

SECOND DIVISION

[G.R. No. 198096, July 08, 2015]

CENTENNIAL TRANSMARINE, INC. AND/OR MR. EDUARDO R. JABLA, CENTENNIAL MARITIME SERVICES & MTV BONNIE SMITHWICK, PETITIONERS, VS. PASTOR M. QUIAMBAO, RESPONDENT.

DECISION

DEL CASTILLO, J.:

"[T]he company-designated physician is expected to arrive at a definite assessment of the seafarer's fitness to work or permanent disability within the period of 120 or 240 days. That should he fail to do so and the seafarer's medical condition remains unresolved, the seafarer shall be deemed totally and permanently disabled,"^[1] as in this case.

This is a Petition for Review on *Certiorari*^[2] assailing the February 28, 2011 Decision^[3] and August 9, 2011 Resolution^[4] of the Court of Appeals (CA) in CA-G.R. SP No. 104798, which affirmed the April 23, 2008^[5] and May 30, 2008^[6] Resolutions of the National Labor Relations Commission (NLRC). The aforesaid NLRC Resolutions affirmed the July 31, 2007 Decision^[7] of the Labor Arbiter which ordered petitioners Centennial Transmarine, Inc. and/or Mr. Eduardo Jabla, Centennial Marine Services and MV Bonnie Smithwick (petitioners) to pay respondent Pastor Quiambao (Pastor) total and permanent disability benefits amounting to US\$78,750.00 and attorney's fees equivalent to 10% thereof.

Antecedent Facts

Since 2004, Pastor was continuously employed by petitioner Centennial Transmarine, Inc. as a messman for and on behalf of its foreign principal, petitioner Centennial Maritime Services. His last contract of employment^[8] of six months on board the vessel MV Bonnie Smithwick was approved by the Philippine Overseas Employment Administration (POEA) and was covered by the International Transport Workers' Federation-Collective Bargaining Agreement (ITF-CBA).^[9]

Pursuant to the aforementioned contract, Pastor boarded MV Bonnie Smithwick on June 5, 2006. Shortly thereafter or during the first week of August 2006, however, he figured in an accident while carrying heavy food provisions. This caused him to suffer excruciating pain in his upper back. When he consulted the ship doctor, Pastor was prescribed with oral pain killer, but the same only offered temporary relief. As his condition continued to worsen, he was referred on September 5, 2006 to City Med Health Associates in Singapore for further evaluation and treatment. The result of the x-ray examination conducted on him revealed that he has *lumbar muscular spasm with disc degeneration at L2/L3 and L5/S1 levels and thoracic spondylosis*

with disc degeneration from T4/T5 to T7/T8.^[10] While the attending physician declared him fit for light duties only,^[11] he was subsequently recommended for repatriation to Manila for further treatment.^[12]

Upon Pastor's arrival in the Philippines on September 18, 2006, he was referred to the company-designated physician, Dr. Leticia Abesamis (Dr. Abesamis). On October 2, 2006, Dr. Abesamis diagnosed him to have *Thoraco Lumbar spine nerve impingement, R/O herniated disc*.^[13] She then referred Pastor for Magnetic Resonance Imaging (MRI) at the Makati Medical Center and to Dr. Antonio Acosta, Jr., who later advised him not to carry heavy objects as it might collapse his T-5 vertebral body.

While undergoing treatment, or on November 7, 2006, Pastor filed a complaint^[14] against petitioners for permanent disability compensation in the sum of US\$78,750.00 pursuant to the Associated Marine Officers' and Seamen's Union of the Philippines (AMOSUP)/ ITF TCCC CBA,^[15] sickness wages for 120 days, moral and exemplary damages, attorney's fees and other benefits as provided by law.

Parties' Respective Positions

Pastor claimed that the lapse of 120 days from the time of his repatriation without any disability grading being issued by the company-designated physician, coupled by his worsening lumbar pain despite continuous treatment, rendered him permanently unfit for sea duties. In support of this, he presented a medical certificate dated April 17, 2007^[16] issued by the Seamen's Hospital attesting to his unfitness for sea service due to work-related total disability.

For their part, petitioners countered that except for his bare allegations, Pastor had not proffered sufficient evidence to support his claim that his spinal disc degeneration or osteoarthritis is work-related or was aggravated by his working conditions. While admitting that osteoarthritis is considered as a work-related disease under the provisions of the POEA-Standard Employment Contract (SEC), they argued that Pastor has not satisfactorily established any of the conditions for compensability. For one, his work as a messman does not entail heavy physical labor as to have caused his illness. This only means that his ailment is a pre-existing disease.

Petitioners also asserted that Pastor cannot claim permanent disability compensation based on his mere inability to work for more than 120 days because a seafarer is only entitled to full disability benefits if he has been assessed with Grade I disability. If no such assessment has been made, the seafarer is not entitled to disability compensation even if he was unable to perform his job for more than 120 days. Petitioners further asserted that they are not liable for sickness allowance, damages and attorney's fees for they have already fulfilled their obligations in good faith by providing Pastor with medical assistance.

Ruling of the Labor Arbiter

In a Decision^[17] dated July 31, 2007, the Labor Arbiter ruled that when an ailment is not listed as an occupational disease under the POEA-SEC or the conditions set

forth therein for compensability have not been met, the ailment is nevertheless disputably presumed as work-related. Hence, it was not for Pastor to prove that his illness is work-related; rather, it behooved upon the petitioners to rebut such presumption. The Labor Arbiter, however, found that petitioners failed to discharge their burden and, therefore, held that Pastor's illness is work-related and compensable. Anent the nature of Pastor's disability, the Labor Arbiter considered the same as permanent and total per the medical certificate issued by the Seamen's Hospital. Thus:

WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered ordering the [petitioners] to pay [Pastor] the sum of US\$78,750.00 as disability benefits, plus ten percent (10%) thereof as and for attorney's fees.

SO ORDERED.^[18]

Petitioners appealed to the NLRC.

Ruling of the National Labor Relations Commission

In its Resolution^[19] of April 23, 2008, the NLRC sustained the Labor Arbiter's finding that Pastor's ailment is work-related and compensable as, in fact, its proximate cause was the accident he figured in while on duty and his duties as messman show direct connection with his illness. It likewise gave weight and credence to the medical certificate issued by the Seamen's Hospital attesting to Pastor's disability as permanent since it observed that at the time the said certificate was issued, Pastor had actually been incapable of working for more than 120 days already. Moreover, aside from the fact that the findings contained in the said certificate appeared to be consistent with the findings and prognosis of the company-designated physician, it can be gleaned therefrom that Pastor was already under the care of the certifying doctor for a considerable length of time and his certification was not based on a mere one-time consultation. Ultimately, the NLRC ruled, *viz*:

WHEREFORE, premises considered, we deny the appeal and AFFIRM the decision of the Labor Arbiter.

SO ORDERED.^[20]

Petitioners moved for reconsideration,^[21] but the same was denied in the NLRC Resolution^[22] dated May 30, 2008.

Hence, petitioners filed a Petition for *Certiorari*^[23] before the CA.

Ruling of the Court of Appeals

On February 28, 2011, the CA rendered a Decision^[24] holding that Pastor is suffering from osteoarthritis, an ailment listed as an occupational disease under the POEA-SEC. It concluded that the said ailment developed in the course of Pastor's employment and progressed due to the conditions of his job as a messman. Accordingly, the CA ruled that Pastor's illness is work-related. Moreover, it declared his disability as permanent and total given that his ailment resulted in the impairment of his earning capacity. Hence:

IN VIEW OF THE FOREGOING, the petition is dismissed.

SO ORDERED.^[25]

Petitioners filed a Motion for Reconsideration^[26] where they pointed out that the CA incorrectly declared Pastor as suffering from osteoarthritis. They maintained that his ailment is actually spinal disc degeneration, an illness completely different from osteoarthritis and is not listed as an occupational disease under the POEA-SEC. Moreover, Pastor failed to sufficiently meet the conditions for compensability as set forth in the POEA-SEC.

In a Resolution^[27] dated August 9, 2011, the CA denied petitioners' Motion for Reconsideration.

Hence, this Petition for Review on *Certiorari*.

Issues

1. What is the actual illness of the private respondent on board the vessel;
2. Whether the Court of Appeals decided in a way not in accord with law or with the applicable decisions of the Supreme Court in affirming the Decision and Resolution of the NLRC despite the glaring fact that the actual illness of the private respondent is not work-related;
3. Whether the Court of Appeals decided in a way not in accord with law or with the applicable decisions of the Supreme Court in awarding US\$78,750.00 despite the fact that the private respondent has failed to adduce evidence that he is suffering from a Grade 1 disability;
4. Whether the Court of Appeals decided in a way not in accord with law or with the applicable decisions of the Supreme Court in awarding attorney's fees.^[28]

In the main, petitioners argue that Pastor suffers not from osteoarthritis but from spinal disc degeneration, an illness not listed under the POEA-SEC as occupational disease and is neither work-related nor compensable. They likewise insist that without any medical or factual evidence of total and permanent disability, there is no sufficient basis to award him Grade 1 disability compensation. Citing *Vergara v. Hammonia Maritime Services, Inc.*,^[29] they aver that an illness which lasted for more than 120 days does not necessarily mean that a seafarer is entitled to full disability benefits because a seafarer's degree of disability is not measured by the length of time he is under treatment, but by the assessment of the company-designated physician, who, in this case, found Pastor's illness as not work-related. Pastor, therefore, is not entitled to disability compensation.

Our Ruling

The Petition lacks merit.

Pastor suffers from a work-related and compensable illness.

The Court notes that while petitioners impute error upon the CA in declaring Pastor's illness as osteoarthritis, it is extant on the records that they themselves, in the numerous pleadings they filed before the labor tribunals, consistently referred to his diagnosed ailment as osteoarthritis. It was only after the CA rendered its assailed Decision that petitioners contradicted this and now claim that Pastor's illness is actually spinal disc degeneration which, according to them, is a completely different illness from osteoarthritis. Suffice it to state, however, that petitioners cannot now take a contrary view as to Pastor's actual illness in view of their previous admission that he was suffering from osteoarthritis. It is settled that statements made in the pleadings in the course of judicial proceedings are considered judicial admissions.

[30] Judicial admissions cannot be controverted by the party making the admissions.

[31] They are conclusive and legally binding as against the pleader who cannot subsequently take a position contrary to or inconsistent with what was pleaded. [32]

At any rate, in medical parlance, spinal disc degeneration/desiccation and osteoarthritis can be taken as the same. Degenerative disc disease is a spinal condition caused by the breakdown of the intervertebral discs which results in the loss of flexibility and ability to cushion the spine. [33] When discs degenerate, the vertebral bodies become closer together and this increased bone on bone friction causes the wearing away of protective cartilage and results in the condition known as osteoarthritis. [34] The degenerating discs place excessive stress on the joints of the spine and the supporting ligaments, which, overtime, can lead to the formation of osteoarthritis. [35] Osteoarthritis is a stage of degenerative disc disease. [36]

Here, as revealed by Pastor's medical records, he was found suffering from acute thoracic and lumbar spondylosis before he was repatriated for medical reasons. [37] When he returned to the Philippines, he was then diagnosed with *thoraco lumbar spine nerve infringement, R/O herniated disc* on October 2, 2006 by Dr. Abesamis, the company-designated physician. [38] When made to undergo MRI of the thoraco lumbar area a few days later, the result thereof revealed that the said area has a slightly straightened lumbar lordosis. He was thus advised to undergo physiotherapy. On November 6, 2006, Dr. Abesamis found Pastor positive for carpal tunnel syndrome. [39] He was then subjected to further medical evaluation and treatment for the recurrent pain that he was experiencing. [40] Through all these, no medical assessment of his fitness to resume work or disability grading was ever issued by Dr. Abesamis such that Pastor sought the opinion of an independent physician. He was then diagnosed to have *chronic back pain and impending vertebral collapse T5 with thoracic and lumbar spondylosis* and was assessed to be permanently unfit for sea duties due to a work-related total disability. This is evidenced by a medical certificate dated April 17, 2007 issued by the Seamen's Hospital.

Notably, the above-mentioned findings on Pastor's illness indicate that he was suffering from lumbar *spondylosis*. *Spondylosis* is a term used to describe osteoarthritis of the spine. [41] Clearly therefore, the CA's declaration of Pastor's actual illness as osteoarthritis is supported by the findings of the company-designated physician, whose prognosis, as aptly observed by the NLRC, appear to