FIRST DIVISION

[G.R. No. 239390, June 03, 2019]

BRIGHT MARITIME CORPORATION AND/OR NORBULK SHIPPING UK LIMITED, PETITIONERS, VS. JERRY J. RACELA, RESPONDENT.

DECISION

GESMUNDO, J.:

Before us is an appeal from the February 15, 2018 Decision[1] and the May 9, 2018 Resolution[2] of the Court of Appeals (*CA*) in CA-G.R. SP No. 148879 reversing and setting aside the September 28, 2016 Decision[3] and October 27, 2016 Resolution[4] of the National Labor Relations Commission (*NLRC*) Fifth Division. The CA reinstated the Labor Arbiter's (*LA*) Decision,[5] dated April 19, 2016, which awarded total and permanent disability benefits and attorney's fees to respondent.

Antecedents

On March 21, 2013, Jerry J. Racela (respondent) was hired by petitioner Bright Maritime Corporation, a local manning agency, to work as fitter on board the vessel owned by its foreign principal, Norbulk Shipping UK Limited (petitioner). The employment contract contained the following terms and conditions:

Duration of Contract	:	8 months + 1 month upon mutual agreement of both parties
Basic Monthly Salary	:	US$600.00
Hours of Work	:	44 hours per week
Overtime	:	US$311.00 (OT 85 hours per month) US$4.39 excess of OT Rate
Vacation Leave Pay	:	US$194.00 per month
Point of Hire	:	Manila, Philippines
Supplementary Wage	:	US$595.00 per month[6]

Respondent was also covered by a Collective Bargaining Agreement (*CBA*) between Norbulk Manning Services Limited and Latvian National Seafarers Trade Union.[7]

Prior to hiring, respondent was subjected to medical examination and was declared

"Fit for Sea Duty as Engine Rating."[8]

Respondent left the Philippines on June 8, 2013, and boarded the vessel in Singapore. Sometime in February 2014, respondent complained of chest pains and difficulty in breathing. On March 23, 2014, he was admitted at the Alisha Hospital in Israel for pulmonary edema and was diagnosed with "severe aortic regurgitation and aneurysm of the sinuses of valsava aortic root." He underwent open-heart surgery (aortic valve replacement) on March 25, 2014 and was discharged and advised to consult his personal cardiologist in the Philippines on April 13, 2014. He was, likewise, prohibited from any physical exertion for six (6) months. On April19, 2014, he was repatriated for medical reasons.[9]

Upon arrival in the Philippines, respondent was immediately confined at the Chinese General Hospital after being referred to the company-designated physician at Alegre Medical Clinic for post-employment medical examination.[10] On April 22, 2014, he was discharged and was advised to continue his medical therapy.[11]

While on follow-up checkup with the company-designated physician, respondent complained of pain over the surgical site on his chest and reported hearing a clicking sound inside it. His condition was diagnosed as "aortic valve stenosis" and was referred to a cardiologist.[12]

When examined by a cardiologist on May 2, 2014, respondent was advised to retrieve his angiogram results and to undergo repeat 2D Echocardiography in three to four months. He was also directed to continue with his medications.[13] After subsequent re-evaluations by the company-designated physician,[14] the latter rendered a medical opinion on July 21, 2014, stating that since respondent's aortic valve stenosis was pre-existing or hereditary, no disability grading was given pursuant to the POEA-SEC Contract, and that maximum medical cure had already been reached in this case.[15] Respondent followed up with the cardiology specialist who recommended the conduct of coronary angiography, as the result of his 2D Echo showed dilated left ventricle with severe hypokinesia.[16] In the medical report dated July 23, 2014, the company-designated physician reiterated his assessment that no disability grade was given to respondent because his condition was deemed not work-related.[17]

Respondent continued with his treatment under the company-designated physician until August 27, 2014, when he was discharged from the hospital. He had undergone coronary angiography on August 26, 2014,[18] the cost of which was still shouldered by petitioners.

On September 25, 2014, respondent consulted a private physician, Dr. Efren R. Vicaldo (*Dr. Vicaldo*), who issued a medical certificate stating that respondent was suffering from valvular heart disease, severe aortic regurgitation, aneurysm of sinus valsalva, S/P aortic valve replacement, normal coronary arteries and dilated left ventricle with systolic dysfunction. He was then given an impediment grade of VI (50%) and was declared unfit for sea duty.[19]

On June 9, 2015, respondent filed a disability complaint against petitioners.[20] He

claimed that he was not informed of any assessment by the company-designated physician as to his fitness for sea duty. He alleged that he had told petitioners of the findings of his own private physician but petitioners rejected or avoided his repeated requests for referral to a third doctor. Respondent sought full disability benefits (US$60,000.00), moral damages (Php1,000,000.00), exemplary damages (P200,000.00) and attorney's fees (10% of total claims).[21]

Petitioners countered that respondent was informed of the assessment made by the company-designated physician on July 30, 2014, at a meeting with Gilbey Jane A. Endaya and Jennifer M. Magsino, claims officers of Pandiman Philippines, Inc. (*Pandiman*) that were assigned to coordinate with the representative of petitioner Norbulk. The causes and risk factors of his illness (aortic valve stenosis) having been explained to him, respondent seemed to have understood that his ailment was not work-related and that petitioners shall continue to pay for his medical expenses until the I 30th day or up to August 27, 2014, after which his treatment would be discontinued. Respondent did not protest the assessment but only requested petitioners to shoulder the cost of his coronary angiogram, which was granted.[22]

About five (5) months later, petitioners received a letter dated January 5, 2015,[23] from respondent's counsel stating that since respondent was not informed of the medical assessment by the company-designated physician, he obtained a second opinion from his chosen doctor, Dr. Vicaldo. Said doctor declared him "unfit to work as seaman in any capacity" with an impediment grade of 6 (50% disability). Respondent thus demanded payment of US$60,000.00 as permanent total disability benefit. After a conciliation-mediation conference before the NLRC-SENA Unit failed to settle the dispute, the proceeding was ordered closed and terminated. On April 13, 2015, petitioners again received a letter from respondent's counsel requesting referral to a third doctor for a final evaluation of respondent's disability.[24]

Petitioners replied[25] to the counsel of respondent, refuting the allegation of respondent that he was not informed of the medical assessment of the company-designated physician, and also manifested their willingness to refer respondent to a third doctor for a final determination of whether his condition was work-related. On June 1, 2015, respondent's counsel sent another letter denying petitioners' assertion that respondent was duly informed of the company-designated physician's medical assessment.[26] As per respondent's account, he was merely told that he still had to undergo an angiogram and his medical treatment would stop after 120 days.[27]

Petitioners further claimed that respondent's counsel even personally conferred with their own counsel on the possible terms and conditions for the appointment of a third doctor, during which the former promised to send an e-mail containing their proposal. However, instead of such e-mail, petitioners received a summons from the NLRC. Such actuations of respondent's counsel indicate his lack of genuine intention to comply with the Third-Physician Rule under the POEA-SEC.[28]

Ruling of the Labor Arbiter

In his Decision,[29] dated April 19, 2016, Labor Arbiter Thomas T. Que, Jr. (*LA Que*) said that while respondent failed to seek the opinion of the third doctor, the stipulations in the employment contract and CBA are merely permissive and not

mandatory, hence the use of the word "may." Moreover, with his disability still subsisting, respondent acted within his rights in instituting the complaint against petitioners.[30]

On the issue of whether respondent's heart ailment was work-related, LA Que opined that their liability for compensation was impliedly admitted by petitioners when they provided him with medical treatment and paid his sickness allowance. Such continued medical treatment and payment of sickness allowance was indicative of petitioners' assessment that respondent's illness did, in fact, arise in the course of and/or was aggravated by the conditions of his employment.[31]

LA Que further ruled that respondent's cardiovascular disease should be deemed accidental because not all fitters end up with such condition. This entitles respondent to the maximum amount provided in the CBA. The findings of the company-designated physician were not given credence for being ambiguous. Considering that there was no definite assessment of respondent's fitness to work and his medical conditions remained unresolved, LA Que concluded that he was already deemed totally and permanently disabled.[32]

The dispositive portion of the LA's decision reads:

> **WHEREFORE**, premises considered, judgment is hereby rendered finding Complainant entitled to his claim for total and permanent disability benefits and attorney's fees in the respective amounts of US $95,949 and $9,594.90 and, correspondingly, holding Respondents jointly and severally liable to pay the same.
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> All other claims are dismissed for lack of merit.
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> **SO ORDERED.**[33]

Ruling of the NLRC

Petitioners appealed to the NLRC, which reversed the LA's ruling in its September 28, 2016 Decision. The NLRC disagreed with the LA's finding that respondent's illness was work-related considering that he failed to present substantial evidence that would show the causal connection between his work as a fitter and his heart disease. Citing medical references, the NLRC noted that aortic valve stenosis could be caused by genetics, aging, and childhood rheumatic disease and may be aggravated by lifestyle choices. These causes being natural, the illness could not have been accidental. As to Dr. Vicaldo's findings, the NLRC pointed out that said physician did not perform any test on respondent. His recommendation was merely based on the medical examinations conducted by the company-designated physician.[34]

The NLRC also disagreed with the LA's view that respondent's illness did not arise from an accident as provided in the CBA. Aortic Valve Stenosis is caused by natural causes and not accidental. Since respondent failed to prove that his heart disease was work-related, such illness is not compensable under the POEA-SEC and the CBA.[35]

The NLRC thus decreed:

> **WHEREFORE**, the appeal is hereby **GRANTED**. The Decision of the Labor Arbiter Thomas T. Que, Jr. is **REVERSED** and **SET ASIDE**. Accordingly, the complaint is **DISMISSED** for lack of merit.
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> **SO ORDERED.**[36]

Respondent filed a motion for reconsideration but the NLRC denied the same.[37] He then elevated the case to the CA in a petition for *certiorari* under Rule 65.

Ruling of the CA

In its decision, the CA reversed the NLRC, finding respondent's illness to be work-related. The pertinent portions of the CA's discussion on respondent's entitlement to disability are herein reproduced:

> **The records of this case are bereft of any showing as to how petitioner's nature of work caused or contributed to the aggravation of his illness. Nevertheless, We find that (*sic*) his illness to be work related** for two reasons. First, **petitioner did not exhibit any sign that he was sick when private respondents employed him**. Verily, petitioner's blood pressure during his PEME was at 130/80mmHg., which is considered to be higher than what experts consider optimal for most adults. Private respondents' company-designated physician opined in his certification that "stress test and 2DEcho will detect aortic stenosis in the PEME. The ECG may provide signs but not definitive." Nevertheless, petitioner's results for his chest x-ray and ECG all came out normal. As such, petitioner was declared fit for sea duty. Evidently, there were no signs that petitioner was suffering from Aortic Valve Stenosis at the time private respondents employed him. He only showed signs and symptoms of the said cardiac injury while he was performing his work on board with private respondents' vessel. Pursuant to Section 32-A of the POEA-SEC, We can therefore conclude that there is a causal relationship between petitioner's illness and the work he performed.
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> Second, **the Supreme Court took judicial notice in several cases that seafarers are exposed to harsh conditions of the sea, long hours of work and stress brought about by being away from their families**. Compounded to this, their bodies are further subjected to wear and tear as a consequence of their work or labor. Aside from these, it has been held in several cases that "cardiovascular disease, coronary artery disease, and other heart ailments are work-related and, thus, compensable."
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> Private respondents are further mistaken in their argument that petitioner is not entitled to receive his disability compensation. It is clear from the records of this case that private respondents' company-