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**FIRST DIVISION**

[G.R. No. L-43854. February 28, 1979]

**GLICERIA LASARTE, for herself and for her children, namely, Hector, Myriam, Marilyn, Laurence, Maita, and Narciso Jr., all surnamed LASARTE,** *petitioners*, *vs* **WORKMEN'S COMPENSATION COMMISSION and THE REPUBLIC OF THE PHILIPPINES (Bureau of Public Highways),** *respondents*.

**SYLLABUS**

**LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION; PRESUMPTION OF COMPENSABILITY; IF UNREBUTTED, IT JUSTIFIES AWARD.** — Where it appears that death supervened during employment, such as where the deceased was murdered while employed as a cashier in the Bureau of Public Highways, the claim for death benefits is presumed compensable and an award is in order in the absence of any evidence by the employer to rebut the presumption.

**APPEARANCES OF COUNSEL**

*Jaime N. Hernandez* for petitioners.

*Acting Solicitor General Hugo E. Gutierrez Jr., Assistant Solicitor General Vicente V. Mendoza and Trial Attorney Raymundo A. Quiroz* for respondents.

**D E C I S I O N**

**FERNANDEZ, *J.*:**

This is a petition to review the decision of the Workmen's Compensation Commission in R05-WC Case No. 129982 entitled "*Gliceria Lasarte, for herself and for her children namely: Hector, Myriam, Marilyn, Laurence, Maita, and Narciso Jr., all surnamed Lasarte, Claimants, versus, Republic of*

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*the Philippines (Bureau of Public Highways), Respondent*" reversing the decision of the Acting Referee, Compensation Task Force, in Region Office V, Department of Labor, Legazpi City, granting death benefits to the petitioners as heirs of Lasarte, who was killed on October 11, 1972 while he was employed as cashier of the Second Engineering District of Albay, Bureau of Public Highways.

The petitioner, Gliceria Lasarte, is the widow Lasarte and the petitioners, Hector, Myriam, Marilyn, Laurence, Maita and Narciso Jr., all surnamed Lasarte are her children with the deceased Narciso Lasarte. The petitioner filed a claim for death benefits against the Republic of the Philippines (Bureau of Public Highways on account of Narciso Lasarte with Region Office V, Department of Labor, Workmen's Compensation Section at Legazpi City. After hearing the claim, the Acting Referee of the Compensation Task Force of said Region Office V, Vivencio E. Escarcha, rendered a decision in favor of the claimants dated November 21, 1975, the dispositive part of which reads:

"WHEREAS, premises considered, judgment is hereby is rendered ordering respondent REPUBLIC OF THE PHILIPPINES (Bureau of Public Highways):

"1. To pay thru this Office and in lump sum claimants the death compensation in the sum of SIX THOUSAND PESOS (₱6.000.00) plus the burial expenses of ₱200.00, thru the widow claimant, Gliceria Lasarte, the mother of the above-named children;

"2. To pay this Office the fee of SIXTY ONE PESOS (₱61.00) pursuant to Section 55 of the Act, as amended.

SO ORDERED.

Legazpi City, Philippines, November 21, 1975.

(SGD.) VIVENCIO E. ESCARCHA
Acting Referee
Compensation Task Force"[1]

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[1] *Rollo*, p. 20.

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The respondent, Republic of the Philippines (Bureau of Public Highways), appealed to the Workmen's Compensation Commission which reversed the decision of Acting Referee Vivencio E. Escarcha and dismissed the case on the ground that the death of Narciso Lasarte was not connected with his employment as cashier in the Bureau of Public Highways.[2]

The facts, as found by the Acting Referee of Region Office V, are that Gliceria Lasarte is the widow of Narciso Lasarte and the other petitioners are the children of said Gliceria Lasarte and Narciso Lasarte; that Narciso Lasarte employed with the Bureau of Public Highways sometime in 1959; that the last position of Narciso Lasarte was Cashier II with a salary of ₱5,725.20; that he was assigned to the Albay II Engineering District with Office at Legazpi City; that in the morning of October 11, 1972, he went to the office later failed to go home at noon and in the night time; that on the following day, Gliceria Lasarte received a call from their family physician informing her that Narciso Lasarte was dead; that Narciso Lasarte was shot in the Village Restaurant and Hotel at Legazpi City; that Dr. E. Lorenzo, City Health Officer of Legazpi City, found that Narciso Lasarte sustained a gunshot wound on the head which resulted in his death on October 12, 1972; that the incident was investigated by the Criminal Investigation Service, PC, Legazpi City, which reported that Narciso Lasarte died while serving as Cashier II of the respondent; that the circumstances attendant to the killing led the investigators to consider it as murder; that Narciso Lasarte was survived by his wife, Gliceria Lasarte, and his children, namely, Hector, Myriam, Marilyn, Laurence, Maita and Narciso Jr., and that the late Narciso Lasarte died while in the employ of the respondent, Republic of the Philippines (Bureau of Public Highways) as cashier II.[3]

The Workmen's Compensation Commission said that Narciso Lasarte, as cashier of the II Engineering District of Albay, had his place of work at Ligao, Albay, a good 30 to 40 kilometers

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[2] *Rollo*, pp. 17-18.

[3] *Rollo*, p. 19.

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away from the place of his death, Village Restaurant and Hotel. This statement is not correct. The office of the II Engineering District of Albay is in Legazpi City. The Village Restaurant and Hotel is located also in Legaspi City near the Office of Narciso Lasarte. It is the III Engineering District of Albay which has its place of work at Ligao, Albay.

The Criminal Investigation Service of the Philippine Constabulary found that Narciso Lasarte was murdered at the time of his death, Narciso Lasarte was cashier of the II Engineering District of Albay. Hence his death supervened during his employment. In view thereof, there is a presumption that his claim is compensable.[4]

In *Simon vs. Republic of the Philippines* (Supreme Court),[5] this Court said:

"x x x In a very recent case penned by Mr. Justice Claudio Teehankee, this Court held: 'x x x assuming the employee's illness may be ruled out as an occupational disease or that the casual link between the nature of his employment and his ailment has been insufficiently shown, nevertheless, it is to be presumed as mandated by Section 44 of the Workmen's Compensation Act, that the employee's illness which supervened during his employment either arose out of, or at least aggravated by said employment and with this presumption, the burden of proofs shifts to the employer and the employee is relieved of the burden to show causation. In the case before Us, the respondent has failed to discharge that burden. x x x'"

In the present case, the respondent did not adduce any evidence to rebut the presumption that the death of Narciso Lasarte is compensable.

The Acting Referee of Region Office V at Legazpi City awarded death benefits and burial expenses to the claims based on the following:

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[4] Section 44. Workmen's Compensation Act, as amended.

[5] 71 SCRA 643, 646.

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"Under Section 8-(b), claimants are entitled to death compensation in the sum of ₱6,240.00 (₱110.10 reduced to ₱50.00 x 60% x 208 weeks) which shall be reduced to ₱6,000.00 plus the burial expense of ₱200.00."[6]

This computation is correct.

**WHEREFORE**, the decision of the Workmen's Compensation Commission sought to be reviewed is hereby set aside the respondent is ordered:

1) To pay the claimants, petitioners herein, the sum Six Thousand Pesos (₱6,000.00) as death compensation plus expenses of Two Hundred Pesos (₱200.00), through the widow-claimant, Gliceria Lasarte; and

2) To pay the successor of the Workmen's Compensation Commission the sum of Sixty One Pesos (₱61.00) as administrative fee.

**SO ORDERED.**

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

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**FIRST DIVISION**

[G.R. No. L-44353. February 28, 1979]

**MARTHA FERANIL and PRIMITIVO VILLEGAS,** *petitioners, vs.* **HON. GUMERSINDO ARCILLA, in his capacity as Presiding Judge, Branch III, City Court of Davao City and SPOUSES ALFONSO CARDENAS and LOLITA CARDENAS,** *respondents.*

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[6] *Rollo*, p. 20.