

THIRD DIVISION

[G.R. No. 202808, August 24, 2016]

EDUARDO C. SILAGAN, PETITIONER, VS. SOUTHFIELD AGENCIES, INC., VICTORIANO A. BASCO AND/OR HYUNDAI MERCHANT MARITIME, CO., LTD., * RESPONDENTS.

DECISION

PEREZ, J.:

For resolution of the Court is this Petition for Review on *Certiorari*^[1] filed by petitioner Eduardo C. Silagan (petitioner), seeking to reverse and set aside the Decision^[2] dated 27 December 2011 and Resolution^[3] dated 24 July 2012 of the Court of Appeals (CA) in CA-G.R. SP. No. 101549. The assailed decision and resolution reversed the National Labor Relations Commission (NLRC) Decision^[4] dated 15 June 2007 and its Resolution^[5] dated 9 October 2007 which ordered respondents Hyundai Merchant Maritime Co., Ltd. and Southfield Agencies, Inc. to pay petitioner the amount of US\$50,000.00 representing his disability benefits.

The Facts

Respondent Hyundai Merchant Maritime Co., Ltd. is a foreign juridical entity engaged in maritime business. It is represented in the Philippines by its manning agent, and co-respondent herein, Southfield Agencies, Inc., a corporation organized and existing under Philippine laws. Southfield Agencies, Inc., in turn, is represented in this action by its correspondent Victoriano A. Basco.

On 16 October 2003, petitioner was hired by Hyundai Merchant Maritime Co., Ltd. thru its manning agent, Southfield Agencies, Inc. as Third Mate on board ocean-going vessel, M/V "Eternal Clipper". His employment was to run for a period of ten (10) months and he was to receive, *inter alia*, a basic monthly salary of US\$679.00 with an overtime pay of US\$461.00, as evidenced by his Contract of Employment.^[6] Under this contract, petitioner is covered by the Collective Bargaining Agreement^[7] (CBA) between the Federation of Korean Seafarer's Union/Associated Marine Officers' and Seamen's Union of the Philippines and herein respondents.

Prior to the execution of the contract, petitioner underwent a thorough Pre-Employment Medical Examination (PEME) and after compliance therewith, he was certified as "*fit to work*" by the company designated physician.

On 28 October 2003, petitioner joined the ship M/V "Eternal Clipper" and commenced his work on board the sea going vessel. While the ship was *en route* to Japan from Mexico on 4 January 2004, petitioner's right hand was slammed by a wooden door while he was performing his duties. As a result thereof, petitioner suffered a wrist injury causing him extreme physical pain on the right hand area of

his body. The incident was immediately reported to petitioner's superior who gave him medication and advised him to perform light duties while his condition was being treated.

Upon arrival of the vessel in Pyeongtaek, Korea on 29 January 2004, petitioner was brought to the hospital upon complaints of persistent pain where he was diagnosed with "*fracture, closed, distal third radius and comminuted, with ulna head dislocation.*" To alleviate the pain, an oral medication was prescribed for petitioner and he was advised to undergo surgery. Due to the progression of his condition's symptoms, petitioner was repatriated back to the Philippines on 2 February 2004.

Upon arrival in Manila, petitioner was immediately seen by Dr. Natalio G. Alegre, II (Dr. Alegre), the company designated physician, who initially assessed petitioner's physical condition. Dr. Alegre came out with the diagnosis that petitioner suffered "*fracture, closed, distal third, radius comminuted, with ulna head dislocation.*" A surgery to correct his condition was recommended.

On 13 February 2004, petitioner underwent "*Open Reduction, Plating with Bone Grafting (Synthetic Bone Graft-Osteopore, Right) and Application of External Fixator Right*" at St. Lukes Medical Center with Dr. Antonio Tanchuling, Jr. (Dr. Tanchuling) as his surgeon. The surgery proved to be successful and he was discharged from confinement on 18 February 2004. On 1 April 2004, petitioner underwent another surgery for the removal of the external fixator and was discharged the following day. After the second surgery, petitioner underwent physical therapy to facilitate for the complete rehabilitation of his injured hand.

