



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

WESTMINSTER SEAFARER G.R. No. 249344
MANAGEMENT PHILIPPINES,
INC.,

Present:

Petitioner,

GESMUNDO, C.J., Chairperson,
CAGUIOA,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

- versus -

Promulgated:

ARNULFO C. RAZ,

Respondent.

APR 05 2022

X -----

RESOLUTION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeking the modification of the Decision² dated May 6, 2019 and the Resolution³ dated September 12, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 152165. In the assailed Decision, the CA ordered Westminster Seafarer Management Philippines, Inc. (petitioner) to pay Arnulfo C. Raz (respondent) the amount of US\$25,313.00 as Grade 9 disability benefit, attorney's fees equivalent to 10% of the monetary award, and legal interest at the rate of 6% *per annum* of the total award from the date of finality of judgment until full satisfaction.⁴

¹ *Rollo*, pp. 29-45.

² *Id.* at 13-22; penned by Associate Justice Jhosep Y. Lopez (now a Member of the Court) with Presiding Justice Romeo F. Barza and Associate Justice Franchito N. Diamante, concurring.

³ *Id.* at 24-27; penned by Associate Justice Jhosep Y. Lopez (now a Member of the Court) with Associate Justices Franchito N. Diamante and Elihu A. Ybañez, concurring.

⁴ *Id.* at 22.

The Antecedents

Respondent entered into a Contract of Employment⁵ on November 10, 2014⁶ to work as a Fitter for the vessel NOCC *Kattegat* for a period of nine months. In the contract, Wallem Shipmanagement Limited was represented by petitioner as its agent.⁷ As a Fitter, respondent's duties included repairing and maintaining the vessel engine, assisting in its overhauling, welding, cleaning, carrying and lifting, and pulling heavy equipment and engine parts.⁸

On May 15, 2015, while lifting a heavy cylinder head, respondent suffered pain in his right shoulder. As time passed, the pain had worsened so that he could no longer raise his arm without feeling pain that radiated to his back. He reported the matter to his superiors and the latter referred him to a physician in Southampton, London for examination. They repatriated him on May 31, 2015 after he was declared to be unfit to work.⁹

Upon his arrival in the Philippines, petitioner referred respondent to the NGC Clinic for further tests where his shoulder was subjected to X-ray and magnetic resonance imaging (MRI) examination.¹⁰ His MRI result revealed that he was suffering from "*superior labral tear, anterior or posterior (SLAP), effusion in the biceps tendon sheath and superior subscapular recess; supraspinatus tendinosis and acromioclavicular joint hypertrophy.*"¹¹

Respondent underwent surgery on his right shoulder on July 8, 2015. The hospital discharged him after two months and continued with his physical therapy sessions on an outpatient basis.¹²

On November 11, 2015, Dr. Nicomedes G. Cruz (Dr. Cruz), the company-designated physician, assessed respondent with the final disability of Grade 9—*ankylosis of one shoulder, the shoulder blade*

⁵ Id. at 218.

⁶ Erroneously dated as November 10, 2015 in the Decision dated May 6, 2019 of the Court of Appeals.

⁷ *Rollo*, p. 218.

⁸ Id. at 14.

⁹ Id.

¹⁰ Id.

¹¹ Id. at 318.

¹² Id.

*remaining mobile.*¹³ Pursuant to the Collective Bargaining Agreement¹⁴ (CBA) between petitioner and respondent's union, the Associated Marine Officers' and Seamen's Union of the Philippines, respondent was entitled to disability benefits amounting to US\$25,313.00.¹⁵ Dr. Cruz likewise declared respondent as not permanently unfit to work as a seafarer.¹⁶

Because he was still experiencing pain in his right shoulder and could not fully lift his arm, respondent consulted another physician, Dr. Manuel Fidel M. Magtira (Dr. Magtira), for a second opinion in December 2015. After another MRI examination, Dr. Magtira declared that respondent was permanently unfit in any capacity for further sea duties.¹⁷

Respondent informed petitioner of the medical findings of Dr. Magtira through a letter dated January 19, 2015. He informed petitioner that he was willing to undergo a third medical examination to confirm his disability. However, despite receipt of the letter, petitioner did not refer the matter to a third doctor.¹⁸

The foregoing antecedents prompted respondent to file a complaint against petitioner before the National Conciliation and Mediation Board (NCMB) of the Department of Labor and Employment for payment of total permanent disability benefits, medical reimbursement, damages, and attorney's fees.¹⁹

The Ruling of the NCMB

In the Decision²⁰ dated June 20, 2017 in AC-944-RCMB-NCR-MVA-095-01-05-2016 (RCMB-NCR-MAK-NTA-01-0011-2016), the NCMB ordered petitioner to pay respondent total and permanent disability benefits in the amount of US\$129,212.00, moral damages amounting to US\$10,000.00, and 10% of the total monetary award as attorney's fees.²¹ Thus:

¹³ Id. at 231.

¹⁴ Id. at 261-286.

¹⁵ See Appendix "E" - Compensation for Disability, id. at 298.

¹⁶ Id. at 232.

¹⁷ Id. at 15.

¹⁸ Id. at 138.

¹⁹ Id. at 234 and 250.

²⁰ Id. at 136-144.

²¹ Id. at 143.

WHEREFORE, premises considered, Respondent Westminster Seafarer Management Philippines, Inc. is ordered to pay the Complainant total and permanent disability benefits in the amount of US\$129,212.00, Moral damages amounting to US\$10,000.00 and 10% Attorney's fees of the total aggregate monetary award to be paid in Philippine Currency at the exchange rate prevailing during the time of payment as provided for in the POEA SEC.

FURTHER, Respondents are hereby directed to settle the Arbitration Fee pursuant to the Collective Bargaining Agreement.

SO ORDERED.²²

In ruling for respondent, the NCMB gave credence to the findings of Dr. Magtira that respondent remained incapacitated despite continuous physiotherapy and that he was no longer capable of working at his previous occupation due to his impairment. It held that petitioner's failure to refer respondent to a third doctor pursuant to the CBA worked against its interest and showed bad faith, which entitled respondent to moral damages.²³

Petitioner sought reconsideration,²⁴ but the NCMB denied it in a Resolution dated July 20, 2017.²⁵

The Ruling of the CA

In the herein assailed Decision²⁶ dated May 6, 2019, the CA set aside the Decision dated June 20, 2017 of the NCMB and lowered the award of disability benefit in favor of respondent to US\$25,313.00.²⁷ The *fallo* of the assailed Decision reads:

WHEREFORE, premises considered, the Petition for Certiorari is GRANTED.

The Decision dated 20 June 2017 and Resolution dated 10 August 2017 of the Department of Labor and Employment (DOLE) National Conciliation and Mediation Board-Office of the Voluntary

²² Id. at 143-144.

²³ Id. at 142.

²⁴ See Motion for Reconsideration dated June 29, 2017, id. at 145-184.

²⁵ Id. at 16.

²⁶ Id. at 13-22.

²⁷ Id. at 22.

Arbitrator (NCMB) in AC-944-RCMB-NCR-MVA-095-01-05-2016 (RCMB-NCR-MAK-NTA-01-0011-2016)] are hereby SET ASIDE. Petitioner Westminster Seafarer Management Phil., Inc. is hereby ORDERED to pay to Private Respondent Arnulfo C. Raz the amount of Twenty-Five Thousand Three Hundred and Thirteen US Dollars (USD25,313.00) as Grade 9 Disability benefit, plus Attorney's Fees equivalent to ten percent (10%) of his monetary award.

Legal interest shall be computed at the rate of six percent (6%) *per annum* of the total award from date of finality of judgment until full satisfaction.

SO ORDERED.²⁸

Both parties filed their respective motions for reconsideration²⁹ of the CA Decision. However, the CA denied them in the assailed Resolution³⁰ dated September 12, 2019.

Hence, the petition before the Court that seeks to modify the Decision dated May 6, 2019 and the Resolution dated September 12, 2019 of the CA by deleting the award of legal interest and attorney's fees in favor of respondent.

The Issue

The issue to be resolved in the case is whether the CA erred in: (1) imposing 6% legal interest on the award of partial disability benefits to respondent; and (2) awarding attorney's fees in his favor.³¹

Petitioner asserts that on December 6, 2017, pursuant to the writ of execution issued by the NCMB, it conditionally satisfied the judgment award in the total amount of US\$153,133.20, which was released to respondent and his counsel in January 2018. Petitioner maintains that interest is money paid regularly at a particular rate for the use of money lent, or for delaying the repayment of a debt. In the case, there is no delay in payment because petitioner had already paid the award to respondent. Thus, petitioner submits that the CA erred when it still imposed legal interest on the total award and that its imposition is now

²⁸ Id. at 21-22.

²⁹ Partial Motion for Reconsideration filed by petitioner, id. at 63-70; Motion for Reconsideration filed by respondent, id. at 72-80.

³⁰ Id. at 24-27.

³¹ Id. at 34.

rendered moot and academic.³²

Petitioner adds that on the contrary, it is respondent who is indebted to petitioner in the amount of US\$125,288.90 representing the difference between the judgment award already satisfied by petitioner and the reduced award of US\$27,844.30 imposed by the CA in favor of respondent. Hence, petitioner insists that it is respondent who should be required to pay legal interest at the rate of 6% *per annum* on the amount of US\$125,288.90 until the time when the amount is returned to it by respondent.³³

Lastly, petitioner claims that the award of attorney's fees in favor of respondent is baseless. It avers that it is neither just nor equitable for respondent to receive an award of attorney's fees in the absence of bad faith on the part of petitioner. Having dealt with respondent in utmost good faith, there is no factual and legal justification for the award.³⁴

In his Comment to Petition for Review on *Certiorari*,³⁵ respondent counters that the accident on May 15, 2015 caused his permanent disability. His injury progressed until he could no longer tolerate the pain in his right shoulder which incapacitated him from raising his right arm. He is thus rendered unfit to work as a Fitter whose job requires carrying, lifting, and pulling heavy equipment and engine parts. Consequently, respondent maintains that he is entitled to total and permanent disability benefits as he remains to be incapacitated to perform his work as a seaman, notwithstanding the surgery and series of therapies done to him.³⁶

Respondent likewise impleaded one Susana D. Profeta (Profeta) in the latter's capacity as President of petitioner.³⁷

Further, respondent avers that under the CBA, he is entitled to the amount of US\$129,212.00 as total and permanent disability benefits as a consequence of the accident he suffered on board the vessel.³⁸ He points out that he demanded from petitioner a referral to a third doctor through

³² Id. at 35.

³³ Id.

³⁴ Id. at 36-38.

³⁵ Id. at 487-502.

³⁶ Id. at 494.

³⁷ Id. at 487-488.

³⁸ Id. at 499.

a letter, but petitioner did not respond to him despite receipt of the letter. Such failure must thus be taken against petitioner and in favor of the assessment of respondent's doctor.³⁹

As to the attorney's fees and damages, respondent submits that petitioner's deliberate disregard of his medical and financial needs only proves bad faith, which warrants the award of moral and exemplary damages in his favor.⁴⁰

In its Reply,⁴¹ petitioner points out that Profeta was never included as a party in the case. Thus, it is an error for respondent to belatedly include her as a party at the stage of the proceeding and render her solidarily liable for the judgment award. Moreover, petitioner asserts that respondent can no longer discuss the basis for his claim for benefits because this issue had already been settled when the CA dismissed his claim for permanent/total disability benefits and he did not question it before the Court.⁴²

The Court's Ruling

The Court denies the petition.

At the outset, the Court notes that there is no longer an issue as to the amount of the award to respondent. In the assailed Decision dated May 6, 2019, the CA set aside the NCMB Decision dated June 20, 2017 and lowered the award of disability benefit of respondent to US\$25,313.00.⁴³ There is nothing in the record that shows that respondent had questioned the CA Decision before the Court. In fact, in his comment to the petition, he admitted having received, through his counsel, the assailed CA Decision in May 2019 and the assailed Resolution on September 20, 2019.⁴⁴ Further, respondent did not state that he filed a petition before the Court to question the CA rulings. On the other hand, it was petitioner that filed the instant petition to question the CA Decision but only insofar as the imposition of the 6% legal interest and award of attorney's fees are concerned.

³⁹ Id. at 500.

⁴⁰ Id. at 501.

⁴¹ Id. at 515-520.

⁴² Id. at 515.

⁴³ Id. at 21-22.

⁴⁴ Id. at 492-493.

Because no party further questioned the award of disability benefit to respondent in the sum of US\$25,313.00, the amount is already deemed binding upon the parties. It then leaves the Court to decide only the issues raised in the petition—the award of attorney’s fees in favor of respondent and the imposition of 6% legal interest on the total monetary award.⁴⁵

In *Nacar v. Gallery Frames*,⁴⁶ the Court laid down the rule that when the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest shall be 6% *per annum* from such finality until its satisfaction, this interim period being deemed equivalent to a forbearance of credit.⁴⁷

In the case, petitioner alleges that the NCMB Decision dated June 20, 2017 was already executed; that pursuant thereto, petitioner paid respondent the amount of ₱7,548,241.70⁴⁸ on December 6, 2017;⁴⁹ and, that consequently, it should no longer be liable for the 6% legal interest. However, apart from its bare allegations, petitioner did not adduce any proof nor attach in the petition relevant documents in support thereof.⁵⁰

Relevant at this point is Section 4, Rule 45 of the Rules of Court, which provides:

SEC. 4. *Contents of petition.* — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, *and such material portions of the record as would support the petition*; and (e) contain a sworn

⁴⁵ Id. at 35.

⁴⁶ 716 Phil. 267 (2013).

⁴⁷ Id. at 279.

⁴⁸ *Rollo*, p. 26.

⁴⁹ Id. at 25.

⁵⁰ While petitioner claims that proof of satisfaction of payment is attached as an annex to the motion for reconsideration filed before the CA, no such document can be found in the *rollo*.

certification against forum shopping as provided in the last paragraph of section 2, Rule 42. (*Italics supplied.*)

Section 5, Rule 45 of the Rules of Court further states that the failure of petitioner to comply with any of the foregoing requirements, including the documents which should accompany the petition, shall be sufficient ground for the dismissal thereof.

The Court emphasizes that the documents which were not attached to the petition are pivotal in the case and form part of the crux of petitioner's arguments. While petitioner claims having paid the judgment award, it did not attach any document that would prove such claim or even a document that makes a reference thereto. It only averred in the petition that the judgment amount of US\$153,133.20 was released to respondent and his counsel "in January 2018."⁵¹ Verily, the Court cannot render a competent judicial pronouncement without any clear basis on record. This is especially true in the case which involves a factual claim regarding an amount of money purportedly paid and a judgment allegedly executed before the NCMB, as these are matters that cannot be based on bare allegations, surmises, or presumptions.

Thus, for lack of basis, the Court sees no reason to modify the ruling of the CA insofar as the imposition of 6% legal interest is concerned.

Anent the award of attorney's fees, considering that respondent was forced to litigate to protect his rights and interests, he is entitled to a reasonable amount pursuant to Article 2208(8)⁵² of the Civil Code of the Philippines. The Court agrees with the NCMB and the CA that payment of attorney's fees is warranted in an amount equivalent to 10% of the total amount awarded to respondent.

WHEREFORE, the petition is **DENIED**. The Decision dated May 6, 2019 and the Resolution dated September 12, 2019 of the Court of Appeals in CA-G.R. SP No. 152165 are **AFFIRMED**.

⁵¹ *Rollo*, p. 35.

⁵² Article 2208(8) of the Civil Code of the Philippines provides:

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

x x x x

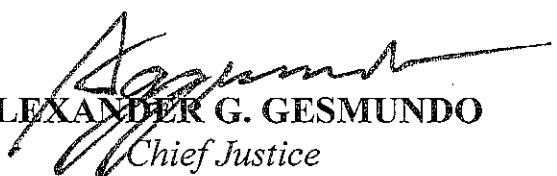
(8) In actions for indemnity under workmen's compensation and employer's liability laws;

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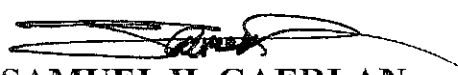
SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson