816 Phil. 194

FIRST DIVISION

[G.R. No. 192442, August 09, 2017]

BENEDICT N. ROMANA, PETITIONER, V. MAGSAYSAY MARITIME CORPORATION / EDUARDO U. MANESE AND/OR PRINCESS CRUISE LINE, LTD., RESPONDENTS.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated February 11, 2010 and the Resolution[3] dated May 27, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 108036, which affirmed the Decision[4] dated March 28, 2008 and the Resolution[5] dated November 28, 2008 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 049079-06 / NLRC NCR OFW (M) 04-12-03296-00, dismissing petitioner Benedict N. Romana's (petitioner) claim for disability benefits.

The Facts

Petitioner was employed[6] by respondents Magsaysay Maritime Corporation, Eduardo Manese and/or Princess Cruise Lines, Ltd. (respondents) as a Mechanical Fitter and boarded the vessel M/V Golden Princess[7] on August 7, 2003.[8] He claimed that while he and fellow shipmates Alexander Mapa and Rogelio Acdal were walking along the ship alley on April 20, 2004, the metal ceiling fell and wounded his head.[9] A few days thereafter, he experienced persisting headache and blurring of vision and consulted the ship's doctor who prescribed him medicines.[10] As his condition did not improve, he was referred to a specialist in Barbados, West Indies, and was found to have a tumor (or *hemangioblastoma*) at the left side of his brain, for which he underwent left *posterior fossa craniectomy*.[11]

He was repatriated on May 23, 2004 and the company-designated physician, in a medical report[12] dated May 24, 2004, issued a finding that petitioner's illness is not work-related[13] given that the same is an "abnormal growth of tissues in the brain's blood vessels."[14] He was later cleared and discharged on May 27, 2004.[15] No further consultations were made. On October 12, 2004, petitioner consulted an independent physician, who on the other hand, declared his illness to be work-related and gave him a Grade 1 impediment after finding him unfit to resume work as a seaman and incapable of landing a gainful employment because of his medical background.[16] As a result, petitioner filed a complaint,[17] seeking payment of his disability benefits, illness allowance, reimbursement of medical expenses, damages, and attorney's fees,[18] docketed as NLRC NCR OFW Case No. (M) 04-12-03296-00.

For their part, respondents denied petitioner's claim, contending that brain tumor is not listed as an occupational disease under Section 32-A of the 2000 Philippine

Overseas Employment Administration-Standard Employment Contract (2000 POEA-SEC), and that the company-designated physician declared said illness to be not work-related, hence, not compensable.[19]

The Labor Arbiter's Ruling

In a Decision[20] dated March 30, 2006, the Labor Arbiter (LA) dismissed the complaint, finding that petitioner failed to establish that his illness is work-related.[21] In so ruling, the LA gave more credence to the findings of the company-designated physician that his employment did not increase the risk of contracting his illness, nor did his working conditions contribute to his illness.[22]

Thus, petitioner appealed[23] the LA ruling, contending that Section 20 (B) (4)[24] of the 2000 POEA-SEC expressly provides that his illness shall be disputably presumed to be work-related, and that it is compensable since the nature of his work constantly exposed him to harmful chemicals, extreme changes of temperature in the engine room, as well as to harsh sea weather conditions.[25] He likewise maintained that his injury on the head after having been hit by a falling metal ceiling on board the vessel may have contributed to his brain tumor.[26]

The NLRC Ruling

In a Decision[27] dated March 28, 2008, the NLRC affirmed the LA ruling, holding that there was no evidence to support petitioner's claim that the nature of his work exposed him to risks of contracting a brain tumor.[28]

Petitioner moved for reconsideration,[29] but the same was denied in a Resolution[30] dated November 28, 2008. Hence, petitioner elevated his case to the CA via a petition for *certiorari*.[31]

The CA Ruling

In a Decision[32] dated February 11, 2010, the CA dismissed the *certiorari* petition, finding no grave abuse of discretion on the part of the NLRC. It debunked petitioner's claims that he was hit on the head by a falling metal while on board the vessel, and that he was exposed to different chemicals that aggravated his condition, for lack of substantiation.[33] The CA likewise did not give credence to the independent physician's finding that petitioner's illness is work-related, noting that said physician is a specialist in internal medicine and not in diseases of the brain.[34] Besides, petitioner failed to observe the conflict resolution procedure on the appointment of a third doctor as provided under the 2000 POEA-SEC.[35]

Aggrieved, petitioner filed a motion for reconsideration,[36] which was, however, denied in a Resolution[37] dated May 27, 2010; hence this petition.

The Issue Before the Court

The main issue in this case is whether or not petitioner is entitled to disability benefits pursuant to the 2000 POEA-SEC.

The Court's Ruling

The petition is denied.

The Court affirms the CA's ruling that the NLRC did not gravely abuse its discretion as it, in fact, correctly dismissed petitioner's claim for disability benefits. Nonetheless, the Court finds it opportune to elucidate on certain principles relevant to the matter of seafarers' compensation.

Under the 2000 POEA-SEC, "any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied" is deemed to be a "work-related illness."[38] On the other hand, Section 20 (B) (4) of the 2000 POEA-SEC declares that "[t]hose illnesses not listed in Section 32 of this Contract are disputably presumed as work related." The legal presumption of work-relatedness was borne out from the fact that the said list cannot account for all known and unknown illnesses/diseases that may be associated with, caused or aggravated by such working conditions, and that **the presumption is made in the law to signify that the non-inclusion in the list of occupational diseases does not translate to an absolute exclusion from disability benefits.**[39] Given the legal presumption in favor of the seafarer, he *may rely on and invoke such legal presumption to establish a fact in issue.* "The effect of a presumption upon the burden of proof is to create the need of presenting evidence to overcome the prima facie case created, thereby which, if no contrary proof is offered, will prevail."[40]

Thus, in *Racelis v. United Philippine Lines, Inc.*[41] and *David v. OSG Shipmanagement Manila, Inc.*,[42] the Court held that **the legal presumption of work-relatedness of a non-listed illness should be overturned only when the employer's refutation is found to be supported by substantial evidence**, which, as traditionally defined, is "such relevant evidence as a reasonable mind might accept as sufficient to support a conclusion."[43]

Nonetheless, the presumption provided under Section 20 (B) (4) is only limited to the "work-relatedness" of an illness. It **does not cover and extend to *compensability***. **In this sense, there exists a fine line between the work-relatedness of an illness and the matter of compensability**. The former concept merely relates to the assumption that the seafarer's illness, albeit not listed as an occupational disease, may have been contracted during and in connection with one's work, whereas compensability pertains to the entitlement to receive compensation and benefits upon a showing that his work conditions caused or at least increased the risk of contracting the disease. This can be gathered from Section 32-A of the 2000 POEA-SEC which already qualifies the listed disease as an "occupational disease" (in other words, a "work-related disease"), but nevertheless, mentions certain conditions for said disease to be compensable:

> SECTION 32-A OCCUPATIONAL DISEASES
>
> For an ***occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied***:
>
> 1. The seafarer's work must involve the risks described herein;
>
> 2. The disease was contracted as a result of the seafarer's exposure to the described risks;

3. The disease was contracted within a period of exposure and under such other factors necessary to contract it;

4. There was no notorious negligence on the part of the seafarer. (Emphasis and underscoring supplied)

As differentiated from the matter of work-relatedness, no legal presumption of compensability is accorded in favor of the seafarer. As such, he bears the burden of proving that these conditions are met.

Thus, in *Tagle v. Anglo-Eastern Crew Management, Phils., Inc.*,[44] the Court ruled that while work-relatedness is indeed presumed, "**the legal presumption in Section 20 (B) (4) of the [2000] POEA-SEC should be read together with the requirements specified by Section 32-A of the same contract**."[45]

Similarly, in *Licayan v. Seacrest Maritime Management, Inc.*,[46] it was explicated that the disputable presumption does not signify an automatic grant of compensation and/or benefits claim, and that while the law disputably presumes an illness not found in Section 32-A to be also work-related, the seafarer/claimant nonetheless is burdened to present substantial evidence that his *work conditions caused or at least increased the risk of contracting the disease* and only a reasonable proof of work-connection, not direct causal relation is required **to establish its compensability**.[47] The proof of work conditions referred thereto effectively equates with the conditions for compensability imposed under Section 32-A of the 2000 POEA-SEC.

In *Jebsen Maritime, Inc. v. Ravena*,[48] it was likewise elucidated that there is a need to satisfactorily show the four (4) conditions under Section 32-A of the 2000 POEA-SEC in order for the disputably presumed disease resulting in disability to be compensable.[49]

To note, while Section 32-A of the 2000 POEA-SEC refers to conditions for compensability of an occupational disease and the resulting disability or death, it should be pointed out that the conditions stated therein **should also apply to non-listed illnesses** given that: (***a***) the legal presumption under Section 20 (B) (4) accorded to the latter is limited only to "work-relatedness"; and (***b***) for its compensability, a reasonable connection between the nature of work on board the vessel and the illness contracted or aggravated must be shown.[50]

The absurdity of not requiring the seafarer to prove compliance with compensability for non-listed illnesses, when proof of compliance is required for listed illnesses, was pointed out by the Court in *Casomo v. Career Philippines Shipmanagement, Inc.*,[51] to wit:

> A quick perusal of Section 32 of the [2000 POEA-SEC], in particular the Schedule of Disability or Impediment for Injuries Suffered and Diseases including Occupational Diseases or Illnesses Contracted, and the List of Occupational Diseases, easily reveals the serious and grave nature of the injuries, diseases and/or illnesses contemplated therein, which are clearly specified and identified.

We are hard pressed to adhere to Casomo's position as it would result in a preposterous situation where a seafarer, claiming an illness not listed under Section 32 of the [2000 POEA-SEC] which is then disputably presumed as work-related and is ostensibly not of a serious or grave nature, need not satisfy the conditions mentioned in Section 32-A of the [2000 POEA-SEC]. In stark contrast, a seafarer suffering from an occupational disease would still have to satisfy four (4) conditions before his or her disease may be compensable.

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Government Service Insurance System (GSIS) v. Cuntapay [576 Phil. 482, 492 (2008)] iterates that the burden of proving the causal link between a claimant's work and the ailment suffered rests on a claimant's shoulder:

> The claimant must show, at least, by substantial evidence that the development of the disease was brought about largely by the conditions present in the nature of the job. What the law requires is a reasonable work connection and not a direct causal relation. It is enough that the hypothesis on which the workmen's claim is based is probable. Probability, not the ultimate degree of certainty, is the test of proof in compensation proceedings. And probability must be reasonable; hence it should, at least, be anchored on credible information. Moreover, a mere possibility will not suffice; a claim will fail if there is only a possibility that the employment caused the disease.[52] (Emphasis supplied)

Therefore, it is apparent that for both listed occupational disease and a non-listed illness and their resulting injury to be compensable, the seafarer must sufficiently show by substantial evidence compliance with the conditions for compensability.

At this juncture, it is significant to point out that the delineation between work-relatedness and compensability in relation to the legal presumption under Section 20 (B) (4) has been often overlooked in our jurisprudence. **This gave rise to the confusion that despite the presumption of work-relatedness already accorded by law, certain cases confound that the seafarer still has the burden of proof to show that his illness, as well as the resulting disability is work-related.**

Among these cases is *Quizora v. Denholm Crew Management (Phils.), Inc.*,[53] wherein the Court failed to discern that the presumption of work-relatedness *did not extend or equate to presumption of compensability*, and concomitantly, that the burden of proof required from the seafarer was to establish its compensability not the work-relatedness of the illness:

> At any rate, granting that the provision of the 2000 POEA-SEC apply, the disputable presumption provision in Section 20 (B) does not allow him to just sit down and wait for respondent company to present evidence to overcome the disputable presumption of work-relatedness of the illness. Contrary to his position, he still has to substantiate his claim in order to