On 1 June 2004, petitioner was declared "*fit to resume former work*" by Dr. Alegre. [8]

For failure of the company designated physician to assess his disability grading, petitioner sought an independent orthopedic surgeon, Dr. Marciano F. Almeda, Jr. (Dr. Almeda), to evaluate the condition of his injury. In a Medical Report dated 3 August 2004, Dr. Almeda found that petitioner was "*partially and permanently disabled with Grade II (14.93%) impediment.*" The pertinent portion of the Medical Report^[9] reads:

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On physical examination, there was note of slight atrophy of the right forearm muscles. Scars from pin tracts were likewise noted. There is an 8-9 cm[.] longitudinal surgical scar along the volar aspect of the right wrist extending proximally. Wrist motion in flexion and extension is also limited. Manual muscle testing is 4-5/5 on the right with weak grip strength.

Official results of his x-rays are not available.

Impression:

Fracture, closed, comminuted, distal third, radius, right with ulnar head dislocation.

S/p open reduction, plating with bone grafting (synthetic bone graft-osteopore) and application of external fixator.

Presently, [petitioner] continue to have pain and restricted motion of his right wrist. The forearm has lost it's (sic) usual strength from months of immobilization. He has lost his pre[-]injury capacity, and is not fit to work back to his previous work as a Seaman. He is **partially and permanently disable** with **Grade II Impediment** based on the POEA Contract."

Armed with the foregoing Medical Report, petitioner sought for the payment of disability benefits under the CBA by filing a claim against the respondents.^[10] He averred that under the terms of the said agreement between the Federation of Korean Seafarer's Union/Associated Marine Officers' and Seamen's Union of the Philippines and herein respondents, a seafarer with an assessed disability of less than 50% but certified as permanently unfit is entitled to 100% compensation.^[11] For failure of the respondents to acknowledge their purported obligation under the CBA, petitioner initiated an action for the recovery of disability benefits, sickness allowance, reimbursement of medical expenses and damages before the Labor Arbiter.^[12]

For their part, respondents disavowed liability under the CBA by claiming that petitioner was successfully treated of his condition from the moment he was repatriated to the Philippines until he was certified to go back to work by the company designated physician.^[13] During this interval, petitioner was under extensive medical treatment wherein he underwent surgery twice and several sessions of physical therapy to facilitate his complete recovery from his injury. The costs for the medical treatment were defrayed by the respondents in full and petitioner received sickness allowance during the period of his medical treatment.^[14] Respondents also claimed that petitioner previously initiated similar action before the Labor Arbiter but decided to withdraw the same after the case was amicably settled by the parties and petitioner released respondents from liability by signing a Release, Waiver and Quitclaim.^[15] Respondents thus claimed that petitioner is barred by *res judicata* from filing the instant case against the respondents.^[16]

For lack of merit, the Labor Arbiter dismissed the complaint of the petitioner in a Decision^[17] dated 22 September 2005. The Labor Arbiter held that the certification issued by the company designated physician that petitioner is "*fit to work*" negates his claim for the entitlement of disability benefits. He dismissed the Medical Report of Dr. Almeda as not binding because the physician only saw the patient during a lone consultation and "he was not subjected to the same examination treatment and monitoring as that undertaken by the company-designated physician."

On appeal, the NLRC reversed the ruling of the Labor Arbiter in a Decision dated 15 June 2007 thereby ordering respondents to pay the amount of US\$50,000.00 as disability compensation.^[18] The Commission held that petitioner's failure to go back to work for 147 days is conclusive of permanent total disability that warrants the payment of compensation following the ruling of the Court in *Crystal Shipping, Inc. v. Natividad*^[19] which states that a seaman's inability to perform his usual work for

more than 120 days constitutes permanent total disability. The *fallo* of the NLRC Decision reads:

"**WHEREFORE**, the decision appealed from is hereby **REVERSED**. The respondents are hereby ordered to pay the complainant disability compensation amounting to US\$50,000.00, or its equivalent in Philippine currency at the time of payment, plus attorney's fee equivalent to ten percent (10%) of the said amount.

