

SECOND DIVISION

[G.R. No. 230919, January 20, 2021]

**BLUE MANILA, INC. AND/OR OCEANWIDE CREW MANILA, INC.,
PETITIONERS, VS. ANTONIO R. JAMIAS, RESPONDENT.**

[G.R. No. 230932, January 20, 2021]

**ANTONIO R. JAMIAS, PETITIONER, VS. BLUE MANILA, INC.
AND/OR OCEANWIDE CREW MANILA, INC., RESPONDENTS.**

D E C I S I O N

LOPEZ, J.:

Must the seafarer's ailment be a necessary consequence or directly connected to the cause of medical repatriation to be compensable? The Court shall resolve this issue in these Petitions for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, assailing the Court of Appeals' (CA) Decision^[2] dated September 9, 2016 and Resolution^[3] March 29, 2017 in CA-G.R. SP No. 133729.

ANTECEDENTS

Petitioners Blue Manila, Inc. (Blue Manila), and/or Oceanwide Crew Manila, Inc. (G.R. No. 230919), are the former and present manning agents of Wagenborg Crewmanagement BV (Wagenborg)/The Netherlands, owner of the vessel *M/V Kwintebank*. Seafarer Antonio R. Jamias (Jamias) worked for petitioners since 1998. In February 2011, he was rehired as Cook AB by Blue Manila under a 6-month contract,^[4] which is covered by the Collective Bargaining Agreement (CBA) between Associated Marine Officers' and Seamen's Union of the Philippines and Wagenborg.^[5] After passing the mandatory Pre-Employment Medical Examination (PEME), Jamias boarded *M/V Kwintebank*. Jamias alleged that as a cook, he was tasked to: (1) prepare and cook food for the officers and crew, including desserts and pies; (2) maintain cleanliness in work areas, equipment, kitchen tools, and cold rooms; (3) clean, wash and paint the gallery, kitchen, and store rooms as scheduled, as well as sweep garbage disposed from the freezers daily; (4) receive food stores or provisions delivery and bring it inside to be arranged in the walk-in freezers; (5) paint and chip rust on deck and superstructure of the ship; (6) deckhand on various repairs and maintenance works on deck; and (7) perform other work required by his superiors. His duties involve constant strenuous manual work like pushing, lifting, and carrying heavy provisions on board the vessel. In August 2011, while doing his usual work on board the vessel, Jamias claimed that he had a bout of coughing which triggered pain in his umbilical area. Then, as he was lifting 2 sacks of potatoes, he felt excruciating pain as if something snapped at his waist area. He rested and waited for the pain to subside before finishing his task of carrying food provisions for the ship.^[6]

A few days later, Jamias complained of abdominal pain in the umbilical area, with the pain extending to his left side.^[7] The ship captain ordered that he be brought to Telemark Hospital in Norway, where he was diagnosed with constipation and umbilical hernia. Upon recommendation of the offshore doctor, Jamias was signed off the vessel. He was subsequently repatriated to Manila on August 24, 2011,^[8] and was admitted at the Manila Doctor's Hospital. On August 25, 2011, the company-designated doctor ordered him to undergo Magnetic Resonance Imaging (MRI) of the lumbosacral spine, the result of which was reflected in the Radiographic Report, as follows:

IMPRESSION:

Disc desiccation and diffuse disc bulge with focal broad-based central disc protrusion causing mild central canal and mild left foraminal stenoses, L5-S1.

Degenerative osseous changes.^[9]

On September 24, 2011, Jamias had surgery for his umbilical hernia which cleared up his abdominal pain. Despite of this, Jamias claimed that his lower back pain persisted. The company-designated physician dismissed this as something attributable to aging and declared him fit-to-work as of November 12, 2011.^[10] Still, Jamias went to the local manning office to request that his back pain be medically evaluated. Instead, the manning agent allegedly told him to submit himself to a PEME on November 15, 2011.^[11] Came January 2012, Jamias wrote two letters^[12] to petitioners asking that his back condition be evaluated. He did not receive any reply from petitioners leading him to consult Dr. Renato P. Runas (Dr. Runas), an orthopedic specialist. Dr. Runas declared that Jamias' lower back pain was due to the presence of a "*central broad-based disc herniation*,"^[13] a Grade 8 disability under the Philippine Overseas Employment Administration (POEA) Contract. He described the impediment as moderate rigidity or 2/3 loss of motion or lifting power of the trunk. Since Jamias' job as cook involves carrying heavy provisions and food supplies, Dr. Runas declared that his impediment renders him unfit to resume his occupation on board the vessel.^[14] Jamias resorted to Voluntary Arbitration and demanded payment of disability benefit from petitioners.

On the other hand, petitioners refused to acknowledge any liability for Jamias' back ailment. Petitioners contended that prior to his repatriation in August 2011, Jamias' only complaint was abdominal pain, but not back pain. He was diagnosed with constipation and umbilical hernia in an offshore hospital, and these conditions were medically resolved after his September 2011 surgery in Manila. As for the back pains, petitioners alleged that Jamias never complained about this during the time that he was under the care of the company-designated physician. Also, the back ailment was not disclosed by Jamias in his subsequent PEME conducted in November 2011. These circumstances, according to petitioners, freed them from any liability for Jamias' subsequently acquired back illness.

THE PANEL OF VOLUNTARY ARBITRATORS' RULING

Faced with conflicting claims, the Panel of Voluntary Arbitrators (PVA) of the National Conciliation and Mediation Board, Department of Labor and Employment, ordered Jamias to submit himself to an examination by a third doctor. For this purpose, the

parties were required to submit 3 names of qualified physicians. From the list of the nominees, the parties chose Dr. Samuel M. Grozman (Dr. Grozman). The issue to be determined by Dr. Grozman was limited to whether Jamias' broad-based herniated disc at L5-S1 which is causing the low back pain, is a necessary consequence, or even remotely related to his umbilical hernia that had already been medically resolved.^[15] Dr. Grozman disclosed his findings in the medical certificate dated August 2, 2013, and we quote:

Mr. Antonio R. Jamias was seen at my clinic last July 12, 2013 for low back pain. The patient claims to have had this pain since August 2011. On examination he has severe limitation of truncal flexion and extension. Both lower extremities were graded 5/5 and he had equivocal straight leg raising test.

My impression was low back pain with radiculopathy 2° to Degenerative Disc Disease, L5-S1. I confirmed my diagnosis with a repeat MRI and an EMG NCV study.

I was asked to comment on one issue:

"Whether (complainant's) broad based herniated disc at LS-S1 which is causing the moderate or low back pain is a necessary consequence or even remotely related to his umbilical hernia that had already been medically resolved".

To my knowledge there is no reported literature of an umbilical hernia that can cause a broad based herniated disc.

This certificate is issued upon the request of the patient.^[16]

After considering Dr. Grozman's medical report and the pleadings submitted by the parties, the PVA issued an Award^[17] in favor of Jamias, thus:

WHEREFORE, award is hereby rendered directing respondents Blue Manila, Inc. and/or Oceanwide Crew Management, Inc. to jointly and severally pay complainant Antonio R. Jamias, the amount of US Eighty Thousand Dollars (US\$80,000.00) or its peso equivalent at the time of payment as disability benefits plus ten percent (10%) thereof as attorney's fees.

All other claims are **DISMISSED** for lack of merit.

SO ORDERED.^[18]

Aggrieved, petitioners went to the CA to question the PVA's Award, as well as the Order^[19] dated December 26, 2013, which denied their motion for reconsideration.

THE COURT OF APPEALS' RULING

In its September 9, 2016 Decision,^[20] the CA held that although Jamias was medically repatriated because of his umbilical hernia, petitioners cannot deny that the seafarer also complained of his back ailment. The CA noted that within the 3-day period after his repatriation, Jamias was seen by the company-designated physician and the latter immediately ordered a lumbosacral MRI. The results of the

MRI revealed that Jamias had: "*Disc dessication [sic] and diffuse disc bulge with focal broad-based central disc protusion causing mild central canal and mild left foraminal stenoses, L5-S1.*"^[21] The CA ruled that the MRI belied petitioners' claim that Jamias complained of a back ailment way beyond the termination of his employment contract, or only when he asked for a medical reassessment in January 2012.

The CA also observed that it was erroneous for the PVA to limit the third doctor's determination to the sole issue of "*whether respondent's broad based herniated disc at L5-S1 which is causing the moderate to low back pain is a necessary consequence or even remotely related to his umbilical hernia that had already been medically resolved.*"^[22] In doing so, the third doctor's evaluation did not satisfy the standard required under the POEA-Standard Employment Contract (POEA-SEC) and the CBA in assessing the true state or condition of the seafarer. Considering that the third doctor who reexamined Jamias failed to give the corresponding impediment rating which would be the basis for the grant of disability benefits, the CA set aside the PVA's Award, thus:

WHEREFORE, in light of the foregoing, the award of the Panel of Voluntary Arbitrators dated 8 November 2013 is **SET ASIDE**. In order to finally determine respondent's entitlement to disability benefits, the parties are enjoined to comply with the provisions of the CBA and POEA-SEC pertaining to the appointment of a third doctor whose assessment shall be final and binding between the parties.

