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FIRST DIVISION

[G.R. No. L-43642. January 17, 1985]

SOLFRIDO FEDILLO, *petitioner, vs.* WORKMEN'S COMPENSATION COMMISSION and ANTONIO ESTEBAN, *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; COMPENSATION CLAIM; PRE-EXISTENCE OF ILLNESS, NOT A GROUND FOR DISALLOWANCE OF COMPENSATION BENEFITS.**- It is true that by the very nature of tuberculosis, it is likely that the petitioner could not have instantly acquired such an illness. (Leonardo *v.* Workmen's Compensation Commission, 88 SCRA 581; Villones *v.* Employees' Compensation Commission, 92 SCRA 320; Corales *v.* Employees' Compensation Commission, 88 SCRA 547) However, the pre-existence of an illness is not a ground for disallowance of claims for compensation benefits (Vicente *v.* Workmen's Compensation Commission, 9 SCRA 825; Section 2 of the Workmen's Compensation Act 3428 as amended)

2. **ID.; ID.; GROUNDS FOR COMPENSATION.**- Under the Workmen's Compensation Act, injury or sickness is compensable - (1) as personal injury from accident arising out of and in the course of employment, (2) as illness directly caused by the employment, (3) as sickness which is the result of the nature of the employment, and (4) as sickness aggravated by the nature of the employment (Comments and Annotations on the Workmen's Compensation Act, Pucan and Besinga, 1971 Edition, page 82, citing Quiason & Fernandez, Labor Law Series, Volume VI, 1964 Edition, page 38).

3. **ID.; ID.; PRINCIPLE OF AGGRAVATION; APPLIED IN CASE AT BAR.**- Petitioner's case falls under the rule on aggravation, to wit: That where claimant's disabling disease was aggravated by the nature of his work, he is entitled to compensation under the Act. From the nature of the petitioner's duties, there is no doubt that his working conditions aggravated his

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ailment. Medical science has it that tuberculosis is an ailment latent in persons regardless of age, sex, and occupation. When given favorable conditions, this disease becomes active and prominent. Some of these favorable conditions are: too much physical exertion without the corresponding rest; exposure to excessive heat and cold, lack of good food as to weaken the body constituents and contact with people suffering from pulmonary tuberculosis (Villones *v.* Employees' Compensation Commission, *supra;* citing Corales *v.* Employees' Compensation Commission, *supra*). These conditions, save perhaps for the last, have been found present in the case at bar, thereby weakening petitioner's resistance to any latent tuberculosis infection or reactivating the same (Leonardo *v.* Workmen's Compensation Commission, *supra;* Batangas Transportation Co. *v.* Perez and Workmen's Compensation Commission, 11 SCRA 797; Lorenzo *v.* Workmen's Compensation Commission and Philippine Glass Manufacturing Co., Inc., 81 SCRA 430, 440). The compensability of petitioner's illness cannot be denied.

4. **ID.; ID.; STRICT RULES ON EVIDENCE, NOT APPLICABLE TO COMPENSATION CLAIMS.-** In *San Valentin v. Employees' Compensation Commission* (118 SCRA 160) we held that in workmen's compensation cases, the strict rules of evidence are not applicable (See also Cristobal *v.* Employees' Compensation Commission, 103 SCRA 329). In testing the evidence on the relation between the injury or disease and the employment, probability and not certainty is the touchstone (San Valentin *v.* Employees' Compensation Commission, *supra* citing Acosta *v.* Employees' Compensation Commission, 109 SCRA 216. To be compensable it is enough that the hypothesis on which the workmen's claim is based is probable (Delegente *v.* Employees' Compensation Commission, 118 SCRA 67 citing Lao *v.* Employees' Compensation Commission, 97 SCRA 780 citing Abana, et al. *v.* Quisumbing, 22 SCRA 1278 citing Manila Railroad Co. *v.* Workmen's Compensation Commission and Pineda, 21 SCRA 98). The substantial evidence rule and not the preponderance of evidence rule is followed in the determination of compensability of an injury or illness (Galceran *v.* Secretary of Labor, 115 SCRA 300 citing Iloilo Chinese Commercial School *v.* Fabrigar, 3 SCRA 712; Vda. de Olib *v.* City of Manila, 68 SCRA 380) to give effect to the social justice purposes of the law.

