Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PHILIPPINE TRANSMARINE CARRIERS, INC. and NORTHERN MARINE MANAGEMENT, Petitioners,	**G.R. No. 188638**
	Present:
- versus -	SERENO, *C.J.,* *Chairperson,* LEONARDO-DE CASTRO, BERSAMIN, PEREZ, and REYES,* *JJ.*
JOSELITO A. CRISTINO, deceased and represented by his wife SUSAN B. BERDOS, Respondent.	Promulgated: **DEC 09 2015**

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DECISION

PEREZ, *J.*:

The Court is confronted once more with a dispute concerning a seafarer's entitlement to compensation and benefits for illness. The regulation is in the Philippine Overseas Employment Administration (POEA) Standard Employment Contract for Seafarers (Contract).[1]

Assailed in this Petition for Review on *Certiorari*[2] are the Court of

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* Designated as Additional Member in lieu of Associate Justice Estela M. Perlas-Bernabe per Raffle dated June 8, 2015.

1 The 2000 POEA Standard Terms and Conditions Governing the Employment of Filipino Seafarers On Board Ocean-Going Vessels is controlling in this case as the employment contract between the parties was entered into on May 30, 2006.

2 *Rollo*, pp. 23-58.

Appeals Decision[3] dated February 27, 2009 and its July 10, 2009 Resolution[4] in CA-G.R. SP No. 106430, which affirmed *in toto* the July 28, 2008 Decision[5] and the September 30, 2008 Resolution[6] of the National Labor Relations Commission (NLRC). The NLRC granted the respondent's claim for compensation and benefits for illness, effectively overturning the prior Decision[7] dated November 13, 2007 of the Labor Arbiter.

The Antecedents

Joselito Cristino (Cristino) was a seaman and employed as a Fitter by Philippine Transmarine Carriers, Inc. (PTCI), a manning agency, since 1992.[8] On May 30, 2006, Cristino signed another Contract of Employment with PTCI for its principal Northern Marine Management Ltd. (collectively, petitioners) for the vessel M/V Stena Paris.[9] Pursuant to the nine-month contract, Cristino was required to work for at least 44 hours a week and in return, he was compensated with a monthly US$670.00 basic salary and US$373.00 overtime pay.[10] On top of these, Cristino was entitled to nine days of vacation leave with pay per month and guaranteed overtime (GOT) pay of US$4.38/hour after 85 hours.[11] After he went through the required Pre-Employment Medical Examination (PEME), Cristino was declared "FIT FOR EMPLOYMENT"[12] by PTCI's designated examining physician, and he boarded the vessel on July 6, 2006.[13]

In October 2006, Cristino spotted a palpable mass growing in his leg. Assuming that it was just a simple inflammation or a benign cyst, Cristino did not have it examined. From then on, Cristino experienced bouts of severe physical discomfort from his leg[14] until such time when he could no longer endure the agonizing pain, causing him to be admitted to a Denmark hospital on January 29, 2007.[15] As the attending surgery consultant suspected an abscess formation, an incision procedure, an abdominal CT

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3 Id. at 62-70; penned by Associate Justice Estela M. Perlas-Bernabe, and concurred in by Associate Justices Mario L. Guariña III and Marlene Gonzales-Sison.

4 Id. at 72.

5 Id. at 118-123; penned by Commissioner Gregorio O. Bilog III, and concurred in by Presiding Commissioner Lourdes C. Javier.

6 Id. at 125-126; Commissioner Pablo C. Espiritu, Jr. also signified his concurrence in dismissing the Motion for Reconsideration filed by the petitioners.

7 Id. at 219-224; penned by Labor Arbiter Daisy G. Cauton-Barcelona.

8 Id. at 177; Cristino's Position Paper.

9 Id. at 152.

10 Id; Terms and Conditions stipulated in the May 30, 2006 Contract of Employment.

11 Id.

12 Id. at 192; this fit-for-employment clearance was reflected in the Medical Examination Records of Cristino dated June 19, 2006 issued by PDSCI.

13 Id. at 157. Cristino's passport indicates that he embarked on July 6, 2006, while petitioners' Position Paper states that Cristino boarded the vessel on July 7, 2006; id. at 132.

14 Supra note 8 at 179.

15 Id. at 158.

scan and an ultrasonography were done on Cristino's femoral region.[16] These detailed radiological examinations and procedure revealed that Cristino was suffering from "[p]oorly differentiated papillary tumour" and "[t]ransitio-cellular carcinoma, obs. pro."[17] Due to the gravity of his illness, Cristino was repatriated to the Philippines on February 7, 2007.[18]

Immediately after his arrival in Manila, Cristino was brought to the Physicians' Diagnostic Services Center Inc. (PDSCI),[19] under the care of petitioners' affiliated physician, Dr. Pedro S. De Guzman (Dr. De Guzman).[20] He initially reported that Cristino had "Carcinoma (probably [m]etastasis) [s]ubcutaneously in the right anterior, upper femoral region[,]" and ordered oral medications and wound dressing on his right inguinal region.[21] For lack of necessary medical equipment and facility, Cristino had to be referred to Mary Johnston Hospital where he received his first chemotherapy treatment.[22] Cristino was reimbursed by the petitioners for the cost of the single chemotherapy session that totaled ₱90,000.00 and which amount was considered part of his sickness allowance.[23]

In a subsequent report signed by Dr. De Guzman and Dr. Raymund Jay Sugay (Dr. Sugay), another physician at PDSCI, they stated that Cristino had been diagnosed with "carcinoma of unknown origin"; that he had reacted positively to one chemotherapy session; and that his wound already showed signs of healing.[24] In the same report, they declared that Cristino's carcinoma is "not considered work-related" and that a more comprehensive evaluation of Cristino's condition was possible after two more chemotherapy sessions.[25] It was during this time when Cristino was informed by the petitioners that additional treatment would be at his own expense.[26]

Cristino was then compelled to continue his medical treatment with Dr. Jorge G. Ignacio (Dr. Ignacio),[27] a medical oncologist connected with the Philippine General Hospital. As narrated in the June 22, 2007 medical certificate issued by Dr. Ignacio, Cristino had undergone an "excision of primary lesion at the [heel] of the right foot and dissection of right inguinal lymph nodes."[28] The same medical specialist concluded that Cristino's

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16 Id. at 161.
17 Id. at 162.
18 Supra note 8 at 180.
19 Id.
20 Supra note 3, at 63; *rollo* at 159.
21 Id. at 159.
22 Supra note 18.
23 Id. at 184.
24 *Rollo*, p. 160.
25 Id.
26 Supra note 5 at 119.
27 *Rollo*, p. 227; Cristino's Memorandum of Appeal.
28 Id. at 167.

illness was malignant melanoma (a type of skin cancer), of which sun exposure is a recognized risk factor, and that the nature of Cristino's work possibly increased the development of his illness.[29]

Pushed by high costs of treatment and supported by Dr. Ignacio's medical pronouncement, Cristino demanded for the payment of his disability benefits and illness allowance, and for the reimbursement of his medical expenses, as provided under the POEA Contract. Petitioners' refusal to give in to Cristino's demands forced him to file a complaint for disability benefits, illness allowance, damages, and attorney's fees before the Labor Arbiter.

In his Position Paper, Cristino laid down all his specific functions as fitter so as to fully establish the causal connection between his work and his illness, to quote:

> 1. Proficiency in the repair, installation and maintenance of machinery, piping and other steelwork;
> 2. To be capable of working without the direct supervision of an officer;
> 3. Operating machine shop equipment and to disassemble, overhaul and reinstall bearings, to repack glands and valves;
> 4. Effecting piping repairs on deck, for domestic services and in cargo tanks;
> 5. Maintaining the engine workshop and will keep a written inventory of stores and tools, advising the Second Engineer of any shortage. He will maintain all power tools and record the use of stores;
> 6. Sounding tanks, void spaces and cofferdams;
> 7. He is to be qualified to form part of an engine room watch if so assigned within the vessel's safe manning certificate[.][30]

Cristino also cited his additional functions which included the following:

> A. Strict observance of all safety regulations;
> B. Reporting any feature which appears adverse to the safety of operations;
> C. Knowledge of the location and use of all fire fighting and life saving equipment;
> D. Attending boat and fire drills and other safety training as required by the Master;
> E. Maintaining a high standard of hygiene in person and throughout the accommodation and machinery spaces[.]
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> In case of a Deck Fitter, he is to work under the direction of the Chief Officer.[31]

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29 Id.

30 Supra note 8 at 178-179.

31 Id. at 179.

Cristino contended that a "Job Order" was given to him daily, assigning him to do various tasks ranging from "cleaning and repairing of pipes, ladders, antenna, hose, etc." and "painting of the deck."[32] These assignments necessitated Cristino to work under the scorching heat of the sun mixed with the warm sea breeze which he claimed added to his physical deterioration.[33] Cristino pointed out that for the past 15 years that he had been working for the petitioners, he passed all the comprehensive medical, physical, psychological, and dental examinations required of him, and that it was during his employment with them that signs and symptoms of his illness became apparent.[34]

In the same Position Paper, Cristino claimed that he was already declared as "no longer fit for further sea duties" and as such, he must be paid with the maximum compensation provided for in the Schedule of Disability Allowances found in Section 32 of the POEA Contract.[35]

In their defense, the petitioners extensively argued on the non-compensability of Cristino's illness after taking into account the POEA Contract. They reasoned out that Cristino failed to satisfy the three requisites that would justify the award of compensation and benefits, namely: the illness must be work-related; the illness must be incurred while the employment contract is still in force; and the disability is evaluated by the petitioners' designated physician.[36] As further asserted by the petitioners, nothing in Cristino's job description necessitated his working directly under the sun while on board the vessel.[37] According to them, cancer is excluded from the list of occupational diseases enumerated in Section 32-A of the POEA Contract[38] and that the burden rested on Cristino to prove that his cancer was acquired during, and as a result of, his employment.[39] In support of their stance, the petitioners insisted that their physicians were in the best position to gauge if Cristino's illness was really work-related or not.[40]

In a decision[41] dated November 13, 2007, the Labor Arbiter dismissed the complaint, relying heavily on the medical opinion of the petitioners' physicians, Dr. De Guzman and Dr. Sugay, that Cristino's illness was not work-related. In contrast, the Labor Arbiter discounted the medical diagnosis

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32 Id. at 182.
33 Id.
34 Id. at 181-182.
35 Id. at 184.
36 Id. at 136; Petitioners' Position Paper.
37 Id. at 207; Petitioners' Rejoinder.
38 Supra note 36.
39 Id. at 143.
40 Id. at 137.
41 Supra note 7.

of Dr. Ignacio, labeling it as merely "speculative" for it did not fully establish Cristino's exposure to the ultraviolet rays of the sun nor such exposure was the cause of his illness.[42]

Dissatisfied with the Labor Arbiter's decision, Cristino appealed his case to the NLRC. Unfortunately, Cristino died of cardio-respiratory arrest as a consequence of malignant melanoma[43] during the pendency of his appeal. His widow, Susan B. Berdos (respondent), filed the corresponding Motion for Substitution.[44]

In its July 28, 2008 decision,[45] the NLRC overturned the earlier judgment, and directed the petitioners to pay Cristino's heirs permanent disability benefits amounting to US$60,000.00, illness allowance amounting to ₱30,600.00, and attorney's fees equivalent to not more than 10% of the monetary award. The NLRC categorically stated that Cristino's illness was work-related, as adequately substantiated by the medical findings of Dr. Ignacio, an expert in the field of oncology. Citing several decisions of this Court, the NLRC concluded that employment need not be the only consideration in the contraction of illness but it being a mere contributory factor in its progress, regardless of degree, is sufficient in sustaining its compensability. As Cristino was deterred by his illness from engaging in his customary work for more than 120 days, the NLRC classified his disability as permanent.[46] The Motion for Reconsideration subsequently filed by the petitioners was denied by the NLRC in its resolution of September 30, 2008.[47]

The reversal of the earlier judgment prompted the petitioners to elevate their case to the Court of Appeals. All the same, the Court of Appeals affirmed both the decision and the resolution of the NLRC.[48] The Court of Appeals reasoned out that seafarers enjoy a presumption of compensability for illnesses excluded from the enumeration found in Section 32-A of the POEA Contract, and that the petitioners failed to overcome this presumption. The Court of Appeals was convinced that Cristino's illness was work-related based on his assigned tasks.[49] Thus, the Court of Appeals upheld his entitlement to permanent disability benefits and sickness allowance computed on a 120-day maximum period, pursuant to Section 20-B(3) of the POEA Contract.[50] During the pendency of their Motion for

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42 Id. at 224.
43 *Rollo*, p. 264; per Death Certificate of Cristino.
44 Id. at 261.
45 Supra note 5.
46 Id.
47 Supra note 6.
48 Supra note 3.
49 Id. at 68.
50 Id. at 69.

Reconsideration before the Court of Appeals, the petitioners fully settled the judgment award as the Labor Arbiter was about to issue the corresponding writ of execution.[51] Thereafter, the Motion for Reconsideration was denied in the Court of Appeals' resolution[52] dated July 10, 2009.

The Issues

Hence, the present petition for review anchored on the following arguments:

1. The Honorable Court of Appeals committed reversible error in ruling that [p]etitioners failed to prove through substantial evidence that [r]espondent's skin cancer was not work-related.
2. The Honorable Court of Appeals committed reversible error in ruling that a seafarer unable to work for more than 120 days is deemed permanently and totally disabled and entitled to maximum disability benefits under the POEA Contract.
3. The Honorable Court of Appeals committed reversible error in affirming the award of sickness allowance to [r]espondent.
4. The Honorable Court of Appeals committed reversible error in affirming the award of attorney's fees.
5. The Honorable Court of Appeals committed reversible error in not commanding [r]espondent's wife Susan Berdos to return the sum paid to her by [p]etitioners.[53]

In a nutshell, the core issue to be resolved is whether the Court of Appeals is correct in finding Cristino's illness as work-related and, therefore, compensable, pursuant to the POEA Contract.

The Court's Ruling

As a general rule, only questions of law raised via a petition for review under Rule 45 of the Rules of Court[54] are reviewable by this Court.[55] 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

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51 *Rollo*, p. 391; Petitioners' Motion to Amend Prayer in the Petition.

52 Supra note 4.

53 Supra note 2, at 31-32.

54 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 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.

55 *Heirs of Pacencia Racaza v. Abay-Abay*, G.R. No. 198402, June 13, 2012, 672 SCRA 622, 627.

supported by substantial evidence.[56] 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; [and]
> 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.[57]

Clearly, this case falls under one of these exceptions as the findings of the Labor Arbiter differed from those of the NLRC and the Court of Appeals. As such, this Court is justified in resolving the factual questions presented in this petition for review.

Anent the substantive issues raised, the petition is devoid of merit.

Part and parcel of every employment contract entered into by a seaman is the POEA Contract. It is crafted for the sole purpose of ensuring that the seafarers are not put at a disadvantage in their desire of seeking greater economic benefit abroad. As the employment contract between the petitioners and Cristino was entered into on May 30, 2006,[58] the 2000 version of the POEA Standard Terms and Conditions Governing the Employment of Filipino Seafarers On Board Ocean-Going Vessels is relevant in this case.

More particularly, reference must be made to Section 20-B of the POEA Contract which lists down the obligations of an employer in case the

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56 *Merck Sharp and Dohme (Phils.), et al. v. Robles, et al.,* 620 Phil. 505, 512 (2009).
57 *Co v. Vargas*, G.R. No. 195167, November 16, 2011, 660 SCRA 451, 459-460.
58 Supra note 9.

seafarer suffers work-related illness or injury during the term of his contract. The provision reads:

> SECTION 20. COMPENSATION AND BENEFITS
>
> x x x x x x x x x
>
> 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 are as follows:
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> 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 this 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.[59]

Section 32-A of the same Contract names certain occupational diseases and the basic conditions that must be met in order for the resulting disability or death to be compensable. A perusal of said provision would show that malignant melanoma is not one of those expressly identified in the list of occupational diseases. Nevertheless, it can be inferred from Section 20-B(4) that the enumeration in Section 32-A is by no means exclusive. The seafarer even enjoys a presumption of compensability for unlisted illnesses in case of failure of the employer to present adequate evidence to the contrary. As no third doctor, whose assessment was supposed to be final, had been jointly appointed by the petitioners and the respondent as provided in Section 20-B(3), there is no other recourse for the Court but to reexamine the merits of the medical evaluations respectively presented by the parties' doctors[60] vis-à-vis Cristino's work and his illness.

Here, the respondent did not just rely on the presumption of work-relation but was able to substantiate the claims for compensation and benefits by substantial evidence. Substantial evidence is that amount of "relevant evidence [which] a reasonable mind might accept as adequate to support a conclusion."[61] It is that degree of proof required to support claims for compensation in labor cases.[62]

Malignant melanoma is a cancer of the skin.[63] Although genetics, the presence of a preexisting nevus and exposure to certain carcinogens are known contributory factors; abundant epidemiologic studies show that sun

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59 Supra note 1.

60 *Ison v. Crewserve, Inc.*, G.R. No. 173951, April 16, 2012, 669 SCRA 481, 494.

61 *Office of the Ombudsman (Visayas) v. Zaldarriaga*, 635 Phil. 361, 368 (2010).

62 *Cootauco v. MMS Phil. Maritime Services, Inc., et al.*, 629 Phil. 506, 521 (2010).

63 Anthony S. Fauci, M.D., Eugene Braunwald, M.D., Dennis L. Kasper, M.D., Stephen L. Hauser, M.D., Dan L. Longo, M.D., J. Larry Jameson, M.D., PhD, and Joseph Loscalzo, M.D., PhD, Harrison's Principles of Internal Medicine (New York: McGraw-Hill Companies, Inc., 2008), p. 541.

exposure remains the major stimulant in the development of malignant melanoma of the skin.[64] This kind of tumor usually grows on the upper back, legs, face, and neck as these body areas are usually exposed to sunlight[65] and clinical warning signs include the growth of a new pigmented lesion.[66] Consistent with the role of sun exposure, available literature reveals that fair-skinned individuals are more prone to melanoma than dark-skinned individuals as the latitude of residence is inversely correlated to ultraviolet rays derived from the sun.[67] In the same vein, there are occupations wherein sun exposure is unavoidable, thereby increasing the worker's susceptibility to this type of cancer.

The situation where sun exposure is an occupational necessity particularly holds true in this case when the NLRC and the Court of Appeals took judicial notice that Cristino's work made plausible the contraction of his illness. As aptly concluded by the Court of Appeals:

> x x x. It is well to point out that among private respondent's daily tasks as a fitter is to clean and repair among others, pipes, ladders, antenna, hose and to paint the deck, for which exposure to sunlight could not be avoided. Hence, the nature of his work may have caused or at least contributed to his illness.[68]

It has been repeatedly emphasized that for illness to be compensable, the nature of employment need not be the lone reason for the illness suffered by the seafarer.[69] Just a reasonable connection, and not absolute certainty, between the danger of contracting the illness and its aggravation resulting from the working conditions is enough to sustain its compensability.[70] In the words of the Court:

> 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 therefor. It is enough that the employment had contributed, even in a small degree, to the development of the disease xxx.[71]

The Court went on to say that:

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64 Ramzi S. Cotran, M.D., Vinay Kumar, M.D., F.R.C.Path., and Tucker Collins, M.D., Ph.D., Robbins Pathologic Basis of Disease (Philadelphia: W.B. Saunders Company, 1999), p. 1177.

65 Id.

66 Id. at 1178.

67 Supra note 62 at 542.

68 Supra note 3 at 68.

69 *Magsaysay Maritime Services v. Laurel,* G.R. No. 195518, March 20, 2013, 694 SCRA 225, 242.

70 *Wallem Maritime Services, Inc. v. NLRC*, G.R. No. 130772, November 19, 1999, 318 SCRA 623, 632.

71 Id.

> It is indeed safe to presume that, at the very least, the nature of Faustino Inductivo's employment had contributed to the aggravation of his illness – if indeed it was pre-existing at the time of his employment – and therefore it is but just that he be duly compensated for it.[72]

In the instant case, it bears stressing that Cristino was deployed and had loyally worked for the petitioners under several management contracts for a period of 15 years.[73] All this time, Cristino occupied the position of a fitter. Apparently, Cristino's job encompassed a wide range of duties and seemingly dependent on the immediate needs of the vessel wherein deck work appeared to be an integral part thereof. As such, the performance of some tasks naturally entailed inevitable sun exposure which could have caused his getting afflicted with malignant melanoma or, at the very least, added to his worsening health condition.

Fittingly, the Court of Appeals and the NLRC correctly appreciated these circumstances in finding reasonable causal relation between Cristino's illness and his work in the same way that the Court took into account the working conditions of a seafarer in *Nisda v. Sea Serve Maritime Agency, et al.*[74] when it decided in favor of the seafarer's entitlement to disability benefits.

It is indisputable that the parties' physicians both came up with the same diagnosis as to Cristino's illness, that is, carcinoma of melanocytes or malignant melanoma, but issued contrasting medical opinions on the work-relatedness of Cristino's illness.[75] Recalling the February 27, 2007 medical opinion of petitioners' designated physicians wherein they stated that Cristino's illness is not work-related,[76] nowhere in said pronouncement can this Court find support for their outright conclusion. It was a simple one-liner negation effectively cutting off Cristino's entitlement to disability benefits and sandwiched by paragraphs containing a narration of the medical care given to Cristino at Mary Johnston Hospital by other doctors and the recommended treatments.

As ratiocinated in *Wallem Maritime Services, Inc. v. NLRC*,[77] the Court discounted the statement made by the company's doctors that a seafarer's illness is not work-related for being self-serving especially when there is reasonable ground to believe that the latter's working conditions contributed in the development of his illness.

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72 Id.

73 Id. at 189-190; based on the Certificate of Sea Service dated March 20, 2007 issued by Philippine Transmarine Carriers, Inc.

74 611 Phil. 291 (2009).

75 Supra notes 24 and 28.

76 Supra note 25.

77 Supra note 69.

HFS Philippines, Inc., et al. v. Pilar[78] had the same observation, where the Court ruled:

> The bottomline is this: the certification of the company-designated physician would defeat respondent's claim while the opinion of the independent physicians would uphold such claim. In such a situation, we adopt the findings favorable to respondent.[79]

It is for this very reason that the seafarer is given the freedom of choosing his own doctor[80] and why the Court is not precluded from awarding disability benefits on the basis of the medical opinion of the seafarer's physician.[81]

As culled from the records, Cristino's own oncologist was actively involved in his treatment and even performed surgical procedure on him as opposed to the more basic medical management provided by the petitioners' designated physicians which were initially limited to the giving of oral medications and wound dressing.

Hence, the Court is persuaded that the medical opinion of Cristino's specialist deserves greater evidentiary weight as the petitioners offered no other convincing proof to substantiate their arguments.

Having established the compensability of Cristino's illness, the Court now determines the nature of his disability. Crucial in this aspect is an examination of the too frequently cited case of *Vergara v. Hammonia Maritime Services, Inc., et al.*[82] wherein the Court thoroughly explained the interplay of the Labor Code provisions, particularly Articles 191 to 193,[83] Rule X of the Rules and Regulations Implementing Book IV of the Labor Code,[84] and Section 20-B(3) of the POEA Contract.[85]

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78 603 Phil. 309 (2009).

79 Id. at 320.

80 *Abante v. KJGS Fleet Management Manila and/or Guy Domingo A. Macapayag, et al.,* 622 Phil. 761, 769 (2009).

81 *Nazareno v. Maersk Filipinas Crewing, Inc.,* G.R. No. 168703, February 26, 2013, 691 SCRA 630.

82 588 Phil. 895 (2008).

83 Article 192(c)(1) of the Labor Code is relevant in this case, which reads:

> x x x x x x x x x
>
> (c) The following disabilities shall be deemed total and permanent:
>
> (1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided for in the Rules[.]

84 Section 2, Rule X of the Rules and Regulations Implementing Book IV of the Labor Code provides:

> Sec. 2. Period of entitlement. – (a) The income benefit shall be paid beginning on the first day of such disability. If caused by an injury or sickness it shall not be paid longer than 120 consecutive days except where such injury or sickness still requires medical attendance beyond 120 days but not to exceed 240 days from onset of disability in which case benefit for temporary total disability shall

In said *ponencia*, the Court simplified the timeline as to when a disability can be considered permanent – starting off with the duty of the seafarer to submit himself for check-up with the company-designated physician within three days from arrival in the country.[86] Within the 120-day period while the seafarer is undergoing treatment, his disability is classified as temporary total disability and the employer is obliged to pay him a sickness allowance, equivalent to his basic wage, until the company-designated physician either announces the seafarer's fitness for employment or recognizes the level of his permanent disability. This 120-day temporary total disability period may be extended up to a maximum of 240 days in the event that the seafarer needs continuous treatment and in the absence of any declaration made by the employers. During this 240-day period, the employer may concede that the seafarer suffers from a permanent disability. Still, the employer may, at any time, make a declaration that the seafarer is qualified to report back to work based on his medical condition.[87] It would appear that, in the absence of any declaration by the employer, it is only after the lapse of the 240-day period that there can be a presumption of the existence of permanent disability,[88] resulting in the entitlement of the seafarer to collect disability benefits.

In *C.F. Sharp Crew Management, Inc. v. Taok*,[89] the Court categorically stated that the seafarer may institute an action for total and permanent disability benefits in any of the following circumstances:

> (a) The company-designated physician failed to issue a declaration as to his fitness to engage in sea duty or disability even after the lapse of the 120-day period and there is no indication that further medical treatment would address his temporary total disability, hence, justify an extension of the period to 240 days;
> (b) 240 days had lapsed without any certification being issued by the company-designated physician;
> (c) The company-designated physician declared that he is fit for sea duty within the 120-day or 240-day period, as the case may be, but his

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be paid. However, the System may declare the total and permanent status at any time after 120 days of continuous temporary total disability as may be warranted by the degree of actual loss or impairment of physical or mental functions as determined by the System.

85 B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

x x x x x x x x x

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.

86 *Vergara v. Hammonia Maritime Services, Inc., et al.,* supra note 82, at 912.

87 Id.

88 Id. at 913.

89 G.R. No. 193679, July 18, 2012, 677 SCRA 296, 315.

> physician of choice and the doctor chosen under Section 20-B(3) of the POEA-SEC are of a contrary opinion;
> (d) The company-designated physician acknowledged that he is partially permanently disabled but other doctors who he consulted, on his own and jointly with his employer, believed that his disability is not only permanent but total as well;
> (e) The company-designated physician recognized that he is totally and permanently disabled but there is a dispute on the disability grading;
> (f) The company-designated physician determined that his medical condition is not compensable or work-related under the POEA-SEC but his doctor-of-choice and the third doctor selected under Section 20-B(3) of the POEA-SEC found otherwise and declared him unfit to work;
> (g) The company-designated physician declared him totally and permanently disabled but the employer refuses to pay him the corresponding benefits; and
> (h) The company-designated physician declared him partially and permanently disabled within the 120-day or 240-day period but he remains incapacitated to perform his usual sea duties after the lapse of said periods.[90]

Guided by the above-cited Court ruling, it can be deduced that Cristino already had a cause of action when he commenced the suit for permanent disability benefits against the petitioners on May 15, 2007, which was well within the 120-day period reckoned from the time he had his post-employment medical examination with the petitioners' designated physician. For one, Cristino was previously declared unfit for sea service.[91] Second, even without this express declaration, the petitioners are deemed to have acknowledged the permanent disability of Cristino when they stopped paying his sickness allowance way before the expiration of the 120-day period.[92] Third, the petitioners' physicians intimated in their medical opinion the seriousness of treatments Cristino was scheduled to receive, thus, reflecting their conviction of Cristino's inability to carry out his customary work.

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90 Id. at 315.
91 *Rollo,* p. 184.
92 Supra note 36 at 133.

In *Bejerano v. Employees' Compensation Commission*,[93] the Court defined permanent total disability as "disablement of an employee to earn wages in the same kind of work, or work of a similar nature that she was trained for or accustomed to perform, or any kind of work which a person of her mentality and attainment could do. It does not mean state of absolute helplessness, but inability to do substantially all material acts necessary [for] prosecution of an occupation for remuneration or profit in substantially customary and usual manner."[94] It is unquestionable that Cristino was not able to resume his job as fitter until his demise on March 25, 2008.[95]

In light of the foregoing discussions, the Court affirms the compensability of Cristino'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 Cristino suffered from permanent total disability. Considering that Cristino previously received ₱90,000.00 as illness allowance out of the ₱120,600.00[96] (representing his 120 days basic salary computed at the prevailing exchange rate at the time of payment), the respondent rightfully received the remaining balance of ₱30,600.00. The grant of attorney's fees is likewise upheld pursuant to Article 2208 of the Civil Code. The respondent was forced to continuously litigate and incurred expenses to protect her interests even after suffering the agony of losing her husband.

In sum, the Court finds no compelling reason to deviate from the conclusions drawn by the NLRC and the Court of Appeals. This is another event where the Court must tilt the scale of justice in the seafarer's favor because only then can the true intent and purpose of the POEA Contract, the Labor Code provisions and its Implementing Rules and Regulations be given effect.

WHEREFORE, the instant petition is **DENIED**.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

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93 G.R. No. 84777, January 30, 1992, 205 SCRA 598.

94 Id. at 601-602.

95 Supra note 43. In the respondent's Motion for Substitution dated April 21, 2008, it was indicated that Cristino died on March 27, 2008.

96 Supra note 8 at 184.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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