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by respondent, as listed in the Inventory, it may not therefore, hold respondents personally liable on their undertaking in the Partition Agreement.

**WHEREFORE,** the instant Petition is hereby dismissed for lack of merit.

Costs against petitioner.

**SO ORDERED.**

*Teehankee (Chairman), Makasiar, Fernandez, Guerrero,* and *de Castro, JJ.*, concur.

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**FIRST DIVISION**

[G.R. No. L-41813. May 31, 1979]

**SALUD N. CARREON,** *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION, PILAR G. VDA. DE TAÑO, for herself and in behalf of the minors, NENITA, ELMAR and REBECCA, all surnamed TAÑO,** *respondents.*

**SYLLABUS**

**LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION; ABSENCE OF EMPLOYER-EMPLOYEE RELATIONSHIP HINDERS CLAIM FOR DEATH BENEFIT.** — Where it appears that the person against whom a death benefit claim is filed is not the employer of the deceased, said person is not liable on the claim.

**APPEARANCES OF COUNSEL**

*Francisco Carreon* for petitioner.
*Servando S. Timbol, Jr.* for private respondents.
*Emilia E. Andres* for respondent WCC.

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## DECISION

**FERNANDEZ, *J.*:**

This is a petition to review the decision of the Workmen's Compensation Commission in R04-WCU Case No. 143329 entitled "*Pilar G. Vda. de Taño, for herself and in behalf of the minor children: namely, Nenita, Elmar and Rebecca, all surnamed Taño*, claimants, *versus Salud N. Carreon, Operator of UBL and SILCAR, INC.*, Respondent," the dispositive part of which reads:

"WHEREFORE, modified as above-indicated, the decision appealed from should be as it is hereby AFFIRMED and respondent SALUD N. CARREON and/or UBL and/or SILCAR, INC., are hereby ordered *jointly or severally to:*

1. Pay to claimants, PILAR G. *VDA. DE* TAÑO and her minor children named above, in lump sum and thru this Commission, the total sum of FIVE THOUSAND TWO HUNDRED PESOS (₱5,200.00) as death compensation benefits under Sections 8, 9 and 10 of the Act, as amended;

2. Pay to claimant, PILAR G. *VDA. DE* TAÑO the further sum of ONE HUNDRED PESOS (₱100.00) in lump sum and also thru this Commission, as reimbursement for burial expenses under said Section 8 of the Act, as amended; and

3. Pay to this Commission directly the sum of FIFTY EIGHT PESOS (₱58.00) as administrative fees which includes the costs of this review pursuant to Section 55 of the same Act.

SO ORDERED.
Quezon City, October 23, 1975."[1]

On July 26, 1973, Pilar G. *Vda. de* Taño, for herself and in behalf of her minor children, Nenita, Elmar and Rebecca, all surnamed Taño, filed a Notice and Claim for Compensation with Regional Office No. 4, Workmen's Compensation Section, at Manila asking to recover from the United Bus Lines, SILCAR

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[1] Decision, Annex "E", *Rollo*, p. 70.

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Taxicab and the owner or manager, Salud N. Carreon, compensation benefits for the death of Guillermo J. Taño who died on June 29, 1973 as a result of injuries sustained during a shooting incident between the PC-METROCOM and the Contreras gang on Taft Avenue corner Remedios St., Manila, on June 27, 1973.

On September 3, 1973, Salud N. Carreon, through counsel, filed an answer contending that she is not and has never been the employer of the deceased, Guillermo J. Taño, and she is not and has never been engaged in any kind of business in her personal capacity.[2]

After a hearing on the merits, the Acting Referee rendered judgment in favor of the claimants and ordered SILCAR, INC., UBL Taxi and Salud N. Carreon, jointly and severally, to pay the minors the amount of ₱5,200.00 as death compensation and the additional sum of ₱200.00 as burial and death benefits and to pay the sum of ₱53.00 as administrative fees.[3]

The respondents appealed to the Workmen's Compensation Commission which affirmed with modification the decision of the Acting Referee.

The petitioner, Salud N. Carreon, assigns the following error:

"THE WCC DENIED YOUR PETITIONER DUE PROCESS OF LAW, ACTED ARBITRARILY, CAPRICIOUSLY AND WHIMSICALLY, AND ERRED IN HOLDING YOUR PETITIONER PERSONALLY LIABLE TO THE HEIRS OF THE DECEASED GUILLERMO J. TAÑO FOR DEATH BENEFITS UNDER THE WORKMEN'S COMPENSATION ACT, THERE BEING ABSOLUTELY NO EVIDENCE, NOT EVEN A SCINTILLA, THAT YOUR PETITIONER WAS THE EMPLOYER OF THE DECEASED AT ANY TIME, THE VERY EVIDENCE FOR CLAIMANTS BEING THAT SILCAR, INC. WAS THE EMPLOYER; THE TRANSCRIPTS OF THE HEARING PROVING THE UNDENIED CLAIM OF PETITIONER THAT SHE MUST HAVE BEEN DISCHARGED AS RESPONDENT AND SILCAR, INC. IMPLEADED

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[2] Annex "B", *Rollo*, p. 58.

