



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **08 July 2020** which reads as follows:

“G.R. No. 248286 (*Knutsen Philippines, Inc. and/or Knutsen España Overseas S.L. And Bryant C. Arcilla v. Jose A. Negrido, Jr.*) – The Court resolves to **GRANT** respondent’s motion for extension of fifteen (15) days from December 27, 2019 within which to file comment on the petition for review on *certiorari*, and to **NOTE** aforesaid comment dated January 10, 2020 in compliance with the Resolution dated October 14, 2019.

Considering the Petition for Review on *Certiorari*¹ filed under Rule 45 of the Rules of Court and the Comment² respectively filed by the parties, the Court resolves to **DENY** the instant Petition for *Certiorari*³ for failure of Knutsen Philippines, Inc., Knutsen España Overseas S.L., and Bryant C. Arcilla (petitioners) to show that the Court of Appeals (CA) committed any reversible error in dismissing their petition for *certiorari*.⁴

Petitioners argue that Jose A. Negrido, Jr.’s (respondent) complaint for permanent/total disability benefits should have been dismissed outright considering that respondent deliberately abandoned his medical treatment, *i.e.*, he did not appear for his scheduled medical check up on January 19, 2015 without any valid excuse.⁵

The Court denies the petition.⁶

¹ *Rollo*, pp. 29-61.

² *Id.* at 531-570.

³ *Id.* at 8-27.

⁴ *Id.* at 29-61.

⁵ *Id.* at 36.

⁶ *Id.* at 29-61.

The Court finds that petitioners' argument is factual in nature. However, the Court is not a trier of facts; factual findings of the labor tribunals when affirmed by the CA are generally accorded not only respect, but even finality, and are binding on this Court.⁷ While this rule is subject to exceptions, the Court does not find any reason to deviate from the findings of the CA.

As explained by the CA which affirmed the findings of the Panel of Voluntary Arbitrators, since respondent was medically repatriated on September 6, 2014, the company-designated physician should have given his assessment as to respondent's condition by January 3, 2015 or on the 120th day from the time respondent was medically repatriated. Regrettably, after a series of medical procedures and follow-up check ups, the company-designated physician did not issue any assessment.

For the period within which to give an assessment to be extended from 120 days to 240 days, the company-designated physician must be able to give a sufficient justification for the extension.⁸ Otherwise, under the law, the seafarer must be granted the relief of permanent and total disability benefits.⁹

Here, as found by the CA, there was no sufficient explanation given by petitioners' company-designated physician if there was a need to extend respondent's treatment. Instead, respondent was only advised to return to the company-designated physician on a particular date without any explanation of his diagnosis. Furthermore, it was only on January 8, 2015 that petitioners gave respondent a disability rating of Grade 7 under the CBA, albeit without any explanation for such findings.

Thus, as correctly ruled by the CA, for failure of the company-designated physician to issue a final and definitive assessment within the original 120-day period, respondent, by operation of law, is considered as having a total and permanent disability.

Lastly, respondent is entitled to the payment of attorney's fees considering that he was compelled to litigate to be entitled to a higher disability benefit and considering that the present case involves an action

⁷ *Nahas v. Olarte*, 734 Phil. 569 (2014).

⁸ *Elburg Shipmanagement Phils., Inc. et al. v. Quiogue*, 765 Phil. 341, 362 (2015), as cited in *Aldaba v. Career Philippines, Ship-management, Inc.*, 811 Phil. 486 (2017).

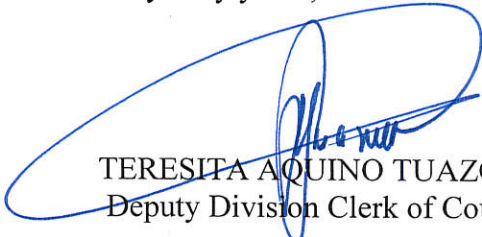
⁹ *Elburg Shipmanagement Phils., Inc. et al. v. Quiogue*, *supra*.

for indemnity under workmen's compensation and employer's liability laws.¹⁰

WHEREFORE, the petition is **DENIED**. The Decision dated December 20, 2018 and the Resolution dated July 11, 2019 of the Court of Appeals in CA-G.R. SP No. 146203 are **AFFIRMED**.

SO ORDERED." (GAERLAN, J., designated as additional member, per Special Order No. 2780 dated May 11, 2020).

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *Utah 8/28*

¹⁰ Art. 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.

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

x x x x.

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

x x x x.

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