

THIRD DIVISION

[G.R. No. 128524, April 20, 1999]

**GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS),
PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND
FELONILA ALEGRE, RESPONDENTS.**

D E C I S I O N

ROMERO, J.:

May a moonlighting policeman's death be considered compensable? This is the crux of the controversy now at bar.

The records^[1] disclose that private respondent Felonila Alegre's deceased husband, SPO2 Florencio A. Alegre, was a police officer assigned to the Philippine National Police station in the town of Vigan, Ilocos Sur. On that fateful day of December 6, 1994, he was driving his tricycle and ferrying passengers within the vicinity of Imelda Commercial Complex when SPO4 Alejandro Tenorio, Jr., Team/Desk Officer of the Police Assistance Center located at said complex, confronted him regarding his tour of duty. SPO2 Alegre allegedly snubbed SPO4 Tenorio and even directed curse words upon the latter. A verbal tussle then ensued between the two which led to the fatal shooting of the deceased police officer.

On account of her husband's death, private respondent seasonably filed a claim for death benefits with petitioner Government Service Insurance System (GSIS) pursuant to Presidential Decree No. 626. In its decision on August 7, 1995, the GSIS, however, denied the claim on the ground that at the time of SPO2 Alegre's death, he was performing a personal activity which was not work-connected. Subsequent appeal to the Employees' Compensation Commission (ECC) proved futile as said body, in a decision dated May 9, 1996, merely affirmed the ruling of the GSIS.

Private respondent finally obtained a favorable ruling in the Court of Appeals when on February 28, 1997, the appellate court reversed^[2] the ECC's decision and ruled that SPO2 Alegre's death was work-connected and, therefore, compensable. Citing *Nitura v. Employees' Compensation Commission*^[3] and *Employees' Compensation Commission v. Court of Appeals*,^[4] the appellate court explained the conclusion arrived at, thus:

"[T]he Supreme Court held that the concept of a 'workplace' cannot always be literally applied to a person in active duty status, as if he were a machine operator or a worker in an assembly line in a factory or a clerk in a particular fixed office.

It is our considered view that, as applied to a peace officer, his work place is not confined to the police precinct or station but to any place

where his services, as a lawman, to maintain peace and security, are required.

At the time of his death, Alegre was driving a tricycle at the northeastern part of the Imelda Commercial Complex where the police assistance center is located. There can be no dispute therefore that he met his death literally in his place of work.

It is true that the deceased was driving his tricycle, with passengers aboard, when he was accosted by another police officer. This would lend some semblance of viability to the argument that he was not in the performance of official duty at the time.

However, the argument, though initially plausible, overlooks the fact that policemen, by the nature of their functions, are deemed to be on a round-the-clock duty."

Aggrieved, GSIS comes to us on petition for review on *certiorari* reiterating its position that SPO2 Alegre's death lacks the requisite element of compensability which is, that the activity being performed at the time of death must be work-connected.

We grant the petition.

As stated at the outset, the sole issue for the Court's resolution is whether the death of SPO2 Alegre is compensable pursuant to the applicable laws and regulations.

Under the pertinent guidelines of the ECC on compensability, it is provided that "for the injury and the resulting disability or death to be compensable, the injury must be the result of an employment accident satisfying all of the following conditions:

- (1) The employee must have been injured at the place where his work requires him to be;
- (2) The employee must have been performing his official functions; and
- (3) If the injury is sustained elsewhere, the employee must have been executing an order for the employer."^[5]

Actually, jurisprudence is rather scant with respect to the above rules' application in the case of police officers. Nevertheless, owing to the similarity of functions, that is, to keep peace and order, and the risks assumed, the Court has treated police officers similar to members of the Armed Forces of the Philippines with regard to the compensability of their deaths. Thus, echoing *Hinoguin v. Employees' Compensation Commission*,^[6] a case involving a soldier who was accidentally fired at by a fellow soldier, we held in *Employees' Compensation Commission v. Court of Appeals*,^[7] that "members of the national police are by the nature of their functions technically on duty 24 hours a day" because "policemen are subject to call at any time and may be asked by their superiors or by any distressed citizen to assist in maintaining the peace and security of the community."

Upon examination of the Court of Appeals' reasoning, we believe that the appellate court committed reversible error in applying the precepts enunciated in the cited cases. While we agree that policemen, like soldiers, are at the beck and call of public duty as peace officers and technically on duty round-the-clock, the same does not justify the grant of compensation benefits for the death of SPO2 Alegre based on the facts disclosed by the records. For clarity, a review of the cases relevant to the matter at hand is in order.

In *Hinoguin*, the deceased Philippine Army soldier, Sgt. Limec Hinoguin, together with two other members of his detachment, sought and were orally granted permission by the commanding officer of their company to leave their station in Carranglan, Nueva Ecija to go on overnight pass to Aritao, Nueva Vizcaya. As they were returning to their headquarters, one of his companions, not knowing that his M-16 rifle was on "semi-automatic" mode, accidentally pulled the trigger and shot Sgt. Hinoguin who then died as a result thereof. Ruling for the grant of death compensation benefits, this Court held:

"The concept of a 'workplace' referred to in Ground 1, for instance, cannot always be literally applied to a soldier on active duty status, as if he were a machine operator or a worker in assembly line in a factory or a clerk in a particular fixed office. Obviously, a soldier must go where his company is stationed. In the instant case, Aritao, Nueva Vizcaya was not, of course, Carranglan, Nueva Ecija. Aritao being approximately 1-1/2 hours away from the latter by public transportation. But Sgt. Hinoguin, Cpl. Clavo and Dft. Alibuyog had permission from their Commanding Officer to proceed to Aritao, and it appears to us that a place which soldiers have secured lawful *permission* to be at cannot be very different, legally speaking, from a place where they are *required* to go by their commanding officer. We note that the three (3) soldiers were on an overnight pass which, notably, they did not utilize in full. They were *not* on vacation leave. Moreover, they were required or authorized to carry their firearms with which presumably they were to defend themselves if NPA elements happened to attack them while en route to and from Aritao or with which to attack and seek to capture such NPA elements as they might encounter. Indeed, if the three (3) soldiers had in fact encountered NPAs while on their way to or from Aritao and been fired upon by them and if Sgt. Hinoguin had been killed by an NPA bullet, we do not believe that respondent GSIS would have had any difficulty in holding the death a compensable one."

Then came the case of *Nitura*, likewise involving a member of the Philippine Army, Pfc. Regino S. Nitura, who was assigned at Basagan, Katipunan, Zamboanga del Norte. At the time he met his death, he was instructed by his battalion commander to check on several personnel of his command post who were then attending a dance party in Barangay San Jose, Dipolog City. But on his way back to the camp, he passed, crossed and fell from a hanging wooden bridge which accident caused his death. Reversing the ECC which earlier denied death benefits to the deceased's widow, the Court ruled:

"A soldier must go where his company is stationed. In the case at bar, Pfc. Nitura's station was at Basagan, Katipunan, Zamboanga del Norte. But then his presence at the site of the accident was with the permission of his superior officer having been directed to go to Barangay San Jose,