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FIRST DIVISION

[G.R. No. L-42112. January 31, 1979]

CALINGAN CALEB, *petitioner*, *vs.* **WORKMEN'S COMPENSATION COMMISSION and THE REPUBLIC OF THE PHILIPPINES (Bureau of Public Highways)**, *respondents*.

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION; PRESUMPTION OF COMPENSABILITY; BURDEN TO OVERCOME PRESUMPTION SHIFTS TO THE EMPLOYER.** — The Physician's Report of Sickness or Accident stating that the deceased had an old fracture dislocation on the right knee joint; that the cause of the injury was a "fall while working on the road due to and in pursuance of the employment"; that the injury resulted in permanent total disability for labor, and that the injured limb had developed great impairment of movement and normal function, is sufficient to establish the fact that the injury is service-connected. Since the claimant's evidence had established the causal connection between the injury alleged to be the cause of death and the deceased's employment, it devolves upon the employer to show by substantial evidence that the injury and death was not so service-connected. The claimant enjoys in his favor the legal presumption of the compensability of the claim, and by virtue of said presumption he need not be required to establish his case by substantial evidence, for precisely, the purpose of such presumption is to dispense with proof. Upon the other hand, the employer is required to overcome by substantial evidence the presumption of compensability.

2. **ID.; ID.; ID.; EFFECT OF FAILURE TO TIMELY CONTROVERT CLAIM.** — Failure to controvert the claim for compensation within ten days from receipt of notice pursuant to Section 45 of the Workmen's Compensation Act and to reinstate said right to controvert amounts to a waiver of the right to interpose any non-jurisdictional defenses and the employer could not prove any thing in relation thereto. It puts compensability of the claim,

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its reasonableness, and validity beyond challenge; in effect, an ultimate admission of liability.

3. **ID.; ID.; ID.; ID.; GRANT OF AN OUTRIGHT AWARD, ALLOWABLE.** — Section 1, Rule 9 of the Workmen's Compensation Commission Rules expressly provides for an outright issuance of an award "where liability is admitted by the employer" and in uncontroverted cases.

4. **ID.; ID.; ID., ID.; NON-CONTROVERSION RESULTS IN WAIVER OF DUE PROCESS.** — The employer is not deprived of its right to due process although award was issued without said employee having been notified of the hearing, where it appears that it failed to controvert the claim on time as required by Sec. 45 of Art. 3428. By its own act and with its presumed knowledge of law, it voluntarily waived its right to due process. It has nobody to blame but itself for its failure to controvert on time. It is a well-settled rule in this jurisdiction that failure to controvert a claim on time is also a waiver of the right to due process.

APPEARANCES OF COUNSEL

Calde-Dalog Law Office for petitioner.

Solicitor General Estelito P. Mendoza, Assistant Solicitor General Alicia V. Sempio-Diy and Solicitor Amado D. Aquino for respondents.

D E C I S I O N

GUERRERO, *J.*:

Petition for review[1] of the reversal made by the respondent Workmen's Compensation Commission of the award issued in petitioner's favor by the Workmen's Compensation Section, Baguio City Sub-regional Office, Department of Labor, on her claim for compensation benefits for the death of her husband, Bagay Caleb, a construction helper employed by respondent Republic (Bureau of Public Highways, Mountain Province Engineering District).

[1] Treated as a special civil action per resolution of April 28, 1976.

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The records disclose the following facts:

On August 3, 1974, the Baguio City Sub-regional Office received petitioner's notice and claim for death benefits under the Workmen's Compensation Act, the claim alleging that petitioner's husband, Bagay Caleb, died on December 10, 1971, as a result of an injury received sometime in March, 1970 when he was hit by a big stone while working on one of the roads of Otucan, Bauko, Mt. Province. Notice of petitioner's claim was received by the Bureau of Public Highways, Mt. Province Engineering District on August 19, 1974 as evidenced by the Registry Return Receipt attached to the records of the case. The records do not reveal that the respondent Republic (Bureau of Public Highways) filed its notice to controvert the claim. However, a Motion to Dismiss dated September 9, 1974 was filed by the Office of the Solicitor General for the respondent Republic contending, among others, that (1) it had no prior knowledge of the injury alleged he suffered by the deceased until the filing of said notice a claim for compensation, which was beyond the periods prescribed by Section 24 of the Workmen's Compensation Act, thereby barring further proceedings on said claim; and that, (2) the supposed injury was not service-connected.

Without resolving the aforestated Motion to Dismiss and without notifying the Republic of a hearing on the claim, the Chief of the Workmen's Compensation Section, Baguio City Sub-regional Office, found merit in the claim and issued an award in favor of petitioner Calingan Caleb in the amounts of (1) Four Thousand Six Hundred Eighty Pesos (₱4,680.00) as compensation benefits equivalent to forty-five (45%) Percentum of decedent's average weekly wage for 208 weeks under Section 12 of the Workmen's Compensation Act, and (2) Two Hundred Pesos (₱200.00), as reimbursement of burial expenses, and ordered respondent Republic to pay the administrative fee of Forty-seven Pesos (₱47.00).

A motion for reconsideration of the award was filed by the Office of the Solicitor General but the same was denied. Thereupon, the entire record of the case was elevated to the respondent Workmen's Compensation Commission for review.

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On review, the Workmen's Compensation Commission dismissed the claim for lack of merit in the following wise and manner, thus —

"After a careful examination of the entire records, we cannot but conclude that the herein claimant has miserably failed to establish her case. No sufficient evidence was presented or submitted by the claimant to establish, at least, some causal connection of the knee injury that Bagay Caleb sustained allegedly sometime in March, 1970 with his work causing his disability for labor, and that said injury led to his death. The records of his leave of absence after the alleged incident to prove that he was disabled for labor was not presented. Neither was the death certificate submitted to establish the facts of death, and from which the cause that led to his demise could be ascertained. Likewise, the marriage contract and the affidavit of dependency as evidence of claimant's relationship to the deceased and of her dependency on him for support, were not submitted.

Much as we symphatize with the claimant in this case, we cannot decide it in her favor as the evidence on record does not justify an award." (Decision of WCC, p. 2).

Hence, this petition for review by petitioner.

After a thorough perusal of the records of the case, We reverse the decision of the respondent Workmen's Compensation Commission sought to be reviewed, and thus reinstate the award of death benefits and burial expenses granted to petitioner Calingan Caleb by the Chief of the Workmen's Compensation Section, Baguio City Sub-regional Office in his Order dated September 16, 1974.

In deciding adversely against the compensability of petitioner's claim on the ground that petitioner failed to substantially establish her case, the Workmen's Compensation Commission committed a grave error. We find as clearly established the fact that the injury, alleged to be the cause of death of petitioner's husband, is service connected. Attached to the records is the Physician's Report of Sickness or Accident accomplished by Dr. Edgar N. Rapisora of the Mt. Province Provincial Hospital, clearly stating the following that upon examination, Bagay Caleb had an old

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fracture dislocation on the right knee joint (Item 4); that the cause of injury was a "fall while working on the road due to and in pursuance of the employment (Items 7 & 8): that the injury resulted in permanent total disability for labor (Item 21); that the injured limb had already developed great impairment of movement and normal function (General Remarks). Thus, since petitioner's evidence clearly established the causal connection between the injury alleged to be the cause of death, and the deceased's employment, it then devolved upon the employer (the Republic) to show by substantial evidence that the injury and death of petitioner's husband was not as service-connected. This must be so because petitioner, as claimant, enjoys in her favor the legal presumption of the compensability of her claim. In other words, by virtue of said presumption, which the respondent Commission once again ignored so blatantly, petitioner need not be required to establish her case by substantial evidence, for precisely, the propose of such presumption is to dispense with proof. Upon the other hand, respondent Republic as employer, required by law to overcome by substantial evidence said presumption, failed to discharge the burden laid by the law on its door.

