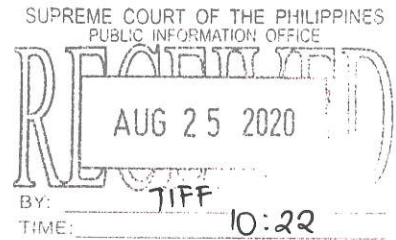




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 8, 2020** which reads as follows:*

“G.R. No. 205861 – WALLEM MARITIME SERVICES, INC., et al., v. ROMEO C. CARRERA

Petitioners Wallem Maritime Services, Inc., et al. assail the Decision¹ dated September 27, 2012 and Resolution² dated February 8, 2013 of the Court of Appeals in CA-G.R. SP No. 116945 declaring respondent to be entitled to permanent and total disability benefits in the amount of US\$60,000.00.

Antecedents

Respondent Romeo C. Carrera filed a complaint for permanent disability benefits under the Collective Bargaining Agreement³ (CBA), sickness allowance, damages, attorney’s fees and other benefits. He essentially alleged:

Petitioner Wallem Maritime Services, Inc. on behalf of its principal Newfront Shipping S.A. hired him as chief cook on board the vessel M/V Grand Rodosi. On December 24, 2009, he was cooking food for the Christmas Eve meal when hot oil splashed into his eyes. The ship doctor treated him and advised him to take a rest. Under Medical Report dated April 1, 2009, he was found to be at risk for eye cataract. He requested medical attention but was informed he could not be brought to a hospital because his vessel’s local agent in China suspended their services due to non-payment for previous operations. He continued to work despite his injury.

- over – seven (7) pages ...

¹ *Rollo*, pp. 14-27.

² *Id.* at 166-167

³ International Transport Workers Federation IMEC/IBF CBA.

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On June 18, 2009, he and his fellow crew got repatriated. On June 19, 2009, he immediately reported his medical condition and petitioner's failure to extend medical attention to him. He was referred to the company-designated physician, Dr. Ramon Estrada who issued his Medical Report dated June 25, 2009,⁴ viz.:

June 25, 2009

Atty. Ludivina Araga-Roque
Legal Counsel
Wallem Maritime Services, Inc.
Re: CCK ROMEO C. CARRERA
53 years old, seaman
MV GRAND RODOSI
Initial Medical Report

Dear Atty. Roque,

Mr. Romeo C. Carrera, 53 year old seafarer, sought consult in my office last June 23, 2009. According to Mr. Carrera, his condition started last December 2008 when his eyes accidentally got in contact with hot fumes and smoke during work on board as a cook. He then noticed gradual blurring of vision over the next few weeks. He will be referred to the eye specialist, Dr. Cesar Espiritu for ophthalmological evaluation and co-management. Cataract[s] are classified into several types and includes age-related/senile cataract (most common), childhood or congenital, cataract due to systemic diseases and traumatic type cataract. The traumatic type of cataract is usually due to blunt or penetrating trauma to the eye due to foreign body, arrows, BB/pellet gun, rock particles. Given his medical history and evaluation, this type is classified as age-related cataract. Mere exposure to hot fumes and smoke during work on board as Chief Cook is not considered a traumatic-type of cataract. The condition is therefore categorized as not work-related. The approximate length of treatment is 6-8 weeks. He was instructed to follow-up with me after his appointment with Dr. Espiritu within the week. Diagnosis: Cataract, bilateral. I will keep you posted on his progress.

Sincerely,

(signed)
Ramon S. Estrada, M.D.

Upon receipt of the letter, petitioner discontinued his medical treatment.⁵ He, nonetheless, pursued his referral for ophthalmological evaluation with Dr. Cesar Ramon G. Espiritu. Under Medical

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97

⁴ *Rollo*, p. 192.

⁵ *Id.* at 172-188.

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Certificate⁶ dated June 29, 2009, Dr. Espiritu diagnosed him with “*posterior subscapular cataract (P5), Ou*” and advised him to undergo cataract surgery for both eyes, viz.:

MEDICAL CERTIFICATE

This is to certify that Mr. Romeo Carrera consulted me on June 29, 2009. My findings are the following: Posterior Subscapular Cataract (P5), Ou.

My recommendations are:

Mr. Romeo Carrera has been advised to have cataract surgery for both eyes (the right eye has worse vision and should be done first).

For further clarification or further details please contact me at Manila Doctors Hospital.

(signed)
Cesar Ramon G. Espiritu

Meanwhile, he consulted his physician of choice Dr. Rimando C. Saguin. By Medical Certificate dated October 29, 2009, Dr. Saguin diagnosed him with cataract on both eyes:

Date: 10/29/09

This is to certify that Romeo Carrera
Sex: M Status: M Citizenship: Fil
Occupation: Seafarer (Chief Cook), was consulted at RC Saguin Orthopedic Clinic under my service during the period from 10/29/09 to ____ for the following diagnosis: Cataract both eyes.
Surgical Intevention: _____. Patient’s condition on discharge:
_____.

Remarks: Due to worsening condition ® eye he can not work as seafarer in any capacity if his eye problem is aggravated by his work.

Disability: Total Temporary Partial Permanent
 Partial Temporary Total Permanent (Box Checked)

(signed)
Rimando C. Saguin M.D., M.H.A.

Petitioner, on the other hand, countered that it facilitated the repatriation of respondent and other Filipino crew due to alleged inadequate provisions and other employment irregularities. Upon

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97

⁶ *Id.* at 218.

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arrival here on June 19, 2009, respondent requested for post-employment medical assistance. He was referred to the company-designated physician who, in his medical report, found respondent's condition to be not work-related. No evidence was allegedly presented to substantiate his claim that oil accidentally splashed into his eyes resulting in his eye ailment.⁷

The Labor Arbiter's Ruling

By Decision⁸ dated January 4, 2010, Labor Arbiter Renaldo O. Hernandez ordered petitioner to pay respondent US\$118,800.00 as full disability compensation under the CBA. It held that respondent's illness was work-related, a traumatic type of cataract as there was credible factual basis that the injury occurred during the term of the contract. Respondent's cataract cannot be age-related as the company-designated physician did not even explain in the medical report how the cataract could be classified as an age-related condition. The injury resulted in his permanent total disability as he could no longer perform the same kind of work.

The NLRC Ruling

On appeal, the NLRC reversed. It held that there was no evidence of accidental splashing of hot oil into respondent's eyes. Thus, the finding of the company-designated physician that respondent's illness was not work-related should be given weight.⁹ Respondent's motion for reconsideration was denied per Resolution¹⁰ dated September 23, 2010.

The Court of Appeals' Ruling

By its assailed Decision¹¹ dated September 27, 2012, the Court of Appeals reversed the NLRC ruling and reinstated the labor arbiter's decision, albeit the award was reduced to US\$60,000.00. It concurred with the labor arbiter's findings that respondent's cataract was work-related. Verily, it was probable that hot oil got splashed into his eyes while he was doing his job as chief cook. As such, he was exposed to fire, hot fumes, and smoke for long hours. The monetary award, however, should not be computed based on the CBA as respondent failed to present evidence of any accident on board the ship. In the

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97

⁷ *Id.* at 172-189.

⁸ *Id.* at 316-332.

⁹ *Id.* at 430-443.

¹⁰ *Id.* at 484-485.

¹¹ *Id.* at 14-26.

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absence of applicable CBA provisions, the POEA – SEC,¹² therefore, governs respondent’s entitlement to permanent total disability.

Both petitioner¹³ and respondent¹⁴ filed their respective motions for reconsideration but the same were denied per Resolution¹⁵ dated February 8, 2013.

The Present Petition

Petitioner now prays for the Court to review and reverse the Court of Appeals’ dispositions. It avers that respondent’s illness is age-related, rather than work-related.¹⁶

In his Comment,¹⁷ respondent maintains that his illness is work-related. He pleads that the Court of Appeals’ award of permanent total disability of US\$60,000.00 be modified and increased to US\$118,000.00 pursuant to the CBA.

Issue

Is petitioner’s challenge against the award of permanent total disability to respondent meritorious?

Ruling

The Court resolves to **DENY** the petition for failure to sufficiently show that the Court of Appeals committed reversible error in rendering its assailed dispositions as to warrant the exercise of the Court’s discretionary appellate jurisdiction.

Petitioner presents as sole issue: Is eye cataract a work-related ailment insofar as respondent’s work as chief cook is concerned? Surely, this is a factual issue which requires a recalibration and appreciation anew of the evidence on record.

Under Rule 45 of the Rules of Court though, the Court will not review the factual determination of the administrative bodies governing labor, as well as that of the Court of Appeals. For such factual determination is conclusive and binding upon the Court. As such, the Court will not analyze and weigh the evidence anew.¹⁸

- over -

97

¹² Philippine Overseas Employment Administration – Standard Employment Contract

¹³ *Rollo*, pp. 83-102.

¹⁴ *Id.* at 104-123.

¹⁵ *Id.* at 166-167.

¹⁶ *Id.* at 33-61.

¹⁷ *Id.* at 682-694.

¹⁸ See *Protective Maximum Security Agency, Inc. v. Fuentes*, 753 Phil. 482, 504 (2015).

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To emphasize, Dr. Estrada, the company-designated physician, failed to issue a final and definite medical assessment of respondent's ailment. What Dr. Estrada issued was simply an opinion that respondent's eye cataract was classified as age-related and not work-related. He only opined that exposure to hot fumes and smoke is not considered a traumatic type of cataract. At the same time though, he referred respondent to an ophthalmologist for evaluation and management. Thereafter, Dr. Estrada advised respondent to follow-up with him. As they stand, these statements were far from being final, definite, nay complete. They are rather equivocal, incomplete, if not provisional. And it remained to be so even after the lapse of the 120-240 day period reckoned from the date of respondent's repatriation on June 18, 2009.¹⁹

Thus, respondent is rightfully entitled to permanent total disability benefits. For he would not be able to resume his position and the probability that he would be hired by other maritime employers would be close to nil. Verily, a sight-impaired maritime applicant cannot stand in the same footing as his healthy co-applicant.²⁰

At any event, the Court of Appeals correctly awarded attorney's fees of ten percent (10%) of the total monetary award in accordance with Article 2208²¹ of the New Civil Code.

Finally, the monetary award shall earn legal interest at six percent (6%) *per annum* from the date of finality of this resolution until full payment.²²

WHEREFORE, the petition is **DENIED** and the Decision dated September 27, 2012 and Resolution dated February 8, 2013 of the Court of Appeals in CA-G.R. SP No. 116945, **AFFIRMED** with **MODIFICATION**, imposing legal interest of six percent (6%) *per annum* on the total monetary award from finality of this resolution until fully paid.²³

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97

¹⁹ In *Pastor v. Bibby Shipping Philippines, Inc.*, petitioner's disability was, by operation of law, deemed total and permanent for failure of the company-designated physician to timely issue a final medical assessment of petitioner's disability within the two-hundred forty (240) day extended treatment period. The Court further held that the third doctor referral would not find application. (G.R. No. 238842, November 19, 2018).

²⁰ See *Fil-Star Maritime Corp., et al v. Rosete*, 677 Phil. 262-274 (2011).

²¹ **Article 2208.** In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except: xxx xxx xxx
(8) In actions for indemnity under workmen's compensation and employer's liability laws; xxx xxx xxx

²² See *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013).

²³ *Id.*

W/A

SO ORDERED.”

Very truly yours,

LIBRADA C. BUENA
Division Clerk of Court

by:



MARIA TERESA B. SIBULO
Deputy Division Clerk of Court *idct*

97

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