Supreme Court E-Library

SECOND DIVISION

[G.R. No. L-42669. January 21, 1985]

FERNANDO MACAWILI, *petitioner, vs.* WORKMEN'S COMPENSATION COMMISSION and BATANGAS LAGUNA TAYABAS BUS COMPANY, *respondent.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; CLAIMS FOR COMPENSATION; STRICT RULES OF EVIDENCE, NOT APPLICABLE.**— In view of the Constitutional mandate of protection to labor, the strict rules of procedure and evidence are not applicable in claims for compensation.

2. **ID.; ID.; ID.; PULMONARY TUBERCULOSIS, COMPENSABLE; CASE AT BAR.**— On the basis of Section 44 of the Workmen's Compensation Act alone, WE find that petitioner's pulmonary tuberculosis is compensable. It must be pointed out, however, that the petitioner was able to show by substantial evidence, the causal relationship between his ailment pulmonary tuberculosis and the nature and/or condition of his employment with the private respondent.

3. **ID.; ID.; ID.; DISEASE SUPERVENED DURING EMPLOYMENT, COMPENSABLE; APPLICABLE LAW.**— It is therefore indubitable that petitioner's PTB supervened during his employment with private respondent long before the new provision of the New Labor Code on employee's compensation took effect on January 1, 1975 (Art. 208, New Labor Code). Consequently, "(P)etitioner's claim having accrued prior to the New Labor Code, the presumption of compensability, the principle of aggravation, the award of attorney's fees and the payment of administrative fees must be observed and applied. x x x" (Corales *vs.* ECC, 88 SCRA 554 [1979]).

4. **ID.; ID.; ID.; PRINCIPLE OF AGGRAVATION; APPLIED IN CASE AT BAR.**— Finally, it is indisputable that petitioner's pulmonary tuberculosis was aggravated by the nature and conditions of his employment. Petitioner worked eight (8) hours a day, seven (7) days a week driving a bus through dusty roads in the

Supreme Court E-Library

rural areas. He was exposed to the fumes and heat coming from the engine of the bus. He was likewise exposed to the elements during typhoons and heavy rains and the summer heat. Then, there is always the danger of contracting some contagious diseases from the hundreds of passengers going in and out of his bus.

5. **ID.; ID.; ID.; REASONABLE WORK-CONNECTION, SUFFICIENT.**— Although nephrolithiasis does not directly cause pulmonary tuberculosis, there is no doubt that petitioner has a weak resistance due to kidney trouble and has less means to afford food to cure the same. Such disease must have reduced his vitality. Furthermore, the debilitating effects of the work of a bus driver on a workman's physique especially to one with a weak resistance cannot be disputed. What the law merely requires is a reasonable work-connection and not a causal relation. This kind of interpretation gives meaning and substance to the liberal and compassionate spirit of the Workmen's Compensation Act, which is a social legislation designed to give relief to labor.

APPEARANCES OF COUNSEL

Antonio M. Baes for petitioner.

Voltaire B. Alcantara for respondent employer.

Ernesto H. Cruz and *Artemio C. Facundo* for respondent WCC.

DECISION

MAKASIAR, *J.:*

This is a petition to review the decision of the respondent Workmen's Compensation Commission, dated December 19, 1975, which reduced the amount of disability compensation benefits awarded to herein petitioner by Regional Office No. 5 of the Workmen's Compensation Unit, Labor Provincial Office, Lucena City, on January 16, 1975.

Petitioner Fernando Macawili was employed by the respondent Batangas Laguna Tayabas Bus Company as a bus driver. He worked with the private respondent for twelve (12) years with an average weekly wage of P61.60, working seven (7) days a week.

Supreme Court E-Library

In 1972, petitioner contracted nephrolithiasis, and he went on sick leave for thirteen (13) days, from December 10 to December 22, 1972. After his leave, petitioner returned to work as bus driver of private respondent until May 7, 1974 when he stopped working and was laid off at age 44.

On June 17, 1974, petitioner filed his claim with the then Regional Office No. 5 in San Pablo City for disability compensation alleging that the ailment he contracted in 1972, nephrolithiasis, right with secondary infection, was aggravated by and/or the result of the nature of his work. He further alleged that the said ailment forced him to stop working on May 7, 1974 (p. 38, WCC rec.). His claim was duly controverted by herein private respondent (p. 35, WCC rec.).

Petitioner's claim was set for hearing on several dates, but the same was not heard until October 12, 1974 when it was finally heard by Acting Referee Salvador C. Guevarra. However, before his claim was heard, petitioner underwent several physical examinations and was found to be sufferring from pulmonary tuberculosis. Accordingly, in the hearing of his claim, petitioner, assisted by counsel, submitted the results of his physical examinations showing that he is suffering from PTB. In the said hearing, the following transpired:

"Atty. Romero:

"If your Honor please, with the notice of injury of the claimant and the medical certificate of the San Pablo Doctors Hospital dated June 8, 1974 and the physician's report dated July 11, 1974 duly executed by Dr. Fructousa R. de Guzman, the X-ray dated July 10, 1974 executed by Dr. Felimon R. Donato, resident physician and radiologist, and the medical certificate, SSS Form MD 13 with final diagnosis of *pulmonary tuberculosis* minimal, duly executed by Dr. Teresa Bueno, we now respectfully rest our case and submit the same for resolution of the Hearing Officer after the claimant has been medically examined by the Compensation Rating Medical Officer for the extent of the degree of his disability" (p. 28, WCC rec., italics supplied).

On October 25, 1974, petitioner was examined by Dra. Remedios B. Sanchez, Compensation Rating Medical Officer, and was confirmed to be suffering from pulmonary tuberculosis. Dr. Sanchez

Supreme Court E-Library

recommended that petitioner be given the benefits provided for under Section 14 of the Workmen's Compensation Act, and that he stop working until his ailment is arrested (p. 23, WCC rec.).

On January 16, 1975, Acting Referee Salvador C. Guevarra rendered a decision which awarded compensation benefits to herein petitioner on the basis of petitioner's pulmonary tuberculosis and not on the basis of the ailment nephrolithiasis as originally claimed by the petitioner. The dispositive portion of said decision reads:

"WHEREFORE, finding the above claim to be meritorious, judgment is entered for the claimant and the respondent is directed:

"1. To pay claimant thru this Office, the sum of One Thousand Three Hundred Forty Six & 40/100 (P1,346.40) as compensation benefits computed as follows:

> 'Under Section 14 of the Act, as amended, claimant is entitled to 60% of his average weekly wage from May 7, 1974 up to January 16, 1975 (date of decision) a period of 255 days or 36-3/7 weeks. Sixty percent (60%) of his average weekly wage of P61.60 is P36.96 and for 36-3/7 weeks equals P1,346.40.'

"2. To pay claimant a weekly compensation of P36.96 from January 17, 1975 and weekly thereafter until his sickness shall have been declared cured or arrested by competent medical authority. Such weekly payment shall not exceed P6,000.00 or 208 weeks including the first lump sum payment (Sec. 14).

"3. To provide claimant with such services, appliances and supplies as the nature of his disability and the process of his recovery may require (Sec. 13).

"4. To pay this Unit, the sum of P14.00 as fee (Sec. 55).

"5. To pay Atty. Isidro Romero, claimant's counsel of record the sum of P67.32 or 5% of the compensation as attorney's fee (Sec. 1, Rule 27 of the WCC)" [pp. 19-20, rec.].

Respondent bus company sought reconsideration of the aforesaid decision, but the same was denied by Acting Referee Salvador C. Guevarra. Subsequently, pursuant to Sec. 49 of the Workmen's Compensation Act, as amended, and Sec 4, Rule 19 of the Rules of the Commission, the entire record of the case was elevated to the Commission for review.

Supreme Court E-Library

On December 19, 1975, respondent Commission rendered its decision which affirmed the grant of disability compensation benefits to herein petitioner, but drastically reduced the amount awarded mainly on the ground that petitioner's pulmonary tuberculosis is not compensable; however, he is entitled to compensation due to nephrolithiasis as alleged by the petitioner in his Notice of Injury or Sickness and Claim for Compensation. The dispositive portion of the respondent Commission's decision reads:

"WHEREFORE, subject to the modification herein above indicated, the decision under review should be AFFIRMED. Respondent is ordered:

"1. To pay claimant, thru this Commission, the amount of SIXTY EIGHT PESOS AND 64/100 (P68.64) as compensation;

"2. To pay claimant's counsel the amount of SIX PESOS AND 86/100 (P6.86) as attorney's fee; pursuant to Section 31 of the Act; and

"3. To pay the Workmen's Compensation Fund the amount of TEN (P10.00) PESOS as administrative cost including the P5.00 fee for this review" (p. 17, rec.).

Hence, on February 6, 1976, petitioner, assisted by counsel, filed the instant petition.

The main issue in this case is whether or not petitioner is entitled to compensation on the basis of his illness pulmonary tuberculosis even though he did not indicate such illness when he filed his Notice of Injury or Sickness and Claim for Compensation.

Respondent Commission maintains that petitioner is entitled to compensation only on the basis of his illness nephrolithiasis, on the grounds that petitioner's claim was based on disability due to nephrolithiasis and not pulmonary tuberculosis, and that the evidence adduced by the petitioner showing that he is suffering from pulmonary tuberculosis does not prove that he was disabled by reason thereof. On the contrary, according to respondent Commission such evidence showed that his pulmonary tuberculosis was discovered only when he had already stopped working (p. 34, rec.).

Supreme Court E-Library

Private respondent contends that petitioner's pulmonary tuberculosis is not work-connected nor was he disabled from work by reason thereof since his ailment was discovered only after he had stopped working as its bus driver.

WE find for the petitioner.

In view of the Constitutional mandate of protection to labor, the strict rules of procedure and evidence are not applicable in claims for compensation. Thus, Section 44 of the Workmen's Compensation Act, as amended, provides for several legal presumption of compensability:

"Sec. 44. Presumption.- In any proceeding for the enforcement of the claim for compensation under this Act, it shall be presumed in the absence of substantial evidence to the contrary —

"1. That the claim comes within the provisions of this Act;

"2. That sufficient notice thereof was given;

"3. That the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another;

"4. That the injury did not result solely from the intoxication of the injured employee while on duty; and

"5. That the contents of verified medical and surgical reports introduced in evidence by claimants for compensation are correct (as added by Section 24 of Republic Act No. 772)."

On the basis of the above-quoted section alone, WE find that petitioner's pulmonary tuberculosis is compensable. It must be pointed out, however, that the petitioner was able to show by substantial evidence, the causal relationship between his ailment pulmonary tuberculosis and the nature and/or condition of his employment with the private respondent.

According to the physician's report executed by Dr. Fructousa R. de Guzman, dated July 11, 1974 (p. 27, WCC rec.), petitioner was physically examined on June 1, 1974 and was found to be suffering from PTB, only twenty-five days after he stopped working as bus driver for private respondent on May 7, 1974. On July 10, 1974, he was also examined by Dr. Filemon R. Donato, a

Supreme Court E-Library

resident physician radiologist of the Gen. Juan Cailles Memorial Hospital, Pakil, Laguna, and was confirmed to be suffering from PTB (p. 26, WCC rec.).

It is established by medical authorities that the development of pulmonary tuberculosis is insidious, thus:

"The initial introduction of tubercle bacilli into the body usually passes unnoticed by the patient. It may occur at any age but is commoner (sic) in childhood, adolescence, and early adult life. Poulsen has shown that the incubation period is about 6 weeks from the time of known innoculation to the development of the first symptoms and the appearance of tuberculin hypersensitivity. At that time the symptoms are usually only those of a 'cold' or upper respiratory infection. *This phase of the illness is very rarely recognized as primary tuberculosis unless the patient is being watched for its development because of a known exposure to the disease.* Symptoms of malaise, mild fever, headache, and dry cough usually subside without specific therapy, and the only suggestion of the true situation may be a delay of *2 to 4 weeks* in the return of the patient to complete health. Occasionally the appearance of erythema nodosum suggests the correct diagnosis" (Principles of Internal Medicine, Harrison, 5ed., p. 1608, italics supplied).

It is therefore indubitable that petitioner's PTB supervened during his employment with private respondent long before the new provision of the New Labor Code on employee's compensation took effect on January 1, 1975 (Art. 208, New Labor Code).

Consequently, "(P)etitioner's claim having accrued prior to the New Labor Code, the presumption of compensability, the principle of aggravation, the award of attorney's fees and the payment of administrative fees must be observed and applied. x x x" (Corales *vs.* ECC, 88 SCRA 554 [1979]).

Considering the above-quoted medical report and the evidence on record, it is obvious that petitioner was forced to stop working because of his pulmonary tuberculosis. Thus, the contention of the respondent Commission and respondent bus company that petitioner's pulmonary tuberculosis did not disable him from work since he had already stopped working when it was discovered, is untenable.

While it is true that in the notice of injury of sickness and claim for compensation (WCC Form I) filed by the petitioner, he based

Supreme Court E-Library

his claim for compensation on his ailment nephrolithiasis alone, his ailment of pulmonary tuberculosis is also deemed included in his claim when he presented as evidence the results of the physical examinations done on him showing that he is suffering from PTB.

Likewise, the argument of respondent Commission that the disease or illness becomes compensable only from the time that the employee's sickness renders him physically disabled to do his work is untenable. In the case of Vivencio Omison *vs.* WCC, et al., G.R. No. L-42942, promulgated on August 22, 1984, this Court ruled thus:

"It is apparent that the Commission equates disability compensation benefits with claimant's physical incapacity to perform labor by reason of his illness. This conclusion is unwarranted. As stated in *Makabali v. Employees' Compensation* (126 SCRA 174) citing *[Corales] v. Employees' Compensation* (88 SCRA 555):

'x x x We have recognized the fact that an employee medically pronounced disabled for work can, despite thereof, pursue his work by sheer determination and ingenuity.

'In the subsequent cases of Romero *vs.* WCC, et al. (77 SCRA 480, June 30, 1977) and Gonzales *vs.* WCC, et al. (81 SCRA 709-710), We enunciated that:

'Disability, as a basis for compensation, is the combination of partial or total physical incapacity and of inability to work, or inability to work with the same ease and competency as before the injury, or the loss, total or partial, of earning power from the injury (Corpus Juris, Section 535, p. 813).

'Disability is used either in the medical or physical sense, as evidenced by obvious loss of members or by medical testimony that the claimant simply cannot make the necessary muscular movements and exertions; it is used to mean *de facto* inability to earn wages, as evidenced by proof that claimant has not in fact earned anything.

'This medical and wage-loss aspects of disability may be more clearly illustrated as follows: A claimant may be, in a medical sense, utterly shattered and ruined, but may by sheer determination and ingenuity contrive to make a living for himself; conversely, a claimant may be able to work, in both his and doctor's opinion, but awareness of his injury may lead employers to refuse him employment.

Supreme Court E-Library

> 'The problem of the administrators of the Act is the proper balancing of these medical and wage-loss factors. An absolute insistence on medical disability in the abstract would produce a denial of compensation in the latter case, although the wage-loss is as real and as directly traceable to the injury as in any other instance. At the other extreme, an insistence on the wage-loss as the best would deprive the claimant in the former illustration of an award, thus not only penalizing his laudable efforts to make the best of his misfortune but also fostering the absurdity of pronouncing a man non-disabled in spite of the unanimous contrary evidence of medical experts and of common observation' (Larson, Vol. II, p. 3)."

Furthermore, Section 13 of the Workmen's Compensation Act, as amended, clearly provides that "immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of disability, the employer shall provide the employee with such medical, surgical, and hospital services and supplies as the nature of the injury or sickness may require."

Finally, it is indisputable that petitioner's pulmonary tuberculosis was aggravated by the nature and conditions of his employment. Petitioner worked eight (8) hours a day, seven (7) days a week driving a bus through dusty roads in the rural areas. He was exposed to the fumes and heat coming from the engine of the bus. He was likewise exposed to the elements during typhoons and heavy rains and the summer heat. Then, there is always the danger of contracting some contagious diseases from the hundreds of passengers going in and out of his bus.

Although nephrolithiasis does not directly cause pulmonary tuberculosis, there is no doubt that petitioner has a weak resistance due to kidney trouble and has less means to afford food to cure the same. Such disease must have reduced his vitality. Furthermore, the debilitating effects of the work of a bus driver on a workman's physique especially to one with a weak resistance cannot be disputed. If these factors were to be considered in determining the compensability of this case, it would not be difficult to reach a conclusion. In conscience, WE cannot escape the conclusion that these factors may be considered as contributory to petitioner's contracting pulmonary tuberculosis.

Supreme Court E-Library

What the law merely requires is a reasonable work-connection and not a direct causal relation. This kind of interpretation gives meaning and substance to the liberal and compassionate spirit of the Workmen's Compensation Act, which is a social legislation designed to give relief to labor.

Hence, Section 2 of the Workmen's Compensation Act, as amended, is squarely on the point in this case, thus:

"Sec. 2. *Grounds for compensation.*— When an employee suffers personal injury from any accident arising out of and in the course of his employment or *contracts tuberculosis* or other illness directly caused by such employment, or either *aggravated by* or the result of *the nature of such employment,* his employer shall pay compensation in the sums and to the person hereinafter specified. x x x" (Italics supplied).

WHEREFORE, THE DECISION OF THE WORKMEN'S COMPENSATION COMMISSION IS HEREBY SET ASIDE, AND THE DECISION RENDERED BY THE WORKMEN'S COMPENSATION UNIT AT LUCENA CITY IS HEREBY REINSTATED BUT MODIFIED TO READ AS FOLLOWS:

PRIVATE RESPONDENT IS HEREBY ORDERED

1. TO PAY SIX THOUSAND (P6,000.00) PESOS TO THE PETITIONER AS COMPENSATION;

2. TO REIMBURSE PETITIONER HIS MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS;

3. TO PAY SIX HUNDRED (P600.00) PESOS AS ATTORNEY'S FEES IN ACCORDANCE WITH RULE 27 OF THE RULES OF THE WORKMEN'S COMPENSATION COMMISSION;

4. TO FURNISH PETITIONER REHABILITATION SERVICES INCLUDING MEDICAL, SURGICAL OR HOSPITAL TREATMENT; AND

5. TO PAY THE COSTS.

SO ORDERED.

Concepcion Jr., Abad Santos, Escolin, and *Cuevas, JJ.,* concur.
Aquino, J., in the result.