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5. **ID.; ID.; X-RAY OR OTHER LABORATORY REPORT, NOT INDISPENSABLE TO COMPENSATION.**- We have categorically ruled that an x-ray or some other laboratory report is not necessarily an indispensable prerequisite to compensation. The physician's report does not require for credibility that the x-ray or laboratory findings be attached thereto. Their absence in the physician's report will not invalidate the diagnosis appearing therein. Moreover, from the attending physician's report it can be logically inferred that a previous x-ray examination was made, otherwise, the physician could not have arrived at his diagnosis of the illness.

6. **ID.; ID.; COMPENSATION CLAIM; GRANT OF COMPENSATION FOR LOSS OF EARNING CAPACITY DURING TEMPORARY DISABILITY, WARRANTED; OBJECT.**- The petitioner asserts entitlement to compensation under Section 14 of the Workmen's Compensation Act for loss of earning capacity from the time he was forced to stop working due to his work-connected illness. The circumstances warrant the granting of the same. The object of the law in allowing compensation during temporary disability under Section 14 is to compensate the employee for what he might have earned during the period of treatment for his injury (Comments and Annotations on the Workmen's Compensation Act, Pucan and Besinga, 1971 Edition, page 256). In the case at bar, the employee was forced to stop working October 31, 1973 and was, from then on, under treatment. He was unable to return to work. He thus suffered loss of earning capacity from said date entitling him to compensation under Section 14 for temporary total disability.

APPEARANCES OF COUNSEL

Pedro P. Requieron for petitioner.
Jose R. Edis for private respondent.

D E C I S I O N

GUTIERREZ, JR., *J.:*

This is a petition to review the decision of the Workmen's Compensation Commission reversing the decision of the Workmen's Compensation Unit, Sub-Regional Office No. VI, Bacolod City which granted petitioner's claim for compensation as a consequence of his illness of pulmonary tuberculosis (PTB).

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Petitioner was employed by private respondent Antonio Esteban as truck driver sometime in the year 1972. He was not known to have been suffering from any illness at the time of employment.

Petitioner's job was to drive trucks which were used in hauling sugar cane. The nature of his work exposed him to heat, rain, dust and other elements of nature while working in the fields. Strenuous effort was sometimes called for especially in fixing a truck whenever it broke down. When busy with his work, particularly during the milling seasons, the petitioner could not eat his meals on time.

Sometime in January, 1973, the petitioner experienced body weakness, pain in his joints, dizziness and coughing at night. He consulted a doctor about his illness. He was subjected to x-ray examination by Dr. Alexander Araneta and was found suffering from "PTB Moderately Advanced, Active." As a result, the petitioner was advised to stop working. Nevertheless, he continued working until October 31, 1973 when he was compelled to stop because of his illness.

Petitioner filed a claim for sickness benefits with the Social Security System (SSS) with the respondent employer certifying as to the payment of premiums. The sickness claim was based on "an illness of PTB advance (sic)." He likewise filed a notice of sickness and claim for compensation with the Workmen's Compensation Unit, Bacolod City on December 4, 1973. The Notice of Sickness and Claim for Compensation was transmitted to the respondent by the Office of the Workmen's Compensation Unit, Bacolod City on December 15, 1973 through registered mail under Registry Receipt No. 3543.

The claim was not controverted by respondent, who did not file any answer to the claim. The Workmen's Compensation Unit through its Referee Pacifico V. Militante, rendered a decision in favor of the petitioner, the dispositive portion of which reads:

"WHEREFORE, an award is hereby adjudged in favor of the claimant and respondent is ordered to pay:

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"1) The claimant under Sec. 18 of the Act, as compensation the sum of *TWO THOUSAND FOUR HUNDRED FORTY-SIX PESOS and 08/100 (P2,446.08)* computed as follows: 50% of his average weekly wage of P49.00 equals P24.50 multiplied with 48% NSD or 99.84 weeks equals P2,446.08.

"2) To Atty. Pedro P. Requieron, under Sec. 31, of the Act, as attorney's fee the sum of *ONE HUNDRED TWENTY-TWO PESOS and 30/100 (P122.30).*

"3) To this Office, under Sec. 55 of the Act, the sum of *TWENTY-FIVE PESOS (P25.00).*

"All payments must be coursed thru this Office."

No benefits under Section 14 of the Act were awarded. After the decision was rendered, the petitioner's counsel filed a Rejoinder and Manifestation claiming that the petitioner was entitled not only to the benefits under Section 18 of his non-scheduled disability (NSD) but also under Section 14, on account of his loss of earnings effective October 31, 1973 when he was no longer able to work on account of his illness.

On the other hand, the private respondent filed a Motion for New Hearing which was denied by the Workmen's Compensation Unit for lack of merit. The case was elevated to the Workmen's Compensation Commission for review. The Commission, on a finding that the evidence submitted by the petitioner was insufficient to support his claim, reversed the decision appealed from and dismissed the case for lack of merit, prompting the petitioner to institute the present petition for review.

Respondent's main objection to the petitioner's claim is that the latter's illness is not work-connected, and is therefore, non-compensable. He argues that because of the very nature of PTB as a lingering illness, taking years to develop, incubate and become active, petitioner could not possibly have contracted the disease while working for the respondent over a short period of only one year from 1972 to 1973. Thus, the question arises whether or not an illness contracted by the petitioner prior to employment, but which is discovered and which disables the employee only during employment, is compensable under the Workmen's Compensation Act.

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It is true that by the very nature of tuberculosis, it is likely that the petitioner could not have instantly acquired such an illness. (Leonardo *v.* Workmen's Compensation Commission, 88 SCRA 581; Villones *v.* Employees' Compensation Commission, 92 SCRA 320; Corales *v.* Employees' Compensation Commission, 88 SCRA 547) However, the pre-existence of an illness is not a ground for disallowance of claims for compensation benefits (Vicente *v.* Workmen's Compensation Commission, 9 SCRA 825). Section 2 of the Workmen's Compensation Act 3428 as amended, provides:

"SEC. 2. Grounds for compensation.- When an employee suffers personal injury from any accident arising out of and in the course of employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the persons hereinafter provided.x x x"

Thus, under the Act, injury or sickness is compensable - (1) as personal injury from accident arising out of and in the course of employment, (2) as illness directly caused by the employment, (3) as sickness which is the result of the nature of the employment, and (4) as sickness aggravated by the nature of the employment (Comments and Annotations on the Workmen's Compensation Act, Pucan and Besinga, 1971 Edition, page 82, citing Quiason & Fernandez, Labor Law Series, Volume VI, 1964 Edition, page 38). Petitioner's case falls under the rule on aggravation, to wit: That where claimant's disabling disease was aggravated by the nature of his work, he is entitled to compensation under the Act. (Gragasin *v.* Workmen's Compensation Commission, 85 SCRA 222; Bachiller, Sr. *v.* Republic of the Philippines, 86 SCRA 99; Castro *v.* Workmen's Compensation Commission, 87 SCRA 388; delos Angeles *v.* Government Service Insurance System, 94 SCRA 308; Balatero *v.* Employees' Compensation Commission, 95 SCRA 608; Cabreira *v.* Workmen's Compensation Commission, 96 SCRA 269; Philippine National Railways *v.* Vda. de Mendoza, 96 SCRA 531; Mirasol *v.* Employees' Compensation Commission, 97 SCRA 307; Villavert *v.* Employees' Compensation Commission, 110 SCRA 233; Lavilla

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v. Secretary of Labor, 122 SCRA 657). Thus, if employment contributes to the development of the disease even in a small degree, the claim is compensable and the claimant under the Workmen's Compensation Act is relieved of showing the burden of causation due to the legal presumption of compensability in his favor (Valencia *v.* Republic of the Philippines, 83 SCRA 713; Ulibas *v.* Republic of the Philippines, 83 SCRA 819).

