

FIRST DIVISION

[G.R. No. 215904, January 10, 2019]

EDGAR L. TORILLOS, PETITIONER, VS. EASTGATE MARITIME CORPORATION, F.J. LINES, INC., PANAMA, AND EMMANUEL L. REGIO, RESPONDENTS.

[G.R. No. 216165]

EASTGATE MARITIME CORPORATION, F.J. LINES, INC., PANAMA, AND EMMANUEL L. REGIO, PETITIONERS, VS. EDGAR L. TORILLOS, RESPONDENT.

D E C I S I O N

DEL CASTILLO, J.:

Before the Court are two consolidated Petitions for Review on *Certiorari*,^[1] docketed as G.R. Nos. 215904 and 216165, both seeking the reversal of the April 1, 2014 Decision^[2] and December 15, 2014 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 130976, which awarded Edgar L. Torillos (Torillos) permanent and total disability benefits in the amount of US\$60,000.00 and attorney's fees of US\$6,000.00.

Antecedent Facts

For a period of 15 years, Eastgate Maritime Corporation (Eastgate), for and on behalf of its foreign principal, F.J. Lines, Inc., Panama, continuously hired Torillos under various contracts. His last contract of employment^[4] dated November 3, 2010 on board the vessel MV Corona Lions as Chief Cook was duly approved by the Philippine Overseas Employment Administration (POEA) and was covered by the International Bargaining Forum All Japan Seamen's Union/Associated Marine Officers' and Seamen's Union of the Philippines-International Mariners Management Association of Japan (IBF JSU/AMOSUP-IMMAJ) Collective Bargaining Agreement (CBA).^[5] Torillos underwent the requisite Pre-Employment Medical Examination (PEME) and was found fit for sea duty.^[6]

Torillos boarded the vessel on December 4, 2010. Sometime in November 2011, while in the performance of his duties, Torillos experienced pain in his right leg radiating to his lower extremities. He reported the matter to the Master of the vessel who, in turn, brought him to a hospital in Reihoku, Japan on November 14, 2011. There, he was diagnosed to be suffering from urinary stone in his right urinary tract and was prescribed pain reliever drugs.^[7] Due to persistent back and leg pains, he was again taken to a hospital in Newcastle, England on December 16, 2011 where the doctor recommended his repatriation for further management and treatment.^[8]

Upon arrival in Manila on December 20, 2011, Torillos was referred to the company-designated physicians of NGC Medical Specialist Clinic, Inc., headed by Dr. Nicomedes G. Cruz (Dr. Cruz), for medical evaluation, examination and treatment. He was seen by a urology specialist who recommended Magnetic Resonance Imaging (MRI) of his lumbrosacral spine. The MRI conducted on February 9, 2012 revealed that Torillos was suffering from *Lumbar Spondylosis; L4-L5 Diffuse Bulge with Resultant Bilateral Neural Foraminal Stenosis; L5-S1 Diffuse Disc Bulge with Radial Tear; and L5-S1 Disc Desiccation*.^[9] Upon recommendation of an orthopedic specialist, Torillos underwent knee X-ray on March 5, 2012, which showed degenerative changes on his left knee.^[10] Thus, Torillos was referred to and evaluated by a rehabilitation specialist.^[11] He was advised to undergo physical therapy to address his medical condition.

On April 19, 2012, Dr. Cruz issued a Medical Report with the following findings:

1. Lumbar spondylosis is a disorder in which discs and vertebrae degenerate. With aging, the bone of the spine overgrows and narrows the spinal canal.
2. It is degenerative in nature and most likely pre-existing.
3. The estimated length of further treatment is 2-4 weeks.
4. The estimated cost of further treatment is P 5,000.00.
5. The interim disability grading under the POEA schedule of disabilities is Grade 8 - moderate rigidity or two thirds (2/3) loss of motion or lifting power of the trunk.^[12]

Torillos continued with his physical therapy as well as occupational therapy with the company-designated physicians. However, despite continued therapy sessions, he filed on May 8, 2012 a complaint^[13] with the National Labor Relations Commission (NLRC) against Eastgate for payment of permanent total disability benefits, medical expenses, sickness allowance, damages and attorney's fees.

On July 9, 2012, Torillos consulted an independent orthopedic surgeon, Dr. Marcelino T. Cadag (Dr. Cadag), who declared him unfit for sea duty with the following diagnosis and findings:

Diagnosis: Lumbar Spondylosis; Neural Foraminal Stenosis, L4-L5; Degenerative Disc Disease, L5-S1

Given the amount of pain he is experiencing on his lower back and legs, and the associated weakness of his toe flexors, which is essential in the gait cycle, I advise the patient against heavy manual labor, especially lifting heavy objects. In my professional opinion, it would take at least 6 months of regular physiotherapy before the patient can have, if any, improvement in terms of pain relief and motor function of his toes. Physical therapy is further recommended. His present medical condition will prevent him from performing his duties as a seafarer (chief cook). He

is therefore deemed not fit for sea duty, or work aboard any seafaring vessel.^[14]

Proceedings before the Labor Arbiter

In his position paper, Torillos claimed for permanent total disability benefits in the sum of US\$118,800.00 under the CBA since, according to him, his illness was a result of an accident that occurred while he was performing his duties as chief cook. He narrated that sometime in October 2011, he fell down on the floor after losing balance while carrying a sack of rice weighing 25 kilos. This caused his work-related injury that has rendered him incapable of returning to his sea duties, as confirmed and attested by the medical findings of his own physician, Dr. Cadag.

Eastgate, on the other hand, denied Torillos' entitlement to permanent total disability benefits under the CBA as Torillos' condition was not a result of an accident to be entitled to the benefits thereunder. Neither is Torillos entitled to the maximum disability benefits under the POEA-SEC since his condition was diagnosed to be pre-existing and degenerative by Dr. Cruz who made an extensive evaluation of his condition. At the most, Torillos is only entitled to the benefits corresponding to Grade 8 disability under the POEASEC, as assessed by Dr. Cruz.

In a Decision^[15] dated October 29, 2012, the Labor Arbiter found Torillos entitled to permanent total disability benefits under the CBA amounting to US\$118,800.00. The dispositive portion of the Decision reads:

WHEREFORE, foregoing premises considered, respondents CORDIAL SHIPPING, INC. and CAPT. DEVER BESANA are hereby directed to pay jointly and severally complainant ANANIAS F. DANAY the amount of ONE HUNDRED EIGHTEEN THOUSAND AND EIGHT HUNDRED US DOLLARS (US\$118,800.00) representing permanent total disability benefits, or its peso equivalent at the time of actual payment.

SO ORDERED.^[16]

Eastgate appealed to the NLRC. In its Memorandum of Appeal,^[17] Eastgate, among others, emphasized that the case was decided based on facts and evidence pertaining to another case as revealed by the Labor Arbiter's erroneous citation of the parties' names in the dispositive portion of the decision. Subsequently, the Labor Arbiter corrected the disparity by issuing a new Decision^[18] dated January 3, 2013, which reflected the correct names of the parties in the decretal portion thereof. Thus:

WHEREFORE, foregoing premises considered, respondents EASTGATE MARITIME CORPORATION and/or EMMANUEL L. REGIO are hereby directed to pay jointly and severally complainant EDGAR L. TORILLOS the amount of ONE HUNDRED EIGHTEEN THOUSAND AND EIGHT HUNDRED US DOLLARS (US\$118,800.00) representing permanent total disability benefits, or its peso equivalent at the time of actual payment.

SO ORDERED.^[19]

Proceedings before the National Labor Relations Commission

From the Labor Arbiter's Decision dated January 3, 2013, Torillos filed a Memorandum of Partial Appeal^[20] with the NLRC, questioning the Labor Arbiter's failure to award him attorney's fees.

In its Comment,^[21] Eastgate moved for the denial of Torillos' partial appeal, contending that it was filed out of time. It argued that the period for filing the appeal should be reckoned from the date of receipt of the October 29, 2012 Decision and not from the date of receipt of the January 3, 2013 Decision.

