Compensation Commission dated 6 November 1985 is hereby AFFIRMED. This decision is without prejudice to the right of petitioner to present additional evidence to prove the work-connected character of the illness of her late husband. No pronouncement as to costs.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 12.

[2] 139 SCRA 270 (1985).

[3] 155 SCRA 166 (1987).

[4] G.R. No. 58445, promulgated on 27 April 1989.

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