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[G.R. No. L-44063. February 27, 1979]

VICTORIANO F. CORALES, *petitioner*, *vs.* **EMPLOYEES' COMPENSATION COMMISSION and GOVERNMENT SERVICE INSURANCE SYSTEM**, *respondents*.

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION; CLAIM FOR COMPENSATION; THE TIME THE CAUSE OF CLAIM ACCRUED DETERMINES THE APPLICABLE RULE.** — Under Article 294, Title III (Transitory and Final Provisions) of the New Labor Code, all actions and claims accruing prior to the effectivity of the Code shall be determined in accordance with the laws in force at the time of their accrual and under the third paragraph of Article 292, Title II (Presumption of Offenses and Claims), workmen's compensation claims prior to the effectivity of said Code and during the period from November 1, 1974 up to December 31, 1974 shall be processed and adjudicated in accordance with the laws and rules at the time their causes of action accrued. Consequently, petitioner's cause of action which existed as early as September, 1965, should be governed by the Workmen's Compensation Act, the law then in force, and not by the New Labor Code, although such cause of action may have transcended the former statute because the illness continued even after the New Labor Code was already effective and operative. Furthermore, Book IV, Title II of the New Labor Code and Section 1(c) of Rule III of the Amended Rules on Employees Compensation, provides that, only injury or sickness that accrued on or after January 1, 1975 and the resulting disability or death shall be compensable under the Rules.

2. **ID.; ID.; ID.; CLAIMS WHICH ACCRUED UNDER THE OPERATION OF THE ACT PRESCRIBES IN TEN YEARS.** — Article 292 of the New Labor Code, which requires that

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workmen's compensation claims accruing prior to the New Labor Code shall be filed with the appropriate regional offices of the Department of Labor not later than March 31, 1975, otherwise, they shall forever be barred, does not apply to a petitioner who filed his claim on August 4, 1975, because the prescriptive period for claims which accrued under the Workmen's Compensation Act, as amended, is ten (10) years, it being a right founded on statute. Petitioner's right accrued as early as September, 1965 and hence is a vested right.

3. **ID.; ID.; ID.; FILING OF CLAIM IN WRONG GOVERNMENT AGENCY DOES NOT MILITATE AGAINST THE CLAIM.** — The fact that the claim was filed with the GSIS instead of with the appropriate regional office of the Department of Labor, does not militate against the claim. For the filing of a claim in an office that has no authority to act on it can be treated as having been filed with the appropriate agency as long as it is filed within the period allowed by law.

4. **ID.; ID.; ID.; WHERE CLAIMS MUST BE FILED.** — Section 3 of Rule I (Venue of Actions) of Book VIII (Prescriptions, Transitory and Final Provisions) of the Rules and Regulations Implementing the Labor Code, provides that claims for workmen's compensation accruing prior to January 1, 1975 shall be filed with the appropriate regional offices of the Department of Labor in accordance with the rules of the Workmen's Compensation Commission; and that claims for workmen's compensation arising on or after January 1, 1975 shall be filed with the Social Security System for employees of the private sector or with the GSIS for employees of the Government, as the case may be, in accordance with such rules and regulations as may be laid down by the Employees Compensation Commission.

5. **ID.; ID.; ILLNESS; SUPERVENING AILMENT COMPENSABLE.** — Petitioner's claim having accrued prior to the New Labor Code, the presumption of compensability, the principle of aggravation, the award of attorney's fees and the payment of administrative fees must be observed and applied. And the employees Compensation Commission is duty bound to observe and apply the foregoing principle in passing upon workmen's compensation.

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6. ID.; **EMPLOYEES COMPENSATION COMMISSION; HAS THE DUTY TO OBSERVE CONSTITUTIONAL GUARANTEE ON SOCIAL JUSTICE.** — As an agency of the State the Employee Compensation Commission, like the defunct Court of Industrial Relations, and the Workmen's Compensation Commission is under the obligation at all times to give meaning and substance to the constitutional guarantees in favor of the workingmen, more specially the social justice guarantee; for otherwise, these guarantees would be merely a lot of meaningless patter.

7. ID.; **WORKMEN'S COMPENSATION; DISABILITY BENEFITS; WHEN DISALLOWABLE.** — Where petitioner, despite his disabling illness of PTB — medically speaking — was able to physically pursue his line of work until the very day he reached the compulsory age of retirement (at 65 years) by sheer determination and ingenuity and despite a finding that his illness and disability was work-connected, be cannot be awarded disability benefits under Section 14 of the Workmen's Compensation Act, as amended, which observe the wage-loss factor as basis of the granting of disability benefits for it commands that ". . . No compensation shall be allowed for the first three calendar day of incapacity resulting from an injury except the benefits provided for in the preceding section; but if the incapacity extends beyond that period, compensation shall be allowed from the first day of such incapacity, . . . "(Section 14, Act 3428, as amended). Petitioner's illness and/or medical disability did not result in any wage-loss or diminution of her earnings as it is undisputed from the records that he not only continued to receive the same rate of salary (₱3,223,58 per annum) he was receiving in 1965 when he was initially found afflicted with PTB but also thereafter enjoyed increases of salaries and at the time of his compulsory retirement in 1975, his rate was ₱5.095.25 per annum; although he did not receive any promotion in rank or position, from 1965 to the year of retirement. The Supreme Court has recognized the fact that an employee medically pronounced disabled for work can despite thereof, pursue his work by sheer determination and ingenuity.

8. ID.; ID.; ID.; **REIMBURSEMENT OF MEDICAL EXPENSES NOT AFFECTED BY THE FACT THAT CLAIMANT WAS ABLE TO PURSUE HIS JOB UNTIL COMPULSORY RETIREMENT.**

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— Sections 13 and 23 of the Workmen's Compensation Act, as amended, allow the reimbursement of medical expenses and require the employer to furnish the sick employee with such services, appliances and supplies as well as medical and rehabilitative examinations as the nature of the disability and progress of recovery may require and which will promote the early restoration of the employee to the maximum level of his physical capacity, regardless of whether claimant's disability resulted in wage-less or not. To limit the award of reimbursement of medical expenses to claimant who stopped after being medically pronounced disabled, is to penalize the laudable efforts of a medically disabled workingman to make the best of his misfortunes by continuing in his work. Both need medicines to cure their illness. To rule otherwise is to uphold unfair discrimination as well as inequitous principle and inflict gross injustice on one, who, despite his predicament went on working, instead of immediately availing and enjoying the compensation benefits under the law in order that his illness may be timely arrested.

9. **ID.; ID.; ID.; WAGE-LOSS, NOT NECESSARY IN AWARDING MEDICAL BENEFITS.** — Disability benefits and medical benefits are covered by separate sections. Section 13 for medical benefits and Section 14 for disability compensation benefits. And while Section 14 adheres to the wage-loss factor as the basis of award for disability compensation benefits, implicit from its requirements that no compensation shall be allowed for the first three calendar days of incapacity resulting from an injury except the benefits provided in the preceding section, Section 13 does not. It is not therefore difficult to conclude that wage-loss is not necessary for the award of medical benefits. Jurisprudence in the United States shows that workmen's compensation benefits fall initially into two categories: benefits to the workmen for physical injury, and benefits to dependents in case of death. Benefits for physical injury, in turn, are of two kinds: wage-loss payments based on the concept of disability; and payment of hospital and medical expenses occasioned by any work-connected injury, regardless of wage-loss or disability.

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10. ID.; ID.; ID.; CONTINUANCE IN JOB UNTIL COMPULSORY RETIREMENT DOES NOT IMPAIR RIGHT TO DISABILITY COMPENSATION. — It is a well-established rule that an employee partially incapacitated by an injury from performing his labor does not lose his right to compensation under the Workmen's Compensation Act by remaining in the employment of his employer at his former wage.

RESOLUTION

MAKASIAR, *J.*:

On August 25, 1978, WE rendered a decision in this case finding that *petitioner has shown by clear and convincing evidence that he contracted tuberculosis or at least the risk of contracting said disease had been increased by the conditions under which he was then working* (p. 5, decision) and accordingly ordered respondent Government Service Insurance System.

1. TO REIMBURSE PETITIONER HIS EXPENSES FOR MEDICAL SERVICES DULY SUPPORTED BY PROPER RECEIPTS;
2. TO FURNISH HIM SUCH MEDICAL SERVICES AND APPLIANCES AS THE NATURE OF HIS RECOVERY MAY REQUIRE AS WELL AS REHABILITATION SERVICES TO HELP HIM BECOME PHYSICALLY INDEPENDENT AND TO DEVELOP HIS MENTAL, VOCATIONAL AND SOCIAL POTENTIAL;
3. TO PAY THE PETITIONER ATTORNEY'S FEES EQUIVALENT TO TEN PERCENT (10%) OF HIS MEDICAL EXPENSES; AND
4. TO PAY THE ADMINISTRATIVE COSTS.

WE did not award petitioner disability compensation because despite the fact that he was medically pronounced to be totally and permanently disabled, such disability did not result in *wage-*

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loss as he was able to continue working until he reached the compulsory retirement age of 65, thus:

"The degree of disability as certified to by Dr. Franklin Bravo, a government physician, and which is not disputed by the parties, is 'total and permanent' (Annex 'A', p. 8, *rollo*).

"But the fact that petitioner-claimant was never absent from work nor went on leave of absence for at least four days and instead continued to report for work until his compulsory retirement at the age of 65, militates against his right to disability compensation (Sec. 14, Workmen's Compensation Act, as amended); because the very term implies that the compensation must be for loss or diminution of salary by reason of illness incurred or aggravated due to his employment (p. 5, orig. rec.). WE sympathize with the predicament of petitioner-claimant especially because in his affidavit dated July 19, 1975, he stated that 'his financial hardship prevented me (him) from hospitalization, so that I (he) hired the services of Dr. Ricardo Almario since September 1965 to date. But OUR sympathies with his sad plight will not justify a different conclusion as the same would be in effect amending the law, which WE cannot legally do.'" (pp. 6-7, Decision).

On September 15, 1978, the Solicitor General filed for respondent Employees' Compensation Commission a motion for reconsideration on the following grounds:

I. TUBERCULOSIS IS NOT AN OCCUPATIONAL DISEASE WITH RESPECT TO AN EMPLOYEE PERFORMING THE WORK OF A LAND INVESTIGATOR:

II. PETITIONER HAS NOT SHOWN BY CLEAR AND CONVINCING EVIDENCE THAT THE RISK OF CONTRACTING TUBERCULOSIS IS INCREASED BY THE WORKING CONDITIONS OF HIS EMPLOYMENT:

III. THERE IS NO PRESUMPTION OF COMPENSABILITY IN FAVOR OF CLAIMANT FOR WORKMEN'S COMPENSATION BENEFITS UNDER THE NEW LABOR CODE OF THE PHILIPPINES:

IV. PETITIONER IS NOT ENTITLED TO REIMBURSEMENT OF MEDICAL EXPENSES INCURRED FOR THE TREATMENT OF A NON-COMPENSABLE ILLNESS.

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Respondent Government Service Insurance System likewise filed on October 5, 1978 a motion for reconsideration upon the following grounds:

I. PETITIONER'S AILMENT OF TUBERCULOSIS IS NOT COMPENSABLE UNDER THE PREVAILING LABOR CODE BECAUSE:

A. TUBERCULOSIS IS NOT AN OCCUPATIONAL DISEASE WITH REFERENCE TO PETITIONER'S EMPLOYMENT;

B. PETITIONER DID NOT SUCCESSFULLY DISCHARGE THE BURDEN OF PROOF ON THE COMPENSABILITY OF HIS AILMENT, AS REQUIRED BY LAW;

C. PRESUMPTIONS OF COMPENSABILITY NO LONGER EXIST UNDER THE PRESENT LAW;

D. AGGRAVATION OF THE DISEASE BY THE EMPLOYMENT IS NO LONGER SUFFICIENT FOR COMPENSABILITY.

II. AN AWARD OF ATTORNEY'S FEES IS PROHIBITED UNDER THE PRESENT LAW.

III. THE PAYMENT OF ADMINISTRATIVE COSTS IS NOT PROVIDED FOR UNDER THE PRESENT LAW, WHICH OPERATES UNDER A SCHEME DIFFERENT FROM THE OLD WORKMEN'S COMPENSATION LAW.

IV. RESPONDENT GSIS IS NOT A PROPER PARTY RESPONDENT IN THESE PROCEEDINGS.

Petitioner filed his reply and comment.

1. It must be impressed upon the movants that what this Court applied in this claim are the provisions of the Workmen's Compensation Act, as amended. The decision sought to be reconsidered readily shows this fact. The facts of the case call for the application of the aforesaid provisions as it is undisputed that the illness of petitioner was contracted by him as early as *September, 1965* and remained uncured at the time of his retirement from the Government at the age of 65 on *March 27, 1975*. His March 17, 1976 chest x-ray examination

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disclosed broad linear densities in the right upper lung fields and ill-defined densities in the root of the lung field which are indicative of the fact that he is still suffering from PTB moderately advanced. Consequently, petitioner's cause of action existed as early as September, 1965; hence, clearly before the effectivity of the New Labor Code, although it can be advanced that his cause of action transcended the Workmen's Compensation Act, as amended, because his illness continued even after the New Labor Code was already effective and operative. Article 294, Title III (Transitory and Final Provisions) of the New Labor Code provides that all actions and claims accruing *prior* to the effectivity of this Code shall be determined in accordance with the laws in force at the time of their accrual and under the third paragraph of Article 292, Title II (Prescription of Offenses and Claims), workmen's compensation claims accruing prior to the effectivity of this Code and during the period from November 1, 1974 up to December 31, 1974 shall be processed and adjudicated in accordance with the laws and rules at the time their causes of action accrued. Hence, this Court applied the provisions of the Workmen's Compensation Act, as amended, on passing upon petitioner's claim.

Furthermore, the provisions of the New Labor Code on Employees' Compensation — Book IV, Title II — apply only to *injury, sickness, disability or death accruing on or after January 1, 1975* (Art. 208). More precise is Section 1(c) of Rule III of the Amended Rules on Employees Compensation, which declares that *only injury or sickness that accrued on or after January 1, 1975 and the resulting disability or death shall be compensable under the Rules*. There is therefore no doubt that what governs petitioner's claim is the Workmen's Compensation Act, as amended.

In De Castro, Jr. versus Republic, etc., WE held that the fact that the teacher-claimant died during the effectivity of the New Labor Code did not divest the Workmen's Compensation Commission of its jurisdiction over the claim for compensation as the death was a direct result of an illness which supervened at the time the Workmen's Compensation Act was in full force and effect (75 SCRA, pp. 373-381, L-43289, Feb. 28, 1977).

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Article 292 of the New Labor Code, which requires that workmen's compensation claims accruing prior to the New Labor Code shall be filed with the appropriate regional offices of the Department of Labor *not later than March 31, 1975, otherwise, they shall forever be barred*, does not apply to petitioner, who filed his claim on August 4, 1975 with the GSIS; because We have repeatedly held that the prescriptive period for claims which accrued under the Workmen's Compensation Act, as amended, is ten (10) years, it being a right founded on statute. Petitioner's right accrued as early as September 1965 and hence is a vested right.

"Rights accrued and vested while a statute was in force ordinarily survive its repeal.

"The repeal of a statute does not operate to impair or otherwise affect rights which have been vested or accrued while the statute was in force. This rule is applicable alike to rights acquired under contracts and to rights of action to recover damages for torts. Where a new statute continues in force provisions of an old statute, although in form it repeals them at the moment of its passage, a right of action created by the old statute is not thereby destroyed x x x" (82 CJS 1010).

The fact that the claim was filed with the GSIS instead of with the appropriate regional office of the Department of Labor, does not militate against the claim. For the filing of a claim in an office that has no authority to act on it can be treated as having been filed with the appropriate agency as long as it is filed within the period allowed by law (*Pobre vs. WCC*, 77 SCRA 315-320, May 31, 1977).

Section 3 of Rule I (Venue of Actions) of Book VII (Prescriptions, Transitory and Final Provisions) of the Rules and Regulations Implementing the Labor Code, provides:

"Sec. 3. Workmen's compensation claims —

"(a) Claims for workmen's compensation accruing prior to January 1, 1975 shall be filed with the appropriate regional offices of the Department of Labor in accordance with the roles of the Workmen's Compensation Commission.

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"(b) Claims for workmen's compensation arising on or after January 1, 1976 shall be filed with the Social Security System for employees of the private sector or with the GSIS for employees of the government, as the case may be, in accordance with such rules and regulations as may be laid down by the Employees' Compensation Commission.

2. Under the premises aforestated, the first three (3) grounds of the Solicitor General and all the grounds of respondent GSIS, being based on the provisions of the New Labor Code on Employees' Compensation, are without merit.

Petitioner's claim having accrued prior to the New Labor Code, the presumption of compensability, the principle of aggravation, the award of attorney's fees and the payment of administrative fees must be observed and applied. And the Employees' Compensation Commission as the successor of the defunct Workmen's Compensation Commission is duty bound to observe and apply the foregoing principles in passing upon workmen's compensation. Moreover, as an agency of the State, the Employees' Compensation Commission, like the defunct Court of Industrial Relations and the Workmen's Compensation Commission, is under obligation at all times to give meaning and substance to the constitutional guarantees in favor of the workingmen, more specially the social justice guarantee; for otherwise, these guarantees would be merely a lot of meaningless patter (*Santos vs. WCC*, 75 SCRA 371 [1977]).

It must be emphasized, however, that the finding in the main decision of the connection or linkage between petitioner's illness and the nature of his employment was based not only on the presumption of compensability but also on the evidence presented by him which WE found substantial and sufficient for the purpose.

3. The Solicitor General contents that petitioner is not entitled to reimbursement of medical expenses incurred for the treatment of a non-compensable illness.

It must be noted that WE disallowed petitioner's claim for disability compensation because of the undisputed fact that petitioner, despite his disabling illness of PTB — medically

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speaking — was able to physically pursue his line of work until the very day he reached the compulsory age of retirement — 65, and therefore cannot be awarded until disability benefits under Section 14 of the Workmen's Compensation Act, as amended, which observes the wage-loss factor as basis of the granting of disability benefits for it commands that "x x x No compensation shall be allowed for the *first three calendar days of incapacity* resulting from an injury except the benefits provided for in the preceding section; but if the incapacity extends beyond that period, compensation shall be allowed from the first day of such incapacity x x x." (Section 14, Act 3428, as amended). Consequently, We ruled that, despite OUR finding that petitioner's illness and disability was work-connected, he is not entitled to disability benefits because his illness and/or medical disability did not result in any *wage-loss* or diminution of earnings as it is undisputed from the records that he not only continued to receive the same rate of salary (₱3223.58 per annum) he was receiving in 1965 when he was initially found afflicted with PTB but also thereafter enjoyed increases of salaries and at the time of his compulsory retirement in 1975, his rate was ₱5095.20 per annum; although he did not receive any promotion in rank or position, from 1965 to the year of his retirement. WE have recognized the fact that an employee medically pronounced disabled for work can, despite thereof, pursue his work by sheer determination and ingenuity. .

In the subsequent cases of *Romero vs. WCC, et al.* (77 SCRA, 480, June 30, 1977) and *Gonzales vs. WCC, et al.* (81 SCRA, 709-710), WE enunciated that:

"Disability, as a basis for compensation, is the combination of partial or total physical incapacity and of inability to work, or inability to work with the same ease and competency as before the injury, or the loss, total or partial, of earning power from the injury (*Corpus Juris*, Section 535, p. 813).

"Disability is used either in the *medical* or *physical* sense, as evidenced by obvious loss of members or by medical testimony that the claimant simply cannot make the necessary muscular movements and exertions; it is used to mean *de facto inability to earn wages*, as evidenced by proof that claimant has not in fact earned anything.

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"This medical and wage-loss aspects of disability may be more clearly illustrated as follows: A claimant may be, in a medical sense, utterly shattered and ruined, but may by sheer determination and ingenuity contrive to make a living for himself; conversely, a claimant may be able to work, in both his and doctor's opinion, but awareness of his injury may lead employers to refuse him employment.

"The problem of the administrators of the Act is the proper balancing of these medical and wage-loss factors. An absolute insistence on medical disability in the abstract would produce a denial of compensation in the latter case, although the wage-loss is as real and as directly traceable to the injury as in any other instance. At the other extreme, *an insistence on the wage-loss as the best would deprive the claimant in the former illustration of an award, thus not only penalizing his laudable efforts to make the best of his misfortune but also fostering the absurdity of pronouncing a man non-disabled in spite of the unanimous contrary evidence of medical experts and of common observation*' (Larson, Vol. II, p. 3).'" (Emphasis supplied).

In the Romero and Gonzales cases, therein claimants persisted working — although intermittently they went on sick leaves — despite their confirmed medical disability, but, unlike claimant Corales who survived working despite disability up to his compulsory retirement, they were forced to retire before the compulsory age of retirement: in the case of Romero, at the age of 52, and Gonzales, at the age of 64. In both cases, WE awarded claimants not only disability compensation benefits but also reimbursements of medical expenses incurred even before they were effectively and physically disabled and thereafter.

