Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

C.F. SHARP CREW MANAGEMENT, INC., NORWEGIAN CRUISE LINE, LTD. and/or MR. JUAN JOSE ROCHA, Petitioners,	**G.R. No. 208215**
	Present:
	CARPIO, *J.*, *Chairperson*,
	PERALTA,
	MENDOZA,
- *versus* -	LEONEN,
	MARTIRES, *JJ.*
	Promulgated:
RHUDEL A. CASTILLO, Respondent.	19 APR 2017

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DECISION

PERALTA, *J.*:

Before us is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court which seeks to annul and set aside the Decision[2] dated February 12, 2013 and the Resolution[3] dated July 10, 2013 of the Court of Appeals (*CA*) in CA-G.R. SP No. 120043 reversing the Decision[4] dated January 25, 2011 of the National Labor Relations Commission (*NLRC*), First Division, in NLRC LAC Case No. OFW(L)-10-000850-10 affirming the Decision[5] of the Labor Arbiter dated September 6, 2010 which dismissed the respondent's complaint to recover permanent disability benefits.

The factual antecedents are as follows:

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1 *Rollo*, pp. 29-56.

2 Penned by Associate Justice Samuel H. Gaerlan, with Associate Justices Rebecca L. De Guia-Salvador and Apolinario D. Bruselas, Jr., concurring; *id.* at 66-75.

3 *Rollo*, p. 77.

4 *Id.* at 103-114.

5 *Id.* at 242-250.

On June 6, 2008, respondent was hired by petitioner C.F. Sharp Crew Management on behalf of its foreign principal, petitioner Norwegian Cruise Line, Ltd., to serve as Security Guard on board the vessel MV Norwegian Sun under the Contract of Employment[6] of even date. The POEA-approved contract was for a period of ten (10) months, with a basic monthly salary of US$559.00.

On June 16, 2008, respondent boarded the ship MV Norwegian Sun.[7] Prior to his deployment, respondent underwent a Pre-employment Medical Examination (*PEME*) and was pronounced fit to work.[8] While on board the vessel, respondent suffered from difficulty of breathing and had a brief seizure attack causing him to fall from his bed. He was immediately treated by the ship doctor.[9]

When the ship docked at the port of Mazatlan, Sinaloa, Mexico, respondent was brought to a hospital where he was immediately admitted. He was confined at the hospital from September 24, 2008 to October 5, 2008 as evidenced by the medical reports[10] issued by Dr. Jesus Aguilar of Hospital Clinica Siglo XXI in Mazatlan, Mexico. It was found that respondent was suffering from "right parietal hemorrhage" of the brain and was given medications to prevent seizures.

Respondent was repatriated on October 7, 2008. He was referred to the company-designated physicians, Dr. Susannah Ong-Salvador (*Dr. Ong-Salvador*) and Dr. Antonio A. Pobre (*Dr. Pobre*), at Comprehensive Marine Medical Services for further treatment, evaluation and management. He underwent a magnetic resonance imaging (*MRI*) on October 20, 2008[11] with the following findings: "T1 and T2 weighted hyperdensity over cortico-white matter junction of the right parietal lobe."

After a series of examinations, respondent was initially diagnosed as suffering from "arterio-venous malformation, right parietal" and was found to have "intracerebral hemorrhage over the superior parietal at right due to small arterio venous malformation or angioma."[12]

On December 16, 2008, respondent was admitted at the Ramon Magsaysay Memorial Medical Center where he underwent a "4-Vesssel Carotid Angiogram" at petitioners' expense. The result revealed that there was a "small local venous channel or venous pooling in the right anterior

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6 *Id.* at 187.
7 *Id.* at 164.
8 *Id.* at 133.
9 *Id.* at 164, 188.
10 *Id.* at 189-198.
11 Per medical report dated October 22, 2008 issued by Dr. Susannah Ong-Salvador, *id.* at 202.
12 Per medical reports dated November 5, 2008 and December 3, 2008 issued by Dr. Antonio A. Pobre, *id.* at 203-204.

parietal lobe[13] of respondent's brain. He was then referred to a neurosurgeon, Dr. Alfred Tan, for further medical treatment and management.

Subsequently, two (2) follow-up reports were issued by Dr. Pobre on January 9, 2009[14] and February 9, 2009[15] wherein it was stated that Dr. Alfred Tan explained to him that surgery is suggested to be performed on the respondent to prevent recurrent "intracerebral hemorrhage." Respondent made follow-up visits on March 9, 2009[16] and March 17, 2009[17] as shown in the follow-up reports of Dr. Pobre of even dates.

On April 16, 2009, a Medical Progress Report[18] was issued by Dr. Ong-Salvador stating that respondent is suffering from "right parietal cavernoma" and the condition is deemed to be idiopathic, thus, it is not work-related. A recommendation was, likewise, made for respondent to undergo a Steriotactic Radiosurgery or an Open Surgery to prevent further seizure attacks.

On April 30, 2009, Dr. Pobre issued a Certification[19] indicating that respondent is suffering from *Cavernoma* and the illness is a congenital disorder and not work-related.

