

SECOND DIVISION

[G.R. No. 168210, June 17, 2008]

**COASTAL SAFEWAY MARINE SERVICES, INC., PETITIONER,
LEONISA M. DELGADO, RESPONDENT.**

DECISION

QUISUMBING, J.:

For review are the Decision^[1] and Resolution^[2] dated February 10, 2005 and May 25, 2005, respectively, of the Court of Appeals in CA-G.R. SP No. 85961, which had affirmed the Decision^[3] dated April 30, 2004 of the National Labor Relations Commission (NLRC), Third Division, in NLRC NCR CA No. 036508-03.

The antecedent facts are as follows:

Petitioner Coastal Saway Marine Services, Inc. (Coastal), with Arabian Marine and Terminal Services Co. Ltd. as its principal, hired Jerry M. Delgado, with the position of General Purpose 2 on board M/V "Lulu 1."^[4] Upon arrival in Saudi Arabia, however, Jerry was instructed to board another vessel, the M/V "Karan 7," and was deployed as a Chief Engineer on August 3, 2001.

On December 22, 2001, while on board, Jerry complained of stomach pain. He was immediately treated, but on December 29, 2001, he again fell ill. On January 8, 2002, while confined at the city hospital in Dharan, Saudi Arabia, Jerry died due to "acute cessation of blood circulation and respiration."^[5] Thereafter, his remains were transported to Manila.

Respondent Leonisa M. Delgado, Jerry's wife, demanded payment of death and other benefits from Coastal, but the latter denied her claims.^[6] Hence, Leonisa went to the NLRC on April 1, 2002 and filed a Complaint.^[7] Labor Arbiter Francisco A. Robles ruled for Leonisa and awarded her death benefits and \$7,000 for each of their four children. However, her claims for salary differential, moral and exemplary damages, were denied.^[8]

The NLRC, upon appeal of Coastal, affirmed the Labor Arbiter's ruling. It disposed of the case as follows:

Based on records, complainant's husband was issued a fit to work certification by [Coastal's] accredited physician prior to his deployment and was reported by the ship's captain to be "healthy and energetic"...when he joined the vessel, but barely 5 months thereafter he died as a result of illness during the term of his contract and not from his own willful or criminal act. The employer/principal is therefore liable... [Coastal] is also answerable for such death benefits because the law

(Sec. 10 of R.A. No. 8042) provides for the solidary liability of the principal and the local agent for any and all claims of an overseas worker.

x x x x

WHEREFORE, the appeal is DENIED. The Decision dated May 20, 2003 is affirmed in toto.

SO ORDERED.^[9]

After its motion for reconsideration was denied, Coastal filed a Petition for Certiorari^[10] before the Court of Appeals. The Court of Appeals, however, dismissed the petition and ruled that based on Section 20(A)^[11] of the Philippine Overseas Employment Administration (POEA) Standard Employment Contract,^[12] it is sufficient that Jerry's death occurred during the term of his employment as to entitle his beneficiaries to claim death benefits. The *fallo* of the decision reads:

WHEREFORE, premises considered, the petition is **DISMISSED**.

SO ORDERED.^[13]

Coastal sought reconsideration, but to no avail. Hence, this petition, raising the following as issues:

I.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT AWARDED DEATH BENEFITS TO THE BENEFICIARIES OF DECEASED JERRY DELGADO BASED ON SECTION 20 OF MEMORANDUM CIRCULAR NO. 55, SERIES OF 1996, WHEN THE APPLICABLE LAW IS DEPARTMENT ORDER NO. 4 AND MEMORANDUM CIRCULAR NO. 09, SERIES OF 2000 AS EMBODIED IN THE STANDARD EMPLOYMENT CONTRACT SIGNED BY THE PARTIES.

II.

THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT MANIFESTLY OVERLOOKED CERTAIN MATERIAL FACTS THAT, IF PROPERLY CONSIDERED, WOULD JUSTIFY A DIFFERENT CONCLUSION.

III.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT DISREGARDED THE NOTARIZED QUITCLAIM VOLUNTARILY EXECUTED BY THE DECEASED JERRY DELGADO IN FAVOR OF THE PETITIONER.

IV.

THE HONORABLE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION IN AFFIRMING THE AWARD OF ATTORNEY'S FEES IN FAVOR OF RESPONDENT DESPITE THE WANT OF ANY FACTUAL AND LEGAL BASIS.^[14]

Simply put, the issues are: (1) Did the Court of Appeals err in awarding death benefits to Jerry's heirs based on Section 20(A) of the POEA Standard Employment Contract? (2) Is the affidavit of waiver executed by Jerry valid? (3) Is Leonisa entitled to attorney's fees?

Petitioner contends that in determining whether Jerry's death is compensable, Department of Labor and Employment (DOLE) Department Order No. 4, series of 2000^[15] and POEA Memorandum Circular No. 9, series of 2000^[16] should apply because these were the laws embodied in Jerry's employment contract.

On the other hand, respondent argues, together with the Court of Appeals, that it is Section 20(A) of the POEA Standard Employment Contract based on POEA Memorandum Circular No. 055, series of 1996^[17] that should apply.

The employment of seafarers, including claims for death benefits, is governed by the contracts they sign every time they are hired or rehired;^[18] and as long as the stipulations therein are not contrary to **law**, morals, public order or public policy, they have the force of law between the parties.^[19] While the seafarer and his employer are governed by their mutual agreement, the POEA rules and regulations^[20] require that the POEA Standard Employment Contract be integrated in every seafarer's contract.^[21]

A perusal of Jerry's employment contract^[22] reveals that what was expressly integrated therein by the parties was DOLE Department Order No. 4, series of 2000 or the POEA Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels, and POEA Memorandum Circular No. 9, series of 2000. However, POEA had issued Memorandum Circular No. 11, series of 2000^[23] stating that:

In view of the Temporary Restraining Order issued by the Supreme Court in a Resolution dated 11 September 2000 on the implementation of certain amendments of the Revised Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels as contained in DOLE Department Order No. 04 and POEA Memorandum Circular No. 09, both Series of 2000, please be advised of the following:

- 1. Section 20, Paragraphs (A), (B) and (D) of the former Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels, as provided in DOLE Department Order No. 33, and POEA Memorandum Circular No. 55, both Series of 1996 shall apply in lieu of Section 20 (A), (B) and (D) of the Revised Version;** (Emphasis supplied.)

x x x x

In effect, POEA Memorandum Circular No. 11-00 thereby paved the way for the application of the POEA Standard Employment Contract based on POEA Memorandum Circular No. 055, series of 1996. Worth noting, Jerry boarded the ship on August 2001 before the said temporary restraining order was lifted on June 5, 2002 by virtue of Memorandum Circular No. 2, series of 2002.^[24] Consequently,

Jerry's employment contract with Coastal must conform to Section 20(A) of the POEA Standard Employment Contract based on POEA Memorandum Circular No. 055, series of 1996, in determining compensability of Jerry's death.

Section 20(A) of the POEA Standard Employment Contract, based on POEA Memorandum Circular No. 055, series of 1996, is clear:

SECTION 20. COMPENSATION AND BENEFITS

A. COMPENSATION AND BENEFITS FOR DEATH

1. In case of death of the seafarer **during the term of his contract**, the employer shall pay his beneficiaries the Philippine Currency equivalent to the amount of Fifty Thousand US dollars (US\$50,000) and an additional amount of Seven Thousand US dollars (US\$7,000) to each child under the age of twenty-one (21) but not exceeding four (4) children, at the exchange rate prevailing during the time of payment. (Emphasis supplied.)

Stated differently, for death of a seafarer to be compensable, the death must occur during the term of his contract of employment.^[25] It is the only condition for compensability of a seafarer's death.^[26] Once it is established that the seaman died during the effectivity of his employment contract, the employer is liable.^[27] In Jerry's case, the parties did not dispute that Jerry died due to heart ailment during the term of his employment. Aside from the fact that respondent had submitted Jerry's death certificate, petitioner admits such fact of death as early as the time it had submitted its first position paper with the NLRC.

Petitioner, however, alleges that respondent's claim for death benefits should be denied because there was no reasonable work connection between Jerry's death and his illness. To this allegation, we cannot agree. Compensability of Jerry's death does not depend on whether his illness was work-connected or not. What is material is that his death occurred during the term of his employment contract. By provision of Section 20(A) of the POEA Standard Employment Contract, based on POEA Memorandum Circular No. 055, series of 1996, payment of death benefit pension is mandated in case of death of a seafarer during the term of his employment.

Petitioner further presents an affidavit of waiver^[28] allegedly executed by Jerry releasing it from any responsibility and liability and contends that the Fit-to-Work Certification was issued only upon his insistence to be deployed after he underwent medical examination and was found to have an unstable blood pressure. Respondent, on the other hand, disputes the validity of such waiver insisting that no waiver can validly renounce the future rights of Jerry's heirs and beneficiaries, it being against sound public policy.

Again, we find petitioner's arguments without merit. It is not necessary, in order to recover compensation benefits, that an employee must have been in perfect health at the time he contracted the disease. A worker brings with him possible infirmities in the course of his employment, but the employer, though not an insurer of the health of his employees, takes them as he finds them.^[29] Significantly, in issuing a fit-to-work certification to Jerry, petitioner assumed the risk of liability. Based on the