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FIRST DIVISION

[G.R. No. L-42917. December 29, 1978]

VICTORINO OCTAVIO, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and MARINDUQUE MINING AND INDUSTRIAL CORPORATION,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION; CLAIM FOR COMPENSATION; EFFECT OF FAILURE TO CONTROVERT CLAIM WITHIN THE REGLEMENTARY PERIOD.** — Section 45 of the Workmen's Compensation Law is a mandatory provision enjoining an employer who intends to deny of compensation on any ground, to file with the Commission a notice of controversion within the reglementary period of 14 days from the inception of the disability, or within 10 days from receipt of notice of the claim. The employer's failure to file seasonably the notice of controversion constitutes a waiver of his right to repel the claim by means other than jurisdictional grounds. As a consequence of this waiver, the Commission can no longer entertain any non-jurisdictional defense or even allow the employer to prove anything in relation to the claim without the latter having first obtained a reinstatement of his right to controvert. This is one rigid requirement for the strict compliance of the employer in order to prevent him from gambling on the weakness of the laborer in putting up defenses at the hearing or thereafter without prior notice. The spirit of the law is to protect the worker who is not as capable and equipped with resources as his employer to pursue his claim.

2. **ID.; ID.; ID.; X-RAY EXAMINATION NEED NOT BE ATTACHED TO PHYSICIAN'S REPORT.** — In compensation cases, physician's report attesting to the claimant's illness is sufficient to substantiate the claim, and an x-ray examination or laboratory findings need not be attached thereto. Their absence will not invalidate the diagnosis appearing in the report, since it can logically be inferred that a previous x-ray examination was made,

Supreme Court E-Library

otherwise, the physician could not have arrived at his diagnosis of the illness.

3. **ID.; ID.; ID.; DISABILITY EVALUATION; PURPOSE.** — The disability evaluation only determines the degree of disability sustained, and as such, it has no higher evidentiary value than the actual findings of the physicians which were made the principal basis of the evaluation.

4. **ID.; ID.; ID.; EVIDENCE REQUIRED TO PROVE CLAIM.** — The Workmen's Compensation Act is a welfare legislation designed to give relief to an injured workingman. It is therefore liberally construed. Accordingly, the workingman, in proving his claim for compensation benefits needs only to satisfy the minimum requirement of establishing a probable illness or injury and its preliminary link to the nature or actual performance of his work, such that the illness or injury supervened during or in the course of his employment, by proof other than the mere filing of a notice of claim. Although this presentation may not level up with the standard of proof ordinarily required in a court of law, the deficiency is supplied by a statutory presumption in favor of the claim. On the other hand, the degree of substantial evidence necessary to overcome the presumption in favor of compensability "must do more than create doubt or set up non-compensable alternative explanations of the accident." It must be an evidence such as a reasonable mind must accept as adequate to support a conclusion.

APPEARANCES OF COUNSEL

Pedro P. Requieron for petitioner.
Ernesto N. Cruz & Rodolfo Cornejo for respondent Commission.
Rexes V. Alejano for private respondent.

D E C I S I O N

GUERRERO, *J.*:

This is a review[1] of the decision of the Workmen's Compensation Commission reversing the referee's award for

[1] Treated as a special civil action in the resolution of May 19, 1976.

Supreme Court E-Library

disability benefits granted under Sections 17 and 18 of the Workmen's Compensation Act, as amended.

Petitioner, Victorino Octavio, was a former employee of Marinduque Mining and Industrial Corporation with a position of Flotation Operator. He had been under the employ of respondent company since 1959 and had worked as Assay Helper, Wiper and Messenger. On February 15, 1975, his services were terminated due to an alleged retrenchment policy of the company (records, p. 97). As Flotation Operator, he worked for seven days a week, and in the performance of his duties, he was exposed to dust, heat, cold and rain, especially during his night duties (records, p. 62). On August 18, 1970, petitioner contracted "vitreous hemorrhage in the left eye" due to exposure to the elements. He was examined and operated on by Dr. Lilia Alianza on September 14, 1970. Subsequently, on May 16, 1971, Dr. Angel de Leon examined and found him to be afflicted with pulmonary tuberculosis. Octavio was disabled from work beginning August 18, 1970 up to January 8, 1975. On January 9, 1975, he reported back to work but his employment was terminated shortly on February 15, 1975.

Petitioner filed a claim for compensation benefits on February 24, 1975 on account of pulmonary tuberculosis. Later, on March 10, 1975, the notice of claim was amended to include a claim for the loss of sight of his left eye. Notice of the claim was transmitted by the Workmen's Compensation Unit to respondent company who received the same on March 11, 1975. The claim was controverted in a notice filed on April 7, 1975. After filing the notice of claim, petitioner was sent to Dr. Antonio H. Habana, the Compensation Rating Medical Officer of the Commission for evaluation of the alleged disability. On April 3, 1975, Dr. Habana made the following evaluation report (records, p. 94):

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"Reading with glasses:

1. Near Vision — O.S. = No light perception
O.D. = J-1

Supreme Court E-Library

2. Far Vision — O.S. = No light perception
O.D. = 20/20.

X-ray of the chest dated February 20, 1975 shows that the right lung has a minimal infiltration at the apex and the mid-lung, and the left lung has a perihilar calcification. Heart is normal.

Disability Evaluation:
100% Loss of vision, left eye. (Section 17).
12% N.S.D. (Section 18)."

The case was assigned to Referee Pacifico V. Militante of the Workmen's Compensation Unit at Bacolod City who, on October 5, 1975, issued his decision finding claimant's illness compensable, finding as follows:

"In the first place, as supported by records, the claim was filed on March 10, 1975. A notice relative to the claim was transmitted by this Office on the same date and was received by respondent on March 11, 1975, per return card attached to the records. Controversion was registered on April 7, 1975 by respondent as per its letter dated April 3, 1975. . . . Clearly, respondent in this case, had filed its controversion late, as required by Section 45 of the Act, wherein it is provided that in case the employer desires to controvert the claim, he shall, either, on or before the fourteenth (14) day of disability or within ten (10) days after he had knowledge of the sickness, file a notice with this Office of such controversion. Claimant in this case became sick on August 18, 1970 and since then, due to the recurrence of his illness, has for several times absented himself from his work. But nowhere is it shown that the respondent made the required notice to this Office on or before the illness on August 18, 1970. Granting but without admitting, that he had no knowledge of the claimant's illness, still he would have filed the proper notice of controversion within ten (10) days after having knowledge or notice thereof. Notice was transmitted by this Office to the employer on March 10, 1975 and was received by them on March 11, 1975. It should have filed its controversion not later than 10 days from this date of receipt. Instead, it did file its controversion only on April 7, 1975, thus not complying with the provisions of Section 46 of the Act."

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Supreme Court E-Library

"WHEREFORE, premises considered, this Office finds this claim compensable and respondent Marinduque Mining and Industrial Corporation is ordered to pay to:

(1) The claimant, under Section 17 of the Act for 100% loss of vision of his left eye, and under Section 18 of the Act, for 12% N.S.D. for his PTB, as compensation, the sum of ₱6,000.00 computed as follows: For the loss of his left eye: 50% of his average weekly wage which was ₱118.50 equals ₱59.27 times 100 weeks equals ₱5,927.00; For his PTB – 50% of his average weekly wage of ₱118.50 equals ₱59.27 times 12% of 208 weeks or ₱24.96 weeks equals ₱1,497.38. Adding the two equals ₱7,406.38 or ₱6,000.00 (max.);

(2) Atty. Pedro Requieron, claimant's counsel under Section 31 of the Act, as (attorney's) fees, the sum of ₱300.00;

(3) This Office, as administrative fee under Section 55 of the Act, the sum of ₱61.00.

