



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

LAMBERTO M. DE LEON,
Petitioner,

G.R. No. 215293

Present:

- versus -

CARPIO, J., Chairperson,
PERALTA,
MENDOZA,
LEONEN, and
JARDELEZA,* JJ.

MAUNLAD TRANS, INC.,
SEACHEST ASSOCIATES,
ET AL.,
Respondents.

Promulgated:

08 FEB 2017

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DECISION

PERALTA, J.:

This is to resolve the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, dated November 26, 2014, of petitioner Lamberto M. De Leon that seeks to reverse and set aside the Decision¹ dated October 9, 2013 and the Resolution² dated November 5, 2014, both of the Court of Appeals (CA) and prays for the reinstatement of the Decision³ dated December 15, 2011 and Resolution⁴ dated February 15, 2012 of the National Labor Relations Commission (NLRC) granting petitioner disability benefits in the amount of US\$60,000.00 or its Philippine Peso equivalent.

The facts follow.

* Designated Additional Member per Special Order No. 2416, dated January 4, 2017.
¹ Penned by Associate Justice Stephen C. Cruz, with the concurrence of Associate Justices Magdangal M. De Leon and Myra V. Garcia-Fernandez, *rollo*, pp. 25-32.
² *Id.* at 23-24.
³ *Id.* at 35-44.
⁴ *Id.* at 33-34.

Petitioner was hired by respondent Maunlad Trans, Inc. as Team Headwaiter for M/S Carnival Liberty, a vessel operated by Seachest Associates/Carnival Corporation through a POEA-approved employment contract and assumed his duties for two years during which he averaged ten to twelve hours of work daily. Petitioner, on certain occasions, was also assigned as a "fire watch" while the vessel was repaired or dry-docked, exposing himself to extreme heat from welding works and unusual amount of toxic fumes from alcohol and thinner mixed with paint to be used after welding.

While on board the vessel, petitioner experienced uncontrollable blinking, shaking and difficulty in speaking and breathing for three weeks. As such, he was referred to a neurologist in Belize and underwent Magnetic Resonance Imaging (*MRI*) and CT Scan. He was then diagnosed with "cerebral atrophy" and was advised to seek a neurologist in Miami, Florida where the vessel was headed. Upon reaching Florida, he was confined in South Miami Hospital but due to the severity of his condition, he was advised to be repatriated.

When he arrived in the Philippines, he reported to his agency and was referred to the Metropolitan Medical Services, Inc. for treatment and when his condition did not improve, he sought treatment from Dr. May Donato-Tan, a specialist in internal medicine-cardiology who diagnosed his illness as T/C Parkinson's Disease; hypertensive atherosclerotic cardiovascular disease and declared him unfit for duty in whatever capacity as a seaman.

Respondents acknowledged that petitioner was diagnosed with Parkinson's Disease and that he underwent several medical treatments including blood count, Erythrocyte Sedimentation Rate (*ESR*), Blood Ureas Nitrogen (*BUN*), Serum Glutamic Pyruvate Transaminase (*SGPT*), Creatinine, Serum Glutamic Oxaloacetic Transaminase (*SGOT*), Thyroid function test (*FT4*), Thyroid Stimulating and Serum Ceruplasmine. After the filing of the complaint, petitioner received the medical opinion of their company-designated physician stating the following:

The specialist opines that condition can be secondary to genetics, immunologic or use of anti-psychotics (non-work related) or heavy metal exposure. Unless patient has history of heavy metal exposure on board, the specialist opines that the condition does not appear to be work-related or work-aggravated.

Thus, respondents refused to give petitioner full compensability based on the above finding that the latter's illness is not work-related.



In her Decision dated September 26, 2011, Labor Arbiter Michelle Pagtalunan found petitioner's claim meritorious, thus:

WHEREFORE, respondents are hereby ordered to pay complainant Lamberto M. De Leon, disability benefit in the amount of US\$60,000.00 or its Philippine Peso equivalent at the time of payment and ten percent (10%) attorney's fees.

SO ORDERED.⁵

According to the Labor Arbiter, those illness not listed under Section 32 of the POEA Standard Employment Contract (*POEA-SEC*) are disputably presumed as work-related; thus, the burden is on the respondents to present substantial evidence or such relevant evidence that there is no causal connection between the nature of the seafarer's work and his illness, or that the risk of contracting the illness was not increased by his working condition. The Labor Arbiter further stated that she is not bound by the assessment of the company-designated physician because no such qualifying terms as "only" and "exclusively" in the *POEA-SEC* limit her judgment and that a contrary interpretation would lead to the absurdity of petitioner's disability being decided by the designated physician and not by the Labor Arbiter or the NLRC. Thus, in view of the uncertainty of the diseases' development, the Labor Arbiter held that petitioner's work as team headwaiter cannot be discounted as contributory, even to a small degree, in the development of his condition.

