

THIRD DIVISION

[G.R. No. 242096, February 03, 2021]

RANILO BANDICO, PETITIONER, VS. PHILIPPINE TRANSMARINE CARRIERS, INC., ROYAL CARRIBEAN CRUISES LTD., AND MR. CARLOS SALINAS, RESPONDENTS.

DECISION

DELOS SANTOS, J.:

The Case

For the Court's consideration is a Petition for Review on *Certiorari*^[1] seeking to reverse and set aside the Amended Decision^[2] and the Resolution^[3] dated April 24, 2018 and September 13, 2018, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 128479 which reversed and set aside the Decision^[4] dated October 22, 2012 of the National Labor Relations Commission (NLRC). The NLRC affirmed the Decision^[5] dated June 29, 2012 of the Labor Arbiter (LA), granting Rani1o A. Bandico (petitioner) total and permanent disability benefits in the amount of US\$60,000.00.

The Facts

Petitioner was hired by respondent Philippine Transmarine Carriers, Inc. (PTCI), for its foreign principal, Royal Caribbean Cruises, Ltd. (collectively, respondents) as an Oiler, on board the vessel MV Voyager of the Seas under an eight (8)-month contract,^[6] with a basic monthly salary of US\$452.00 exclusive of overtime pay and other benefits. After undergoing the rigid physical and medical examination, he was declared fit for sea duty, thus, petitioner boarded the vessel on August 2010.^[7]

On February 10, 2011, petitioner narrated that as he was passing through the emergency exit to check on the Collecting Unit No. 2 in the Pump Room No. 1, he accidentally slipped off the metal ladder, thereby sustaining an extreme impact on his right knee and leg, particularly a contusion on his right knee, inflammation and severe pain in his right leg, lumbar and buttock region, coupled with difficulty in breathing. Despite his injuries, he was made to stay on board and was given oral medications by the ship doctor.^[8] Due to persistent pain, he again consulted the ship doctor and was advised to continue taking pain relievers and to see an offshore doctor on the next port.

On February 23, 2011, petitioner was examined by an offshore doctor in Roatan, Honduras, and was diagnosed with "abscess on his right knee secondary to post-traumatic cellulitis." The doctor recommended that the abscess be drained but petitioner refused, thus, he was put on antibiotics and pain medication.^[9]

On February 25, 2011, petitioner was again examined in Cozumel Medical Center, Mexico, and in the Medical Report,^[10] he was diagnosed with "post-traumatic prepatellar bursitis with secondary infection." The attending physician advised him to undergo medical procedure to evacuate the abscess and remove the bursa, but petitioner refused. It was also explained to him that there are possible complications if he does not accept the procedure. Nonetheless, he still refused to undergo the procedure, thus, he was given oral medications.^[11]

On March 5, 2011, petitioner was medically repatriated to the Philippines. Upon repatriation, he was placed in the care of the company-designated physicians from Shiphealth, Inc. (Shiphealth), for medical tests and treatment.^[12] The Magnetic Resonance Imaging (MRI) of petitioner's lumbosacral spine revealed that there was a disc herniation and flaval hypertrophy with secondary spinal canal and bilateral neural foraminal stenosis.^[13]

On May 27, 2011, petitioner's attending spine surgeon advised him to undergo transforaminal lumbar interbody fusion L4-L5,^[14] as his pain has not improved with pain medications and physical therapy.^[15] However, petitioner refused to undergo surgery after it was explained to him that the procedure will only relieve him of the pain, and that it will not guarantee his complete recovery.^[16]

On June 14, 2011, petitioner sought further medical opinion from the Philippine Orthopedic Institute, Inc., to which Orthopedic Surgeon Alan Leonardo R. Raymundo, M.D. (Dr. Raymundo), issued a Medical Report^[17] stating among others, that petitioner has a Straight Leg Raise Test (SLR test) with slight weakness of the extensor hallucis longus muscle on the right and slight weakening of the ankle evertors. Dr. Raymundo also noted that because of petitioner's present condition, he is "no longer fit to return to work."^[18]

Petitioner alleged that demands were made for the satisfaction of his total disability benefits, but to no avail. Thus, on June 21, 2011, he instituted the instant complaint against herein respondents, together with Carlos C. Salinas (Salinas), Chairman of PTCI, for payment of total and permanent disability benefits, medical and hospitalization expenses, sickness allowance, moral and exemplary damages plus attorney's fees, and legal interests. He asserted that since his injury lasted for more than 120 days and that he has not been able to engage in any meaningful activity because of said injury, he is entitled to total and permanent disability benefits under the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC).^[19]

Meanwhile, on June 25, 2011, the company-designated physicians issued a Final Medical Summary,^[20] to wit:

The **DISABILITY GRADING** closest to the functional disability of his spine problem based on the Amended POEA Contract, Section 32 for the Chest-Trunk-Spine (Schedule of Disability or Impediment for Injuries Suffered and Diseases Including Occupational Diseases or Illness Contracted), is **moderate rigidity or two-thirds (2/3) loss of motion or lifting power of the trunk**, which is **8**.

The **DISABILITY GRADING** closest to the functional disability of his knee based on the Amended POEA Contract, Section 32 for the lower extremities (Schedule of Disability or Impediment for Injuries Suffered and Diseases Including Occupational Diseases or Illness Contracted), is **ankylosis of a knee in genevalgum or varum**, which is **Grade 10**.

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Recommendations:

- **Patient advised transforaminal lumbar interbody fusion of L4-L5 but patient refused surgery**
- **NOT FIT FOR DUTY**
- **CASE CLOSED**^[21] (Emphases in the original)

In their Position Paper,^[22] respondents admitted the material allegations pertaining to petitioner's employment and his accident on board their vessel. However, they denied that they are liable for the payment of total and permanent disability benefits. They contend that under Section 20 (B) of the POEA-SEC, it is the company-designated physician that has the final say with regard to the health condition of the seaman.^[23] Here, the company-designated physicians issued on June 25, 2011 their final medical assessment, wherein they gave petitioner a disability grading of 8, which is not total and permanent.^[24]

Respondents also averred that they were not remiss in their obligation with petitioner from the time of his accident up to the filing of the instant complaint. They narrated that petitioner was seen by offshore doctors in Honduras and Mexico and upon his repatriation, petitioner was subsequently referred to the company-designated physicians from Shiphealth. Petitioner was treated by the company-designated physicians and underwent physical therapy sessions from March 7, 2011 to June 22, 2011.^[25] During his treatment, petitioner was advised to undergo spine and orthopedic surgery, but he declined. They further asserted that petitioner knows very well what the repercussions of rejecting the suggestion, but he chose not to comply with the orders of his physicians. Thus, he should suffer the consequences of his decisions.^[26]

As to petitioner's claim for medical expenses, respondents denied liability. They claimed that they were not remiss in providing financial assistance to herein petitioner during his medical treatments as evidenced by the various checks issued in his favor.^[27] Thus, respondents prayed that the instant complaint be dismissed for lack of merit.

The Ruling of the Labor Arbiter

In a Decision^[28] dated June 29, 2012, the LA ruled in favor of petitioner, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered ordering respondents jointly and severally pay complainant US\$60,000.00 representing his total and

permanent disability compensation benefit, plus US\$6,000.00 as attorney's fees.

All other monetary claims are dismissed for lack of merit.

SO ORDERED.^[29]

In so ruling, the LA held that petitioner sustained an injury due to an accident while working on board his assigned vessel, during the effectivity of his shipboard employment contract, hence, compensable under the POEA-SEC.^[30] The LA took into consideration that both the company-designated physicians and petitioner's chosen physician found him no longer fit for sea duty. In the Final Medical Summary issued by the company-designated physicians, they gave a disability grading in relation to petitioner's spine as "moderate rigidity or two-thirds (2/3) loss of motion or lifting power of the trunk, which is 8" and another disability rating in relation to his knee as "ankylosis of a knee in genevalgum or varum, which is Grade 10." Thus, petitioner's combined disabilities both in relation to his spine and knee amounted to a total and permanent disability which is supported by the final recommendation of "NOT FIT FOR DUTY." This is not to mention the fact that petitioner has been unable to resume his usual occupation as a seaman.^[31]

The LA further held that although petitioner may have for several times refused the advised surgery, his refusal was understandable considering that the procedure will not guarantee his full recovery, but would merely diminish the pain. Based on the foregoing, the LA ruled that petitioner is entitled to a total and permanent disability compensation in the amount of US\$60,000.00 as provided for by the POEA-SEC.^[32]

The LA dismissed petitioner's claim for reimbursement of medical expenses and sick wages for lack of evidence. The records of the case showed that after petitioner's repatriation, he was immediately referred to a company-designated physician for treatment and that he received amounts presumably representing his sick wages. Petitioner's claim for moral and exemplary damages and legal interests were likewise dismissed. However, the LA ruled that petitioner is entitled to the payment of attorney's fees for having to secure the services of a counsel in order to recover what he is legally entitled to.^[33]

Aggrieved, respondents appealed before the NLRC.

The Ruling of the NLRC

In a Decision^[34] dated October 22, 2012, the NLRC affirmed the appealed decision, *viz.*:

WHEREFORE, the [r]espondents' [a]ppeal is DENIED and the appealed Decision dated 29 June 2012 is AFFIRMED.

SO ORDERED.^[35]

The NLRC held that it was undisputed that petitioner sustained an injury while working on board his assigned vessel during the effectivity of his employment contract, hence, the injury is compensable under the POEASEC. The NLRC agreed

with the findings of the LA that in the Final Medical Summary of the company-designated physicians, petitioner's combined disability renders him "not fit for duty." Thus, petitioner's incapacity/disability is considered as total and permanent, and therefore, entitled to the maximum compensation benefits.^[36] Furthermore, the NLRC held that there was sufficient ground for petitioner's refusal to undergo surgery, as even the company-designated physicians told him that the surgery will only relieve him of the pain and will not guarantee his complete recovery to such state of being capable from going back to work.^[37] Likewise, the NLRC sustained the award of attorney's fees in accordance with the existing jurisprudence in labor cases.^[38]

Respondents moved for reconsideration^[39] but was denied in a Resolution^[40] dated November 26, 2012. Thus, they filed a Petition for *Certiorari*^[41] with a prayer for the issuance of temporary restraining order and/or writ of preliminary injunction before the CA.

During the pendency of the petition before the CA, upon the motion of petitioner,^[42] the LA issued a Writ of Execution^[43] dated April 26, 2013. In compliance with the writ, respondents deposited the judgment award before the NLRC.^[44]

The Ruling of the CA

In a Decision^[45] dated March 9, 2017, the CA affirmed the Decision of the NLRC with modification, thus:

WHEREFORE, premises considered, the instant [p]etition for [*certiorari*] is **PARTLY GRANTED** only insofar as relieving petitioner Carlos Salinas of solidary liability with petitioners Philippine Transmarine Carriers, Inc. and Royal Caribbean Cruises, Ltd. and [w]e **AFFIRM** [petitioner's] entitlement to his monetary claims as decreed by the NLRC and the Labor Arbiter.

SO ORDERED.^[46]

The CA sustained the findings of both the LA and the NLRC that petitioner was permanently disabled from employment because of the injury he sustained on board the vessel. No less than the company-designated physicians determined his unfitness for duty which assessment dovetailed with petitioner's own doctor-of-choice. The payment of his claims for total and permanent disability necessarily follows.^[47]

Furthermore, the CA rejected respondent's argument that petitioner should suffer the consequences of his refusal to undergo surgery or that he should be considered to have waived his claims for total and permanent disability, as petitioner's refusal was grounded on the explanation of the doctors that the surgery will only address the pain, it will not revert his original condition before the accident.^[48]

While the CA sustained the award of attorney's fees, it however held that Salinas was not solidarily liable for the monetary awards granted to petitioner since there was no evidence to prove that he neither acted beyond the scope of his authority