

FIRST DIVISION

[G.R. NO. 151893, October 20, 2005]

**PRECY P. JACANG, PETITIONER, VS. EMPLOYEES'
COMPENSATION COMMISSION AND SOCIAL SECURITY SYSTEM
(CONTEMPORARY SERVICES, INC.), RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

This is a petition for review on certiorari assailing the Decision^[1] dated June 26, 2001 of the Court of Appeals and its Resolution^[2] dated December 11, 2001 denying the motion for reconsideration.

The appellate court affirmed the decision^[3] dated April 13, 2000 of the Employees' Compensation Commission (ECC) and the ruling^[4] dated November 10, 1999 of the Social Security System (SSS), which denied the claim of petitioner Precy Jacang, as surviving spouse of the deceased Dionisio B. Jacang (Dionisio), for death benefits under Presidential Decree No. 626, as amended.

The facts are undisputed.

Dionisio was hired as a janitor of Contemporary Services, Inc., from January 23, 1983 to January 20, 1985. His employer certified that he was then physically fit. On January 23, 1985, he was reassigned as a factory worker.^[5]

In 1985, Dionisio was diagnosed and found ill of pulmonary tuberculosis (PTB). Sometime in 1987, his ailment worsened and he was brought to the Lung Center of the Philippines where he was found, in the words of the medical staff, to have developed a "colicky lumbar region radiating to the penumbilical area with spasms of vomiting due to renal colic-urolitiasis". On February 10, 1990, Dionisio resigned from his job due to his ailment.^[6]

Dionisio was thereafter confined at the National Kidney Institute from March 22, 1990 to April 4, 1990 and from April 15, 1990 until his death^[7] on May 24, 1990. The cause of death stated in the Certificate of Death^[8] was as follows:

11. CAUSE OF DEATH

- | | |
|---------------------|---------------------------|
| I. Immediate cause: | a. Cardiopulmonary Arrest |
| Antecedent cause: | b. DIC |
| Underlying cause: | c. Takayasu's Disease |

Precy Jacang, the surviving spouse of Dionisio, filed a claim with the SSS, for death benefits, under P.D. No. 626, as amended.^[9]

On November 10, 1999, SSS denied petitioner's claim on the ground that the cause of her husband's death had no causal relation with his job as a factory worker. She appealed to the ECC. ECC affirmed the ruling of SSS and held that the cause of death, Takayasu's Disease,^[10] is not listed as an occupational disease under the Amended Rules on Employees Compensation and there was no risk of contracting the disease from his employment.^[11] While Takayasu's Disease, also known as Takayasu's arteritis is considered as an enigma by medical writers, "workers from India and Japan have suggested hypersensitivity to *Mycobacterium tuberculosis* as a possible factor in the pathogenesis."^[12]

Jacang filed before the Court of Appeals a petition for review questioning the denial of her claim. The appellate court denied her petition. She sought reconsideration but was denied.

Hence, this petition where petitioner raises the following issues:

I

WHETHER OR NOT THE HONORABLE COURT OF APPEALS [GRAVELY] ERRED IN DISMISSING THE PETITION FOR REVIEW IN CA-GR SP NO. 63008 THROUGH ITS DECISION DATED 26 JUNE 2001 (Annex "V" HEREOF) AS WELL AS DENYING THE MOTION FOR RECONSIDERATION THEREOF THROUGH ITS RESOLUTION DATED 11 DECEMBER 2001 (ANNEX "Z" HEREOF).

II

WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN IGNORING THE CIRCUMSTANCES SURROUNDING THE DEATH OF THE LATE DIONISIO JACANG BY CONFINING ITSELF SOLELY ON THE LATTER'S CERTIFICATE OF DEATH (ANNEX "I" HEREOF, PETITION FOR REVIEW).

III

WHETHER OR NOT THE DEATH OF DIONISIO JACANG IS COMPENSABLE PURSUANT TO PD NO. 626, AS AMENDED.^[13]

The basic issue for resolution is whether or not the death of Dionisio Jacang is compensable under P.D. No. 626, as amended.

Petitioner contends that Dionisio had been suffering from PTB before he died and that he acquired the disease in the course of his employment as he was physically fit before he was hired. That it was not cured before his death is evidenced by the SSS Report of Death, SSS Accident/Sickness Report, Referral Slip issued by the Lung Center of the Philippines, and Doctor's Certification. All of these documents reveal he had PTB and he was never diagnosed of Takayasu's disease. Thus, PTB must have caused, or aggravated, Takayasu's Disease, and eventually his death.^[14] PTB, under the law, is compensable.