From the nature of the petitioner's duties, there is no doubt that his working conditions aggravated his ailment. Medical science has it that tuberculosis is an ailment latent in persons regardless of age, sex, and occupation. When given favorable conditions, this disease becomes active and prominent. Some of these favorable conditions are: too much physical exertion without the corresponding rest; exposure to excessive heat and cold, lack of good food as to weaken the body constituents and contact with people suffering from pulmonary tuberculosis (Villones *v.* Employees' Compensation Commission, *supra*; citing Corales *v.* Employees' Compensation Commission, *supra*). These conditions, save perhaps for the last, have been found present in the case at bar, thereby weakening petitioner's resistance to any latent tuberculosis infection or reactivating the same (Leonardo *v.* Workmen's Compensation Commission, *supra;* Batangas Transportation Co. *v.* Perez and Workmen's Compensation Commission, 11 SCRA 797; Lorenzo *v.* Workmen's Compensation Commission and Philippine Glass Manufacturing Co., Inc., 81 SCRA 430, 440). The compensability of petitioner's illness cannot be denied.

Respondent further takes exception to the sufficiency of the evidence presented by the petitioner to support his claim. Presented before the court were (1) an undated consultation with Dr. Alexander Araneta showing petitioner to be suffering from pulmonary tuberculosis moderately advanced, active; (2) Premium certification of petitioner's employer showing the amount of premiums paid by the employee to the Social Security System; and (3) Petitioner's affidavit dated October 31, 1973 stating the circumstances under which the petitioner contracted the disease. It is argued that no x-ray, no physical examination of petitioner and no evaluation by the Workmen's Compensation Commission physician was made.

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In *San Valentin v. Employees' Compensation Commission* (118 SCRA 160) we held that in workmen's compensation cases, the strict rules of evidence are not applicable (See also Cristobal *v.* Employees Compensation Commission, 103 SCRA 329). In testing the evidence on the relation between the injury or disease and the employment, probability and not certainty is the touchstone (San Valentin *v.* Employees' Compensation Commission, *supra,* citing Acosta v. Employees' Compensation Commission, 109 SCRA 216; National Housing Commission *v.* Workmen's Compensation Commission, 79 SCRA 281; Vda. de Laron *v.* Workmen's Compensation Commission, 73 SCRA 84). To be compensable it is enough that the hypothesis on which the workmen's claim is based is probable (Delegante *v.* Employees' Compensation Commission, 118 SCRA 67 citing Lao *v.* Employees' Compensation Commission, 97 SCRA 780 citing Abana, et al. *v.* Quisumbing, 22 SCRA 1278 citing Manila Railroad Co. *v.* Workmen's Compensation Commission and Pineda, 21 SCRA 98). The substantial evidence rule and not the preponderance of evidence rule is followed in the determination of compensability of an injury or illness (Galceran *v.* Secretary of Labor, 115 SCRA 300 citing Iloilo Chinese Commercial School *v.* Fabrigar, 3 SCRA 712; Vda. de Olib *v.* City of Manila, 68 SCRA 380) to give effect to the social justice purposes of the law.

The physician's report submitted by the petitioner taken with the petitioner's sworn statement and the claim for SSS sickness benefits, the uncontroverted claim for workmen's compensation benefits, and the undisputed fact that he had to stop working because of sickness, suffices to substantiate the claim for compensation. The report of the attending physician was made part of the record and there is no showing that the same is false or erroneous. Section 49 of the Workmen's Compensation Act itself provides:

"SEC. 49. Procedure.- x x x the Commissioner may receive as evidence and use as proof of any fact in dispute the following matters; in addition to sworn testimony presented at open hearing:

"(1) Reports of attending examining physician, x x x."

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(See also Vallo *v.* Workmen's Compensation Commission, 73 SCRA 623; National Development Corporation *v.* Workmen's Compensation Commission, 19 SCRA 861, 864). Thus, it was error on the part of the Commission not to give credence to the findings of Dr. Araneta in the light of the other corroborative evidence.

We have categorically ruled that an x-ray or some other laboratory report is not necessarily an indispensable prerequisite to compensation. The physician's report does not require for credibility that the x-ray or laboratory findings be attached thereto. Their absence in the physician's report will not invalidate the diagnosis appearing therein. Moreover, from the attending physician's report it can be logically inferred that a previous x-ray examination was made, otherwise, the physician could not have arrived at his diagnosis of the illness (Flores *v.* Workmen's Compensation Commission, 71 SCRA 633; Ybañez *v.* Workmen's Compensation Commission, 77 SCRA 501; Romero *v.* Workmen's Compensation Commission, 77 SCRA 482; Guillen *v.* Workmen's Compensation Commission, 97 SCRA 327; Bautista *v.* Workmen's Compensation Commission, 88 SCRA 121; Mercado *v.* Workmen's Compensation Commission, 81 SCRA 730; Bandayan *v.* Workmen's Compensation Commission, 77 SCRA 305; and Jacob *v.* Workmen's Compensation Commission, 72 SCRA 575).

