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FIRST DIVISION

[G.R. No. L-42493. May 28, 1979]

PURIFICACION C. UNITE, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION & REPUBLIC OF THE PHILIPPINES (thru the Bureau of Plant Industry),** *respondents.*

[G.R. No. L-43532. May 28, 1979]

SALVADOR DE GUZMAN, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and CITY OF MANILA,** *respondents.*

[G.R. No. L-42633. May 28, 1979]

SOFIA *VDA. DE* ISANAN, *petitioner, vs.* **WORKMEN'S *COMPENSATION COMMISSION & GONZALO* PUYAT & SONS, INC.,** *respondents.*

[G.R. No. L-43405. May 28, 1979]

FAUSTO ROMBAOA, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION & THE PANIQUI SUGAR MILLS, INC.,** *respondents.*

[G.R. No. L-42554. May 28, 1979]

CIPRIANO NARVADES, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION & SAVORY LUNCHEONETTE,** *respondents.*

[G.R. No. L-43402. May 28, 1979]

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

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[G.R. No. L-44276. May 28, 1979]

ESTANISLAO LEGARDA, *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES (Bureau of Public Schools), THE SOLICITOR GENERAL and WORKMEN'S COMPENSATION COMMISSION,** *respondents.*

[G.R. No. L-39018. May 28, 1979]

SAN MIGUEL CORPORATION, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and FEDERICO F. AQUINO,** *respondents.*

[G.R. No. L-42733. May 28, 1979]

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

[G.R. No. L-42388. May 28, 1979]

ATLAS FERTILIZER CORPORATION, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and GENERA N. *VDA. DE* PEÑARANDA, *et al.*,** *respondents.*

[G.R. No. L-43299. May 28, 1979]

DOROTEO B. BERCASIO, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and GOVERNMENT SERVICE INSURANCE SYSTEM (Southern Luzon Regional Office, Naga City),** *respondents.*

[G.R. No. L-42912. May 28, 1979]

ADELINA TUPAS, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and REPUBLIC OF THE PHILIPPINES (Bureau of Health),** *respondents.*

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[G.R. No. L-44047. May 28, 1979]

TELESFORO C. EVIOTA, *petitioner, vs.* **CITY GOVERNMENT OF SURIGAO,** ***et al.,*** *respondents.*

[G.R. No. L-43585. May 28, 1979]

CESAR ALINSOD, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and REPUBLIC OF THE PHILIPPINES (National Grains Authority),** *respondents.*

[G.R. No. L-43177. May 28, 1979]

ENGRACIA L. VDA. DE DEL PILAR, in substitution to the deceased Cesar C. del Pilar, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and REPUBLIC OF THE PHILIPPINES (Bureau of Census & Statistics),** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION; DISABILITY BEEFITS; CLAIMANT ENTITLED TO REIMBURSEMENT OF MEDICAL EXPENSES;** . — Where claimant had previously been issued an award on the basis of his non-controverted claim for disability, which award expressly reserved to him the right to claim for reimbursement of medical and hospital expenses as may be incurred by him for treatment and cure of said illnesses under Section 13 of the Workmen's Compensation Act, there could be no legal basis to summarily deny reimbursement of the expenses contrary to said award which was being merely enforced and implemented, simply because of the Commission's mistaken belief that "no amount of medical expenses can cure claimant's permanent and disability."

2. **ID.; ID.; PRESUMPTION OF COMPENSABILITY; APPLICATION.** — The right of claimant to disability compensation would be supported by the general principle of presumption of compensability where such illness supervenes during

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employment, particularly in cases of tuberculosis which is singled out as compensable disease under Section 2 of the Workmen's Compensation Act (probably due to our people's long history of affliction with this disease and susceptibility thereto, specially under conditions of fatigue, stress and poor or unhealthy working condition. Thus, where such illness supervenes during employment, there is a rebuttable presumption that it arose out of the employment or was at least aggravated by it, and the employer has the burden of proving the contrary by substantial evidence. The ultimate result of that principle is that the presumption rebuttable in its inception becomes conclusive upon the failure of the employer to destroy the same.

3. **ID.; ID.; DISABILITY BENEFITS; CLAIMANT ENTITLED TO COLLECT ALTHOUGH CLAIM FOR DEATH BENEFITS IS BARRED.** — Although the payment of death benefits was barred by section 8 of the Workmen's Compensation Act requiring that the disease of injury should cause the employee's death within two years from the date of such injury or sickness, the widow may be entitled to collect full disability compensation corresponding to the period up to the deceased employee's demise. The right to compensation for disability corresponding to the period up to his demise, had already accrued before his death and accordingly, the same constitutes an asset of his estate transmissible to his heirs, free, on account of its special nature, from any liens and obligations.

4. **ID; ID.; ID.; EFFECT OF APPLICATION FOR OPTIONAL RETIREMENT.** — When an employee is forced to ask for retirement, not because of old age, but primarily because of his weakened bodily condition due to an illness contracted in the course of his employment he is to be given compensation for his inability to work during the remaining days before his scheduled compulsory retirement, aside from the retirement benefits due him.

5. **ID.; ID.; ID.; APPLICATION UNDER MAGNA CARTA FOR PUBLIC SCHOOL TEACHERS.** — Under Section 23 of the Magna Carta for Public School Teachers, Rep. Act 4670, "teachers shall be protected against the consequences of employment injuries in accordance with existing laws. The effects of the physical and nervous strain on the teacher's health shall

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be recognized as a compensable occupational disease in accordance with existing laws.

6. **ID.; WORKMEN'S COMPENSATION COMMISSION; APPEAL; PERFECTION WITHIN REGLEMENTARY PERIOD, MANDATORY AND JURISDICTIONAL.** — The principal that perfection of appeal within the reglementary period is mandatory and jurisdictional, and that failure to do so renders the questioned decision final and executory and deprives appellate courts of jurisdiction to entertain appeal applies to judgments of courts and of quasi-judicial agencies like the Workmen's Compensation Commission. This rule operates against all employers in compensation cases whether private or public, the only exception being where a timely petition for relief from judgment based on established grounds of fraud, accidents, mistake or excusable negligence is filed within the 30-day grace period in workmen's compensation cases.

7. **ID.; ID.; CLAIM FOR COMPENSATION; EFFECT OF NON-CONTROVERSION.** — The employer is barred from presenting all non-jurisdictional defenses by virtue of its failure to make a timely controversion of the employee's right to compensation.

8. **ID.; EMPLOYEE-EMPLOYEE RELATIONSHIP; CONTROL TEST; APPLICATION.** — *A person who has direct control and* supervision over the work of the deceased employee is, for all legal purposes, considered as the statutory employer of said deceased and is liable to the claimant-widow as well as her defendant children for death benefits.

9. **ID.; WORKMEN'S COMPENSATION ACT; REQUIRES LIBERAL INTERNATIONAL.** — *The Court's liberal interpretation of the* Workmen's Compensation Act and of the principle of compensability is grounded on the fact that the Act is a social legislation which all departments and agencies of the government are obligated at all times to interpret liberally so as to give meaning and substance thereto and to the constitutional guarantees in favor of the workingmen, in obedience to the social justice mandate of the constitution which would otherwise be merely "meaningless patter."

10. **ID.; ID.; DISABILITY BENEFITS; COMING AND GOING RULE; APPLICATION.** — Where the employee was on his way to another municipality is a passenger bus in line of duty in order

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to discharge his mission as retail inspector to supervise the unloading of rice when the bus turned turtle in a vehicular accident and caused him serious injury that resulted in the amputation of his left leg, the resulting disability is compensable within the going to and coming from rule.

APPEARANCES OF COUNSEL

Alfonso A. Osias for petitioner Purification C. Unite.

Araceli A. Ruben (CLAO) for petitioner Salvador de Guzman.

Romeo T. Saavedra for petitioner Sofia *Vda. de* Isanan.

Maximo C. Lopez for petitioner Fausto Rombaoa.

Leonardo M. Olino, Jr. for petitioner Cipriano Narvades.

Nicolas Fernandez and *Cesar D. Santamaria* for petitioner Jorge F. Diangson.

Ricardo M. Perez for petitioner Estanislao Legarda.

Jorge Contreras for petitioner San Miguel Corporation.

Panfilo B. Iyog for petitioner Eliza Battad.

Pelaez Pelaez & Pelaez for petitioner Atlas Fertilizer Corporation.

Cirilo A. Diaz, Jr. for petitioner Doroteo B. Bercasio.

Pedro R. Requiron for petitioner Adelina Tupas.

Juan R. Moreno for petitioner Cesar Alinsod.

Voltaire B. Alcantara for petitioner Engracia L. *Vda. de* del Pilar, *etc.*

Jorge B. Contreras for respondent Gonzalo Puyat & Son, Inc.

Antonio San Vicente for respondent The Paniqui Sugar Mill, Inc.

Felipe P. Fuentes Jr. for respondent Savory Luncheonette.

Enrique Joaquin for respondent Federico F. Aquino.

Manuel M. Lazaro, Luis A. Javellana & Alicia C. Manalang and *Julio B. Badiong* for respondent GSIS.

Ernesto H. Cruz and *Vivencio Escarcha* for respondent Workmen's Compensation Commission.

Office of the Solicitor General for respondent The Republic of the Philippines.

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DECISION

TEEHANKEE, *J.*:

The fifteen workmen's compensation cases at bar are jointly adjudicated in this consolidated decision on the basis of the Court's well-settled and controlling jurisprudence and doctrines.

1. In *L-42493,* respondent commission reversed the referee's award in favor of claimant-petitioner PURIFICACION C. UNITE, granting her *inter alia* the amount of ₱6,154.96 as reimbursement of expenses for medicines purchased by her (duly supported by receipts from various drug stores) for the treatment of her service-connected illnesses of Essential Hypertension and Kock's disease (PTB). On account of said work-connected illnesses, claimant-petitioner Unite had been previously issued an award on December 1, 1971 by respondent commission on the basis of her admittedly non-controverted claim for disability and medical benefits whereby she was granted disability compensation in the amount of ₱6,000.00. The award further expressly reserved to her the right to claim for reimbursement of medical and hospital expenses as may be incurred by her for the treatment and cure of said illnesses under Section 13 of the Workmen's Compensation Act. The claimant-petitioner subsequently filed such claim for reimbursement. At the hearing on February 7, 1974 of her claim for reimbursement of medical expenses, she testified under oath that she was hospitalized at the Manila Doctors Hospital for two months in 1972, that she had been undergoing treatment as an out-patient and had bought all the medicines prescribed for her treatment as evidenced by the receipts presented by her and her claim therefor in the amount of ₱6,154.96 was granted in the referee's Order of May 16, 1974. (Her claim for professional fees of her physician in the amount of ₱1,405.00 was, however, disallowed "for lack of proper identification").

The commission nevertheless reversed the referee's award for reimbursement of her medical expenses as being "unwarranted and without justification," ruling that "(A)s residual effect of her disabling ailment, the claimant is now permanently and

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partially disabled. No amount of medical expenses can cure her permanent and partial disability. The respondent should not be burdened with such useless expenditure. That the respondent did not oppose, in fact, it has recommended the payment of, claimant's claim for temporary total disability, is not a license for the claimant to go on a 'spending spree,' so to speak, at the expense of the respondent, for her permanent and total disability." Hence, this petition by claimant-petitioner who further invokes the fact that the referee's award of December 1, 1971 was never questioned or appealed by respondent and has long become final and executory, and therefore the reservation therein for her to be reimbursed for medical expenses for the treatment of her illnesses can no longer be questioned.

2. In *L-43532*, respondent commission affirmed the referee's order dismissing the claim of claimant-petitioner SALVADOR DE GUZMAN, a pail collector of respondent City of Manila, for disability compensation for his affliction of Pulmonary Tuberculosis Bilateral, incurred during the course of his employment and aggravated thereby so much so that he was forced to retire under R.A. 1616 on May 1, 1974 due to his physical disability and was paid his disability retirement benefits by the GSIS on July 30, 1974 in the amount of ₱2,663.64. Claimant's work as pail collector was to collect waste matter or excreta in the Manila region, as a result of which he was daily exposed to contamination of all sorts from foul matters until he eventually fell victim to the constant exposure to wasteborne human diseases and contracted PTB, far advanced. Hence, he filed on August 26, 1974 his claim for compensation duly supported by the physician's report.

The commission nevertheless affirmed the dismissal of his claim, ruling that "(I)t is stated in the physician's report that he submitted himself for treatment to Dr. Gil Tanguilot for the alleged sickness of 'P.T.B.' This allegation is not supported by a showing of a medical procedure followed to determine the existence of the illness. The last entry in his service record does not indicate that he retired from service by reason of

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disability. The records are bereft of details about the illness, leaving us merely to conjecture."