[3] *Rollo*, p. 63.

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IN HER PLACE; AND THE DECISION OF THE WCC ITSELF MAKING NO EXPRESS AND CERTAIN FINDING THAT THERE WAS AN EMPLOYER-EMPLOYEE RELATIONSHIP BETWEEN THE PETITIONER AND THE DECEASED."[4]

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

"There is no dispute that the late Guillermo J. Taño, who in life *was a taxicab driver, was an employee of respondent* SALUD N. CARREON and/or UBL and SILCAR, INC.; that on June 27, 1973, in the afternoon, while he was driving a taxicab belonging to the respondent within the immediate vicinity of Taft Avenue corner Remedios Streets, Manila, Guillermo J. Taño sustained injuries, when *he was hit accidentally in a cross-fire, in a shooting* incident between the PC-Metrocom on one hand and the Contreras Gang on the other; and that his gunshot wound was through and through the right arm and the clavicular region, resulting to fracture of the right clavicle and contusions of the lung or pulmonary hematoma. Taño was rushed to the Philippine General Hospital and placed under the medical care and management of Dr. Jesus Benjamin Mendoza, who accomplished the Physician's Report (Exhibit 'C').

On June 29, 1973, or two (2) days after the accidental shooting, Taño died at the PGH.

On July 14, 1973, the incident was investigated by the Manila Metropolitan Police and it was disclosed that the late cab driver was a one time member of the Grievance Committee of their union and that herein Salud N. Carreon, categorically declared that Taño had never been admonished by her, nor was he ever penalized for any violation of company rules and regulations. It was further disclosed that deceased was a good family man, a cooperative neighbor and an upright citizen.

There is no doubt that the late Guillermo J. Taño died due to wounds *suffered accidentally, out of and in the course of his* employment as taxicab driver."[5]

The petition is meritorious.

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[4] Brief for the Petitioner, pp. a-b, *Rollo*, p. 158.

[5] *Rollo*, pp. 68-69.

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The only issue is whether or not the petitioner was employer of the deceased, Guillermo J. Taño.

The record shows that the employer of Guillermo J. Taño was the Silcar, Inc., a domestic operation. Thus when the respondent, Pilar G. Vda. de Taño, testified on November 5, 1973, she said:

"ATTY. PARUNGO: (To the witness)

"Mrs. Taño, are you the same claimant in this case, in this Workmen's Compensation Section Case No. 143329?

A Yes, sir.

Q Do you know the respondent in this case Silcar Incorporation?
A Yes, sir.

Q Why do you know the respondent in this case?
A Because my husband worked with the respondent when he was still alive.

Q Who is your husband?
A Guillermo Taño."[6]

Indeed, the private respondents, in their comment, state "x x x that herein respondent SILCAR, INC., will be the one to shoulder solely the sum of ₱5,300.00 due to private-respondents-claimants, x x x."[7] The said comment admits that the petitioner, Salud N. Carreon, was herself an employee of Silcar, Inc.[8]

The record also shows that the UBL, which is a mere business name, is operated by Silcar, Inc. The petitioner is not the operator of the taxicab business.

And finally, in the Employer's Report of Accident or Sickness, Silcar, Inc. appears as the employer.[9]

In view of the foregoing, the petitioner cannot be held liable for the compensation benefits awarded to Guillermo J. Taño.

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[6] Transcript, *Rollo*, p. 76-77.

[7] *Rollo*, p. 138.

[8] *Rollo*, p. 136.

[9] Original Record, p. 33.

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**WHEREFORE,** the petition for review is hereby granted and the decision of the Workmen's Compensation Commission sought to be reviewed is modified in the sense that it is set aside as to the petitioner and affirmed as to Silcar, Inc. which is solely responsible to pay the death compensation and reimbursement of burial expenses and administrative fees and costs set forth in said decision.

**SO ORDERED.**

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

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**SECOND DIVISION**

[G.R. No. L-42561. May 31, 1979]

**NATIONAL ORGANIZATION OF TRADE UNIONS (NORTU),** *petitioner, vs.* **HON. SECRETARY OF LABOR, HON. DIRECTOR, BUREAU OF LABOR RELATIONS AND THE "ASSOCIATED LABOR UNIONS" (ALU),** *respondents.*

**SYLLABUS**

**1. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; CERTIFICATION ELECTION, MANDATORY WHEN 30% REQUIREMENT IS FULLY MET.** — Any petition for certification election filed by any legitimate labor organization shall be supported by the written consent of at least thirty percent (30%) of all the employees in the bargaining unit. Upon receipt and verification of such petition, it shall be mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit.