Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ALCID C. BALBARINO (now deceased), substituted by his surviving siblings ALBERT, ANALIZA, AND ALLAN, ALL SURNAMED BALBARINO, *Petitioners,*	**G.R. No. 201580**
	Present:
- versus -	LEONEN, *Chairperson*, GESMUNDO, CARANDANG, ZALAMEDA, *and* GAERLAN, *JJ.*
PACIFIC OCEAN MANNING, INC., and WORLDWIDE CREW, INC., *Respondents.*	Promulgated: September 21, 2020

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DECISION

GAERLAN, *J.*:

The Philippine Overseas Employment Administration-Securities and Exchange Commission (POEA-SEC) enumerates the liabilities of the employer in case the seafarer suffers a work-related illness or injury on-board the ocean-going vessel. It ensures a proper balance between two things – the proper compensation of a seafarer, and the protection of the employer against any unjustified payment.

This resolves the Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court filed by petitioners Albert, Analiza, and Allan, all surnamed Balbarino, on behalf of Alcid C. Balbarino (Alcid), praying for the reversal of the September 22, 2011 Decision[2] and April 19, 2012 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 116751. The CA reversed the October 8, 2010 Decision[4] of the Panel of Voluntary Arbitrators of the National Conciliation and Mediation Board (NCMB) which awarded disability benefits, sickness allowance, reimbursement for medical expenses and attorney's fees in favor of Alcid.

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1 *Rollo*, pp. 8-39.
2 Id at 262-279; penned by Associate Justice Ramon A. Cruz, with Associate Justices Jose C. Reyes, Jr. (now a retired Member of this Court) and Antonio L. Villamor, concurring.
3 Id. at 312-316.
4 Id. at 180-204.

The Antecedents

On August 26, 2008, Alcid was re-hired by respondent Worldwide Crew, Inc. (Worldwide), through its local manning agent co-respondent Pacific Ocean Manning[5] as an able seaman on board the vessel M/V Coral Nettuno, a chemical/ gas tanker. This was Alcid's fifth contract with respondents.

Under the terms of Alcid's POEA-approved Contract of Employment, the duration of his term shall last for nine months, with a monthly salary of US$563.00.[6] His employment contract had an overriding Collective Bargaining Agreement (CBA) between Associated Marine Officers' and Seamen's Union of the Philippines (AMOSUP) and Worldwide.[7]

On October 1, 2008, Alcid was declared fit to work by the company-designated physician[8] and was deployed on-board the M/V Corral Nettuno.

On January 11, 2009, Alcid noticed a mass on his right thigh and soft swelling of about 7 cm in diameter and 2 cm thick on the right side of his forehead. He was referred to the surgical emergency ward of AZ Klina hospital. The physicians suggested the removal of the tumor, which was postponed due to the imminent departure of the vessel.[9]

On February 2, 2009, a team of doctors in Belguim removed Alcid's tumor. He likewise underwent a CT scan which showed a clear bone defect of the skull. Imaging suggested a primary tumor or a metastasis of a remote tumor.[10] Further examinations showed multiple lung metastases, and swelling on his leg, which was suspected to be the primary tumor.[11]

After a combined examination of the biopsies on the forehead tumor and the mass in the leg, Alcid was diagnosed to be suffering from alveolar soft part sarcoma. He underwent further treatments and examinations on various dates in March 2009.[12]

On April 14, 2009, Alcid was repatriated and admitted at St. Luke's Hospital. He underwent various laboratory examinations including a CT scan on

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5 Id. at 321.
6 Id. at 11-12.
7 Id. at 263.
8 Id. at 12.
9 Id. at 13-14.
10 Id. at 14.
11 Id. at 322.
12 Id. at 184-185.

his whole chest and abdomen, as well as a bone scan.[13] The test results showed multiple pulmonary nodules as well a bone metastasis to his skull.[14]

On April 27, 2009, Dr. Natalio G. Alegre II (Dr. Alegre), company-designated physician, issued a Medical Report confirming that the biopsied mass on Alcid's right thigh showed soft tissue alveolar sarcoma. Dr. Alegre expounded that soft tissue alveolar sarcoma is "a highly vascular tumor that is muscular in origin. It represents less than 1% of soft tissue sarcomas of adults, and more frequently affect[s] females x x x. Metastases or spread are frequent occurring mainly in the lungs, bones and brain."[15] The cause of said illness is "genetic with translocation of x-genes in the G2 phase. It is a chromosomal abnormality and is therefore not work related."[16]

Respondents provided Alcid medical attention until May 11, 2009. Unfortunately, Alcid never recovered from his illness.[17]

On June 4, 2009, Alcid consulted an independent oncologist Dr. Jhade Lotus Peneyra (Dr. Peneyra). In her Medical Certificate, Dr. Peneyra confirmed that Alcid was suffering from alveolar soft part sarcoma with brain, lung and bone metastases. She related medical studies revealing that exposure to chemicals such as ethylene oxide have lead to a possible risk of developing malignant tumors in the breast, pancreas, stomach and hematolymphoid organs,[18] and that for Alcid, "there is limited evidence in humans for the carcinogenecity of ethylene oxide."[19]

Likewise, on September 17, 2009, Alcid consulted with Internist and Cardiologist Dr. Efren R. Vicaldo (Dr. Vicaldo), who diagnosed the former as suffering from alveolar soft part sarcoma with distant metastasis. Dr. Vicaldo gave a disability rating of Grade I (120%).[20] He declared Alcid unfit to resume work as a seaman in any capacity and regarded his work as aggravated/related to the disease.[21] He further noted that having this rare malignancy significantly shortens Alcid's life expectancy, who is no longer expected to land a gainful employment.[22]

On the basis thereof, Alcid sought the payment of disability benefits, sickness allowance and reimbursement of his medical expenses. However, respondents rejected his claims.

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13 Id. at 14.
14 Id.
15 Id. at 263.
16 Id. at 264.
17 Id. at 8.
18 Id. at 87.
19 Id.
20 Id. at 88.
21 Id. at 89.
22 Id.

On June 15, 2009, Alcid initiated a grievance before the AMOSUP pursuant to the terms of the CBA. However, the parties failed to reach an amicable settlement during the mandatory conferences.[23]

Subsequently, Alcid filed a Notice to Arbitrate before the NCMB. On October 26, 2009, the parties executed a Submission Agreement.

Unfortunately, on October 3, 2010, Alcid succumbed to his illness.[24]

Ruling of the NCMB

In a Decision[25] dated October 8, 2010, the NCMB awarded Alcid disability benefit under the CBA, sickness allowance, and reimbursement for medical expenses, with attorney's fees.

The NCMB held that sarcoma is disputably presumed to be work-related.[26] In Alcid's work as an able seaman, he was constantly exposed to various injurious and harmful chemicals. His work was strenuous and he had to contend with the harsh environment at the sea. The NCMB excused Alcid from the obligation of proving direct causation between his working conditions and his illness, acknowledging that the exact origin of sarcoma is unknown and that under the present state of science, the evidence to prove causation is "unavailable and impossible to comply with."[27] Hence, Alcid's "obligation to present such an impossible evidence must therefore, be deemed void."[28] This notwithstanding, Alcid is entitled to compensation on account of the provisions on social justice.[29]

The NCMB further noted that Alcid's condition constitutes a total and permanent disability. He was unable to work for more than 120 days and his disability went beyond 240 days.[30] Accordingly, the NCMB awarded permanent disability benefits under the CBA, [31] and sickness allowance equivalent to US$2,252.00 (120 days or four months of Alcid's basic monthly salary of US$563.00).[32] The NCMB further ordered the reimbursement of ₱255,733.87, which represents the additional medical expenses Alcid incurred.[33]

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23 Id. at 266.
24 Id. at 8.
25 Id. at 180-204.
26 Id. at 196.
27 Id. at 202.
28 Id.
29 Id.
30 Id. at 200
31 Id. at 199-200.
32 Id. at 202.
33 Id.

Finally, the NCMB awarded attorney's fees equivalent to 10% of the total monetary award considering that Alcid was compelled to hire the services of counsel to protect his rights and interests.[34]

The dispositive portion of the NCMB ruling reads:

> **WHEREFORE,** premises considered, a decision is hereby rendered, **ORDERING** herein respondents Pacific Ocean Manning, Inc., and/or Worldwide Crew, In., to jointly and solidarily pay complainant Alcid C. Balbarino, the amount of EIGHTY-NINE THOUSAND ONE HUNDRED U.S. DOLLARS (US$89,100.00), as disability benefits; TWO THOUSAND TWO HUNDRED FIFTY-TWO US DOLLARS (US$2,252.00) as sickness allowance; and PhP 255,733.87 (divided by forty-three [PhP 43.00 per US Dollar] or FIVE THOUSAND NINE HUNDRED FORTY-SEVEN and 29/100 U.S. DOLLARS (US$5,947.2993) as reimbursement for medical expenses; or a sub-total amount of USD$97,299.2993, plus ten percent (10%) thereof as attorney's fees, or in the total amount of ONE HUNDRED SEVEN THOUSAND TWENTY-NINE and 23/100 U.S. DOLLARS (US$107,029.23), or its Peso equivalent converted at the prevailing rate of exchange at the time of actual payment.
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> All other claims of the complainant are hereby **DISMISSED** for lack of merit.
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> Likewise, respondents' counter-claims for damages and attorney's fees are **DENIED** for utter lack of merit.
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> **SO ORDERED**.[35] (Emphasis in the original)

Aggrieved, respondents filed a Petition for Review under Rule 43 of the Rules of Court with the CA.

Ruling of the CA

On September 22, 2011, the CA rendered the assailed Decision[36] reversing the NCMB's judgment. The CA held that Alcid's illness is not work-related,[37] thus, he is not entitled to disability benefits under the POEA-SEC or the CBA, sickness allowance and reimbursement of medical expenses.[38] Alveolar soft part sarcoma is not included among the occupational diseases in the POEA-SEC. Although it is disputably presumed to be work-related, Alcid failed to prove through substantial evidence that his condition was caused by, or aggravated by the nature of his work as an able seaman.[39]

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34 Id. at 202-203.
35 Id. at 204.
36 Id. at 262-279; penned by Associate Justice Ramon A. Cruz, with Associate Justices Jose C. Reyes, Jr. (now a retired Member of this Court) and Antonio L. Villamor, concurring.
37 Id. at 270.
38 Id. at 278.
39 Id. at 271.

In contrast, the company-designated physician confirmed that Alcid's condition is genetic and therefore, could not have been work-related.[40] This medical assessment effectively rebuts the disputable presumption. Under Section 20(B)(3) of the POEA-SEC and Articles 26.2 and 26.4 of the CBA, the disability rating shall be determined by the company-designated physician.[41] If the physician appointed by the seafarer disagrees with the findings of the company-designated physician, then the opinion of a third doctor shall serve as the final decision between them.[42] Alcid failed to comply with said procedure. Accordingly, the findings of the company-designated physician are entitled to more weight.[43] Added thereto, Alcid's chosen physicians merely conducted a cursory physical examination on him, whereas, the company-designated physician evaluated and closely monitored his condition over a period of time.[44]

Moreover, the CA opined that the NCMB erred in awarding disability benefits under Section 26.1 of the CBA. To be entitled thereto, the injury or illness must have been caused by an accident, which is not applicable to Alcid's case.[45]

Finally, Alcid is not entitled to attorney's fees since the respondents did not act with bad faith in denying his claim for disability compensation and benefits.[46]

The decretal portion of the CA ruling states:

> **WHEREFORE,** premises considered, the appeal under consideration is **GRANTED** and the assailed Decision dated October 8, 2010 of the Office of the Panel of Voluntary Arbitrators of the NCMB is hereby **REVERSED and SET ASIDE.**
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> **SO ORDERED.**[47] (Emphasis in the original)

Undeterred, petitioners filed the instant Petition for Review on *Certiorari*[48] under Rule 45 of the Rules of Court.

Issue

The pivotal issue raised in the instant case is whether or not Alcid is entitled to (i) disability benefits under the CBA or the POEA-SEC; (ii) sickness allowance;

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40 Id.
41 Id. at 272.
42 Id. at 273.
43 Id.
44 Id.
45 Id. at 277.
46 Id. at 278.
47 Id. at 279.
48 Id. at 8-39.

(iii) reimbursement of medical expenses; and (iv) attorney's fees.

Petitioners maintain that Alcid is entitled to disability benefits under the CBA, sickness allowance and reimbursement of his medical expenses. During his employment, he was exposed to carcinogens such as benzene, hydrocarbons, chemicals, crude oil, gasoline, lubricants and other harmful cleaning solutions. He likewise suffered from extreme weather conditions involving intense heat and freezing cold. His long period of exposure, which spanned over five terms, contributed to the development or aggravation of his illness.[49]

Moreover, petitioners claim that the CA erred in giving more credence to the findings of the company-designated physician, who is not an expert in the field of cancer.[50] On the other hand, Alcid's chosen physician, Dr. Peneyra, is an oncologist. In her Medical Abstract, she cited studies which showed that employees exposed to certain gases and chemicals developed sarcomas.[51]

Furthermore, petitioners aver that Alcid should not have been faulted for the failure to obtain the opinion a third doctor. He manifested his willingness to submit himself for examination by a third doctor,[52] which the respondents ignored.[53]

Alternatively, petitioners urge that if the CBA provision on disability does not apply, Alcid is at least entitled to full disability benefits under the POEA-SEC in the amount of US$60,000.00.[54] After his repatriation, he was no longer able to work due to his illness. In fact, he even died because of it.[55] The inability of the seafarer to perform his customary work for more than 120 days constitutes total and permanent disability.[56]

Finally, Alcid is entitled to attorney's fees, as he was compelled to litigate to defend his rights and interests.[57]

On the other hand, the respondents counter that Alcid's illness is not work-related. First, it is not included in the list of occupational diseases under the POEA-SEC.[58] Second, Alcid failed to prove a causal connection between his

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49 Id. at 27.
50 Id. at 23.
51 Id. at 24.
52 Id. at 33.
53 Id.
54 Id. at 35.
55 Id.
56 Id.
57 Id. at 37-38.
58 Id. at 320.

work and his illness.[59] The NCMB erred in excusing Alcid from the obligation of proving causation.[60] Third, the company-designated physician confirmed that Alcid's disease was caused by a genetic chromosomal abnormality.[61] Although contradicted by Alcid's doctors, their opinions are unworthy of credence as they did not conduct an extensive examination on Alcid.

Respondents aver that Alcid is not entitled to the maximum disability benefit under the CBA, which only covers permanent disabilities resulting from accidents.[62] Neither is he entitled to the full sickness allowance of US$2,252.00, as he had already been paid US$1,388.73.[63] At best, respondents may only be held liable for US$863.27.[64]

Respondents clarify that their obligation to provide medical care and treatment accrues only insofar as Alcid suffered from a work-related illness. Likewise, said obligation lasts until the company-designated physician has assessed the level of disability or has confirmed the absence of a work-relation.[65] Hence, their duty to provide medical treatment ceased as soon as the illness was declared to have no causal connection with the nature of his job.[66] Moreover, under the CBA, the respondents' obligation for medical care and treatment lasts for 130 days after initial hospitalization. Respondents shouldered Alcid's medical costs from January 11, 2009 until May 11, 2009.[67]

Finally, respondents claim that they are not liable for attorney's fees considering that their denial of Alcid's claim was valid and made in good faith.[68]

Ruling of the Court

The petition is impressed with merit.

Parameters of Judicial Review Under Rule 45 and the Exceptions Thereto

It must be noted at the outset that Alcid's entitlement to compensation is a factual issue. As a general rule, factual matters are not the proper subject of an

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59 Id. at 329.
60 Id. at 332.
61 Id. at 330.
62 Id. at 336.
63 Id. at 337.
64 Id. at 338-339.
65 Id. at 339.
66 Id.
67 Id. at 340.
68 Id.

appeal by *certiorari,*[69] as it is not this Court's function to analyze or weigh the evidence which has been considered in the proceedings below.[70]

Nevertheless, a review of the factual findings is justified under the following circumstances:

> (i) when the findings are grounded entirely on speculations, surmises or conjectures; (ii) when the inference made is manifestly mistaken, absurd or impossible; (iii) when there is grave abuse of discretion; (iv) when the judgment is based on a misapprehension of facts; (v) when the findings of fact are conflicting; (vi) 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; (vii) when the findings are contrary to that of the trial court; (viii) when the findings are conclusions without citation of specific evidence on which they are based; (ix) 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;' (x) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; [or] (xi) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[71]

The exceptions similarly apply in petitions for review filed before this Court involving labor cases, among others.[72]

The conflicting findings between the NCMB and the CA warrant a re-evaluation of the facts in the instant case.

Rules regarding compensation for work-related illnesses

Remarkably, the POEA-SEC was designed primarily for the protection and benefit of Filipino seafarers in the pursuit of their employment on board ocean-going vessels. To carry out its beneficent terms, the provisions must be construed and applied fairly, reasonably and liberally in favor of seafarers.[73]

Under Section 20-B of the 2000 POEA-SEC, the employer assumes the following liabilities in case the seafarer suffers a work-related illness or injury during the term of his contract:

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69 *Miro v. Vda. De Erederos, et al.*, 721 Phil. 772, 784 (2013).
70 Id. at 785.
71 *De Leon v. Maunlad Trans Inc., et al.*, 805 Phil. 531, 538-539 (2017).
72 *Pascual v. Burgos, et al.*, 776 Phil. 167 (2016).
73 *Magsaysay Maritime Services, et al. v. Laurel*, 707 Phil. 210, 230 (2013), citing *Philippine Transmarine Carriers, Inc. v. NLRC*, 405 Phil. 487, 495 (2001), citing *Wallem Maritime Services, Inc. v. NLRC*, 376 Phil. 738,749 (1999).

SECTION 20. COMPENSATION AND BENEFITS

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B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract areas follows:

1. The employer shall continue to pay the seafarer his wages during the time he is on board the vessel;

2. If the injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment as well as board and lodging until the seafarer is declared fit to work or to be repatriated. **However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the company-designated physician.**

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to **sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.**

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the employer and the seafarer. The third doctor's decision shall be final and binding on both parties.

4. Those illnesses not listed in Section 32 of this Contract are disputably presumed as work related.

5. Upon sign-off of the seafarer from the vessel for medical treatment, the employer shall bear the full cost of repatriation in the event the seafarer is declared (1) fit for repatriation; or (2) fit to work but the employer is unable to find employment for the seafarer on board his former vessel or another vessel of the employer despite earnest efforts.

6. In case of permanent total or partial disability of the seafarer caused by either injury or illness the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 32 of his Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and the rules of compensation applicable at the time the

illness or disease was contracted.[74] (Emphasis supplied)

Based on the foregoing, should the seafarer suffer a work-related illness during his employment, the employer shall be liable to provide medical attention and treatment, grant a sickness allowance equivalent to the seafarer's basic wage, and award a disability benefit in case of permanent total or partial disability. The grant of these benefits is premised on the seafarer's compliance with the requisites provided under the POEA-SEC, coupled with proof that the illness is in fact work-related.

Notably, the POEA-SEC defines 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."[75] Relatedly, Section 20(B)(4) fills in the lacuna, adding that any illness which is not listed in Section 32 is disputably presumed to be work-related. For the presumption to apply, it must be shown that: (i) the illness is work-related; and (ii) the work-related illness existed during the term of the seafarer's employment contract.[76]

In *Skipper United Pacific, Inc. and/or Ikarian Moon Shipping, Co., Ltd. v. Estelito S. Lagne*,[77] this Court clarified that despite the disputable presumption, the seafarer must still prove a causal link between his working conditions and his illness. In doing so, reasonable proof or a probability that his work caused, or at least increased the risk of contracting his illness shall suffice:

> 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. However, 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. This is because awards of compensation cannot rest entirely on bare assertions and presumptions. In order to establish compensability of a non-occupational disease, reasonable proof of work-connection is sufficient - direct causal relation is not required. Thus, probability, not the ultimate degree of certainty, is the test of proof in compensation proceedings.[78] (Citations omitted)

A similar ruling was rendered in *Heirs of the Late Manolo N. Licuanan, represented by his wife Virginia S. Licuanan v. Singa Ship Management, Inc., et al.*,[79] where it was elaborated that "[i]t is not required that the employment be the

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74 *The Late Alberto Javier, et al. v. Philippine Transmarine Carriers, Inc., et al.*, 738 Phil. 374, 385-386 (2014).

75 *Skipper United Pacific, Inc. and/or Ikarian Moon Shipping, Co., Ltd. v. Estelito S. Lagne*, G.R. No. 217036, August 20, 2018, citing *De Leon v. Maunlad Trans., Inc.*, supra note 71 at 539-540.

76 Id., citing *Leonis Navigation Co., Inc., et al. v. Obrero, et al.*, 802 Phil. 341, 347 (2016); citing *Tagle v. Anglo-Eastern Crew Management, Phils., Inc., et al.*, 738 Phil. 871, 888 (2014).

77 Id.

78 Id.

79 G.R. No. 238261-G.R. No. 238567, June 26, 2019.

sole factor in the growth, development or acceleration of the illness to entitle the claimant to the benefits incident thereto. It is enough that the employment had contributed, even in a small measure, to the development of the disease."[80]

Moreover, in *Grieg Philippines, Inc., et al. v. Gonzales*;[81] *and Lorna B. Diono v. ND Shipping Agency and Allied Services, Inc., Carribean Town and Barge (Pan Ama) Ltd.*,[82] it was stressed that the seafarer only needs to show a reasonable linkage between his work and the contracted illness that would lead a rational mind to conclude that his occupation contributed to, or aggravated his disease.[83]

In other cases, this Court likewise noted additional factors that prove a causal link between the employment and the illness of the seafarer. In *Skipper United,*[84] the development and the progression of the seafarer's disease during the employment contract were regarded as additional proof of causation.[85] Furthermore, in *Aldrine B. Ilustricimo v. NYK-FIL Ship Management, Inc., et al.*;[86] and *Jebsen Maritime Inc., Van Oord Shipmanagement B.V. and/or Estanislao Santiago v. Timoteo Gavina,*[87] the seafarer's length of service in the same vessel was viewed as a contributing element that exacerbated the seafarer's condition.

Additionally, stress, fatigue, and the harsh conditions at sea were considered as contributing factors that aggravated the seafarer's ailment. As held in *De Leon v. Maunlad Trans, Inc., et al.*:[88]

> 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.[89]

In *Canuel, et al. v. Magsaysay Maritime Corporation, et al.*,[90] the Court acknowledged that the seafarer's exposure to the harsh sea weather, chemical

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80 Id., citing *De Jesus v. NLRC*, 557 Phil. 260, 266 (2007).
81 814 Phil. 965 (2017).
82 G.R. No. 231096, August 15, 2018.
83 *Grieg Philippines, Inc., et al. v. Gonzales*, supra at 966.
84 Supra note 75.
85 Id.
86 G.R. No. 237487, June 27, 2018.
87 G.R. No. 199052, June 26, 2019.
88 Supra note 71.
89 Id. at 542.
90 745 Phil. 252 (2014).

irritants, and dust on board contributed to his cancer.[91]

It bears noting that in *David v. OSG Shipmanagement Manila, Inc., et al.*,[92] a case that is similar to the one at hand, this Court awarded disability benefits in favor of the seafarer who proved that his functions as a third officer aggravated his sarcoma:

> David showed that part of his duties as a Third Officer of the crude tanker M/T Raphael involved 'overseeing the loading, stowage, securing and unloading of cargoes.' As a necessary corollary, David was frequently exposed to the crude oil that M/T Raphael was carrying. The chemical components of crude oil include, among others, sulphur, vanadium and arsenic compounds. Hydrogen sulphide and carbon monoxide may also be encountered, while benzene is a naturally occurring chemical in crude oil. **It has been regarded that these hazardous chemicals can possibly contribute to the formation of cancerous masses.**
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> In this case, David was diagnosed with MFH (now known as undifferentiated pleomorphic sarcoma [UPS]), which is a class of soft-tissue sarcoma or an illness that account for approximately 1% of the known malignant tumors. As stated by Dr. Peña of the MMC, who was consulted by the company-designated physician, the etiology of soft tissue sarcomas are multifactorial. However, some factors are associated with a higher risk. These factors include exposure to chemical carcinogens like some of the chemical components of crude oil. **Clearly, David has provided more than a reasonable nexus between the nature of his job and the disease that manifested itself on the sixth month of his last contract with respondents. It is not necessary that the nature of the employment be the sole and only reason for the illness suffered by the seafarer. It is sufficient that there is a reasonable linkage between the disease suffered by the employee and his work to lead a rational mind to conclude that his work may have contributed to the establishment or, at the very least, aggravation of any pre-existing condition he might have had.**
>
> This reasonable connection has not been convincingly refuted by respondents. On the contrary, respondents do not deny the functions performed by David on board M/T Raphael or the cargo transported by the tanker in which he was assigned. At best, respondents have cited contrary researches suggesting that the chemicals in crude oil do not induce the kind of disease contracted by David—a soft tissue sarcoma, which can supposedly occur to anybody regardless of the nature of their employment.[93] (Citations omitted and emphasis supplied)

It is all too apparent therefore, that although the POEA-SEC provides a disputable presumption of work-relatedness, the seafarer must still establish a reasonable nexus between his employment and illness. At the very least, he must prove through substantial evidence that there exists a probability that his working

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91 Id. at 272.
92 695 Phil. 906 (2012).
93 Id. at 917-919.

conditions caused or aggravated his illness. Of course, the employer shall not sit idly while the seafarer endeavors to prove causation. Rather, the employer must overcome the disputable presumption of work-relatedness. Failing therein, the seafarer's illness will be deemed work-related, thereby entitling him to receive compensation.

Alcid sufficiently established a reasonable nexus between his working conditions as an able seaman and his development of alveolar soft part sarcoma

In the performance of his duties as an able seaman, Alcid was exposed to various harmful and injurious chemicals, such as fumes, gasoline, ethylene, propylene, butane, methane, naphthalene, and dust while on-board the M/V Corral Nettuno, an oil/chemical tanker.

Likewise, he performed strenuous tasks on a daily basis, such as lifting, carrying and moving heavy materials and equipment. He frequently rendered overtime work which added to his stress and fatigue. He also contended with the adverse conditions at sea, and the extreme temperatures which shifted from sweltering heat to intense cold. These daily occurrences made his life on board the vessel physically and mentally taxing. He experienced these stressful conditions over a span of five employment contracts since 2001.

It bears noting that Dr. Peneyra identified medical studies which revealed that men exposed to chemicals such as thylene and ethylene oxide developed sarcoma.[94] Alcid's line of work, which involved constant and prolonged exposure to similar harmful carcinogenic chemicals, exacerbated by the stress and fatigue of work on-board, triggered and aggravated his illness.

The respondents failed to submit counter-evidence to refute Dr. Peneyra's medical findings. Instead, they adamantly insisted that Alcid's illness was caused by a genetic chromosomal abnormality as stated by Dr. Alegre. Respondents likewise attacked Dr. Peneyra's competence to assess Alcid, and faulted Alcid for not submitting himself for examination to a third physician.

The respondents' arguments fail to persuade.

The length of time that Dr. Peneyra treated Alcid is irrelevant in disproving the probability that the latter's disease was aggravated by his work. This Court

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94 *Rollo*, p. 87.

notes that Dr. Alegre and Dr. Peneyra rendered a similar diagnosis – both confirmed that Alcid was afflicted with alveolar soft part sarcoma. The only disparity in their assessments is the causal relation of the illness and Alcid's working conditions. On the one hand, Dr. Alegre immediately dismissed the possibility of work connection, tersely concluding, sans any substantiation, that the disease is caused by a genetic chromosomal abnormality. On the other hand, Dr. Peneyra filled in this gap, by elaborating that even though the illness may have been caused by a chromosomal abnormality, there have been medical findings which showed a correlation between exposure to harmful chemicals and the development of sarcoma, thereby proving that Alcid's work conditions aggravated his illness.

Suffice to say, in *Licayan v. Seacrest Maritime Management, Inc., et al.*,[95] ***the employer failed to dispute the presumption of work-relatedness and simply relied on the company-designated physician's outright disavowal of work-connection, which was unsupported by any substantial basis.*** Similar to the instant case, the medical report "***was too sweeping and inadequate to support a conclusion.***"[96] ***Likewise, Dr. Alegre failed to consider the varied factors to which the seafarer was exposed to while on board the vessel.***[97] ***In contrast, Dr. Peneyra's report was more comprehensive and holistic, as she considered Alcid's genetic predisposition, working conditions on-board the vessel, and related these to established medical studies.***

Next, respondents may not fault Alcid for failing to obtain the opinion of a third doctor.

This Court clarified in *Leonis Navigation Co. Inc., et al. v. Obrero, et al.*,[98] that the provision requiring referral to a third physician does not apply to disputes pertaining to the work-relatedness of the disease:

> As a final point, we deem it necessary to distinguish the present case from *Philippine Hammonia Ship Agency, Inc. v. Dumadag* in order to avoid confusion in the application of the POEA-SEC. In that case, we held that under Section 20(8)(3) of the POEA-SEC, referral to a third physician in case of contrasting medical opinions (between the company-designated physician and the seafarer-appointed physician) is a mandatory procedure that must be expressly requested by the seafarer: As a consequence of the provision, the company can insist on its disability rating even against a contrary opinion by another physician, unless the seafarer signifies his intent to submit the disputed assessment to a third physician. **We clarify, however, that Section 20(B)(3) refers only to the declaration of fitness to work or the degree of disability.** ***It does not cover the determination of whether the disability is work-related.***

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95 773 Phil. 648 (2015).
96 Id. at 660.
97 Id.
98 794 Phil. 481 (2016).

> There is nothing in the POEA-SEC which mandates that the opinion of the company-designated physician regarding work-relation should prevail or that the determination of such relation be submitted to a third physician.
>
> It bears emphasis that, in the present case, it is not disputed that Obrero's illness is permanent in nature. **The only issue here is work-relatedness. The non-referral to a third physician is therefore inconsequential.** x x x[99] (Emphasis supplied)

Besides, even if respondents insist on the opinion of a third physician, fault does not lie on Alcid. The records reveal that he actually expressed his willingness to have his condition referred to a third physician. However, the respondents failed to act on his request.[100] As ruled in *Bahia Shipping Services, Inc. v. Constantino*;[101] *Formerly INC Shipmanagement Incorporated v. Rosales*;[102] *and Aldrine B. Ilustricimo v. NYK-FIL Ship Mgm't., Inc./Int'l. Cruise Services, Ltd.*:[103]

> x x x [W]hen the seafarer challenges the company doctor's assessment through the assessment made by his own doctor, the seafarer shall so signify and the company thereafter carries the burden of activating the third doctor provision." x x x[104]
>
> x x x x
>
> The POEA-SEC does not require a specific period within which the parties may seek the opinion of a third doctor, and they may do so even during the mandatory conference before the labor tribunals. Accordingly, upon being notified of [the seafarer's] intent to dispute the company doctors' findings, whether prior or during the mandatory conference, the burden to refer the case to a third doctor has shifted to the [employers]. This, they failed to do so, and [the seafarer] cannot be faulted for the non-referral. Consequently, the company-designated doctors' assessment is not binding.[105]

Undoubtedly, it does not demand a stretch of the imagination to reasonably presume that the conditions Alcid were exposed to during the fulfillment of his duties as an able seaman aboard the M/V Corral Nettuno contributed to the development or aggravation of his illness. Accordingly, he is entitled to full disability benefits under Section 20(B)(6) of the POEA-SEC, amounting to US$60,000.00.

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99 Id. at 494-495.
100 *Rollo*, pp. 32-33.
101 738 Phil. 564 (2014).
102 744 Phil. 774 (2014).
103 Supra note 86.
104 Id.
105 Id.

Alcid is not entitled to the disability benefit under the CBA

Although Alcid's illness is work-related, he is not entitled to the full disability benefit of US$89,100.00 under his CBA with the respondents.

Article 26.1 of the CBA states:

> Article 26.1. If the seafarer suffers permanent disability while in service on board the ship, or while traveling to or from the ship, as a result of an accident, regardless of fault, but excluding injuries and consequent disability caused by his willful act, and provided that his ability to work as a seafarer is consequently reduced, he shall be entitled to compensation in addition to his sick pay according to the provisions hereof.[106]

It is clear from the foregoing provision that the disability benefit may only be awarded if the seafarer suffers a permanent disability as a result of an accident.

The NCMB misinterpreted the provision when it opined that the qualifying phrase "*as a result of an accident*" applies only to the preceding phrase "*or while traveling to or from the ship.*" It erroneously concluded that as long as the seafarer suffers a permanent disability, he may claim compensation under the CBA even if the disability was not caused by an accident.[107]

This Court agrees with the CA's interpretation of Article 26.1. To be clear, said provision pertains to two possible scenarios, namely: (i) the seafarer suffers a permanent disability *while in service on board the ship* as a result of an accident; or (ii) the seafarer suffers a permanent disability *while traveling to or from the ship* as a result of an accident. Certainly, the use of a comma between the scenarios implies a disassociation or independence. Thus, the qualifier "*as a result of an accident*" applies to both scenarios, not solely to its preceding phrase.

Accordingly, the evident intention of the parties is to provide compensation only in case of an accident during the seafarer's employment. Considering that Alcid's permanent disability was caused by an illness, not an accident, he is not entitled to compensation under the CBA.

Alcid is entitled to a sickness allowance and the reimbursement of his medical

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106 *Rollo*, p. 62.
107 Id. at 199-200.

expenses, subject to a proper recomputation

To reiterate, Section 20(B) of the 2000 POEA-SEC requires the employer to shoulder the seafarer's medical treatment after repatriation,[108] and to pay sickness allowance,[109] and disability benefit.[110]

In *The Late Alberto B. Javier, et al. v. Philippine Transmarine Carriers, Inc., et al.*,[111] the Court explained the rationale behind each benefit and stressed that they constitute separate and distinct liabilities:

> In reading these provisions, the Court observes the evident intent of the POEA-SEC to **treat these liabilities of the employer separately and distinctly from one another by treating the different items of liability under separate paragraphs.** These individual paragraphs, in turn, show the bases of each liability that are unique from the others. This formulation is in keeping with the POEA's mandate under Executive Order No. 247 to 'secure the best terms and conditions of employment of Filipino contract workers and ensure compliance therewith' and to 'promote and protect the well-being of Filipino workers overseas.'
>
> Accordingly, Section 20-B (2), paragraph 2, of the POEA-SEC imposes on the employer the liability to provide, at its cost, for the medical treatment of the repatriated seafarer for the illness or injury that he suffered on board the vessel until the seafarer is declared fit to work or the degree of his disability is finally determined by the company-designated physician. This liability for medical expenses is conditioned upon the seafarer's compliance with his own obligation to report to the company-designated physician within three (3) days from his arrival in the country for diagnosis and treatment. The medical treatment is aimed at the speedy recovery of the seafarer and the restoration of his previous healthy working condition.
>
> Since the seafarer is repatriated to the country to undergo treatment, his inability to perform his sea duties would normally result in depriving him of compensation income. To address this contingency, Section 20-B (3), paragraph 1, of the POEA-SEC imposes on the employer the obligation to provide the seafarer with sickness allowance that is equivalent to his basic wage until the seafarer is declared fit to work or the degree of his permanent disability is determined by the company-designated physician. The period for the declaration should be made within the period of 120 days or 240 days, as the case may be.
>
> Once a finding of permanent (total or partial) disability is made either within the 120-day period or the 240-day period, Section 20-B (6)of the POEA-SEC requires the employer to pay the seafarer disability benefits for his permanent total or partial disability caused by the work-related illness or injury. In practical terms, a finding of permanent disability means a permanent reduction

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108 POEA-SEC, Section 20(B)(2).
109 Id., Section 20(B)(3).
110 Id., Section 20(B)(6).
111 Supra note 74.

> of the earning power of a seafarer to perform future sea or on board duties; permanent disability benefits look to the future as a means to alleviate the seafarer's financial condition based on the level of injury or illness he incurred or contracted.
>
> **The separate treatment of, and the distinct considerations in, these three kinds of liabilities under the POEA-SEC can only mean that the POEA-SEC intended to make the employer liable for each of these three kinds of liabilities. In other words, employers must: (1) pay the seafarer sickness allowance equivalent to his basic wage in addition to the medical treatment that they must provide the seafarer with at their cost; and (2) compensate the seafarer for his permanent total or partial disability as finally determined by the company-designated physician. Significantly, too, while Section 20 of the POEA-SEC did not expressly state that the employer's liabilities are cumulative in nature – so as to hold the employer liable for the sickness allowance, medical expenses and disability benefits – it does not also state that the compensation and benefits are alternative or that the grant of one bars the grant of the others.**[112] (Emphasis supplied and citations omitted)

Consequently, in addition to a full disability benefit of US$60,000.00 under Section 20(B)(6) of the POEA-SEC, Alcid is likewise entitled to a sickness allowance US$2,252.00, which represents his basic salary of US$563.00 multiplied by four months (or 120 days), pursuant to Section 20(B)(3) of the POEA-SEC.

