Supreme Court E-Library

There being no mitigating circumstance to offset the aggravating circumstances of nighttime and dwelling, the penalty for homicide, which is *reclusion temporal*, should be imposed in its maximum period. The appellant is, therefore, found guilty of the crime of homicide and is sentenced to suffer an indeterminate penalty ranging from twelve (12) years of *prision mayor* as minimum, to twenty (20) years of *reclusion temporal* as maximum, and to suffer the accessory penalties as provided for by law.

WHEREFORE, with the foregoing modification, the decision appealed from is hereby AFFIRMED.

Fernando (Chairman), Barredo, Aquino, Concepcion Jr., and *Santos, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-42817. November 29, 1978]

ANGELES VDA. DE SISON, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and PHILIPPINE NATIONAL RAILWAYS,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION COMMISSION; PROCEEDINGS; CONFLICTING HEARING OF TWO REFEREES OVER SAME CASE; FIRST PRESUMED REGULARLY PERFOMED AS OFFICAL FUNCTION.** — In proceedings before two referees, where the employer did not impugn the validity of the proceedings undertaken by the first referee, including the decision rendered thereafter, nor has it questioned the authority of the first referee to hear and determined the claim, much less do the records disclose any order from higher authority vacating

Supreme Court E-Library

the judgment previously rendered and instructing the second referee to conduct his own hearing and determination of the case, there is a presumption that the first proceeding is an official function regularly performed which must be given preference to the exclusion of all others.

2. **ID.; ID.; FINAL DECISION OR AWARD OF REFEREES NOT SUBJECT TO REVIEW.** — Where a claim for compensation has been heard by two referees and the first referee's decision had became final and executory because the employer had abandoned its motion for reconsideration and in view of which the Assistant Chief of the Workmen's Compensation Section issued to the employer a letter demand for the satisfaction of the award rendered by the first referee, the respondent Commission is without authority or jurisdiction to review, revise, or reverse the award granted by the first referee. Neither has the respondent Commission the authority or jurisdiction to revive any action on the award of the first referee by taking cognizance of the order of dismissal issued by another referee on the ground of claimant's failure to prosecute.

3. **ID.; WORKMEN'S COMPENSATION; CLAIM FOR COMPENSATION; WAIVER OF NON-JURISDICTIONAL DEFENSES UPON FAILURE TO CONTROVERT.** — Where it is established in the records that the respondent employer failed to submit its report and notice of controversion within the time limit pursuant to sections 37 and 45 of the Workmen's Compensation Act, the failure to controvert claim constitutes a waiver of all non-jurisdiction defenses.

4. **ID.; ID.; PRESUMPTION OF COMPENSABILITY; ILLNESS SUPERVENING DURING EMPLOYMENT, PRESUMED TO HAVE ARISEN OUT OF OR AGGRAVATED BY IT.** — If the claimant's illness supervened during the course of his employment, there arises the rebuttable presumption that such illness arose out of the employment or was at least aggravated by it and the employer has the burden of proving the contrary by substantial evidence.

Supreme Court E-Library

DECISION

GUERRERO, *J.*:

Petitioner Angeles *Vda. de* Sison, widow of the late Pedro Sison, seeks a review[1] of the decision dated December 30, 1975 of the Workmen's Compensation affirming the order of August 27, 1975 by Acting Reference Benjamin Perez dismissing her claim for death compensation under the Workmen's Compensation Act after a previous award granted by another Hearing Officer dated March 3, 1975 had allegedly become final and executory. Actually, this petition was impelled by a procedural disorder which occurred during the proceedings in the Regional Office of the Commission.

