



Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
EMPLOYEES' COMPENSATION COMMISSION
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Ika-21 ng Disyembre 2016

G. BALTAZAR M. BODTAN

Purok 8, Asin Road
Baguio City, Benguet, 2600
SM-19564-1212-16

Mahal naming **G. Bodtan**:

Ito po ay may kinalalaman sa inyong kahilingang benepisyo sa ilalim ng Employees' Compensation Law (P.D. 626, as amended).

Nais po naming ipabatid sa inyo na noong ika-20 ng Disyembre taong 2016, nagkaroon po ng desisyon ang tanggapanang ito na pagbigyan ang inyong kahilingan. Ang SSS na lamang po ang magbibigay ng inyong karampatang benepisyo.

Mangyari lang po na ipag-bigay-alam ninyo sa aming tanggapan kung natanggap na po ninyo ang inyong kaukulang benepisyo sa loob ng tatlong (30) araw matapos po ninyong tanggapin ang kopya ng desisyon.

Maraming salamat po.

Lubos na sumasainyo,


STELLA ZIPAGAN-BANAWIS
Executive Director





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December 21, 2016

ELISA T. BAROQUE, M.D.
Department Manager III
Medical Operation Department
SOCIAL SECURITY SYSTEM
East Ave., Diliman, Quezon City

Dear **Dr. Baroque**:

We are transmitting herewith the entire record of the case of:

BALTAZAR M. BODTAN VS. SSS
ECC CASE No. SM-19564-1212-16

The decision in the above-entitled case is a **MODIFICATION** of the decision of the System and the same is accordingly transmitted to that office for enforcement. Pursuant to Article 182 (a) of P.D. 626 as amended, all awards granted by the Commission in cases appealed from the decisions of the System shall be effected **"within fifteen (15) days from receipt of notice thereof."**

Very truly yours,


STELLA Z. BANAWIS
Executive Director

cc:

BRENDA P. VIOLA, MD
OIC – Medical Services Division
Social Security System (SSS)
East Ave., Diliman, Quezon City

Mr. BALTAZAR M. BODTAN
Purok 8, Asin Road
Baguio City, Benguet, 2600
SM-19564-1212-16

jtv/msmp



BALTAZAR M. BODTAN,
Appellant,

-versus-

ECC CASE No. SM-19564-1212-16

SOCIAL SECURITY SYSTEM (SSS),
Appellee.

x-----x

D E C I S I O N

This appeal seeks to review the decision of the Social Security System-Medical Claims Review Committee (SSS-MedCRC), dated October 12, 2016, denying appellant's claim for disability benefits, under the Employees' Compensation Law (P.D. No. 626, as amended), due to Hypertension with Left-Ventricular Remodelling; Cervical Spondyloarthropathy with Multilevel Foraminal Stenosis; Lumbosacral Spondyloarthropathy; Noise-Induced Hearing Loss.

From September 17, 1983, until his retirement on Sept. 30, 2013, the appellant, Baltazar M. Bodtan (SSS No. 01-0266377-2), 62 years old at the time of the filing of the claim and a resident of Baguio City, was employed as Underground Environmental Supervisor of Philex Mining Corp., Tuba, Benguet.

Based on the Job Description, which was signed by Ms. Elsa G. Prangan, HR Manager, the duties and responsibilities of the appellant include:

General Function:

Implements, directs and supervises planned activities for environmental program

Duties and Responsibilities:

1. Adheres to safety regulations, SOPs and other company policies;
2. Orients/trains and develops subordinates according to department and company standards;
3. Ensures the proper disposal of waste generated;
4. Adheres to 5s and DI Housekeeping and environmental program of the company;

5. Implements the 3Rs (recycle, re-use and reduce);
6. Ensures adherence to established department and company work (Productivity Improvement Plan Program);
7. Recommends training and seminars for subordinates;
8. Resolves work-related complaints for subordinates;
9. Recommends disciplinary action and appropriate commendation of subordinates;
10. Recommends approval of vacation leaves for subordinates;
11. Ensures proper adherence to standard operating procedures in the use of machines/equipment and report any damages and abuse of machines/equipment;
12. Ensures proper usage, handling and storage of materials/supplies at work-area;
13. Accounts subordinates in case of emergency;
14. Attends to monthly operational and safety meetings;
15. Evaluates performance of subordinates and accomplishes the pre-qualification criteria required for subordinates recommended for Trade Specialization Skills (TSS) test;
16. Prepares and submits the following reports;
 - a. UG Environmental Enhancement Manpower Shift Report;
 - b. UG Environmental Enhancement Accomplishment Shift Report and Turn-over;
 - c. Timber Support Installation Report
17. Coordinates and follows-up all needed services, equipment, materials/supplies during the shift with other sections/department;
18. Communicates/relays specific instructions to subordinates and ensures that all instructions are properly understood and performed;
19. Identifies safety hazards in the work-place and recommends corrective measures for immediate action;
20. Accomplishes accident/incident reports;
21. Conducts daily inspection of all installed fans, ventilation controls and ensures that all are operational and in good condition;
22. Coordinates and follows-up with electrical section the energization and disconnection of controls for a newly installed and/or defective fans;
23. Accomplishes and submits all the necessary checklist/documents and maintenance reports of all fans;

24. Initiates, solicits, and encourages subordinates to actively participate in the improvement of existing methods and procedures;
25. Implements maintenance of all fans;
26. Conducts and reports of all monthly inspection of all exhaust tunnels;
27. Supervises and assists subordinates in the following activities;
 - a. Repair and maintenance of all intake and exhaust drifts;
 - b. Pull-out and installation of fan and ducting;
 - c. Installation and dismantling of ventilation controls;
 - d. Retrieval and collection of used conveyors, lumbers and other scraps that would be utilized in the ventilation activities and fabrication works;
 - e. Construction of isolated bulkheads for fan/concrete bulkheads;
 - f. Implements maintenance of drain holes and raises;
 - g. Fabrication of ducting fan guards, etc.;
28. Approves the installation, dismantling, transfer, relocation of ventilation controls, blowers, ductings, ventilation tubes;
29. Approves issuance of ventilation tubes;
30. Performs other work-related tasks as may be assigned.

On September 27, 2007, the appellant underwent Audiometry examination and it was discovered that he had Bilateral Moderate and Sensorineural Hearing Loss with 49% hearing handicap.

Sometime in 2008, the appellant filed a claim for EC Permanent Partial Disability (PPD) benefits but was denied due to failure to submit additional Audiometry examinations results showing that his hearing impairment has progressed to a state of permanent disability. On October 1, 2013, he retired from his employment.

On March 23, 2015, the appellant underwent another Audiometry examination results which revealed "*monoaural impairment: right: 40%; left: 58%, hearing handicap 44%; moderate sensorineural hearing loss, right ear, severe sensorineural hearing loss, left ear.*" On March 24, 2015, he underwent Lumbosacral X-ray examination and it was discovered that he has been suffering from Degenerative Spondyloarthropathy. He also underwent 2D Echo examination which showed findings of "*concentric left ventricular remodeling with adequate contractility with good systolic function.*" On March 30, 2015, he sought consultation due to hearing loss. He was also diagnosed to be suffering from Hypertension, stage II with left ventricular remodeling; Cervical Spondyloarthropathy with multilevel foraminal stenosis; Lumbosacral Spondyloarthropathy; Noise-Induced Hearing Loss 44%. Except for his hearing impairment, there is no showing that the appellant experienced the symptoms of any of the abovementioned ailments during the period of his employment.

On April 6, 2015, the appellant filed a claim for EC disability benefits due to the abovementioned ailments before the SSS Baguio City Branch (Branch). The Branch denied the grant of EC disability benefits on the ground of no causal relationship.

On October 12, 2016, the SSS-MedCRC sustained the denial through Resolution No. 2016-0096 reasoning that:

“...physical examination findings at the Branch did not show significant findings, e.g. when asked questions, he could hear conversational voice at 4-5ft. distance, no limitation of range of motion were noted at the neck and back areas, and no motor deficits were noted, thus, physical examination results did not warrant granting of disability benefits. Also, there were no illness reports nor are there documents from the employer that would substantiate that the illnesses claimed are work-connected. Member is already receiving retirement benefit since 2013.”

On December 7, 2016, the Secretariat received the records of the claim from the SSS for review purposes. On December 16, 2016, this case was submitted to the Technical Review Committee (Committee) for initial deliberation. After due deliberation, the Committee decided to elevate this case to the Commission with the following recommendations:

I. For Denial

Type of Illnesses	Reason for Denial
HPN with left ventricular remodeling; Cervical Spondyloarthropathy with multilevel foraminal stenosis; Lumbosacral Spondyloarthropathy	No employer-employee relationship; No causal relationship

II. For Award

Type of Illness	Basis for Award
Noise-Induced Hearing Loss	<p>-Appellant was able to submit his recent Audiometry examination results showing permanent disability of his hearing impairment;</p> <p>-Satisfaction of condition for compensability of Hearing Loss- exposure to sudden burst of sound such as explosive blast; the epidemiologic studies of high risks of miners to hearing loss and the nature of work environment of miners are sufficient to establish causal relationship between the hearing loss of the appellant and his working conditions.</p>

The appeal is partly meritorious.

Article 173 (formerly Art. 167) paragraph (l) of Presidential Decree (P.D.) No. 626, as amended, defines sickness as "any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment subject to proof that the risk of contracting the same is increased by working conditions." Section 1 (b), Rule III, of the Rules Implementing P.D. No. 626, as amended, provides that "for the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease included under Annex "A" of these Rules (Amended Rules on Employees' Compensation) with the conditions set therein satisfied; otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions."

This Commission now proceeds to discuss the etiology, conditions for compensability and the reasons for denial of the claim for EC disability benefits of the appellant due to Hypertension and Musculoskeletal Disorders.

Claimed Illness/Injury	Etiology/Conditions for Compensability under Annex "A" of the Amended Rules on Employees' Compensation	Reason for Denial of the Claim
Hypertension with left-ventricular remodelling	<ul style="list-style-type: none"> • Hereditary and environmental factors; • Essential or Primary Hypertension has no single identifiable cause. The persons most likely to develop essential hypertension are those with family history of hypertension. • Cigarette smoking, less physical activity, stress, excessively heavy weight, high salt intake, high caffeine intake, and use of oral contraceptive pill also contribute to the development of essential hypertension. The release of certain enzymes from the kidneys and diabetes mellitus may lead to high blood pressure. • Both genetic and hemodynamic factors contribute to left ventricular hypertrophy. 	<p>Although Hypertension has been included in the List of occupational Diseases, its compensability requires compliance with the conditions provided under Annex "A" of the Amended Rules on Employees' Compensation.</p> <p>The appellant should have provided evidence of a reasonable connection between his working conditions and his Hypertension or that the progression of the same was brought about largely by the conditions in his previous occupation. The available medical records also failed to disclose any substantial evidence that will establish that his Hypertension causes impairment of functions of his body organs during the time of his employment. Failing in this aspect, this Commission is constrained to rule that the appellant's Hypertension is not</p>

Claimed Illness/Injury	Etiology/Conditions for Compensability under Annex "A" of the Amended Rules on Employees' Compensation	Reason for Denial of the Claim	
	<ul style="list-style-type: none">• Individuals with left ventricular hypertrophy are at increased risk for Cardiovascular Heart Disease, Stroke, Chronic Heart Failure, and sudden death. <p>References:</p> <ol style="list-style-type: none">1. Robbins <i>Pathologic Basis of Disease</i>, 6th Edition, pp. 510-514;2. <i>Seventh Report of the Joint National Committee on Prevention, Detection, Evaluation and treatment of High Blood Pressure (JNC 7)</i>;3. <i>Harrison's Principles of Internal Medicine</i>. 17th Edition Chapter 241. <i>Hypertensive Vascular Disease</i> <p>Conditions for Compensability:</p> <p>"29. Essential Hypertension</p> <p>Hypertension classified as primary or essential is considered compensable if it causes impairment of function of body organs like kidneys, heart, eyes, and brain, resulting in any kind of disability subject to the submission of any of the following:</p> <ul style="list-style-type: none">(a) "Chest X-ray report;(b) "ECG report;(c) "blood chemistry report;(d) "fundoscopy report;(e) "Ophthalmological evaluation;(f) "CT scan;(g) "MRI;(h) "MRA;(i) "2D-echo;(j) "Kidney ultrasound; and(k) "BP monitoring report."	compensable.	
Musculoskeletal Disorders (Cervical Spondyloarthropathy with multilevel foraminal stenosis; Lumbosacral Stenosis)	<ul style="list-style-type: none">• Refers to traumatic and non-traumatic inflammatory, degenerative and acquired conditions affecting muscle, tendons, ligaments, joints, peripheral nerves and blood vessels arising in the performance of assigned task;	Although Musculoskeletal Disorders have been included in the List of occupational Diseases, their compensability requires compliance with the conditions provided under Annex "A" of the Amended	

Claimed Illness/Injury	Etiology/Conditions for Compensability under Annex "A" of the Amended Rules on Employees' Compensation	Reason for Denial of the Claim
	<ul style="list-style-type: none"> • Exposure to high levels of whole body vibration, repetitive motions, lifting, performing work in flexed or hyperextended posture or performing other manual handling tasks such as pushing or pulling; • Age related or degenerative changes <p><i>Reference:</i> Board Resolution No. 13-11-36 dated November 29, 2013</p> <p>"24. Musculoskeletal Disorders.</p> <p>"Refers to traumatic and non-traumatic inflammatory, degenerative, and acquired conditions affecting muscle, tendons, ligaments, joints, peripheral nerves and blood vessels arising in the performance of assigned tasks.</p> <p>(a) "Dorsopathies or disorder of the spine (involving the cervical, thoracic, lumbosacral, pelvis hip) acquired and secondary to injuries/accidents causing Spine Pain in conditions such as Herniated Nucleus Pulposus; Osteoarthritis; Spondylosis; Spondylitis; Spondylolisthesis; Muscle Strain and Sprain; Fracture/Dislocations and Radiculopathy among but not limited to workers who are exposed to high levels of whole body vibration, repetitive motions, lifting, performing work in flexed or hyper-extended posture or performing other manual handling tasks (such as pushing, pulling);</p> <p>(b) "Disorder of the shoulder acquired or secondary to injuries/accidents causing Crushing, Avulsions;</p>	<p>Rules on Employees' Compensation.</p> <p>There is no substantial evidence showing that the working conditions of the appellant entailed lifting and carrying of heavy objects. Neither there is substantial evidence showing that he experienced the symptoms of his Musculoskeletal Disorders during the period of his employment.</p>

Claimed Illness/Injury	Etiology/Conditions for Compensability under Annex "A" of the Amended Rules on Employees' Compensation	Reason for Denial of the Claim
	<p>Amputations; Rotator Cuff Tendinitis; Rotator Cuff Tear; Strain and Sprain; Shoulder Impingement Syndrome; Adhesive Capsulitis or Frozen Shoulder ; Bicipital Tendinitis; Ruptured Bicipital Tendon and Shoulder Joint Dislocation among but not limited to workers who perform repeated above shoulder activities and/or repeated flexion, external rotation and abduction.</p> <p>(c) "Disorders of the elbow acquired or secondary to injuries/accidents causing Crushing, Avulsions, Amputations, Lateral and Medical Epicondylitis, Bursitis, Nerve Impingements, Tenosynovitis and peritendonitis among but not limited to workers exposed to trauma, forceful and repetitive work/stress involving wrist dorsiflexion, forearm supination and/or pronation.</p> <p>(d) "Disorders of wrist and hand acquired or secondary to injuries/accidents causing Crushing, Avulsions, Amputations, Trigger/Mallet Finger, Strain and Sprain, Fracture, Dislocation, de Quervain Tenosynovitis, Dupuytren' Contracture and Carpal Tunnel Syndrome among, but not limited to, workers using hand/vibratory tools for activities involving frequently flexed or extended wrist, combination of repetition, force and posture, overuse of the thumb as in repetitive grasping/pinching (lateral pinch between the thumb and index finger), repetitive and forceful gripping and</p>	

Claimed Illness/Injury	Etiology/Conditions for Compensability under Annex "A" of the Amended Rules on Employees' Compensation	Reason for Denial of the Claim	
	<p>sustained awkward postures of the wrist.</p> <p>(e) "Disorders of the knee acquired or secondary to injuries/accidents causing Crushing, Avulsions, Amputations, Knee Osteoarthritis, Bursitis, Meniscal Tear, Patellar Tendinitis, Strain and Sprain, Fracture of the patella, tibia, femur, and fibula, Synovitis, and Dislocation among but not limited to workers whose work entails exposure to prolonged external friction, pressure are repetitive motion about the knee</p> <p>(f) "Disorders of the ankle and foot acquired or secondary to injuries/accidents causing Crushing, Avulsions, Amputations, Strain and Sprain, Fracture of the Ankle and foot, Achilles tendon tear and tendinitis, Bursitis, Synovitis, and Dislocation, among but not limited to workers exposed to repetitive stress and trauma of the ankle and foot.</p>		

Having failed to find substantial evidence that will establish causal connection between the Hypertension and Musculoskeletal Disorders of the appellant and his working conditions, this Commission sustains the decision of the SSS denying the claim for EC disability benefits due to the said ailments.

Incidental Findings: Hearing Loss; exposure to high-frequency noise due to drilling machines and dynamite blasting

On the basis of Board Resolution (BR) No. 10-05-65 ("Policy on Evaluation of Incidental Findings," dated April 28, 2010), which provides that *"when the disease or injury being claimed has been declared to be not work-connected but findings are also made that the employee has suffered or is suffering from other work-connected diseases such incidental findings shall also be evaluated,"* this Commission now proceeds to rule on the compensability of the appellant's Hearing Loss.

Medical findings describe the etiology of Hearing Loss in this manner, to wit:

Claimed Illness	Etiology
Hearing Loss	<ul style="list-style-type: none">• Middle-ear infections, viruses (mumps, chickenpox, measles, influenza, herpes zoster and adenoviruses), Meningitis, and Syphilis.• Exposure in the workplace to harmful noise levels in the higher frequencies (3000 to 6000 Hz level);• Acoustic or physical traumatic working conditions which include excessive noise such as explosive blast, lacerations, motor vehicle accidents, blunt head trauma, falls, burns from caustic chemicals, open flames or welder’s slag that enter the ear canal, frostbite, hematoma, and barotrauma due to diving and flying. <p><i>References:</i> 1. <i>Harrison’s Principles of Internal Medicine, 14th Edition, Companion Handbook, page 1062;</i> 2. <i>Boie’s Fundamentals of Otolaryngology, 6th Edition, pp. 46-47, 86-87, 90-91, 94-95, 123-124, 131-132;</i> 3. <i>Board Resolution No. 14-10-32, series of 2014, October 8, 2014</i></p>

The classification of Hearing Loss puts at rest as to any doubt on the compensability of the said ailment subject to the satisfaction of conditions for its compensability.

Under Annex “A” of the Amended Rules on Employees’ Compensation, the following are the conditions for compensability of Occupational Hearing Loss:

“4. Occupational Hearing Loss

- (a) ”Noise Induced Hearing Loss (NIHL) is characterized as progressive sensorineural hearing loss that is usually bilateral, permanent/irreversible and affecting the 3000 to 6000 Hz level but commonly affects and is worst at the 4000 Hz level
- “Exposure in the workplace to harmful noise levels in the higher frequencies
- “Contingencies wherein direct damage to the eardrum or inner ear are caused by the working activity.
- (b) “Acoustic trauma results in a conductive or mixed type of hearing loss.
- “Exposure in the workplace due to sudden burst of sound such as explosive blast.
- (c) “Physical trauma can present as mixed type of hearing loss

”Physical trauma sustained at work such as but not limited to motor vehicle accidents, blunt head trauma, falls, explosions, burns from caustic chemicals, open flames or welder’s slag that enter the ear canal.”

From 1993 to 2013 or for twenty (24) years, the appellant has been employed as Underground Mining Supervisor whose working conditions require that he should be stationed in the mining pit area whose quietness and stillness are suspect. The drilling machines and dynamite blasting have made it increasingly noisy. The Encyclopedia of Occupational Safety and Health, 4th Edition, p. 74.53 describes the working environment of a miner in this manner, to wit:


“Noise is ubiquitous in mining. It is generated by powerful machines, fans, blasting and transportation of ore. The underground mine usually has limited space and thus creates a reverberant field. Noise exposure is greater than if the same sources were in a more open environment.”

Thus, in the light of the appellant’s exposure to detrimental work-environment, the probability that the noise in his working area caused the manifestation of his Hearing Loss is not remote. In the grant of EC disability benefits to the appellant, this Commission believes that he has satisfied the abovementioned second condition for compensability of Occupational Hearing Loss. Further, he was able to submit his recent Audiometry examination results showing permanent disability of his hearing impairment.


WHEREFORE, the appealed decision is hereby **MODIFIED** and the SSS is ordered to **grant EC disability benefits** to herein appellant plus reimbursement of medical expenses for his succeeding consultations due to **Noise-Induced Hearing Loss** subject to the limitations prescribed by the Commission. However, this Commission sustains the decision of the SSS **denying appellant’s claims** insofar as his **Hypertension and Musculoskeletal Disorders** are concerned on the ground of no employer-employee relationship and/or no causal relationship.

SO ORDERED.

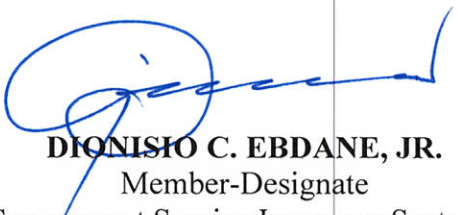
**CITY OF MAKATI,
December 20, 2016.**



CIRIACO A. LAGUNZAD III
Chairperson – Alternate
Department of Labor and Employment



BRENDA R. VIOLA, M.D.
Member-Designate
Social Security System



DIONISIO C. EBDANE, JR.
Member-Designate
Government Service Insurance System



CARLITO P. ROBLE
Member
Employees' Sector

ABSENT

RAMON F. ARISTOZA, JR.,
Member-Designate
Philippine Health Insurance Corporation



STELLA ZIPAGAN-BANAWIS
Member
Employees' Compensation Commission
Secretariat