To limit the award of reimbursement of medical expenses to claimants himself who stopped working after being medically pronounced disabled, is to penalize the laudable efforts of a medically disabled workingman to make the best of his misfortune by continuing in his work. Both need medicines to cure their illnesses. To rule otherwise is to uphold unfair discrimination as well as inequitous principle and inflict gross injustice on one, like herein petitioner, who, despite his predicament, went on working, instead of immediately availing and enjoying the

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compensation benefits under the law in order that his illness may be timely arrested.

A look at Section 13 of the Workmen's Compensation Act, as amended, reveals that it does not require that illness or disability should result in wage-loss to entitle one to an award of medical expenses or benefits. That section clearly states that "*immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of disability*, the employer or insurance carrier shall provide the employee with such services, appliances and supplies as the nature of his disability and the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity x x x."

Section 13 was further emphasized in Section 23, which reads thus:

"SEC. 23. Medical and Rehabilitative examination. — After receiving an injury or contracting sickness and during the period of his disability and rehabilitation, the laborer shall at reasonable times and places submit to examination by a duly qualified physician or surgeon and rehabilitation technician designated and paid by the employer or insurance carrier . . ."

As WE stated in *Cebu Portland vs. WCC, et al.*:

"It may be observed that the law, in imposing on the employer the obligation to provide *medical attendance* to an injured or sick employee, unlike those provisions relating to compensation for *disability* (Sections 14, 16, 17 and 18 of Act No. 3428, as amended) does not provide maximum either in the amount to be paid or the time period within which such right may be availed of by the employee. On the contrary, the law imposes on the employer the obligation to 'provide the employee with such medical, surgical, and hospital services and supplies as the nature of the injury or sickness may require.' The implication is that, such medical expenses as may be necessary until the work connected injury or sickness ceases, may be charged against the employer. In the United States, from where our labor compensation law is derived, the two kinds of benefits for physical injury or sickness are, like in our law, treated differently. The wage-loss payments based on the concept of disability are

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invariably limited in both amount and duration, while payments of medical benefits, that is, hospital and medical expenses occasioned by any work-connected injury, regardless of wage-loss or disability, vary in the different states of the Union" (10 SCRA, L-19164, 420, 423-424, Feb. 29, 1964).

A fair interpretation of these provisions allows payment and/or reimbursement of medical expenses to one who suffered work-connected illness or injury or disability, regardless of whether it results to wage loss or not. For said section commands the employer or the insurance carrier to provide the employee with services, appliances and supplies *immediately after he has suffered an injury or contracted sickness, and during the subsequent period of disability*, even if he continues to report to work until he reaches the compulsory age of retirement.

In the case of *Mondejar vs. WCC, et al.*, WE granted the claimant, a water meter reader of the NWSA for 26 years since 1948, both disability compensation and medical services, including reimbursement for such expenses therefor, as well as attorney's fees in spite of the fact that he continued to work until he voluntarily retired at age 60 because of the economic demands of his family as he was the only breadwinner in the family, although "he made leaves with the office and went home to Maasin, Iloilo, where he consulted Dr. Numeriano Jalbuena and was found to be suffering from the same sickness and on August 12, 1974, he finally retired from the service" (77 SCRA 301-304, L-43154, May 31, 1977).

In *Evangelista vs. WCC, et al.*, the teacher-claimant, who continued working notwithstanding her ailment, until her voluntary retirement at age 61, was granted disability compensation, medical services, including reimbursement of expenses therefor, attorney's fees and administrative costs (77 SCRA, 497-500, L-43572, June 30, 1977).

In *Ibañez vs. WCC, et al.*, teacher-claimant, despite her ailment, continued to work until her voluntary retirement at age 64. She was also granted the same benefits, including attorney's fees and administrative costs (77 SCRA 501-508, L-44123, June 30, 1977).

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In *Ilingan vs. WCC, et al.*, the claimant-employee of the Philippine National Railways was likewise granted similar benefits although he continued and never stopped working until his voluntary retirement at age 63; because he "may not wait for his body to waste away or his condition to worsen by applying for retirement at the age of 65, when he is entitled under the law to an earlier retirement (79 SCRA 345-347, L-40174, Oct. 11, 1977; see also *Dimaano vs. WCC, et al.*, L-453553, Aug. 31, 1977, 78 SCRA, 507-511).

