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SECOND DIVISION

[G.R. No. 188385, October 02, 2013]

BENITO E. LORENZO, PETITIONER, VS. GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS) AND DEPARTMENT OF EDUCATION (DEPED), RESPONDENTS.

DECISION

PEREZ, J.:

This Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeks the reversal of the 24 February 2009 Decision[1] and 11 June 2009 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 104853, affirming the 23 June 2008 Decision[3] of the Employees Compensation Commission (ECC), denying the petitioner's claim for death benefits under Presidential Decree (P.D.) No. 626, as amended, otherwise known as the Employees' Compensation Law.

The Facts

This case emanates from a simple claim for Employees' Compensation death benefits filed by the petitioner, surviving spouse of Rosario D. Lorenzo (Rosario), a Government Service Insurance System (GSIS) member with GSIS Policy No. CM-56244, who during her lifetime served as Elementary Teacher I at the Department of Education (DepEd) for a period covering 2 October 1984 to 27 December 2001.

The records of the benefit claim which was docketed as ECC Case No. GM-18068-0307-08, show that on 1 October 2001, Rosario was admitted at the Medical City Hospital due to Hematoma on the Tongue, Left Inner Lip and Right Cheek with Associated Gingival Bleeding.[4] It appears that prior to her hospitalization, she was previously diagnosed by the same hospital for Chronic Myelogenous Leukemia and was in fact confined therein on 31 July 2001 because of Pneumonia which was a result of immuno-compromise secondary to leukemia. Rosario's health condition was confirmed by means of a bone marrow examination which showed "hypercellular aspirate with marked myeloid hyperplasia."

There was no other document on record indicating any past medical, family and personal or social history of Rosario. On 27 December 2001, Rosario died of Cardio-Respiratory Arrest due to Terminal Leukemia.[5]

Petitioner, being the surviving spouse, claimed for Employees Compensation death benefits from the GSIS. It was denied on the ground that the GSIS Medical Evaluation and Underwriting Department (MEUD) found Rosario's ailments and cause of death, Cardio-respiratory Arrest Secondary to Terminal Leukemia, a non-occupational diseases contemplated under P.D. No. 626, as amended.

Unconvinced, petitioner elevated his Employee's Compensation claim to the ECC for

review and reconsideration under the Amended Rules on Employees' Compensation provided in P.D. No. 626.

Upon review, the ECC found the denial of petitioner's claim to be in order, stating that:

> ***Leukemia*** is listed as an occupational disease under P.D. 626, as amended. Under, Annex "A," Item No. 15 of the Amended Rules on Employees' Compensation, ***Leukemia*** is considered compensable among operating room personnel due to exposure to anesthetics.
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> Considering the above-stated medical facts and the conditions for compensability under P.D. 626, as amended, the denial by the System of appellant's claim for EC Death Benefits is proper.
>
> This Commission believes that the deceased's ***Chronic Myelogenous Leukemia*** is a result of a defective genetic expression in expanding **hematopoietic stem cells** (or blood cell precursors) resulting in the uncontrolled production of abnormal blood cells. "***The diagnosis of Chronic Myelogenous Leukemia is established by reciprocal translocation between chromosomes 9 and 12. This translocation results in the head-to-tail fusion of the breakpoint cluster region (BCR) gene on chromosome 22q11 with the ABL gene located on chromosome 34. Untreated, the disease is characterized by the inevitable transition from a chronic phase to an accelerated phase and on to blastic crisis.***" (Harrison's Principles of Internal medicine, 16th Ed., Vol. I, pp. 637).
>
> The nature of the deceased's occupation does not increase the risk of developing ***Chronic Myelogenous Leukemia*** because the work does not show frequent and sufficient exposure to substances established as occupational risk factors of the disease. Further, several non-occupational factors can also increase the risk of this disease. "**There is a marked increase in the incidence of leukemia with age, and there is also a childhood peak which occurs around two to four years of age. Certain immulogic conditions, some of which are hereditary, appear to predispose to leukemia. Ionizing radiation and benzene exposure are established environment and occupational causes of leukemia.**" (Encyclopedia of Occupational Health and Safety: International Labor Organization, Geneva, 4th Ed., pp. 1, 4).[6]

Aggrieved, petitioner filed a petition for review of the decision of the ECC with the CA.

In a Decision promulgated on February 24, 2009, the CA affirmed the decision of ECC. The *fallo* of the decision reads:

> **WHEREFORE**, in the light of the foregoing, the instant petition for review is DISMISSED. The assailed decision is AFFIRMED.[7]

The CA ruled that under the present law, leukemia, while listed as an occupational disease, is compensable only among operating room personnel due to exposure to

anesthetics.[8] Being a school teacher who is not exposed to anesthetics, Rosario's disease, though listed under Annex "A" may not be compensable, unless, petitioner could prove that his wife's risk of contracting the disease was increased by the latter's working conditions, which the petitioner failed to do.

The CA went on to state that petitioner has not presented any medical information on the cause of his wife's illness, which could help in determining the causal connection between Rosario's ailment and her alleged exposure to muriatic acid, floor wax and paint - hardly considered as radiation exposure which may cause *chronic myeloid leukemia*.

Petitioner now seeks relief in this Court *via* a petition for review on certiorari insisting, inter alia, on the error allegedly committed by the CA in failing to appreciate that P.D. No 626, as amended, is a social legislation whose primordial purpose is to provide meaningful protection to the working class against the hazards of disability, illness and other contingencies resulting in the loss of income. Such that, the ECC, SSS and GSIS as the official agents charged by law to implement social justice guaranteed by the Constitution, should adopt a liberal attitude in favor of the employee in deciding claims for compensability.

We are called to decide whether or not the ailment of the late Rosario Lorenzo is compensable under the present law on employees' compensation.

This Court's Ruling

We find the Petition unmeritorious.

Sickness, as defined under Article 167[9] (1) Chapter I, Title II, Book IV of the Labor Code of the Philippines refers to "any illness definitely accepted as an occupational disease listed by the Employees' Compensation Commission, or any illness caused by employment, subject to proof that the risk of contracting the same is increased by working conditions.

In cases of death, such as in this case, Section 1(b), Rule III of the Rules Implementing P.D. No. 626, as amended, requires that for the sickness and the resulting disability or death to be compensable, the claimant must show: (1) that it is the result of an occupational disease listed under Annex "A" of the Amended Rules on Employees' Compensation with the conditions set therein satisfied; or (2) that the risk of contracting the disease is increased by the working conditions.

Section 2(a), Rule III of the said Implementing Rules, on the other hand, defines occupational diseases as those listed in Annex "A" when the nature of employment is as described therein. The listed diseases are therefore qualified by the conditions as set forth in the said Annex "A," hereto quoted:

OCCUPATIONAL DISEASES

> For an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:
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> (1)The employee's work must involve the risks described herein;
> (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.

x x x x

Occupational Disease	Nature of Employment
x x x	
15. Leukemia and Lymphoma	Among operating room personnel due to anesthetics

Gauging from the above, the ECC was correct in stating that, contrary to the earlier finding of the MEUD of the GSIS, Rosario's disease is occupational, which fact, however, does not thereby result in compensability in view of the fact that petitioner's wife was not an operating room personnel.

As correctly pointed out by the ECC, the coverage of leukemia as an occupational disease relates to one's employment as an operating room personnel ordinarily exposed to anesthetics. In the case of petitioner's wife, the nature of her occupation does not indicate exposure to anesthetics nor does it increase the risk of developing Chronic Myelogenous Leukemia. There was no showing that her work involved frequent and sufficient exposure to substances established as occupational risk factors of the disease.[10] Thus, the need for the petitioner to sufficently establish that his wife's job as a teacher exposed her to substances similar to anesthetics in an environment similar to an "operating room." [11] This leans on the precept that the awards for compensation cannot rest on speculations and presumptions.[12]

Indeed, following the specific mandate of P.D. No. 626, as amended, and its Implementing Rules, the petitioner must have at least provided sufficient basis, if not medical information which could help determine the causal connection between Rosario's ailment and her exposure to muriatic acid, floor wax and paint as well as the rigors of her work. Instead, petitioner merely insists on the supposition that the disease might have been brought about by the harmful chemicals of floor wax and paint aggravated by the fact that the Manggahan Elementary School is just along the highway which exposed Rosario to smoke belched by vehicles, all contributing to her acquisition of the disease.

We find such factors insufficient to demonstrate the probability that the risk of contracting the disease is increased by the working conditions of Rosario as a public school teacher; enough to support the claim of petitioner that his wife is entitled to employees compensation. Petitioner failed to show that the progression of the disease was brought about largely by the conditions in Rosario's work. Not even a medical history or records was presented to support petitioner's claim.

In *Sante v. Employees' Compensation Commission*,[13] we held that "x x x x a claimant must submit such proof as would constitute a *reasonable basis* for

concluding either that the conditions of employment of the claimant caused the ailment or that such working conditions had aggravated the risk of contracting that ailment. What kind and quantum of evidence would constitute an adequate basis for a reasonable man x x x to reach one or the other conclusion, can obviously be determined only on a case-to-case basis. That evidence must, however, be real and substantial, and not merely apparent, for the duty to prove work-causation or work-aggravation imposed by existing law is real x x x not merely apparent."

At most, petitioner solely relies on a possibility that the demands and rigors of Rosario's job coupled with exposure to chemicals in paint or floor wax could result or contribute to contracting leukemia. This is but a bare allegation no different from a mere speculation. As we held in *Raro v. Employees Compensation Commission*:[14]

> The law, as it now stands requires the claimant to prove a *positive thing* – the illness was caused by employment and the risk of contracting the disease is increased by the working conditions. To say that since the proof is not available, therefore, the trust fund has the obligation to pay is contrary to the legal requirement that *proof* must be adduced. The existence of otherwise non-existent proof cannot be presumed.

It is well to stress that the principles of "presumption of compensability" and "aggravation" found in the old Workmen's Compensation Act is expressly discarded under the present compensation scheme. As illustrated in the said *Raro* case, the new principle being applied is a system based on social security principle; thus, the introduction of "proof of increased risk." As further declared therein:

> The present system is also administered by social insurance agencies – the Government Service Insurance Syatem and Social Security System – under the Employees Compensation Commission. The intent was to restore a sensible equilibrium between the employer's obligation to pay workmen's compensation and the employee's right to receive reparation for work-connected death or disability.[15]

The case of *Sarmiento v. Employees' Compensation Commission*,[16] cited in *Raro* case, elaborates, thus:

> x x x x
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> The new law establishes a state insurance fund built up by the contributions of employers based on the salaries of their employees. The injured worker does not have to litigate his right to compensation. No employer opposes his claim. There is no notice of injury nor requirement of controversion. The sick worker simply files a claim with a new neutral Employees' Compensation Commission which then determines on the basis of the employee's supporting papers and medical evidence whether or not compensation may be paid. The payment of benefits is more prompt. The cost of administration is low. The amount of death benefits has also been doubled.
>
> On the other hand, the employer's duty is only to pay the regular monthly premiums to the scheme. It does not look for insurance companies to meet sudden demands for compensation payments or set up its own fund to meet these contingencies. It does not have to defend