

FIRST DIVISION

[G.R. No. 130379, June 21, 1999]

GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. ANGELITA L. GABRIEL, RESPONDENTS.

D E C I S I O N

PARDO, J.:

The case is an appeal *via certiorari* from a decision of the Court of Appeals^[1] and its resolution denying reconsideration of the decision^[2] reversing the ruling of the Employees Compensation Commission and the Government Service Insurance System that denied the claim of respondent Angelita L. Gabriel, as surviving spouse of the late Prosecutor Rosendo Gabriel, Jr., for death benefits arising from his death due to work connected ailment.

The pertinent facts are as follows:

Prosecutor Rosendo Gabriel, Jr. was at the time of his death on January 11, 1995, Prosecutor II, Office of the City Prosecutor, Quezon City, with the following duties:

1. Conducting preliminary investigation of cases, misdemeanors, violations of city ordinances and resolving the same;
2. Attending court trials-prosecution of criminal offenses, trial and resting the omission same for the State;
3. Attending inquest duties at assigned police stations once a week, daytime as well as night-time;
4. Attending detailed assignment at the Philippine Commission on Good Government.^[3]

His service record showed that he had more than thirty (30) years service in the government starting as temporary clerk in the office of Congressman Ramon Mitra on September 16, 1959.^[4]

On December 6, 1993, Rosendo Gabriel, Jr. was confined in the Philippine Heart Center for Asia, where he was found suffering from "mild restrictive and obstructive pulmonary defect" and "lower esophageal obstruction probably malignant" for which he was advised to see a surgeon.^[5] He consulted a surgeon at the Philippine General Hospital; however, he refused to undergo surgery.^[6]

On December 25, 1994, Rosendo Gabriel, Jr. was rushed to the De Ocampo Memorial Hospital in Manila, for chest pains. An EKG examination showed "acute

myocardial infarction".^[7] The certificate of the attending physician stated that he also suffered from "esophageal cancer, hypertensive atherosclerotic heart disease."^[8]

On December 26, 1994, ECG examination on Rosendo Gabriel, Jr. revealed "diffuse myocardial ischemia."^[9]

On January 2, 1995, he was taken to the Chinese General Hospital and Medical Center, where a diagnosis of "esophageal cancer, metastatic" was made. Obviously, the cancer was the immediate concern of the physicians because he complained of dysphagia and dyspnea.^[10] On the other hand, on December 25, 1994, in his examination at the De Ocampo Memorial Hospital, a cardiologist found him to have suffered from "acute myocardial infarction" as the chief complaint was chest pains and "body malaise".^[11]

On January 6, 1995, he was discharged from the Chinese General Hospital and Medical Center. On January 8, 1995, he was back in the Chinese General Hospital and Medical Center, where he was admitted and diagnosed suffering from "esophageal cancer, metastasis with pleural effusion."^[12]

On January 11, 1995, Rosendo Gabriel, Jr. died of "cardiac arrest" secondary to esophageal cancer.^[13] The physician issued the following final diagnosis:

1. Coronary artery disease;
2. Myocardial infarction;
3. Esophageal carcinoma;
4. Pleural effusion, right;
5. Tube thoracostomy, right; ^[14]
6. Mild restrictive and obstructive ventricular defect.^[15]

On February 8, 1995, respondent, widow of the deceased, filed with the Government Service Insurance System (GSIS) a claim for death benefits under P. D. No. 626, as amended. She submitted the required physician's certificate and hospital records.^[16]

On February 18, 1995, the GSIS denied the claim because esophageal cancer is not listed as an occupational disease under Annex "A" of P. D. No. 626, and "there is no showing that claimant's duties involve risk of contracting the above illness."^[17]

On March 9, 1995, respondent moved for reconsideration of the denial of her claim, and in connection therewith, submitted additional documents to the GSIS in the form of physician's certification showing that during the lifetime of the deceased, he suffered from "atherosclerotic heart disease", aside from esophageal cancer. Indeed, on account of such coronary artery disease, the doctor certified that the deceased suffered from total permanent disability.^[18]

The case was elevated to the Employees Compensation Commission. On November 16, 1995, the Employees Compensation Commission denied the motion.

On May 7, 1996, respondent filed with the Court of Appeals^[19] a special civil action

seeking to reverse the ruling of the Employees Compensation Commission.

On July 7, 1997, the Court of Appeals rendered decision reversing the decision of the Employees Compensation Commission, finding that the deceased also suffered from acute myocardial infarction with final diagnosis of "esophageal cancer", "hypertensive atherosclerotic heart disease, per medical certificate of his attending physician, Dr. Joseph T. Villanueva."^[20]

Hence, this appeal, which we find to be without merit.

The basic question presented is whether the resulting death of prosecutor Rosendo Gabriel, Jr. from his last illness is compensable under Presidential Decree No. 626, as amended.

We rule that the Employees Compensation Commission and the Government Service Insurance System (GSIS) erred in denying compensation benefits to the surviving spouse of the deceased because even if esophageal cancer is not compensable, there can be no question that coronary artery disease or atherosclerotic heart disease is compensable. Incidentally, the benefits under the Employees Compensation Act for total permanent disability or death are the same.^[21]

What is more, the deceased's immediate cause of death was "cardiac arrest". Medical experts agree that when the onset is instantaneous or abrupt, the probability is that the arrest is cardiac in origin and related to an underlying coronary artery disease.^[22] In the case of prosecutor Gabriel, the cardiac arrest causing sudden death was more likely precipitated by myocardial infarction or hypertensive heart disease rather than by esophageal cancer, which is a chronic disease.^[23] In this case, no autopsy was done. Hence, we have to accept the fact that the cardiac arrest was caused primarily by myocardial infarction rather than by esophageal cancer. It must be emphasized that on December 25, 1994, barely two (2) weeks before he suffered cardiac arrest, Rosendo Gabriel, Jr. had an EKG done which showed "acute myocardial infarction."

Consequently, we hold that the deceased Rosendo Gabriel, Jr. suffered from a compensable ailment, whether it be "acute myocardial infarction" or "hypertensive, atherosclerotic heart disease", which associated with "esophageal carcinoma, metastatic, with pleural effusion" precipitated a "cardiac arrest" that was the immediate cause of death. It has been held that "hypertension and heart ailment" are compensable.^[24] And so was "ischemic heart disease" held compensable, whether or not the cause of the disability is work-connected.^[25] Hence, we have enough basis for holding, as we do, that prosecutor Gabriel suffered from a compensable disease, and thus his heirs are entitled to death benefits.

In *Government Service Insurance System vs. Court of Appeals*,^[26] we said that "the incidence of a listed occupational disease, whether or not associated with a non-listed ailment is enough basis for requiring compensation."

Thus, the GSIS and the Employees Compensation Commission erred in denying the claim of the widow of the deceased Rosendo Gabriel, Jr. for death benefits.

WHEREFORE, we **AFFIRM** the decision of the Court of Appeals in CA-G. R. SP No. 40540, ordering the Government Service Insurance System to pay respondent Gabriel's claim for death benefits under the Employees Compensation Act.

No costs.

SO ORDERED.

Melo, Kapunan, and Ynares-Santiago, JJ., concur.
Davide, Jr., C.J. (Chairman), see dissent.

[1] In CA-G. R. SP. No. 40540, promulgated on July 7, 1997, Elbinias, J., ponente, Barcelona and Asuncion, JJ. concurring.

[2] Adopted on August 22, 1997.

[3] Comment, *Rollo*, pp. 50-59, on p. 52; Annex "B", *Rollo*, p. 61.

[4] Comment, *Rollo*, on p. 51, Annex "A", *Rollo*, p. 60.

[5] Comment, *Rollo*, on p.52; Petition for Review, Annex "E-1" CA-G. R. SP No. 40540, *CA Rollo*, p. 20.

[6] *Idem.* p. 20.

[7] *Idem.* *CA Rollo*, p. 20.

[8] Petition, Annex "E", *CA Rollo*, p. 16.

[9] Petition, *CA Rollo*, p. 41.

[10] *Idem.* *CA Rollo*, p. 34.

[11] *Idem.* *Rollo*, pp. 20, 31.

[12] Petition, Annex "E-3", *CA Rollo*, p. 33.

[13] Death Certificate, *CA Rollo*, p. 167; *SC Rollo*, pp. 34, 208.

[14] This is a procedure to remove fluids from the pleural cavity, not an illness.

[15] *SC Rollo*, p. 101.

[16] Petition, *Rollo*, p. 13; Comment, *Rollo*, p. 53.

[17] Comment, *Rollo*, p. 53.

[18] Comment, *Rollo*, pp. 53-54.

[19] Docketed as CA-G. R. SP No. 40540.

[20] Petition, Annex "A", *Rollo*, pp. 27-30.

[21] See Section 192, 194, Labor Code of the Philippines.

[22] Harrison's Principles of Internal Medicine, 1994 13th ed. Vol. 1, pp. 194-195.

[23] Current Medical Diagnosis and Treatment, 35th Edition, 1996, p. 81.

[24] *Roldan vs. Republic*, 182 SCRA 230.

[25] *Tria vs. Employees Compensation Commission*, 208 SCRA 834.

[26] 250 SCRA 491, 499.

DISSENTING OPINION

DAVIDE, JR., C.J.:

I beg to dissent.

The pertinent facts as related by the Employees' Compensation Commission (hereafter ECC) in its decision in ECC Case No. MG-7416-395 are as follows:

The service records revealed that the late Rosendo Gabriel's public service commenced on September 16, 1959 as a Temporary Clerk at the office of the then Congressman Ramon V. Mitra. On September 1, 1960, he was appointed Legal Assistant at the Office of the Secretary. He later served as a Municipal Court Judge in Faure, Cagayan from May 20, 1965 to May 30, 1973, when he resigned from the service to run as a Sangguniang Panlalawigan Member of the Province of Cagayan, for which he was elected. After his term of office, he re-entered the service on August 18, 1981 as a Polcom Hearing Officer of the National Police Commission up to February 2, 1987 when he was appointed 4th Assistant City Fiscal at the Office in Quezon City. On July 1, 1989 he was designated Prosecutor II, a position he held up to the time of his death on January 11, 1995. He was 60 years old.

Medical records submitted in support of the instant claim showed that the decedent's ailment started several years prior to his death as difficulty in swallowing of foods. He consulted a physician who advised him to undergo endoscopy. Findings showed malignant growth at the esophagus. No surgery was done, but he received [a] series of palliative and supportive treatments. Two months prior to his admission at the Chinese General Hospital, he complained of dyspnea, epigastric pain and