



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 27, 2020 which reads as follows:

“G.R. No. 234668 (*Grieg Philippines, Inc. v. Leonardo O. Donado*)

The Case

Petitioner Grieg Philippines, Inc. assails the Decision¹ dated October 26, 2016 and Resolution² dated September 7, 2017 of the Court of Appeals in C.A. G.R. SP No. 09062 affirming the labor tribunals’ award of total and permanent disability benefits to respondent Leonardo O. Donado.

Antecedents

Respondent Leonardo O. Donado had been working as a seafarer since September 9, 2000. He underwent both pre-employment and post-employment medical examination whenever he got assigned to board a vessel and was found fit to work every single time. He completed all his employment contracts including the two (2) nine-month contracts with Grieg Shipping Norway, represented by petitioner Grieg Philippines, Inc., a recruitment and placement agency duly licensed by the Philippine Overseas Employment Administration (POEA).³

In preparation for his third contract with petitioner, respondent submitted himself to rigid and thorough medical examination at

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¹ Penned by Associate Justice Edward B. Contreras; with the concurrence of Associate Justices Edgardo L. Delos Santos (now a member of this Court) and Geraldine C. Fiel-Macaraig; *rollo*, pp. 31-42.

² *Rollo*, pp. 43-44.

³ *Id.* at 31-32.

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petitioner's accredited clinic. On September 6, 2012, he got hired as a "FITTER/MOTORMAN" on board *M/V Star Laguna* for another nine-month contract. The scope of his work included welding inside the ship's engine room.

In December 2012, respondent started to suffer headaches, dizziness, and difficulty in breathing. He also felt his hands getting cold and feeling numb. He had difficulty breathing whenever he inhaled smoke while doing welding jobs.⁴

On February 16, 2013, respondent suffered a terrible headache while performing his duties. He was immediately brought to Sam Krausz Medical Clinic Services in Vancouver, Canada. On February 18, 2013, the attending physician diagnosed him with "Thrombocythemia" and declared him "unfit for duty."⁵ He was advised to go back home and see a hematologist.⁶ Consequently, on February 24, 2013, he got repatriated.

Upon arrival in Manila, he was admitted to the Metropolitan Medical Center Marine Medical Services. He underwent several tests under the care of petitioner's designated physician Dr. Robert D. Lim who diagnosed him with "Essential Thrombocytosis and Diabetes Mellitus". On March 3, 2013, Dr. Lim issued a medical report stating respondent's illnesses were not work-related, *viz*:

Thrombocytosis is a disorder of the bone marrow which results in autonomous production of platelets. This is not work-related and also has genetic predisposition.

Diabetes Mellitus is usually familial/hereditary and is not work-related.⁷

After he got discharged from the hospital, respondent's headaches and dizziness recurred. Necessarily, petitioner continued giving him medical assistance. He was prescribed different medicines until December 2013 and had been subjected to laboratory tests at the Metropolitan Medical Clinic until January 2014.⁸ But respondent's condition did not improve. Thus, on March 31, 2014, he was prompted to consult another physician Dr. Edna A. Medez for a second opinion. Dr. Medez concurred with the diagnosis of Dr. Lim but certified that respondent was "physically unfit" to work because he has high risk for stroke or heart attack, *viz*:

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⁴ CA rollo, p. 168.

⁵ *Id.* at 81.

⁶ Rollo, p. 32.

⁷ *Id.* at 33.

⁸ *Id.* at 41.

Mr. Leonardo Donado, 43/M/M consulted me for a second opinion regarding his medical condition. I agree with this attending physician at the Metropolitan Medical Center that he has Essential Thrombocytosis, and Diabetes Mellitus (non-insulin dependent) & hypertension.

He is at high risk of going to stroke or heart attack while on board his vessel. At this time, he is physically unfit and requires continuous medications & follow up.⁹

Believing his employment with petitioner had incapacitated him from pursuing further seafaring work, respondent filed a claim for disability benefits. Petitioner, however, denied his claim.

Thus, on March 17, 2014, respondent filed a complaint against petitioner for disability benefits, moral and exemplary damages, and attorney's fees.¹⁰

The Labor Arbiter's Ruling

In his Decision¹¹ dated July 21, 2014, Labor Arbiter Rodrigo P. Camacho found that the medical report of the company-designated physician was insufficient to rebut the presumption of compensability of respondent's illnesses. Dr. Lim did not even explain why or how he arrived at the conclusion that respondent's illnesses were supposedly not work-related despite the fact that his illnesses occurred while on board *M/V Star Laguna* during the term of his employment with petitioner.¹² More, respondent's illnesses incapacitated him from working as a seafarer for more than one hundred twenty days (120) days.¹³ Respondent's claim for total and permanent disability was, therefore, granted, *viz.*:

WHEREFORE, premises considered, judgment is hereby rendered HOLDING respondent Grieg Phils., Inc. liable to complainant Leonardo O. Donado and ORDERING said respondent to pay complainant the sum of ₱2,901,976.00, comprising his total and permanent disability benefits, moral and exemplary damages in the amount of ₱20,000.00, and ten percent (10%) attorney's fees in the amount of ₱263,816.00

Respondents Grieg Phils., Inc. is directed to deposit the said amount to the Cashier of this Sub-Arbitration Branch within ten (10) days from receipt of this Decision.

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⁹ *Id.*

¹⁰ *Id.* at 31-34.

¹¹ CA *rollo*, pp. 167-173.

¹² *Id.* at 171.

¹³ *Id.* at 34.

All other claims are denied for complainant's failure to adduce substantive evidence therefore and/or for lack of merit.

SO ORDERED.¹⁴

The NLRC's Ruling

On petitioner's appeal, the NLRC affirmed with modification through its Decision¹⁵ dated September 30, 2014, to wit:

WHEREFORE, premises considered, respondents' appeal is DISMISSED as we find no compelling reason to depart from the findings of the Labor Arbiter. The decision appealed from is hereby AFFIRMED WITH MODIFICATION reiterating the grant of total and permanent disability benefits and attorney's fees to complainant but deleting the grant of moral and exemplary damages.

SO ORDERED.¹⁶

The NLRC ruled that although Thrombocytosis and Diabetes were not listed as occupational diseases under Section 32-A of the POEA-SEC, they were disputably presumed to be work-related. Nonetheless, the presumption may be overcome by substantial evidence. Petitioner failed to do so. What petitioner presented was its bare declaration that respondent's illnesses were not work-related, nothing more. On the other hand, it was undisputed that respondent's work as a Fitter/Motorman consisted mainly of doing welding jobs inside the ship's engine room and his symptoms worsened each time he did welding jobs. He was exposed to fumes and sudden changes in temperature. More, the food served on board could have likely contributed to his Diabetes. The NLRC thus concluded that respondent's employment on board *M/V Star Laguna* contributed to some degree to the development of his illnesses. It was probable that his condition was the result of an aggravation due to exposure to chemicals and stress that accompanied his work.¹⁷ Hence, the presumption of compensability was deemed un rebutted.

It was undisputed, too, that respondent was unable to return to work as a seaman since he got medically repatriated on February 24, 2013 until he filed the complaint on March 17, 2014. His disability, therefore, had become total and permanent, for which, he was entitled

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¹⁴ *Id.* at 6-A.

¹⁵ Penned by Presiding Commissioner Violeta Ortiz-Bantug and concurred in by Commissioners Julie C. Rendoque and Jose G. Gutierrez; *CA rollo*, pp. 34-43.

¹⁶ *CA rollo*, p. 7.

¹⁷ *Id.* at 39-40.

to the corresponding benefits.¹⁸ Considering, however, that petitioner promptly attended to respondent's medical needs upon his repatriation, the award of damages was unnecessary.

Petitioner's motion for reconsideration was denied under Resolution¹⁹ dated November 20, 2014.

The Court of Appeals' Ruling

In its assailed Decision dated October 26, 2016, the Court of Appeals ruled that the findings of the labor tribunals were in accord with law and jurisprudence. Thus, no abuse of discretion, let alone, one that is grave, attended the award of total and permanent disability benefits to respondent. The award of attorney's fees, however, was deleted for lack of basis, *viz.*:

WHEREFORE, premises considered, the petition for certiorari is DENIED for lack of merit. Accordingly, the *Decision* of the NLRC is modified in that the award of attorney's fees is DELETED.

SO ORDERED.²⁰

Petitioner moved for reconsideration but was denied under Resolution²¹ dated September 7, 2017.

The Present Petition

Petitioner now seeks affirmative relief from the Court and prays that the dispositions of the Court of Appeals be reversed and set aside.

Petitioner argues that respondent failed to prove that his illnesses are work-related. Thus, the company-designated physician's findings that they are hereditary and/or genetic in nature should serve as conclusive basis for denial of his claim for disability benefits.²²

In his Comment,²³ respondent ripostes that his illnesses were work-related. He maintains he was in good health and was declared fit to work by petitioner itself when he left the Philippines. It was while working on board *M/V Star Laguna* when he first suffered his symptoms.

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¹⁸ *Id.* at 41.

¹⁹ *Rollo*, p. 31

²⁰ *Id.* at 42.

²¹ *Supra*, note 2.

²² *Rollo*, pp. 12-13.

²³ *Id.* at 113.

Issue

Are respondent's illnesses work-related and, therefore, compensable?

Ruling

We deny the petition.

At the outset, petitioner here does not question the total and permanent disability suffered by respondent because of his illnesses. It is a matter of record that respondent went through a series of laboratory tests at the Metropolitan Medical Clinic since his arrival in the Philippines on February 24, 2013 until January 2014 or for more than 240 days. Even then, company-designated physician Dr. Lim failed to issue a final and definite medical assessment of respondent's illnesses. Records further reveal that when respondent got discharged from the Metropolitan Medical Center on March 2, 2013, one Dr. Mylene Cruz-Balbon issued a medical report stating that respondent had been prescribed take home medications and had to return on March 11, 2013 for "re-evaluation" with complete blood count with platelet test.²⁴ Curiously though, on the following day, March 3, 2013, Dr. Lim issued another medical report²⁵ stating respondent's illnesses were not work-related, viz:

Thrombocytosis is a disorder of the bone marrow which results in autonomous production of platelets. This is not work-related and also has genetic predisposition.

Diabetes Mellitus is usually familial/hereditary and is not work-related.²⁶

Using this report as basis, petitioner denied respondent's claim for disability benefits. On its face, however, there was no categorical statement in Dr. Lim's medical report that respondent is fit or unfit to resume his work as seafarer. Too, Dr. Lim neither explained nor specified how he arrived at his conclusion that respondent's illnesses were not work-related.²⁷ He merely opined that a person may be genetically predisposed to suffer from Thrombocytosis and that Diabetes Mellitus is *usually* familial or hereditary. For sure, these

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²⁴ CA rollo, p. 84.

²⁵ *Id.* at 85.

²⁶ *Id.* at 33.

²⁷ See *Phil-Man Marine Agency, Inc. v. Dedace, Jr.*, G.R. No. 199162, July 4, 2018.

statements are far from being final, definite, nay, complete. On the contrary, they are equivocal and incomplete. They do not give a clear picture of the state of respondent's health.²⁸ Verily, sans a valid final and definitive assessment of respondent's illnesses from the company-designated doctors within the 120/240-day period, the law had already stepped in to consider respondent's disability as total and permanent for which he is entitled to the corresponding benefits.²⁹

At any rate, even if we consider Dr. Lim's medical report as gospel truth that respondent's illnesses were genetic or hereditary, such would not bar him from claiming disability compensation as he was clearly asymptomatic before he boarded the *M/V Star Laguna* and got subjected to strains of work.³⁰

For more than ten (10) years that he had been employed as a seafarer, respondent had not suffered any illness before.³¹ In fact, prior to boarding petitioner's vessel for the third time, he underwent the usual preliminary medical examination, was declared fit to work, and left the Philippines in good health and condition. It was only in December 2012, while performing his duties aboard *M/V Star Laguna* that he first experienced headaches, dizziness, and difficulty in breathing. He also felt his hands getting cold and feeling numb.³² We give credence to his positive assertion that these symptoms were aggravated by the heat and smoke in the ship's engine room where he usually performed his duties. As the NLRC aptly found:

On the other hand, respondents cannot wholly claim that complainant failed to prove the work-relatedness of his illness. Complainant worked as a fitter/motorman whose function consisted mainly of doing welding jobs in the ship's engine room. Around December 2012, complainant started having headaches and dizziness, his hand getting cold and numb which worsened each time he did welding jobs. Complainant also experienced difficulty in breathing when he inhaled smoke. Complainant alleges that the arduous nature of his work as Fitter/Motorman which exposed him to fumes which he inhaled when welding and

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²⁸ See *Lemoncito v. BSM Crew Service Centre Philippines, Inc.*, G.R. No. 247409, February 3, 2020.

²⁹ *Lemoncito v. BSM Crew Service Centre Philippines, Inc.*, G.R. No. 247409, February 3, 2020; *Carcedo v. Maine Marine Phils., Inc.*, 758 Phil. 166 (2015); *Libang v. Indochina Ship Management, Inc.*, 743 Phil. 286 (2014); *United Philippine Lines v. Sibig*, 731 Phil. 294 (2014); *Fil-Pride Shipping Company, Inc. v. Balasta*, 728 Phil. 297 (2014); *Magsaysay Maritime Corporation v. Lobusta*, 680 Phil. 137 (2012), and *Oriental Shipmanagement Co., Inc. v. Bastol*, 636 Phil. 358 (2010).

³⁰ See *Philsynergy Maritime, Inc. v. Gallano, Jr.*, G.R. No. 228504, June 6, 2018.

³¹ *Rollo*, pp. 59-72.

³² *CA rollo*, p. 168.

sudden changes in the temperature contributed much to his Thrombocytis. The food served on board could have likely contributed also to complainant's Diabetes Mellitus. xxxx.³³

Thus, the Court finds no compelling reason here to doubt the common finding of the labor tribunals and the Court of Appeals that respondent's illnesses were work-related or work-aggravated. In determining the compensability of an illness, it is not required that the employment be the sole factor in the growth, development, or acceleration of a claimant's illness to entitle him to the benefits provided for. It is enough that his employment had contributed, even in a small degree, to the development of the disease.³⁴ Verily, the presumption that the strenuous nature of respondent's work combined with poor diet while at sea had caused his illnesses, if not, contributed to a certain degree to their aggravation, stands. Petitioner failed to adduce evidence to prove otherwise. Respondent's illnesses are, therefore, compensable.

We reinstate the award of attorney's fees considering that respondent was clearly compelled to litigate to enforce what was rightfully due him.³⁵ Finally, in line with prevailing jurisprudence, all monetary awards due to respondent shall earn legal interest at the rate of six percent (6%) per annum from finality of this Resolution until fully paid.³⁶

WHEREFORE, the petition is **DENIED**. The Decision dated October 26, 2016 and the Resolution dated September 7, 2017 of the Court of Appeals in C.A. G.R. SP No. 09062 are **AFFIRMED with MODIFICATION**.

Petitioner Grieg Philippines, Inc. is ordered to **PAY** respondent Leonardo O. Donado the following:

1. Two Million Nine Hundred One Thousand Nine Hundred Seventy-Six Pesos (₱2,901,976.00) representing total and permanent disability benefits;
2. Ten percent (10%) of the total monetary award as attorney's fees; and

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³³ *Rollo*, p. 77.

³⁴ *Skippers United Pacific, Inc. v. Lagne*, G.R. No. 217036, August 20, 2018.

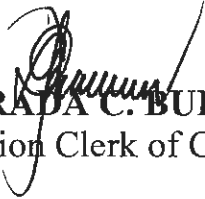
³⁵ *Teodoro v. Teekay Shipping Philippines, Inc.*, G.R. No. 244721, February 5, 2020.

³⁶ *Id.*

3. Interest on these amounts at six percent (6%) *per annum* from finality of this resolution until fully paid.³⁷

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *mub*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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³⁷ *Jessie C. Esteva v. Wilhelmsen Smith Bell Manning, Inc., et. al.*, G.R. No. 225899, July 10, 2019.