

FIRST DIVISION

[G.R. No. 124208, January 01, 2008]

**GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), Petitioner,
vs. COURT OF APPEALS and HEIRS OF ABRAHAM CATE,
represented by DOROTHY CATE, Respondents.**

**EMPLOYEES COMPENSATION COMMISSION and PHILIPPINE
NATIONAL POLICE, Present: Petitioners, THE HONORABLE
COURT OF AZCUNA, and APPEALS and HEIRS OF LEONARDO-DE
CASTRO, JJ ABRAHAM CATE, represented by DOROTHY CATE,
Respondents.**

D E C I S I O N

AZCUNA, J.:

These two consolidated cases are petitions for review on *certiorari* of the Decision of the Court of Appeals (CA) promulgated on March 13, 1996, which reversed and set aside the Decision of the Employees Compensation Commission (ECC) dated September 7, 1995 denying private respondents' claim for compensation benefits of the late Abraham Cate under Presidential Decree (P.D.) No. 626, as amended.

The facts are as follows:

On March 6, 1974, Abraham Cate (Abraham) joined the military service as a Rifleman of the Philippine Navy. In 1975, he was designated as Action Clerk. On February 22, 1986, he was transferred to the now defunct Philippine Constabulary with the rank of Technical Sergeant and was later promoted to Master Sergeant. On January 2, 1991, he was absorbed in the Philippine National Police (PNP) with the rank of Senior Police Officer IV (SPO4).

In 1993, Abraham complained of a mass on his left cheek which gradually increased in size. A biopsy was done at the Philippine General Hospital (PGH). The histopath report revealed that he was suffering from Osteoblastic Osteosarcoma. He was admitted at the PGH payward, and on October 28, 1993, he underwent "Total Maxillectomy with Orbital Exenteration," which operation removed the mass on his left cheek. In April 1994, another biopsy revealed the recurrence of the ailment. On June 9, 1994, Abraham underwent debulking of the recurrent tumor at the PGH. Post-operative course was uneventful and he underwent radiotherapy.^[1]

On December 1, 1994, Abraham was compulsorily retired from the PNP.^[2]

On December 20, 1994, Abraham filed a claim for income benefits with the Government Service Insurance System (GSIS) under P.D. No. 626,^[3] as amended.

In a letter dated December 27, 1994, GSIS denied the claim on the ground that Osteosarcoma is not considered an occupational disease under P.D. No. 626, and there is no showing that his duties as SPO4 in the Armed Forces of the Philippines had increased the risk of contracting said ailment.^[4] GSIS denied Abraham's request for reconsideration of the decision in a letter dated March 22, 1995.

On May 2, 1995, Abraham died at the age of 45. He was survived by his wife, Dorothy Cate, and two children. The heirs of Abraham appealed the decision of GSIS to the ECC.

In a Decision dated September 7, 1995, ECC affirmed the decision of GSIS and dismissed the case for lack of merit. It ruled:

After a careful examination of the records of the instant claim, we concur with the decision of the respondent system that appellant's claim is bereft of merit. Definitely, the ailment of herein appellant is not included in the list of occupational diseases, under the rules implementing PD 626, as amended. However, even if appellant's ailment is not an occupational disease, the present law on compensation allows certain diseases to be compensable if it is sufficiently proven that the risk of contracting it is increased by the working conditions. Unfortunately for Abraham Cate, he failed to present proofs that will establish that the development of his ailment is traceable to his work and working conditions as a soldier of the defunct Philippine Constabulary and later as member of the Philippine National Police.

Our conclusion is supported by the findings of the Commission's Medical Division which show that Osteosarcoma is the most common primary bone tumor. It is an aggressive tumor, characterized usually by rapid growth and early pulmonary metastasis. In most common cases of osteogenic sarcoma, no definite etiology can be determined.

From the foregoing medical discussion, it is very clear that appellant's employment as member of the Philippine National Police had no direct nor causal relationship with the contraction of appellant's ailment. This being the case, the death benefits prayed for by herein appellant under the Employees' Compensation Law (PD 626, as amended), cannot be given due course.^[5]

The heirs of Abraham filed a petition for review of the decision of ECC with the CA.

In a Decision promulgated on March 13, 1996, the CA reversed and set aside the decision of ECC. The dispositive portion of the decision reads:

IN VIEW OF ALL THE FOREGOING, this Petition for Review is **GIVEN DUE COURSE** and is **GRANTED**. The assailed decision of the respondent Employees Compensation Commission dated September 7, 1975 is ordered **REVERSED** and **SET ASIDE** and a new one entered declaring the ailment of the late Abraham Cate compensable under PD 626, as amended. No pronouncement as to cost.

SO ORDERED.^[6]

The CA ruled that Osteosarcoma is compensable on the ground that the Employees Compensation Act is basically a social legislation designed to afford relief to our working men, and should, therefore, be liberally construed in favor of the applicant. It stated that Abraham's failure to present evidence on the causal relation of the illness to his working conditions is due to the lack of available proof. To deny compensation to Osteosarcoma victims who will be unable to produce such proof is unrealistic, illogical and unfair. On a very exceptional circumstance, the rule on compensability should be relaxed. In the meantime that the origin and cause of Osteosarcoma are unknown, the benefit of the doubt should be resolved in favor of the claim since employees' compensation is based on social security principles. It hoped for a second look on the issue of compensability to those suffering Osteosarcoma or a similar disease whose cause is unascertained.

The CA cited the dissenting opinions of former Supreme Court Justice Abraham F. Sarmiento and Justice Edgardo L. Paras in the case of *Raro v. Employees' Compensation Commission*^[7] where Justice Sarmiento opined that compassion is reason enough to grant compensation benefits to the petitioner therein, a Mining Recorder at the Bureau of Mines and Geo-Sciences, who suffered from cancer (brain tumor). Justice Paras opined that doubts must generally be resolved in favor of the employee whenever compensation for disease is concerned, and that it would be absurd to throw upon therein petitioner the burden of showing that her work either caused or aggravated the disease, particularly when both the GSIS and ECC profess ignorance of the causes of the disease.

The GSIS and ECC separately filed a petition for review on certiorari of the decision of the CA. The two petitions were consolidated per Resolution dated September 4, 1996.

The main issue in this case is whether or not the CA erred in ruling that the ailment of the late Abraham is compensable under the present law on employees' compensation.

Petitioners aver that the applicable law in Abraham's case is the Amended Rules on Employees' Compensation which is explained in *Tanedo v. ECC*,^[8] thus:

Awards of compensation benefits for death or disability can now no longer be made to rest on presumption, but on a showing that the causative disease is among those listed by the ECC, or on substantial evidence that the risk of contracting said disease is increased by the employee's working conditions.

Petitioners allege that private respondents tried to establish a preliminary link between the illness and the employment of Abraham by speculating that since Abraham did some dirty jobs during his stint as a rifleman in the Philippine Navy, he was exposed to some elements like virus which could have contributed more or less to the development of his ailment.

Petitioners argue that such allegation cannot be the basis of a finding that Abraham's ailment had a causal connection with his employment and working conditions. Nor can it be said that the nature of his work had increased the risk of contracting his ailment. The illness is not prevalent in the Philippine Navy or the PNP. Even under the less stringent evidentiary norm of substantial evidence obtaining in

employees' compensation proceedings, private respondents failed to adduce such relevant evidence as a reasonable mind might accept as adequate to support their claim.

Art. 167^[9] (I), Chapter 1, Title II, Book Four of the Labor Code of the Philippines, defines sickness as "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." The same provision empowers ECC to determine and approve occupational diseases and work-related illnesses that may be considered compensable based on peculiar hazards of employment.

Under Sec. 1 (b), Rule III of the Amended Rules on Employees' Compensation, "[f]or 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' of these Rules with the conditions set therein satisfied; otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions."

The decision of the ECC is instructive:

After a careful examination of the records of the instant claim, we concur with the decision of the respondent system that appellant's claim is bereft of merit. Definitely, the ailment of herein appellant is not included in the list of occupational diseases, under the rules implementing PD 626, as amended. However, even if appellant's ailment is not an occupational disease, the present law on compensation allows certain diseases to be compensable if it is sufficiently proven that the risk of contract it is increased by the working conditions. Unfortunately, for Abraham Cate, he failed to present proofs that will establish that the development of his ailment is traceable to his work and working conditions as a soldier of the defunct Philippine Constabulary and later as member of the Philippine National Police.^[10]

In this case, Osteosarcoma is not listed as an occupational disease in the Amended Rules on Employees' Compensation. Hence, it is supposed to be upon the claimant or private respondents to prove by substantial evidence that the risk of contracting Osteosarcoma was increased by the working conditions of the late Abraham. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.^[11] The records show that Abraham failed to present evidence to establish that the development of his ailment was traceable to his working conditions in the Philippine Navy, the now defunct Philippine Constabulary and the PNP. Further, private respondents' allegation in their petition for review with the CA that Abraham, as a rifleman in the Philippine Navy, may have been exposed to elements like a virus which could have contributed to his ailment does not satisfy the requirement of substantial evidence. The rule is that awards of compensation cannot rest on speculations and presumptions as the claimant must prove a positive thing.^[12] The application of the rules would mean that absent any proof that the risk of contracting the ailment was increased by the working conditions of the late Abraham, private respondents would not be entitled to compensation.