

FIRST DIVISION

[G.R. No. 146360, May 20, 2004]

**AZUCENA O. SALALIMA, PETITIONER, VS. EMPLOYEES
COMPENSATION COMMISSION AND SOCIAL SECURITY SYSTEM,
RESPONDENTS.**

D E C I S I O N

YNARES-SATIAGO, J.:

Before us is a petition for review on certiorari of the Decision^[1] of the Court of Appeals dated April 12, 2000 as well as its Resolution dated December 6, 2000, which affirmed the Employees' Compensation Commission's denial of petitioner's claim for compensation benefits resulting from the death of her husband, Juancho Salalima, under Presidential Decree No. 626, as amended.

Petitioner's husband, Juancho S. Salalima, was employed for twenty-nine years as a route helper and subsequently as route salesman for the Meycauayan Plant of Coca-Cola Bottlers Phils., Incorporated. In 1989, during an annual company medical examination, Juancho was diagnosed with minimal pulmonary tuberculosis.^[2] His illness remained stationary until October 1994 when Juancho was confined at the Manila Doctor's Hospital to undergo section biopsy. His biopsy revealed that he had "Adenocarcinoma, poorly differentiated, metastatic".^[3] Consequently, he underwent chemotherapy at the Makati Medical Center. On February 1, 1995, he was found to be suffering from pneumonia.^[4] On February 14, 1995, he was confined at the Makati Medical Center. He died two days later on February 16, 1995 due to "Adenocarcinoma of the Lungs with widespread metastasis to Neck, Brain, Peritoneal Cavity, Paracaval Lymph Nodes, Abscen; Acute Renal Failure; Septicemia; Upper Gastrointestinal Bleeding".^[5]

A claim for compensation benefits under P.D. 626 as amended was filed by his surviving wife, Azucena, petitioner herein, with the Social Security System (SSS). In a report dated November 12, 1998, SSS Branch Manager Elnora Montenegro and Senior Physicians Corazon Bondoc and Annabelle Bonifacio recommended the denial of petitioner's claim on the ground that Adenocarcinoma of the Lungs (Cancer of the Lungs) had no causal relationship with Juancho's job as a route salesman.^[6] Petitioner's motion for reconsideration was denied. Hence, petitioner brought the case to the Employees' Compensation Commission (ECC), which affirmed the decision of the SSS. In its Decision^[7] dated October 7, 1999, the ECC relied upon the Quality Assurance Medical Report prepared by Dr. Ma. Victoria M. Abesamis for the SSS stating that Juancho's exposure to smog and dust is not associated with the development of lung cancer.^[8]

Petitioner elevated the case to the Court of Appeals arguing that Juancho's route as a salesman exposed him to all kinds of pollutants, not to mention the daily hazards

and fatigue that came with his tasks. She pointed out that the SSS and the ECC disregarded Juancho's medical history and the fact that the risk of contracting Juancho's ailment was increased by the nature of his work.^[9] In its Comment, ECC averred that the presumption of compensability and the theory of aggravation prevalent under the Workmen's Compensation Act have been abandoned. Under the implementing rules of P.D. 626, as amended, for 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 the 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 ECC argued that neither condition is present in Juancho's case since lung cancer is not an occupational disease nor is the risk of contracting lung cancer increased by Juancho's working conditions.^[10] The SSS joined the arguments of the ECC and added that petitioner was not able to present substantial evidence to overcome the conclusion reached by the SSS that Juancho's cause of death was not work-connected. ^[11]

In her Reply, petitioner cited the *raison d'être* for the passage of Republic Act No. 8749, otherwise known as the Clean Air Act. Petitioner stated that the Act provides for a comprehensive pollution control policy that mainly concentrates on the prohibition of leaded gasoline due to its scientifically proven deleterious effect on the health of individuals.^[12] Petitioner likewise attached a clipping from the newspaper Manila Standard^[13] containing a report stating that if the present level of diesel exhaust continues, the pollution could be expected to cause more than 125,000 cases of lung cancer in 70 years.

On April 12, 2000, the Court of Appeals affirmed the decision of the ECC, stating that the factual findings of quasi-judicial agencies, such as the ECC, if supported by substantial evidence, are entitled to great respect in view of their expertise in their respective fields.^[14] Petitioner's Motion for Reconsideration^[15] was denied for lack of merit.^[16]

Hence, this petition for review on certiorari, raising the lone issue:

WHETHER OR NOT THE DECISION OF THE HONORABLE COURT OF APPEALS DENYING PETITIONER'S CLAIM UNDER P.D. 626, AS AMENDED, IS IN ACCORDANCE WITH THE RULES ON EMPLOYEES' COMPENSATION AND EXISTING JURISPRUDENCE.

Petitioner claims that the judgment of the Court of Appeals was premised upon a misapprehension of the relevant facts of the case at bar. She anchors her petition on the fact that while the cause of her husband Juancho's death was Adenocarcinoma of the lungs, he nonetheless suffered from two listed occupational diseases, namely pulmonary tuberculosis and pneumonia, prior to his untimely demise, which she insists justifies her claim for death benefits.

We find merit in the petition.

P.D. No. 626^[17] amended Title II of Book IV on the ECC and State Insurance Fund of the Labor Code. Under the provisions of the law as amended, for the sickness and resulting disability or death to be compensable, the claimant must prove that: (a) the sickness must be the result of an occupational disease listed under Annex "A" of

the Rules on Employees' Compensation, or (b) the risk of contracting the disease was increased by the claimant's working conditions.^[18] This means that if the illness or disease that caused the death of the member is not included in the said Annex "A," then his heirs are entitled to compensation only if it can be proven that the risk of contracting the illness or disease was increased by the member's working conditions.

Under the present law, Adenocarcinoma of the lungs (cancer of the lungs) which was the immediate cause of Juancho's death as stated in his death certificate, while listed as an occupational disease, is compensable only among vinyl chloride workers and plastic workers.^[19] This, however, would not automatically bar petitioner's claim for as long as she could prove that Juancho's risk of contracting the disease was increased by the latter's working conditions.^[20]

In the case at bar, there are two conflicting medical reports on the correlation between Juancho's work as a route salesman and the illness he suffered which was the immediate cause of his demise. Dr. Pablo S. Santos, Coca-Cola's Head of Medical Services, stated in his report that while Juancho's job does not expose him to any chemical material used within the plant, consideration must be given to smog and dust as factors in the development of his lung cancer.^[21] On the other hand, Dr. Ma. Victoria M. Abesamis of the Social Security System declared in her report that Juancho's exposure to smog and dust is not associated with the development of lung cancer.^[22]

According to medical experts, Adenocarcinoma of the lungs is one of the four major histologic varieties of bronchogenic carcinoma, the characterization being based upon the cell types that compose the carcinoma. Bronchogenic carcinoma, more commonly known as lung cancer, is the term used to designate nearly all types of malignant lung tumors. Medical books list the etiology of lung cancers as follows: cigarette smoking, occupational exposure, **air pollution**, and other factors such as **preexisting lung damage** and genetic influences.^[23]

We agree with petitioner that the respondent government agencies failed to take into consideration Juancho's medical history in their assessment of the claim for benefits filed by petitioner. For a considerable stretch of Juancho's stay at Coca-Cola, he was found to be suffering from pulmonary tuberculosis. Several months before his demise, he was diagnosed with Adenocarcinoma of the lungs. A little over two weeks before his death, Juancho was afflicted with pneumonia. The obvious deduction is that Juancho, from the time he acquired pulmonary tuberculosis until his passing away, was predisposed to varied lung diseases.

It is worth noting that tuberculosis is most commonly confused with carcinoma of the lung because the highest incidence of both diseases is in the upper lobe of the lungs and in older men. The symptoms of both diseases include loss of weight, chronic cough, blood-streaked sputum and mild fever.^[24] Likewise, numerous studies indicate that scars within the lungs and diffuse pulmonary fibrosis are associated with a slightly increased incidence of lung cancer.^[25] Tuberculosis is a disease characterized by lesions in the lungs as well as tuberculous scars.^[26] Thus, in light of Juancho's continued exposure to detrimental work environment and constant fatigue, the possibility that Juancho's Adenocarcinoma of the lungs