

## **TWENTY-SECOND DIVISION**

**[ CA-G.R. SP NO. 04487-MIN, August 20, 2014 ]**

**EVELYN G. ACILO, PETITIONER, VS. SOCIAL SECURITY SYSTEM (SSS) AND EMPLOYEE'S COMPENSATION COMMISSION (ECC), RESPONDENTS.**

### **D E C I S I O N**

**INTING, J.:**

This is a Petition for Review<sup>[1]</sup> filed under Rule 43 of the Rules of Court assailing the Decision<sup>[2]</sup> dated April 28, 2011 of the Employee's Compensation Commission in ECC Case No. SM-18689-0309-11.

The facts of the case are as follows:

Oscar A. Acilo, the deceased husband of herein petitioner, was employed by Tagum Agricultural Development Company, Inc. (TADECO), Panabo, Davao del Norte as BW Treatment/Excavator. His employment lasted for about eleven (11) years and was covered by SSS Policy No. 09-1090323-9. Oscar was responsible for excavation and treatment of all moko (BW) infected plants to avoid contamination of bacteria to the neighboring plants. Aside from that, he was also required to perform the following:

- a. Prepares burning materials and equipment used for eradication;
- b. Burns and excavates moko infected plants properly;
- c. Collects and burns all debris and trashes inside the case properly;
- d. Observes proper procedure in eradication to avoid contamination;
- e. Cultivates the soil properly before fumigation treatment and keeps all equipments after work;
- f. Follows safety guidelines on treating the infected cases;
- g. Performs other work-related duties that may be assigned by superior from time to time.

On August 7, 2009, Oscar reported for work. While he was on the field, he suffered abdominal pains and was thereafter admitted to Davao Medical School Foundation Hospital, Bajada, Davao City. However, on August 9, 2009, Oscar died due to the following:

Immediate      Cardio Pulmonary Arrest

Cause:  
Antecedent  
Cause: Congestive Heart Failure  
Underlying  
Cause: Coronary Artery Disease;  
Subendocardial  
Infraction  
Other  
significant  
conditions  
contributing  
to death: Peptic Ulcer

On account of the death of her husband, petitioner was granted death with funeral benefits under the SSS law.

On August 16, 2010, petitioner filed a claim for EC Death Benefits with the SSS Tagum City Branch. Her claim was, however, denied on the ground that the smoking history of the deceased was the major causative factor for his condition. On January 10, 2011, petitioner sent a letter to SSS requesting for a review of the denial of the claim. The records were forwarded to SSS Medical Operations Department (SSS-MOD) for re-evaluation. The SSS-MOD reiterated the denial of the claim and stated that "the risk of contracting the disease which led to member's death is increased by his being a smoker for 30 years."

On February 23, 2011, the SSS-MOD forwarded the case to the Employer's Compensation Commission (ECC). On April 28, 2011, the ECC issued its Decision affirming that of the SSS, the *fallo* of which provides:

WHEREFORE, the appealed decision is hereby denied.

SO ORDERED.

Aggrieved, petitioner filed the instant petition.

Petitioner now comes before Us raising the following assignment of errors<sup>[3]</sup>:

I.

THE ECC ERRED IN DENYING THE DEATH CLAIM BENEFIT OF HEREIN PETITIONER.

II.

THE ECC ERRED IN FINDING THAT THERE WAS NO SUBSTANTIAL EVIDENCE OF ANY UNUSUAL STRAIN DUE TO THE NATURE OF OCCUPATION OF THE DECEASED THAT WOULD HAVE CAUSED THE ATTACK AND ATTRIBUTED IT INSTEAD TO MEMBER'S SMOKING HISTORY.

On January 12, 2012, this Court issued a Resolution<sup>[4]</sup> denying the instant petition

on the ground that it was filed after the period for filing of an appeal. Petitioner filed her motion for reconsideration on January 31, 2012<sup>[5]</sup>. Respondents ECC and SSS filed their Comment<sup>[6]</sup> thereto as directed by this Court. On June 19, 2012, this Court issued another Resolution<sup>[7]</sup> reinstating the instant petition in the interest of substantial justice.

### **Our Ruling**

The petition is bereft of merit.

Sickness, as defined under Article 167 (1) Chapter I, Title II, Book IV of the Labor Code of the Philippines refers to "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."<sup>[8]</sup>

In cases of death, such as in this case, Section 1(b), Rule III of the Rules Implementing P.D. No. 626, as amended, requires that for the sickness and the resulting disability or death to be compensable, the claimant must show: (1) that it is the result of an occupational disease listed under Annex "A" of the Amended Rules on Employees' Compensation with the conditions set therein satisfied; or (2) that the risk of contracting the disease is increased by the working conditions.<sup>[9]</sup>

Corrolarily, under Annex "A" of the Amended Rules, for an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:

1. The employee's work must involve the risks described herein;
2. The disease was contracted as a result of the employee's exposure to the described risks;
3. The disease was contracted within a period of exposure and under such other factors necessary to contract it;
4. There was no notorious negligence on the part of the employee.

In the case at bar, Oscar's immediate cause of death was cardio pulmonary arrest while the antecedent cause of death is congestive heart failure. Apropos to these, cardiovascular diseases are considered as occupational when 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 at work showed signs and