

FIRST DIVISION

[CA-G.R. SP No. 125262, May 19, 2014]

MAERSK-FILIPINAS CREWING, INCORPORATED, MAILYN P. BORILLO AND COPENHAGEN, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (FIFTH DIVISION) AND ALFREDO B. BAUTISTA, RESPONDENTS.

DECISION

BARRIOS, M. M., J.:

This is a Petition for Certiorari assailing, on the ground of grave abuse of discretion amounting to lack of or excess of jurisdiction, the Decision^[1] dated 29 December 2011 of public respondent National Labor Relations Commission (NLRC) rendered in NLRC LAC No. 06-000555-11 that affirmed the award to private respondent of total permanent disability benefit and sickness allowance. The dispositive portion reads:

"x x x

WHEREFORE, premises considered, the appeal is DISMISSED and the assailed decision of Labor Arbiter Lilia S. Savari is AFFIRMED in all respects except for the award of attorney's fees which is deleted."

Also assailed is NLRC Resolution^[2] dated 29 March 2012, denying petitioners' motion for reconsideration.

THE FACTS

On 08 April 2010, petitioner Maersk-Filipinas Crewing, Inc. re-employed^[3] private respondent Alfredo Bautista as Able Seaman, for and on behalf of its foreign principal – herein petitioner Copenhagen/A.P. Moller A/S – for a period of six (6) months with a monthly salary of US\$585.00. The contract was executed and approved pursuant to the Philippine Overseas Employment Administration Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-Going Vessels (POEA Standard Contract).

In May 2010, while performing his work on board M/V Richard Maersk, private respondent experienced severe pain on his back and numbness on his right leg that radiated to his feet while performing his task. Despite medication, private respondent's condition did not improve. In the second week of June 2010, private respondent was admitted to a local hospital in Lithuania where he was diagnosed to be suffering from spinal injury and was declared to be unfit for work.

Consequently, private respondent was repatriated to the Philippines on 20 June 2010. Upon arrival in Manila the following day, private respondent reported to his employer and was referred^[4] to their accredited physician Dr. Natalio G. Alegre II, of the Alegre Medical Clinic for further evaluation and treatment. Dr. Alegre initially

diagnosed^[5] private respondent to have Low Back Pain Secondary to a Herniated Disc, and asked the latter to consult a rehabilitation specialist and undergo Magnetic Resonance Imaging (MRI) on his lumbosacral spine. Accordingly, in July 2010, private respondent was examined^[6] by an orthopedic specialist and underwent^[7] a Radiology and MRI at St. Luke's Medical Center. He was also subjected^[8] to physical therapy and drug medication from August to September 2010 by petitioners' accredited doctors.

However, despite months of extensive and continuous evaluation, monitoring and treatment, private respondent's condition did not improve. Thus, on 24 September 2010, Dr. Alegre issued private respondent's disability assessment of Grade 8 or 2/3 loss of motion on lifting power of the trunk^[9] under the POEA Standard Contract. He was likewise advised to continue with his therapy and medication.

Not convinced of the assessment by the company doctors, private respondent consulted a private physician - Dr. Manuel Jacinto, Jr. - for a second opinion. After evaluation, Dr. Jacinto issued the Medical Certificate^[10] dated 08 October 2010 certifying that private respondent has Central Disc Herniation in his spine which is classified as total and permanent disability, and thus, declared him to be unfit for sea duties.

Based on Dr. Jacinto's findings, private respondent asked petitioners for total permanent disability benefits, but the claim was denied. Hence, on 14 October 2010, private respondent lodged the present complaint for payment of total permanent disability benefits under the Collective Bargaining Agreement of the Associated Marine Officers' and Seamen's Union of the Philippines (AMOSUP-CBA), balance of sick wages, as well as damages and attorney's fees against petitioners.

On 13 May 2011, the Labor Arbiter rendered a Decision in favor of private respondent, granting, with the exception of damages, his money claims, but basing, however, the award of his total and permanent disability benefits under the POEA Standard Contract, and not on AMOSUP-CBA, the dispositive portion of which reads:

"x x x

WHEREFORE, a Decision is hereby rendered ordering Respondents jointly and severally to pay complainant US\$60,000.00 as total permanent disability benefit, US\$1,170.00 as balance in sick wages plus 10% of the total award as and by way of attorney's fees."