WE need not rely on the cases abovecited; because here in the Supreme Court, all Associate Justices and employees are enjoying the medical facilities in the clinic and the services of its doctors whenever they are afflicted with a disease or ailment, which does not disable them from performing their official functions.

The claimant in the case at bar sacrificed and endured his pain and suffering by reporting to work because he needed his salary for the support of himself and his family, and in the process saved the government money which would have been granted him as disability compensation if he went on sick or vacation leave with or without pay. It is rather disheartening to observe that the officials and agencies designated by the law to implement the social justice guarantee in the Constitution and the social legislation in favor of the working man, lack the heart and the compassion to accord a liberal interpretation of the Workmen's Compensation Law and to resolve all doubts in favor of the employee as mandated by both the New Labor Code, the New Civil Code, and the relevant jurisprudence.

It must also be noted that disability compensation benefits and medical benefits are covered by separate sections. Section 13 for medical benefits and *Section 14* for disability compensation benefits. And while Section 14 adheres to the *wage-loss factor* as the basis of award for disability compensation benefits, implicit from its requirement that no compensation shall be allowed for the first three calendar days of incapacity resulting from an injury except the benefits provided in the preceding section,

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Section 13 does not. It is not therefore difficult to conclude that wage loss is not necessary for the award of medical benefits.

Jurisprudence in the United States shows that "workmen's compensation benefits fall initially into two categories: benefits to the workman for physical injury, and benefits to dependents in case of death. Benefits for physical injury, in turn, are of two kinds: wage-loss payments based on the concept of disability; and *payment of hospital and medical expenses occasioned by any work-connected injury, regardless of wage-loss or disability. Wolf v. City of Altamonte Springs*, 148 So. 2nd 13 (Fla. 1962); *Shepherd v. Gas Serv. Co.*, 186 Kan. 699, 352 P.2d 48 (1960); *Howerton v. Goodyear Tire & Rubber Co.*, 191 Kan. 449, 381 P.2d 365 (1963)." [Larson's Workmen's Compensation Law, Vol. II, 10-1, 10-2].

In the abovecited case of Shepherd, respondent contended that since the trial court found that the claimant suffered no disability, and inasmuch as he remained in respondent's employment at the same work and wage as before the injury he is not entitled to compensation. The Supreme Court of Kansas ruled as follows:

"[4] We will start with the assumption that the workmen's compensation act is founded broadly upon considerations of public policy. Its purpose is to provide protection to workmen within the limits established by the act. To this end this court is committed, in many decisions unnecessary to review, to a liberal interpretation of the act in favor of the employee x x x

"While the trial court found that claimant suffered no temporary total or permanent partial disability since he did not miss any work, the court did not find that claimant did not suffer a temporary partial disability. It found that claimant met with personal injury by accident and ordered that respondent furnish medical and hospital treatment in the sum specified for medical care necessary as a result of claimant's accidental injury to his back. Inherent in the trial court's finding is a finding that the claimant did suffer a temporary partial disability by reason of accidental injury and the same could be corrected by medical and hospital attention. It allowed compensation by way of medical treatment but inasmuch as claimant was working

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at the same wage made no allowance for compensation in weekly payments x x x" (pp. 50-51).

Continuing, the Court said:

"Respondent seems to contend that since the record discloses that after being injured claimant continued in the same job and performed the same duties of his employment at the same wage, he had no disability and no valid claim for compensation . . .

"[5] It is a well-established role in this state that an employee partially incapacitated by an injury from performing his labor does not lose his right to compensation under the workmen's compensation act by remaining in the employment of his employer at his former wage x x x."

WHEREFORE, THE MOTIONS FOR RECONSIDERATION ARE HEREBY DENIED FOR LACK OF MERIT. THIS DENIAL IS FINAL AND EXECUTORY.

Fernando, Teehankee, Antonio, Concepcion Jr., Santos, Fernandez, Guerrero, Abad Santos, De Castro, and *Melencio Herrera, JJ.*, concur.

Castro, C.J., concurs in the result.

Barredo, J., I concur. Respondents and counsel are rather technical but I don't agree that they are heartless.

Aquino, J., took no part.