Supreme Court E-Library

FIRST DIVISION

[G.R. No. L-42595. December 18, 1979]

EUSTAQUIO ALEJANDRO, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION, REPUBLIC OF THE PHILIPPINES (BUREAU OF PUBLIC HIGHWAYS, CATANDUANES ENGINEERING DISTRICT),** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION COMMISSION; DECISION; WHEN THE DECISION OF THE COMMISSION IN REVERSING THE AWARD OF THE ACTING REFEREE CONSTITUTES GRAVE ABUSE OF DISCRETION.**— The reversal by the respondent Commission of the Acting Referee's award constitutes a grave abuse of discretion, the same being in palpable and patent disregard of the law and the controlling jurisprudence on workmen's compensation cases, very well applicable on the set of facts clearly established by the evidence on record, and therefore should be set aside.

2. **ID.; WORKMEN'S COMPENSATION ACT; WHEN THE INJURY DID NOT RESULT IN WAGE LOSS, EMPLOYEE MAY STILL CLAIM FOR MEDICAL AND DISABILITY BENEFITS.**— The defense raised by the Solicitor General can only be considered with respect to the claim for temporary disability benefits under Section 14 which requires that the injury results in a wage loss; because the compensation benefits awarded thereunder is for the loss or *dimunition* of wages by reason thereof, but not to the claim for medical benefits under Section 13 which does not observe the wage loss factor (*ibid*); nor to disability benefits claim under Sections 17 and 18, because benefits therein provided are to compensate the injured workingman for the actual and permanent loss of a member of the body

APPEARANCES OF COUNSEL

Eustaquio Alejandro in his own behalf.

Acting Solicitor General Hugo. E. Gutierrez and Solicitor Leonardo I. Cruz for respondents.

Supreme Court E-Library

DECISION

MAKASIAR, *J.*:

Petition for review on *certiorari* of the December 18, 1975 decision of the Workmen's Compensation Commission reversing the January 6, 1975 award of the Workmen's Compensation Unit, Department of Labor, Regional Office No. VI, at Legaspi City.

On July 19, 1976, We declared the case submitted for decision without petitioner's memorandum. Earlier, the Solicitor General was allowed to adopt his March 31, 1976 comment as his memorandum.

The records reveal the following:

1. Petitioner filed on January 15, 1973 a compensation claim with the Workmen's Compensation Unit, Department of Labor, Regional Office No. VI at Legaspi City, claiming, *inter alia* that the date of accident was September 16, 1969; place of accident as Virac-Calolbon Road; nature of injury as "Truma-Vitreous Hemorrhage on the left eye (known hypertensive)"; and that he notified his employer of the injury, without disclosing when and to whom said notice was given (p. 127, WCC rec.); and that he stopped working on September 19, 1969.

2. Petitioner retired from the government service on September 20, 1969, four (4) days after the September 16, 1969 accident causing injury to his left eye, at the age of 65; after rendering 28 years of service, more or less, with respondent Bureau of Public Highways. He started therein as Timekeeper and was holding the position of Maintenance Capataz at the time of his retirement (p. 102, WCC rec.).

3. Respondent employer, through the Provincial District Engineer, Virac, Catanduanes, received on January 15, 1973 the notice of claim for compensation; and on January 23, 1973, it filed its Report of Accident or Sickness, claiming that it was not previously notified of the accident and injury and that it was controverting the claim on the ground that the injury did

Supreme Court E-Library

not arise out of and in the course of claimant's employment (p. 130, WCC rec.). On March 15, 1973, the Solicitor General who received a copy of the claim only on March 5, 1973, filed its Notice of Controversion dated March 7, 1973, stating "that the sickness involved was not contracted in line of duty, nor was it aggravated by the nature of the employment of the herein claimant" (p. 126, WCC rec.).

4. The claim of petitioner was set for hearing but despite due notice, no appearance was made for the respondent employer (pp. 56, 81, 82, 83, 104, WCC rec.). Hence, on August 17, 1973, petitioner's evidence was received *ex parte*, after the referee declared the claim as uncontroverted (p. 67. WCC rec.).

5. On January 6, 1975, the Acting Referee rendered his decision, ordering respondent employer to pay petitioner "1. x x x the total sum of Three Thousand One Hundred Seventy Three (₱3,173.00) Pesos as compensation pursuant to Sections 14 and 18 of Act No. 3428, as amended; (2) the sum of ₱500.00 as reimbursement of medical expenses pursuant to Section 13 of the same Act"; as well as to pay petitioner's counsel the sum of ₱168.00 as attorney's fee and the Commission, the sum of ₱31.00 as administrative fee.

6. The above award was based on the following facts as found by the acting referee, thus:

"x x x that sometime in the afternoon of Sept. 16, 1969 while he was supervising the asphalting of the portion of the Palta-Palanog Road, Virac, Catanduanes, droplets of hot asphalt hit his left eye which caused him to submit for a medical treatment in the Zantua Medical Clinic, in Virac, Catanduanes.

"He was attended to by Dr. Antonio Zantua for an emergency treatment particularly the removal of the asphalt in the left eye orbital area inside the claimant's eye.

"After this treatment, claimant was subsequently placed under the medical care of Dr. Zantua considering that the claimant had been complaining of progressive blurring of vision in the affected eye.

"Later examinations revealed hemorrhage in the inside of the eye diagnosed as 'Vitreous Hemorrhage.' This eye injury was complicated by a high blood pressure.

Supreme Court E-Library

"The testimony of the claimant alone could not have any meaning at all were it not supported by a duly attested documentary evidence issued by Dr. Zantua, his attending physician (Exhibit D).

"This Office should have relied on the Physician's Report and certificate issued by Dr. Zantua. But in order to determine the extent of injury sustained by the claimant, this Office on Dec. 2, 1974 (should be Oct. 2, 1974, p. 79, WCC rec.) issued an Order of Referral of this case to Dr. Vicente Ramirez, Medical Rating Officer, Workmen's Compensation Unit, Department of Labor, Naga City. Dr. Ramirez submitted, in compliance with the Order, a certification that the claimant by virtue of his eye injury sustained while in the performance of his work which was aggravated by a sudden rise of high blood pressure, (he) suffered a temporary total disability for labor for three [3] months, and a permanent total disability for labor of 100% of the left eye.

"He further certified that the claim for medical reimbursement in the amount of ₱5,755.00 should be reduced to ₱500.00. No reason for such reduction was made.

"In view of the foregoing facts and circumstances, this Office cannot deny the claimant the benefits granted under the Workmen's Compensation Act, as amended.

"Under Section 14 of the Act, as amended, claimant is entitled to sixty per centum (60%) of his weekly average wage which was ₱55.00 (₱222.20 monthly salary) equals ₱33.00 and for 12 weeks [3 months TTD], claimant therefore should receive the sum of ₱396.00 as compensation.

"Under Section 18 (NSD) of the same Act, claimant is further entitled to fifty per centum [50%] of his weekly average wage which is ₱55.55 equals ₱27.77 and for 100 weeks, claimant should receive the sum of ₱2,777.00.

"The same claimant is further entitled to the reimbursement of medical expenses pursuant to Section 13, in the sum of ₱500.00 only" (Pp. 45-47, WCC rec.).

The Solicitor General filed a motion for reconsideration; but the same was denied by the Acting Referee, who thereafter ordered the elevation of the records of the case to the respondent Commission for review.

Supreme Court E-Library

8. On December 18, 1975, the respondent Commission rendered its questioned decision, affirming the basic factual foundation of the claim, but reversed the award because "there is no showing x x x that he was disabled by reason of the said injury and he did not even say if he ever went on sick leave. In other words, he continued working until he was compulsorily retired on September 19, 1969 (p. 6, t.s.n., Aug. 17, 1974 hearing). He stopped working not because of disability but because of age, as he reached 65 years and retired compulsorily. It may be true that claimant suffered an injury to his left eye, but this did not keep him from working and, therefore, did not suffer any diminution of his earning capacity" (pp. 39-40, WCC rec.).

Hence, this recourse.

The reversal by the respondent Commission of the Acting Referee's award constitutes a grave abuse of discretion, the same being in palpable and patent disregard of the law and the controlling jurisprudence on workmen's compensation cases, very well applicable on the set of facts clearly established by the evidence on record, and therefore should be set aside.

I

It must be first stated that petitioner's right to compensation was not effectively controverted by respondent employer. The Employer's Report of Accident or Sickness filed on January 23, 1973 by respondent employer and the controversion filed on March 15, 1973 by the Solicitor General were too late because Sections 37 and 45 of the Workmen's Compensation Act, as amended, require them to be filed within 14 days from the occurrence, or within 10 days from knowledge of, the injury or death. He was treated by Dr. Antonio P. Zantua that same evening of September 16, 1969 in his clinic in Virac, Catanduanes when droplets of hot asphalt hit his left eye. Dr. Zantua stated in his report that the patient had still asphalt on his left eye when he came to his clinic for treatment (Exh. A, p. 131, rec.). Certainly, his reddish left eye due to vitreous hemorrhage must have been noticed by his superiors when he reported for work the next three days from September 16 to 19, 1969. Under

Supreme Court E-Library

existing jurisprudence, such knowledge of his superiors of his injury, binds the respondent employer. Furthermore, it is not disputed that the District Engineer of Virac, Catanduanes advised petitioner not to file sick leave of absence by reason of his eye injury (p. 4, rec.), from which undisputed fact WE can infer his (District Engineer) knowledge of petitioner's injury by reason of the September 16, 1969 accident. Hence, as aforestated, the petitioner's right to compensation was not effectively controverted.

II

1. WE go to the merits of the claim. There is no question that petitioner suffered personal injury from an accident arising out of and in the course of his employment as there is no dispute that on *September 16, 1969*, petitioner, while at work supervising the asphalting of the Palta-Palawig-Calolbon road, was hit in the left eye by droplets of hot asphalt which required medical treatment. The attending physician stated in his medical certificate dated January 14, 1973 (Exh. D, p. 100, WCC rec.) that he treated petitioner on September 16, 1969 and cleansed his left eye, orbital area, of asphalt; that on September 23, 1969, petitioner complained of progressive blurring of vision in the affected eye and the examination thereof revealed hemorrhage which was diagnosed as "vitreous hemorrhage," and the petitioner's blood pressure was high. And on October 10, 1974, the Compensation Rating Medical Officer of the Department of Labor, Regional Office No. 6, certified that the examination performed on petitioner revealed that he suffered temporary total disability for three (3) months and permanent total disability of the left eye (p. 64, WCC rec.). It is clear therefore that petitioner's injury from the September 16, 1969 accident resulted in his disability and subsequent loss of the use of his left eye.

2. The Solicitor General contends that petitioner's injury of September 16, 1969 did not entitle him to compensation under the law because his injury did not result in wage loss as he continued working, despite thereof, up to his last working day on September 19, 1969, the next day, September 20, 1969, being his 65th birthday, which is the compulsory retirement age.

Supreme Court E-Library

Relative to this issue, it must be stated that the benefits under the Workmen's Compensation Act, as amended, awarded by the Acting Referee to petitioner which were however disallowed by respondent Commission were (1) *temporary total disability* for three [3] months under Section 14; (2) permanent disability for the complete loss of the use of the left eye under Section 18 [should be Sec. 17, par. 16, which specifically refers to the loss of one eye]; and (3) reimbursement for medical expenses under Section 13. The defense raised by the Solicitor General can only be considered with respect to the claim for temporary disability benefits under Section 14 which requires that the injury results in a wage loss; because the compensation benefits awarded thereunder is for the loss or *dimunition* of wages by reason thereof (*Corales vs. Employees Compensation Commission*, 84 SCRA 762, 767 [1978]; 88 SCRA 548 [1979]); but not to the claim for medical benefits under Section 13 which does not observe the wage loss factor (*ibid*); nor to disability benefits claim under Sections 17 and 18, because benefits therein provided are to compensate the injured workingman for the actual and permanent loss of a member of the body (*Central Azucarera San Pedro vs. De Leon*, 56 OG 4922 [1957]; *Cañete vs. Insular Lumber Co.*, 61 Phil. 592 [1935]). Consequently, the award of the benefits provided for by Sections 13 and 17 must be maintained as they are not adversely affected by the *wage-loss requirement* which appears not to be present in this case.

3. Petitioner is not entitled to compensation benefits under Section 14 of the Workmen's Compensation Act, as amended, because by his own evidence, he continued to work up to September 19, 1969 (p. 102, 124, WCC rec.) and as aforestated, retired the following day, September 20, 1969, at the age of sixty-five; hence, there was no wage loss resulting from his September 16, 1969 injury (*Corales vs. ECC, supra*).

Petitioner's claim that he did not work on the aforestated period and that the wages he received for that period was deducted from the money value of his accumulated leave, cannot prevail over the incontrovertible fact that he did not file the required application for sick leave, and his service record

Supreme Court E-Library

(p. 102, WCC rec.) does not reflect any leave for the aforestated period.

Furthermore, pursuant to Our ruling in *Hernandez vs. WCC* (14 SCRA 219 [1965]), compensation payments under Section 14 cannot extend beyond compulsory retirement date of the injured employee. Consequently, the award for three months temporary total disability under Section 14 of the Act, as amended, in the sum of ₱396.00 cannot be maintained.

III

Petitioner's claim for medical reimbursement in the amount of ₱5,755.00 (p. 95, WCC rec.) was reduced to ₱500.00 by the Acting Referee in his award, adopting the recommendation of the Medical Rating Officer, Workmen's Compensation Unit, Department of Labor, Regional Office No. VI. The petitioner did not question the reduction.

IV

The award of attorney's fee in the amount of ₱168.65 (should be P158.85), which is the equivalent of 5% of the total award [₱3,173.00] made by the Acting Referee should be reduced to ₱138.85 (5% of ₱2,777.00) by reason of the elimination of the award under Section 14 as aforestated. Petitioner was not represented by counsel before Us.

WHEREFORE, THE DECISION OF THE RESPONDENT COMMISSION IS HEREBY MODIFIED AND THE RESPONDENT EMPLOYER IS HEREBY ORDERED.

A. TO PAY PETITIONER THE SUM OF TWO THOUSAND SEVEN HUNDRED SEVENTY-SEVEN (₱2,777.00) AS DISABILITY BENEFIT; AND FIVE HUNDRED [₱500.00] PESOS AS REIMBURSEMENT OF MEDICAL EXPENSES;

B. TO PAY ATTORNEY'S FEES IN THE AMOUNT OF ONE HUNDRED THIRTY EIGHT PESOS AND EIGHTY-FIVE CENTAVOS (₱138.85); AND

Supreme Court E-Library

C. TO PAY THE SUCCESSOR OF THE WORKMEN'S COMPENSATION COMMISSION THE SUM OF SIXTY-ONE PESOS AS ADMINISTRATIVE FEES.

SO ORDERED.

Fernandez, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

Teehankee, (Chairman), J., took no part.

FIRST DIVISION

[G.R. No. L-43048. December 18, 1979]

ANTONIO DELA PEÑA, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and PHILIPPINE LONG DISTANCE TELEPHONE COMPANY,** *respondents.*

SYLLABUS

LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; PRESUMPTION OF COMPENSABILITY APPLIED IN CASE AT BAR; EFFECT.— It is clear, therefore, that the illness of the claimant supervened during his employment with the Philippine Long Distance Telephone Company. Hence, there is a disputable presumption that the claim is compensable. The burden of proof is shifted to the employer, Philippine Long Distance Telephone Company, to prove that the claim is not compensable. Said private respondent has failed to overcome the presumption of compensability and the evidence of the petitioner that his illness was caused and aggravated by his work.