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SO ORDERED.

Aquino and *Santos, JJ.*, concur.

Barredo (Actg. Chairman) and *Antonio, JJ.*, concur in the result.

Abad Santos, J., took no part.

FIRST DIVISION

[G.R. No. L-43456. April 30, 1979]

POTENCIANA VILLODRES, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and REPUBLIC OF THE PHILIPPINES (Bureau of Public Schools),** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION; PRESUMPTION OF COMPENSABILITY; APPLICATION.** — Where the employee's illness supervened during his employment, there is a disputable presumption that the claim is compensable. The employee is relieved of the duty to prove causation as it is then legally presumed that the illness arose out of the employment. To the employer is shifted the burden to establish that the illness is non-compensable.

2. **ID.; ID.; ID.; EFFECT OF FAILURE TO CONTROVERT.** — For failure to controvert the employee's claim, the employer is deemed to have renounced all non-jurisdictional defenses.

3. **ID.; ID.; DISABILITY BENEFIT; EFFECT OF DEATH OCCURRED WITHIN TWO YEARS FROM DISABILITY; CASE AT BAR.** — The contention of the Workmen's Compensation Commission that the claim is not compensable because deceased died three years after October 2, 1972, when he was disabled, has no merit.

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After submitting to medical treatment, deceased was able to return to work, although he took sick leaves of absence. He actually retired as a result of his illness only on August 31, 1974. He died on August 29, 1975. The Workmen's Compensation Commission erred in computing the two-year period from October 2, 1972 and not from August 31, 1974 when deceased had to retire because he could no longer perform his duties as a public school teacher by reason of his illness.

APPEARANCES OF COUNSEL

Roberto Q. Operiano for petitioner.
Office of the Solicitor General for respondents.

DECISION

FERNANDEZ, *J.*:

This is a petition to review the decision of the Workmen's Compensation Commission in WCU Case No. 208 (Antique) entitled "*Potenciana Villodres,* Claimant, *versus*, *Republic of the Philippines (Bureau of Public Schools),* Respondent" setting aside the award granted by the Acting Referee of Regional Office No. 7, Iloilo City, and dismissing the case for lack of cause of action.[1]

On March 25, 1975, Angel F. Villodres, Sr. filed a claim for disability benefits with the Labor Provincial Office of Antique. When he died on August 29, 1975, his widow, Potenciana Villodres, petitioner herein, filed on September 30, 1975, a notice and claim for compensation and reimbursement of burial expenses for the death of her husband. The respondent, Republic of the Philippines (Bureau of Public Schools), did not controvert the claim.[2]

After hearing, the Acting Referee of Regional Office No. 7 at Iloilo City awarded to the claimant the sum of ₱4,880.00 as death compensation and reimbursement of burial expenses.[3]

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[1] Decision, *Rollo*, pp. 14-15.

[2] Memorandum for Petitioner, *Rollo*, p. 40.

[3] Decision, *Rollo*, p. 14.

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The respondent, Republic of the Philippines (Bureau of Public Schools), filed a motion for reconsideration. The motion was denied by the Acting Referee and the records of the case were elevated to the Workmen's Compensation Commission for review.

The Workmen's Compensation Commission reversed the decision of the Acting Referee on the ground that the late Angel F. Villodres, Sr. was disabled for work on October 2, 1972 and he died on August 29, 1975 for almost three (3) years after he was incapacitated for work and the settled rule is that when the death occurs beyond two (2) years from the date of disability, the claim for compensation will no longer prosper for lack of cause of action.[4]

The records of this case disclose that the late Angel F. Villodres, Sr. was employed as a classroom teacher by the respondent, Bureau of Public Schools, since July 10, 1948 until his retirement on August 31, 1974 at the age of 64; that prior to his retirement be contracted and illness which was diagnosed by his attending physicians as "Hypertension, essential secondary to nephritis; Rheumatoid arthritis" as a result of which he temporarily stopped working on October 2, 1972; and that he was treated for his ailment and was hospitalized on various dates at the Iloilo Medical Center, Tobias Fornier Memorial Hospital and at the Antique Provincial Hospital where he died of the same illness on August 29, 1975.[5]

It is a fact that the illness as a result of which Angel F. Villodres, Sr. died on August 29, 1975 supervened during his employment with the Bureau of Public Schools. Hence, there is a disputable presumption that the claim is compensable.[6] The claimant is relieved of the duty to prove causation as it is then legally presumed that the illness arose out of the employment.

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[4] *Idem.*, p. 15.

[5] *Rollo*, pp. 14-15.

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

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To the employer is shifted the burden of proof to establish that the illness is non-compensable.[7]

The claimant did not rely on this disputable presumption alone. She presented evidence to support that the illness of her husband, Angel F. Villodres, Sr., was the result of the nature of his employment as a teacher of the Bureau of Public Schools.[8]

Moreover, the respondent, Republic of the Philippines (Bureau of Public Schools), did not controvert the claim. In view thereof, said respondent is deemed to have renounced all non-jurisdictional defenses.[9]

The contention of the Workmen's Compensation Commission that the claim is not compensable because Angel F. Villodres, Sr. died three (3) years after October 2, 1972 when he was disabled, has no merit. After submitting to medical treatment, Angel F. Villodres, Sr. was able to return to work after October 2, 1972 although he took sick leaves of absence. He actually retired as a result of his illness only on August 31, 1974 at the age of 64. Angel F. Villodres, Sr. died on August 29, 1975.

The Workmen's Compensation Commission erred in computing the two-year period from October 2, 1972 and not from August 31, 1974 when the late Angel F. Villodres, Sr. had to retire because he could no longer perform his duties as a public school teacher by reason of his illness. Angel F. Villodres was not disabled from work on October 2, 1972. He was able to work after said date. It was only on August 31, 1974 that he was disabled from his work. He had to retire on said date.

In addition to the compensation benefits, the petitioner is entitled to reimbursement of medical expenses of Angel F. Villodres, Sr., if supported by proper receipts. Petitioner should also be awarded attorney's fees.

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[7] *Balanga vs. Workmen's Compensation Commission*, 83 SCRA 721.

[8] *Rollo*, p. 31.

[9] *Loming Dinaro vs. Workmen's Compensation Commission, et al.*, 70 SCRA 292.

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WHEREFORE, the decision sought to be reviewed is hereby set aside and the respondent, Republic of the Philippines (Bureau of Public Schools), is ordered:

1) To pay the claimant the sum of Four Thousand Eight Hundred Eighty Pesos (₱4,880.00) as death compensation and reimbursement of burial expenses;

2) To reimburse the petitioner of medical expenses incurred by Angel F. Villodres, Sr., if supported by proper receipts;

3) To pay the petitioner attorney's fees in the amount of Four Hundred Eight-Eight Pesos (₱488.00); and

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

SO ORDERED.

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

FIRST DIVISION

[G.R. No. L-43882. April 30, 1979]

ANGELICA VIAJAR and CELSO VIAJAR, *plaintiffs-petitioners, vs.* **HON. NUMERIANO G. ESTENZO, Presiding Judge, Court of First Instance of Iloilo, Branch III, RICARDO LADRIDO and ROSENDO TE,** *defendants-respondents.*

[G.R. No. L-45321. April 30, 1979]

ANGELICA VIAJAR and CELSO VIAJAR, *plaintiffs-appellants, vs.* **RICARDO LADRIDO and ROSENDO TE,** *defendants-appellees.*