However, this Court takes note of the respondents' statement in their Comment that they have paid a sickness allowance of US$1,388.73, as evidenced by their Check Disbursement Vouchers.[113] Petitioners did not refute this. On this score, said amount shall be deducted from the sickness allowance of US$2,252.00, and respondents shall only be held liable for the balance of US$863.27.[114]

Anent the liability for reimbursement of medical expenses, Section 20(B)(2) of the POEA-SEC obliges the employer to cover the seafarer's medical expenses until the latter is declared fit to work or the degree of his permanent disability is determined by the company-designated physician.

Likewise, under the CBA, the respondents' obligation for medical care shall only last for 130 days reckoned from the first day of the seafarer's hospitalization, *viz.*:

> 23.4. If the seafarer is unfit as a result of sickness or injury and is repatriated to his place of engagement he shall be entitled to medical attention (including hospitalization) at the Owner's expense.

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112 Id. at 386-388.
113 *Rollo*, p. 337.
114 Id. at 338-339.

> 23.4.1. in the case of sickness, for up to 130 days after initial hospitalization, subject to the submission to the Owner of satisfactory medical certificates.[115]

It is clear from the foregoing provisions that Section 20(B)(2) of the POEA-SEC, as well as Sections 23.4 and 23.4.1 of the CBA provide a specific period wherein the employer shoulders the costs of the seafarer's medical treatment. Both sections speak of medical treatment after the seafarer's repatriation.

Based on the records, Alcid was repatriated and was confined at St. Luke's hospital on April 14, 2009.[116] Meanwhile, Dr. Alegre issued his Medical Report denying any work-connection between Alcid's employment and his illness on April 27, 2009. The respondents continued to shoulder Alcid's medical treatments until May 11, 2009.[117]

Based on the POEA-SEC, the respondents' obligation to shoulder Alcid's medical expenses ended on April 27, 2009, when Dr. Alegre issued his report. However, the CBA effectively extended this period to "130 days after initial hospitalization."[118]

Respondents claim that they provided medical care and treatment from January 11, 2009 until May 11, 2009, and thus, complied beyond what was mandated by the POEA-SEC and the CBA.[119] However, it bears stressing that the reckoning point shall not be January 11, 2009, which is when Alcid received medical treatment at a foreign port. Rather, it is clear from Section 23.4 that the provision regarding "medical attention at the Owner's expense" pertains to those incurred after repatriation.[120]

Accordingly, the reckoning point shall be on April 14, 2009, when Alcid was admitted at St. Lukes hospital.[121] By the respondents' own admission, they shouldered the medical costs only until May 11, 2009, which is less than the mandated 130 days.

Nevertheless, Alcid may not claim reimbursement for the medical expenses he incurred from June 1, 2009 until September 22, 2009.[122] Again, under the CBA, respondents may only be held liable for those expenses incurred 130 days after

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115 Id. at 61.
116 Id. at 75.
117 Id. at 340.
118 Id. at 61.
119 Id. at 340.
120 Id. at 61.
121 Id. at 75.
122 Id. at 90.

April 14, 2009, or only until August 22, 2009. Based on the list of expenses[123] Alcid submitted, this only amounted to around ₱48,255.57. **Thus, the amount of ₱255,733.87 awarded by the NCMB as reimbursement for medical expenses is utterly baseless and clearly excessive. The NCMB is thus ordered to recompute the amount due as reimbursement, in accordance with this Court's disposition and subject to the presentation of official receipts.**

Finally, an award of attorney's fees equivalent to 10% of the total monetary award is warranted considering that Alcid was compelled to litigate to satisfy his claim for disability benefits.[124]

All told, the seafarers are the country's unsung heroes who brave the perils of the sea, endure desolation away from their families, and exert arduous labor. At times, these conditions take a toll on their health. The payment of the proper amount of compensation serves as a recompense for their sacrifices. Nonetheless, this does not justify an indiscriminate grant of awards, over and above what the POEA-SEC and/or the CBA mandate. At the end of the day, the POEA-SEC not only protects the seafarer by awarding fair compensation, but the employer as well, by setting a cap on his/her liabilities.

WHEREFORE, the petition is **GRANTED.** The September 22, 2011 Decision and April 19, 2012 Resolution of the Court of Appeals in CA-G.R. SP No. 116751 are **REVERSED and SET ASIDE.**

Petitioners who are heirs of Alcid C. Balbarino are entitled to the following monetary awards: (i) US$60,000.00 as permanent disability; (ii) US$863.27 as sickness allowance; (iii) reimbursement of medical expenses (after proper computation); and (iv) attorney's fees equivalent to ten percent of the total monetary award. The amounts quoted in US Dollars shall be paid in their equivalent Philippine currency at the time of payment.

The total amount due shall earn a legal interest of six percent (6%) *per annum* from the finality of this Decision until full satisfaction.[125]

The case is remanded to the National Conciliation and Mediation Board for a re-computation of Alcid Balbarino's total monetary award in accordance with this Court's disposition, and for the return to respondents Pacific Ocean Manning, Inc. and Worldwide Crew, Inc. of the amount in excess of what they had deposited before the NCMB, if so warranted.

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123 Id. at 90.

124 *De Leon v. Maunlad Trans., Inc., et al.*, supra note 71 at 543; CIVIL CODE, Article 2208(2).

125 *Nacar v. Gallery Frames, et al.*, 716 Phil. 267, 281-283 (2013).

SO ORDERED.

SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

ALEXANDER G. GESMUNDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

On official leave
RODIL V. ZALAMEDA
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.

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson, Third 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.

DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

MICAEL DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division
MAR 05 2021