In a Decision^[22] dated February 28, 2013, the NLRC dismissed Eastgate's appeal and found Torillos' appeal meritorious. The NLRC agreed with the Labor Arbiter that Torillos indeed suffered an accident, holding that "the suddenness of the injury as well as the nature of his work convinces us that his medical condition was caused by his having slipped and fallen while carrying heavy provisions on board the vessel." The NLRC further ruled that while lumbar spondylosis may be degenerative, such illness can be aggravated by the nature of the work of the seafarer, as what happened in the case of Torillos. The NLRC then awarded Torillos' claim for attorney's fees, ruling that Eastgate's refusal to settle the claims for disability compensation prompted Torillos to file a suit and incur expenses to protect his interest. It, thus, awarded Torillos permanent and total disability benefits in the amount of US\$118,800.00 as stipulated by the parties in the CBA plus attorney's fees, thus:

WHEREFORE, premises considered, Respondents appeal is hereby DISMISSED for lack of merit and the Decision of the Labor Arbiter dated October 29, 2012, as corrected under the Decision dated January 3, 2013 is AFFIRMED with MODIFICATION in that the respondents are further ordered to pay the complainant attorney's fees in the amount equivalent to ten percent (10%) of the total monetary award or the amount of US\$11,880.00 in its Philippine peso equivalent at the time of payment.

SO ORDERED.^[23]

Eastgate filed a motion for reconsideration.^[24] This motion was, however, denied in the Resolution^[25] dated April 30, 2013 of the NLRC.

Proceedings before the Court of Appeals

Eastgate filed a Petition for *Certiorari* with Urgent Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction^[26] to enjoin the enforcement of the NLRC Decision. Eastgate attributed grave abuse of discretion on the NLRC in awarding permanent total disability compensation in accordance with the provisions of the CBA despite absence of evidence that Torillos was involved in an accident and despite Dr. Cruz's medical opinion that Torillos' condition was degenerative and pre existing, not to mention the Grade 8 disability assessment. Eastgate likewise asserted that Torillos was not entitled to attorney's fees for his failure to timely question the October 29, 2012 Decision of the Labor Arbiter denying such claim as well as absence of bad faith on their part.

The CA, on April 1, 2014, rendered a Decision^[27] affirming, albeit with modification the Decision of the NLRC. It disallowed the award of US\$118,800.00 under the CBA and ruled that Torillos failed to prove that his disability was caused by an accident. The CA, nonetheless, held that Torillos can recover the maximum disability benefits under the POEA-SEC, finding that Torillos' disability was work-related because his job as chief cook has exposed him to heavy manual labor that caused back strain and injury to his lumbar vertebrae. The CA concluded that Torillos is considered permanently and totally disabled since his disability incapacitated him to perform his customary work as a cook. The CA then affirmed the award of attorney's fees. The dispositive portion of the CA Decision is as follows:

WHEREFORE, premises considered, the assailed Decision dated February 28, 2013 of the NLRC is AFFIRMED with MODIFICATION. The disability benefit awarded to private respondent Edgar L. Torillos is reduced to US\$60,000.00 in accordance with Section 20 (B)(6) and Section 32 of the 2000 Philippine Overseas Employment Administration Standard Terms and Conditions Governing the Employment of Seafarers on Board Ocean Going Vessels and the award of attorney's fees is correspondingly reduced to US\$6,000.00.

SO ORDERED.^[28]

Both parties filed their respective motions for reconsideration. Eastgate maintained that Torillos' lumbar spondylosis was pre-existing that did not entitle him to permanent disability compensation. Torillos, for his part, sought reconsideration of the CA's reduction of the award of permanent total disability. He insisted that his disability was caused by an accident on board the vessel thus the CBA should have been applied.

Both motions for reconsideration were denied by the CA in its Resolution^[29] of December 15, 2014. Hence, both Torillos and Eastgate filed separate Petitions for Review on *Certiorari*,^[30] which were consolidated by this Court.

Issues

G.R. No 215904 (Torillos' Petition)

- 1) WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN ITS APPRECIATION OF EVIDENCE IN REDUCING THE AWARD OF PERMANENT TOTAL DISABILITY BENEFITS TO SEAMAN TORILLOS.
- 2) WHETHER OR NOT THE HONORABLE COURT OF APPEALS ACTED IN A WAY NOT IN ACCORD WITH THE DECISIONS OF THE HONORABLE SUPREME COURT IN NOT APPLYING THE RULING IN THE CASE OF *NFD INTERNATIONAL MANNING AGENTS, INC./BARBER SHIP MANAGEMENT LTD. V. ESMERALDO C. ILLESCAS* (G.R. NO. 183054, SEPTEMBER 29, 2010).
- 3) WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN REDUCING THE AWARD OF ATTORNEY'S FEES IN FAVOR OF SEAMAN TORILLOS.^[31]