WELFARE LEGISLATION

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CONSTRUCTION

Laws intended to benefit the working man must be given the utmost degree of flexibility to allow them to attain their purpose. They cannot be invested with a meaning that would emasculate their terms or allow evasion of their prescriptions.[1] Emanating from the State's inherent police power[2] and in particular implementative of the twin constitutional commands for the promotion of social justice and the extension of protection to labor,[3] such laws are meant not to establish equality between employer and employee but principally to provide protection for the latter *vis-a-vis* the former[4] as well as against adversities or employment hazards.[5] Accordingly, all doubts as to their construction should be resolved in favor of the working man[6] and strict and prompt compliance must be exacted of the employer.[7]

WORKMEN'S COMPENSATION ACT

I. COMPENSABILITY

A claim is compensable under the Workmen's Compensation Act if (1) there is an employer-employee relationship and both the employer and

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[1] La Mallorca v. Workmen's Compensation Commission, G.R. No. 29315, November 28, 1969, 30 SCRA 613.

[2] Jamilano v. Court of Appeals, G.R. No. 26059, October 31, 1969, 30 SCRA 127. Machuca Tile Co., Inc. v. Social Security System, G.R. No. 24883, October 31, 1969, 30 SCRA 256; United Christian Missionary Society v. Social Security Commission, G.R. Nos. 26712-16, December 27, 1969, 30 SCRA 982; Insular Lumber Co. v. Court of Appeals, G.R. No. 23857, August 29, 1969, 29 SCRA 371.

[3] Victorias Milling Co., Inc. v. Workmen's Compensation Commission, G.R. No. 25665, May 22, 1969, 28 SCRA 285; La Mallorca v. Workmen's Compensation, *supra*, note 1; Jamilano v. Court of Appeals, *supra*, note 2; Insular Lumber Co. v. Court of Appeals, *supra*, note 2; Machuca Tile Co., Inc. v. Social Security System, *supra*, note 2.

[4] Victorias Milling Co., Inc. v. Workmen's Compensation Commission, *supra*, note 3; Jamilano v. Court of Appeals, *supra*, note 2; Insular Lumber Co. v. Court of Appeals, *supra*, note 2.

[5] Insular Lumber Co. v. Court of Appeals, *supra*, note 2; Machuca Tile Co., Inc. v. Social Security System, *supra*, note 2; Valencia v. Manila Yacht Club, Inc., G.R. No. 27346, June 30, 1969; Victorias Milling Co., Inc. v. Workmen's Compensation Commission, *supra*, note 3.

[6] Insular Lumber Co. v. Court of Appeals, *supra*, note 2; Victorias Milling Co., Inc. v. Workmen's Compensation Commission, *supra*, note 3.

[7] Victorias Milling Co., Inc. v. Workmen's Compensation Commission *supra*, note 3; La Mallorca v. Workmen's Compensation Commission, *supra*, note 1.

employee are covered by the Act[8] and (2) the injury or illness on which the claim is based is work-connected and at the same time not of a nature expressly excluded by its provisions.[9]

Presumption of compensability

Compensability is presumed in the absence of substantial evidence to the contrary.[10] Consequently, the burden rests upon the person against whom the claim is made to show otherwise.[11]

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[8] As amended by Rep. Act No. 4119, the Act does not cover small industries employing less than six persons [Section 42] and domestic helps and casual laborers whose work is not for the purpose of the occupation or business of their employer [Section 39(b) and (d)].

[9] Under Section 4 of the Act, no compensation is allowed for injuries caused (1) by the voluntary intent of the employee to inflict such injury upon himself or another person; (2) by drunkenness on the part of the laborer who had accident; or (3) by his notorious negligence.

[10] Section 44: "In any proceeding for the enforcement of the claim under this Act, it shall be presumed in the absence of substantial evidence to the contrary x x x "that the claim comes within the provisions of this Act." Iloilo Dock and Engineering Co. v. Workmen's Compensation Commission, G.R. No. 16202, June 29, 1962, 62 O.G. 382 (Jan., 1966), 5 SCRA 394; Naira v. Workmen's Compensation, G.R. No. 18066, October 30, 1962, 6 SCRA 361; Pangasinan Transportation Co., Inc. v. Workmen's Compensation Commission, G.R. No. 16490, June 29, 1963, 8 SCRA 353; A.L. Ammen Transportation Co., Inc. v. Workmen's Compensation Commission, G.R. No. 20219, September 28, 1964, 12 SCRA 27; Agustin v. Workmen's Compensation, G.R. No. 19957, September 29. 1964, 12 SCRA 55; Vda. de Acosta v. Workmen's Compensation Commission, G.R. No. 19772, October 21, 1964, 12 SCRA 168 Central Azucarera Don Pedro v. Agno, G.R. No. 20424, October 22, 1964, 12 SCRA 178; People's Homesite & Housing Corporation v. Workmen's Compensation Commission, G.R. No. 18246, October 30, 1964, 12 SCRA 209; Hernandez v. Workmen's Compensation Commission, G.R. No. 20202, May 31, 1965, 14 SCRA 219; A.D. Santos, Inc. v. De Sapon, G.R. No. 22220, April 29, 1966, 16 SCRA 791; Industrial Textile Manufacturing Co. v. Florzo, G.R. No. 21969, August 31, 1966, 17 SCRA 1104; Justiniano v. Workmen's Compensation Commission, G.R. No. 22774, November 21, 1966, 18 SCRA 677; National Development Co. v. Workmen's Compensation Commission, G.R. No. 21724, April 27, 1967, 19 SCRA 861; National Development Co. v. Ayson, G.R. No. 23450, May 24, 1967, 20 SCRA 192; Manila Railroad Co. v. Workmen's Compensation Commission, G.R. No. 21504, September 15, 1967, 21 SCRA 98; Rebar Buildings, Inc. v. Workmen's Compensation Commission, G.R. No. 27486, April 30, 1968, 23 SCRA 485; Vda. de Layag v. Republic, G.R. No. 23640, May 22, 1968, 23 SCRA 647; Manila Railroad Co. v. Rivera, G.R. No. 23021, May 29, 1968, 23 SCRA 922; Central Azucarera Don Pedro v. Workmen's Compensation Commission, G.R. No. 24987, July 31, 1968, 24 SCRA 484; Isberto v. Republic, G.R. No. 22769, August 30, 1968, 24 SCRA 956.

[11] Operators, Incorporated v. Cacatian, G.R. No. 26173, October 31, 1969, 30 SCRA 218. See also Industrial Textile Manufacturing Co. v. Florzo, *supra*, note 8 stating (with Batangas Transportation Co. v. Rivera, G.R. No. 7658, May 8, 1956, as authority) that "So rigid is the rule that even where the cause of the employee's death is unknown x x x the right to compensation subsists"; Vda. de Magalona v. Workmen's Compensation Commission, G.R. No. 21849, December 11, 1967, 21 SCRA 1199; Agustin v. Workmen's Compensation Commission, G.R. No. 19957, September 29, 1964, 12 SCRA 55, and Naira v. Workmen's Compensation Commission, G.R. No. 18066, October 30, 1962, 6 SCRA 361, according to which the presumption established in Section 44(1) of the Workmen's Compensation Act means that "(i)n the absence of proof that the injury or death supervening in the course of employment has arisen because of the nature of the same, the death or injury is, by law, compensable, unless the employer clearly establishes that it was not caused or aggravated by such employment or work. 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"; Bohol Land Transportation Co. v.

Indirect employment covered

In *Luzon Stevedoring Corporation v. Workmen's Compensation Commission*[12] one of the contentions of the appellant company was that no employer-employee relationship existed between it and the claimants' decedent because the latter was a "gang boss" working with it on an "on and off" basis, depending on whether or not the decedent was so assigned by the union of which he was a member. The appellant alleged that it was the union that furnished laborers and stevedores when required by the appellant, with the latter delivering the stevedoring charges directly to the union for distribution to the individual laborers. Actually, the appellant failed to submit any evidence that the work rendered by the decedent was purely casual. But, in passing upon this contention of the appellant, the Court stated that the facts alleged by it, even assuming them to be true, did not make the union an independent contractor whose intervention relieved the appellant of liability for the death of a laborer, especially where no contractor's bond was required for the union's performance of its undertaking. The union, the Court said, was no more than an agent of the company whose function was merely to save the latter from the necessity of dealing with individual laborers. And, in line with a number of precedents,[13] this kind of indirect employment does not relieve the employer of liability under the Workmen's Compensation Act.

Injury from assault outside employer's premises

An injury, to be compensable under the Workmen's Compensation Act, must be due to an "accident arising out of and in the course of employment."[14] It is by now settled that an assault, although resulting from a deliberate act of the assaulter, is an "accident" within the meaning of the Act, culpability on the part of the assaulted employee not being attendant.[15] But whether such assault (or, for that matter, any other cause of injury) is one "arising out of and in the course of employment" is a question that, by its nature, must be decided upon a consideration of the factual setting of each particular case. This question is likely to be raised where the assault causing the injury was made outside the premises of the employer. In such event, the fact that the injury was not suffered within the place of employment

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Vda. de Mandanguit, 70 Phil. 685 (1940). Central Azucarera Don Pedro v. Workmen's Compensation Commission, G.R. No. 24987, July 31, 1968, 24 SCRA 484; Justiniano v. Workmen's Compensation Commission, *supra*, note 8.

12 G.R. No. 27588, April 28, 1969, 27 SCRA 1132.

13 Flores v. Compania Maritima, 57 Phil. 905 (1933); Asia Steel v. Workmen's Compensation Commission, G.R. No. 7636, June 27, 1955; Mansal v. P.P. Gocheco Lumber Co., 96 Phil. 941 (1955); U.S. Lines v. Associated Watchmen and Security Union, G.R. Nos. 12208-11, May 21, 1958; Madrigal Shipping Co., Inc. v. Workmen's Compensation Commission, G.R. No. 17495, June 29, 1962.

14 Section 2.

15 Iloilo Dock & Engineering Co., v. Workmen's Compensation Commission, G.R. No. 26341, November 27, 1968, 26 SCRA 102, citing Vda. de Nava v. Ynchausti Steamship Co., 57 Phil. 751 (1932).

does not make it non-compensable where from the evidence presented the injury may be traced to a cause set in motion by the nature of the employment, or some condition, obligation or incident therein, and not by some other agency.[16] This situation was held to obtain in *Luzon Stevedoring Corporation v. Workmen's Compensation Commission.*[17] In this case the deceased, a stevedore, while waiting for the arrival of a barge of his employer, had a heated verbal argument with another stevedore engaged by the same employer over the possession of a platform used in the loading or unloading of cargoes taken into or out of the watercraft. The deceased was able to get the platform. But the barge did not arrive as scheduled and so he went home for lunch. When he returned at about 1:00 p.m. the platform was again in the possession of his opponent. Another argument, which almost ended in a fist fight, ensued. The platform was finally relinquished to the deceased but not before his opponent had threatened to kill him. Minutes later, the deceased was informed that the barge was definitely not arriving. He then boarded, with two companions, a passenger jeep bound for Tondo. When he got off from the jeep near his house, he was met by his opponent who stabbed him with a knife. As a result he died an hour later. When compensation was claimed, the company resisted on the ground that the employee's death came when he was outside the company premises and when he was not at work. This argument was brushed aside by the Court which stated that the proven sequence of events made it evident that the cause of the employee's fatal stabbing can be traced to his disagreement with his killer over the possession of a platform that was to be used in their work for the company. The Court noted that although the quarrel started in the morning the same was resumed in the afternoon and carried on when the assailant left, lay in wait near the deceased's house, and met and stabbed him when he alighted from the jeep barely half an hour after leaving the place of work where the quarrel occurred. There was therefore present such a continuity in time and space that, in the words of Justice Cardozo, "the quarrel from origin to ending must be taken as one."[18] Hence the injury was held to have arisen out of and in the course of employment.

Epilepsy afflicting claimant found non-idiopathic

A question which was viewed by the Supreme Court as novel was raised in *Operators Incorporated v. Cacatian.*[19] Appealing from a decision of the Commission, the employer argued that the epilepsy from which the claimant employee suffered was not compensable because it was an idiopathic disease caused primarily by factors extraneous to his employment, such as conditions

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[16] Luzon Stevedoring Corporation v. Workmen's Compensation Commission, *supra*, note 12.

[17] *Id.*

[18] Field v. Charmette Knitted Fabric Co., 245 N.Y. 138, cited in Luzon Stevedoring Corporation v. Workmen's Compensation Commission, *supra*, note 12.

[19] G.R. No. 26178, October 31, 1969, 30 SCRA 218.

inherent in his physical constitution and aggravated by circumstances of his personal life. To substantiate this contention, the employer cited the evening classes which the claimant attended as a civil engineering student, the preparation he had to make for the final examinations, and the emotional difficulties he was having with his sweetheart, climaxed by his violent quarrel with her a few hours before the accident. The Supreme Court, however, upheld the Commission's finding that the claimant's epilepsy was not idiopathic but was due to his fall when he suddenly fell unconscious while on duty. Owing to the novelty of the issue, the Court, to bolster its holding, cited two American decisions[20] in each of which the alleged idiopathic character of the epileptic condition of the claimant was ruled out.

II. RECOVERY OF COMPENSATION

Employee's choice of remedies

Section 6 of the Act gives the employee a choice of remedies in case injury compensable under its provisions is caused by a person other than the employer. He may either claim workmen's compensation from his employer or sue the third person for damages.[21] If the injured employee files a criminal case against the third person and then enters into a monetary settlement of said case, is the former deemed to have made the choice under Section 6 such that he may no longer claim workmen's compensation from the employer? *La Mallorca v. Workmen's Compensation Commission,*[22] drawing the support from earlier cases,[23] provides a negative answer.

Employer's choice of defenses

If the employee seeks to recover compensation under the Act, the employer may set up any or all available defenses. But if he has several defenses in his favor and he confines himself to only one or some of them, he will be deemed to have abandoned or waived the rest. Authority for this rule is *Blanco v. Workmen's Compensation Commission.*[23a] In that case the employer staked his defense solely on the absence of employer-employee relationship between him and the claimants' decedents, although he could also have alleged prescription as an alternative defense, before the hearing officer. When the claims reached the Commission on appeal, he raised prescription for the first time but the Commission ruled that he was barred from invoking this defense because he failed to controvert the claims on time. The

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20 Chicago Park District v. Industrial Commission, 24 N.E. 2d 358, 360 (1939); Rialto Mining Co. v. Yokum, 5 P. 2d 1065 (1913).

21 Section 6.

22 *Supra,* note 1.

23 Nava v. Inchausti Co., 67 Phil. 751 (1932); Marinduque Iron Mines Agents, Inc. v. Workmen's Compensation Commission, 99 Phil. 480, 483 (1956); Martha Lumber Mill v. Lagradante, 99 Phil. 435, 437-438 (1956).

23a G.R. Nos. 21385-86, August 22, 1969, 29 SCRA 7.

petitioner explained that he could not have done so because of his absence-of-employer-employee-relationship defense. The Supreme Court held that the petitioner "had the right to choose between two defenses, and having chosen to stand on one, he must necessarily be deemed to have waived the other," namely, prescription. "Moreover," said the Court, "he could have alleged prescription as an alternative defense, but failed to do so."

Employer's right to subrogation

It has been held that, pursuant to Section 6 of the Act, if compensation is claimed and awarded for injury arising from an act of a person other than the employer, and the employer pays it, the employer becomes subrogated to and acquires, by operation of law, the workmen's rights against the person who caused the injury.[24] As such the paying employer, in a suit to enforce its subrogation rights, need not establish any contractual relationship between the injured employee and the parties who caused the injury.[25]

Waiver of attorney's fees and costs — requisites for validity

An agreement between the employer and the injured employee or his dependents concerning the compensation to which he may be entitled under the Workmen's Compensation Act requires for its validity the concurrence of two requisites: (1) it must provide at least the amount of compensation prescribed by the Act, (2) it must be approved by the Workmen's Compensation Commission or its duly authorized representatives.[26]

Suppose the claimant enters into an agreement with the employer whereby the former waives the right to collect the attorney's fees and costs already awarded by the Workmen's Compensation Commission, would the Commission's approval be necessary? The statute is not quite explicit on the matter but the Court, viewing the agreement as in effect modifying the Commission's award, ruled in the *National Mirror Factory* case[27] that such approval is imperative. This conclusion, according to the Court, finds support not only in the basic policy of the law and the provisions of Section 29 but also Section 47 of the Act which, among others, empowers the Commission "*to approve agreements, make, modify and rescind awards* and make findings of fact and rulings of law x x x *to assess penalties,* compute awards and *compromise action for the collection of awards.*" Besides, the Court added, waiver as to the costs must be made not by the claimant but by the Commission, to which the amount is payable.

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[24] Bautista v. Federico O. Borromeo, Inc., G.R. No. 26002, October 31, 1969, 30 SCRA 119. Esguerra v. Muñoz-Palma, 104 Phil. 582, 585 (1958); Clareza v. Rosales, G.R. No. 15364, May 31, 1961, 59 O.G. 3605 (June, 1963), 2 SCRA 455.

[25] Bautista v. Federico O. Borromeo, Inc., *supra,* note 24.

[26] Section 29; National Mirror Factory v. Vda. de Anure, G.R. No. 22007, March 28, 1969, 27 SCRA 719.

[27] *Supra,* note 26.

Clamaint not estopped from claiming compensation by affidavit having the effect of waiver

The claimant in the *National Mirror Factory* case,[28] prior to the filing of her claim, had also executed an affidavit wherein she acknowledged receipt of ₱700 from the employer and stated that her husband "died of natural causes not connected with work" and that she had "no claim and will not entertain any claim of whatever nature" against the employer. The employer argued that this affidavit estopped her from claiming compensation. But both the Commission and the Supreme Court rejected this argument. The affidavit, ruled these adjudicatory organs, had the effect releasing the employer from his liability under the Act; consequently, it is null and void under Section 7 which prohibits "(a)ny contract, regulation or devise of any sort intended to exempt the employer from all or part of the liability created by this Act." Being a nullity, the affidavit could not be used to prove estoppel on the claimant's part.

Period for filing claim — waiver of prescription

For a workmen's compensation claim to prosper, the law requires that it be made within two months after the injury or sickness or, if it be for death, not later than three months following the occurrence.[29] As stated in *National Development Company v. Workmen's Compensation Commission*,[30] this requirement has for its purpose not merely to prevent stale claims but also to ensure that a claim made is really compensable by giving the employer a reasonable opportunity to make an investigation while the facts are still accessible and to avail of witnesses who have personal knowledge of them. It is thus evidently provided for the benefit of the employer, who may set up non-compliance therewith by the claimant as a defense. The employer, however, may not utilize such non-compliance to defeat jurisdiction over the claim. For while filing within the required period is "essential to the success of the claimant, or to the rendition of a decision favorable to him," it is not so with respect to the authority to hear and decide his claim.[31] In other words, as held in a line of cases[32] to which many de-

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[28] *Supra*, note 26.

[29] Workmen's Compensation Act, Section 24.

[30] G.R. No. 27692, May 30, 1969, 28 SCRA 436.

[31] Victorias Milling Co., Inc. v. Dadivas, G.R. No. 24985, March 27, 1969, 27 SCRA 413.

[32] Alcoresa v. Johnston, 64 Phil. 846 (1937); Victorias Milling Co. v. Compensation Commissioner, G.R. No. 10533, May 13, 1957; Tan Lim Te v. Workmen's Compensation Commissioner, G.R. No. 12324, August 30, 1958 104 Phil. 522 (1958); Bureau of Public Works v. Workmen's Compensation Commissioner, G.R. No. 8994, November 28, 1958 104 Phil. 1062 (1958); Central Azucarera Don Pedro v. De Leon, G.R. No. 9449, July 24, 1959 105 Phil. 1141 (1959); Luzon Stevedoring Co. v. De Leon, G.R. No. 9521, November 28, 1959 106 Phil. 562 (1959); Century Insurance Co. v. Fuentes, G.R. 16039, August 31, 1961 59 O.G. 1063 (Feb. 1963); 2 SCRA 1168; Fuentes v. Binamira, G.R. No. 14965, August 31, 1961, 2 SCRA 1133; Republic v. Workmen's Compensation Commission, G.R. No. 17813, April 30,

cided in 1969[33] have been added, late filing of a workmen's compensation claim is not jurisdictional, but merely a matter of defense which may be waived. There is waiver of this defense where the employer fails to controvert on time[34] or, having seasonably controverted, raises it only for the first time on appeal.[35] It is also waived when he had voluntarily made partial compensation payments[36] or furnished medical, surgical, and hospital services.[37]

Controversion — effect of failure to controvert

As already stated, failure to controvert within the period prescribed by the statute constitutes a waiver of the employer's right to assert late filing of the claim. It also results in the forfeiture of his right to question the validity and reasonableness of the claim and precludes the setting up of all

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1963, 7 SCRA 984; Manila Railroad Co. v. Workmen's Compensation Commission, G.R. No. 18388, June 28, 1963, 8 SCRA 293; Pangasinan Transportation Co. v. Workmen's Compensation Commission, G.R. No. 16490, January 30, 1964, 10 SCRA 14; National Development Co. v. Workmen's Compensation Commission, G.R. No. 19863, April 29, 1964, 10 SCRA 696; Manila Railroad Co. v. Workmen's Compensation Commission, G.R. No. 18264, May 26, 1964, 11 SCRA 84; Manila Railroad Co. v. Workmen's Compensation Commission, G.R. No. 19773, May 30, 1964, 11 SCRA 305; Peter Paul Phil. Corporation v. Workmen's Compensation Commission, G.R. No. 19612, July 30, 1964, 11 SCRA 539; A.L. Ammen Transportation Co. v. Workmen's Compensation Commission, G.R. No. 20219, September 28, 1964, 12 SCRA 27; National Development Co. v. Workmen's Compensation Commission, G.R. No. 18922, November 27, 1964, 12 SCRA 381; National Development Co. v. Workmen's Compensation Commission, G.R. No. 20504, March 31, 1965, 13 SCRA 544; Manila Railroad Co. v. Manalang, G.R. No. 20845, November 29, 1965, 15 SCRA 409; Manila Railroad Co. v. Workmen's Compensation Commission, G.R. No. 21902, August 10, 1967 64 O.G. 12343 (Nov. 1968); 20 SCRA 977; Talisay-Silay Milling Co. v. Workmen's Compensation Commission, G.R. No. 22096, September 29, 1967, 21 SCRA 366; Surigao Consolidated Mining Co., Inc. v. Workmen's Compensation Commission, G.R. No. 26077, May 27, 1968, 23 SCRA 820; Pampanga Sugar Mills v. De Espeleta, G.R. No. 24073, January 30, 1968, 22 SCRA 325; San Miguel Brewery v. Vda. de Jones, G.R. No. 24258, June 26, 1968, 23 SCRA 1093.

[33] Operators, Incorporated v. Cacatian, *supra*, note 19; National Mirror Factory v. Vda. de Anure, *supra*, note 26; Luzon Stevedoring Corporation v. Workmen's Compensation Commission, *supra*, note 16; Victorias Milling Co., Inc. v. Dadivas, *supra*, note 31; Northwest Orient Airlines, Inc. v. Mateu, G.R. No. 25274, July 29, 1969, 28 SCRA 877.

[34] Luzon Stevedoring Corporation v. Workmen's Compensation Commission, *supra*, note 16; Victorias Milling Co., Inc. v. Dadivas, *supra*, note 31; National Development Co. v. Workmen's Compensation Commission, G.R. No. 27692, May 30, 1969, 28 SCRA 436; Victorias Milling Co., Inc. v. Workmen's Compensation Commission, G.R. No. 25665, May 22, 1969, 28 SCRA 285; Northwest Orient Airlines Inc. v. Mateu, *supra*, note 33; National Mirror Factory, v. Vda. de Anure, *supra*, note 26; La Mallorca v. Workmen's Compensation Commission, *supra*, note 1; Republic v. Workmen's Compensation Commission, G.R. No. 26763, December 26, 1969, 30 SCRA 811.

[35] Blanco v. Workmen's Compensation Commission, *supra*, note 23a, citing Regalado v. Visayan Shipping Co; G.R. No. 42856, May 21, 1954; Martha Lumber Mill v. Lagradante, G.R. No. 7599, June 27, 1956; Victorias Milling Co. v. Wage Compensation Commission, G.R. No. 10533, May 15, 1957.

[36] National Mirror Factory v. Vda. de Anure, *supra*, note 26.

[37] Workmen's Compensation Act, Section 324; Victorias Milling Co., Inc. v. Dadivas, *supra*, note 31.

non-jurisdictional defenses, such as non-compensability of injuries and the like.[38] The employer loses his right to demand a day in court and to present evidence, and he can no longer complain that he had not been served with summons or notice of hearing or that he was not duly heard. For then no formal hearing is necessary and the hearing officer of the Commission may make an award on the basis of the uncontested claim and the accompanying evidence which the claimant may submit.[39] It should, however, be borne in mind that the employer can be made to suffer these consequences only if, at the time he is supposed to have controverted, he had knowledge of the sickness, injury or death upon which the claim is based.[40] Such knowledge was ruled out where, as in *National Development Corporation v. Workmen's Compensation Commission*,[41] the deceased had ceased to be in the service of the petitioner company when she died; the evidence submitted to prove such knowledge was the testimony of the claimant (mother of the deceased) that before her daughter was buried she requested from the assistant manager of the textile mill of the petitioner some financial aid for burial expenses and demanded from him other benefits but that the same were denied; this demand was not made of record nor followed up after it was verbally denied, especially at a time when claimant was presumably in urgent need; and the claim was not filed until over seven years later. Disclaimer of knowledge by the employer was, however, not given credence where the deceased laborer was killed by another laborer; the quarrel which culminated in the killing started in the place where the laborers gather and work even if the killing occurred outside its premises; and when the claimant widow went to the company premises to demand compensation a week after her husband's burial, an unknown employee informed her that she could not get anything because her husband's death did not occur in the company premises. This last circumstance, according to the Court, was a sufficient indication that the killing was already a matter of common knowledge in the company's office, such that even an unidentified employee could advance the exact defense later set up by the company.[42]

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[38] Luzon Stevedoring Corporation v. Workmen's Compensation Commission, *supra*, note 16, citing Magallona v. WCC, G.R. No. 21849, December 11, 1967, 21 SCRA 1199; MRR v. WCC, G.R. No. 21504, September 15, 1967, 21 SCRA 98; MRR v. WCC, G.R. No. 18264, May 26, 1964, 11 SCRA 84. See also National Development Co. v. Workmen's Compensation Commission, G.R. No. 27692, May 30, 1969, 28 SCRA 436, 438, and Republic v. Workmen's Compensation Commission, *supra*, note 34, at 817.

[39] Victorias Milling Co., Inc. v. Workmen's Compensation Commission, *supra*, note 34; Northwest Orient Airlines v. Mateu, *supra*, note 33.

[40] National Development Co. v .Workmen's Compensation Commission, *supra*, note 34.

[41] *Supra*, note 34.

[42] Luzon Stevedoring Corporation v. Workmen's Compensation Commission, *supra*, note 16.

III. The Workmen's Compensation Commission

Jurisdiction of the Workmen's Compensation Commission

Is the jurisdiction of the Workmen's Compensation Commission merely appellate, or does it have both original and appellate jurisdiction? The appellant in *Republic v. Workmen's Compensation Commission*[43] maintained that the Commission has no more than appellate jurisdiction and, therefore, it exceeded its authority in entertaining and granting a motion directly filed with it praying for reimbursement of additional expenses. The motion, the appellant claimed, should have been filed with the referee whose decision in the main incident the Commission had reversed and the Commission was without power to act on it except on appeal. In taking this position, the appellant leaned on the amendment to Section 48 introduced by Republic Act No. 4119 which provides that referees "shall have original jurisdiction over all workmen's compensation cases in the regional offices where they are assigned." The Supreme Court held that the original jurisdiction conferred on referees by this amendment does not exclude that of the Commission. In the first place, Section 46 of the Workmen's Compensation Act vests "exclusive jurisdiction" to hear and decide claims for compensation thereunder in the Commission subject to appeal to the Supreme Court. The hearing offices of the Regional Offices are mere "referees" of the Commission. Secondly, Section 49 of the Act clearly states that hearings under the Act "maybe held before *the (Commission)*[44] or any of the referees" and expressly authorizes it to "receive" evidence, a power inconsistent with the idea forwarded by the appellant that the Commission's jurisdiction is exclusively "appellate" in character. This section further grants the Commission discretion to "take or order the taking of additional testimony" when exercising the power to review decisions or orders of a referee.

Power to determine genuineness of motion to withdraw

Jurisdiction acquired by the Commission is not lost by the mere filing of a motion to withdraw a petition filed with it. It has power to determine whether or not the signature appearing on the motion to withdraw was obtained through fraud and misrepresentation. And if it finds that the claimant who was supposed to have signed it never intended to withdraw his claim and that his signature was so obtained, it can proceed to consider the petition and render judgment thereon. This was the holding in *Blanco v. Workmen's Compensation Commission.*[45]

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[43] *Supra,* note 34.

[44] Section 49 uses "Commissioner" but it is submitted that this should now be read as "Commission."

[45] *Supra,* note 23a.

Conclusiveness of factual findings of the Commission

Findings of fact of the Commission are, as a general rule, not subject to review; they are conclusive and binding upon the appellate court.[46] Deviation from this rule is resorted to only when the Commission acted with grave abuse of discretion, or its factual findings find absolutely no support in the evidence on record or are unsupported by substantial or credible evidence.[47] A somewhat different ground impelled the Supreme Court to deviate from the general rule in *National Development Co. v. Workmen's Compensation Commission.*[48] In this case, the Court felt constrained to review the Commission's finding that the employer had knowledge of the employee's death because of "the peculiar circumstance that the claim was not formally filed until after the lapse of more than seven years." The review resulted in the reversal of the Commission's findings.

SOCIAL SECURITY ACT

I. COVERAGE

Scope

The Social Security Act extends to all kinds of employment, save only those in the Government and any of its political subdivisions, branches and instrumentalities (including corporations owned or controlled by it) and others specifically enumerated in the Act.[49] Apart from these exceptions, therefore, the question of whether or not there is coverage by the Act turns solely on the existence or absence of an employer-employee relationship.[50] Once this relationship is found to exist, membership in the System established by the Act becomes compulsory for both employer and employee.[51]

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[46] Victorias Milling Co., Inc. v. Workmen's Compensation Commission, *supra*, note 3, citing a long line of decisions; Northwest Orient Airlines, Inc. v. Mateu, *supra*, note 33; National Development Co. v. Workmen's Compensation Commission, *supra*, note 34; Operators, Incorporated v. Cacatian, *supra*, note 19.

[47] Victorias Milling Co., Inc. v. Workmen's Compensation Commission, *supra*, note 3, citing Batangas v. Rivera, G.R. No. 14427, August 29, 1960; National Mirror Factory v. Vda. de Anure, *supra*, note 26; Operators, Incorporated v. Cacatian *supra*, note 19.

[48] *Supra*, note 34.

[49] Roman Catholic Archbishop of Manila v. Social Security Commission, G.R. No. 15045, January 20, 1961, 1 SCRA 11, interpreting subsections (c), (d), and (j) of Section 8 of the Social Security Act [Republic Act No. 1161], as amended. For the other exceptions, see subsection (j).

[50] *Id.*

[51] Machuca Tile Co., Inc. v. Social Security System, *supra*, note 2, quoting the following passage from Phil. Blooming Mills, Inc. v. SSS, G.R. No. 21223, August 31, 1966, 17 SCRA 1077, 1080 (1966); "Membership in this institution is not the result of a bilateral, consensual agreement where the rights and obligations of the parties are defined by and subject to their will. Republic Act 1161 requires compulsory coverage of employers and employees under the System. It is actually a legal imposition, on said employers and employees, designed to provide social security to the workingmen. Membership in the SSS is, therefore, in compliance with a lawful exercise of the police power of the States, to which the principle of non-impairment of the obligation of contract is not a proper defense."

In the case of the employer, it does not matter that the activity it is engaged in is non-profit in character. Religious and charitable institutions and other organizations or entities not organized for profit are within the scope of the Act.[52] Even foreign missions operating in the country are covered.[53]

Existence of employer-employee relationship

The question of whether there is an employer-employee relationship under the Act is to be determined by the application of what was first enunciated in this jurisdiction in *Investment Planning Corporation v. Social Security System*[54] as the control test. By this test, inquiry is made whether the supposed employer controls or has reserved the right to control the supposed employee, not only as to the result of the work to be done, but also as to the means and methods by which the same is accomplished. Such control is lacking, and therefore no employer-employee relationship exists, where the person who works for another does so more or less at his own pleasure and is not subject to definite hours of conditions of work and is compensated according to the result of his efforts and not the amount thereof.[55]

Replacement of this doctrine with the "economic reality" or "economic facts of the relation" test was argued by the Social Security System in *Social Security System v. Court of Appeals.*[56] Under this test, "when the particular situation of the employment combines those characteristics so that the facts of the relation make (it) more nearly one of employment than of independent business enterprise with respect to the ends sought to be accomplished by the legislation, those characteristics may outweigh technical legal classification for purposes unrelated to the statute's objectives and bring the relation within its position." This test the System claimed to be more reliable. The Supreme Court, however, disagreed, restating what it said in the *Investment Planning Corporation* case to the effect that the "economic-reality" or "economic facts of the relation" test, which is of American vintage, had already been abandoned in later United States decisions which, according to our Court, must be accorded persuasive force because of the similarity between our social security law's definition of the term "employee" and that of the U.S. federal statute after which it had been patterned. Applying, therefore, the control test, the Court upheld the Court of Appeals' finding that jockeys connected with the Manila Jockey Club, Inc. and the Philippine Racing Club, Inc. are not employees thereof within the meaning of the Social Security Act because the selection and employment of a jockey

[52] Roman Catholic Archbishop of Manila v. Social Security Commission, *supra*, note 49; United Christian Missionary Society v. Social Security Commission, *supra*, note 2.

[53] United Christian Missionary Society v. Social Security Commission, *supra*, note 2.

[54] G.R. No. 19124 November 18, 1967, 21 SCRA 924.

[55] *Id.*

[56] G.R. No. 26146, October 31, 1969, 30 SCRA 210.

is made by the race horse owner whose horse the jockey will ride, not by the race club, and the jockey decides for himself the horse to mount. This shows that the matter of which jockey shall ride which horse is agreed upon by and between the race horse owner and the jockey. And once such agreement is reached, the race club cannot compel the race horse owner to accept another jockey or the jockey ride another horse. Apart from this fact, no control is exercised by the jockey clubs over the jockeys. Control over them is exercised by racing stewards who are entrusted with the duty to supervise the conduct of the races and enforce the rules of the Games and Amusement Board. And while the race stewards receive per diems from the race clubs, their acts and decisions, when exercising their office as such, are not under the control of the race clubs. They are independent of and not subject to the will of anybody other than the Games and Amusement Board.

II. PAYMENT OF BENEFITS

On whom liability falls when there is late reporting for coverage and remittance of premiums

If an employer reports an employee for coverage in the System and remits the latter's permium only after the expiration of more than two months following the death of the employee, who had qualified for coverage six months earlier, who would be liable for the payment of death benefits to the employee's heirs: the employer or the System? The employer-petitioner in *Machuca Tile Co., Inc. v. SSS*[57] contended that liability should fall on the System for two reasons: *first,* it would not be just for the System to receive and keep the premiums paid for the deceased employee and still hold the employer liable for the payment of the death benefits; *second,* since in that case the System did not return or even offer to return the employee's premiums despite its knowledge that they were paid only after his death, the System should be held in estoppel and liable for the payment for the death benefits.

In rejecting these arguments as fallacious and holding the employer liable, the Supreme Court pointed out the petitioner's failure to realize that it has two distinct obligations under the Social Security Act, namely, (1) the duty to make a timely remittance of premiums under Section 22(a) and (2) the duty under Section 24(a) to make a timely report of its employee's names and other personal data for coverage. Non-fulfillment or delay in fulfilling the first obligation results in the imposition of a 3% monthly penalty, while non-compliance or belated compliance with the second renders the employer liable for damages equivalent to the benefits the employee or his heirs would

[57] *Supra,* note 2.

have been entitled to had his name been reported on time. The employee's death, the Court said, did not extinguish the petitioner's duty to remit the premiums and when the petitioner did remit them, it was merely fulfilling a standing obligation. Consequently, the System had the right to receive and retain the premiums and as such could not be held in estoppel for so doing. The fulfillment of this obligation cannot have the effect of extinguishing the separate and distinct one of making a timely report of the employee's name and other personal data, to which the Act attaches greater importance. For, as pointed out by the Court, failure to make such report in fact *excludes* the employee from the System's coverage and the Act shifts to the defaulting employer the responsibility of paying the social security benefits to which the employee or his heirs would otherwise be entitled.

Good faith does not excuse delay

The three per cent (3%) per month penalty for delayed remittance of premiums was provided to ensure that employers do not take lightly the State's policy, declared in the Act, "to develop, establish gradually and perfect a social security system which shall be suitable to the needs of the people and to provide protection to employees against the hazards of disability, sickness, old age and death."[58] For this reason, delayed remittance is not excused by good faith.[59] As the Supreme Court puts it, "the law makes no distinction between an employer who professes good reasons for delaying the remittance of premiums and another who deliberately disregards the legal duty imposed upon him to make such remittance. From the moment the remittance of premiums is delayed, the penalty immediately attaches x x x by force of law."[60]

Benefits under Social Security Act not substitute for benefits granted by other laws

Sickness, disability and other benefits provided by the Social Security Act are, by nature and purpose, different from the compensation that may be claimed against an employer under the Workmen's Compensation Act or Article 1711 of the Civil Code. Under the Social Security Act, payment of benefits is made because the hazards specifically covered by the membership, and for which the employee had contributed his money, had taken place. In other words, social security benefits are paid to an employee because of his membership in the System wherein he had contributed to a general common fund. On the other hand, under the Workmen's Compensation Act or, in a proper case, Article 1711 of the Civil Code, the employer

[58] Section 2.
[59] United Christian Missionary Society v. Social Security Commission, *supra*, note 2.
[60] *Id.*

is required to compensate the employee for the sickness or injury arising in the course of employment because the industry is supposed to have caused it.[61] Otherwise stated, compensation accrues to the employee concerned due to the hazards involved in his employment and so is made a burden on the employment itself. Social security benefits are intended to provide insurance or protection against the hazards or risks for which they established (e.g., disability, sickness, old age or death) regardless of whether they arose from or in the course of the employment or not; while compensation receivable under the Workmen's Compensation Act or Article 1711 of the Civil Code is in the nature of indemnity or damage suffered by the employee or his depedents on account of the employment.[62] These differences form the basis of the rule that receipt by an employee of social security benefits does not preclude him from recovering workmen's compensation from his employer, and *vice versa.* This rule, already established in a number of decisions,[63] is reaffirmed in *Valencia v. Manila Yacht Club, Inc.*[64]

III. THE SOCIAL SECURITY COMMISSION

Has the Social Security Commission power to condone the penalty prescribed by law for late premium remittances?

This question presented itself for the first time in *United Christian Missionary Society v. Social Security Commission.*[65] The petitioners in this case assisted that the Commission has such power. And, in support of this position, they cited the Commission's power of direction and control over the System under Section 3 of the Social Security Act and its authority, provided in Section 4(1) of said Act, to "perform such other acts as it may deem appropriate for the proper enforcement of this Act" as well as several resolutions the Commission had issued in the past which condoned penalties of similar character. The Supreme Court refused to sustain this argument. Section 4 of the Act, it said, precisely enumerates the powers of the Commission and nowhere in the enumeration is the authority to condone penalties imposed by the statute granted, expressly or by implication. Besides, the Commission is a mere trustee of the funds of the System which actually belong to its members, and as such cannot, without express or specific authority, legally perform any act affecting said funds, including condonation of penalties, which would diminish the property rights of the funds' owners and beneficiaries.

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[61] Valencia v. Manila Yacht Club, Inc., *supra*, note 5.

[62] Rural Transit Employees Association v. Bachrach Transportation Co., G.R. No. 21441, December 15, 1967, 21 SCRA 1263.

[63] Rural Transit Employees Association v .Bachrach Transportation Co., *supra*, note 62; Benguet Consolidated, Inc. v. SSS, G.R. No. 19254, March 31, 1964, 10 SCRA 618; Taurus Taxi Co., Inc. v. Capital Insurance & Surety Co., G.R. No. 23491, July 31, 1968, 24 SCRA 454.

[64] *Supra*, note 5.

[65] *Supra*, note 2.

MINIMUM WAGE LAW

Section 19 of Minimum Wage Law applicable to firms established after its passage

Section 19 of the Minimum Wage Law provides that "nothing in this Act shall x x x justify an employer in violating any labor law applicable to his employees, in reducing the wage *now* paid to any of his employees in excess of the minimum wage established under this Act, or in reducing supplements *furnished on the date of enactment.*"[66]

In *Automobile Parts & Equipment Company, Inc. v. Lingad,*[67] the petitioner-employer made capital of the word "now" and the phrase "furnished on the date of enactment" in this section to justify its act of reducing the wages of its monthly paid employees from ₱180.00 (which, at that time, was more than the minimum wage fixed in the Act) to ₱152.00 (which was less than the required minimum wage).[68] Petitioner contended that the word "now" and the phrase "furnished on the date of enactment" limit the section's application to business establishments already existing in 1951 when the Act took effect and since it was established after the Act's date of effectivity, it is therefore not covered by the prohibition of the section. This interpretation, the Supreme Court ruled, would defeat the statutory purpose and hence cannot be countenanced.

TERMINATION PAY LAW

Employment without a definite period — when termination with or without just cause

Where employment in a commercial, industrial, or agricultural establishment or enterprise is without a definite period, the employer is authorized by Republic Act No. 1052 (otherwise known as the Termination Pay Law) to terminate the employment at any time provided that it be with just cause. If the termination is without just cause the employer must serve notice thereof to the employee at least one month in advance or 1/2 month for every year of service of the employee, whichever is longer, a fraction of at least six months being considered as one whole year. If termination without just cause is effected without the required period of notice having been observed, the employee shall be entitled to compensation from the date of termination

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[66] Emphasis supplied.

[67] G.R. No. 26406, October 31, 1969, 30 SCRA 248.

[68] Under an amendatory Act (still unnumbered) which took effect on June 18, 1970, the minimum daily wages ar now as follows: (1) for employees in non-agricultural enterprises, ₱8; (2) for employees in retail or service enterprises with not more than five employees, ₱6; (3) for employees in farm enterprises, ₱4.75; for employees of the national government and all government-owned or controlled corporations, ₱8; and (4) for employees of municipalities, cities and provinces, an amount to be fixed by these political subdivisions as their finances may permit, provided that it "shall not be less than five pesos or the minimum wages being paid at the time of the approval of this amendatory Act, whichever is higher."

in an amount equivalent to his salaries or wages for one month or 1/2 month, as the case may be.[69]

Termination by the employer is with just cause under the Act if it is due to:

(a) The closing or cessation of operation of the establishment or enterprise, unless the closing is for the purpose of defeating the intention of the law;

(b) Serious misconduct or wilful disobedience by the employee to the orders of his employer or his representative in connection with his work;

(c) Gross and habitual neglect by the employee of his duties;

(d) Fraud or wilful breach by the employee of the trust reposed in him by his employer or representative;

(e) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family, or his representative; and

(f) Other causes analogous to any of the foregoing.[70]

Absence from work on the part of any employee for forty-eight successive days without permission or authority of his superiors and in violation of company rules and regulations was held in *Baltazar v. San Miguel Brewery, Inc.*[71] to be just cause for the termination of his employment which barred him from the right to one-month notice or one-month pay in lieu of such notice.

But the termination of employment in consequence of a retrenchment program for reasons of economy and mechanization of operations is, as ruled in *Insular Lumber Co. v. Court of Appeals,*[72] not a just cause within the contemplation of Republic Act No. 1052. Such a program, according to the Court, is not analogous to, but is below the level of "closing or cessation of operation of the establishment or enterprise," by which alone, among the causes specifically enumerated in the Act, the question of whether it is a "just cause" or not may be gauged. In reaching this conclusion, the Court principally depended on two considerations. First, it took into account the first paragraph of Section 2 of the Act which provides that "the suspension for a period not exceeding six months of the operation of a business or enterprise not attributable to the fault of the employer x x x shall not terminate an employment." If such suspension is neither closure nor cessation, reasoned the Court, much less may economic measures of retrenchment fall within the category of closing or cessation of operation under Section 1(a) considered in relation to Section 1(f). It then pointed to an earlier decision[73]

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[69] Section 1, as amended by Republic Act 1737.

[70] *Id.*

[71] G.R. No. 23076, February 27, 1969, 27 SCRA 71.

[72] *Supra,* note 2.

[73] Wenceslao v. Carmen Zaragoza, Inc., G.R. No. 22577, July 31, 1968, 24 SCRA 554.

holding that the closing or cessation of operation of the establishment or enterprise of the employer, and not merely the closing or cessation of operation of any particular division or department of the employer's business is what the law considers a just cause for terminating an employment. If the closing or cessation of operation of any particular division or department of a business, a measure which is permanent in character is not a just cause for terminating an employment then, stated the Court, *a fortiori* the temporary measure of resorting to a retrenchment may not be considered such a just cause.

Employment with a fixed term — just cause requirement applied

There is no statute which specifically governs termination of an employment with a fixed term. But the case of *Jamilano v. Court of Appeals*[74] establishes the rule that termination of this kind of employment by the employer, if he is to be free from any liability, must also be for just cause. This case involved a teacher employed for one school year by a private secondary academy. During a faculty meeting convoked for the selection of the Miss Sophomore, a disagreement between him and a female co-teacher arose in which the latter remarked, "Yabang ninyo, Mr. Jamiliano." Feeling insulted by this remark, he absented himself from class for the next two days and went to Manila to consult a lawyer. When he returned, the co-teacher went to his house to apologize and settle the matter amicably, but he advised her to arrange it with his lawyer. Apparently no settlement was arrived at for, three days later, Jamilano filed a criminal complaint for serious oral defamation. For doing this without first giving the academy's board of trustees a chance to investigate the matter, for absenting himself without permission, and for allegedly refusing to amicably settle his case with his co-teacher, he was suspended from teaching for the rest of the school year. For the suspension, Jamilano sued the school for damages. The trial court decided in his favor but the Court of Appeals, which had earlier acquitted Jamilano's co-teacher in the libel case, reversed. In deciding for the school, the appellate court made the finding that Jamilano's act of filing the criminal case was totally unjustified and that he knew before hand that he had no justiciable case because the word "yabang," considered in the context in which it was uttered, was not defamatory. According to the court, this act of Jamilano's, as well as his refusal "to consider all overtures for amicable settlement" and "his vindicative determination to embarrass" not only his co-teacher but also the school, rendered him no longer a desirable member of the school's teaching staff and his continued presence therein would have been prejudicial to the welfare, discipline and good name of the school. With these findings the Supreme Court could not agree. In its view, Jamilano, since he was not lawyer, could not have known beforehand that he had

[74] *Supra*, note 2.

no justiciable case. In fact, said the Court, even the Court of First Instance found that he had been orally defamed by his co-teacher. Secondly, it did not appear that the school's regulations required Jamilano to first refer his case to its board of trustees. The highest court considered the Court of Appeal's finding that Jamilano was vindictive because of his refusal to amicably settle as unwarranted. His refusal, it said, was not absolute. And his advise that his co-teacher arrange the case with his counsel was reasonable because he had already contracted for legal services and he could not expect that his counsel would waive compensation if he decided to drop the charge. Under these circumstances, the Court ruled that Jamilano's conduct did not warrant his suspension by the school authorities. "One employed without a definite term," it remarked, "cannot be dismissed without just cause (R.A 1787); one employed for a specified period should enjoy no less protection." The Court did not, however, find Jamilano entirely without fault. It considered as unjustified his act of abandoning his classes without notice or provision for his replacement, "thereby recklessly disregarding the supreme interest of the students (and, incidentally, those of the school) and subordinating them to his private resentment," and of suing the school for damages without giving it an opportunity to comply with the Bureau of Private School's directives for his reinstatement. For this reason, it did not consider him entitled to damages apart from the compensation due him from the period of his suspension, plus a reasonable amount for attorney's fees and expenses of litigation.

EIGHT-HOUR LABOR LAW

Amount of premium pay due for work done on Sundays and legal holidays

Under Section 4 of Commonwealth Act No. 444 (otherwise known as the Eight-Hour Labor Law):

> "No person, firm, or corporation, business establishment or place or center of labor shall compel an employee or laborer to work during Sundays and legal holidays, unless he is paid an additional sum of at least twenty-five per centum of his regular remuneration x x x."

This provision is apparently simple and clear but its interpretation was the subject of controversy in two cases decided by the Supreme Court in 1969 — *Manalo v. Pampanga Sugar Development Company, Inc.*[75] and *De Leon v. Pampanga Sugar Development Company, Inc.*[76] In both cases the petitioners were monthly-paid employees of a sugar central operator the nature and condition of whose employment required them to work every day, including Sundays and holidays. In the suits they brought to recover what they claimed were unpaid compensation for work they had performed

[75] G.R. No. 26776, June 30, 1969, 28 SCRA 743.
[76] G.R. No. 26844, September 30, 1969, 29 SCRA 628.

on Sundays and holidays for a certain period, they claimed in substance that under Section 4 each of them was entitled to be paid in addition to his monthly salary a premium pay corresponding to his wage for a day's work plus 25% thereof. In other words, it was their position that the monthly salary of each of them did not include Sundays and legal holidays so that an eight-hour work done during any of these days has to be separately compensated in an amount equivalent to a day's wage plus 25% thereof, which means 125% of a regular daily wage.

The Supreme Court, however, would make a distinction with respect to employees paid on a monthly basis. If the understanding is that the monthly salary is to cover work on ordinary days only or where the nature and conditions of employment do not require work on Sundays and holidays, then the position of the petitioners could be sustained. But if, in agreeing to the monthly stipend, the parties knew, or had reason to know, that the work would be continuous, without interruption on Sundays and holidays, then the employee would be entitled only to 25% additional pay, the work done on such days being already covered by the regular monthly pay. This latter situation was found to obtain in the *De Leon* case and so the Court of Industrial Relations' order dismissing the petitioners' complaint was affirmed. But in the *Manalo* case it was not clear which arrangement was agreed upon by the parties, and so the case was remanded to the labor court for further ventilation of the matter.

Demand for "wages" construed as including demand for overtime pay

Proceeding from the theory that the claimant had merely testified to having demanded payment of her "wages," the employers in *De Agraviador v. Court of Appeals*[77] contended on appeal that there was no evidence that the employee had ever demanded payment of compensation for work done in excess of eight hours a day and on Sundays. In so doing, they apparently assumed that in using the term "wages" the claimant meant no more than her fixed regular monthly compensation and did not include the remuneration for work performed beyond eight hours and during Sundays. This assumption the Supreme Court dismissed as untenable. As a housemaid with a limited schooling, the Court said, the claimant evidently understood the word "wages" as embracing every amount due to her for services rendered to the appellants, without distinction between work done during regular working hours, days and those performed outside such hours and days.

Prescriptive period for filing claim for overtime pay — suspension of period

Before June 22, 1957, the Eight-Hour Labor Law contained no provision limiting the period within which claims for overtime and/or Sunday work pay may be filed. The Civil Code's provisions on prescription of actions

[77] G.R. No. 26487, March 28, 1969, 27 SCRA 479.

governed. On that date, Section 7-A of said Act, inserted by Republic Act No. 1993, came into force. Under its provisions, claims for overtime and/or for work done on Sundays prescribe after three years from the accrual of the cause of action.

In the *De Agraviador* case,[78] the claimant's services to the appellants ended on September 10, 1954. Her claim was filed with the Labor Standards Commission on August 6, 1956 (or less than one year and eleven months) since the termination of her services. The proceedings therein terminated on July 14, 1961 when the Labor Standard Commission was declared without jurisdiction to hear and decide her claim. She filed action on her claim in the proper court on September 6, 1961 (or less than two months after July 14, 1961). Has her claim prescribed? The Court held that the filing of the claim with the Labor Standards Commission had the effect of stopping the running of the period of prescription.[79] Accordingly, when the action was commenced on September 6, 1961, the period of six years prescribed in Article 1145 of the Civil Code had not yet expired. Section 7-A took effect when claimant's claim was already pending in the Commission. The proviso of said Section therefore applies that actions already commenced before its effectivity shall not be affected by the three-year period it prescribes. But even if said period prescribed by the Section were applied, the claim would still not be barred, said period, because of the tolling thereof, not having expired. And although the claim includes compensation for work done since November 15, 1949, the prescriptive period did not begin to run until September 10, 1954 when the appellants rejected claimant's demand for payment. They did not turn down her prior demands, they having merely told her that they would keep the money in trust for her so that she may have a substantial savings at the end of her employment.

The case of *Artuyo v. Gonzalves*,[80] is of substantially the same facts. The proceedings in the Regional Office of the Department of Labor, where the claims was originally filed, and in the Labor Standards Commission, to which the Regional Office's order of dismissal was appealed, were also declared null and void on the ground of lack of jurisdiction. But the period consumed by these proceedings was deducted from the period of time which elapsed between the accrual of the cause of action and the filing of action for recovery in the proper court, such proceedings being deemed to have interrupted the prescriptive period. In addition, the proviso of Section 7-A was also applied, as the claim was already pending when said section went into effect.

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[78] *Id.*

[79] The Court cited Tiberio v. Manila Pilots Association, G.R. No. 17661, December 28, 1961, 3 SCRA 768; A.L. Ammen Transportation v. Borja, G.R. No. 17750, August 31, 1962, 5 SCRA 1088; Fernandez v. P. Cuerva & Co., G.R. No. 21114, November 28, 1967, 21 SCRA 1095; Luzon Stevedoring Corporation v. Celorio, G.R. No. 22542, July 31, 1968, 24 SCRA 521.

[80] G.R. No. 29930, April 28, 1969, 27 SCRA 1148.