We reiterate, therefore our pronouncements in cases falling under the Workmen's Compensation Act that an x-ray or some other laboratory report is not an indispensable requisite to compensation; that a report of an attending examining physician may be received as evidence and used as proof of the fact in dispute; that the nature and the conditions of work contribute to and aggravate in large measure the employee's ailment and hence, entitle him to compensation; that when an illness supervenes in the course of the employment, there is a presumption that the same arose out of or was at least aggravated in the course of the employment, and that this legal presumption can be overcome only by substantial evidence by the employer. (Mercado *v.* Workmen's Compensation Commission, 81 SCRA 730 citing

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Monsale *v.* Republic of the Philippines and Workmen's Compensation Commission, 80 SCRA 448; Despe *v.* Workmen's Compensation Commission, 75 SCRA 350; Gomez *v.* Workmen's Compensation Commission, 75 SCRA 395; Vallo *v.* Workmen's Compensation Commission, and Republic of the Philippines, 73 SCRA 623; Ayuso *v.* Workmen's Compensation Commission, 73 SCRA 233; Caparas *v.* Workmen's Compensation Commission, 73 SCRA 221; Leoma *v.* Workmen's Compensation Commission, 73 SCRA 228; Pros *v.* Workmen's Compensation Commission, 73 SCRA 92; Vda de Laron *v.* Workmen's Compensation Commission, 73 SCRA 84; Jacob *v.* Workmen's Compensation Commission, 72 SCRA 575; Mercado *v.* Workmen's Compensation Commission, 12 SCRA 260; Valencia *v.* Workmen's Compensation Commission, 72 SCRA 242; Aranzanso *v.* Saguit, 71 SCRA 608; Talip *v.* Workmen's Compensation Commission, 71 SCRA 218).

Further, considering that the foregoing evidence remains unrebutted because of the respondent's failure to controvert the petitioner's claim, we are constrained to let the same stand. (Section 45, Workmen's Compensation Act; and an unbroken line of cases from Victorias Milling Co., 108 Phil. 1208 to Tortal v. Workmen's Compensation Commission, 124 SCRA 211)

Finally, the petitioner asserts entitlement to compensation under Section 14 of the Workmen's Compensation Act for loss of earning capacity from the time he was forced to stop working due to his work-connected illness. The circumstances warrant the granting of the same. The object of the law in allowing compensation during temporary disability under Section 14 is to compensate the employee for what he might have earned during the period of treatment for his injury (Comments and Annotations on the Workmen's Compensation Act, Pucan and Besinga, 1971 Edition, page 256). In the case at bar, the employee was forced to stop working October 31, 1973 and was, from then on, under treatment. He was unable to return to work. He thus suffered loss of earning capacity from said date entitling him to compensation under Section 14 for temporary total disability.

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WHEREFORE, in view of the foregoing, the petition is hereby GRANTED. The decision of the Workmen's Compensation Commission under review is hereby REVERSED. The private respondent is ordered to pay to:

1) Petitioner under Sections 14 and 18 of the Act, as compensation, the sum of SIX THOUSAND (P6,000.00) PESOS;

2) Atty. Pedro Requieron, under Section 31 of the Act as attorney's fees the sum of SIX HUNDRED (P600.00) PESOS; and

3) To the Ministry of Labor and Employment as administrative fee, the sum of SIXTY ONE (P61.00) PESOS.

Melencio-Herrera, Plana, and *de la Fuente, JJ.,* concur.
Teehankee, J., in the result.
Relova, J., took no part.

FIRST DIVISION

[G.R. No. L-43693. January 17, 1985]

ESTELITA VDA. DE CARDIENTE, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and THE CITY OF BACOLOD,** *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; COMPENSABILITY OF DISEASES; PRINCIPLE OF AGGRAVATION; APPLIED IN CASE ATBAR.— It is clear from Section 2 of Act 3428, as amended