The NLRC, in its Decision dated December 15, 2012, affirmed the Decision of the Labor Arbiter, thus:

WHEREFORE, the judgment on appeal is *AFFIRMED in toto*.⁶

It held that the nature of the petitioner's employment is presumed to be the cause of the illness because it occurred during his stint with respondents and that his employment need not be the sole factor in the growth, development or acceleration of his illness as it is enough that it contributed to the development thereof.

After respondents' motion for reconsideration was denied, they filed a petition under Rule 65 of the Rules of Court with the CA and in its Decision dated October 9, 2013, the latter granted the petition and reversed and set aside the Decision of the NLRC, thus:

WHEREFORE, premises considered, the instant petition is hereby **GRANTED**. Accordingly, the assailed Decision and Resolution of the National Labor Relations Commission (NLRC), dated December 15,

⁵ *Id.* at 55.

⁶ *Id.* at 44.



2011 and February 15, 2012, respectively, are **ANNULLED AND SET ASIDE**. No pronouncement as to costs.

SO ORDERED.⁷

According to the CA, while degenerative, Parkinson's Disease is neither listed as a disability under Sec. 32 of the POEA-SEC, nor is it considered an occupational disease under Sec. 32-A thereof. Thus, the CA held that it is imperative that petitioner establish the existence of a causal connection between his illness and the work for which he was contracted for and petitioner fell short of the standards imposed upon him by law.

Petitioner's motion for reconsideration was denied in the CA's Resolution dated November 5, 2014.

Thus, the present petition with the following grounds:

- I. THE CA COMMITTED GRAVE AND SERIOUS ERROR IN ITS FINDINGS THAT THE PETITIONER'S ILLNESS IS NOT WORK RELATED; and
- II. THE CA COMMITTED GRAVE AND SERIOUS ERROR IN DENYING TO PETITIONER THE PERMANENT TOTAL DISABILITY COMPENSATION AND ATTORNEY'S FEES.

It is petitioner's contention that his illness is work-related and insists that he was exposed to the harsh conditions of the elements, the perils at sea, severe stress while being away from his family and fatigue due to long hours of work onboard the vessel, 10-12 hours daily. Petitioner further argues that due to his not being able to return to the seafaring occupation because of his illness, he is entitled to permanent total disability as the Labor Arbiter and the NLRC determined.

In their Comment⁸ dated March 20, 2015, respondents reiterated the Decision of the CA.

As a general rule, only questions of law raised *via* a petition for review under Rule 45 of the Rules of Court⁹ are reviewable by this Court.¹⁰

⁷ *Id.* at 31-32.

⁸ *Id.* at 62-76.

⁹ Section 1, Rule 45 of the Rules of Court, as amended, provides: Section 1. *Filing of petition with Supreme Court.* A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set

Factual findings of administrative or quasi-judicial bodies, including labor tribunals, are accorded much respect by this Court as they are specialized to rule on matters falling within their jurisdiction especially when these are supported by substantial evidence.¹¹ However, a relaxation of this rule is made permissible by this Court whenever any of the following circumstances is present:

1. [W]hen the findings are grounded entirely on speculations, surmises or conjectures;
2. when the inference made is manifestly mistaken, absurd or impossible;
3. when there is grave abuse of discretion;
4. when the judgment is based on a misapprehension of facts;
5. when the findings of fact are conflicting;
6. when in making its findings[,] the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
7. when the findings are contrary to that of the trial court;
8. when the findings are conclusions without citation of specific evidence on which they are based;
9. when the facts set forth in the petition[,] as well as in the petitioner's main and reply briefs[,] are not disputed by the respondent;'
10. when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; [or]
11. when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.¹²

Whether or not petitioner's illness is compensable is essentially a factual issue. Yet, this Court can and will be justified in looking into it considering the conflicting views of the NLRC and the CA.¹³

For disability to be compensable under Section 20(B)(4) of the POEA-SEC, two elements must concur: (1) the injury or illness must be work-related; and (2) the work-related injury or illness must have existed during the term of the seafarer's employment contract.¹⁴

forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

¹⁰ *Philippine Transmarine Carriers, Inc., et al. v. Joselito A. Cristino*, G.R. No. 188638, December 9, 2015, citing *Heirs of Pacencia Racaza v. Abay-Abay*, 687 Phil. 584, 590 (2012).

¹¹ *Merck Sharp and Dohme (Phils.), et al. v. Robles, et al.*, 620 Phil. 505, 512 (2009).

¹² *Co v. Vargas*, 676 Phil. 463, 471 (2011).

¹³ *Bandila Shipping, Inc., et al. v. Marcos C. Abalos*, 627 Phil. 152, 156 (2010), citing *Masangcay v. Trans-Global Maritime Agency, Inc.*, 590 Phi. 611, 625 (2008).

¹⁴ *Leonis Navigation Co., Inc., et al. v. Eduardo C. Obrero, et al.*, G.R. No. 192754, September 7, 2016, citing *Tagle v. Anglo-Eastern Crew Management, Phils., Inc.*, G.R. No. 209302, July 9, 2014, 729 SCRA 677, 694-695.

The POEA-SEC defines a work-related injury as "injury(ies) resulting in disability or death arising out of and in the course of employment," and a work-related illness as "any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied."¹⁵ For illnesses not mentioned under Section 32, the POEA-SEC creates a disputable presumption in favor of the seafarer that these illnesses are work-related.¹⁶ Notwithstanding the presumption, We have held that on due process grounds, the claimant-seafarer must still prove by substantial evidence that his work conditions caused or, at least, increased the risk of contracting the disease.¹⁷ This is because awards of compensation cannot rest entirely on bare assertions and presumptions.¹⁸ In order to establish compensability of a non-occupational disease, reasonable proof of work-connection is sufficient—direct causal relation is not required.¹⁹ Thus, probability, not the ultimate degree of certainty, is the test of proof in compensation proceedings.²⁰

A careful review of the findings of the NLRC and the LA show that petitioner was able to meet the required degree of proof that his illness is compensable as it is work-connected. The NLRC correctly ruled that his work conditions caused or, at least, increased the risk of contracting the disease, thus:

Parkinson's disease is a degenerative disorder of the central nervous system. The motor symptoms of Parkinson's disease result from the death of dopamine-degenerating cells in the substantianegra, a region of the mid brain; the cause of this cell death is unknown. Early, in the course of the disease, the most obvious symptoms are movement-related, these include shaking, rigidity, slowness of movement and difficulty with walking and gait. Later, cognitive and behavioural problems may arise, with dementia; commonly occurring in the advanced stages of the disease.
x x x

Many risk and protective factors have been investigated; the clearest evidence is for an increased risk of PD in people exposed to certain pesticides and a reduced risk in tobacco smokers.

¹⁵ POEA-SEC (2000), Definition of Terms.

¹⁶ POEA-SEC (2000), Sec. 20(B)(4).

¹⁷ *Philippine Transmarine Carriers, Inc. v. Aligway*, G.R. No. 201793, September 16, 2015, 770 SCRA 609; *Dohle-Philman Manning Agency, Inc. v. Heirs of Andres G. Gazzingan*, G.R. No. 199568, June 17, 2015, 759 SCRA 209, 226; *Magsaysay Maritime Corporation v. National Labor Relations Commission (Second Division)*, 630 Phil. 352, 365 (2010).

¹⁸ *Casomo v. Career Philippines Shipmanagement, Inc.*, 692 Phil. 326, 334 (2012). The prevailing rule is analogous to the rule under the old Workmen's Compensation Act that a preliminary link between the illness and the employment must first be shown before the presumption of work-relation can attach.

¹⁹ *Grace Marine Shipping Corporation v. Alarcon*, G.R. No. 201536, September 9, 2015, 770 SCRA 259, 279-280.

²⁰ *Gabunas, Sr. v. Scanmar Maritime Services, Inc.*, 653 Phil. 457, 468 (2010); *NFD International Manning Agents, Inc. v. NLRC*, 336 Phil. 466, 474 (1997).

It has to be noted that as Team Waiter and as a seaman, complainant was prone to smoking and to a bit of drinking to beat the cold weather they encounter in the high seas.

Further, as seaman, he, by the very nature of his work, cannot just leave his post and duty just to discharge his urine. In multiple system atrophy, the most common first sign of MSA is the appearance of an akinetic rigid syndrome. x x x Other common signs at onset include problems with balance (cerebellar ataxia) found in 22% of first presentation, followed by genito-urinary problems (9%). For men, the first sign can be erectile dysfunction. Both men and women often experience problems with their bladders including urgency, frequency, incomplete bladder emptying or an inability to pass urine (reduction). About 1 in 5 MSA patients will suffer a fall in their first year of disease.

By the very nature of his work, therefore, where there is incomplete bladder emptying or inability to pass urine, has likewise contributed to complainant's present medical ailment.

As ruled in *More Maritime Agencies, Inc. v. NLRC* x x x it is not required that the employment be the sole factor in the growth, development or acceleration of the illness to entitle the claimant to the benefits provided therefore.

It is enough that the employment had contributed, even to a small degree, to the development of the disease and in bringing about his death.

x x x x

Moreover, it cannot be denied that there was at least a reasonable connection between the job of a seaman and his lung infection, which eventually developed into septicemia and ultimately caused his death. As a utility man on board the vessel, he was exposed to harsh sea weather, chemical irritants, dusts, etc., all of which invariably contributed to his illness.

In the same vein, complainant was likewise exposed to harsh weather condition, chemical irritants as his job as a head waiter often led him to the kitchen where chemicals are found to keep the odor from spreading; to keep the cockroaches and other insects from spreading within the vessel, to make the mess hall a sanitary place for eating; and exposure to dust and other toxic substances though invisible to the naked eye are all contributory to the aggravation of his illness.²¹

In reversing the NLRC's decision, the CA is of the opinion that petitioner was never exposed to any toxic elements on board because the vessel was a cruise ship akin to a five star restaurant and could not have been exposed to any harsh condition thereof. Furthermore, according to the CA, no other guests or employees suffered any illness being exposed to the same work condition as petitioner, hence, his condition cannot be deemed to be work-related. Those findings, however, are flawed.

²¹ *Rollo*, pp. 40-42.

Working on any vessel, whether it be a cruise ship or not, can still expose any employee to harsh conditions. In this case, aside from the usual conditions experienced by seafarers, such as the harsh conditions of the sea, long hours of work, stress brought about by being away from their families, petitioner, a team head waiter, also performed the duties of a “fire watch” and assigned to welding works, all of which contributed to petitioner’s stress, fatigue and extreme exhaustion. To presume, therefore, that employees of a cruise ship do not experience the usual perils encountered by those working on a different vessel is utterly wrong.

As aptly observed by the Labor Arbiter, petitioner’s work as Team Headwaiter cannot be discounted as contributory factor, even to a small degree in the development of his illness, thus:

In fine, it can be properly said that complainant’s work as Team Headwaiter cannot be discounted as contributory factor, even to a small degree in the development of the illness of the complainant. As a matter of fact, the contributory factor of complainant’s work was strengthened by the fact that he already experienced in a milder state the symptoms of the disease, such as, difficulty in speaking, right hand tremor, frequent blinking and shuffling gait during his employment contract with respondents principal prior to his last employment contract with them. That he was then seen at Cozumel and Belize and was able to recover and finish his contract.²²

Anent the CA’s opinion that no other guests or employees suffered any illness being exposed to the same conditions as petitioner, and thus, his illness cannot be considered as work-related, such is completely erroneous because not all persons have the same health condition, stamina and physical capability to fight an illness.

In view of the above disquisitions, this Court therefore affirms the compensability of petitioner’s permanent disability. The US\$60,000.00 (the equivalent of 120% of US\$50,000.00) disability allowance is justified under Section 32 of the POEA Contract as petitioner suffered from permanent total disability. The grant of attorney’s fees is likewise affirmed for being justified in accordance with Article 2208(2)²³ of the Civil Code, since petitioner was compelled to litigate to satisfy his claim for disability benefits.²⁴

²² *Id.* at 52.

²³ Art. 2208. In the absence of stipulation, attorney’s fees and expenses of litigation other than judicial costs, cannot be recovered except:

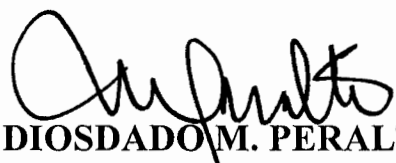
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(2) When the defendant’s act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;


²⁴ *PHILASIA Shipping Agency Corporation v. Tomacruz*, 692 Phil. 632, 651 (2012).

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated November 26, 2014 of petitioner Lamberto M. De Leon is **GRANTED**. Consequently, the Decision dated October 9, 2013 and the Resolution dated November 5, 2014, both of the Court of Appeals are **REVERSED** and **SET ASIDE**, and the Decision dated December 15, 2011 and Resolution dated February 15, 2012 of the National Labor Relations Commission, granting petitioner disability benefits in the amount of US\$60,000.00 or its Philippine Peso equivalent and the award of attorney's fees, are **REINSTATED**.

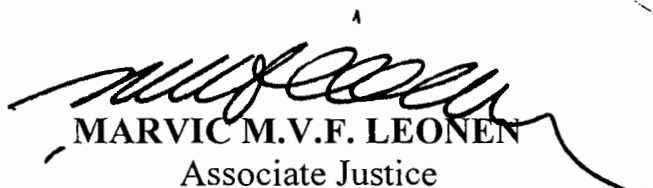
SO ORDERED.

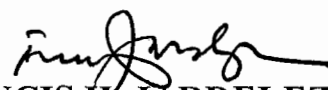

DIOSDADO M. PERALTA
 Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
 Associate Justice
 Chairperson



JOSE CATRAL MENDOZA
 Associate Justice


MARVIC M.V.F. LEONEN
 Associate Justice


FRANCIS H. JARDELEZA
 Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
 Associate Justice
 Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice