

SPECIAL THIRTEENTH DIVISION

[CA-G.R. SP NO. 128045, April 16, 2014]

**MAERSK-FILIPINAS CREWING, INC., A.P. MOLLER A/S AND/OR
MARYCIEL TAGAL, PETITIONERS, VS. MARCELINO DE JESUS AND
NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.**

D E C I S I O N

DIMAAMPAO, J.:

At the maelstrom of this Petition for Certiorari^[1] are the Decision^[2] and Resolution^[3] dated 31 July 2012 and 28 September 2012 of the National Labor Relations Commission (NLRC), respectively, in LAC No. (OFWL) 04-000348-12.

The precursor facts are uncomplicated.

Private respondent Marcelino De Jesus was employed by petitioner Maersk Filipinas Crewing, Inc., in behalf of A.P. Moller A.S., as Crane Operator/Driver for a period of four months. On 4 September 2009, he left Manila on board the vessel MV Clara Maersk, and returned on 30 January 2010 after completing his contract. Posthaste, he applied anew for re-employment with the same company and underwent a medical examination. However, his pre-medical examination revealed that he was suffering from *Left Atrial Enlargement, Old Anterior Wall Myocardial Infarction and Lateral Wall Ischemia and Dilated Left Ventricular Hypertrophy with Mutisegmental Wall Motion Abnormality with Depressed Systolic Function*. Inevitably, the company-designated physician declared him "unfit to work". He sought another medical examination with a private doctor who likewise declared him not fit to work.

After one year and nine months, private respondent instituted a *Complaint*^[4] against petitioners Maersk and/or A. P. Moller A/S and Maryciel Tagal for the payment of permanent disability benefits, sickness allowance, reimbursement of medical expenses, damages and attorney's fees. In his Complaint, he averred that his illness was acquired while he was employed as Crane Operator. His job was so strenuous and stressful as it required him to maintain a high level of alertness in operating the crane. He was exposed to harmful and toxic fumes, chemicals, and other substances as well as to the different climates and perils of the sea. While on board the vessel, he experienced chest pain, dizziness and difficulty in breathing. He reported the matter to the master of the vessel but he was not accorded appropriate medical attention. It was only on 25 February 2010 that he was examined by the company-designated physician. Notwithstanding his condition, petitioners refused to extend him his permanent disability benefits.

Au contraire, petitioners avowed that private respondent was not entitled to disability benefits as he completed his contract without any injury or medical illness. Private respondent was repatriated to Manila upon the expiration of his contract. He did not suffer any injury during the effectivity of the contract and while on board the

vessel. In actual fact, private respondent did not undergo the three-day mandatory post-employment examination upon his return to Manila.

After weighing the diverse postures of the parties, the Labor Arbiter rendered a Decision dated 24 January 2012 dismissing private respondent's *Complaint*. The Labor Arbiter explicated that the ailment of private respondent was not acquired during the term of his employment contract, *viz*:

"Complainant's allegation that he experienced chest pains, dizziness and difficulty in breathing while on board the vessel cannot be sustained for want of evidence to substantiate the same. x x x

x x x

x x x

In short, it is clear that *complainant disembarked the vessel in good and perfect condition*. Otherwise, if he was suffering from an illness, he would have reported the same to the captain or to herein respondents during the period of his employment contract and the latter would have referred him to a doctor for treatment.

Given the basic rule that disability compensation is payable only to illnesses suffered on board the vessel, it is quite evident that the present claim for disability benefits is baseless as the illness upon which complainant anchors his *cause of action was not suffered on board the vessel of respondents*.

x x x

x x x

In synthesis, *the present claim for disability benefits should be dismissed on the ground that the illness upon which the complaint is based was not suffered during the period of employment*.

The fact that *complainant was found unfit for employment while applying for a new employment with the respondents does not render such finding as enough basis to grant his claims*. On the contrary, **complainant's act in applying for a new employment with the respondent manning agency is an indication that he did not suffer any illness on board 'Clara Maersk'**. Besides, if complainant truly believed that he is entitled to his claimed permanent total disability benefits, **he would not have waited for one year and nine months to lapse from the date of his repatriation before filing the instant case for disability benefits.**"

[5] (Emphases supplied)

The NLRC, on appeal, reversed the foregoing disposition of the Labor Arbiter. In the challenged *Decision*, the labor tribunal ratiocinated that the illness of private respondent was contracted during the course of his employment on board the vessel, *i.e.*, his disease developed gradually.

Petitioners moved for reconsideration thereof but failed to attain favorable relief in the assailed Resolution.