

## THIRD DIVISION

[ G.R. NO. 156182, April 13, 2007 ]

### GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. LUZVIMINDA C. MECAYER, RESPONDENT.

#### D E C I S I O N

##### AUSTRIA-MARTINEZ, J.:

Before us is a Petition for Review on *Certiorari* filed by the Government Service Insurance System (GSIS), petitioner, seeking to set aside the Decision<sup>[1]</sup> dated June 17, 2002 and the Resolution<sup>[2]</sup> dated November 21, 2002 of the Court of Appeals (CA) in CA-G.R. SP No. 68788.

The facts as found by the Employees; Compensation Commission (ECC) which was quoted by the CA in its assailed decision are as follows:

Jose P. Mecayer was previously employed at the Philippine National Police, Camp Crame, Quezon City. He joined the defunct Philippine Constabulary on August 13, 1973, as enlisted Constable. He was promoted as Sergeant on December 25, 1983, and was absorbed to the Philippine National Police on January 2, 1991 as Special Police Officer II. He served as such until his demise on June 12, 1992. Before his death, he was assigned as a driver at the PNP Administrative Division and Holding Center, Camp Crame, Quezon City.

Records show that on July 12, 1992, at about 7:00 o'clock in the evening, P/Chief Inspector Rodelino Peralta, along with one Mrs. Brenda Bawar, chanced upon SPO2 Mecayer who, while on duty, was then having a drink with SPO4 Habil Upao, also of said Holding Center. SPO2 Mecayer and SPO4 Upao were in the process of consuming one (1) bottle of beer each when P/Chief Insp. Peralta warned them, that drinking while on duty, is prohibited. At this point, Mrs. Bawar butted in, resulting in a heated argument with SPO2 Mecayer. However, P/Chief Insp. Peralta pacified them.

After the lapse of a few minutes, SPO1 Timoteo Bawar, husband of Mrs. Bawar, with whom SPO2 had an earlier altercation, shot the latter. The attending physician rushed SPO2 Mecayer to the PNP Hospital where he was pronounced dead on arrival. The cause of death was "hemorrhage as a result of the gunshot wound of the trunk."<sup>[3]</sup>

On October 12, 2000, the widow of SPO2 Mecayer, Luzviminda C. Mecayer (respondent), filed with petitioner a claim for compensation benefits under the Employees Compensation Law (P.D. No. 626), as amended, believing that her husband's death arose out of and in the course of employment.

On March 7, 2001, Police Superintendent Paulino Umali Manalo of the Philippine National Police (PNP) Administration and Holding Office, upon request of respondent, issued a Certification<sup>[4]</sup> that the death of SPO2 Mecayer was in the line of duty and that all the benefits due should be given to his legal heirs as provided by law.

In a letter<sup>[5]</sup> dated March 22, 2001, petitioner found SPO2 Mecayer's death as due to a personal grudge on the part of the suspect, SPO1 Bawar, which was not work related and thus not compensable under P.D. No. 626.

Respondent's Motion for Reconsideration was denied in a letter<sup>[6]</sup> dated April 16, 2001.

Respondent then filed an appeal with the ECC. In a Decision<sup>[7]</sup> dated November 23, 2001, the ECC dismissed the appeal and affirmed petitioner's denial of respondent's claim of compensation benefits.

The ECC found that there was no issue on the matter of whether or not the contingency arose out of and in the course of employment as indeed the contingency occurred during the covered employees' tour of duty and at the workplace. It, however, found that the rule on compensability under Section 1(a), Rule III of the Amended Rules on Employees Compensation is not absolute and subject to limitations as provided under Section 1, Rule IV of the same Rule, i.e., no compensation shall be allowed to the employee's dependents when the death was occasioned by his intoxication; that respondent failed to adduce substantial evidence to refute the fact that her husband was intoxicated at the time of the contingency; that her husband's intoxication might have emboldened him to engage in a heated argument with Mrs. Bawar, the assailant's wife, which undoubtedly precipitated the shooting incident which caused his death; that while the ECC should adopt a liberal attitude in favor of the employee in deciding claims for compensability, such applies only in case of doubt and when there is substantial evidence that would reinforce respondent's claim which was not present in this case.

