

**ANDRES MALIMATA, SUBSTITUTED BY MRS. CORAZON MALIMATA,
PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION
AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.**

G.R. No. 91777, February 19, 1991

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

Petitioner seeks a review of the decision dated October 4, 1989 of the Employees Compensation Commission (ECC) in ECC Case No. 4083, denying her husband's (Andres Malimata) claim for additional disability benefits and her own claim for death benefits upon his demise during the pendency of the case.

Andres Malimata was a Court Aide III of the Supreme Court when he retired from the government service on April 1, 1985 at the age of 59 after having served the Government for 38 years.

Malimata's illness started in January, 1985. He complained of difficulty of breathing associated with chest pain, cough and easy fatigability. Dr. A. Reyes Jr. of the Manila Medical Center, after a proper work-up of the case, diagnosed his illness as Hypertensive Arteriosclerotic Heart Disease. Because of his ailment, Malimata's retirement from the service four months later, for permanent total disability, was approved by the Supreme Court.

A claim for compensation benefits under PD 626, as amended, was subsequently filed by Malimata with the GSIS. It was ruled as service-connected and compensable by the System. However, he was awarded Permanent Partial Disability (PPD) benefits for nineteen (19) months only, or for the period from April, 1985 to October, 1986.

On December 10, 1986, Malimata asked the System for additional benefits on the ground that since the Supreme Court approved his retirement for Permanent Total Disability because of his ailment, there was no reason for the System to stop his monthly pension. The GSIS, however, informed him that no additional benefits could be paid to him after October, 1986 because his ailment - hypertensive arteriosclerotic heart disease - was evaluated as a permanent partial disability payable for nineteen (19) months only.

On October 23, 1987, Malimata again requested for additional benefits due to Rheumatoid Arthritis which he allegedly contracted before and after his retirement. Appellant's plea for reconsideration was not acted upon favorably by the GSIS for the reason that this alleged ailment (rheumatoid arthritis) was not work-connected. Neither was it shown that the nature of his work as a laborer of the court increased the risk of contracting it.

On June 5, 1988, while the case was pending appeal in the ECC, Malimata died, leaving his widow to pursue his case and claim death benefits for his demise.

On October 4, 1989, the ECC affirmed the decision of the GSIS and dismissed the appeal for lack of merit.

On March 6, 1990, petitioner filed a petition for review on certiorari in this Court.

On behalf of the ECC, the Solicitor General filed a Comment which the Government Corporate Counsel adopted

for the GSIS also.

The only issue in this case is whether or not Andres Malimata was entitled to compensation for Permanent Total Disability so that he should have continued to receive disability benefits after October, 1986 until he died on June 5, 1988 (a period of 20 months).

The GSIS and the ECC appear to have glossed over the fact that the Supreme Court had approved Malimata's retirement from the service on the ground of permanent total disability. That notwithstanding, the GSIS granted him permanent partial disability benefits only.

Permanent total disability is lack of ability to follow continuously some substantial gainful occupation without serious discomfort or pain and without material injury to health or danger to life (*Medina vs. Employees' Compensation Commission*, 128 SCRA 349). Malimata's disability was permanent and total because his illness which was diagnosed as Hypertensive Arteriosclerotic Heart Disease with angina and lung congestion (Annex B), rendered him incapable of working as a laborer without suffering chest pains, coughing and fatigue, and endangering his life, as in fact the same ailment eventually caused his death.

In view of our finding that Malimata was entitled to permanent total disability benefits from the date of his retirement until his death (Sec. 2, Rule XI, Amended Rules on Employees' Compensation), it is no longer necessary to determine his entitlement to additional benefits due to rheumatoid arthritis which he allegedly suffered before and after his retirement.

With respect to petitioner's claim for death benefits, the applicable provision of law is Section 3, Rule XIII of the Amended Rules on Employees' Compensation which provides:

SEC. 3. Amount of benefit. (a) In the case of primary beneficiaries, the monthly income benefit shall be equivalent to the monthly income benefit for permanent total disability, which shall be guaranteed for five years, increased by ten percent for each dependent child but not exceeding 5, beginning with the youngest and without substitution: Provided that, the aggregate monthly benefit payable in the case of the GSIS shall in no case exceed the monthly wage or salary actually received by the employee at the time of his death; and provided further, that the minimum income benefit shall not be less than fifteen thousand pesos (P15,000.00). The death benefit shall be paid during the entire period for which they are entitled thereto.

"If the employee has been receiving income benefits for permanent total disability at the time of his death, the primary beneficiaries shall be paid the monthly income benefit equivalent to eighty percent plus the dependent's pension equivalent to 10 percent thereof for every dependent child but not exceeding five counted from the youngest and without substitution.

"(b) In the case of secondary beneficiaries, the income benefit is payable in monthly pension which shall not exceed the period of 60 months and the aggregate income benefit shall not be less than P15,000.00.

"If the employee has been receiving monthly income benefit for permanent total disability at the time of his death, the secondary beneficiaries shall be paid the monthly pension, excluding the dependent's pension of the remaining balance of the five year guaranteed period."

WHEREFORE, the petition for review is granted. The Employees' Compensation Commission in ECC Case No. 4083 gravely abused its discretion in denying Malimata's claim for permanent total disability benefits. Its decision in ECC Case No. 4083 is hereby reversed and set aside, and another one is entered ordering the GSIS to pay to Corazon Malimata, as surviving spouse of the late Andres Malimata, the amount of permanent total disability income benefits due the latter from November, 1986 when his disability pension was stopped, up to June 5, 1988 when he passed away, plus the death benefits due her as primary beneficiary of the said deceased government employee.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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