

SECOND DIVISION

[G.R. No. 213465, January 08, 2018]

CAREER PHILIPPINES SHIPMANAGEMENT, INC.; COLUMBIA SHIPMANAGEMENT LTD. LIBERIA; AND/OR SAMPAGUITA D. MARAVE, PETITIONERS, VS. DONARD P. SILVESTRE, RESPONDENT.

DECISION

PERALTA, J.:

For this Court's resolution is the petition for review on *certiorari* filed by herein petitioners Career Philippines Shipmanagement, Inc., Columbia Shipmanagement Ltd. Liberia and Sampaguita D. Marave (*petitioners*) assailing the Decision^[1] and Resolution,^[2] dated March 25, 2014 and July 11, 2014, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 128194, which granted respondent Donard P. Silvestre (*Silvestre*) US\$60,000.00 permanent disability benefit, US\$1,720.00 sickness allowance and attorney's fees equivalent to 10% of the total monetary award.

The facts follow.

On November 2, 2010, petitioners hired Silvestre as an ordinary seaman on board the vessel M/V Gallia under the following terms and conditions:

- | | |
|---------------------------|--|
| 1.1 Duration of Contract: | 9MOS+/-1MO. |
| 1.2 Position: | ORDINARY SEAMAN |
| Basic | |
| 1.3 Monthly Salary: | US\$430.00 |
| 1.4 Hours of Work: | 44 hrs per week |
| | US\$239.00 Lumpsum |
| 1.5 Overtime: | Guaranteed OT US\$2.83 after 85 hours |
| Vacation | |
| 1.6 Leave with Pay: | 11 days per month |
| 1.7 Point of Hire | Manila, Philippines |
| | Entitled to 1 st yr Service Incentive |
| | US\$5.25 ^[3] |

Around 3:45 p.m. on May 6, 2011, the *bosun* directed Silvestre to sound the bilge in Hold No. 2 and while he was climbing out of the cargo hold, he was hit in the head by the closing hatch cover and sustained an avulsed wound on his right forehead. Blood steadily dripped on his face, and he experienced blurred vision. He was

brought to the CMC Medico Hospital in Pointe Noire, Congo where his wound was treated. He was discharged from the hospital after five (5) days of confinement and was given medication for pain relief and antibiotics. Thereafter, he was declared unfit to work and was recommended for repatriation.^[4] He arrived in the Philippines on May 19, 2011.

Upon arrival,, respondent Silvestre immediately sought medical attention at the NGC Clinic and was seen by company-designated physician Dr. Nicomedes Cruz (*Dr. Cruz*). He underwent a CT scan on May 20, 2011^[5] with the following findings:

Impression:

Unremarkable unenhanced CT scan of the brain.

Extracalvarial soft tissue swelling, right frontal region.

Mucus retention cyst versus polyp, left maxillary sinus.^[6]

Subsequently, Silvestre was advised to undergo revision of the scar as the previously sutured wound was not healing as expected. He was admitted at Manila Doctors Hospital on June 27, 2011, and was discharged on July 1, 2011.^[7] Despite the procedures, Silvestre had complaints of intermittent pain and throbbing headaches. He was advised to continue taking pain relievers, and was further observed.

On September 20, 2011, Silvestre filed a complaint for disability benefits and damages against petitioners.^[8] Initially, the case was dismissed for lack of interest to prosecute given that the parties failed to appear during the second mandatory conference.^[9] However, the Labor Arbiter (LA) re-opened the case upon motion of Silvestre, and ordered the parties to file their position papers.^[10]

In his Position Paper^[11] dated February 13, 2012, Silvestre alleged that he has not been able to pursue his employment as an ordinary seaman from the time of his repatriation on May 19, 2011. Thus, he was deemed suffering from permanent total disability since his disability lasted for more than 120 days.^[12]

Silvestre presented the Neurological Evaluation^[13] dated October 7, 2011 issued by Dr. Ramon Carlos Miguel L. Alemany declaring that he was no longer fit for sea duty, an excerpt of which reads:

Presently, Mr. Silvestre is complaining of decreased sensation on the right hemicrania and experiences abnormal sensation such as hyper sensitivity to touch on the said area, exacerbated by movement and exertion. He also complains of intermittent pain on the said area. He also complained of throbbing headaches that is aggravated by exertion and movement of the head laterally.

Current neurologic examination of the patient only showed abnormal perception of touch, (decreased by 50%), with hyperesthesia on the right hemicrania, otherwise normal neurologic examination.

His present condition was work aggravated / related and may be

permanent. Because of this, my opinion is, he is **no longer fit for sea duty**.^[14]

Silvestre also presented the Medical Evaluation Report^[15] dated October 12, 2011, wherein Dr. Renato P. Runas made the finding that the former was suffering from Grade 9 permanent disability, viz.:

At present, [Silvestre] is still complaining numbness of the right side of the head. Frequent pain is also felt on the injured area. He is also experiencing throbbing headache aggravated by exertion and moving his head from side to side. He also claims that he is unable to hold on to his grip long enough thereby letting things fall out of his hand. Physical examination revealed decreased sensation to touch on the injured scalp and hyperesthesia on the right side of the head. Pupils are equal in size and briskly reactive. No visual impairment noted. Gait is normal. Based on the extent of the injury and symptomatic complaints of the patient, he is no longer fit for sea duty with permanent partial disability rating of Grade 9 under POEA contract.

Justification of Impediment:

Seaman Silvestre developed a permanent disability as a result of the injury sustained onboard. The right frontal scalp avulsion injury resulted in facial disfigurement and also damaged the sensory nerves on the affected side. The frequent episode of pain and throbbing headache aggravated by physical exertion greatly affected his capacity level to perform and will be a cause of frequent sick in quarters if allowed to return to his previous job. Being an Ordinary Seaman, he is tasked with hectic and heavy jobs on board which he can no longer tolerate because of his present impediment His preinjury (sic) capacity status is lost. His overall performance as a seaman is greatly compromised and will not be able to perform at 100%. He is not fit for further sea duty permanently in whatever capacity with a permanent disability rating of Grade 9 based on POEA contract.^[16]

For their part, petitioners denied any liability for permanent total disability benefits. In their Position Paper^[17] dated February 7, 2012, petitioners alleged that after continuous treatment, medication, and monitoring, Silvestre's lacerated wound has healed, thus, he was found fit to work by company-designated physician Dr. Cruz.^[18] They averred that proper medical tests were conducted which showed normal results to disprove Silvestre's subjective complaints of pain and headache. They insisted that the company-designated physician was entrusted with the task of providing medical care and thereafter declare the fitness to work of the seafarer or otherwise give an assessment of the degree of his disability. Thus, such physician is in the best position to assess Silvestre's condition.

In the Decision^[19] dated March 5, 2012, the LA dismissed Silvestre's complaint. The LA based the dismissal on Silvestre's evidence, which is the Crew Member Accident Report^[20] dated May 7, 2011. According to the LA, the circumstances enumerated in the report, e.g., Silvestre lost his helmet while the hatch was falling, and his

admission that he forgot to put the safety pin of the cargo hold entrance, fairly demonstrate that he willfully did not observe the safety procedures. As an ordinary seaman for more than six (6) months, it should have been a normal routine for him to don his safety gear and follow the usual safety precautions.^[21] The *fallo* of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the instant complaint for permanent and total disability benefits and other money claims for lack of merit.

SO ORDERED.^[22]

On appeal, the National Labor Relations Commission (NLRC) affirmed the ruling of the LA in its August 31, 2012 Decision,^[23] thus:

It is clear in the Crew Member Accident Report that there was in fact a shipboard rule on the placing of the safety pin in order to secure the cargo hatch, and of the wearing of a helmet, and that [Silvestre] admitted that he forgot to put the safety pin in position. In fact, said report also stated:

"Recommendations:

Crew will be briefed again about proper use of hatches and personal safety equipment." (underscoring and italics supplied)

Complainant's non-observance of the shipboard rule or regulation with respect to safety is therefore a violation not only of Section 28 of the POEA Standard Employment Contract, but will also result in his non-recovery of benefits pursuant to Section 20(D) of the same. He thus cannot claim that he should be entitled to benefits just because his non-observance of said shipboard regulation was allegedly unintentional.

x x x x

WHEREFORE, premises considered, the instant appeal is hereby DISMISSED for lack of merit, and the appealed Decision dismissing the instant complaint is hereby AFFIRMED.

SO ORDERED.^[24]

Aggrieved, Silvestre sought recourse before the CA. Ruling in favor of Silvestre, the CA disagreed with the LA and the NLRC that his injury was a product of his willful or criminal act, or a result of an intentional breach of his duty. It ruled that the accident report established that Silvestre was actually wearing his helmet when the incident happened and merely lost the same when he was climbing out of the cargo hold. Also, that Silvestre forgot to put the safety pin in its position merely meant that he failed to remember the same.^[25] Furthermore, he is deemed to have suffered permanent disability because of his inability to work for more than 120 days. The dispositive portion of the decision reads:

WHEREFORE, the August 31, 2012 Decision and November 6, 2012 Resolution of the National Labor Relations Commission, as well as the March 5, 2012 Decision of the Labor Arbiter Thomas T. Que, Jr., are REVERSED AND SET ASIDE. [Petitioners] Career Philippines Shipmanagement, Inc. and Shipmanagement Ltd./Limassol, Cyprus are hereby DIRECTED to pay, jointly and severally, [Silvestre] his claims for permanent disability benefits in the sum of US\$60,000.00, his sickness allowance in the sum of US\$1,720.00, and attorney's fees equivalent to 10% of his total monetary award.

SO ORDERED. ^[26]

In its July 11, 2014 Resolution, the CA denied petitioners' motion for reconsideration. Thus, petitioners elevated the matters before this Court and raised the following issues:

THE FINDINGS OF FACT OF THE HONORABLE COURT OF APPEALS DO NOT CONFORM TO THE EVIDENCE ON RECORD AND CONTRARY TO THE FINDINGS OF THE LABOR ARBITER AND NLRC.

MOREOVER, THERE WAS A MISAPPRECIATION AND/OR MISAPPREHENSION OF FACTS AND THE HONORABLE COURT FAILED TO NOTICE CERTAIN RELEVANT POINTS WHICH IF CONSIDERED WOULD JUSTIFY A DIFFERENT CONCLUSION.

A. RESPONDENT SILVESTRE WAS DIAGNOSED WITH A LACERATED WOUND AND HIS REMAINING COMPLAINT WAS HYPERESTHESIA. HYPERESTHESIA REFERS TO "EXCESSIVE SENSITIVITY OF SKIN IN A PARTICULAR AREA." BOTH CONDITIONS ARE CURABLE AND CANNOT CAUSE A TOTAL AND PERMANENT DISABILITY TO RETURN TO SEA DUTIES.

IN FACT SILVESTRE'S OWN PRIVATE DOCTOR DETERMINED A PARTIAL GRADE 9 DISABILITY ONLY.

B. A FINAL FIT TO WORK ASSESSMENT WAS DETERMINED BY THE COMPANY-DESIGNATED PHYSICIAN WELL WITHIN THE 240-DAY PERIOD.

C. RESPONDENT SILVESTRE WAS GROSSLY NEGLIGENT IN ADMITTEDLY FAILING TO SECURE THE SAFETY PIN OF THE HATCH COVER. HENCE, THE ALLEGED INJURY WAS THE DIRECT RESULT OF HIS WILLFUL AND INTENTIONAL BREACH OF DUTIES.

D. THERE IS NO BASIS FOR THE AWARD OF ATTORNEY'S FEES. ^[27]

This Court finds the instant petition without merit.

As a general rule, only questions of law raised via a petition for review under Rule 45 of the Rules of Court are reviewable by this Court. Factual findings of administrative or quasi-judicial bodies, including labor tribunals, are accorded much respect by this Court as they are specialized to rule on matters falling within their jurisdiction especially when these are supported by substantial evidence. ^[28] By way