SO ORDERED.^[23]

Petitioners and Jamias each sought reconsideration, but their motions were denied in the Resolution^[24] dated March 29, 2017, wherein the CA clarified that:

The Court resolves to deny the Motions for Reconsideration filed by the parties for raising arguments and issues which were already passed upon.

The Court, however, would like to clarify that, for obvious reasons, a re-examination of Respondent's condition at this stage is unnecessary. Besides, the third doctor appointed by the parties, Dr. Samuel Grozman, has already examined Respondent as evidenced by the Medical Certificate dated 2 August 2013. In order to fully comply with the procedure agreed upon by the parties in their CBA as well as the POEA SEC, the third doctor, Dr. Samuel Grozman, need only give a disability grading assessment which shall then be final and binding on both parties in accordance with the CBA, the POEA SEC and prevailing jurisprudence.

WHEREFORE, the Motions for Reconsideration respectively filed by the parties in this case are hereby **DENIED** for lack of merit.

SO ORDERED.^[25] (Citation omitted.)

Hence, this recourse.

In **G.R. No. 230919**, petitioners argue that Jamias' claim for disability benefits was premised on a back ailment that he suffered after the term of his employment. Also, the seafarer's "broad-based herniated disc" cannot be considered as work-related as

this condition is degenerative in nature, or part of the natural aging process. The CA cannot conveniently assume that the back illness is work-related just because the company-designated physician ordered an MRI to be performed on Jamias within the 3-day period following his repatriation. Jamias never made any complaints for back pain while on board the vessel. They insist that the MRI was only a routine test to determine the seafarer's condition and the medical plan of management.

Petitioners further contend that, even assuming that the back ailment can be considered work-related, and therefore, compensable, the seafarer's own physician only gave him a Grade 8 (33.59%) disability assessment under the POEA-SEC. This means that Jamias may only recover the maximum amount of US\$26,872 (33.59% x US\$80,000, the maximum amount under the CBA).

Anent the CA's order for reevaluation by a third doctor, petitioners maintain that this is no longer feasible and will greatly prejudice them. Jamias allegedly suffered a back ailment in 2011. At present, his condition may have worsened due to aging, or activities unrelated to his previous employment, or other injuries which he may have sustained during the pendency of the case. Besides, petitioners stress that the final opinion of the third doctor chosen by the parties already confirmed that Jamias' back condition is not all related to the cause of his repatriation – the umbilical hernia, which was completely cured after his surgery. The surgery for his hernia was disclosed by Jamias in his subsequent PEME performed in November 2011, yet he did not mention anything about the existence of his supposed back ailment. Petitioners, thus, pray that the seafarer's claim for disability be dismissed.

Meanwhile, in **G.R. No. 230932**, Jamias remains firm that the compensability of his back injury was correctly upheld by the CA. Consequently, he insists that even if the third doctor failed to give a disability grading for his back injury based on the POEA-SEC schedule, he is still entitled to full disability benefits. He continues to suffer from "low back pain with radiculopathy 2° to Degenerative Disc Disease, L5-S1,"^[26] and the existence of his illness was confirmed by the third doctor, Dr. Grozman. Since the company-designated doctor failed to issue, at the outset, any assessment as to his fitness to work, or extent of his disability regarding his back injury, the law steps in to consider his disability to be permanent and total. Jamias concludes that any disability grading at this point, whether it be from the company-designated physician, or the third doctor, will no longer change the fact that his temporary total disability had lapsed into a total and permanent disability.

THE COURT'S RULING

In our jurisdiction, a seafarer may claim disability benefits arising from (1) an injury or illness that manifests, or is discovered **during the term of the seafarer's contract**, which is usually while the seafarer is still on board the vessel; or (2) an illness that manifests, or is discovered **after the contract**, which is when the seafarer has disembarked from the vessel. If the illness or injury falls under the first scenario, the procedure as to how the seafarer can legally demand and claim disability benefits from the employer/manning agency under Section 20 (A) of the 2010 POEA-SEC^[27] applies.^[28]

Section 20 (A) of the 2010 POEA-SEC is deemed incorporated in every seafarer's contract of employment,^[29] and provides that: