

## FIRST DIVISION

[ G.R. No. 192352, July 23, 2014 ]

**ROSEMARIE ESMARIALINO, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION, SOCIAL SECURITY SYSTEM AND JIMENEZ PROTECTIVE AND SECURITY AGENCY, RESPONDENTS.**

### R E S O L U T I O N

**REYES, J.:**

For review is the Decision<sup>[1]</sup> rendered on November 10, 2009 and Resolution<sup>[2]</sup> issued on May 20, 2010 by the Court of Appeals (CA) in CA-G.R. SP No. 103521. The CA affirmed the Decision<sup>[3]</sup> of the Employees' Compensation Commission (ECC), which denied Rosemarie Esmarialino's (Rosemarie) claim for death benefits under Presidential Decree No. 626, as amended, otherwise known as the Employees' Compensation Law.

**As aptly summed up by the CA, the facts of the case are as follows:**

[Rosemarie's] husband, Edwin C. Esmarialino (Edwin), with SS No. 33-1555504, worked as a Security Guard for Jimenez Protective and Security Agency since May, 1993. For the years 2002, 2003 and 2004, Edwin was assigned [at] the Mercury Drug Store-Gagalangin Branch.

In May, 2004, Edwin was diagnosed through biopsy with *Acute Myelogenous Leukemia* at the Chinese General Hospital. In September, 2004, Edwin was also admitted at the Jose Reyes Memorial Hospital because of persistent *petechial rash*, *malaise* and *anorexia*. In October, 2004, he was again hospitalized at the Chinese General Hospital. On March 20, 2005, he succumbed to *Sepsis secondary to Pneumonia*. Edwin's death certificate indicates that the immediate cause of his death is *Cardiopulmonary Arrest*. Antecedent cause is *Sepsis secondary to Pneumonia* and the underlying cause of which is *Pneumonia*. Other significant condition contributing to his death is *Acute Myelogenous Leukemia*.

Edwin made his last premium contribution in May, 2004. On account of his ailment, Edwin was granted the following medical benefits under the SSS law: a) SSS Temporary Total Disability (TTD) benefits of 120 days effective September 19, 2004; b) SSS Permanent Partial Disability (PPD) benefits of twenty-three (23) months effective February 11, 2005; and c) SSS Death with Funeral Benefits effective March 20, 2005 granted to his beneficiaries.

The SSS, however, denied the claim for EC death benefits on the ground

that “there is no causal relationship between *Acute Myelogenous Leukemia* to the member’s job as a security guard.”

[Rosemarie] appealed the SSS decision to the [ECC]. The ECC likewise dismissed the claim, rationalizing as follows:

“The Commission agrees with the decision of the [SSS] in denying the claim of [Rosemarie]. There is no clear proof of the existence of a causal relationship between the illness which caused the member’s demise and his occupation as Security Guard under Jimenez Protective and Security Agency. There is no showing of an occupational exposure which can increase the risk of developing leukemia. Pneumonia, a pulmonary infection, is a part of the natural course of this illness as explained below:

“Fever, splenomegaly, hepatomegaly, lymphadenomegaly, sternal tenderness and evidence of infection and hemorrhage are often at diagnosis.” [Harrison’s Principles of Internal Medicine: Acute Myeloid Leukemia (Clinical Presentation), 16<sup>th</sup> Ed., Vol. 1, pp. 633].

“It also bears stressing that the conditions laid down by P.D. 626, as amended, for the claimed illnesses to be compensable were not satisfied in the case at bar. x x x.”<sup>[4]</sup> (Citations omitted)

To challenge the ECC’s denial of her claims, Rosemarie filed before the CA a petition for review under Rule 43 of the Rules of Court. Rosemarie ascribed grave error on the part of the ECC when it concluded that leukemia, which significantly contributed to Edwin Esmarialino’s (Edwin) death, had no causal relation with the work of a security guard. Rosemarie argued that Edwin’s employment regularly required him to take either straight 12 or 24 hours of duty, with only a 24-hour rest period on the last day of each month. Edwin was thus constantly sleep-deprived and his immune system became weak. Eventually, he succumbed to leukemia. The Social Security System (SSS) and the ECC, on the other, averred that Rosemarie failed to offer substantial evidence to prove that Edwin’s working conditions increased the risk of contracting leukemia.<sup>[5]</sup>

On November 10, 2009, the CA rendered the herein assailed Decision affirming the ECC’s ruling. The CA declared:

Under the Rules Implementing PD 626, 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”, otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions.

Stated otherwise, if an ailment or sickness is not listed as an occupational disease, the claimant must prove that the risk of contracting

the illness suffered was increased by his or her working conditions. The degree of proof required is substantial evidence or that amount of relevant evidence which a reasonable mind might accept as adequate to justify the conclusion.

Leukemia is considered as an occupational disease if the nature of employment involved exposure to X-rays, ionizing particles of radium or other radioactive substances or other forms of radiant energy, or it is contracted by operating room personnel due to exposure to anesthetics.

x x x x

[Rosemarie] claims that Edwin's weakened immune system brought about by **sleep loss due to his round-the-clock hour duty as a security guard**, contributed largely to his illness. In other words, the risk of contracting acute myelogenous leukemia was increased by Edwin's work or working conditions.

x x x x

The causes of leukemia are the following:

1. Acute Myeloid Leukemia

- Chromosomal or hereditary abnormalities such as Down Syndrome and Klinefelter's Syndrome
- Drugs like chloramphenicol, phenylbutazone and chloroquine; anti[-]cancer drugs like procarbazine, melphalan and etoposide
- Chemical and Occupational exposure like exposure to benzene which is used as a solvent in the chemical, plastic, rubber and drug industries. Smoking and exposure to petroleum products, paint, embalming fluids, ethylene oxide herbicides, and pesticides have been associated with leukemia.
- Radiation exposure x x x x

Other than [Rosemarie's] allegation that Edwin suffered sleep deprivation due to his work schedule and which resultantly weakened his immune system, [Rosemarie] has not adduced any single proof, in fact, she claimed, that, as a security guard, Edwin was exposed to cancer-causing chemicals in the place/s where he was assigned. x x x.

Much as we commiserate with [Rosemarie], our sympathy cannot justify an award which is not authorized by law. If diseases not intended by the law to be compensated are inadvertently or recklessly included, the