Respondent then filed with the CA a Petition for Review under Rule 43 of the Rules of Court alleging that it was erroneous for the ECC to find that the death of respondent's husband was occasioned by his intoxication and therefore not compensable.

In a Decision dated June 17, 2002, the CA granted the petition, the dispositive portion of which reads:

WHEREFORE, the instant petition for review is GRANTED and the assailed decision of the Employees Compensation Commission is hereby REVERSED and SET ASIDE. A new judgment is hereby rendered declaring petitioner Ma. Luzviminda C. Mecayer entitled to the payment of the appropriate compensation benefits under P.D. 626, as amended, for the death of her husband SPO2 Jose P. Mecayer.

Let this case be remanded to the Government Service and Insurance System for the computation and payment of the compensation benefits to Ma. Luzviminda C. Mecayer.<sup>[8]</sup>

The CA found no substantial evidence on record to support the ECC finding that SPO2 Mecayer was intoxicated at the time of the contingency; that nowhere even in petitioner's letter denying respondent's claim was it shown that SPO2 Mecayer was actually intoxicated immediately before or during the time of shooting as petitioner merely stated that SPO2 Mecayer's death was by reason of a personal grudge, thus, respondent never felt the need to refute the alleged intoxication of her husband when she appealed the decision of petitioner to the ECC; that the ECC swiftly concluded that SPO2 Mecayer was intoxicated when he was only in the process of consuming a bottle of beer without any showing that he had drunk several bottles of beer or any other liquor before the contingency; that as held in *People v. Apduhan, Jr.*,<sup>[9]</sup> intoxication means that the offender's mental faculties must be affected by drunkenness; that the state of intoxication must be proved considering that mere drinking of liquor prior to the commission of the crime does not necessarily produce a state of intoxication.

In the absence of evidence proving SPO2 Mecayer's intoxication and considering that the ECC had already declared in its decision that the contingency occurred during the covered employee's tour of duty and at the workplace, the CA reversed the ECC Decision.

Petitioner's Motion for Reconsideration was denied by the CA in its Resolution dated November 21, 2002.<sup>[10]</sup>

Hence the instant Petition for Review on *Certiorari* raising the following issue:

Whether or not the Honorable Court of Appeals, in rendering its assailed Decision, setting aside the subject ECC Decision, has disregarded the law and the well-settled jurisprudence laid down by the Supreme Court in a long line of decisions that for the injury and the resulting disability or death to be compensable, the injury must be the result of accident "arising out of" and in the course of" the employment (Section 1, Rule III, Implementing Rules and Regulations of P.D. 626, as amended.) and the State Insurance Fund shall be liable for compensation to the employee or his dependents, except when the disability or death was occasioned by the employee's intoxication, willful intention to injure or kill himself or another, notorious negligence, or otherwise provided under this Title (Art. 172, PD 626, as amended; Sec 1, Rule IV, Implementing Rules of P.D. 626, as amended).<sup>[11]</sup>

Petitioner contends that under P.D. No. 626, one of the basic requirements for death to be compensable is that it must be work-connected; that although respondent's husband met his death while he was on duty and within the vicinity of his workplace, his death was not work-connected as the killing appeared to be personal in nature; that it has nothing to do with his military service, thus not arising out of or in the course of employment; that while it may be true that his intoxication had not yet affected his mental faculties, however, he was doing a prohibited act while on duty which act provoked the events that led to his death; and that he was not performing his official function at the time of his death.

In her Comment, respondent, citing *Employees' Compensation Commission v. Court of Appeals*<sup>[12]</sup> and *Hinoguin v. Employees' Compensation Commission*,<sup>[13]</sup> counters that members of the national police like her husband are by the nature of their