

FOURH DIVISION

[CA-G.R. SP NO. 76874, September 27, 2006]

**ELVIRA M. NIEBRES, PETITIONER, VS. SOCIAL SECURITY
SYSTEM (MARINE MANNING AND MANAGEMENT
CORPORATION), RESPONDENT.**

D E C I S I O N

BARRIOS, J.:

Elvira M. Niebres (or Niebres for brevity) by this Petition for Review seeks the reversal of the Decision dated March 26, 2003 rendered by the Employees Compensation Commission (or ECC) which affirmed the decision of the Social Security System (or SSS). The decision is assailed on the ground that this was issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

Niebres is the widow of Rodolfo Niebres (or Rodolfo), a seafarer who worked as an electrician on board the M/T "Tesubu II" manned by the respondent Marine Manning and Management Corporation (or Marine Manning). On June 26, 1984 the said ship sank in the Arabian Sea, and Rodolfo and 27 more Filipinos were among those who were lost and presumably perished at sea.

The SSS informed the families of those unfortunate seamen to file their claims. As his beneficiary, Niebres filed with the SSS on August 29, 1984 a claim for death and funeral benefits, and this was granted and awarded to her. But her claim of benefits did not stop there. Sometime in June 2002, or some 18 years after the incident, Niebres filed an employee's compensation claim before the SSS asserting that Rodolfo's death was work related. However this time she was denied, and in a letter dated June 7, 2002 the SSS stated that:

We regret to inform you that your application for death benefit under Employees Compensation (EC) relative to your missing husband, RODOLFO E. NIEBRES, can no longer be given due course because your claim was not filed "before the lapse of the tenth year from the accrual of the case of action." This is based on the position paper issued by the Employees Compensation Commission. All the documents that accompanied your letter are herewith returned. (Annex "F", p. 33, rollo)

Thru an Affidavit dated August 27, 2002 (Annexes "G" - "G-1", pp. 34-35, rollo) Niebres moved for its reconsideration, but this too was denied. The SSS then thru its AVP Medical Operation forwarded the case records to the ECC. In its decision dated March 26, 2003 the ECC denied (p. 40, rollo) the claim being pursued by Niebres.

Hence this petition wherein Niebres raised for the consideration of this Court the lone error that:

THE EMPLOYEES COMPENSATION COMMISSION GRAVELY ERRED IN AFFIRMING THE DECISION OF PUBLIC RESPONDENT SOCIAL SECURITY SYSTEM. PETITIONER WOULD BE GREATLY PREJUDICED IF HER CLAIM UNDER P.D. 626 AS AMENDED FOR THE DEATH OF HER HUSBAND IN A SEA TRAGEDY IS NOT GRANTED. (p. 11, rollo)

Niebres admitted that she failed to file her claim with the ECC within the 10 year period, but blames the SSS for failing to inform and instruct her to do this. According to Niebres, the SSS has the duty to inform her that she should also file her claim before the ECC and its failure to do so constitutes serious non-performance of its duties to the public. Niebres ratiocinates that had the SSS informed her that she could also file her claim for employee's compensation benefits under P.D. 626 as amended, then she would have simultaneously filed it with her claim before the SSS. Niebres further defends that under the circumstance her claim has not yet prescribed because the fact that she filed her claim for benefits under the SSS law, after being told to do so, she is considered to have also filed simultaneously and with it her employees compensation claim.

In its Comment (pp. 62-69, rollo) the SSS insists that the denial of the claim of compensation benefits of Niebres before the ECC on the basis of prescription is valid. And even if the claim did not prescribe, still Niebres could not claim under the ECC because at the time of the contingency, the employment of the deceased was not compulsorily covered under the Employees Compensation Law. While it maybe true that the deceased died in the course of employment it was not shown that he voluntarily submitted himself for employees compensation coverage. In its Manifestation (pp. 132-136, rollo) the SSS defends *that petitioner erroneously equated the deceased EC coverage with his SS coverage. It must be impressed that under the SS law payment benefits is not conditioned on whether the member has an active coverage or employment. Neither should the sickness or injury resulting to disability or death arise out of or in the course of his employment nor attributed thereto to be paid of the benefits under the SS Law. It is only material that he was a covered member or contributions were paid for and in his behalf* (ibid).

We find merit in the petition.

It is unquestionable that Niebres was able to file her claim for the death benefits of her husband only because the SSS informed her to do so. However, while the SSS gave said advice to Niebres it failed to convey that she could claim the same benefits before the ECC. While it is true that a person should know his rights under the law, yet government agencies like the SSS which are tasked to restore the earning role of a deceased and to provide for his desolate family's subsistence, have the obligation to advise the beneficiaries of the other and full benefits to which they are entitled.

It is undisputed too that Niebres filed her claim before the ECC only 18 years after the date of the contingency. Though by ordinary circumstance such action would be prescribed, the facts involved in this case however would be an exemption.

It has been held that while the Social Security System and the Employee's Compensation Commission may be commended for their vigilance against sustaining unjustified claims that would only drain funds meant for deserving disabled employees, they also ought to realize that strict interpretation of the rules should