

THIRD DIVISION

[G.R. No. 170847, August 03, 2010]

GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. FELICITAS ZARATE, AS SUBSTITUTED BY HER HEIRS, NAMELY, MELANIE, JOCELYN, ANALIE AND HENRY JOSEPH, JR., ALL SURNAMED ZARATE, RESPONDENTS.

DECISION

BRION, J.:

We review, through the petition for review on *certiorari*^[1] filed by the Government Service Insurance System (GSIS), the October 12, 2005 decision and the December 19, 2005 resolution of the Court of Appeals^[2] (CA) in CA-G.R. SP No. 73993 (entitled *Felicitas Zarate v. Government Service Insurance System*). The CA decision and resolution reversed the Employees' Compensation Commission's (ECC's) affirmation of the GSIS' denial of death benefits to Felicitas Zarate for the death of her husband Henry.

The Background Facts

The CA related the facts as follows:

The deceased Henry Zarate was a native of Pangasinan who joined the Bureau of Fire Protection as a fireman on June 1, 1978. He was promoted to the rank of Fireman First Class, Fire Corporal and, finally, Senior Fire Officer on July 1, 1992. Five years later, on June 15, 1997, while he was assigned at the Pinagkaisahan Fire Sub-Station in Cubao, Quezon City, he met a traffic accident that cost him his life. As found by the ECC, Zarate went to Rosario, La Union on June 15, which was a Sunday, to visit his ailing mother. In order to report to his station the next day, Monday, he headed back to Metro Manila on the same day, June 15, aboard a Philippine Rabbit bus with plate number CVE-786. At around 2:45 P.M., at Kilometer 80, North Expressway, Cacutud, Angeles City, Pampanga, the bus he was riding on collided with a Swagman Travel Shuttle bus. He sustained severe injuries and was rushed to the Angeles University Foundation. He was pronounced *dead on arrival*.

Zarate's demise was recorded in the sub-station's log book in the following morning of June 16. The entry stated that *SFO2 H. Zarate met a vehicular accident while on off-duty status*. A subsequent investigation conducted by the Inspectorate Section of the Bureau confirmed that although off-duty, he was on his way back to Metro Manila from his mother's residence at La Union when the accident occurred. It was acknowledged that Zarate had the permission of his superior to take the

trip to La Union on condition that he returned the next day. He was fated to meet his end on the same day. While his mother pleaded to him to stay a little longer, he insisted on returning to be on time for duty on Monday. Had he heeded the advice of his mother, he would still be alive today.^[3]

Henry's wife, Felicitas, filed a claim for death benefits with the GSIS, under Presidential Decree No. 626. The GSIS denied the claim by ruling as follows:

The death of the late Henry Zarate did not arise out of nor was it in the course of his employment. Records also disclosed, that the accident occurred while the subject employee was on off-duty status[.]^[4]

Felicitas appealed the GSIS ruling to the ECC. In its decision dated October 22, 2002,^[5] the ECC dismissed Felicitas' appeal on the ground that Henry's death was indeed not work-related. Said the ECC:

To be compensable, an injury must have resulted from an accident arising out of and in the course of employment. It must be shown that it must be sustained within the scope of employment while an employee was performing an act reasonably necessary or incidental thereto or while following the order of his superior. Indeed, the standard of work-connection must be satisfied even by one who invokes the 24-hour duty doctrine.^[6]

It reasoned out that Henry had gone to La Union to visit his ailing mother and was on his way back to Manila when he figured in the accident that killed him. To the ECC, *"It is clear that the accident transpired while he was not in the actual performance of his occupation as Fireman x x x the circumstances in the present case do not call for the application of the 24-hour duty doctrine because the deceased was neither at his assigned workplace nor in pursuit of orders of his superior."*^[7]

Felicitas next brought her case on appeal to the CA pursuant to Rule 43 of the Rules of Court. The CA, in its assailed decision^[8] of October 12, 2005, reversed the ECC ruling. It maintained that there was a reasonable work connection in Henry's death and that it is the policy of the law to extend state insurance benefits to as many qualified employees as possible.

The ECC challenges the CA decision in this petition, and submits the following:

Issue

The Honorable Court of Appeals committed a reversible error in granting the respondent's claim for death benefits under P.D. No. 626, as amended, disregarding the fact that the cause of the death of the

respondent's late husband, SFO2 Henry Zarate, did not arise out of and in the course of employment.^[9]

The Court's Ruling

We dismiss the petition for lack of merit and, accordingly, affirm the CA's decision.

We note that at the time of his death, Henry was a Senior Fire Officer in Quezon City and had occupied this position for five years. A fireman's work is essentially to prevent and suppress all destructive fires on buildings, houses and other structures, land transportation vehicles and equipment.^[10] Henry's position as Senior Fire Officer necessarily included duties more difficult than those of an ordinary fireman.

Henry's place of work was the Pinagkaisahan Fire Substation in Cubao, Quezon City, located just five minutes away from the bustling heart of Quezon City - the Araneta Center, the Gateway Mall, the Ali Mall, and the intersection of the Light Rail Transit System (*LRT*) and the Metro Rail Transit System (*MRT*). There are several high-rise commercial buildings, a public school, a market, and bus stations in the immediate vicinity. Thousands of commuters get off at the MRT/LRT intersection during the morning and afternoon rush hours. In case of a fire or an accident, the responses required would be more complicated and more challenging than what one might expect in a smaller city or rural municipality. A Senior Fire Officer knows the extent of the responsibilities of this position, *i.e.*, that he should be at peak condition when he reports for duty and be ready to efficiently respond as dictated by his duties. We expect no less from Henry who bothered to secure the permission of his superior officer to visit his mother, and who rushed back on the very same day to return to his base.

Henry's mother lived in Rosario, La Union whose approximate road distance from Quezon City is 220 kilometers. Given this distance, the travel time from Quezon City to Rosario, La Union, by public land transport, is at least five hours.

It is not disputed that Henry visited his mother because she was then ill. Likewise, it is not also disputed that he did not simply leave Quezon City for his visit; he asked for his superior's permission, which was given ***on condition that he returned the next day.***^[11] Hence, on that fateful Sunday, June 15, 1997, Henry had his superior's authority to travel and knew that he had to report fresh the following day. Instead of opting to travel to Quezon City on the very same day he was to report for work, Henry returned on the very day of his visit so he could properly report on Monday. In doing this, he did not heed his mother's plea to stay a little longer. These were the facts that the CA considered and positively appreciated.

In the assailed decision, the CA appropriately took note of our rulings on the payment of compensation on returning to and from work situations. Notably, the CA took note of *Valeriano v. ECC*,^[12] where we stated that if it can proven that at the time of injury, the employee was acting within the scope of his employment and performing an act reasonably necessary in his work, his injury is compensable. Valeriano was a fire truck driver who was on his way home, after having dinner with a friend in a restaurant, when the vehicle they were riding figured in a head-on