Respondent moved for the reconsideration of the foregoing award. Upon the denial of the said motion, the records of the case were elevated to the Commission for review. Respondent maintained that while there is in law a presumption that the claim is compensable, claimant failed to present evidence sufficient as basis on which such presumption can operate.

On December 29, 1975, the Commission, thru Associate (Medical) Commissioner Herminia Castelo-Sotto, reversed the decision of the Hearing Officer and dismissed the claim on the following grounds:

"On claimant's alleged illness of PTB, We have scrutinized the entire records and found no x-ray report on which our Compensation Rating Medical Officer Dr. Habana had based his findings. Likewise, We failed to find in the records any findings of any eye specialist where our doctor had based his findings of total loss of vision of the left eye of claimant. The doctor's evaluation has therefore no factual basis relative to his findings. Claimant's only evidence of his alleged minimal PTB and blindness of one eye was his affidavit dated March 25, 1975. Without any corroborating documentary proof, said affidavit cannot be given any probative value."

We find the petition meritorious and, therefore, grant the claim. It is clear that the claim was originally filed on February

Supreme Court E-Library

24, 1975 on account of petitioner's pulmonary tuberculosis. The claim was subsequently amended on March 10, 1975 to include compensation for the loss of sight of his left eye. Respondent employer received the notice of claim on March 11, 1975, yet it filed its notice of controversion only on April 7, 1975 or 27 days later in utter disregard of the requirement of the law as to the period for filing a notice of controversion. The referee correctly applied Section 45 of the Workmen's Compensation Act to the facts of the case. Section 45 is a mandatory provision enjoining an employer who intends to deny payment of compensation on any ground, to file with the Commission a notice of controversion within the reglementary period of 14 days from the inception of the disability, or within 10 days from receipt of notice of the claim. The employer's failure to file seasonably the notice of controversion constitutes a waiver of his right to repel the claim by any means other than jurisdictional grounds. As a consequence of this waiver, the Commission can no longer entertain any non-jurisdictional defense or even allow the employer to prove anything in relation to the claim without the latter having first obtained a reinstatement of his right to controvert thru a petition under oath stating therein the reasons for the failure to file a notice of controversion in due time.[2] This is one rigid requirement for the strict compliance of the employer in order to prevent him from gambling on the weakness of the laborer in putting up defenses at the hearing or thereafter without prior notice. The spirit of the law is to protect the worker who is not as capable and equipped with resources as his employer to pursue his claim.[3]

Considering the merits of the case, the only issue is whether there is sufficient evidence to sustain the existence of a

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[2] *Justo v. WCC*, 75 SCRA 220; *Delgado Brothers, Inc. v. WCC*, 75 SCRA 343; *Vda. de Galang v. WCC*, 76 SCRA 153; *Buenaventura v. WCC*, 76 SCRA 485; *Romero v. WCC*, 77 SCRA 482; *Evangelista v. WCC*, 77 SCRA 497; *Cuyno, Jr. v. WCC*, 78 SCRA 100; *National Housing Corp. v. WCC*, 79 SCRA 281; *Roma v. WCC*, 80 SCRA 170; *Mulingtapang v. WCC*, 80 SCRA 610.

[3] See *Agustin v. WCC*, 12 SCRA 55 (1964).