Records show that on December 21, 1972 the claimant-widow filed a Notice and Claim for Compensation by reason of the death of her husband, Pedro Sison, who was an employee of the Philippine National Railways. The claim filed with Regional Office No. 4 of the Department of Labor was docketed as RO4-WC Case No. 136986 (Annex "A", p. 8, *rollo*). In this hearing, it was established without contradiction that the late Pedro Sison had been in the service of respondent Philippine National Railways from October, 1925 up to June, 1969, which service was interrupted only by the outbreak of the war. During this length of time, he served successively in various capacities as brakeman, assistant conductor of different class levels, and lastly as first class conductor with a salary of ₱5,256.00 *per annum* until June 1, 1969 when he went on sick leave due to ill health. He was hospitalized in the Nazareth General Hospital at Dagupan City and his medical history shows that he had been complaining of abdominal pain, loss of weight and appetite, dizziness, jaundice and easy fatigability recurring off and on for sometime. His attending physician, Dr. Vivencio Torres, performed on him an exploratory laparotomy and found that he had an enlargement of the liver with metastatic implants as

---

[1] The petition was treated as a Special Civil Action in the resolution of May 19, 1976.

Supreme Court E-Library

well as an enlarged pancreas. A cholecystoduodenostomy* was also performed but Sison died on June 25, 1969 due to "hepatic insufficiency." His *Certificate of Death* also shows other causes of death which are "Cancer of Ampulla of Vater" and "Liver Cirrhosis." The hospital, medical and professional expenses aggregated to ₱1,165.00.

On the basis of the foregoing, coupled by respondent's failure to controvert the claim, the Hearing Officer, Mr. Pedro Pelaez, rendered a decision on March 3, 1975, finding that the fatal illness of Pedro Sison supervened during the course of employment and that the nature of his work had contributed to the debilitation of his body resistance or the aggravation of his illness. Thus, an award was decreed by him, to wit:

"WHEREFORE, judgment is hereby rendered ordering the respondent Philippine National Railways to pay claimant Angeles T. Sison, through this Office (WCC) the following amounts:

1) FOUR THOUSAND EIGHT HUNDRED EIGHTY PESOS (₱4,880.00) as death compensation and burial expenses;

2) ONE THOUSAND ONE HUNDRED SIXTY FIVE PESOS (₱1,165.00) as and for reimbursement of medical expenses;

3) Respondent is further ordered to pay the amount of ₱234.00 direct to Atty. Cirilo J. Nepuscua, as attorney's fees; and the further sum of ₱47.00 direct to this Office (WCC) as fees pursuant to Section 55 of the Act."

The respondent employer filed a Motion for Reconsideration or Petition to Elevate the Case to the Commission dated April 15, 1975 (Annex "D", p. 17, *rollo*) wherein respondent stated it "received (the decision) on October 4, 1974" and it questioned the sufficiency and credibility of the evidence presented by the claimant, aside from expressing its belief that the cause of death did not arise out of nor was aggravated by the nature of the employment. In the opposition dated April 21, 1975 to

---

* Also *cholecystojejunostomy*, a surgical anastomosis of the gallbladder and the jejunun (duodenum). See: Dorland's *Medical Dictionary*, 24th Ed. p. 296 (1965); Maloy, *Medical Dictionary for Lawyers*, p. 128 (1951).

Supreme Court E-Library

respondent's motion for reconsideration, petitioner-claimant contended that the said motion was filed out of time and that the decision of the Hearing Officer, Mr. Pedro Pelaez, had already become final and executory. And in a motion dated July 21, 1975, petitioner prayed for the execution of the aforesaid decision (Annex "F", p. 21, *rollo*).

Strangely, on July 11, 1975, Acting Referee Benjamin R. Perez of the Regional Office No. 4, Manila issued a notice of hearing to the petitioner set for August 27, 1975 at the Regional Office No. 4, Department of Labor, 5th Floor, Isabel Bldg., Espana, Manila. And on August 27, 1975, Acting Referee issued an order which reads:

"For failure of claimant to appear despite notice and unknown reason which constitutes lack of interest on his part in the final disposition of his claim."

"WHEREFORE, let this claim be as it is hereby dismissed for lack of interest to prosecute." (Annex "C", p. 23, *rollo*).