As stated earlier in Our decision, the records do not reveal any timely controversion made by the respondent Republic after receipt of the notice of the claim on August 19, 1974. Even if We were to consider the Motion to Dismiss filed by the Office of the Solicitor General as a controversion of the claim, the fact still remains that the said motion was filed only on September 9, 1974. Clearly, the filing thereof was beyond the 10-day period after receipt of the notice of claim within which an employer must file its notice of controversion under Section 45 of the Workmen's Compensation Act. Thus, by failing to controvert the claim within the time prescribed by Section 45 of the above Act, and by its failure to have its right to controvert reinstated, the employer (Republic) is deemed to have waived its right to interpose any non-jurisdictional defenses, and could not prove anything in relation thereto. Stated otherwise, the compensability of the present claim, its reasonableness and validity are now

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beyond challenge; in effect, an ultimate admission of liability.[2] Hence, the outright award in favor of petitioner-claimant was properly issued. Rule 9, section 1 of the Workmen's Compensation Commission Rules expressly provides for the outright issuance of an award "where liability is admitted by the employer" and in uncontroverted cases.[3]

The respondent Republic maintains that it was deprived of its right to due process as the award was issued without having been notified of the hearing on the claim. This is devoid of merit. In the case of *Security Services Unlimited, Inc. vs. WCC, et al.*, 69 SCRA 269, this Court, thru Justice Esguerra said:

"When petitioner failed to comply with the aforementioned requirement of the law (Section 45 of Act 3428), by its own act, it waived its right to controvert the claim, hence with its presumed knowledge of the law, it voluntarily waived its right to due process (hearing and presentation of evidence to prove its defenses), Petitioner has nobody to blame but itself for its failure to controvert the claim on time."

The Court, declaring that it is a well-settled rule in this jurisdiction that failure to controvert a claim on time also means waiver of the right to due process, cited the following authorities: *Dangue vs. Franklin Baker Co. of the Phils., et al.*, G.R. No. L-15838, April 29, 1960; *La Mallorca vs. WCC*, 30 SCRA 619, 620; *Victorias Milling Co., Inc. vs. WCC, et al.*, G.R. No. L-10533, May 13, 1957; *Fuentez vs. Dinamira*, L-14965, Aug. 31, 1961, 2 SCRA 1133; *Blanco vs. WCC*, 29 SCRA 12; *Aboitiz Shipping Corp. vs. Pepito*, L-21335, Dec. 17, 1966.

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[2] *Victorias Milling Co., Inc. vs. WCC, et al.*, L-10533, May 13, 1957; *Fuentez vs. Dinamira*, L-14965, August 31, 1961; *Dangue vs. Franklin Baker Co. of the Phils. et al.*, L-15838, April 29, 1960; *Bautista vs. WCC*, L-42885, November 23, 1977; *Justo vs. WCC, et al.*, L-43681, January 31, 1977; *Despe vs. WCC, et al.*, L-42828, February 28, 1977.

[3] *Dinaro vs. WCC*, L-42457, March 31, 1967.

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We reiterate the same rule in the instant petition and so hold that petitioner's claim for death benefits under the Workmen's Compensation Act, not having been controverted nor overcome by substantial evidence, must be granted.

WHEREFORE, the Decision of the Workmen's Compensation Commission sought to be reviewed is set aside and the award dated September 16, 1974 made in favor of the petitioner-claimant by the Workmen's Compensation Section, Baguio City Sub-regional Office is reinstated, and modified to include an additional order for respondent to pay petitioner's counsel the amount of Four Hundred Sixty-Eight Pesos (₱468.00) as and for attorney's fees.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, De Castro, and *Herrera, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-43027. January 31, 1979]

CONSOLACION BAUTISTA, in representation of deceased ANDRES BAUTISTA, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and PHILIPPINE NATIONAL RAILWAYS,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION COMMISSION; GRAVE ABUSE OF DISCRETION; COMMITTED IN CASE OF DISMISSAL OF CLAIM WITHOUT HEARING.** — Where failure of claimant and/or his counsel to appear on the scheduled hearings was due