Petitioners shouldered all the expenses in connection with respondent's medical treatment. Respondent was, likewise, paid his sickness wages as evidenced by the receipts duly signed by respondent for the period from September 25, 2008 to April 30, 2009.[20]

On December 16, 2009, respondent filed a Complaint[21] for permanent and total disability benefits, damages and attorney's fees. Respondent alleged that he is entitled to a maximum disability compensation of US$120,000.00 under the Norwegian Collective Bargaining Agreement (*CBA*). Respondent further alleged that even after all the examinations, he is still suffering from the illnesses and is disabled up to the present.[22]

On September 6, 2010, Labor Arbiter (*LA*) Elias H. Salinas dismissed the complaint. The LA opined that while the illness of respondent is disputably presumed to be work-related, petitioners have substantially

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13 Per medical report dated December 17, 2008 issued by Dr. Antonio A. Pobre, Medical Coordinator of Comprehensive Medical Marine Services, *id.* at 205.
14 *Rollo*, p. 206.
15 *Id.* at 207.
16 *Id.* at 208.
17 *Id.* at 209.
18 *Id.* at 201.
19 *Id.* at 199-200.
20 *Id.* at 212-216.
21 *Id.* at 126-128.
22 *Id.* at 243.

disputed the presumption of work-connection with the submission of a certification from the company physicians categorically stating that respondent's illness is idiopathic and congenital in etiology, and as such, could not have been caused by working conditions aboard the vessel. Also, the LA noted that no copy of the alleged Norwegian CBA was shown by respondent.

Moreover, as opposed to the unequivocal declaration of the company-designated physicians, the LA stated that respondent did not submit any evidence or certification that his illness is work-related or work-aggravated. The LA ratiocinated that the fact that the illness may have manifested during the period of respondent's contract is inadequate to justify the grant of disability compensation. The POEA [23] -SEC mandates that the causal connection between the illness and nature of work performed should also be proven. The dispositive portion of the Decision states:

> WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint for lack of merit.
>
> SO ORDERED.[24]

Thereafter, respondent elevated the case before the NLRC. On January 25, 2011, the NLRC affirmed the Decision of the LA.

A motion for reconsideration was filed by respondent, but the same was denied by the NLRC on April 19, 2011.[25]

Aggrieved, respondent filed a petition for *certiorari* before the CA. In a Decision dated February 12, 2013, the CA reversed the Decision of the NLRC. The CA held that petitioners have not overcome the disputable presumption of work-relatedness of the disease due to the conflicting statements of the petitioners' physicians as to the cause of respondent's illness. The *fallo* of the Decision states:

> **WHEREFORE**, the petition is **GRANTED**. The assailed *25 January 2011 Decision and 19 April 2011 Resolution* of the National Labor Relations Commission are **REVERSED** and **SET ASIDE**. The private respondents are held jointly and severally liable to pay the petitioner permanent and total disability benefits of US$60,000.00 and attorney's fees of ten percent (10%)

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23 Philippine Overseas Employment Administration.

24 *Rollo,* p. 250.

25 *Id.* at 116-117.

of the total monetary award, both at its peso equivalent at the time of actual payment.

SO ORDERED.[26]

A motion for reconsideration was filed by the petitioners which was denied by the CA in its Resolution dated July 10, 2013.

Hence, this petition raising the following errors:

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THE HONORABLE COURT OF APPEALS PALPABLY ERRED IN GRANTING THE PETITION FOR CERTIORARI, IN THAT:

A. THE FINDINGS, DECISIONS AND RESOLUTIONS OF THE NLRC, AN ADMINISTRATIVE AGENCY DIVESTED WITH QUASI-JUDICIAL POWERS ARE GIVEN GREAT RESPECT BY THE HIGHER COURTS.

B. THE PRIVATE RESPONDENT'S *CAVERNOMA* IS NOT **WORK-RELATED.** THE SAID ILLNESS IS NOT INCLUDED IN THE LIST OF OCCUPATIONAL ILLNESSES IN THE POEA-SEC.

C. THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT IGNORED THE SUPREME COURT'S PRONOUNCEMENT IN THE CASE OF **MAGSAYSAY V. CEDOL**[27] WHERE IT WAS CATEGORICALLY HELD THAT **THE BURDEN TO PROVE THAT AN ILLNESS IS WORK-RELATED BELONGS TO THE SEAFARER.**

D. THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT DID NOT CONSIDER THE COMPANY-DESIGNATED PHYSICIANS' CERTIFICATION STATING THAT THE SEAFARER'S *CAVERNOMA* IS NOT WORK-RELATED.

E. THE HONORABLE COURT OF APPEALS' AWARD OF PERMANENT/TOTAL DISABILITY BENEFITS SOLELY ON THE BASIS OF THE PETITIONER'S ALLEGATION THAT INCAPACITY FOR MORE THAN 120 DAYS HAS AUTOMATICALLY RENDERED HIM PERMANENTLY UNFIT FOR SEA DUTIES, IS **TOTALLY ERRONEOUS.**

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26 *Id.* at 56.

27 630 Phil. 352 (2010).

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN AWARDING THE PETITIONER ATTORNEY'S FEES.[28]

Petitioners argued in their petition[29] that in order to overturn the opinion and findings of the company-designated physician, the opinion of respondent's physician must be supported by a third doctor's opinion without which, the company-designated physician's opinion shall prevail. They also argued that the burden to prove that an illness is work-related belongs to respondent. And considering that the illness is not work-related, the same is not compensable whether or not respondent is not able to work for more than 120 days.

Petitioners declared that respondent failed to establish by substantial evidence that his illness was caused by any risks to which he was exposed to while working as Security Guard on board the vessel. The only evidence that was presented to justify the work-relatedness of the illness is the mere statement by the personal doctor of respondent that the illness is work aggravated/related without any further explanation. Petitioners averred that that the disability of respondent was neither assessed by the company-designated physicians nor by his own doctor as having a disability grading of 1 for his illness, such that, respondent cannot be entitled to permanent total disability benefits.

In the Comment[30] of respondent, he stated that he was presumed fit at the time he entered into a contract with the petitioners as revealed by the results of the PEME. He argued that he is entitled to total permanent disability benefits because he was found and declared as unfit to work by his private physician and that there is a disputable presumption that his illness is work-related. He also argued that he is considered total and permanently disabled as he was unable to work for more than 120 days.

The main issue for this Court's resolution is whether or not respondent is entitled to total and permanent disability benefits.

Entitlement of seamen on overseas work to disability benefits is a matter governed, not only by medical findings, but by law and by contract. The material statutory provisions are Articles 191 to 193 under Chapter VI (Disability Benefits) of the Labor Code, in relation with Rule X of the Rules and Regulations Implementing Book IV of the Labor Code. By contract, the POEA-SEC, as provided under Department Order No. 4, series of 2000 of

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28 *Rollo*, pp. 36-37. (Emphasis in the original)
29 *Id.* at 29-56.
30 *Id.* at 419-428.

the Department of Labor and Employment, and the parties' CBA bind the seaman and his employer to each other.[31]

Considering that respondent was hired in 2008, the 2000 POEA-SEC applies. The 2000 POEA-SEC defines work-related illness as:

> Definition of Terms:
>
> 12. Work-Related Illness - 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.

The illness of respondent, cavernoma, is not included in the list of occupational diseases under Section 32-A of the POEA-SEC. However, Section 20(B)(4)[32] of the contract provides that those illnesses not listed in Section 32 are disputably presumed as work-related.

In interpreting the aforesaid definition, this Court has held that for disability to be compensable under Section 20(B) of the 2000 POEA-SEC, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled; it must also be shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted. [33]

In determining the work-causation of a seafarer's illness, the diagnosis of the company-designated physician bears vital significance. After all, it is before him that the seafarer must initially report to upon medical repatriation.[34]

In the case at bar, petitioners' physician, Dr. Pobre, declared that the illness of respondent which is cavernova is not work-related as the same is congenital in nature, while petitioners' other physician Dr. Salvador-Ong declared the same as idiopathic in its causation and, thus, not work-related. The certification of Dr. Ong-Salvador dated April 16, 2009 states:

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31 *Magsaysay Maritime Corporation v. Cedol, supra* note 27, at 362.

32 Section 20. 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:

x x x x

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

33 *Maersk Filipinas Crewing Inc. v. Mesina,* 710 Phil. 531, 541-542. (2013).

34 *Id.* at 544.

REPLY TO MEDICAL QUERY

This is in reference to your query regarding the case of Mr. Rhudel Castillo, 30 y/o, security with the working impression of Right parietal cavernoma.

Your query concerns whether his condition is deemed to be work-related or not.

Cavernoma is a brain tumor with a vascular origin. It is a dangerous condition as it may cause exacerbated brain hemorrhage and seizure episodes. There is no known risk factor as the condition is deemed to be idiopathic thus it is **non-work related**.[35]

While the certification of Dr. Pobre dated April 30, 2009 provides:

ANSWER TO QUERY

This 30 yr old male SECURITY OFFICER from "NORWEGIAN SUN" alleged that he had a brief seizure attack causing him to fall from his bed landing at the right side of his face. When the ship docked at Mazatlan, Sinaloan, Mexico, he was confined in a hospital for a week where he was worked up. Finding was "Right Parietal Hemorrhage" as the cause of the seizure. He was discharged from the hospital and medically repatriated to the Philippines for further evaluation and management. Upon arrival in the Philippines, repeat MRI which showed "T1 and T2 weighted hyperdensity over the cortico-white matter junction of the right parietal lobe". An intracerebral hemorrhage over the superior parietal at the right could be due to small Arterio-Venous Malformation or angioma. The patient was admitted at Ramon Magsaysay Memorial Medical Center on December 16, 2008 under the service of Dr. Renato Carlos, a neuroradiologist. A 4-Vessel carotid Angiogram was done. Result: Small local venous channel or venous pooling in the right anterior parietal lobe. This may represent a portion of thrombosed venous angioma or venous pooling in a cavaernous hemangioma. The patient was referred to neurosurgeon, Dr. Alfred Tan, for further management. He explained that the surgery is indicated to prevent recurrent intracerebral hemorrage that could be fatal. However, the gammaknife surgery proposed is preventive in nature. Besides, he explained that the condition is NOT WORK-RELATED. Neurologist, Dr. Amado San Luis, said that illness is a congenital disorder.[36]

The CA found the two certifications conflicting, thus:

We, however, do not agree. We find public respondent NLRC's accession to the certification of company-designated physicians that petitioner Castillo's medical condition (Cavernoma) as "not work-related" resting on a quag of conflicting bases: Dr. Pobre declared it to be congenital in nature; whereas Dr. Salvador-Ong considered the same as

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35 *Rollo*, p. 199. (Emphasis in the original)

36 *Id.* at 200.

> idiopathic in its causation, that is, the cause is unknown. We are, thus, convinced in the finding of public respondent of "non-work-relatedness" based on the two physicians' certification, they being conflicting, or the cause of the illness being uncertain; for what could be the basis therefor (of declaring the same not work-related)? Hence, the certification of the physicians being infirm and insubstantial, We cannot be in accordant with public respondent in having found the same to have overcome the disputable presumption of work-relatedness of the herein subject medical condition, Cavernoma, and resultantly dismissing the petitioner's appeal.
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> Having now presumed that the medical condition of petitioner Castillo is work-related, and his inability to perform his usual work due thereto was indisputably found to have extended beyond 120 days, We, therefore, regard his resulting disability to be total and permanent.[37]

Petitioners argue that there is no conflict on the findings of their two physicians. They stated that medical researchers have confirmed that the illness cavernoma may be congenital or present since birth as the same is genetically-related or may be inherited. At the same time, the development of the illness is spontaneous in nature, thus, idiopathic. However, according to petitioners, it cannot be denied that both the physicians are in unison in declaring that the respondent's illness is not work-related.

Petitioners' physicians differ in their view on the causation of respondent's illness, but both are one in declaring that the illness is not work-related, as opposed to the statement of respondent's physician Dr. Efren R. Vicaldo (*Dr. Vicaldo*) that the illness is work-related. The certification of Dr. Vicaldo dated May 1, 2010 provides as follows:

> - This patient/seaman presented with history of sudden onset of difficulty in breathing when he was awaken (sic) from sleep feeling as though he had a nightmare. He fell on the floor hitting his right face followed by loss of consciousness for approximately 20 minutes. This was noted on September 24, 2008 while on board ship. He was seen by the ship medical officer who referred him for consult at Clinica de Diagnosticio at Masatian, Sinaloa Mexico. He underwent cranial CT scan and he was confined for one week. He was prescribed Dilantin and other unrecalled medications.
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> - He was repatriated on October 7, 2008 and had subsequent check up at University of Santo Tomas where he underwent another MRI which revealed intracerebral hemorrhage consisting of blood products in different stages probably secondary to avascular anomaly. He underwent cerebral angiogram which revealed small focal venous channel or venous pooling in the right anterior parietal lobe. He was maintained on Dilantin and was advised brain surgery.
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> - When seen at the clinic his blood pressure was 120/90 mmHg; PE of the heart and lungs were unremarkable. He presented with a 4/5

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37 *Id.* at 71-72. (Underlining ours).

motor deficit on the left upper and lower extremities. He also reported bilateral blurring of vision noted since last year.

- He is now unfit to resume work as seaman in any capacity.
- His illness is considered work aggravated/related.
- He requires maintenance medication consisting of Dilantin to prevent recurrence of seizures secondary to his brain injury.
- He may require surgical intervention to evacuate the blood clot in his brain.
- He is not expected to land a gainful employment given his medical background.[38]

The conflicting findings of the company's doctor and the seafarer's physician often stir suits for disability compensation. As an extrajudicial measure of settling their differences, the POEA-SEC gives the parties the option of agreeing jointly on a third doctor whose assessment shall break the impasse and shall be the final and binding diagnosis.[39] The POEA-SEC provides for a procedure to resolve the conflicting findings of a company-designated physician and personal physician, specifically:

SECTION 20. COMPENSATION AND BENEFITS

x x x x

B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

3. x x x

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.

In *Transocean Ship Management (Phils.), Inc., et al. v. Vedad*,[40] the reason for the third-doctor referral provision in the POEA Standard Employment Contract is that:

x x x In determining whether or not a given illness is work-related, it is understandable that a company-designated physician would be more positive and in favor of the company than, say, the physician of the seafarer's choice. It is on this account that a seafarer is given the option by the POEA-SEC to seek a second opinion from his preferred physician. And the law has anticipated the possibility of divergence in the medical

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38 *Id.* at 110-111.

39 *Maersk Filipinas Crewing Inc.v. Mesina, supra* note 33, at 544-545.

40 707 Phil. 194 (2013).

> findings and assessments by incorporating a mechanism for its resolution wherein a third doctor selected by both parties decides the dispute with finality, as provided by Sec. 20 (B) (3) of the POEA-SEC quoted above.

In the instant case, respondent did not seek the opinion of a third doctor. Based on jurisprudence, the findings of the company-designated physician prevail in cases where the seafarer did not observe the third-doctor referral provision in the POEA-SEC. However, if the findings of the company-designated physician are clearly biased in favor of the employer, then courts may give greater weight to the findings of the seafarer's personal physician. Clear bias on the part of the company-designated physician may be shown if there is no scientific relation between the diagnosis and the symptoms felt by the seafarer, or if the final assessment of the company-designated physician is not supported by the medical records of the seafarer.[41]

Petitioners' company-designated physicians, Dr. Ong-Salvador and Dr. Pobre, monitored respondent's case from the beginning. They were the ones who referred the respondent's case to the proper medical specialists Dr. Renato Carlos (neuroradiologist), Dr. Alfred Tan (neurosurgeon) and Dr. Amado San Luis (neurologist) whose medical results are not essentially disputed. Petitioners' physicians monitored respondent's case and issued the certifications on the basis of the medical records available and the results obtained. From the time of his repatriation on October 7, 2008, respondent had been under the care of the company-designated physicians, and the said physicians should be considered to be fully familiar with the illness of respondent. Company-designated physicians Dr. Ong-Salvador and Dr. Pobre were able to closely monitor respondent's condition from the time he was repatriated until the date of his last check-up in March 17, 2009.

In the case of *Vergara G.R. Hammonia Maritime Services, Inc.,*[42] We stated that:

> x x x more weight should be given to the assessment of degree of disability made by the company doctors because they were the ones who attended and treated petitioner Vergara for a period of almost five (5) months from the time of his repatriation to the Philippines on September 5, 2000 to the time of his declaration as fit to resume sea duties on January 31, 2001, and they were privy to petitioner Vergaras case from the very beginning, which enabled the company-designated doctors to acquire a detailed knowledge and familiarity with petitioner Vergaras medical condition which thus enabled them to reach a more accurate evaluation of the degree of any disability which petitioner Vergara might have sustained. These are not mere company doctors. These doctors are independent medical practitioners who passed the rigorous requirements of the

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41 *Nonay v. Bahia Shipping Services, Inc., et al.*, G.R. No. 206758, February 17, 2016, 784 SCRA 293.

42 588 Phil. 895, 914-915 (2008).

> employer and are more likely to protect the interest of the employer against fraud.

As previously stated, it is the company-designated physician who is entrusted with the task of assessing the seaman's disability. Their declaration should be given credence, considering the amount of time and effort they gave to monitoring and treating the respondent's condition. It bears emphasizing that the respondent has been under the care and supervision of the company physicians since his repatriation on October 7, 2008 to March 17, 2009, or almost five (5) months. The medical attention they had given the respondent undeniably enabled them to acquire familiarity and detailed knowledge of the latter's medical condition.[43] On the other hand, We note that the certification of Dr. Vicaldo was replete with details justifying the conclusion that the illness of respondent is work-related.

In the case of *Cagatin v. Magsaysay Maritime Corporation*,[44] We ruled in favor of the company-designated doctors, thus:

> This lack of forthrightness on the part of petitioner impels this Court to favor the earlier report of the company-designated physician, Dr. Cruz, over that of petitioner's chosen physician, Dr. Collantes. There are other cogent reasons, however. First, it is obvious in the report of Dr. Collantes that he only saw petitioner once, or on August 6, 2002, while Dr. Cruz and his team examined and treated petitioner several times, for a period of five (5) months. Second, Dr. Collantes did not perform any sort of diagnostic test or examination on petitioner, unlike Dr. Cruz before him. It has been held in cases of disability benefits claims that in the absence of adequate tests and reasonable findings to support the same, a doctor's assessment should not be taken at face value. Diagnostic tests and/or procedures as would adequately refute the normal results of those administered to the petitioner by the company-designated physicians are necessary for his claims to be sustained. x x x[45]

While it is true that medical reports issued by the company-designated physicians do not bind the courts, Our examination of Dr. Ong-Salvador's certification leads Us to agree with her findings. The respondent was evaluated by a specialist, neurosurgeon Dr. Alfred Tan. The series of tests and evaluations show that Dr. Ong-Salvador's findings were not arrived at arbitrarily; neither were they biased in petitioner's favor.[46] Respondent had undergone a series of tests from the time he was repatriated on October 7, 2008 until April 30, 2009, when the company-designated doctor issued a medical report.

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43 *Magsaysay Maritime Corporation v. Cedol, supra* note 27, at 369.

44 G.R. No. 175795, June 22, 2015, 759 SCRA 401.

45 *Cagatin v. Magsaysay maritime Corporation, supra,* at 421. (Underlining supplied).

46 *Magsaysay Maritime Corporation v. Cedol, supra* note 27, at 366.

On the other hand, it is obvious in the report of Dr. Vicaldo that he only saw respondent once, or on May 1, 2010. Dr. Vicaldo did not perform any sort of diagnostic test or examination on respondent. Respondent did not allege how he was examined and treated by Dr. Vicaldo, and how the latter arrived at the conclusion that respondent's illness is work-related.

In the case of *Dalusong v. Eagle Clarc Shipping Philippines, Inc.,*[47] We ruled that "the findings of the company-designated doctor, who, with his team of specialists which included an orthopedic surgeon and physical therapist periodically treated petitioner for months and monitored his condition, deserve greater evidentiary weight than the single medical report of petitioner's doctor, who appeared to have examined petitioner only once."

This Court also affirmed and gave greater weight to the findings of the company-designated physician in the case of *Monana v. MEC Global Shipmanagement*[48] which involved a claim for disability benefits. The company-designated physician and the personal physician had different findings but We ruled that "as between the company-designated doctor who has all the medical records of petitioner for the duration of his treatment and as against the latter's private doctor who merely examined him for a day as an outpatient, the former's finding must prevail."

Thus, in the instant case, the medical certificate issued by Dr. Vicaldo was not based on results from medical tests and procedures. While Dr. Ong-Salvador and Dr. Pobre are familiar with respondent's medical history and condition, thus, their medical opinion on whether respondent's illness is work-aggravated/-related deserve more credence as opposed to Dr. Vicaldo's unsupported conclusions.

This Court had already noted the unsubstantiated nature of medical certifications issued by Dr. Vicaldo and had warned the Labor Arbiters and the NLRC to keep guard against his medical findings in the case of *Monana v. MEC Global Shipmanagement and Manning Corporation:*[49]

> This court notes that in several cases filed before this court on seafarer's disability claims, Dr. Vicaldo's findings have not been given due merit due to their unsubstantiated nature.
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> It, therefore, behooves the National Labor Relations Commission, perhaps, to cause an investigation on why, in spite of the unsupported nature of Dr. Vicaldo's submissions, Labor Arbiters still give him credence. This unnecessarily clogs their administrative dockets, and the dockets of the Court of Appeals and this court. Judicial efficiency requires

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47 G.R. No. 204233, September 3, 2014, 734 SCRA 315, 329.

48 G.R. No. 196122, November 12, 2014, 740 SCRA 99, 114.

49 *Monana v. MEC Global Shipmanagement and Manning Corporation, et al., supra.*.

> that Labor Arbiters and the National Labor Relations Commission keep guard against these types of doctors and their medical findings.

From the foregoing, considering that the company-designated physicians closely monitored respondent from his repatriation, and considering further that respondent did not observe the third-doctor referral provision, We adopt the ruling of the NLRC, thus:

> Such a bare statement that "*His illness is considered work-aggravated/related*", without any explanation as to the same, much less how such conclusion was arrived at, could not even begin to prove that complainant's illness is work-related, much less overcome the findings of the company-designated physicians which were arrived at after a considerable period of treatment. On the other hand, it is apparent from Dr. Vicaldo's certification that, just as in the aforecited Magsaysay case,[50] he examined complainant only once.
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> x x x x
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> Likewise, the mere fact that complainant's disability exceeded 120 days, by itself, is not a ground to entitle him to full disability benefits. Such should be read in relation to the provisions of the POEA Standard Employment Contract which, among others, provide that an illness should be work-related. Without a finding that an illness is work-related, any discussion on the period of disability is moot. xxx[51]

Furthermore, while the law recognizes that an illness may be disputably presumed to be work-related, the seafarer or the claimant must still show a reasonable connection between the nature of work on board the vessel and the illness contracted or aggravated.[52]

In *Quizora v. Denholm Crew Management (Phils.), Inc.*,[53] Quizora argued that he did not have the burden to prove that his illness was work-related because it was disputably presumed by law. This Court ruled that Quizora "cannot simply rely on the disputable presumption provision mention in Section 20 (B) (4) of the 2000 POEA-SEC." This Court further discussed that:

> At any rate, granting that the provisions of the 2000 POEA-SEC apply, the disputable presumption provision in Section 20 (B) does not allow him to just sit down and wait for respondent company to present evidence to overcome the disputable presumption of work-relatedness of the illness. Contrary to his position, he still has to substantiate his claim in order to be entitled to disability compensation. He has to prove that the illness he suffered was work-related and that it must have existed during

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50 *Magsaysay Maritime Corp. v. Velazquez*, 591 Phil. 839 (2008).
51 *Rollo*, p. 111.
52 *Nonay v. Bahia Shipping Services, Inc., et al.*, *supra* note 41, at 311.
53 676 Phil. 313 (2011).

> the term of his employment contract. He cannot simply argue that the burden of proof belongs to respondent company.
>
> For disability to be compensable under **Section 20 (B) of the 2000 POEA-SEC**, two elements must concur: (1) the injury or illness must be **work-related**; and (2) the work-related injury or illness must have **existed during the term of the seafarer's employment contract**. In other words, to be entitled to compensation and benefits under this provision, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled; it must also be shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted.
>
> The 2000 POEA-SEC defines "work-related injury" as "injury[ies] resulting in disability or death arising out of and in the course of employment" and "work-related illness" as "any sickness resulting to disability or death as a result of an occupational disease listed under Section 3 2-A of this contract with the conditions set therein satisfied.[54]

The rule on the burden of proof with regard to claims for disability benefits was also discussed in *Dohle-Philman Manning Agency, Inc., et al. v. Heirs of Gazzingan*:[55]

> [T]he 2000 POEA-SEC has created a presumption of compensability for those illnesses which are not listed as an occupational disease. Section 20 (B), paragraph (4) states that "those illnesses not listed in Section 32 of this Contract are disputably presumed as work-related." Concomitant with this presumption is the burden placed upon the claimant to present substantial evidence that his work conditions caused or at least increased the risk of contracting the disease and only a reasonable proof of work-connection, not direct causal relation is required to establish compensability of illnesses not included in the list of occupational diseases.

