

SECOND DIVISION

[G.R. No. 203804, April 15, 2015]

DARIO A. CARCEDO (SUBSTITUTED BY HIS WIFE PRISCILLA DELA CRUZ-CARCEDO), PETITIONER, VS. MAINE MARINE PHILIPPINES, INC. AND/OR MISUGA KAJUN CO., LTD., AND/OR MA. CORAZON GEUSE-SONGCUYA, RESPONDENTS.

D E C I S I O N

CARPIO, J.:

The Case

Before the Court is a petition for review^[1] assailing the Decision^[2] dated 29 June 2012 and Resolution^[3] dated 5 October 2012 of the Court of Appeals in CA-G.R. SP No. 120706, nullifying the Decision^[4] dated 8 March 2011 of the National Labor Relations Commission (NLRC) in NLRC LAC Case No. 01-000007-11 (OFW), and reinstating the Decision^[5] dated 30 November 2010 of the Labor Arbiter in NLRC NCR-OFW [M]-00-09-13527-09.

The Facts

On 6 August 2008, Dario A. Carcedo (Carcedo) was hired by respondent Maine Marine Philippines, Inc. for its foreign principal Misuga Kajun Co., Ltd. (collectively, respondents). He was engaged as Chief Officer on board M/V Speedwell under contract for nine months,^[6] with a basic monthly salary of US\$1,350.00.

Carcedo underwent the Pre-Employment Medical Examination on 8 August 2008, where he was declared fit for work. He boarded the vessel on 10 August 2008.

In November 2008, Carcedo's foot was wounded because of his safety shoes. Upon examination, the ship doctor gave him antibiotics and allowed him to resume work.^[7] His foot's condition worsened when he slid down the deck and bumped his right foot. In January 2009, he felt pain in the back of his swollen leg and developed fever and headache.

On 19 January 2009, he was treated at the Yoshino Hospital in Japan. The doctor diagnosed Carcedo with an open fracture of the right major toe bone with a suspicion of sepsis.^[8]

Carcedo was repatriated on 20 January 2009. He was immediately referred to the company-designated physician, Dr. Nicomedez Cruz of the Manila Doctors Hospital, for medical treatment. In Dr. Cruz's report dated 26 January 2009,^[9] he stated:

The patient underwent debridement of the wound of the right big toe today at Manila Doctors Hospital. Operative findings showed infected open wound in the medial aspect of the right big toe. There is foul smelling purulent discharge. Vascularity of the toe is compromised with beginning gangrene formation. He tolerated the procedure well. Fasting blood sugar is elevated at 14 (normal value = 4.2-6.1). He was referred to our endocrinologist for co-management.

Diagnosis:

Infected wound with gangrene, right big toe

S/P Debridement

Diabetes mellitus^[10]

Carcedo also underwent disarticulation of the right big toe on 26 January 2009.^[11]

He was discharged from the hospital on 12 February 2009.^[12]

On 24 March 2009, Dr. Cruz recommended "an impediment disability grading of 8% *Loss of first toe (big toe) and some of its metatarsal bone.*"^[13]

Due to infection of the amputated stump, Carcedo was again admitted to the hospital on 20 April 2009 for intravenous antibiotics.^[14] While confined in the hospital, Carcedo underwent sequestrectomy of the right first metatarsal bone.^[15] He also underwent curettage and serial debridements of the wound.^[16] On 27 May 2009, Carcedo's right first metatarsal bone was removed. He was discharged on 6 June 2009, with the following report from Dr. Cruz:^[17]

The patient was discharged today from the hospital. The wound of the right foot is still open with good granulation tissues. There is a minimal suppuration and serous discharge. He is advised to continue daily wound care.^[18]

On his follow-up consultation on 15 June 2009, Dr. Cruz noted that:

There is x x x good granulation tissue on the stump of amputated right big toe. The wound is open but with slight yellowish discharge. Cleaning and dressing were done. He was advised to continue his medications.^[19]

On 21 October 2009, Carcedo filed a complaint^[20] for total and permanent disability benefits in the amount of US\$148,500.00, sickness allowance and other consequential damages.

Meanwhile, Carcedo consulted orthopedic surgeon, Dr. Alan Leonardo R. Raymundo, who amputated Carcedo's second toe on 30 November 2009. Dr. Raymundo's Medical Report^[21] dated 16 March 2010 reads:

The patient saw me last October 29 and was advised that his condition was still in the healing process. However, in November 30 of the same year, the patient again developed chills and was admitted at the UP-PGH where he underwent an amputation of the 2nd ray of the left foot and was diagnosed with chronic osteomyelitis with a non-healing wound in the said area. On follow-up today, the wound has already completely healed and closed well with no draining sinus noted. He now has absence of the first and second toe which is prompting him to walk on the lateral aspect of his left foot with a cane. He still has some pain on weight bearing but the wound is already completely healed.

RECOMMENDATION:

I told him that with his present condition right now, he is not fit to return to his previous work duties as a chief mate on board.^[22]

The Court of Appeals summarized the positions of the parties, thus:

In his position paper, Carcedo averred: (1) his injury was work-related because he sustained the wound from his safety shoes at work, hence, his injury was compensable under Section 20(B) of the POEA Standard Employment Contract; (2) his disability was total and permanent; the injury on his leg was so severe that despite medication, there was no certainty that his former physical condition would get restored and he could resume his customary work; he walked with difficulty and not without a cane; his Orthopedic Surgeon, Dr. Alan Leonardo R. Raymundo recommended, viz: "x x x with his present condition right now, he is not fit to return to his previous work duties as a chief mate on board"; (3) he suffered severe depression and anxiety, for which, he was entitled to moral and exemplary damages, and attorney's fees; his employer's refusal to pay his disability benefits showed evident bad faith; and, he was denied a better medical treatment because he had to make do with what his depleted resources could afford.

Maine posited: there were valid reasons to deny Carcedo's claims, viz: (1) they were bound by the provisions on disability compensation under the POEA Standard Employment Contract and CBA; the disability compensation schedule under the IBF-JSU/AMOSUP IMMAJ CBA Schedule of Disability and Impediment (Annex 3 of the CBA), provided:

Degree of Disability	Rate of Compensation
	Senior Officers
%	US\$
100	148,500
75	111,375
60	89,100
50	74,250
40	59,400
30	44,550
20	29,700

10	14,850
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the CBA further stated:

28.4 The Company shall provide disability compensation to the seafarer in accordance with APPENDIX 3, with any differences, including less than ten percent (10%) disability, to be pro rata;

since Carcedo's injury fell under 'Loss of 1st toe (big toe) and some of its metatarsal bone,['] his rate of compensation was equivalent to 8% computed, as follows:

$$\text{US\$148,500} \times 0.08 = \text{US\$11,880.00}$$

(2) the disability assessment of the company-designated physician who attended to the seafarer throughout his illness and who had authority to assess his medical condition, should be given utmost credence, instead of a doctor who had only examined the seafarer later; (3) it had not acted in bad faith and had dealt fairly with Carcedo; it complied with its duties under the POEA contract; it paid for all of Carcedo's medical bills and even offered to pay disability benefit of US\$11,880.00; and Carcedo was, thus, not entitled to attorney's fees and exemplary damages.^[23]

In Respondents' Reply to Complainant's Position Paper,^[24] they submitted the opinions of more doctors to refute Carcedo's claim that he was unfit for sea duty.

The Ruling of the Labor Arbiter

On 30 November 2010, Labor Arbiter Patricio Libo-on denied Carcedo's claim for full disability and awarded him only partial disability in the amount of US\$11,800.00 in accordance with the contract between the parties. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the complaint for the payment of full disability is dismissed and respondent is ordered to pay the complainant partial disability in the amount of US\$11,800.00.

SO ORDERED.^[25]

The Labor Arbiter held that the contract between the parties is the law between them. Hence, the partial and permanent disability assessment made by the company-designated physician in accordance with the CBA prevails over the inability of Carcedo to return to his usual work.

The Ruling of the NLRC

On appeal, the NLRC reversed the Labor Arbiter's decision and awarded Carcedo full disability benefits and attorney's fees. The dispositive portion of the NLRC Decision

dated 8 March 2011 reads:

WHEREFORE, premises considered, the instant appeal is hereby GRANTED. The decision appealed from is REVERSED and SET ASIDE, and a new one issued ordering MAINE MARINE PHILIPPINES, INC., to pay DARIO A. CARCEDO, or his surviving spouse, PRISCILLA V. DELA CRUZ-CARCEDO, the amount of ONE HUNDRED FORTY EIGHT THOUSAND FIVE HUNDRED US DOLLARS (\$148,500.00), plus attorney's fees not exceeding US\$14,850.00.

SO ORDERED.^[26]

The NLRC gave credence to the findings of Dr. Raymundo, and held that Carcedo's death was confirmation of his unfitness to do work as a seaman.^[27] The NLRC applied the definition of permanent disability enunciated by the Court in the case of *Crystal Shipping Inc. v. Natividad*,^[28] which was "the inability of a worker to perform his job for more than 120 days, regardless of whether or not he loses the use of any part of his body."^[29]

In its Resolution dated 27 May 2011,^[30] the NLRC denied respondents' motion for reconsideration for lack of merit. Hence, herein respondents filed a Petition for Certiorari^[31] before the Court of Appeals.

The Ruling of the Court of Appeals

The Court of Appeals upheld the 8% disability grading made by the company-designated physician in accordance with the CBA. However, the Court of Appeals also declared Carcedo to be suffering from total and permanent disability because (1) he was unable to perform his job for more than 120 days; and (2) the declarations by the company-designated physician that Carcedo was fit for sea duty were made more than 400 days from repatriation. The dispositive portion of the Court of Appeals' Decision dated 29 June 2012 reads:

ACCORDINGLY, the Decision dated March 8, 2011 is NULLIFIED and the Labor Arbiter's Decision dated November 30, 2010, REINSTATED.

SO ORDERED.^[32]

Hence, this petition.

The Issues

Carcedo assigned the following errors: