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FIRST DIVISION

[G.R. No. L-41780. November 16, 1979]

GLORIA VDA. DE ZAPATA, for herself and as natural guardian of the minors CAROLINA, WILFREDO, TERESITA, BETTY and MARISSA, all surnamed ZAPATA and JESUS ZAPATA, *petitioners*, *vs.* **WORKMEN'S COMPENSATION COMMISSION and SAN MIGUEL CORPORATION,** *respondents*.

SYLLABUS

LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; WHERE ILLNESS HAS SUPERVENED DURING THE CLAIMANT'S EMPLOYMENT, THERE IS A DISPUTABLE PRESUMPTION THAT THE CLAIM IS COMPENSABLE; CASE AT BAR.— It is a fact that Fernando Zapata died due to "hepatoma with Superimposed amoebic abscess" while he was in the employ of San Miguel Corporation as an assistant foreman. The said illness having supervened during his employment, there is a disputable presumption that the claim is compensable. The claimant is relieved of the duty to prove causation as it is legally presumed that the illness arose out of the employment. The burden of proof is shifted to the employer to show that the ailment is not compensable. The private respondent, San Miguel Corporation, has failed to adduce evidence to prove that the ailment of Fernando Zapata was neither caused nor aggravated by his employment as assistant foreman.

APPEARANCES OF COUNSEL

Domingo E. de Lara & Associates for petitioners.
Jorge Contreras for private respondent.

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DECISION

FERNANDEZ, *J.*:

This is a petition to review the decision of the Workmen's Compensation Commission dated March 30, 1971 which reversed the decision of the Acting Chief Referee of Regional Office No. 4, Manila, and absolved the San Miguel Corporation from liability under the Workmen's Compensation Act.[1]

On September 11, 1967, Gloria *Vda. de* Zapata, for herself and in behalf of her five minor children, namely, Carolina, Wilfredo, Teresita, Betty and Marissa, all surnamed Zapata and Jesus Zapata in his own behalf, filed with the Regional Office No. 4, Manila, a claim for death benefits as heirs of Fernando Zapata. Gloria *Vda. de* Zapata is the widow and the other petitioners are the children of Fernando Zapata who was employed as a laborer of the respondent, San Miguel Corporation, since 1948 and who died on January 24, 1966 of a disease allegedly caused and/or aggravated by the nature of his employment.

On November 2, 1967, the San Miguel Corporation filed an answer controverting the claim for death benefits. Thereafter, the case was heard by Regional office No. 4 at Manila where the parties adduced their respective evidence. The Referee rendered a decision awarding compensation benefits to the claimants, the dispositive part of which reads:

"WHEREFORE, judgment is hereby rendered against respondent San Miguel Corporation and in favor of claimants Gloria *Vda. de* Zapata and her minor children already named above, ordering the former to pay the latter the sum, of SIX THOUSAND (₱6,000.00) as death benefit, plus the amount of TWO HUNDRED PESOS (₱200.00) as burial expenses or the total of SIX THOUSAND TWO HUNDRED PESOS (₱6,200.00), pay counsel for claimants the sum of ₱300.00 as attorney's fees, and pay this Office for the Workmen's Compensation Fund the

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[1] *Rollo*, pp. 51-54.

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sum of ₱61.00 as fee pursuant to Section 55 of the Act. The check may be drawn in the name of the widow-claimant, Gloria Vda. de Zapata.

SO ORDERED.
Manila, Philippines, December 27, 1968.

(SGD) ATANACIO A. MARDO
Chief Hearing Officer
Acting Chief Referee"[2]

The respondent, San Miguel Corporation, filed a motion for reconsideration and the case was elevated on appeal to the Workmen's Compensation Commission.

Finding that the illness of the deceased Fernando Zapata was neither caused nor aggravated by his work, the Workmen's Compensation Commission reversed the decision of the Referee and absolved the respondent, San Miguel Corporation, from liability.[3]

The facts, as found by the Workmen's Compensation Commission, are:

"A perusal of the records of the case discloses that the late Fernando Zapata started working for the respondent company sometime in 1948, as a laborer. His duties were sweeping and cleaning the place of his work, picking up cases of San Miguel beer from conveyors, carrying and piling them. His work schedule was from 8.00 a.m. to 12:00 p.m. Sometimes he was assigned in the night shift which starts from 4:00 p.m. to 12:00 midnight. In 1965 he was promoted as assistant foreman. As such, the nature of his duties were to supervise the laborers under him and to replace broken bottles with new bottles. Sometimes he also substituted as forklift operator. He continued working as such until January 3, 1966 when he complained of abdominal pain. The pain was accompanied by persistent fever which came on and off, chills and yellowish discoloration of the acelera. His wife brought him to Martinez Memorial Hospital where he was operated on January 23, 1966 and the following day he died due to 'hepatoma with Superimposed amoebic abscess.' His previous records

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[2] *Rollo*, pp. 37-38.

[3] *Rollo*, pp. 51-54.

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in said hospital disclose that he was confined in the same hospital thrice for the following illnesses: February 12, 1963 — for complaint of a mass over the right inguinal region and he was operated on for inguinal hernia on February 13, 1963; on May 8, 1963 — a ureteral stone over left ureter was removed, and on November 21, 1963 — he had urinary tract infection."[4]

It is a fact that Fernando Zapata died due to "hepatoma with Superimposed amoebic abscess" while he was in the employ of San Miguel Corporation as an assistant foreman. The said illness having supervened during his employment, there is a disputable presumption that the claim is compensable.[5] The claimant is relieved of the duty to prove causation as it is legally presumed that the illness arose out of the employment. The burden of proof is shifted to the employer to show that the ailment is not compensable.[6] The private respondent, San Miguel Corporation, has failed to adduce evidence to prove that the ailment of Fernando Zapata was neither caused nor aggravated by his employment as assistant foreman.

The record shows that the last hospitalization and operation expenses of the deceased Fernando Zapata at the Martinez Memorial Hospital on January 23, 1963 were defrayed by the employer, San Miguel Corporation. This fact is, in effect, an admission of the merit of the claim.

The Hearing Officer of Regional Office No. 4, Manila, based the award for death benefit and burial expenses on the following computation:

"Under Sections 6(b), 9, 10 and 12 of the Workmen's Compensation Act, as amended, claimants who are the widow and five minor children are entitled to 60% of the average weekly wage of the deceased for a period of 208 weeks in an amount not exceeding ₱6,000.00 and the

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[4] *Rollo*, pp. 52-53.

[5] Section 44, *Workmen's Compensation Act; Justiniano vs. Workmen's Compensation Commission*, 18 SCRA 677.

[6] *Balanga vs. Workmen's Compensation Commission, et al.*, 83 SCRA 721.

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computation should in no case be reckoned at more than ₱50.00 a week. In the case at bar, the deceased was receiving, per admission in the Employer's Report and in the answer filed by the respondent, the sum of ₱10.25 a day, working six days a week or more than ₱50.00 a week. Sixty per centum of ₱50.00 equals ₱30.00 and by multiplying this by 208 weeks and result will be ₱6,240.00 which should be reduced to ₱6,000.00 as the full amount of compensation claimant should receive. Aside from this, under Section 8 the widow should receive the sum of ₱200.00 as burial expenses."[7]

The foregoing computation is correct. The petitioners are also entitled to attorney's fees in the amount of ₱600.00.

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

1) To pay the petitioners the amount of Six Thousand Pesos (₱6,000.00) as death benefit plus the amount of Two Hundred Pesos (₱200.00) as burial expenses or a total of Six Thousand Two Hundred Pesos (₱6,200.00):

2) To pay the petitioners the sum of Six Hundred Pesos (₱600.00) as attorney's fees; and

3) To pay the successor of the Workmen's Compensation Commission the amount of Sixty-one Pesos (₱61.00) as administrative fees.

SO ORDERED.

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

Teehankee (Chairman), J., in the result.

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[7] *Rollo*, p. 37.