LABOR STANDARDS AND WELFARE LEGISLATION

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INTRODUCTION

The demand for protection of the laborers has been answered quite adequately by the Legislature when it enacted the different laws on labor standards and the various welfare legislations. The protection has been afforded through laws which prescribe: a minimum wage for laborers (R.A. No. 602, as amended); for maximum number of working hours (Eight-Hour Labor Law, C.A. No. 444, as amended); the Blue Sunday Law; the Woman and Child Labor Law (R.A. No. 679, as amended); the National Apprenticeship Act, (R.A. No. 1826, as amended); the Private Employment Agency Law (Act No. 3957); National Employment Service Law (R.A. No. 761); Termination of Employment Act (R.A. No. 1052, as amended); Industrial Safety Act (C.A. No. 104, as amended); and Emergency Medical and Dental Treatment Law (R.A. No. 1054).

The welfare legislations are the Workmen's Compensation Act, (Act No. 3428, as amended); Employer's Liability Act (Act No. 1874); the Social Security Act (R.A. 1161); and the Government Service Insurance Act (C.A. No. 186).

This survey includes all cases decided by the Highest Tribunal in 1964, relating to all the laws aforementioned. The purpose of this survey need not be emphasized here for it is already of notice that apart from Congress which enacted these laws, the Supreme Court is the other governmental institution that lays down pathways that lead to greater and ampler protection to the laborers. Apropos the field of labor legislation, the Supreme Court has developed precepts that govern the application and interpretation of these humanitarian laws. As our system of jurisprudence in the Philippines partly relies on precedents, there appears a need for a paper that compiles, topically arranges and relates new rulings to previous *dicta* of the Supreme Court.

In 1964, the Supreme Court was asked to decide mostly cases that involved the Workmen's Compensation Act and the Social Security Law. The decisions of the Court for the year reiterated mostly the old rulings and in some cases held as compensable injuries and illness which before the Court had not the opportunity to decide.

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Also in the light of old doctrines, claims for compensation under the Workmen's Compensation Act, were allowed. In some cases, relatively new doctrines were enunciated.

I. CONSTRUCTION OF THE WORKMEN'S COMPENSATION ACT

The Act is to be liberally construed to effectuate the legislative purpose and prevent the circumvention of the same; and doubts as to the coverage of its terms are to be resolved in favor of employee protection.[1] Consequently, the Court has always made it as a matter of policy "to construe the Workmen's Compensation Law liberally as to resolve every fair and reasonable doubt in favor of the workman." [2] Thus, the Supreme Court in *Batangas Transportation Co. v. Perez, et al.*,[3] held that "this Court has always ruled that the Workmen's Compensation Act, being a social legislation designed to give relief to workmen, must be liberally construed to obtain the purpose for which it has been enacted."

II. EXISTING EMPLOYMENT RELATION NECESSARY FOR COVERAGE

Under the Workmen's Compensation Law, in order to hold an employer liable for compensation as provided in the Act, there must be an employment relation within the coverage of said Act. Proof of such relation is necessary, for "employers, when faced with compensation claims, have often contended that they have no employment relation with the claimant, either because the relation is of a different nature, such as independent contractorship or lease or partnership, or because such relation obtains with respect to someone else, who is therefore the employer liable." [4]

The Court, in discerning the presence of an employer-employee relationship uses some determinants. Hence, in the case of *R. F. Sugay and Co., Inc. v. Reyes, et al.*,[5] the Supreme Court held that R. F. Sugay and Company, is the statutory employer of the claimants as "the decisive elements showing that it is the employer are present, such as selection and engagement; payment of wages; power of dismissal and control." In this case, claimants Pablo Reyes and Cesar

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[1] Perfecto V. Fernandez and Camilo D. Quiason. *Labor Standards and Welfare Legislation*, Manila, (1946), p. 408.

[2] Vergara v. Pampanga Bus Company, Inc., 34 O.G. 635.

[3] G.R. No. L-19522, August 31, 1964. See also: Eneria v. Atlantic Gulf and Pacific Co., Inc., 40 O.G. 4020, 4021, 4026; Industrial Commission v. Corum Hospital, 126 Colo. 358, 250, 2nd, 1952.

[4] Fernandez and Quiason, *supra*, p. 414.

[5] G.R. No. L-2045, December 28, 1964. The ruling in *Viana v. Alejo-Alagadan*, et. al., G.R. No. L-8967, May 31, was reiterated in this case.

Curata suffered burns of various degrees while painting the building of the Pacific Products, Inc. resulting in their temporary disability from work. R. F. Sugay and Co., Inc. and the Pacific Products, Inc. both denied liability each alleging that it is the other who is liable.

III. REQUISITES OF COMPENSABILITY

The Workmen's Compensation Act provides: "When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the persons hereinafter specified. The right to compensation as provided in this Act shall not be defeated or impaired on the ground that the death, injury or disease was due to the negligence of a fellow servant or employee, without prejudice to the right of the employer to proceed against the negligent party." [6]

Under the Act, therefore, the substantial requirements for compensability are that:[7] (1) there must be a compensable harm, and (2) connection between the harm and employment. Classified under the category of physical harm are personal injury or sickness. In the case of personal injury, it is required that it be the result of "an accident" in order to be compensable.[8] The Act does not define the term "physical injury." Early views on personal injury concerned some definite organic injury taking place suddenly and traceable to a single event.[9] A broader conception of the term [10] is manifested in the Burns [11] case, to wit: "In common speech the word 'injury,' as applied to a personal injury to the human being, includes whatever lesion or change in any part of the system produces harm or pain or a lessened facility of the natural use of any bodily activity or capability."

A. COMPENSABLE INJURIES

An injury to be compensable must not only come within the ambit of the term "physical injury" [12] as used in the Act, it must likewise be "arising out of and in the course of employment." [13]

[6] Section 2, Act No. 3428, as amended.
[7] Fernandez and Quiason, *supra*, p. 452.
[8] *Ibid.*
[9] Horovitz, 41 Neb. L.R. 6. See also: Izar v. Spencer Kellog & Sons (Phil.), 40 G. 4th Supp. 167.
[10] Fernandez and Quiason, *supra*, p. 483.
[11] 218 Mass. 812, 105 N.E. 601, 603, (1914).
[12] Sec. 2, Act No. 3428, as amended.
[13] *Ibid.*

This must be, because as earlier noted, one of the substantial requirements for compensability is a "connection between the harm and the employment." [14] The scope of the condition that the injury must be "arising out of and in the course of employment" is not well defined. While no one denies that an injury which results from the main work for which the employee is hired is compensable,[15] there may be injuries that do not fall squarely with the principal purpose of the employment but which cannot, at the same time, be totally excluded from the coverage. Injuries that "arise out of" something secondary or incidental to employees' work have been considered by the Courts as compensable.[16] Hence, injuries that arose from incidents created by the employer as "allowing sports to be played on the premises" [17] or subsidizing softball, bowling, or other teams to compete with rivals,[18] whether day or night, may be considered "incidents" of the employment; and injuries during such play have been held to "arise out of" the employment and thus are compensable.[11]

Thus, in the case of *Republic of the Philippines v. Amil, et al.*[20] the Supreme Court in deciding the issue of whether the injury suffered by an employee while playing basketball in the premises of the offices, promoted by the Bureau of Public Highways where claimant was employed, during office hours, is compensable as "arising out of and in the course of employment," found in favor of the claimant. The Court through Justice J. B. L. Reyes, held: "this is not a case of an employer passively permitting the use of space or equipment by his employees on their own free time and for their own purposes and amusement but of an employer actively promoting competitive games during working hours, as a matter of policy, thereby voluntarily increasing the changes of injury to the employees, in order to improve labor relations, build up good will for common benefit, lessen friction, and avoid excessive labor turnover. Consequently, the participation in the games could legitimately be regarded as an incident in claimant's employment, and his injury in the course thereof becomes compensable." [21]

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[14] See note 7.
[15] Samuel B. Horovitz, *Phil. Law Journal,* Vol. 37, No. 4, p. 528.
[16] *Ibid.*
[17] University of Denver v. Nemeth, 127 Colo. 385, 257 P. 2d 423, (1953), 12 NACCA L.J. 79; Geary v. Anaconda Mining Co., 120 Mont. 485, 188 P. 2d 185 (1947), and other cases cited in the article of Horovitz, 37 *Phil. Law Journal,* No. 4, p. 509.
[18] Turner v. Willard, 154 F. Supp. 352 (S.D.N.Y., 1956); Jewell Tea Co. v. Steel and Alloy Tank Co., 34 N.J. 300, 168 A. 2d 809 (1961).
[19] Horovitz, *supra,* pp. 509, 510.
[20] G. R. No. L-20137, March 31, 1964.
[21] See also: Larson, *Workmen's Compensation,* Sec. 22.00; Ott v. Industrial Commission, (1948) 82 N.E. 2nd 137, and cases cited; Tomas v. Proctor and Gamble Mfg., Co., 6 ALR 1145; Turner v. Willard (1956), 154 Fed. Supp. 352.

B. COMPENSABLE DISEASES

The Workmen's Compensation Act considers *personal* injury as separate category of harm from that of *illness*. However, as defined by the Act, the term "injury" or personal injuries" includes sickness, while the terms "injury," "personal injuries" or "sickness" includes death produced by the injury or sickness.[22] Under the Act, therefore, sickness is compensable: (1) as personal injury from accident arising out of and in the course of employment; (2) as illness directly caused by the employment; (3) as aggravated by the nature of the employment; or (4) as the result of the nature of employment.[23]

The cases decided by the Supreme Court in 1964 illustrate these four situations under which an illness is compensable under the Workmen's Compensation Act.

1. *As personal injury from accident arising out of and in the course of employment*

An injury is said to arise in the course of employment when it takes place within the period of his employment, at a place where the employee reasonably may be, and while he is fulfilling his duties or is engaged in doing something incidental thereto.[24] So that the Supreme Court held in the case of *People's Homesite and Housing Corporation v. Workmen's Compensation Commission, et al.*,[25] that when the deceased employee suffered injury resulting in his death within the premises of his employer and while he was fulfilling his duties as checker, the conclusion is inescapable that such injury arose in the course of his employment. In this case, the deceased was employed as checker by petitioner. In the afternoon of July 10, 1956, while checking the cement that was being loaded on a truck, the deceased and one co-employee engaged in a heated argument which developed into a fist fight between them. In the course thereof, the deceased was hit on the eye and fell to the ground on his back, his head hitting a hollow block. He died due to "toxemia II to abscess of the brain and bad sore." Contrary to the claim of the employer that the injuries resulting to the employee's death could not be regarded as having arisen out of, and in the course of his employment, the Court citing the case of La Mallorca Taxi v. Guanlao *et al.*,[26] allowed compensation.

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[22] Section 39 (1), Act No. 3428, as amended.
[23] Fernandez and Quiason, *supra*, p. 483.
[24] Larson, *Workmen's Compensation Law*, 1953, p. 193.
[25] G.R. No. L-18246, October 30, 1964.
[26] G.R. No. L-8673, January 30, 1957. In this case Guanlao was shot to death by a co-employee who had deeply resented the former's hiding the soup belonging to the latter. The Commission held that his death is compensable.

2. *Illness directly caused by the employment*

Where illness is directly caused by the employment, regardless of the nature of the work, the injury is compensable. The test is attributability of the disease to the employment. As long as there is a reasonable showing or a sound basis for an inference that the disease was due to the employment, its compensability is upheld.[27]

Hence, tuberculosis contracted by a train station worker is compensable as held by the Supreme Court in the case of *Vda. de Acosta et al. v. Workmen's Compensation Commission, et al.*[28] The Court stated that "where the claimant contracted tuberculosis while employed and the nature of his work exposed him to any and all kinds of weather and even under adverse conditions, be it sunny, rainy or stormy, as extreme cold or heat, rains, dews because he goes to work early in the morning and plenty of dust carried by passing and arriving trains during dry season, especially by the Ilocos Express train, such illness is compensable."

Another reiteration of the doctrine that when the illness is directly caused by the employment, such is compensable was made by the Supreme Court in the case of *Central Azucarera Don Pedro v. Agno, et al.*[29] Here the Court held that the illness of the claimant is compensable considering the fact that the work of the respondent consisted in overhauling four centrifugal machines, checking the proper functioning thereof, and with the aid of assistants, involved lifting of heavy parts of these machines in repairing them. He performed other similar work for eight hours daily. The place of work was very warm although equipped with blowers.

Also, in the case of *Manila Railroad Co. v. Workmen's Compensation Commission, et al.*,[30] where the deceased was employed as trackman in the Manila Railroad Company and his daily work consisted in cutting grasses and weeds covering the tracks, changing railroad ties, raising rails, exposed him to the elements and while performing his usual work he was overtaken by rain as a result of which he became sick and later died of pneumonia, the Court decided that an award is justifiable. The Court said that "although pneumonia is not an 'occupational disease' [31] it cannot be denied that

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[27] Fernandez & Quiason, *supra*, p. 488.
[28] G.R. No. L-19772, October 21, 1964.
[29] G.R. No. L-20420, October 22, 1964.
[30] G.R. No. L-19377, January 22, 1964.
[31] An occupational disease is one "which results from the nature of the employment, and by nature is meant conditions to which all employees of a class are subject and which produce the disease as a natural incident of a particular occupation, and to attach to that occupation a hazard which distinguishes it from the usual run of occupations and is in excess of the hazard attending employment in general." (Goldberg v. 954 Marcy Corp., 12 N.E. 2d 311).

the disease was contracted when the deceased was working and was overtaken by rain. When he contracted the disease, he was well on the course of his employment as he was doing then his usual daily chore and so it is but fair that he be compensated."

3. *Aggravated by the nature of the employment*

Where a disease arose out of an employment as an *aggravation* of a pre-existing disease, it is deemed compensable.[32] The rationale behind the doctrine that aggravation of pre-existing disease or defect is compensable lies in the fact that "employers take workmen 'as is' "[33] without any warranty as to any previous state of health, whether known or unknown. Hence, it is no longer necessary to show that the injury was the sole cause of the disability, or that the work was the sole cause of the personal injury. Neither original causation nor direct causation is essential. It is sufficient if the work precipitated, aggravated or accelerated the condition or if it was a contributing factor in the personal injury or the disability.[34]

Consequently, our Supreme Court has consistently held that aggravation of a pre-existing disease is compensable. And again in the case of *Batangas Transportation Co. v. Perez, et al.*,[35] this doctrine was given recent affirmation. The Court said, "but even assuming that the causal relation between the accident and the disease is not clear as the petitioning company thinks it is, the claimant may still be allowed to recover on the theory that the nature of his employment definitely aggravated the injuries which respondent sustained on account of the accident, and hastened the attack of the disease."

In the case of *Manila Railroad Co. v. Workmen's Compensation, et al.*,[36] the claimant was a trackman of the MRR. The nature of his work exposed him to the sun, heat, rain and stormy weather, night and day. He contracted pulmonary tuberculosis and was retired from service. The company, confronted with the claim for compensation interposed the defense that "if ever the claimant contracted pulmonary tuberculosis, it was due to his poor diet, sanitation, health, debility and lack of the due care in the protection of his body against diseases like TB and not due to his employment in the respondent company x x x." In holding Pineda's disability as compensable the Supreme Court relied on the Commission's finding

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[32] Fernandez and Quiason, *supra*, p. 492.

[33] Shephard v. Michigan National Bank, 348 Mich. 577, 584, 83 N.W. 2d 614, 616 (1957). "Every worker just as he brings with him to the job some strength, he brings some weaknesses. None is perfect."

[34] Horovitz, *supra*, p. 496.

[35] G.R. No. L-19522, August 31, 1964.

[36] G.R. No. L-19773, May 30, 1964.

that: "considering the nature of claimant's work as a trackman, we are constrained to hold the present claim compensable on the theory that his illness was aggravated by it not the result of the nature of his employment. The nature of claimant's work, which we find very strenuous and tiresome, and his continuous exposure to various elements in the performance of his job, had undoubtedly joined forces to affect a massive and violent attack upon his health, thereby lowering his vitality and reducing its resistance against the attack of TB germs." [37]

4. *As a result of the nature of employment*

It has always been held by our Supreme Court that where the illness results from the nature of the employment, as in the case of virtually all occupational diseases, the resulting harm is compensable.[38] An occupational disease is one "due wholly to causes and conditions which are normal and constantly present and characteristic of the particular occupation." [39] In Philippine jurisprudence there are cases [40] wherein tuberculosis is held as "occupational disease," hence, compensable.

The Supreme Court, in line with the numerous cases wherein tuberculosis is held as "occupational disease," held in the case of *Peter Paul Philippine Corporation v. Workmen's Compensation Commission, et al.*,[41] that "considering the nature of the work of the claimant which is to open the shells of coconut and separate the meat therefrom by means of a knife and the way his wage is fixed which is depending on the number of kilos of coconut meat he could shell within his regular hours of employment, for which he has to exert more effort than a laborer who is not paid on "pakiao" basis

[37] On a similar case, which the Court quoted in the present case, it was said: "x x x We agree with respondent Commission that the strenuous work performed by the deceased worsened the condition of his disease. The fact that he was found to be suffering from lack of nourishment upon examination by petitioner's physician on June 5, 1954, and that he was living in a small and crowded room are not themselves conclusion as causing the aggravation of his illness. If at all, they are merely contributory (not primary) factors, and could not counteract the established fact that the nature of his employment as petitioner's trackman, required him to perform strenuous work day and night as the exigencies of service required the same, exposing himself to the elements thereby aggravating his illness, which he undoubtedly contracted in the course of his employment by petitioner, x x x." *Manila Railroad Co. v. Ferrer & WCC*, L-15454, September 30, 1956.

[38] Fernandez and Quiason, *supra*, p. 489.

[39] Seattle Can Co. v. Dept. of Labor, 265 p. 741.

[40] Plywood Industries, Inc. v. WCC, G.R. No. L-18165, May 30, 1962; PANTRANCO v. Gatdula, G.R. No. L-16490, June 29, 1963; Itogon-Suyoc Mines v. Dulay, G.R. No. L-18974 September 30, 1963; Blue Bar Coconut Co. v. Lumod, G.R. No. L-12593, April 17, 1959; Buenaflor v. de Leon, G.R. No. L-7583, May 25, 1955; also, Garduke v. Antamok Goldfields Mining Co., 40 O.G. Supp. No. 14, p. 1; Atlantic Gulf, etc. v. Baltazar, G.R. No. L-1767, April 19, 1954.

[41] G.R. No. L-19612, July 30, 1964.

if he wants to increase his daily income, the conclusion that the work of claimant was taxing and as such it heavily worked against his strength and vitality is fair and reasonable. Such inroad into his physical strength and vitality must have contributed to the deterioration of his resistance thereby sapping his strength to the point of contracting tuberculosis." Under these circumstances, the Supreme Court found that the claimant's illness of PTB was a result of the nature of his work and is therefore compensable.

In another case, *Manila Railroad Company v. Vda. de Chavez, et al.*,[42] the Court noted with the Workmen's Compensation Commission, that "considering the size of the shelter wherein the deceased had to stay for eight hours during his tour of duty, we can imagine that it could hardly afford him any protection against the elements, especially required him to stay at his post, rain, shine or storm and to stay awake at night practically two-thirds of the 45 days rotation period." There is doubt, said the Court, that the work of the deceased which merely involved the raising and lowering of the crossing bar several times a day was not strenuous. However, the presence of such conditions in his employment, if considered, would be contributory causes to his illness.

C. COMPENSABLE AND NON-COMPENSABLE DEATHS

In determining the compensability of the death of an employee or laborer, the same rules of causality governing injury and disease apply.[43] In other words, death must also "arise out of and in the course of employment." The question of whether a personal ministration is within the Act's coverage as "arising out of and in the course of employment" and therefore injury or death results therefrom is compensable, has been resolved in many cases by the Supreme Court. It is now settled that the course of employment is not broken because of the acts of ministration by an employee to himself, such as quenching his thirst, relieving his hunger, getting fresh air, etc.[44]

The case of *Luzon Stevedoring Co., Inc. v. Workmen's Compensation Commission*,[45] added one more act of ministration that if death occurs during the doing of such act it is compensable. In this case, the deceased was employed as a sailor on a barge of the Luzon Stevedoring Company. His duty required him to stay in the barge for

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[42] G.R. No. L-20103, September 30, 1964.
[43] Fernandez and Quiason, *supra*, p. 552.
[44] *Ibid.*, p. 570.
[45] G.R. No. L-19742, January 31, 1964.

twenty-four hours. On September 11, 1956, when Cordero was alone in the barge, he went swimming with some companions. Two days after, his body was found floating in the Pasig River. He died of asphyxia as a result of drowning. The company contested the decision on the ground that there was no causal connection between Cordero's death and his employment as sailor. The Court *held* that, "while in the strict sense death caught up with Cordero when he was not in the barge where he was supposed to be for 24 hours watching and taking care of it but swimming with some companions somewhere in the Pasig river near the place where the barge was moored, it may be said that he died in line of duty for he was then undertaking something that is necessary to the human body. He went swimming not for pleasure, not for fun, but in answer to the daily need of nature, in the same manner as a human being needs to answer other calls, such as eating, sleeping and the like. When these needs are satisfied in the course of employment and something takes place that may cause injury, harm or death to the employee or laborer, it is fair and logical that the happening be considered as one occuring in the course of employment for under the circumstances it cannot be undertaken in any other way."

However, the *death of an employee which occurred while he was presiding a union meeting was held not "arising out of and in the course of employment,"* as was the case in *A. L. Ammen Transportation Co. Inc. v. Workmen's Compensation Commission.*[46] In this case, the deceased Agripino Jacob was employed as a line inspector by petitioner transportation company. He was at the time of his death the incumbent president of the Bicol Transportation Employee Mutual Aid Association, an organization which is entirely independent of the company and wherein the latter had nothing to do with its internal affairs. He was then on leave of absence thru a request duly approved by the company and when on October 11, 1960 at about 3:00 p.m., he attended a meeting of the Board of Directors and Officers of the Association, he was attacked by a co-employee with a bolo causing his death on the next day.

The Court held in this case that "considering the philosophy behind the requirement that to be compensable the death must occur while the worker is performing some work in the course of his employment or doing something arising out of his employment, the authorities are to the effect that to come within the purview of such requirement three things must occur: the injury must be received during the period covered by the employment, the worker must be

[46] G.R. No. L-20219, September 28, 1964.

shown to have been injured at the time and place where the performance of his work requires him to be, and the worker must have been doing something in pursuance of his work.[47] And so it has been held that a wound received by a worker outside the performance of his duties and in a place other than where the performance of his work requires him to be is injury not "arising out of or in the course of his employment." [48] In the present case, these requirements are not present for admittedly the deceased when assaulted was not performing any work in pursuance of his duties and was neither in the place where his work required him to be, but was at the time presiding a meeting of a labor association the internal affairs of which are entirely independent of the company where he was then employed.

It was also noted by the Court, that in the instant case, the deceased was on leave of absence, a fact which would be a clear proof that he was not then performing his usual duties as inspector nor doing anything in relation thereto, to come within the purview of the phrase "arising out of and in the course of employment."

IV. DISABILITY BENEFITS

Medical attendance, period and amount due—The questions of how much will be paid by the employer for medical services and for how long such liability for payment subsists, have been, in many cases, decided by the Supreme Court as to extend as long as the disease is not arrested.[49] Indeed, it was ruled in one case that "medical attendance is owing as long as the employee is sick of a compensable illness and this duty is not ended when employment terminates." [50]

The doctrine embodied in these cases was reiterated in the case of *Cebu Portland Cement Co. v. Workmen's Compensation Commission, et al.*[51] In this case Uldarico Reyes, by a decision of the Commission, was awarded ₱1,742.33 for medical expenses from October 1, 1950 to August 30, 1958, in addition to a disability compensation amounting to ₱2,995.20. The award was fully satisfied by the company. On May 20, 1960, the claimant filed a petition with the regional office in the same case for payment of medical expenses, claiming that he was still under treatment for the same ailment and

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[47] Batangas Transportation Co. v. Rivera, et al., G.R. No. L-7658, May 8, 1956; citing Larson, *Workmen's Compensation Law*, 1952, p. 193; Murillo v. Mendoza, 66 Phil. 689.

[48] Sunga v. City of Manila, 57 Phil. 689.

[49] La Mallorca-Pambusco v. Isip, G.R. No. L-16495, Oct. 19, 1961.

[50] Itogon-Suyoc Mines Co. v. Dulay, G.R. No. L-18974, September 30, 1963.

[51] G.R. No. L-19164, February 29, 1954.

had availed of medical services and incurred expenses amounting to ₱3,821.30. The Regional Hearing Officer allowed the claim and the Commission affirmed his decision. The issue in this case is whether the respondent employer may still be required to pay for medical expenses incurred by the claimant for the period starting September 1, 1958 to December 31, 1959. The Supreme Court held: "It may be observed that the law, in imposing on the employer the obligation to provide *medical attendance* to an injured or sick employee, unlike those provisions relating to compensation for *disability* does not provide a maximum either in the amount to be paid or the time period within which such right may be availed of by the employee. On the contrary, the law imposes on the employer the obligation to 'provide the employee with such medical, surgical, and hospital services and supplies as the nature of the injury or sickness may require.' The implication is that such medical expenses as may be necessary until the work-connected injury or sickness ceases, may be charged against the employer.

In construing the compensation act's provision requiring the employer to furnish medical, surgical and hospital services 'reasonably required to cure or relieve the employee from the effects of the injury,' it was held that 'in the absence of expenses statutory authority, this court is powerless to place a definite limitation upon the time such medical, surgical and hospital services shall be rendered in a particular case. This was based on the theory that workmen's compensation acts are a human law of remedial nature, and wherever construction is permissible, their language should be liberally construed in favor of the employee.

In a case cited by the Court (Florczak v. Ind. Comm., 187 N.E. 137, 353 Ill. 190, 88 A.R.L. 1188), it was said by the Supreme Court of Illinois that "Acts not containing any limitation as to the period during which the employer may furnish or pay for medical, surgical, or hospital services have been construed as imposing liability on the employer as long as such services are required to cure or relieve the injured employee from the effects of his injury."

V. COVERED EMPLOYERS

In order to claim compensation under the Workmen's Compensation Act, the employee must show, among other things, that a particular employer [52] is accountable for compensation under the Act. And to claim compensation against employers owning small indus-

[52] See Sec. 39, Act No. 3428, as amended.
[53] See Sec. 42, Act No. 3428, as amended.

tries,[53] the employee, to prove that his employer is liable under the Act, must show that (1) the business is an industrial in nature, (2) it must be capitalized at not less than ₱10,000, or (3) the enterprise employs six or more persons or (4) the nature of the work must be hazardous or deleterious to employees.[54] The Act enumerates what enterprises are hazardous or deleterious.[55] To resolve the issue whether an employer owning a small industry is liable under the Act to pay compensation to his employee for covered disability, resort must be made to Section 42 of the Act. If despite the capitalization, one of the circumstances enumerated therein that make the work hazardous or deleterious to the employee, is present, the employer is liable.

Thus, in the case of *Paulino v. Rosendo, et al.*,[56] the Court held that Paulino is liable for payment of compensation to the heirs of his deceased employee in spite of the fact that his business is a small industry under the contemplation of the Act. In this case, the business of Paulino was transporting watermelon bought in Pangasinan and selling them wholesale by the truckload in Manila for profit. A 6 x 6 cargo truck was used to carry watermelons. The deceased was a guard in Pangasinan warehouse of Paulino and while on duty he was shot at and killed. Paulino claimed that he is not covered by the Workmen's Compensation Act and thereby not liable to pay the indemnity as his capital is below ₱10,000.00 and it was not hazardous.

The Supreme Court in holding Paulino liable stated: "With respect to the point that petitioner is not covered by the WCA because of its capitalization, it is sufficient to point out the fact that a truck was used in the business of transporting the watermelons from Pangasinan to Manila. Hence, this makes it hazardous."

The Court cited the case of Paez v. WCC,[57] where it was held that although the business of buying and selling of palay is not itself hazardous, but when in engaging in the business motor vehicles were used to transport the goods, that business became inherently hazardous and dangerous.

VI. PERSONS ENTITLED TO DEATH BENEFITS

The rule is that those able to show a status of dependency upon the deceased employee, as required by the Act,[58] are entitled to death

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[54] Fernandez and Quiason, *supra*, p. 444.
[55] See note 53.
[56] G.R. No. L-20484, November 28, 1962.
[57] G.R. No. L-18438. March 30, 1963.
[58] Section 9, Act 3428, as amended.

benefits.[59] Under Section 9 of the Act, three groups of persons are entitled to show dependency for this purpose: (1) the widow or widower; (2) relatives on the direct line; and (3) collateral relatives up to the second degree.[60] The Act entitles the mother, being an ascendant in the direct line to the benefits provided it is shown that she is "totally or partly dependent upon the deceased." [61]

In the case of *Jueco v. Flores*,[62] the question of whether the deceased's mother is entitled to the death benefits was raised. The Supreme Court held that the "fact that the son was sometimes out of work did not alter the status of total dependency upon him, for the reason that he was the mother's sole bread-winner. In determining whether dependency is total or partial, test is the extent thereof at the time of the death of the workman.

VII. CONDITIONS OF ENTITLEMENT

Section 24 of the Workmen's Compensation Act [63] sets the following conditions precedent which must be complied with in order to be able to enforce a claim for compensation: (1) notice of injury; (2) timely filing of claim; and (3) submission to medical examination. These matters, when wanting, are affirmative defenses available to the employer to defeat the claim.[64]

1. *Notice of injury*

The Act requires a prompt ("as soon as possible") notice of the injury or illness. The reason behind the requirement that prompt notice be given of the sickness or death by the employee or his dependents to the employer is in order that the latter may take necessary steps to protect his interest, which purpose may not be attained if notice is unreasonably delayed.[65]

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[59] Fernandez and Quiason, *supra*, p. 627.
[60] *Ibid.*
[61] Section 9, Act 3428, as amended.
[62] G.R. No. L-19325, February 28, 1964.
[63] *Notice of the injury and claim for compensation.*—No compensation proceeding under this Act shall prosper unless the employer has been given notice of the injury or sickness as soon as possible after the same was received or contracted, and unless a claim for compensation was made not later than two months after the date of the injury or sickness, or in case of death, not later than three months after death, regardless of whether or not compensation was claimed by the employee himself. Such notice may be given and such claim made by any other person in his behalf. In case medical, surgical, and hospital services and supplies have been furnished voluntarily by the employer, notice of the injury or sickness within the time limit above mentioned shall not be necessary, and if the employer has voluntarily made the compensation payments, the claim for compensation to be made within the time limits above established shall no longer be necessary. (Section 24. Act No. 3428, as amended.)
[64] Fernandez and Quiason, *supra*, p. 636.
[65] Central Azucarera Don Pedro v. de Leon, G.R. No. L-9449, July 24, 1959.

The failure to give notice of injury, as held in the case of *Manila Railroad Co. v. WCC et al.*,[66] bars recovery of compensation. In this case, Jesus Binosa died of pulmonary tuberculosis eleven months after he stopped working. More than 3 months thereafter, or on January 22, 1959, his widow filed a claim for death benefits. This was not allowed on the ground that the records of the case failed to show that the illness of which the deceased had died arose out of and in the course of such employment. On November 3, 1959, the widow filed a formal complaint for death compensation, to which the Manila Railroad Company filed an answer alleging among others that the claim had already prescribed in view of the provision of Section 24 of the Workmen's Compensation Act. The issue that was presented to the Supreme Court to resolve is whether the Workmen's Compensation Commission had jurisdiction over the claim, considering that the same was filed more than three months after the death of employee concerned.

The Supreme Court held that for non-compliance with the requirements of Section 24 of Act 3428, the claim for compensation is already barred. The Court quoted its decision in Luzon Stevedoring Co. v. Cesar de Leon, *et al.*, G.R. No. L-9521, November 28, 1959, where it was held that this Section establishes a condition precedent to the maintenance of any compensation proceeding under the Act. It requires previous notice of the injury or sickness as well as previous claim for compensation x x x."[67]

However, *actual knowledge* by the employer of the illness or injury of the claimant, has been held in many cases[68] as sufficient excuse for want or delay of notice. Thus in *MRR v. Vda. de Chavez, et al.*,[69] the Supreme Court *held:* "The company had actual knowledge of the illness of Chavez and his death as well as of the cause thereof, and, hence, the absence of a formal notice of either cannot exempt the company from its liability under the Workmen's Compensation Act. Moreover, the company failed to report to the Workmen's Compensation Commission, within the period set forth in Section 45 of the said Act, the aforementioned illness and death of Cha-

[66] G.R. No. L-18264, May 26, 1964.

[67] *See also the following for reiterations of the ruling:*

(1) Manila Railroad Co. v. WCC, L-18388, June 28, 1963; Pangasinan Transportation Co., Inc. v. WCC, L-16490, June 29, 1963.

(2) Luzon Stevedoring Co., Inc. v. WCC, L-19742, Jan. 31, 1964, although here it was held that the requirement of Section 24 was substantially satisfied by the fact that the employer was actually notified of the death of the employee three days thereafter (although no formal claim was filed) and was asked to extend financial aid to the latter's family.

[68] Central Azucarera Don Pedro v. de Leon, G.R. No. L-9449, July 24, 1959; PANTRANCO v. WCC, G.R. No. L-16490, June 29, 1963; Luzon Stevedoring Co. v. de Leon, G.R. No. L-9521, Nov. 28, 1959.

[69] See note 42.

vez and consequently, it is deemed to have renounced the right to controvert the corresponding claim for compensation.

2. *Timely filing of claim for compensation*

The Workmen's Compensation Act, specifically Section 24, is explicit that no compensation proceeding shall prosper unless a claim for compensation is made not later than two months after the date of the injury or sickness, or in case of death, not later than three months after death regardless of whether or not compensation was claimed by the employee himself. This is also a condition precedent, therefore failure to present it within the legal time limit is fatal.[70]

As failure to file a claim for compensation is fatal to the claim, it is imperative to determine the time when to start counting the two-month or three-month period within which the claim for compensation shall be filed. The case of *Peter Paul Corporation v. Workmen's Compensation Commission, et al.*,[71] is instructive on this point. In this case the Supreme Court held that the two-month period within which a claim for injury or sickness is required to be filed should be counted from the date when the disease or illness becomes compensable, or from the date the employee becomes physically disabled to work. In this case, this happened on March 24, 1954, when the employee was separated from the service but the employee filed his claim nearly a year thereafter. Hence, his claim was filed beyond the legal limit prescribed by law.

It is to be noted that the above ruling is a restatement of the decision in Libron v. Binalbagan Estate,[72] where it was held that "the fact that the law requires that a notice of the injury shall be presented within a reasonable time and that the claim for compensation shall be presented within two months after the date of the injury, indicates that the injury must be of such a nature as to entitle the injured person to compensation. Since the injury to the plaintiff at the time of the accident was apparently unimportant and, therefore, did not warrant the filing of a claim for compensation until it became evident that the plaintiff was in imminent danger of losing the sight of the injured eye, he could not exercise his right to claim compensation within two months from the date of the accident. This right accrued and became available when he finally learned that he had lost the sight of one of his eyes."

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[70] PANTRANCO v. WCC, G.R. No. L-16490, January 30, 1964, citing Luzon Stevedoring Co. v. WCC, June 28, 1963 and 78 ALR 1294.

[71] See note 41.

[72] G.R. No. L-41475, July 27, 1954.

Oral demand, however, is deemed sufficient compliance under Section 24 of the Act. Thus in *National Development Co. v. Workmen's Compensation Commission,*[73] the petitioner's claim that Tivar's right has already prescribed is untenable. The facts stated heretofore clearly show that the provision of Sections 24 of Act 3428 has been substantially complied with. The oral demand for compensation made by Tivar sometime in April, 1963, hardly a month after he was laid off, constitutes such substantial compliance. It is, therefore of little consequence in connection with petitioner's defense of prescription—that the written claim for compensation was filed much later.

In some instances [74] filing of claim for compensation was deemed not necessary after a demand for financial aid has been made. In *Luzon Stevedoring Co., Inc. v. WCC, et al.,*[75] we find this exception applied. In this case, although the claim was filed, beyond the three-month period, as Cordero died on September 11, 1956, and under the law the heirs of the deceased had until December 11, 1956 to file the claim for death benefits, but the widow filed her claim on January 31, 1958, the WCC nevertheless granted the claim, for it appears that the president of the Union of deceased had taken immediate steps to inform the management of the incident while he asked that financial aid be extended to the bereaved family. The requirement that the claim be presented within a three-month period from death may be deemed to have been complied with, considering the fact that the company cannot claim ignorance of what has actually happened.

x x x The request for financial aid can be considered *as advanced filing of claim in contemplation of law* for then the company cannot plead surprise in the preparation of its defense, this being the only tenable reason for requiring an early filing of the claim on the part of the employee or heirs of the deceased. This is especially so taking into account that under Section 44 of the same Act it is presumed that the claim was within the provision of the Act and that sufficient notice hereof was given.

Notice of Injury cannot be substituted for claim for compensation.

This rule was enunciated in the case of *Pangasinan Transportation Co. v. Workmen's Compensation Commission, et al.*[76] In this case, "it is not disputed," says the Workmen's Compensation Commission, in its decree appealed from, "that the notice of injury or

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[73] G.R. No. 18922, November 27, 1964.
[74] Saulog v. del Rosario, G.R. No. L-11504, May 23, 1958.
[75] See note 45.
[76] G.R. No. L-16490, January 30, 1964.

sickness and claim for compensation was filed by the claimant only on September 2, 1957 or *more than two (2) years* from January 23, 1955, the day he stopped working for the respondent. Nevertheless, the Commission concluded that the claim was still not barred because the employer-petitioner was notified of the ailment of respondent Cecilio Gadula, since it had actual knowledge thereof. The Commission was of the opinion that this knowledge sufficed to excuse the absence of timely claim under Section 27 of the Compensation Act.[77]

Petitioner points out that Section 24 of the Act clearly requires the claimant to perform two different acts: (a) notify the employer of the injury or sickness suffered by the claimant worker; and (b) file with the employer a claim for compensation within two months.[78]

The statute clearly distinguishes the notice of injury from the claim of compensation, to the extent of prescribing different periods for the filing of each. As to the *notice of injury* or sickness, the same is to be given "as soon as possible" without any fixed period. x x x. Upon the other hand, for the filing of the claim for compensation with the employer, the law allows a fixed period for two months (or three months in case of death of a workman). While not as urgent as the giving of notice of injury, the statute still sets a very short period for filing the claim in order to enable the employer to decide quickly what precautions he must take to protect his interests.

The distinction between notice of injury and claim for compensation is further emphasized by Section 24, where different excuses are allowed for each case. Delay or absence of notice of injury within the time limited is not required "when medical, surgical, and hospital services and supplies have been furnished voluntarily by the employer," while delay in filing a claim for compensation need not be made within the respective time limit "if the employer has voluntarily made the compensation payments." The last phrase in Section 25 of the Act that the notice may include the claim, plainly indicates that the two are not identical since the permissive "may" reveals that normally, "notice" (of injury) will not include the "claim" for compensation.

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[77] Sufficient notice.—Any notice given in accordance with the provisions of section twenty-five of this Act shall not be considered as invalid or insufficient by reason of any incorrectness in the statement of time, place, nature or cause of the injury or of anything else, unless it be shown that the employer has been actually misinformed respecting the injury. Failure to or delay in giving notice shall not be a bar to the proceeding herein provided for, if it is shown that the employer, his agent or representative had knowledge of the accident or that the employer did not suffer by such delay or failure. (Section 27, Act No. 3428, as amended.)

[78] See note 63.

The same diversity appears in section 26. After specifying the persons on whom "notice" is to be served, and the manner in which the same is to be given, the section adds that "the foregoing provisions shall be applicable to the procedure in connection with the "claim." Once more, the statute plainly indicates that "notice" (of injury) is not to be identified with "claim" for compensation x x x the provisions of section 27 must have been intended exclusively to the notice of injury, and do not apply to the claim for compensation.

Since it is clear that the only statutory excuse for a late claim is the making by the employer of compensation payments in part or in full (sec. 24), and since no such payments were proved to have been made in this case by the employer, Pangasinan Transportation Co. Inc., the award by the Compensation Commission is not warranted by law. The great majority of decisions in the U.S. is to the effect that failure to present a claim for compensation within the legal time limit is fatal, because its presentation in due time is a condition precedent to the compensation proceedings and of jurisdictional import (See 78 ALR, p. 1294). This court has expressed the same view in Luzon Stevedoring v. WCC, L-18388, June 28, 1963.

As already noted in the discussion above, under the Act, delay in filing the claim is excused if the employer has voluntarily made compensation payments.[79] Thus, in *Philippine Engineering Corp. v. Florentino, et al.*,[80] it was held that the late filing of Florentino's claim for compensation does not bar his right to receive compensation in view of the provision of the law to the effect that if the employer has voluntarily made compensation payments, the filing of the claim for compensation within the time provided by law shall no longer be necessary.

VII. REMEDIES

The civil remedies under the Act are in the nature of special proceedings in the Workmen's Compensation Commission for the adjudication of compensation claims and, in the event of favorable awards, in the proper Court of First Instance for the enforcement of such awards through the usual judicial processes of judgment and execution.[81]

As a rule, the employee or his dependent may resort *only* to the remedies provided by the Act for injuries covered by its provisions. Whenever jurisdictional facts are present showing coverage by the Act, the remedies therein provided are exclusive.[82] Indeed, the Act

[79] Section 49 and 46, Act 3428, as amended.
[80] G.R. No. L-16569, May 30, 1964.
[81] Sections 49-51, Act No. 3428, as amended.
[82] Fernandez and Quiason, *supra*, p. 651.

provides that "The rights and remedies granted by this Act to an employee by reason of a personal injury entitling him to compensation shall exclude all other rights and remedies accruing to the employee, his personal representatives, dependents or nearest of kin against the employer under the Civil Code and other laws, because of said injury." [83]

This prohibition against double recovery for the same compensable harm against the same employer was raised in the *Benguet Consolidated Inc. v. Social Security System*,[84] and the Supreme Court held that despite Section 5 of the Workmen's Compensation Act, social security benefits can be received simultaneously. In this case the employee of petitioner suffered an injury while in its employ, as a result of which he was unable to work. Petitioner paid said employee the corresponding disability benefits under the provisions of Section 14 of Workmen's Compensation Act. As the accident was reported to the Social Security Commission, the respondent through its Regional representative at Baguio City, requested petitioner to pay to said employee social security sickness benefits covering the same period of time for which he had been previously paid Workmen's Compensation disability benefits. Petitioner alleged that under the WCA in Section 5 it is provided that the rights and remedies granted by it to an employee by reason of the personal injury entitling him to compensation, "shall exclude all other rights and remedies accruing to the employee, his personal representatives, dependents or nearest of kin against the employer under the Civil Code and other laws, because of said injury." Petitioner therefore claimed that the demand of the SSS is invalid. The *issue*, then before the Court is whether sickness benefits under the Social Security Act may be recovered simultaneously with disability benefits under the Workmen's Compensation Act, or whether said benefits are mutually exclusive. The Supreme Court in deciding the issue, construed the cited provision of WCA to mean that "there should be no double recovery against the same employer for the same death or injury. But this is not the case in respect of social security benefits, because to allow the recovery of said benefits does not mean allowing a double recovery against the same employer. An action for recovery of sickness benefits under the Social Security Act for the employee's confinement which is compensable under the Workmen's Compensation Law, is not a recovery against the employer for sickness benefits. The fact that the law (section 14) requires that sickness benefits shall be advanced by the employer is of no moment, as the obligation of the employer to receive such benefits is only to expedite payment

[83] Section 5, Act No. 3428, as amended.
[84] G.R. No. L-19254, March 31, 1964.

of sickness benefits. Note that the employer is subsequently reimbursed by the System of the benefits advanced by him in the amounts fixed by the law. Although the employer in the case of sickness benefits bears the burden of 20% of the benefits advanced by him, since the System reimburses only 80% thereof, this burden of 20% is imposed, not as a liability because of an injury which is compensable under the Workmen's Compensation Act, but to preclude connivance in, or the filing of fraudulent claims for reimbursement. This 20% of the sickness benefits imposed on the employer is more in the nature of an administrative expense and not really a compensation for an injury.

The court noted that the legislative intent is to treat social security benefits as entirely distinct and separate from the statutory benefits provided for under the Workmen's Compensation Law. This was the intent manifested, said the Court, when Section 13 of the Social Security Law was amended on June 18, 1960, when the original provision subjecting payment of social security benefits upon the condition of non-recovery under the Workmen's Compensation Act was not revived.

It is, therefore, clear that although Congress originally subjected the payment of social security death benefits to the condition that there is no recovery under the Workmen's Compensation Act, the payment of social security sickness benefits under the present state of the Social Security Act was not made subject to that condition. This subsequent deletion of an exempting clause originally contained in the Social Security Act, is an indication to do away with the provision.

VIII. RIGHT OF EMPLOYER TO CONVERT CLAIMS

It is clear from the provisions of the Workmen's Compensation Act [85] and the Rules of the Workmen's Compensation Commission [86] that the employer may avail of his defenses, he should comply with the requirement of controversion. The act prescribes two periods for filing the *notice* of controversion, (1) within fourteen days fol-

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[85] Section 45 (par. 2), Act No. 3428, as amended. This section provides: x x x "In case the employer decided to controvert the right to compensation, he shall, either on or before the fourteenth day of disability or within ten days after he has knowledge of the alleged accident, file a notice with the Commissioner, on a form prescribed by him, that compensation is not being paid, giving the name of the claimant, name of the employer, date of the accident and the reason why compensation is not being paid. Failure on the part of the employer or the insurance carrier to comply with this requirement shall constitute a renunciation of his right to controvert the claim unless he submits reasonable grounds for the failure to make the necessary reports, on the basis of which grounds the Commissioner may reinstate his right to controvert the claim."

[86] Section 1, Rule 14, Workmen's Compensation Commission Rules.

lowing the date of *disability* (not injury or illness) if known to the employer on or before the fourth day of such disability; or (2) within ten days following the employer's knowledge thereof.[87]

So that if no timely notice or report of the employee's condition leading to his dismissal within the period prescribed by Section 45 of the Workmen's Compensation Law, has been made, the right to controvert the claim is deemed surrendered by the employer. This is the ruling in *NDC v. WCC, et al.*[88] In this case, the National Development Company failed to report the employee's condition, leading to her dismissal, within the period prescribed by Section 45 of the Workmen's Compensation Law. The Court held that the employer's failure to report the employee's condition, leading to her dismissal, within such period as prescribed by section 45 of the WCA imports a renunciation of the right to controvert the claim. The law bars all defenses available to the employer, making no exception. Hence, even the defense based on the employee's failure to file the claim in due time is now barred. It is well, to note, therefore, that while the statute speaks of "renunciation of the right to controvert the claim," what it actually prescribes is a *statutory* bar or forfeiture of the employer's right to defend under the conditions given, since the loss is imposed regardless of the actual intent of the employer. Consequently, the tolling of the right to controvert under Section 45 is not subject to the limitations of a voluntary waiver.

Under the same reasoning, the Supreme Court held that the employer, in the case of *MRR v. WCC, et al.*,[89] "having failed to controvert timely, petitioner had, by operation of law, waived or renounced the right to dispute its liability for said compensation."

Again stated in *Agustin v. WCC, et al., Inc.*,[90] "the employer's right to controvert the claim has been forfeited due to its failure to file with the Commission the notice of controversion prescribed by the second paragraph of Section 45 of the Compensation Act. The Commission recognizes in its decision the employer's failure to file the notice, but declares the forfeiture waived because the claimant raised no objections to the appearance and participation of the employer's counsel in the proceedings before the hearing officer. This view we hold to be erroneous. The forfeiture of the right to controvert is imposed by the statute as a sanction for the employer's failure to file the notice required by section 45, and is therefore, a measure of public policy designed to compel observance of the act's

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[87] Fernandez and Quiason, *supra*, p. 651.
[88] G.R. No. L-19863, April 29, 1964.
[89] G.R. No. L-19773, May 30, 1964.
[90] G.R. No. L-19957, September 29, 1964.

requirements. The protection of the claimant-laborer is here incidental. And the mere failure of claimant to object to appearance of counsel cannot purge the employer of the consequences of its refusal to file the notice required by Section 45 of the Compensation Act."

In *MRR v. Workmen's Compensation Commission, et al.*,[91] the record shows that when Mariano Canalda failed to report to work, his foreman was notified of his sickness and of his treatment. Such information, said the Court is a sufficient notice for the company to submit to the Commission the report that the law requires regarding the sickness or death of an employee or laborer. But the company failed. Because of such failure, the company is deemed to have waived its defense that the claim is not compensable.

IX. PRESUMPTION, EVIDENCE AND BURDEN OF PROOF

In proving compensability of the injury or illness under the Act there are matters which have been deemed established by presumptions which the law itself provides. Such presumptions include: (1) that the injury arose out of and in the course of employment; and (2) that an employment relation was existing at the time of the injury.[92]

Consequently, the Supreme Court, in *Agustin v. WCC, et al.*,[93] rejected the Workmen's Compensation Commission's decision that because the claimant failed to show that his sickness was due to the nature of his work, his claim for compensation should be denied. The Court said: "The view taken by the Commission does not accord with the presumption established by Section 43 of the Philippine Workmen's Compensation Act, that in all compensation proceedings it shall be presumed, 'in the absence of substantial evidence to the contrary, that the claim comes within the provisions of this Act.' This means, (as already ruled in Naira v. Workmen's Compensation Commission, G.R. No. L-18066, October 30, 1962) that 'mere absence of evidence that the mishap was traceable to the employment does not suffice to reject the claim; there must be credible showing that it was not so traceable,' [94] so that the laborer in the present case is relieved from the burden of proving causation once the injury is shown to have arisen in the course of the employment."

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[91] See note 30.
[92] Fernandez and Quiason, *supra*, p. 685.
[93] G.R. No. L-19957, September 29, 1964.
[94] See also Iloilo Dock and Engineering Co. v. Workmen's Compensation Commission, G.R. No. 16206, June 29, 1962; Batangas Transportation Co. v. Vda. de Rivera, G.R. No. L-7658, May 8, 1956.

Compensability of illness need not be proved directly

This rule which was applied in several cases [95] already by our Supreme Court was again resorted to in deciding the case of *Central Azucarera Don Pedro v. Agno and WCC.*[96] In this case it was held that "the finding of the Commission that Agno became sick during his employment, and that his sickness was traceable to the working conditions, need not be proved directly, because the finding can be inferred from facts duly established by substantial evidence. Moreover, the statutory presumption is that the claim is compensable unless the employer proves the contrary."

So that once the basic or jurisdictional facts are *prima facie* established, the statutory presumptions come into operation and the burden rests on the employer to overcome them with the degree of contrary proof required by the law.[97] This was the ruling of the Supreme Court in *Vda. de Acosta, et al. v. Workmen's Compensation Commission, et al.*,[98] where it was stated that, "Once it has been established, as in the case at bar, that the employee's death has been due to a disease and the burden is upon the employer to prove the contrary. As has been held in one case,[99] 'x x x if he was not infected before he was taken in by the company, the fact that he was stricken with the sickness, as shown by haemoptysis, is a strong indication that it was the result of the nature of his work and employment. The claimant has made out his case and the burden of proof shifted to the company. The latter must show that the lessening of the claimant's resistance was due to causes other than the nature of his work or employment such as dissipation, excesses or lack of sleep and the like."

Thus, it is untenable to urge that an award should be denied because the "claimants have not established to our satisfaction the existence of the necessary factors that would cause a workman to contract pulmonary tuberculosis, or cause its aggravation in the case of a pre-existing illness."

X. APPEAL AND ENFORCEMENT OF AWARDS

The Workmen's Compensation Act provides:[100] "x x x Hearing arising under this Act may be held before the Commissioner or any of the referees.

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[95] Blue Bar Coconut Co. v. Lugod, L-12593, April 17, 1959; and Agustin v. WCC, et al., L-19957, September 29, 1964 and cases cited therein.

[96] See note 29.

[97] De los Reyes v. Reyes, G.R. No. L-13115, February 29, 1960, *citing* Larson, *Workmen's Compensation Law*, Vol. II, p. 232.

[98] See note 28.

[99] Blue Bar Coconut, et al., v. Boo, 53 O.G. pp. 3471, 3474.

[100] Section 46, Act No. 3428, as amended.

Any party in interest who is dissatisfied with order entered by the referee may re-open said case, or may amend or modify said order, and such amended or modified order shall be a full award unless objection be made thereto by petition for review. In case said referee does not amend or modify said order, he shall refer the entire case to the Commissioner, who shall thereupon review the entire record in said case, and, in his discretion, may take or order the taking of additional testimony, and shall make his findings of facts and enter his award thereon. The award of the Commissioner shall be final unless a petition to review same shall be filed by an interested party. x x x"

The same Act in Section 46 provides: "The Workmen's Compensation Commissioner shall have exclusive jurisdiction to hear and decide claims for compensation under the Workmen's Compensation Act, subject to appeal to the Supreme Court, in the same manner and in the same period as provided by law and by rules of court for appeal from the Court of Industrial Relations to the Supreme Court."

In consonance with the above cited provisions of the Workmen's Compensation Act, the Supreme Court in *Layag et al. v. Gerardo,*[101] held that the "Court of First Instance has no jurisdiction to review the orders of the Regional Hearing Officer complained of. The same could have been a proper subject of an appeal to the Workmen's Compensation Commission and finally to this Court.

Enforcement of Awards

Section 51 of the WCA provides that enforcements of awards of the Commission shall be lodged with the Court of First Instance. Consequently, as held in *Halili v. Huganas, et al.,*[102] reiterating the rule laid down in National Shipyards v. Calixto,[103] and in Pastoral v. Commissioner,[104] the Regional Offices of the Department of Labor are not empowered to enforce their awards by writs of execution, which only courts of justice are authorized to issue.

This arrangement of having Courts of First Instance to enforce the awards was to have been changed by Reorganization Plan No. 20-A, which vested in the Commission and the Regional Offices the power to execute compensation awards.[105] The Supreme Court, however, held in *Halili v. Huganas,*[106] as in numerous other cases [107] that

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[101] G.R. No. L-19896, April 30, 1964.
[102] G.R. No. L-17776, April 30, 1964.
[103] G.R. No. L-18471, February 28, 1963.
[104] G.R. No. L-12903, July 31, 1961.
[105] Rule 11, WCC Rules.
[106] See note 102.

the grant of such power was invalid since Reorganization Plan No. 20-A, insofar as it purported to confer such power was without legislative authority. It is now settled that writs of execution issued pursuant to Reorganization Plan No. 20-A are void and of no legal effect.

So that awards shall now only be enforced by means of a writ of execution issued by a Court of First Instance, according to Section 51 of Act No. 3428. The Supreme Court in this regard clarified the meaning of the phrase "*any court of record in the jurisdiction of which the accident occurred,*" in the case of *Cerbo v. Montojo, et al.*[108] In this case, there is a petition for mandamus, to compel respondent judge to render judgment in accordance with the decision of the WCC, the respondent averred that the CFI of Zamboanga has no jurisdiction to entertain the petition in view of the fact that Section 51 of Act No. 3428 provides that the filing of the petition should be made "in any court of record in the jurisdiction of which the accident occurred," the accident took place in Basilan City. The Supreme Court decided that what the law requires "is the filing in the proper court of a certified copy of the decision or award with a certification that no appeal has been taken therefrom and is therefore final and executory. No other pleading, much less a formal complaint, is necessary. Upon the filing of this certified copy of the decision or award, the court shall thereupon "render a decree or judgment in accordance therewith and notify the parties thereof." The decree or judgment shall then have the *same effect,* and all proceedings in relation thereto shall thereafter be the same as though the decree or judgment had been rendered in a suit heard and tried by the Court, except that there shall be no appeal therefrom.

The term "jurisdiction" in the provision aforementioned refers, said the Court, "to the place where the proceedings should be instituted. Consequently, it does not affect jurisdiction as such, but only venue. And since the question of wrong venue has not been raised below, the same cannot be raised at this instance."

Attorney's fees not prayed for cannot be awarded

The Supreme Court in *Central Azucarera Don Pedro v. Agno, et al.,*[109] that, "neither section 6 of Rule 26 of the Workmen's Compensation Commission rules, nor Article 2208 of the Civil Code

[107] A.V.H. and Co. v. WCC, G.R. No. L-17502, May 30, 1962; Madrigal v. City Sheriff, L-17766, and Bueno v. Madrigal, G.R. No. L-18486. August 31, 1962; Syjuco v. Resultan, G.R. No. L-15050, August 30, 1962; Famorca v. WCC, G.R. No. L-16921, September 27, 1961; Pastoral v. Commissioners, G.R. No. L-12903. July 31, 1961.

[108] G.R. No. L-19881, January 31, 1964.

[109] See note 29.

grants a *motu-propio* authority to make an award of attorney's fees when the same have not been prayed for, nor have their amount been justified. Therefore, the Workmen's Compensation Commission acted without authority in awarding *ex parte* attorney's fees to claimant in the present case."

Grant of attorney's fee governed by Art. 2208 of the Civil Code

In the case of *National Development Company v. Workmen's Compensation, et al.*,[110] the Supreme Court, in construing Section 47 of Act 3428 and Article 2208 (8) of the Civil Code, held that inasmuch as Section 31 of the Compensation Law, governs his relations with his lawyer, and does not govern attorney's fees recoverable from an adverse party; therefore, the civil law supplements the deficiency, pursuant to article 18 of the Civil Code which provides: "In matters which are governed by the Code of Commerce and special laws, their deficiency shall be supplied by the provisions of this Code."

SOCIAL SECURITY ACT OF 1954

(R.A. 1161, as amended)

Courts of First Instance cannot issue writ of certiorari against the SSC

In the case of *Poblete Construction Co., et al. v. Social Security Commission, et al.*,[111] Judith Asiain filed with the Social Security Commission a petition seeking to recover from Poblete Construction Company the death benefits she would have been entitled to receive from the SSS had appellant company reported the deceased employee to the System for coverage prior to his death as required by law. The Social Security Commission granted the petition. Poblete Construction Company asked the Court of First Instance of Rizal to issue a writ of certiorari with injunction to enjoin the Commission from proceeding with the case. The CFI of Rizal granted the writ asked for.

The Supreme Court decided in this case that the CFI of Rizal has no authority to grant the writ of certiorari and injunction against the Social Security Commission. The Court said, "in taking cognizance of the petition filed by Asiain, the Social Security Commission was exercising its quasi-judicial powers granted by Section 5(a) of R.A. No. 1161, as amended.[112] Even assuming for the sake of

[110] See note 88.
[111] G.R. No. L-17605, January 22, 1964.
[112] Copy Section 5(a) of Social Security Act, R.A. No. 1161.

argument that the claim aforementioned was not within the jurisdiction of the Commission, and that it would be proper to issue a writ of certiorari or injunction to restrain it from hearing and deciding the same, a Court of First Instance has no jurisdiction to issue either of said writs against the Commission. It must be observed that in accordance with the provisions of Section 5 paragraphs (a) and (c) of R.A. 1161, as amended,[113] the decisions of said Commission are reviewable both upon law and facts by the Court of Appeals, and that if the appeal from its decision is only on questions of law, the review shall be made by the Supreme Court. It is clear that the Commission, in exercising its quasi-judicial powers, ranks with the PSC and the Courts of First Instance. As the writs of injunction, certiorari and prohibition may be issued only by a superior court against an inferior court, board or officer exercising judicial functions, it follows that the CFI of Rizal had no jurisdiction to entertain the same."

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[113] *Court review*—The decision of the Commission upon any disputed matter may be reviewed both upon the law and the facts by the Court of Appeals. For the purpose of such review the procedure concerning appeals from the Court of First Instance shall be followed as far as practicable and consistent with the purposes of this Act. Appeal from a decision of the Commission must be taken within fifteen days from notification of such decision. If the decision of the Commission involves only questions of law, the same shall be reviewed by the Supreme Court in a summary manner, and shall take precedence over all cases, except that in the Supreme Court, criminal cases wherein life imprisonment or death has been imposed by the trial court shall take precedence. No appeal shall act as a supersedeas or a stay of the order of the Commission, unless the Commission itself, or the Court of Appeals, or the Supreme Court, shall so order. (Section 5 (b), R.A. 1161.)