The said ruling was reiterated in the case of *Nonay vs. Bahia Shipping Services, Inc.*,[56] We held:

> In this case, however, petitioner was unable to present substantial evidence to show the relation between her work and the illness she contracted. The record of this case does not show whether petitioner's *adenomyoma* was pre-existing; hence, this court cannot determine whether it was aggravated by the nature of her employment. She also failed to fulfill the requisites of Section 32-A of the 2000 POEA-SEC for her illness to be compensable, thus, her claim for disability benefits cannot be granted.
>
> Petitioner argues that her illness is the result of her "constantly walking upward and downward on board the vessel carrying loads"[95] and

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54 *Quizora v. Denholm Crew Management (Phils.), Inc., supra*, at 327. (Emphasis in the original; Underlining ours).

55 G.R. No. 199568, June 17, 2015, 759 SCRA 209, 226.

56 *Supra* note 41. at 314-315.

> that she "acquired her illness on board respondents' vessel during the term of her employment contract with respondents as Casino [Attendant] [.]"
>
> However, petitioner did not discuss the duties of a Casino Attendant. She also failed to show the causation between walking, carrying heavy loads, and *adenomyoma.* Petitioner merely asserts that since her illness developed while she was on board the vessel, it was work-related.
>
> In *Cagatin v. Magsaysay Maritime Corporation, et al.*,[57] Cagatin was hired as a cabin steward. He alleged that his injuries were due to the hazardous tasks he was made to perform, which were beyond the job description in his contract. This court held that since Cagatin did not allege what the tasks of a cabin steward were, there was no means by which the court could determine whether the tasks he performed were, indeed, hazardous.
>
> In the same manner, this court has no means to determine whether petitioner's illness is work-related or work-aggravated since petitioner did not describe the nature of her employment as Casino Attendant.

Here, assuming that cavernoma is not idiopathic, respondent did not adduce proof to show a reasonable connection between his work as Security Guard and his cavernoma. There was no showing how the demands and nature of his job *vis-a-vis* the ship's working conditions increased the risk of contracting cavernoma. It must be stressed that respondent was hired by petitioners on a 10-month contract on June 6, 2008. While on board the vessel, he suffered from difficulty of breathing and other symptoms of his current illness. When respondent got sick, he was on board only for three (3) months. Because of this short span of time, then the presentation of evidence showing the relation between respondent's work as Security Guard and his illness becomes all the more crucial.

Respondent argued that his illness is work-related invoking the rulings in the cases of *Philimare, Inc, et al v. Suganob*,[58] *Wallem Maritime Services, Inc. v. NLRC, et al.*,[59] and *Tibulan v. Inciong*.[60] The argument is baseless.

In the case of *Philimare, Inc., et al. v. Suganob,* the medical certificate issued by the company physician did not conflict with that issued by the physician chosen by Suganob. The medical certificate issued by the company physician which stated that Suganob was fit to return to work was conditional because Suganob still has to maintain his medications. On the other hand, the medical certificate of the physician chosen by Suganob indicated that Suganob's illness recurred and continued which rendered him

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57 *Supra* note 44.
58 579 Phil. 706 (2008).
59 376 Phil. 738 (1999).
60 257 Phil. 324 (1989).

unfit to continue his work. In both medical certificates, it is clear that Suganob was not considered as totally cured and fit to return to work.

In the case of *Wallem Maritime Services, Inc. v. NLRC, et al.,*[61] it cannot be denied that there was at least a reasonable connection between the seafarer's job and his lung infection, which eventually developed into *septicemia* and ultimately caused his death. As utilityman on board the vessel, the seafarer was exposed to harsh sea weather, chemical irritants, dusts, etc., all of which invariably contributed to his illness.

Lastly, in the case of *Tibulan v. Inciong,*[62] Tibulan had worked for the company for almost thirty-five (35) years up to his death. His having served as Barge Patron had some connection with the emergence and development of the disease which caused his death. The barge to which the deceased was assigned was being used to transport heavy cargoes up and down and around the Pasig River and had under his supervision only two (2) sailors. The said conditions led this Court to the inference that while the position of the deceased was not one requiring mainly manual labor, nonetheless, Tibulan could not have avoided strenuous physical activity in carrying out his duties. Certainly, the captain or patron of a cargo barge was not expected to, and would not have been allowed to, live his life behind a desk.

Since respondent's illness is not work-related, this Court need not labor on respondent's argument that his illness must be deemed total and permanent since he was unable to work for more than 120 days. [63] Such should be read in relation to the POEA-SEC which, among others, provide that an illness should be work-related.

Let it be stressed that the seafarer's inability to resume his work after the lapse of more than 120 days from the time he suffered an injury and/or illness is not a magic wand that automatically warrants the grant of total and permanent disability benefits in his favor. Both law and evidence must be on his side.[64]

Moreover, respondent argued that he was presumed fit at the time he entered into a contract with the petitioners as revealed by the results of the PEME. The fact that respondent passed the company's PEME is of no moment. We have ruled that in the past the PEME is not exploratory in nature. It was not intended to be a totally in-depth and thorough examination of an applicant's medical condition. The PEME merely determines whether one is fit to work at sea or fit for sea service; it does not state the real state of

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61 *Supra* note 59.

62 *Supra* note 60.

63 *Monana v. MEC Global Shipmanagement and Manning Corporation et al., supra* note 49.

64 *Veritas Maritime Corporation and/or Erickson Marquez v. Gepanaga, Jr.,* G.R. No. 206285, February 4, 2015, 750 SCRA 105, 120.

health of an applicant. In short, the fit to work declaration in the seafarer's PEME cannot be a conclusive proof to show that he was free from any ailment prior to his deployment. Thus, we held in *NYK-FIL Ship Management, Inc. v. NLRC*:[65]

> While a PEME may reveal enough for the petitioner (vessel) to decide whether a seafarer is fit for overseas employment, it may not be relied upon to inform petitioners of a seafarer's true state of health. The PEME could not have divulged respondent's illness considering that the examinations were not exploratory.

As the Court has previously ruled, a PEME is not exploratory in nature and cannot be relied upon to arrive at a seafarer's true state of health.[66] While a PEME may reveal enough for the company to decide whether a seafarer is fit for overseas employment, it may not be relied upon to inform the company of a seafarer's true state of health. The PEME could not have divulged respondent's illness considering that the examinations were not exploratory. It was only after respondent was subjected to extensive medical procedures including MRI that respondent's illness was finally diagnosed as a case of cavernoma. [67]

For respondent to, thus, claim that the issuance of a clean bill of health to a seafarer after a PEME means that his illness was acquired during the seafarers employment is a *non sequitur*. In the case of *NYK-FIL Ship Management Inc. v. NLRC,*[68] We held:

> We do not agree with the respondents claim that by the issuance of a clean bill of health to Roberto, made by the physicians selected/accredited by the petitioners, it necessarily follows that the illness for which her husband died was acquired during his employment as a fisherman for the petitioners.
>
> The pre-employment medical examination conducted on Roberto could not have divulged the disease for which he died, considering the fact that most, if not all, are not so exploratory. The disease of GFR, which is an indicator of chronic renal failure, is measured thru the renal function test. In pre-employment examination, the urine analysis (urinalysis), which is normally included measures only the creatinine, the presence of which cannot conclusively indicate chronic renal failure.[69]

The Court is wary of the principle that provisions of the POEA-SEC must be applied with liberality in favor of the seafarers, for it is only then

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65 534 Phil. 725 (2006).

66 *Dohle-Philman Manning Agency, Inc. et al. v. Heirs of Gazzingan, supra* note 55, at 229.

67 *NYK-FIL Ship Management Inc. v. NLRC, supra* note 65, at 739.

68 *Id.*

69 *Id.* at 740, citing *Gau Sheng Phils., Inc v. Joaquin,* 481 Phil. 222, 237 (2004). (Underscoring supplied)

that its beneficent provisions can be fully carried into effect. However, on several occasions when disability claims anchored on such contract were based on flimsy grounds and unfounded allegations, the Court never hesitated to deny the same. Claims for compensation based on surmises cannot be allowed; liberal construction is not a license to disregard the evidence on record or to misapply the laws.[70]

However, We emphasize that the constitutional policy to provide full protection to labor is not meant to be a sword to oppress employers. The commitment of this Court to the cause of labor does not prevent us from sustaining the employer when it is in the right. We should always be mindful that justice is in every case for the deserving, to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.[71]

In sum, We hold that the respondent is not entitled to total and permanent disability benefits for his failure to refute the company-designated physicians' findings that his illness was not work-related. The CA, thus, erred in finding grave abuse of discretion on the part of the NLRC when the latter affirmed the LA's Decision not to grant permanent and total disability benefits to the respondent despite insufficient evidence to justify this grant.[72] We note that petitioners shouldered all the expenses in connection with respondent's medical treatment, and respondent was, likewise, paid his sickness wages.

WHEREFORE, the Petition for Review on *Certiorari* is hereby **GRANTED.** The assailed Decision dated February 12, 2013 and Resolution dated July 10, 2013 of the Court of Appeals in CA-G.R. SP No. 120043, respectively, are hereby **REVERSED** and **SET ASIDE**. The Decision dated January 25, 2011 of the National Labor Relations Commission, First Division, in NLRC LAC Case No. OFW (L)-10-000850-10 is **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

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70 *Cagatin v.Magsaysay Maritime Corporation, supra* note 44, at 429.

71 *Magsaysay Maritime Corporation v. Cedol, supra* note 27, at 369.

72 *Id.*

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

SAMUEL L. MARTIRES
Associate Justice

ATTESTATION

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

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice