



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

G. RODOLFO M. ESPINOZA

Brgy. Sili, Naguilian
La Union, 2511
SM-19565-1212-16

Mahal naming **G. Espinoza**:

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:

RODOLFO M. ESPINOZA VS. SSS
ECC CASE No. SM-19565-1212-16

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. RODOLFO M. ESPINOZA
Brgy. Sili, Naguilian
La Union, 2511
SM-19565-1212-16

jtv/msmp



RODOLFO M. ESPINOZA,
Appellant,

-versus-

ECC CASE No. SM 19565-1212-16

SOCIAL SECURITY SYSTEM (SSS),
Appellee.

X.....X

DECISION

This appeal seeks to review the decision of the Social Security System (SSS)-Medical Claims Review Committee (MedRC), dated September 27, 2016, denying appellant's claim for disability benefits, under the Employees' Compensation Law (P.D. No. 626, as amended), for his Hypertension, stage II; Degenerative Cervical Spondylosis; Degenerative Thoracolumbar Spondylosis; Degenerative Osteoarthritic Changes, bilateral shoulders; Empyema; S/P (status-post) amputation 2nd and 3rd digits, left hand.

From October 4, 1986, until December 31, 2014, the appellant, Rodolfo M. Espinoza (SSS No. 02-0312416-5), 55 years old at the time of the filing of the claim and a resident of Naguilian, La Union, has occupied the following positions at Philex Mining Corp., Tuba, Benguet:

Position-Work-Place	Period of Employment
Mucker (Underground)	October 4, 1986-July 31, 1993
Miner 3 rd Class (Underground)	August 1, 1993-January 20, 1996
Production Miner Second Class (Underground)	January 21, 1996- August 20, 1997
Miner 1 st Class (Underground)	August 21, 1997-December 31, 2014

During the period of his employment as Mucker, the duties and responsibilities of the appellant include:

General Function:

Secures/prepares materials, tools and supplies needed in production operation; Provides assistance to other miners in installing timber supports, hauling and installing timber supports, hauling and installing stop board, performs cleaning, ditching, housekeeping, performs related duties as assigned by his immediate supervisor and follows instructions from 1st class and 2nd class production miner

Duties and Responsibilities (under the guidance of 1st class, 2nd class and 3rd class Production Miners):

1. Secures/prepares materials, tools and supplies needed in production;
2. Provides assistance to other miners in installing timber support such as draw posts or timber sets and drift sets;
3. Cleans muck-piles and waste materials along drifts, ventilation dog-holes and other openings;
4. Guards all approaches towards blasting area;
5. Constructs canals to allow free flow of water;
6. Provides assistance to other miners in handling heavy equipment, tools, and materials;
7. Provides assistance to other miners in installing wire ropes, pulleys and brackets;
8. Provides assistance to other miners in installing wire ropes, pulleys and brackets;
9. Performs slushing operations;
10. Complies and enforces good housekeeping, loss control practices, Mine Safety Rules and Regulations, company policies, DENR Mining Laws and Collective Bargaining Agreement;
11. Attends safety meetings and seminars as required;
12. Performs other duties related to the attainment of the Mine Division objectives;
13. Performs other related duties from time to time as maybe assigned by his immediate supervisor.

Records reveal that sometime in 1987, the appellant sustained amputation of the 2nd and 3rd digits on his left-finger. However, there is no showing that he sustained the said injuries while he was performing his duties.

On April 20, 2011, the appellant felt unusual sound on his right-shoulder while he was lifting and carrying a large pipe at his work-place.

On September 5, 2012, the appellant experienced chest pain while installing a conveyor at his assigned post.

On December 22, 2014, the appellant sought medical consultation at the Saint Louis University-Hospital of the Sacred Heart, Baguio City, due to high blood pressure, chest heaviness, easy fatigability, productive cough, and multiple joint pains. It was also noted that he has elevated level of cholesterol and triglycerides in his blood. He was also subjected to X-ray examinations and Ultrasound examinations of his chest and musculoskeletal which showed findings of Degenerative Cervical Spondylosis with Multilevel Neural Foraminal Narrowing and Mild Posterior Disc Disease.

On December 24, 2014, the appellant was discharged from the said hospital with diagnosis of Hypertension, II controlled with left ventricular hypertrophy; Narrowing and midpostero disc disease; Degenerative osteoarthritic change, calcific tendinopathy; Degenerative osteoarthritic change, Calcific tendinopathy; Degenerative Thoracolumbar spondylosis with multilevel thoracic and L5-S1 disc disease; S/P Empyema; S/P Amputation left 2nd and 3rd digits.

Records reveal that the appellant was granted EC Temporary Total Disability (TTD) benefits due to Pleural Effusion and Empyema.

On April 23, 2015, the appellant filed a claim for EC disability benefits before the SSS Baguio City Branch (Branch) due to the abovementioned ailments. The Branch denied the claim on the ground of no causal relationship.

On September 27, 2016, the SSS-Medical Claims Review Committee (MedCRC) sustained the denial through Resolution No. 2016-0149 in this manner, to wit:

“.. physical examination does not warrant granting of benefits, as there was no impairment of function of body organs and the joint pains are degenerative in nature.”

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

I. For Denial

Claimed Ailment	Reason for Denial
Hypertension	No causal relationship
Empyema (diagnosed in 2012)	No progression; maximum benefits commensurate to the degree of disability have already been granted
Amputation 2 nd and 3 rd digits, left hand (sustained in 1987)	There is no substantial evidence showing that the appellant sustained his injuries while he was performing his duties.

II. For Award

Claimed Ailment	Basis for Award
Cervical Spondylosis; Degenerative Thoracolumbar Spondylosis; Degenerative Osteoarthritic changes, bilateral shoulders	Satisfaction of condition for compensability of Musculoskeletal Disorders

The appeal is partly meritorious.

Article 173 (formerly Art. 167) paragraph (I) 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 reason for denial of the claim for EC disability benefits of the appellant due to Hypertension, Amputation of 2nd and 3rd digit left fingers, and the claim for EC additional disability benefits of the appellant due to Empyema.

Claimed Illness/ Injury	Etiology/Conditions for Compensability under Annex “A” of the Amended Rules on Employees’ Compensation	Reason for Denial of the Claim
Hypertension	<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.• Individuals with left ventricular hypertrophy are at increased risk for Cardiovascular Heart Disease, Stroke, Chronic Heart Failure, and sudden death. <p><i>References:</i> 1. <i>Robbins Pathologic Basis of Disease, 6th Edition, pp. 510-514;</i> 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. 17th Edition, Chapter 241: Hypertensive Vascular Disease</i></p> <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>	<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>During his medical consultation in 2014, it was noted that the appellant has elevated level of cholesterol and triglycerides in his blood. The same may have caused or contributed to the manifestation of his Hypertension.</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 compensable.</p>

Claimed Illness/ Injury	Etiology/Conditions for Compensability under Annex “A” of the Amended Rules on Employees’ Compensation	Reason for Denial of the Claim
	(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.”	
Empyema (previously declared as work- connected)		No proof of progression; maximum benefits commensurate to the degree of disability have already been granted
Amputation of 2 nd and 3 rd digits, left hand		No substantial evidence showing that the appellant sustained his injuries while he was performing his duties

Thus, this Commission finds no cogent reason to grant EC disability benefits to the appellant insofar as his Hypertension, Empyema, and amputation of fingers on his left hand are concerned.

Incidental Findings: Musculoskeletal Disorders; work entails frequent repetitive movements and awkward postures in carrying out various tasks related to mining

Records reveal that prior to the termination of his employment as Miner in December of 2014, the appellant was diagnosed to be suffering from Degenerative Cervical Spondylosis; Degenerative Thoracolumbar Spondylosis; Degenerative Osteoarthritic Changes, bilateral shoulders.

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 Musculoskeletal Disorders.

Medical findings describe the etiology of the said ailments in this manner, to wit:

Claimed Illness	Etiology
Musculoskeletal Disorders	<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;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: Board Resolution No. 13-11-36 dated November 29, 2013</i></p>

Conditions for compensability of Musculoskeletal Disorders

The classification of Musculoskeletal Disorder as occupational diseases 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 Musculoskeletal Disorders:

“24. Musculoskeletal Disorders.

“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.

- (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);
- (b) “Disorder of the shoulder acquired or secondary to injuries/accidents causing Crushing, Avulsions; 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.

- (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.
- (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 sustained awkward postures of the wrist.
- (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.
- (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.

Reference:

Board Resolution No. 13-11-36 (“Prescribing the Revised Conditions for the Compensability of Osteoarthritis Classified under Musculoskeletal Disorders, Amending for this Purpose Item No. 24 of Annex “A” of the Amended Rules on Employees’ Compensation, dated November 29, 2013)

Compensability of the appellant’s Musculoskeletal Disorder; age coupled with age-affected work activity may lead to compensability

In denying the EC claim of the appellant due to Musculoskeletal Disorders, the SSS states that the same are degenerative in nature. In effect, the SSS denied the claim on the ground that the Musculoskeletal Disorders of the appellant are age-related in nature which, in turn, has no connection to his occupation. It would be more prudent had the SSS considered the nature of the occupation of the appellant in relation to his advancing age.

In the case of *GSIS v. Aurelia Calumpiano* (G.R. No. 196102, November 26, 2014 citing the case of *GSIS v. Salvador A. De Castro*, G.R. No. 185035, July 15, 2009), the Supreme Court elucidates the age factor in relation to the particular occupation of the worker in this manner, to wit:

- “While age and gender are characteristics inherent in the person (and thereby may be considered non-work related factors), they also do affect a worker’s job performance xxx To cite an example, some workplace activities are appropriate only for the young (such as the **lifting of heavy objects** although these may simply be office files), and **when repeatedly undertaken by older workers, may lead to ailments and disability.** Thus, **age coupled with an age-affected work activity may lead to compensability...**
- “In any determination of compensability, **the nature and characteristics of the job are as important as raw medical findings and a claimant’s personal and social history.** This is a **basic legal reality in workers’ compensation law...**” (emphasis supplied)

In this case, the appellant has occupied the position of Mucker and, eventually, as Miner from 1993 until 2014. The working conditions of the appellant beneath the surface involved tiresome manual labor which could cause trauma or strain on his musculoskeletal system. It may not be too difficult to conceive that repetitive handling of various mechanical tools, instruments and equipment in underground mining may lead to vibration, strains, and sprain.

In granting EC disability benefits in this case, this Commission holds that the working conditions of the appellant has satisfied the following conditions for compensability of Musculoskeletal Disorders:

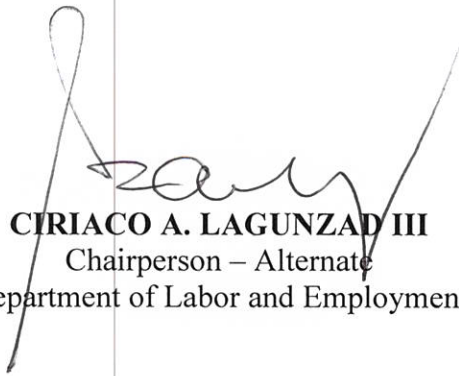
“Exposure to high levels of whole body vibration, repetitive motions, lifting, performing work in flexed or hyperextended posture or performing other manual handling tasks such as pushing or pulling.”

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 **Musculoskeletal Disorders** subject to the limitations prescribed by the Commission. However, the claim for EC disability benefits due to **Hypertension** and **Amputation of 2nd and 3rd digits on the left-finger** of the appellant is hereby **DENIED** on the ground of no causal relationship.


Further, the appellant’s claim for additional EC disability benefits due to **Empyema** is **DENIED** but without prejudice to re-filing of the same. The granting of additional EC disability benefits due to the said ailment would depend on the results of the succeeding medical examinations that may be undertaken by the appellant showing progression of the ailment.

SO ORDERED.

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



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



BRENDA P. 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