Both parties appealed to the NLRC. On 29 December 2011, the NLRC rendered the now assailed Decision affirming the Labor Arbiter's decision, but deleting, however, the award of attorney's fees. It held that private respondent was entitled to total permanent disability benefit since he could no longer work anymore as a seafarer after sustaining said injury while in petitioners' employ nor can he be employed in any other job elsewhere. This disposition finds support in the case of *Seagull Maritime Corporation v. Dee*^[11] where the Supreme Court held that there was total and permanent disability when seafarers became disabled to earn wages in the same kind of work they were trained or accustomed to perform. It also ruled that the company-designated physician was not the only one who can give disability ratings since the law grants private respondent the right to seek second opinion from other doctors. It further denied petitioners' claim that they already paid in full private respondent's sickness allowance for lack of evidence.

Petitioners moved for reconsideration, but the same was denied in the now assailed Resolution dated 29 March 2012.

In this petition, it is argued that:

PUBLIC RESPONDENT, IN REFUSING TO DISMISS THE ABOVE-CAPTIONED LABOR COMPLAINT, COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION.

I.

THE MEDICAL OPINION ISSUED BY PETITIONER SHIP-OWNER'S ACCREDITED DOCTORS ON PRIVATE RESPONDENT'S MEDICAL CONDITION IS FIRMLY GROUNDED AND, AS SUCH, ITS PLAIN IMPORT SHOULD HAVE BEEN ACCORDED SUPERIOR EVIDENTIARY WEIGHT.

II.

THE RELIANCE OF PUBLIC RESPONDENT ON THE DEFINITION OF TOTAL PERMANENT DISABILITY AS ENUNCIATED IN *SEAGULL MARITIME CORPORATION V. JAYCEE DEE AND NATIONAL LABOR RELATIONS COMMISSION*, G.R. NO. 165156, 2 APRIL 2007 IS MISPLACED. ARTICLE 192 OF THE LABOR CODE IS INAPPLICABLE TO SEAFARERS.

III.

ASSUMING *ARGUENDO* THAT THE PRESUMPTIVE PERMANENT DISABILITY RULE LAID DOWN IN ARTICLE 192 OF THE LABOR CODE IS APPLICABLE TO SEAFARERS, IT SHOULD BE NOTED THAT THE ACCREDITED DOCTORS OF PETITIONER SHIP-OWNER ISSUED A FINAL ASSESSMENT OF PRIVATE RESPONDENT'S MEDICAL CONDITION WITHIN ONE HUNDRED TWENTY (120) DAYS. UPON ISSUANCE OF THE ASSESSMENT, PRIVATE RESPONDENT'S DISABILITY CAN NO LONGER BE PRESUMED TO BE TOTAL AND PERMANENT.

OUR RULING

The petition is devoid of merit.

Deemed written in every Filipino seafarer's employment contract is the POEA Standard Employment Contract. This is a set of standard provisions established and implemented by the POEA and which contains the minimum requirements prescribed by the government for employment of seafarers.^[12] It is designed primarily for the protection and benefit of Filipino seamen in the pursuit of their employment on board ocean-going vessels,^[13] and as such, its provisions should be construed and applied fairly, reasonably and liberally in their favor to fully carry into effect its beneficent purpose.^[14]

Section 20 (B) of the POEA Standard Contract provides the conditions for the award of disability benefits to seafarers for injury or illness sustained. Thus,

"x x x

B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS:

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

x x x

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the employer and the seafarer. The third doctor's decision shall be final and binding on both parties.

x x x"

From the foregoing, two (2) requirements should concur in order for a disability to be compensable, to wit: a.) that the injury or illness must be work-related; and b.) that the work-related injury or illness must have existed during the term of the seafarer's employment contract.^[15] Otherwise stated, to be entitled to compensation and benefits under POEA Standard Contract, it is not sufficient to establish that seafarer's injury or illness has rendered him or her permanently or partially disabled, but it must likewise be shown that there is a causal connection between seafarer's illness or injury and the work for which he or she had been contracted for.^[16]

In this case, We agree with public respondent NLRC that private respondent is entitled to claim disability benefits under the POEA Standard Contract. It is evident that the spine injury suffered by private respondent is work-related since it was sustained and/or became aggravated while he was discharging the strenuous functions of Able Seaman on-board his assigned vessel during the tenure of his employment with petitioners. In point of fact, this is not denied by petitioners; hence, the work-related character of such injury is conclusive.

It was also evident that private respondent duly complied with the mandatory requirement of the POEA Standard Contract by presenting himself to petitioners' physician for a post-medical examination within three (3) days after repatriation. By reason thereof, petitioners' liability to grant disability pay to private respondent is indubitable.

Now, the more pressing issue is to determine the correct disability grading of private respondent's injury in the light of the contrasting rating of the physician. Petitioners