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SECOND DIVISION

[G.R. No. 228504, June 06, 2018]

PHILSYNERGY MARITIME, INC. AND/OR TRIMURTI SHIPMANAGEMENT LTD., PETITIONERS, VS. COLUMBANO PAGUNSAN GALLANO, JR., RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated June 21, 2016 and the Resolution[3] dated November 9, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 136970 which affirmed the Decision[4] dated May 8, 2014 and the Resolution[5] dated June 30, 2014 of the National Labor Relations Commission (NLRC) in NLRC LAC No. OFW (M)-01-000095-14, granting respondent Columbano Pagunsan Gallano, Jr.'s (respondent) claim for permanent total disability benefits in accordance with the IBF JSU/PSU-IMMAJ Collective Agreement (CBA), as well as ten percent (10%) attorney's fees.

The Facts

Respondent was employed by petitioner Philsynergy Maritime, Inc. (Philsynergy), for and in behalf of petitioner Trimurti Shipmanagement Ltd. (Trimurti; collectively, petitioners), as Master (or Ship Master) on board the vessel M.V. Pearl Halo under a six (6)-month employment contract[6] that was signed on September 21, 2012, with a basic monthly salary of US$1,847.00, among others, and covered by a CBA.[7] After undergoing the required pre-employment medical examination (PEME) where the company-designated physician declared him fit for sea duty,[8] respondent, who was then 62 years old, boarded the vessel on October 5, 2012.[9]

On October 10, 2012, at around 10:00 in the evening and while in the performance of his duties, respondent felt a sudden numbness on the left side of his body and noticed that his speech was slurred. He was immediately provided first aid and his condition allegedly improved after taking an Isordil[10] tablet which respondent had personally brought to the vessel.[11] On the next day, his symptoms recurred, but which did not improve despite taking another dose of Isordil. Thus, respondent was brought to a local hospital in Poro, New Caledonia, where he was confined for eleven (11) days and underwent physical therapy from October 15 to 21, 2012.[12] His CT scan (computed tomography scan) revealed "middle cerebral artery deep right infarct without associated hemorrhagic alteration," while his MRI (magnetic resonance imaging) showed "ischemic cerebrovascular accident stroke ischemique, right middle deep lobe."[13]

As a result, respondent was repatriated on October 23, 2012 for further medical treatment and referred to a company-designated physician, who diagnosed him to be suffering from "Cerebrovascular Infarct Middle Cerebral Artery, Right [and] Hypertension."[14] The foregoing illnesses were declared by the company-designated physician to be not work-related, ratiocinating that the risk factors for cerebrovascular infarct (brain stroke or cerebrovascular accident [CVA]) were hypertension, Diabetes Mellitus, smoking, lifestyle, dyslipidemia, family history, age[,] and sex, while the cause for hypertension was multifactorial in origin which included "genetic predisposition, poor lifestyle, high salt intake, smoking, Diabetes Mellitus, age[,] and increased sympathetic activity."[15]

After series of follow-up check-ups, the company-designated physician, in a Medical Report [16] dated March 9, 2013, noted that respondent's treadmill stress test already showed normal results and his blood pressure controlled. In addition, the company-designated physician opined that his cardiovascular condition has stabilized, but nonetheless advised him to continue home exercises/rehabilitation and medication. Thus, respondent was directed to undergo a repeat laboratory examination in time for his next follow-up session on April 4, 2013.[17] Records, however, are bereft of showing that the foregoing directives were complied with.

Meanwhile, the company-designated Cardiologist, in a letter[18] dated March 6, 2013 addressed to the company-designated physician, explicated that the medicine (Isordil) brought by respondent on board the vessel is a medication used to treat patients with angina (chest pain), and that while the latter denied taking any maintenance medications, the company-designated Cardiologist opined that possession of the same suggests that "he [(respondent)] may be experiencing some symptoms for which he was given that medications previously."

On the other hand, claiming that his physical condition did not improve after having suffered a brain stroke on board M.V. Pearl Halo while in the performance of his duties, and that more than 120 days had lapsed from the time he was repatriated, respondent sought for the payment of total disability benefits from petitioners, which the latter refused.[19] Thus, on April 24, 2013, respondent filed a complaint[20] for total permanent disability benefits, sickness allowance, damages, and attorney's fees against petitioners and Philsynergy's President, Capt. Reynold L. Torres, before the NLRC, docketed as NLRC Case No. (M) NCR-04-06135-13.

In their defense,[21] petitioners denied respondent's claim for disability benefits, averring in the main that the latter fraudulently concealed a previously diagnosed medical condition for which he was prescribed medication (Isordil), and which he failed to disclose during his PEME; hence, he was disqualified to receive any compensation and benefits provided under Section 20 (E)[22] of the 2010 Philippine Overseas Employment Administration Standard Employment Contract[23] (2010 POEA-SEC).[24] They likewise contended that even on the assumption that there was no concealment, petitioners were not liable under the CBA since respondent's disability did not result from an accident,[25] adding too that his illnesses, Cerebrovascular Infarct Middle Cerebral Artery, Right and Hypertension, were declared by the company-designated physician as not work-related, and therefore, not compensable.[26] Moreover, they averred that his claim for reimbursement of

medical expenses had already been paid,[27] while the moral and exemplary damages, as well as attorney's fees, were without factual and legal bases.[28]

In the interim, respondent sought the opinion of an independent physician, Dr. Efren R. Vicaldo, a Cardiologist from the Philippine Heart Center, who, in a Medical Certificate[29] dated July 1, 2013, declared his illnesses, hypertensive cardiovascular disease and cerebrovascular disease, to be work aggravated/related, and assessed his health and resulting disability as Impediment Grade VII (41.80%), on the justification that respondent was required maintenance medication to control his hypertension and to prevent future cardiovascular complications, as well as change in his lifestyle. Thus, the independent physician declared him unfit to resume work as seaman in any capacity.

The Labor Arbiter's Ruling

In a Decision[30] dated October 31, 2013, the Labor Arbiter (LA) ruled in favor of respondent and ordered petitioners to pay the latter US$60,000.00 in accordance with the 2010 POEA-SEC, as well as ten percent (10%) attorney's fees.[31]

The LA held that the provision of the CBA on disability benefits that was incorporated in respondent's employment contract was inapplicable since it covered only those disabilities resulting from accidental injury.[32] It likewise ruled out fraudulent concealment on the part of respondent for lack of proof showing that he was already suffering from high blood pressure that triggered his brain stroke or that he was aware of the same at the time he boarded the vessel. In fact, respondent's PEME showed a normal blood pressure reading which only proved that the latter did not have a pre-existing medical condition at the time he boarded the vessel. Even on the assumption that respondent's illness was a pre-existing condition given that he carried on board medication to address the same *(i.e.,* Isordil), such was not conclusive proof that he has suffered or was suffering from an elevated blood pressure since he may have carried them as a handy security in case of an unforeseen instance of elevated blood pressure.[33] The LA likewise ruled that respondent's diagnosed hypertension was work-related since it is listed as an occupational disease under Section 32-B of the 2010 POEA-SEC, and that it was not capable of partial disability assessment.[34] Thus, the LA awarded respondent total disability benefits notwithstanding the Grade VII impediment rating given by respondent's independent physician, pointing out that the latter has also declared the former unfit to resume work as a seafarer in any capacity.[35] Lastly, the LA ordered petitioners to pay respondent attorney's fees for having been compelled to litigate to protect his rights and interests, while the latter's claim for moral and exemplary damages were denied for lack of factual and legal bases.[36]

Aggrieved, petitioners appealed to the NLRC.

The NLRC Ruling

In a Decision[37] dated May 8, 2014, the NLRC affirmed the LA ruling with modification ordering petitioners to solidarity pay respondent US$151,470.00

representing total and permanent disability compensation benefits in accordance with Appendix 3 (Compensation Payments) of the CBA.[38]

The NLRC agreed with the LA that there was no concealment on the part of respondent since his PEME showed fitness for work and normal blood pressure with no heart problem. It also ruled that his possession of Isordil did not *ipso facto* mean that he was hypertensive and under medical maintenance, and that even if respondent's hypertension pre-existed his employment, such would not bar him from claiming disability compensation as he was clearly asymptomatic of any cerebrovascular events before he boarded the vessel and that its symptoms only manifested at the time he was subjected to the strains of work and while in the performance of his duties.[39] The NLRC gave more weight to the "unfit to work" findings of respondent's independent physician given that even the company-designated physician failed to declare respondent fit to work as evidenced by his last medical report which showed the latter's need for continued rehabilitation and medication.[40] Lastly, it pointed out that the CBA contemplates all kinds of accident or unforeseen events that cause physical harm or injury to the body, and that the illness suffered by respondent was an unforeseen event that physically injured the brain.[41]

In a Resolution[42] dated June 30, 2014, the NLRC denied petitioners' motion for reconsideration and granted respondent's motion ordering petitioners to pay respondent attorney's fees.[43] Hence, the matter was elevated to the CA via a petition for *certiorari.*[44]

The CA Ruling

In a Decision[45] dated June 21, 2016, the CA found no grave abuse of discretion on the part of the NLRC in awarding total and permanent disability benefits in favor of respondent pursuant to the CBA. The CA agreed that respondent's brain stroke was work-aggravated/related which rendered him incapacitated to work. It noted the lack of showing that respondent suffered from any form of ailment prior to his cardiovascular accident, and that petitioners failed to refute the latter's claim that the nature of his work constantly exposed him to varying circumstances, such as extreme hot and cold temperature, harsh weather conditions, and the mental stress associated with his work as Ship Master. It likewise observed that the company-designated physician failed to declare respondent fit to work despite the lapse of 120/240 days, rendering his disability as total and permanent. Finally, the CA sustained the award of attorney's fees as respondent was clearly compelled to litigate to protect his interests.[46]

Undaunted, petitioners moved for reconsideration[47] but the same was denied in a Resolution[48] dated November 9, 2016; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA erred in upholding the NLRC's findings that respondent is entitled to total and permanent disability benefits

under the CBA.

The Court's Ruling

The petition is denied.

I.

It is settled that the entitlement of a seafarer on overseas employment to disability benefits is governed by law, by the parties' contracts, and by the medical findings. By law, the relevant statutory provisions are Articles 197 to 199[49] (formerly Articles 191 to 193) of the Labor Code[50] in relation to Section 2 (a), Rule X[51] of the Amended Rules on Employee Compensation (AREC).[52] By contract, the material contracts are the POEA-SEC, the parties' Collective Bargaining Agreement, if any, and the employment agreement between the seafarer and the employer. In this case, respondent executed his employment contract with petitioners during the effectivity of the 2010 POEA-SEC; hence, its provisions are applicable and should govern their relations.

Pursuant to Section 20 (A) of the 2010 POEA-SEC, the employer is liable for disability benefits when the seafarer suffers from a work-related injury or illness during the term of his contract. In this regard, Section 20 (E) thereof mandates the seafarer to disclose all his pre-existing illnesses in his PEME, failing in which, he shall be disqualified from receiving the same, to wit:

> E. A seafarer who knowingly conceals a pre-existing illness or condition in the Pre-Employment Medical Examination (PEME) shall be liable for misrepresentation and shall be disqualified from any compensation and benefits. This is likewise a just cause for termination of employment and imposition of appropriate administrative sanctions.

In this case, petitioners claim that there was willful concealment of a pre-existing medical condition *(i.e.,* hypertension or heart condition) on the part of respondent, which thus disqualified him from claiming disability benefits under the 2010 POEA-SEC. Petitioners anchor their contention on the fact that respondent personally carried on board Isordil, a medication used to treat people with chest pain, which he failed to disclose during his PEME. In this relation, petitioners submitted the opinion of their specialist that while respondent denied taking any maintenance medications, the fact that the latter had with him Isordil *suggests* that "he may be experiencing some symptoms for which he was given that medications previously."[53]

The argument is untenable.

Pursuant to the 2010 POEA-SEC, an illness shall be ***considered as pre-existing*** if prior to the processing of the POEA contract, *any* of the following conditions is present: *(a)* the **advice of a medical doctor on treatment** was given for such continuing illness or condition; or *(b)* the seafarer had been **diagnosed and has**