3. In *L-42633*, respondent commission reversed the referee's award in favor of claimant-petitioner SOFIA *VDA. DE* ISANAN, widow of the deceased Felipe Isanan who was employed as carpenter of respondent employer, granting said claimant *inter alia* ₱6,000.00 as permanent total disability benefits. The record sufficiently showed that "Felipe Isanan was employed as carpenter (Exh.-'F') at ₱12.00 a day or ₱72.00 for six days a week. Sometime on January 20, 1972, he stopped working due to his PTB which supervened during his employment (Exh.-'B') and thereafter was refused work by respondent because of his said illness whereupon Felipe Isanan filed a claim for separation pay based on illegal dismissal with the NLRC in RO4 Case No. 11-3039-73 where he obtained a judgment in his favor which was already affirmed by the NLRC and still pending appeal with the Secretary of Labor. Pending finality of said NLRC decision, Felipe Isanan died of PTB on August 8, 1974 (Exh.-'C') and respondent received notice thereof on August 19, 1974 as per late *pro-forma* controversion of respondent in this case." While the claim for death compensation was received by respondent employer only on August 19, 1974 or eleven days after the death of Felipe Isanan on August 8, 1974, which occurred more than two years after he was refused work on January 20, 1972, the referee ruled on the strength of *Calado vs. WCC* [1] that claimant nevertheless was entitled to sickness benefits equivalent to full disability, ruling that "(C)onsidering, however, that claimant has sufficiently shown that the deceased's illness of PTB supervened during the course of his employment (Exh-'B') which PTB continued after he was refused work on January 20, 1972 (Exh-'B-1'; TSN, pp. 3 & 5, January 20, 1974, NLRC RO4 Case No. 11-3039-73) which PTB later on caused the decedent's death on August 8, 1974 (Exh-'C'), claimant instead is entitled to sickness benefits equivalent to full disability (*Vda. de Calado v. WCC*, L-26149,

[1] 38 SCRA 567.

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April 30, 1971; *Marcelino vs. Seven-Up & WCC*, 47 SCRA 343)." The commission nevertheless reversed the award holding that "the instant claim is a death claim filed by the herein claimant on March 25, 1975 for the death of Felipe Isanan on August 8, 1974. The death of the deceased Felipe Isanan having occurred after two (2) years from the date of disability or on January 20, 1972, the instant claim for death benefit will no longer lie. Much as we sympathize with the claimants yet we cannot stretch the law too far without incurring injustice to the respondent."

4. In *L-43405*, respondent commission affirmed the referee's order dismissing the claim of claimant-petitioner FAUSTO ROMBAOA for disability compensation for his affliction of PTB incurred during his employment for the last 17 years as boiling house sampler, performing heavy manual labor and exposed to extreme heat inside the boiler house, which condition was conducive to and resulted in the development of his ailment. The commission justified its adverse ruling on the ground that "(A)ccording to medical authorities, Minimal PTB could develop within a period of one (1) month or less and since the claimant's illness of PTB is only in its minimal stage at the time it was discovered during the pre-milling medical examination in September, 1973, it logically follows that he might have acquired and contracted the same after the milling season 1972-1973 and before the start of the 1973-1974 milling season when he was not rendering service for the respondent. Since the claimed illness was not occasioned during the regular course of employment, it can be safely concluded that it did not arise out of and in the course of employment, hence, the decision rendered in the case is justified and fully warranted by law."

5. In *L-42554*, respondent commission reversed the referee's award granting *inter alia* claimant-petitioner CIPRIANO NARVADES ₱6,000.00 as disability compensation for his affliction of "Pulmonary Tuberculosis, minimal, bilateral, active" incurred and aggravated during his employment as cook in respondent Savory Luncheonette on the principal ground that "(W)hile we do not subscribe fully to the claim of the respondent that the claimant abandoned his work, as there is no substantial proof to that effect, we do not also agree that the claimant

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stopped working because of a disabling tubercular ailment contracted by him in the course of his employment and as a result thereof. Except for the mere allegation of the claimant and the Physician's Report of his attending doctor, there is no other medical evidence of the existence of the ailment in question at the time of the cessation of employment of the claimant on April 1, 1971."

6. In *L-43402*, respondent commission reversed the referee's award in favor of claimant-petitioner JORGE F. DIANGSON, granting him *inter alia* ₱6,000.00 as disability compensation for his ailment of Arthritis incurred and aggravated during the course of his employment as a public school teacher under respondent Bureau of Public Schools in Kalibo, Aklan and in Capiz during the period from June 6, 1937 until his retirement on August 1, 1974. The referee's award recited *inter alia* that "as a teacher in the District of Mambusao of the Division of Capiz, claimant all the years was assigned in barrio schools, which could be reached only by hiking over muddy trails, ricefields and crossing brooks, creeks and rivers like Baye Bo. School from 1947 to 1948 which is 9 kilometers from Poblacion of Mambusao where he resides, Balit Elementary School from 1948 to 1949 which is 5 kilometers from the Poblacion, Burias from 1949 to 1950 which is 8 kilometers, Pinay from 1949 to 1950 which is 9 kilometers, Bungsi from 1950 to 1951 which is 11 kilometers, Tugas from 1955 to 1960 which is 3 kilometers, Bating from 1963 to 1964 which is 8 kilometers and Cala-agus Elementary School from 1968 to 1969 which is 12 kilometers (Exhibit C) reporting to the barrio every Monday morning and returning home Friday afternoon; that from 1969 to 1974 claimant was a Food Production Teacher whose work was to conduct surveys of homes, schools and communities and conduct seminars to encourage food production in the District of Mambusao West (Exhibit D); that in 1971 claimant began to suffer from rheumatic arthritis which would subside only to recur and in addition began to have a hoarse voice which ultimately resulted in an acute pharyngitis and sought treatment, as an out-patient, at the Mambusao General Hospital on February 25, 1974 (Exhibit E); that because the claimant

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thinks he can not render efficient service and upon advice of his doctor because of his recurrent rheumatism and pharyngitis claimant retired from the service; that this Office on its own personal observations and knowledge noted claimant's fingers having difficulty in holding a ballpen, coughing and with unsteady walking posture complaining of pains on joints and is not fit to work in order to earn his livelihood." The commission nevertheless reversed the award on the ground that "his ailment, assuming that he was really sick, did not incapacitate him from working, immediately before and at the time he opted to retire on August 1, 1974. Thus, the commission believes that claimant retired from the service for reasons other than his alleged sickness."

Claimant-petitioner further avers that the referee's award in his favor had already become final and executory since respondent's petition to elevate records for relief from judgment was filed only on December 10, 1975, twenty days after receipt of copy of the decision through the Solicitor General on November 20, 1975.

7. In *L-44276*, respondent commission reversed the referee's award in favor of claimant-petitioner ESTANISLAO LEGARDA, granting him *inter alia* ₱6,000.00 as disability compensation for his affliction of Rheumatoid Arthritis and Anemia incurred by him and aggravated during his employment as classroom teacher with respondent Bureau of Public Schools during the period from September 28, 1938 until he was constrained to retire on January 31, 1969. Respondent commission nevertheless reversed, justifying its action thus: "(I)t appears that the claimant was a public school teacher receiving a salary of ₱3,507.15 per annum; and that on January 31, 1969 he stopped working at the age of 60. Dr. Norberto Antenor Cruz stated in his report that from December, 1967 the claimant was his patient for the illness diagnosed as 'Rheumatoid Arthritis, Anemia.' The claimant failed to satisfactorily establish conditions to which he is subject in the performance of his function as a public school teacher or to attach a hazard in his occupation to distinguish it from the usual run of occupations that could predispose him to the growth or aggravation of the illness. We

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are inclined to believe that the illness was the result of the aging process, which is not traceable to his employment."

In the present petition, claimant-petitioner assails the commission's action for having been issued without jurisdiction in that respondent filed late its motion for reconsideration only on September 12, 1975 beyond the 15-day reglementary period since it admittedly received copy of the referee's decision on August 25, 1975, and therefore had only until September 9, 1975 within which to file said motion, after the lapse of which the referee's award became final and executory.

8. In *L-39018*, respondent commission by majority resolution affirmed the referee's award as affirmed by its Associate Commissioner[2] granting *inter alia* claimant-respondent FEDERICO F. AQUINO ₱6,000.00 as disability compensation for his affliction of Osteoarthritis of the lumbar vertebrae. The commission affirmed the award, ruling that claimant's illness was traceable to the nature of his employment as janitor in petitioner corporation's employ for a period of nearly 30 years and that the employer's opposition should further be rejected for failure to make a timely controversion of the employee's right to compensation.

9. In *L-42733*, respondent commission reversed the referee's award in favor of claimant-petitioner ELIZA BATTAD granting her *inter alia* ₱6,000.00 as disability compensation for her affliction of Hypertensive Cardiovascular disease contracted by her and aggravated during the course of her employment as classroom teacher of the respondent Bureau of Public Schools in Sorsogon and Quezon City during the period commencing from October 19, 1951 until she was constrained to optionally retire on February 28, 1973. Notwithstanding

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[2] Commissioner Eugenio I. Sagmit, Jr.'s decision of Dec. 27, 1973 and the commission's resolution of June 28, 1974 were issued under the old, now discarded, provisions of the Workmen's Compensation Act before the procedures were abbreviated by having the referee's award directly reviewed by the commission itself (instead of an intermediate review by one commissioner).

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respondent employer's non-controversion of the claim, the commission nevertheless reversed on the basis of its opinion that the facts "indicated that the claimant was not disabled for labor by reason of the illness complained of," and that "(The alleged sick leave immediately before the effective date of her retirement could possibly be the terminal leave due her, since there is no medical evidence of any illness that would have disabled her on or before August 14, 1972. All credible evidence reveal claimant's illness to have started in 1973."

10. In *L-42388*, respondent commission affirmed the referee's award in favor of respondent-claimant GENARA N. *VDA. DE* PEÑARANDA, granting her *inter alia* ₱6,000.00 as death benefits under the Workmen's Compensation Act for the death of her husband Franco Peñaranda as a result of the fatal illness contracted by him inside the fertilizer plant of petitioner employer in Sangi, Toledo City. The referee's award found that "the deceased Franco Peñaranda was employed by [petitioner] Atlas Fertilizer Corporation as Utility Man and started working on October 16, 1958 and continued working since then until August 26, 1970 when he was terminated and his termination was settled on April 19, 1971 when he was given some amount in consideration thereof; that sometime in the month of January, 1973, said deceased was allowed to work again with [petitioner] in the same capacity as utility man with wages at the rate of ₱59.20 per week and with the same assignment as before his termination; that decedent's work was inside the bodega of the warehouse of the [petitioner] company in Sangi, Toledo City where fertilizer is being stored and was always exposed to silica and acidic dusts; that because of his work, claimant's said deceased husband contracted disease which proved fatal to him and he died on October 29, 1974 of 'Cardio-respiratory arrest due to pleural effusion, massive rt.'; and that said deceased left behind a dependent wife and six children, namely, Diomeda, Joventino, Silvio, Marrisa, Franco, Jr. and Eva, all surnamed Peñaranda." Petitioner corporation challenges the award and decision on the ground of lack of employer-employee relationship, claiming that "the fact that he had performed some work or labor in the Atlas Fertilizer Corporation at Sangi, Toledo City,

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as employee of the Borja Engineering Service did not make him an employee of the Atlas Fertilizer Corporation as there was no presumption of the employer-employee relation and the claim of Genara N. *Vda. de* Peñaranda is not supported by any evidence."

11. In *L-43299*, respondent commission reversed the referee's award granting *inter alia* claimant-petitioner DOROTEO B. BERCASIO ₱6,000.00 as disability compensation for his affliction of Essential Hypertension which arose out of or was aggravated in the course of his employment as acting chief of the administrative division of respondent GSIS regional office in Naga City, which constrained him to retire prematurely from the service in December 1974 at the age of 56 years. Respondent commission nevertheless reversed on the ground that "(T)he evidence on record shows that it was only for the period from January 30, 1973 to February 2, 1973, that claimant has been physically disabled due to essential hypertension. No other sick leave of absence could be found on the record that has been enjoyed by the claimant due to this illness. x x x Since claimant's confinement from January 30, 1973 to February 2, 1973, he was never disabled again until his retirement. This only shows that his essential hypertension was not in a stage wherein he would be physically incapacitated to continue his work. Since claimant chose to retire from the service, the commission believes that his failure to continue with his employment was not due to any disabling illness but was due to his desire to retire from the government service. Though the employee may have the sickness but if it does not disable him, he is not entitled to any compensation under the law."

12. In *L-42912,* respondent commission reversed the referee's award in favor of claimant-petitioner ADELINA TUPAS granting her *inter alia* ₱5,285.28 as disability compensation and ₱2,940.41 by way of reimbursement for medical expenses for her affliction of "Ruptured Intervertebral Disc" contracted by her in the course of her employment as a rural health nurse of Toboso, Negros Occidental which required her visiting various barrios and sitios and haciendas within the municipality, riding in a cargo truck for the purpose. She duly

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testified at the hearing that "on a certain occasion, while she was riding in a cargo truck used for loading sugarcane but at the time was empty so upon passing a rough full of pot holes road it suddenly and tremendously jagged and she was dropped on the floor causing her spinal column [to be] ruptured and dislocated affecting her fourth and fifth lumbar region. The pain at the moment was so (un)bearable that she became weak compelling her to apply for sick leave of absence. This was followed by [the] series of physical examinations by different doctors mentioned herein." The record further shows that her claim was not controverted, with respondent employer through the office of the City Fiscal in effect agreeing to the reasonable appraisal of the medical expenses and the disability compensation and further manifesting that it "had no evidence to submit." Respondent commission nevertheless reversed, ruling that "the record reveals particularly claimant's affidavit, p. 71 record, that despite her ailment, she continued working until she stopped on July 11, 1972 and then applied for retirement. Considering that claimant continued working until she retired as admitted by her and there being nothing in the record to show that she retired under the disability retirement plan, the Commission believes that she retired from the service, not because of any disability. That being so, claimant is not entitled to compensation, since she has not suffered any loss or impaired earnings while in the service."

13. In *L-44047*, respondent commission affirmed the referee's dismissal of the claim for compensation of claimant-petitioner TELESFORO EVIOTA for his painful and troublesome illness of Fistula in Anu incurred during his employment as chief of the City License Division of respondent City Government of Surigo, as a result of which he was constrained to optionally retire at age 64. Respondent commission affirmed the dismissal on the ground of its "belief" that "the claimant stopped working not because of any disabling illness but because his age and length of service qualified him to enjoy the fruits of his long government service."

14. In *L-43585*, respondent commission affirmed the referee's dismissal of the claim of claimant-petitioner CESAR

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ALINSOD for disability compensation arising from a vehicular accident on September 12, 1972 when claimant as retail inspector of respondent Rice & Corn Administration while on his way back to Mariveles, Bataan to supervise the unloading of RCA rice suffered multiple physical injuries when the passenger bus in which he was riding turned turtle at the South Super Highway which required the amputation of his left leg. The commission nevertheless sustained the dismissal on the ground that "claimant herein sustained his claimed injuries as a result of an accident involving the passenger bus he was riding at a time when he was far from his place of work and when he was not doing anything incidental thereto."

15. In *L-43177*, respondent commission reversed the referee's award of October 28, 1975 granting claimant-petitioner ENGRACIA L. *VDA. DE* DEL PILAR *inter alia* disability benefits in the amount of ₱2,381.25 and ₱535.68 as reimbursement for medical expenses incurred by her deceased husband Cesar C. del Pilar as a result of gunshot wounds suffered by him during the course of his employment with respondent Bureau of Census & Statistics. The referee's decision on the uncontroverted claim showed that "(F)rom the affidavits of the eye-witnesses it appears that on January 26, 1968, while taking census on the prices of commodities in Tanauan Public Market, Tanauan, Batangas, the deceased was shot by a PC soldier as a result of which the former sustained multiple gunshot wounds in the spinal cord and different parts of the body. Since January 27, 1968, the deceased had been under treatment and spent ₱4,785.66 out of which only ₱535.68 was allowed by the Compensation Rating Medical Officer of this Unit as fair and reasonable. As per records, he returned to work on February 13, 1969 and served the respondent until April 22, 1972. To the charge of Homicide with Direct Assault committed on January 26, 1968, the deceased after evaluation of the evidence was acquitted by the Court." Respondent commission in its decision of January 22, 1976, however, reversed the award on the ground that "(A) perusal of the record shows that earlier, or on March 26, 1974, an Order was issued by the Acting Chief of unit dismissing the instant claim for lack of merit. The dismissal

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was based on the investigation report by the Philippine Constabulary of the accident leading to the death of Cesar del Pilar showing that the shooting was the result of personal differences of the parties, not to mention the fact that the [deceased] was drunk at the time of the fatal accident. Finding no evidence to establish the work-connection of the death of Cesar del Pilar and considering further that the case was previously dismissed on the merits, we see a grave and reversible error in the grant of compensation benefits."

A review of the records readily shows, as will be shown hereinafter, that the commission erroneously reversed on the ground of previous dismissal of a *death* compensation claim (which was a later and second claim filed by claimant-petitioner when her husband figured in a second shooting incident when he was treacherously and this time *fatally* shot but the claim was correctly dismissed as the deceased was not in the performance of his duties at the time) whereas the present claim was an earlier and different clam for *disability* benefits duly awarded by the referee.

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The Court sets aside the commission's reversal of the referees' decisions and awards in nine of the above-entitled cases (Nos. 1, 3, 5, 6, 7, 9, 11, 12 and 15) and its affirmance of the referees' dismissals of the claims in four other cases (Nos. 2, 4, 13 and 14) and *affirms* the commission's decisions in the last two other cases (Nos. 8 and 10) wherein it affirmed the referees' awards.

In Case No. 1, the referee's original award of December 1, 1971 granting claimant-petitioner UNITE her expressly non-controverted claim for disability compensation and medical benefits and expressly reserving her the right to claim for "such medical, surgical, hospital services and supplies as the nature of her illness [of essential hypertension and Kock's infection (PTB) may require and to all other privileges appurtenant thereto"[3]

[3] *Rollo*, page 25.

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to which she was held entitled under Section 13 of the Workmen's Compensation Act has long become final and executory and the law of the case between the parties. The only issue that can properly be decided here is whether or not petitioner's claim for reimbursement of her duly receipted medical expenses was duly supported by the evidence and proper and reasonable and on this point the referee's award of May 16, 1974 had found that the Compensation Rating Medical Officer had found the expenses "reasonable as to price and proper for the ailments." The commission therefore had no legal basis to summarily deny reimbursement of the expenses contrary to its own award of December 1, 1971 which was being merely enforced and implemented, simply because of its plainly mistaken belief that "no amount of medical expenses can cure (claimant's) permanent and partial disability."

In Cases Nos. 2, 3, 4 and 5 likewise involving the affliction of pulmonary tuberculosis, the records adequately show that said illness had supervened in the course of employment resulting in Case No. 3 in the death of the employee Felipe ISANAN. The right of claimants DE GUZMAN, NARVADES and DIANGSON (for disability compensation) and ISANAN's widow (for death compensation) is therefore amply supported by the Workmen's Compensation Act's general principle of presumption of compensability in all cases, and particularly in cases of tuberculosis which is expressly singled out as a compensable illness in Section 2 of the Act (probably due to our people's long history of affliction with this disease and susceptibility thereto, specially under conditions of fatigue, stress and poor or unhealthy working conditions). As we stated in *Talip vs. Workmen's Compensation Commission,*[4] "it is now well-settled that once it is established that the illness supervened during employment, as in this case, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by it; and the employer has the burden of proving the contrary by substantial evidence."

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[4] 71 SCRA 218, 220 (1976); see *Pillsbury Mindanao Flour Milling Co. vs. Murillo* and other cases jointly decided, L-32300, Jan. 31, 1978.

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As recently reaffirmed by us in *Paraiso vs. Castelo Sotto, et al.*,[5] the commission in going against the doctrine of presumption of compensability "proceeds from the wrong premise that, under the obtaining facts, the (claimant) has still the burden to show by substantial evidence that she was incapacitated from labor by reason of her illnesses. We have ruled that is a patent distortion of the burden of proof applicable to cases where, as in this case, the presumption of compensability had already set in. Because once an illness, subject matter of a compensation claim, is shown to have supervened in the course of employment, as is the situation here, there arises in favor of the claimant the rebuttable presumption that the said illness either arose out of, or at least was aggravated by, the nature of claimant's employment; and that consequently, the burden to show by substantial evidence the contrary lies with the employer. And the ultimate result of that principle is that the presumption *rebuttable* in its inception becomes *conclusive* upon the failure of the respondent employer to destroy the same."

In the case of claimant ROMBAOA (Case No. 4), employed for 17 years as boiling house sampler, performing heavy manual labor and exposed to extreme heat inside the boilerhouse, the commission had applied in reverse the presumption of compensability *against* the claimant employee since his affliction of PTB was discovered during the pre-milling medical examination in September, 1973 and ruled that he might have contracted it after the last milling (1972-1973) season and before the start of the 1973-1974 milling season "when he was not rendering service for the respondent." Yet in the similar case of a co-employee of Rombaoa, the commission had repudiated its own reasoning in this case and correctly applied the presumption in favor of the employee, Florentino Hilario, and ruled that

"The respondent contends that claimant's ailment could have been contracted during the off-milling season, on the basis that he was found fit for work for the 1972-1973 milling season. The fallacy of

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[5] L-42896, Sept. 30, 1978, per Makasiar, *J.*; citing *Cañonero vs. WCC*, L-43880, Feb. 28, 1978 and *Santos vs. WCC*, 75 SCRA 365 (1977).

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this reasoning is that the possibility of claimant having contracted his disease *during*, and not after, the *1972-1973* milling season, is not precluded. Since claimant's lung disease had certainly supervened at the time of his employment, the presumption is that it arose out of, or was at least aggravated by, his employment. Anyway, even if there is a doubt on the exact date of the inception of claimant's disease, this doubt will not be a draw-back of compensability. The same should be resolved in favor of the claimant." [6]

In the case of claimant ISANAN (Case No. 3), suffice it to state that the referee correctly applied the controlling doctrine of *Calado vs. Workmen's Compensation Commission*[7] and ruled that although the payment of death benefits was barred by Section 8 of the Workmen's Compensation Act requiring that the disease or injury should cause the employee's death *within two years from the date of such injury or sickness*, claimant-widow was entitled to collect full disability compensation. As stressed in *Calado*, the employee's "right to compensation for disability corresponding to the period up to his demise, had already accrued before his death and accordingly, the same constitutes an asset of his estate transmissible to his heirs . . . free, on account of its special nature, from any liens or obligations." The commission was clearly in error in not applying this controlling doctrine and instead reversing the referee's award of disability in lieu of death benefits ("much as we sympathize with the claimants").

In Cases Nos. 6, 7 and 9, the commission's main reason for reversing the referees' awards made in favor of claimants-*public school teachers* DIANGSON, LEGARDA and BATTAD who had rendered decades of service, to wit, its "belief" that they had not been totally disabled from working and that they optionally retired for reasons other than their "alleged sickness' has long been discredited and rejected. The Court has consistently held as in the latest case of *Landicho vs. Workmen's*

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[6] Commission's decision of Jan. 30, 1976 in *Florentino Hilario vs. Paniqui Sugar Mills*, RO3-WC Case No. 12228, Annex C, Petition, *Rollo*, page 19, italics copied.

[7] 38 SCRA 567, 583 (1971).

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Compensation Commission,[8] that "(W)hen an employee is forced to ask for retirement, not because of old age, but primarily because of his weakened bodily condition due to an illness contracted in the course of his employment, he is to be given compensation for his inability to work during the remaining days before his scheduled compulsory retirement, aside from the retirement benefits due him."

In *Pantoja vs. Republic of the Philippines (Bureau of Public Schools)*,[9] we held once again that the claimant's optional retirement from the government service before reaching the age of compulsory retirement "demonstrates claimant's state of health and/or disability at the time she parted ways with the government; because her retirement at the age of 60 can only be ultimately allowed *if she is physically incapacitated to render further efficient service* (Memorandum Circular No. 133 of 1967, Office of the President; *Parian vs. WCC*, G. R. No. L-42433, August 23, 1978; *Romero vs. WCC*, 77 SCRA 490 [1977]; *Gomez vs. WCC*, 75 SCRA 395; *Despe vs. WCC*, 75 SCRA 350, 354 [1977])."

The case for said claimants-public school teachers is bolstered by Section 23 of the Magna Carta for Public School Teachers, Republic Act No. 4670, which expressly mandates that "Teachers shall be protected against the consequences of employment injuries in accordance with existing laws. The effects of the *physical and nervous strain* on the teacher's health shall be recognized as a *compensable occupational disease* in accordance with existing laws."

The result in these cases renders it unnecessary to pass upon the contention of claimants DIANGSON and LEGARDA that the awards in their favor had already become final and executory since respondent's motion to reconsider or elevate the records were filed beyond the 15-day reglementary period

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[8] L-45996, March 26, 1979, per Makasiar, *J.*, citing *Roma vs. WCC*, 80 SCRA 170; Hernandez vs. WCC, 14 SCRA 219.

[9] L-43317, Dec. 29, 1978, per Makasiar, *J.*

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for appeal. Nevertheless, it is well to stress that the Court has uniformly held that as reiterated in the latest case of *Vega vs. Workmen's Compensation Commission*,[10] "(T)he principle that perfection of appeal within the reglementary period is mandatory and jurisdictional, and that failure to do so renders the questioned decision final and executory that deprives the appellate court of jurisdiction to entertain the appeal applies to judgments of courts and of quasi-judicial agencies like the Workmen's Compensation Commission. This rule of finality of judgments being founded on public policy operates against all employers in compensation cases whether private or public," the only exception being where a timely petition for relief from judgment based on established grounds of fraud, accident, mistake or excusable negligence is filed within the 30-day grace period (in workmen's compensation cases, as provided by the Revised Rules of the Commission).[11]

In Cases Nos. 8 and 10, the commission correctly affirmed the awards and decisions in favor of claimants-respondents AQUINO and GENARA N. *VDA. DE* PEÑARANDA. In the case of claimant Aquino, it found that his illness was traceable to the nature of his almost 30-year employment as janitor of petitioner corporation, which was further barred from presenting all nonjurisdictional defenses by virtue of its failure to make a timely controversion of the employee's right to compensation. As long established in the early 1957 case of *Victorias Milling Co., Inc. vs. Compensation Commission*,[12] "having renounced by operation of law the right to contest the employee's right to compensation [by failure to file a timely controversion within the statutory period or by an express statement of non-controversion], the [employer] is deemed also to have waived the right to interpose [any] defenses and hence, there is nothing it can legally prove in relation thereto." The Court has since

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[10] L-43134, March 26, 1979, per De Castro, *J.*, citing *Soliven vs. WCC*, 77 SCRA 519 (1977) and other cases.

[11] Cf. *Cruz vs. WCC*, 81 SCRA 445 (Jan. 31, 1978), italics copied.

[12] 101 Phil. 1208, notes in brackets supplied.

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then repeatedly ruled that "it is now an indisputable rule that failure to controvert results in the loss of non-jurisdictional defenses and an ultimate admission of compensability."[13]

In the case of claimant PEÑARANDA for compensation for the death of her husband arising from his working at petitioner's fertilizer plant from 1958 until his death in October, 1974, the commission correctly affirmed the referee's ruling that petitioner "Atlas Fertilizer Corporation who had direct control and supervision over the work of the late Franco Peñaranda and is, for all legal purposes, considered as the [statutory] employer of said deceased, is liable to the claimant as well as her said dependent children for death benefits."[14]

The above-cited established jurisprudence and doctrines in workmen's compensation cases are likewise decisive and controlling *mutatis mutandis* in Cases Nos. 11, 12 and 13. The reversals of the referees' awards in favor of claimants-petitioners BERCASIO and TUPAS and affirmance of the dismissal of claimant-petitioner EVIOTA's claim (for their respective illnesses of essential hypertension, ruptured disc, and Fistula in Anu, which constrained them to optionally retire due to their disability must therefore be set aside.

In *G. B. Francisco, Inc. vs. Workmen's Compensation Commission*[15] wherein the Court ruled the claimant's affliction of leprosy to be compensable, the Court enumerated "the variety of illnesses resulting in disability for labor which the Court held to be compensable even in the absence of proof of the cause of the illness or of its being work-connected, x x x 'chronic rheumatic arthritis, intestinal amoebiasis, post eclampsia in a pregnant woman, frontal sinusitis, hernia, carcinoma of the nasal pharynx, amoebic liver abscess, optic neuritis, migraine and

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[13] *National Housing Corp. vs. WCC*, L-37907, Sept. 30, 1977, per Muñoz Palma, *J.* (retired).

[14] *Rollo*, p. 83, note in brackets supplied.

[15] L-42565, Nov. 21, 1978, per Muñoz Palma, *J.* (retired), citing *National Housing Corp. vs. WCC*, 79 SCRA 281 (1977) and other cases.

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dizziness, malignant stomach tumor, rheumatism, nervous depression leading to nervous and psycho-asthenia, '*banguñgot*,' cirrhosis of the liver, dermoid cyst, cerebral brain tumor, chronic *mononeuritis, cancer of the liver and gastric ulcer.*"

The Court's liberal interpretation of the Workmen's Compensation Act and of the principle of compensability is grounded on the fact that the Act is a social legislation which all departments and agencies of government are obligated at all times to interpret liberally so as to give meaning and substance thereto and to the constitutional guarantees in favor of the workingmen, in obedience to the social justice mandate of the Constitution which would otherwise be merely "meaningless patter."[16]

In Case No. 14, the record establishes that claimant-petitioner was on his way to Mariveles in a passenger bus *in line of duty* in order to discharge his mission as RCA retail inspector to supervise the unloading of RCA rice when the bus turned turtle in a vehicular accident and caused him serious injury that resulted in the amputation of his left leg. The resulting disability was undoubtedly compensable within the "going to and coming from rule"[17] and the dismissal of the claim is untenable.

Lastly, in Case No. 15, petitioner-claimant ENGRACIA L. *VDA. DE* DEL PILAR is plainly entitled to the reinstatement of the referee's award of the disability benefits and reimbursement of medical expenses incurred during his lifetime by her deceased husband, Cesar C. del Pilar. Her husband had figured in a shooting incident on January 26, 1968 in line of duty while taking census on commodities prices in the Tanauan, Batangas public market and shot dead his aggressor despite serious gunshot wounds *inflicted on him. His claim for disability* compensation was granted in the referee's award of October 28, 1975 in RO5-WC Case No. C-2575 (I. S. No. 30744) wherein his claimant-widow was substituted as claimant, since he was later to die

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[16] *Corrales vs. ECC*, L-44063, Feb. 27, 1979, per Makasiar, *J.*

[17] *Bael vs. WCC*, 75 SCRA 181 (1977) per Martin, *J.* (retired).

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in a second and separate shooting incident on April 22, 1972. The widow's claim for *death* compensation in a second case (RO5-WC Case No. A-19108) was dismissed in the referee's Order of March 26, 1974[18] since his death was concededly not work-connected nor in line of duty, and the dismissal order was not appealed by the claimant widow.

The commission erroneously reversed the referee's award herein for *disability* compensation in the mistaken notion that the previous dismissal of the claim for *death* compensation (in Case No. A-19108) was in this case for disability compensation which is an entirely separate and earlier case (Case No. C-2575). Hence, the reversal must be set aside.

ACCORDINGLY, judgment is hereby rendered as follows:

1. In Case No. L-42493, the referee's award-judgment of ₱6,154.96 as reimbursement of medical expenses in favor of petitioner PURIFICACION C. UNITE is reinstated;

2. In Case No. L-43532, judgment is rendered ordering respondent to pay petitioner SALVADOR DE GUZMAN ₱6,000.00-disability compensation and to grant him the benefits under Section 13 of the Workmen's Compensation Act and to pay the commission's ₱61.00-administrative fee. (No attorney's fees are awarded since petitioner is herein represented by the Citizens Legal Assistance Office);

3. In Case No. L-42633, the referee's award-judgment of October 17, 1975 granting petitioner SOFIA *VDA. DE* ISANAN ₱6,000.00 as disability benefits and ordering respondent to pay the commission's ₱61.00-administrative fee is reinstated, with the modification that the attorney's fees to be paid by respondent are increased to ₱600.00;

4. In Case No. 43405, judgment is rendered ordering respondent to pay petitioner FAUSTO ROMBAOA ₱6,000.00 — disability compensation and to grant him the benefits under Section 13 of the Workmen's Compensation Act and ₱600.00

[18] WCC Record, page 59.

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— attorney's fees and to pay the commission's ₱61.00 — administrative fee;

5. In Case No. L-42554, the referee's award-judgment of April 24, 1974 granting petitioner CIPRIANO NARVADES ₱6,000.00-disability compensation and the benefits of Section 13 of the Workmen's Compensation Act and ordering respondent to pay the commission's ₱61.00-administrative fee is reinstated. (No attorney's fees are awarded, since petitioner is not represented by legal counsel);

6. In Case No. L-43402, the referee's award-judgment of October 30, 1975 granting petitioner JORGE F. DIANGSON ₱6,000.00-disability compensation and ordering respondent to pay the commission's ₱61.00-administrative fee is reinstated, with the modification that the respondent is ordered to pay increased attorney's fees in the sum of ₱600.00 and to grant petitioner the benefits of Section 13 of the Workmen's Compensation Act;

7. In Case No. L-44276, the referee's award-judgment of August 15, 1975 granting petitioner ESTANISLAO LEGARDA ₱6,000.00-disability compensation and ordering respondent to pay the commission's ₱61.00-administrative fee is reinstated, with the modification that the respondent is ordered to pay increased attorney's fees in the sum of ₱600.00 and to grant petitioner the benefits of Section 13 of the Workmen's Compensation Act;

8. In Case No. L-39018, the commission's resolution affirming the commissioner's decision of December 27, 1973 in favor of claimant-respondent FEDERICO F. AQUINO (with ₱600.00 attorney's fees) is affirmed with the modification that petitioner-employer is further ordered to grant respondent the benefits of Section 13 of the Workmen's Compensation Act;

9. In Case No. L-42733, the referee's award-judgment of March 24, 1975 granting petitioner ELIZA BATTAD ₱6,000.00-disability compensation and ₱987.30 reimbursement for medical expenses and ordering respondent to pay the commission's ₱61.00-administrative fee is reinstated, with the

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modification that the respondent is ordered to pay increased attorney's fees in the sum of ₱600.00 and to grant petitioner the benefits of Section 13 of the Workmen's Compensation Act;

10. In Case No. L-42388, the referee's award-judgment *of June 4, 1975 granting claimant-respondent* GENARA N. *VDA. DE* PEÑARANDA ₱6,200.00-death compensation and burial expenses and ordering petitioner-employer to pay the commission's ₱61.00-administrative fee is affirmed. (No attorney's fees are awarded since claimant-respondent is not represented by legal counsel);

11. In Case No. L-43299, the referee's award-judgment of November 6, 1975 granting petitioner DOROTEO B. BERCASIO ₱6,000.00-disability compensation and ordering respondent to pay the commission's *₱61.00-administrative fee* is reinstated, with the modification that the respondent is ordered to pay increased attorney's fees in the sum of ₱600.00 and to grant petitioner the benefits of Section 13 of the Workmen's Compensation Act;

12. In Case No. L-42912, the referee's award-judgment of December 27, 1974 granting petitioner ADELINA TUPAS *inter alia* ₱5,285.28-disability compensation, ₱2,940.41 reimbursement of medical expenses and the benefits of Section 13 of the Workmen's Compensation Act is reinstated, with the modification that respondent is ordered to pay increased attorney's fees in the sum of ₱528.50;

13. In Case No. L-44047, judgment is rendered ordering respondent to pay petitioner *TELESFORO C. EVIOTA* ₱6,000.00 — disability compensation and to grant him the benefits under Section 13 of the Workmen's Compensation Act and to pay the commission's ₱61.00-administrative fee. (No attorney's fees are awarded since petitioner is not represented by legal counsel);

14. In Case No. L-43585, judgment is rendered ordering respondent to pay petitioner CESAR ALINSOD ₱6,000.00 disability compensation with ₱600.00 — attorney's fees and to pay the commission's ₱61.00 — administrative fee and to grant

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petitioner the benefits of Section 13 of the Workmen's Compensation Act; and

15. In Case No. L-43177, the referee's award-judgment of October 28, 1975 granting petitioner ENGRACIA L. *VDA. DE* DEL PILAR ₱2,381.15 as disability benefits and ₱535.68 — reimbursement of medical expenses and ordering respondent to pay the commission's ₱24.00-administrative fee is hereby reinstated with the modification that the attorney's fees are increased to ₱238.12.

SO ORDERED.

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

FIRST DIVISION

[G.R. No. L-45013. May 28, 1979]

SOUTHWESTERN UNIVERSITY, *petitioner, vs.* **THE HON. CELEDONIO SALVADOR and JOSE BALIGUAT,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEAL; EFFECT OF WITHDRAWAL OF APPEAL. — Where appellant withdraws his appeal, he must face the consequence of his withdrawal, such as the decision of the court *a quo* becoming final and executory. Therefore, the withdrawal of the appeal from the decision of the City Court holding that the defendant was a builder in good faith and should be indemnified for ₱3,000 for the improvements made, and that failure to pay such indemnity shall give the defendant the right to buy the land at a price agreed upon by both parties and with the approval of the court,