SO ORDERED."^[20]

For lack of merit, the Motion for Reconsideration of the respondents was denied by the NLRC in a Resolution.^[21]

Finding that the NLRC gravely abused its discretion in adjudging respondents liable for disability benefits, the CA reversed its findings in a Decision.^[22] According to the appellate court, the company designated physician's finding on petitioner's health condition is "the final determination of the latter's fitness to return to work." For one, it was Dr. Silagan who closely monitored the physical condition of the petitioner from the time he was repatriated until the time that he underwent surgeries and physical therapy thereby acquiring familiarity with the progression or improvement of petitioner's injury symptoms. In contrast, Dr. Almeda only examined the petitioner once and his conclusion was based on the medical records brought by petitioner to him. Aside from the Medical Report issued by Dr. Almeda, no other proof was adduced by petitioner to substantiate his claim. In addition, the appellate court adjudged that the invocation of the ruling of the Court in *Crystal Shipping v. Natividad* is misplaced because it was explicitly provided in the text of the decision that "[t]his declaration of a permanent total disability after the initial 120 days of temporary total disability cannot, however, be simply lifted and applied as a general rule for all cases in all contexts. The specific context of the application should be considered, as we must do in the application of all rulings and even of the law and of the implementing regulations." In conclusion, the CA held, "[e]ven if WE apply the 120-day rule relied upon by the NLRC, [petitioner] still cannot claim disability benefits because he was declared fit to return to work 147 days after the injury, which is within the 240-day period provided by law." The disquisition of the CA Decision reads:

"**WHEREFORE**, the instant petition is **GRANTED**. The June 15, 2007 Decision and October 9, 2007 Resolution of the National Labor Relations' Commission (NLRC). Second Division, finding petitioners Southfield Agencies, Inc., Hyundai Merchant Maritime Co. Ltd., and Victoriano A. Basco liable for disability compensation and attorney's fees to Eduardo C. Silagan are hereby **REVERSED and SET ASIDE**. The Decision of the Labor Arbiter dated September 22, 2005 is hereby **REINSTATED**.

SO ORDERED."^[23]

Similarly ill-fated was petitioner's Motion for Reconsideration which was denied by the appellate court in a Resolution.^[24]

The Issue

Unflinching, petitioner is now before this Court *via* this instant Petition for Review on *Certiorari* assailing the Courts of Appeals' Decision and Resolution on the following grounds:

I.

THE COURT OF APPEALS COMMITTED A SERIOUS FACTUAL ERROR WHEN IT SUSTAINED THE FIT TO WORK CERTIFICATION BY THE COMPANY-DESIGNATED PHYSICIAN[;]

II.

THE COURT OF APPEALS COMMITTED A SERIOUS ERROR OF LAW IN NOT APPLYING THE APPROPRIATE JURISPRUDENCE AND LAW REGARDING TOTAL AND PERMANENT DISABILITY AND IN NOT AWARDING HIM ATTORNEY'S FEES.^[25]

The Court's Ruling

The Court resolves to deny the petition.

Entitlement of seamen on overseas work to disability benefits is a matter governed, not only by medical findings, but by law and by contract. The material statutory provisions are Articles 191 to 193 under Chapter VI (Disability Benefits) of the Labor Code, in relation with Rule X of the Rules and Regulations Implementing Book IV of the Labor Code. By contract, the POEA-SEC, as provided under Department Order No. 4, Series of 2000 of the Department of Labor and Employment, and the parties' CBA bind the seaman and his employer to each other.^[26]

Section 20 (B); paragraphs (2), (3) and (6) of the 2000 POEA-SEC^[27] reads:

Section 20-B. Compensation and Benefits for Injury or Illness.

The liabilities of the employer when the seafarer suffers **work-related injury or illness** during the term of his contract are as follows:

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[2.]

However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is **declared fit or the degree of his disability has been established by the company-designated physician.**

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is *declared fit to work or the degree of permanent disability has been assessed by the company-designated physician* but in no case shall this period exceed one hundred twenty (120) days.