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[G.R. No. L-42400. August 7, 1985]

ISAURO ABCEDE and MILAGROS DAVID, *petitioners, vs.* **WORKMEN'S COMPENSATION COMMISSION and PHILIPPINE TELEGRAPH & TELEPHONE CORPORATION,** *respondents.*

SYLLABUS

LABOR AND SOCIAL LEGISLATION; WORKMENS' COMPENSATION ACT; PRESUMPTION OF COMPENSABILITY; APPLIED.— In various cases where a similar issue has been raised — as to whether the illness of the claimant is deemed service-connected the following judicial pronouncements here serve as sufficient guidelines: "Compensability of illness is presumed where illness supervened during employee's employment." "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 was aggravated by, said employment; and with this legal presumption the burden of proof shifts to the employer and the employee is relieved of the burden to show causation."

APPEARANCES OF COUNSEL

Ernesto H. Cruz and *Rodolfo M. Cornejo* for respondent WCC.

Armando E. Barrion for respondent Phil. Telegraph & Tel. Corp.

D E C I S I O N

ALAMPAY, *J.*:

Petitioners herein are the parents of the late ROMEO D. ABCEDE who, during his lifetime was employed as delivery messenger of the respondent Philippine Telegraph & Telephone

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Company (PTTC) with a monthly salary of ₱270.00. Said Romeo D. Abcede was employed by the respondent Company for approximately two (2) years and one (1) month.

On December 2, 1974, he reported for work as usual and when he went home after his duty hours he complained of headache and body weakness. In the morning of December 3, 1974 said Romeo D. Abcede died at his residence on account of "Asphyxial cardio-respiratory failure with marked congestion of lungs, heart, liver, stomach and pancreas. (Died in sleep)." Decision dated November 27, 1975, p. 6, *Rollo*).

In the same decision, it appears as an undisputed fact that five (5) months before his death, he allegedly complained of chest pain, difficulty of breathing and back pain (*Ibid.*, 2).

As Romeo D. Abcede died single, his parents, the petitioners herein who are the dependents of their son, filed on February 1, 1975 with the Regional Office No. 4 of the Workmen's Compensation Commission, Manila, their notice and claim for death compensation benefits.

Private respondent Corporation opposed the claimants' right to compensation on the ground that the illness of Romeo D. Abcede was not work-connected.

Considering the respective submissions of the claimants and the respondent Company, the Acting Referee of the Workmen's Compensation Commission Section Regional Office No. 4, Manila, on July 15, 1975 rendered his decision on the case. The dispositive portion thereof reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered ordering the respondent Philippine Telegraph & Telephone Corporation to pay, through this Office, and in lump sum:

"1. Claimants the death compensation in the sum of ₱4,160.00 plus the burial expenses of ₱200.00 through Isauro Abcede; and

"2. This Office the sum of Forty-two (₱42.00) Pesos as fees pursuant to Section 55 of the Act, as Amended." (Decision, *Rollo*, p. 20).

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Said Acting Referee took note that the death of the employee closely followed his last day of work and that he had previously complained of antecedent symptoms of his ailment. The statutory presumption that the nature of the employment of the deceased could have aggravated, even in a small degree, his ailment, there being no evidence to the contrary, was taken into account. The claim of the petitioners herein was, therefore, upheld by said Referee as compensable under the Workmen's Compensation Act, as Amended. (*Ibid.*, p. 20, *Rollo*).

Respondent Philippine Telegraph & Telephone Company appealed said decision to the Workmen's Compensation Commission contending that the Acting Referee erred in considering compensable the death of the decedent. The singular issue raised in private respondent's appeal is whether or not, there was a causal relationship between the nature of the work of the late Romeo D. Abcede and the cause of his death.

The respondent Commission, in its decision dated November 27, 1975 reversed the ruling of the Acting Referee and disagreed with the latter's appreciation of the facts and his resolution of the claim. Said Commission ruled that the records of the case fail to show that the late Romeo D. Abcede was ever treated by a physician for his alleged chest pains, difficulty of breathing and back pains, despite the fact that he supposedly had been suffering from the same for five (5) months prior to his death and that there was failure on the part of the claimants to prove that the ailment which caused the death of their son was traceable to his employment.

In the same petition, the Commission ruled that although the employee died while still in the employ of the respondent Company, there was no evidence that his death was triggered by work-related factors or that he was either incapacitated for work by reason of an illness or that he had a medical history of a cardio-respiratory ailment. The Commission declared it has no basis to sustain the grant of death compensation benefits in this case.

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From the decision of the said Commission, it was the turn of the petitioners-claimants to appeal to this Court by way of the present petition for review on *certiorari* which this Court resolved to treat as a special civil action. (Resolution of February 21, 1977; *Rollo*, p. 985).

Petitioners-claimants contend as erroneous the failure of the Commission to consider and apply Section 44 of Act 3428, as Amended, stating *inter alia*:

"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 provision of this Act.*"

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Appellants argue that the claim comes within the provision of the aforecited Act, and submits that by law, an illness contracted by an employment is presumed to be work-connected in the absence of any adduced evidence, to the contrary.

We are constrained to rule in favor of the appellants-claimants in this case. In various cases where a similar issue has been raised — as to whether the illness of the claimant is deemed service-connected the following judicial pronouncements here serve as sufficient guidelines:

1. "Compensability of illness is presumed where illness supervened during employee's employment (*Mercado vs. Workmen's Compensation Commission*, 72 SCRA 260; *Cabinta vs. Workmen's Compensation Commission*, 72 SCRA 266; *Laude vs. Moderna*, 72 SCRA 569; *Jacob vs. Workmen's Compensation Commission*, 72 SCRA 575).

2. "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 was aggravated by, said employment; and with this legal presumption the burden of proof shifts to the employer and the employee is relieved of the burden to show causation. (*Talip vs. Workmen's Compensation Commission*, 71 SCRA 218, *Aranzanso vs. Sagnit*, 71 SCRA 608; *Simon vs. Republic*, 71 SCRA 643."

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WHEREFORE, the decision of the Workmen's Compensation Commission appealed from is hereby REVERSED and the original award made under the decision of the Acting Referee dated July 15, 1975 in RO4-WC Case No. 16294, granting death compensation benefits to the petitioners-claimants herein is upheld with the modification that the death compensation benefits should be Six Thousand (₱6,000.00) Pesos and that the respondent Corporation should now pay the prescribed fees of Sixty (₱60.00) Pesos to the Ministry of Labor and Employment.

SO ORDERED.

Makasiar, C.J., Teehankee, Concepcion Jr., Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, and *Cuevas, JJ.*, concur.

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[G.R. No. L-42916. August 7, 1985]

DONATO JEREZA, *claimant-appellant, vs.* **LUIS T. MONDIA AND/OR WORKMEN'S INSURANCE COMPANY**, *respondent-appellee.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; PRESUMPTION OF COMPENSABILITY APPLIES WHEN THE ILLNESS SUPERVENED AT THE TIME OF THE EMPLOYMENT.**— It has been a well-entrenched and oft-repeated pronouncement of this Court that under the former Workmen's Compensation Act, once an illness supervened at the time of the employment, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by such employment. There is no question that this claim is covered by the old law, not the new Labor Code provisions.