SSS argues that Takayasu's Disease is not compensable under P.D. No. 626, as amended. Sickness or death is compensable if the cause is included in the list of occupational diseases provided in P.D. No. 626. If not so listed, compensation may still be recovered if the illness is caused or precipitated by factors inherent in the employee's work and working conditions. There must be proof that the working conditions increased the risk of contracting the illness. Petitioner allegedly failed to adduce proof to show that her husband's employment as factory worker increased the risk of contracting said ailment. Respondents claim she did not submit substantial proof showing that her husband's ailment was peculiarly related to his employment.^[15]

The appellate court in denying the petition reasoned that petitioner failed to prove the risk of contracting Takayasu's Disease was aggravated by Dionisio's working condition. There was no evidence of a causal relationship between the disease and his working conditions. Petitioner merely presented documents that indicated Dionisio had suffered from PTB during his employment, which is not the cause of death.^[16]

Section 1 (b), Rule III, of the Rules Implementing Presidential Decree No. 626, as amended, states that for the sickness and the resulting disability or death to be compensable, the same must be an "occupational disease" included in the list provided (Annex "A"), with the conditions set therein satisfied; otherwise, the claimant must show proof that the risk of contracting it is increased by the working conditions.^[17]

"Takayasu's Disease" is not listed as an occupational disease. But it is scientifically linked to PTB,^[18] a listed occupational disease. While claimant must adduce substantial evidence that the risk of contracting the illness is increased by the working conditions to which an employee is exposed to, we cannot close our eyes to any reasonable work-related connection of the worker's ailment and his employment.^[19]

"Takayasu's Disease" is also known as "Takayasu's arteritis" or "pulseless disease" and it is a chronic inflammatory disease of the aorta and its major branches. It is a large vessel vasculitis of **unknown origin** that most often affects young women in the second and third decades of life. The disease is reported in children as young as six months and in adults of every age.^[20] Note that it is not exclusive to females. Dionisio was afflicted of the disease during his employment, but respondents claim that no evidence was presented to prove the same and the reasonable work-connection of the disease and Dionisio's job.

What was conclusively proved, however, is that Dionisio had suffered from a compensable disease, PTB. During his employment, he was hospitalized in 1987; and he was a known PTB Class III patient since 1985 as evidenced by the Referral Slip^[21] and Doctor's Certification.^[22] But the evidence does not show, according to respondents, that at the time of confinement at the National Kidney Institute from March 22, 1990 to April 4, 1990 and from April 15, 1990 to May 24, 1990, he was still suffering from PTB and it caused his death. Respondents argue that we cannot assume Dionisio's health improved nor worsened after his discharge from the Lung Center of the Philippines without evidence. On this point, we cannot agree with

respondent's stance. While petitioner did not present authorities to prove that PTB must have caused Takayasu's Disease^[23] and his death, we cannot discount the fact that Dionisio still had PTB at the time, and that such ailment had contributed to cause his death. What is not clearly proved in this case is whether the incidence of his PTB caused the pathogenesis of his Takayasu's Disease, although both earlier were scientifically associated.

Respondents contend, assuming *arguendo* that at the time of Dionisio's death he was suffering from PTB, petitioner must still prove by persuasive substantial evidence that such ailment is compensable. Substantial evidence required under P.D. No. 626, is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.^[24] Although PTB is listed as an occupational disease, certain conditions under the rules must first be satisfied for it to be compensable.^[25]

Mrs. Jacang alleged that Dionisio "had been inevitably inhaling noxious gases, fumes and other deleterious substances and likewise exposed to temperature changes." As a janitor, for many years he had been "over fatigued" and under "constant exposure to harsh chemicals and other noxious cleaning substances as well as extreme temperature changes." These factors, in our view, caused and aggravated Dionisio's PTB that led to his death.^[26]

At this point, however, it is noteworthy that even the Office of the Solicitor General which is supposed to be taking the cudgels for the public respondent Employees' Compensation Commission, agrees that the cause of death of petitioner's husband was associated with Pulmonary Tuberculosis (PTB) which is compensable under P.D. No. 626, as amended. It bears stressing that:

First, when Dionisio started working as janitor at the Contemporary Services, Inc. in 1983, he had a clean bill of health.

Second, during his employment he contracted the listed occupational disease of Pulmonary Tuberculosis (PTB). In 1987, his ailment worsened and he was brought to the Lung Center of the Philippines. On February 10, 1990, Dionisio resigned from his job due to his ailment. He was hospitalized thereafter at the National Kidney Institute where he died on May 24, 1990.

Third, public respondent SSS issued an Accident/Sickness Report^[27] that pertinently reads, thus:

"BRIEF DESCRIPTION OF ACCIDENT/SICKNESS

CARDIOPULMONARY ARREST (PTB)"

Fourth, Dr. Ernesto M. Molina certified^[28] that in October 1987, the deceased was diagnosed at the Lung Center of the Philippines with a case of PTB Class III.

Nothing was mentioned by Dr. Molina about Takayasu's Disease. It was only in the Death Certificate that Takayasu's Disease was mentioned as the cause of death. PTB is specifically mentioned, nevertheless.