

## SIXTEENTH DIVISION

[ CA-G.R. SP No.129852, May 15, 2014 ]

### CATHERINE D.C. DELA ROSA, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND SOCIAL SECURITY SYSTEM, RESPONDENTS.

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

##### MACALINO, J:

Before this Court is a Petition for Review<sup>[1]</sup> under Rule 43 of the Rules of Court assailing the Decision<sup>[2]</sup> (Assailed Decision) of the Employees' Compensation Commission dated December 20, 2012 in ECC Case No. SM-19040-1022-12 denying petitioner's claim for death benefits, the decretal portion of which states:

**"WHEREFORE**, the appealed decision is hereby **AFFIRMED**."<sup>[3]</sup>

Narciso dela Rosa (Narciso), the deceased husband of Catherine D.C. Dela Rosa (petitioner) was employed as a warehouseman/delivery man by Edison Electric Integrated, Inc. (Edison Electric) from June 21, 1999 to April 13, 2012. His duties include the following: delivers stocks to customers, collects payments, cleans the work area, prepares and arranges items to be delivered and performs other tasks as may be assigned.<sup>[4]</sup>

On April 11, 2012, Narciso was rushed to the hospital after experiencing difficulty in breathing. He died two days later. As shown in his Death Certificate<sup>[5]</sup>, the immediate cause of death was Acute Respiratory Failure Type I; the antecedent cause was Status Asthmaticus (Bronchial Asthma)<sup>[6]</sup>; and the underlying cause was Community Acquired Pneumonia (CAP). The same was supported by his comprehensive medical abstract<sup>[7]</sup> issued by the *Pangkalahatang Pagamutan ng Lungsod Quezon* which revealed the same diagnosis.

Petitioner was granted funeral benefits and monthly pension by the Social Security System<sup>[8]</sup> (SSS) but her claim under the Employees' Compensation Commission (ECC) was denied.<sup>[9]</sup> She then wrote a letter<sup>[10]</sup> addressed to the SSS-Diliman Branch requesting for reevaluation of her ECC claim. On October 11, 2012, the SSS-Medical Operations Department denied<sup>[11]</sup> the claim stating that there was no causal relationship between Narciso's job as warehouseman/delivery man and his illness that caused his death.

Petitioner appealed<sup>[12]</sup> the SSS's decision before the ECC but the same was likewise denied in the ECC's Assailed Decision dated December 20, 2012.

On May 27, 2013, petitioner filed the present petition raising the lone issue:

**"WHETHER THE EMPLOYEES' COMPENSATION COMMISSION GRAVELY ERRED IN FINDING THAT THE PETITIONER'S HUSBAND'S ILLNESS THAT CAUSED HIS DEATH HAD NO CAUSAL RELATIONSHIP TO HIS WORK BEING A DELIVERY MAN/WAREHOUSEMAN."**<sup>[13]</sup>

The basic question presented in this petition is whether the resulting death of Narciso is compensable under Presidential Decree 626 (PD 626) or the Employees' Compensation Law, as amended.

Petitioner contends that she has sufficiently proven that her late husband has no history of asthma before his employment. She averred that Narciso was given a clean bill of health and declared fit to work when he was employed with Edison Electric on June 21, 1999 as evidenced by the Medical Evaluation Report<sup>[14]</sup> issued by the Polymed Laboratory on December 10, 2011. Moreover, it was undisputed that Narciso suffered the asthmatic attack while inside the company premises which caused his death. This, to petitioner, is proof that the allergen was present in the working environment.

PD 626, as amended, requires that:

"For the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease listed under Annex "A" of these Rules with the conditions set therein satisfied, otherwise proof must be shown that the risk of contracting the disease is increased by the working conditions" (Rule III, Section 1 [b] of the Amended Rules on Employees' Compensation in relation to Art. 167 [I] of PD 626, as amended.)

Under Annex "A," [f]or an occupational disease and the resulting disability or death to be compensable, all the following conditions must be satisfied:

- (1) The employee's work must involve the risks described therein;
- (2) The disease was contracted as a result of the employee's exposure to the described risks;
- (3) The disease was contracted within a period of exposure and under such other factors necessary to contract it;
- (4) There was no notorious negligence on the part of the employee.

xxx

"The following diseases are considered as occupational when contracted under working conditions involving the risks described therein:

xxx

23. Bronchial Asthma. All of the following conditions:

- a. There is no evidence of history of asthma before employment;
- b. The allergen is present in the working environment;

c. Sensitivity test to allergens in the working environment should yield positive results;

d. A provocative test should allow positive results.”<sup>[15]</sup>

The requirements set forth above were not complied with. Moreover, as shown by the same Medical Evaluation Report issued by the Polymed Laboratory, Narciso had a family history and past medical history of bronchial asthma, viz:

“MEDICAL HISTORY

\_(+) Asthma – on Salbutamol; (+) Allergy to Ibuprofen

FAMILY HISTORY/SOCIAL HISTORY

\_(+) Asthma – father”<sup>[16]</sup>

The report itself negates compensability since there was proof of pre-existing family and medical history of bronchial asthma. Furthermore, there was no proof that certain allergens which might have been present in Narciso's working environment was identified to have caused the attack.

The claimant must show, at least by substantial evidence that the development of the disease is brought largely by the conditions present in the nature of the job. What the law requires is a reasonable connection and not direct causal connection.

<sup>[17]</sup> The degree of proof required under PD 626 is merely substantial evidence, which means, “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”

Edison Electric may have in fact issued a certification<sup>[18]</sup> that Narciso was declared fit to work when he was employed therein. However, there was no showing whether a pre-employment medical examination was conducted.

Petitioner likewise avers that his husband was also diagnosed to be suffering from CAP and pulmonary tuberculosis. Indeed, Annex “A” of the Amended Rules on Employees' Compensation lists pneumonia and pulmonary tuberculosis as occupational diseases. Nevertheless, it does not automatically follow that any resulting disability or death from such occupational diseases are compensable. For the disability or resulting death to be compensable, the same should have been contracted under certain working conditions.<sup>[19]</sup>

In the case of tuberculosis and pulmonary tuberculosis, the same should involve “any occupation involving close and frequent contact with a source or sources of tuberculosis infection by reason of employment: (a) in the medical treatment or nursing of a person or persons suffering from tuberculosis (b) as laboratory worker, pathologist or postmortem worker, where occupation involves working with material which is a source of tuberculosis infection,”<sup>[20]</sup> or “in addition to working conditions already listed under P.D. 626, as amended, any occupation involving constant exposure to harmful substances in the working environment, in the form of gases, fumes, vapors and dust, as in chemical and textile factories; overwork or fatigue; and exposure to rapid variations in temperature, high degrees of humidity and bad weather conditions.”<sup>[21]</sup>

For pneumonia, the same must be contracted under the following conditions: “(a) There must be an honest and definite history of wetting and chilling during the