Supreme Court E-Library

compensable illness. We find that there is. The Commission erred in repudiating the disability evaluation report of its own compensation rating officer solely on the ground that said report was not supported by x-ray findings and a diagnosis of an eye specialist, which according to the Commission rendered the report bereft of factual basis. This is not correct for the evaluation report was based on the documentary proof submitted by petitioner, among which are the medical certificate issued by Dr. Lilia C. Alianza containing her diagnosis of petitioner's eye disease. We also find that the evaluation report concerning petitioner's pulmonary tuberculosis was based on the latest x-ray dated February 20, 1975 showing petitioner to have sustained minimal infiltration at the apex of the right lung and a "perihilar" calcification in the left lung. Moreover, Dr. Pio L. Pama, the company physician also found petitioner to have a "fibrotic spot, rt. apex" as confirmed by an x-ray taken on December 19, 1972, which findings was certified to by the company physician in petitioner's application or vacation leave, duly approved by respondent company (*Rollo*, p. 61). The veracity and genuineness of these medical reports were never disputed by respondent employer. In compensation cases, this Court had ruled that a physician's report attesting the claim ant's illness is sufficient to substantiate the claim.[4] To complaint this rule, We have likewise ruled that an x-ray examination or laboratory findings need not be attached thereto. Their absence will not invalidate the diagnosis appearing in the report, since, as in this present case, it can logically be inferred that a previous x-ray examination was made, otherwise, the physician could not have arrived at his diagnosis of petitioner's illness.[5]

In consonance with the foregoing pronouncement, there is no reason why the Commission should require further that the

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[4] *Pioneer Ceramics, Inc. v. Samia*, 33 SCRA 487 (1970); *Sudario, Jr. v. WCC*, 79 SCRA 337 (1977); *Herrera v. WCC*, L-42213, October 23, 1978.

[5] *Landayan v. WCC*, 77 SCRA 305 (1977); *Vallo v. WCC*, 73 SCRA 623 (1976); *Jacob v. WCC*, 72 SCRA 575 (1976).

Supreme Court E-Library

disability evaluation of the compensation rating officer be corroborated or supported by an x-ray report or by separate findings of an eye specialist. The disability evaluation only determines the degree of disability sustained, and as such, it has no higher evidentiary value than the actual findings of the physicians which were made the principal basis of the evaluation.

The Workmen's Compensation Act is a welfare legislation designed to give relief to an injured workingman. It is, therefore, liberally construed. Accordingly, the workingman, in proving his claim for compensation benefits needs only to satisfy the minimum requirement of establishing a probable illness or injury and its preliminary link to the nature or actual performance of his work, such that the illness or injury supervened during or in the course of his employment, by reasonable proof other than the mere filing of a notice of claim. Although this presentation may not level up with the standard of proof ordinarily required in a court of law, the deficiency is supplied by a statutory presumption in favor of the claim. After presenting his case in such manner, the claimant may step aside and give way to the employer who must come with the burden of demolishing the probability of illness or injury and disconnecting the link with the nature of the employment. The degree of the substantial evidence necessary to overcome the presumption in favor of compensability "must do more than create doubt or set up non-compensable alternative explanations of the accident. It must be an evidence such as a reasonable mind must accept as adequate to support a conclusion."[6] In other words, a denial of an award for workmen's compensation must be predicated not on the weakness of the claimant's evidence but on the strength of the employer's disputation.

Clearly, therefore, in the absence of substantial evidence offered by respondent employer, We find the Commission's manner of disposing the cage by concluding that petitioner's claim was deficient of some corroborative evidence, a virtual shifting of the burden of proof to the claimant. This We cannot

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[6] See: *Vda. de Santiago v. Reyes, et al.*, 107 Phil. 210, 213 (1960).

Supreme Court E-Library

allow for under the law, once it is shown that the illness supervened during or in the course of the employment, there arises a rebuttable presumption that the illness arose out of or at least aggravated by his employment. It is the duty of the employer to rebut the presumption by substantial evidence, a duty and a burden which the Commission may not reverse to the claimant for to do so would be repugnant to and destructive of the liberal policy of the law in granting a clear presumption in favor of compensability in favor of the claimant.

WHEREFORE, IN VIEW OF THE FOREGOING, the decision under review is set aside and the referee's award is hereby reinstated with modifications, by increasing the attorney's fees to ₱600.00 and directing the respondent employer to reimburse the medical expenses incurred by petitioner duly supported by receipts as well as to provide him 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.

SO ORDERED.

Teehankee (Chairman), Makasiar, Santos, and *Fernandez, JJ.,* concur.