Upon a Motion for Reconsideration dated October 15, 1975, petitioner questioned the above order of dismissal on the ground that the claim had already been tried on the merits before Hearing Officer Pedro Pelaez and a decision thereon was issued on March 3, 1975. Petitioner's Motion for Reconsideration was denied in an order dated November 26, 1975, this time issued by another Acting Referee (and Deputy Coordinator) Roberto Blanco who at the same time elevated the records of the case to the Workmen's Compensation Commission for review.

On December 30, 1975, the Commission thru Associate Commissioner Herminia Castelo-Sotto rendered the decision under review, affirming the order of dismissal on the ground that the Commission was not aware of the decision rendered by Hearing Officer Pedro Pelaez since claimant had not attached a copy of the decision nor its docket number, and that there is nothing to indicate that the deceased contracted any illness in the course of employment or that he was disabled previously before death.

Supreme Court E-Library

The only issue which We must resolve is which of the two decisions rendered by the Hearing Officers, Mr. Pelaez or Mr. Perez, should prevail for the proper disposition of the claim. In brief, petitioner contends that Acting Referee Benjamin Perez acted with grave abuse of discretion in ordering the dismissal of her claim, and corollarily, that the Commission's affirmation of the order of dismissal was contrary to law. Respondent employer, in its comment to the petition, disclaims awareness of the order of dismissal issued by Referee Perez but not of the decision of Referee Pelaez which in fact was the subject of its Motion for Reconsideration dated April 15, 1975.

It is evident in the case at bar that as between the two Referees, Pedro Pelaez and Benjamin Perez, the claim of death compensation was first assigned to the former. As shown in Annex "B", it was Referee Pelaez who scheduled the first hearing on January 15, 1975 by virtue of the Notice of Hearing he issued on December 27, 1974. It is not denied that trial and reception of evidence were held under his direction, as a consequence of which, he rendered the decision of March 3, 1975 granting the compensation benefits. On the other hand, the original records indicate that Referee Perez also set the hearing of the same case hearing the same docket number on August 27, 1975 pursuant to a Notice of Hearing he issued only much later on July 11, 1975. The records bear no explanation or justification for this duplication. We can only surmise that the root of the confusion may be attributed either to lack of coordination among the officers of the regional office or to inefficiency or infidelity in the keeping of records of proceedings pertaining to a particular claim. Suprisingly, the original records elevated to this Court do not contain any record or reference to the proceedings undertaken by Referee Pelaez. But nonetheless, respondent has not impugned the validity of such proceedings including the decision rendered thereafter, nor has the authority of Referee Pelaez to hear and determine the claim been put to question. Much less do the records disclose any order from higher authority vacating the judgment previously rendered, and instructing Referee Perez to conduct his own hearing and determination of the case. In the absence of proof to the contrary,

Supreme Court E-Library

there is a presumption that the first proceeding is an official function regularly performed which must be given due preference to the exclusion of all others, particularly that conducted lately by Referee Perez. The second hearing having been improperly initiated, the order of dismissal issued thereafter is, therefore, null and void which cannot legally merit affirmation by the Commission.

Indeed, the records fully disclose the undisputed fact that the award made by Referee Pelaez dated March 3, 1975 had already become final and executory since the respondent employer filed a motion for reconsideration or petition to elevate the case to the Commission only on April 15, 1975. Petitioner had objected to the Motion for Reconsideration, alleging that "the decision sought to be reconsidered by the respondent had been received by the latter on October 4, 1974, and the Motion for Reconsideration was filed by the respondent after the lapse of six months from receipt of the same. Therefore, the decision of the hearing officer has become final and executory and the Commissioner no longer has the authority to entertain a petition for review of the decision, regardless of the action taken by the regional office. The matter affects the jurisdiction of the *Commissioner (Koppel (Phils.) Inc. vs. Darlucio,* L-14903, August 29, 1960). (Annex "E", p. 19, *rollo*).

We agree with the petitioner that the decision of Referee Pelaez had already become final and executory. We find in the records copy of the letter of Assistant Chief Danilo L. Reynante, Regional Office No. 4, Workmen's Compensation Section, Manila, addressed to the General Manager, Philippine National Railways, Tutuban, Manila dated January 26, 1976, advising the Manager of the respondent employer that "our award/decision dated March 3, 1975 issued in the above-entitled case has become final and executory. However, our records do not show that payment in accordance with said award/decision has been made. In view thereof, it is requested that the amount of ₱4,880.00 compensation benefits/plus ₱1,165.00 medical expenses be remitted to this Office for corresponding payment to the claimant, together with the sum of ₱47.00 as decision

Supreme Court E-Library

fee and ₱234.00 as attorney's fee pursuant to Section 55 of the Act to enable us to close the case."

There is nothing in the records to indicate the action taken by Referee Pelaez on respondent employer's Motion for Reconsideration or Petition to Elevate Case to the Commission and neither had the said respondent pursued or followed up its motion or petition. While the motion recited that respondent received the decision of the Referee on October 4, 1974, a date which cannot be reconciled with the fact on record that the decision was dated March 3, 1975 and the motion itself is dated April 15, 1975. We are constrained to hold that in view of the opposition of the petitioner to the Motion for Reconsideration pointing to the late filing of the Motion for Reconsideration based on the receipt by respondent of the Referee's decision on October 4, 1974, considering further the *ex parte* motion for execution filed by counsel for the claimant-petitioner and the letter-demand of the Assistant Chief, Workmen's Compensation Section, Regional Office No. 4 dated January 26, 1976 to the General Manager of the respondent employer for the satisfaction of the award rendered by Referee Pelaez, the said award had become final and executory. We rule that respondent employer had abandoned its Motion for Reconsideration or Petition to Elevate the Case to the Commission. The respondent Commission is without authority or jurisdiction to review, revise, or reverse the award granted by Referee Pelaez that had already become final and executory. Neither has the Respondent Commission the authority or jurisdiction to revive any action on the award of Referee Pelaez by taking cognizance of the order of dismissal issued by Referee Perez on the ground of claimant's failure to prosecute.

It is established in the records that the respondent employer failed to submit its report and notice of controversion within the time limit pursuant to Sections 37 and 45 of the Workmen's Compensation Act. Such failure to controvert the claim constitutes a waiver of all non-jurisdictional defenses. It is fatal to the position of the respondent employer that petitioner's illness was not compensable. We find that petitioner's claim is fully meritorious, justified and supported by the evidence. As pointed

Supreme Court E-Library

out in the decision of the first Referee, Mr. Pelaez, the medico-legal officer of respondent employer himself testified that the deterioration and debilitated condition of the late Pedro Sison could have been adversely affected by the strains and stresses of his employment. On the basis of the evidence, the same referee also stressed that the constant jarring of his (Sison's) body while the train is in motion travelling at long distance day and night exposing him to pollution and sudden changes of temperature, could not have failed to contribute to the debilitation of his body resistance and consequent precipitation or aggravation of his illness which he had been nursing until he finally died.

The case at bar is also a clear instance where the claimant's illness having supervened during the course of his employment, there arises the rebuttable presumption that such illness arose out of the employment or was at least aggravated by it and the employer has the burden of proving the contrary by substantial evidence. Here, respondent failed to discharge that burden which has shifted to him by adducing substantial evidence to show that the illness which caused the death of Pedro Sison was not attributable to the nature of his employment.

WHEREFORE, IN VIEW OF THE FOREGOING, the decision of the Workmen's Compensation Commission dated December 30, 1975 is set aside and the decision of acting Referee Pedro Pelaez of March 3, 1975 is hereby reinstated with modification, increasing the amount of attorney's fees to ₱468.00 pursuant to Section 31 of the Act.

SO ORDERED.

Teehankee (Chairman), Makasiar, Santos, and *Fernandez, JJ.,* concur.