

## THIRD DIVISION

[ G.R. No. 159060, November 28, 2007 ]

**GINA LEVISTE, PETITIONER, VS. SOCIAL SECURITY SYSTEM  
(SOLID MILLS, INC.), RESPONDENT.**

### DECISION

**AUSTRIA-MARTINEZ, J.:**

In her Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, Gina Leviste (petitioner) assails the February 24, 2003 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 66223, which affirmed the dismissal of her claim for death benefits by the Employees' Compensation Commission (ECC) in its March 2, 2001 Decision;<sup>[2]</sup> and the July 9, 2003 CA Resolution<sup>[3]</sup> which denied her motion for reconsideration.

There is no dispute over the facts.

Petitioner is the widow of Ronald Leviste (decedent) who suffered "Sudden Cardiac Death"[sic] at 11:50 in the evening of September 9, 1999.<sup>[4]</sup> At the time of his death, the decedent was a Supervisor at Solid Mills, Inc. (Solid Mills) at Sucat, Muntinlupa City, and a member of the Social Security System (SSS).<sup>[5]</sup>

Petitioner filed with the SSS a claim for death benefits under the Employees' Compensation Law (P.D. No. 626).<sup>[6]</sup> In a letter dated August 9, 2000, the SSS dismissed her claim based on the following findings:

A cursory re-evaluation of the benefit claim records of your husband disclosed the following:

- 1) Mr. Ronald Leviste last reported for work on Sept. 9, 1999 on a day shift and timed out at 4:00 p.m., as certified by his employer SOLID MILLS INC., located at Sucat, Muntinlupa City.
- 2) That after his tour of duty at 4:00 p.m., he left the company premises and immediately proceeded home to join his family at Brgy. Poblacion, Malvar, Batangas;
- 3) That at about 11:50 p.m. on the same date, he was rushed to a hospital nearby his residence and was pronounced dead on arrival, the immediate cause of which

is "CARDIAC SUDDEN DEATH" as per death certificate Reg. No. 99-107 issued at Malvar, Batangas.

From the facts aforementioned, it appears that the circumstances surrounding the death of Ronald Leviste does not fall within the ambit of PD 626 which requires death or injuries to be considered work related must satisfactorily comply [with] the following:

- 1) The employee is injured or dies at the place where his work requires him to be;
- 2) The employee is performing his official functions;
- 3) If the injury or death is sustained elsewhere the employee is executing an order for his employer

In view therefore, we affirm our stand that the death of your husband Ronald Leviste is NOT work related and thus, is not compensable under ECC.<sup>[7]</sup>

On appeal by petitioner, the ECC rendered a Decision on March 2, 2001, affirming the dismissal of her claim, thus:

x x x Based on his medical records, the deceased had no previous heart problem. Although the overexertion of vigorous exercise may precipitate heart attack, ***there is, however, no evidence on record that he was subjected to strenuous or vigorous activities on account of his employment.***

WHEREFORE, the appealed decision is AFFIRMED and the claim is dismissed for lack of merit.<sup>[8]</sup> (Emphasis supplied.)

Petitioner impugned the findings of the ECC in a Petition for Review before the CA.<sup>[9]</sup> She pointed out that the ECC completely glossed over evidence extant in the records that, due to the nature of his work, the decedent was constantly exposed to harmful elements like fumes and heat, and that, at work in the afternoon before he died, the decedent performed an extremely strenuous activity of helping carry "a 100-kilo air-conditioning compressor from the rooftop of the three-storey administration building" down several flights of stairs and out to a workshop located 300 meters from the administration building.<sup>[10]</sup>

The CA dismissed the petition in its February 24, 2003 Decision. It also dismissed petitioner's motion for reconsideration.

Hence, petitioner's recourse to this Court on the sole ground that:

The Court of Appeals had decided the instant dispute in a way not in accord with law and jurisprudence when it refused to consider that the death of the petitioner's husband was service-connected and compensable.<sup>[11]</sup>

Petitioner is correct.

By Resolution No. 432 approved on July 20, 1997, the ECC included cardio-vascular diseases in the List of Occupational and Compensable Diseases (Annex "A") appended to the Amended Rules on Employees' Compensation. The significance of the inclusion of cardio-vascular diseases in Annex "A" is that it relieved petitioner of the burden of proving a causal relation between the "sudden cardiac death" of the deceased member and the latter's work. Instead, Annex "A" established a presumption that "sudden cardiac death" is work-related.<sup>[12]</sup> Thus, on this score, the SSS was obviously mistaken when, in its August 9, 2000 letter, it dismissed petitioner's claim for lack of evidence of causal relation of "sudden cardiac death" to the work of the deceased member.<sup>[13]</sup> The ECC was quick to correct such misimpression by pointing out that under Resolution No. 432, "sudden cardiac death" is now considered work-related.<sup>[14]</sup> The CA arrived at that same conclusion.<sup>[15]</sup>

However, while the diseases listed in Annex "A" are presumed to be work-related, not every death resulting therefrom automatically entitles a claimant to death benefits.<sup>[16]</sup> Annex "A" requires that, for the statutory presumption of causal relation to arise, it must be established beforehand that the listed disease was contracted under certain working conditions.<sup>[17]</sup>

With reference to cardio-vascular diseases, the same must be proven to have been contracted under **any** of the following conditions:

- a) If the heart disease was known to have been present during employment there must be proof that an acute exacerbation clearly precipitated by the unusual strain by reason of the nature of his work.
- b) The strain of work that brings about an acute attack must be of sufficient severity and must be followed within twenty four (24) hours by the clinical signs of a cardiac insult to constitute causal relationship.
- c) If a person who was apparently asymptomatic before subjecting himself to strain of work showed signs and symptoms of cardiac injury during the performance of his work and such symptoms and signs persisted, it is reasonable to claim a causal relationship.<sup>[18]</sup>

Petitioner accepts that the "sudden cardiac death" of the decedent did not occur under the first condition. She does not question the entry in the report of death submitted by Solid Mills to the SSS which reads:

CAUSE OF INJURY/SICKNESS

Cardiac Arrest Secondary to overfatigue. ***Px however does not have any previous cardiac problem.***<sup>[19]</sup> (Emphasis supplied.)

Petitioner maintains, however, that the evidence she presented established that the decedent succumbed to "sudden cardiac death" under the second and third conditions. Her evidence consists of the following:

First, the report of death itself in which Solid Mills acknowledged that the decedent