

THIRD DIVISION

[G.R. No. 208981, February 01, 2021]

C.F. SHARP CREW MANAGEMENT, JAMES FISHER TANKSHIP LTD., AND/OR MR. RAFAEL T. SANTIAGO, PETITIONERS, VS. JIMMY G. JAICTEN, RESPONDENT.

DECISION

HERNANDO, J.:

Challenged in this Petition for Review on *Certiorari*^[1] is the January 22, 2013 Decision^[2] and August 30, 2013 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 119017 which affirmed the November 30, 2010 Decision^[4] and February 11, 2011 Resolution^[5] of the National Labor Relations Commission (NLRC) in NLRC LAC No. OFW (M) 06-000458-10/NLRC NCR OFW Case No. (M)-09-12773-09.

The NLRC found petitioners C.F. Sharp Crew Management (C.F. Sharp) and James Fisher Tankship, Ltd. (JFTL) jointly and severally liable to pay disability benefits to respondent Jimmy G. Jaicten (Jaicten) amounting to US\$60,000.00 plus 10% thereof as attorney's fees.^[6]

The Antecedents:

In his complaint for disability benefits, moral damages, exemplary damages and attorney's fees, Jaicten alleged that he was employed on April 30, 2008 by C.F. Sharp, for and in behalf of its foreign principal JFTL, as a Bosun on board M/V Cumbrian Fisher for nine months. He was declared fit to work during his pre-employment medical examination.^[7]

However, on October 5, 2008, he suffered chest pains which lasted for two days and was brought to the Belfast City Hospital in Ireland, United Kingdom where he was diagnosed with non-ST myocardial infarction. He underwent coronary arteriography and balloon dilation with stenting. After his discharge from the hospital, he was repatriated on October 30, 2008 and referred to Sachly International Health Partners Clinic (SIHPC).^[8]

On January 7, 2009, the company-designated physician certified Jaicten as fit to work. He sought the medical opinion of his doctor of choice, Dr. Efren Vicaldo (Dr. Vicaldo) of the Philippine Heart Center, who declared him unfit to resume sea duties. Hence, Jaicten filed a complaint for payment of total and permanent disability benefits, moral damages, exemplary damages and attorney's fees.^[9]

Petitioners argued that respondent is not entitled to permanent and total disability benefits. They claimed that the company-designated physician, Dr. Susannah Ong-Salvador (Dr. Ong-Salvador), had already declared Jaicten to be fit to resume sea duties. Jaicten himself even signed the Certificate of Fitness to Work. He was then lined up for re-employment. However, eight months from being cleared to resume to work, Jaicten filed a claim for disability benefits.

^[10]

Ruling of the Labor Arbiter (LA):

The LA dismissed^[11] Jaicten's complaint and found him not entitled to disability benefits. The LA noted that Jaicten himself agreed and confirmed his fitness to work when he signed the Certificate for Fitness to Work which barred him from claiming disability benefits. The LA further sustained petitioners' claim that when Jaicten re-applied for employment and underwent another pre-employment medical examination, he was found to be fit for sea duties and for which reason he was already lined up for deployment. The LA also held that petitioners are not obliged to rehire Jaicten since his employment was contractual in nature.

Ruling of the NLRC:

The NLRC reversed the ruling of the LA and granted respondent Jaicten's claim for disability benefits. The NLRC gave credence to Dr. Vicaldo's medical opinion that respondent is suffering from a permanent disability due to his elevated blood pressure. The NLRC noted that Dr. Vicaldo's assessment is consistent with the assessment of the company-designated physician that Jaicten must continue to take his medications even after undergoing surgical intervention.^[12]

Moreover, Jaicten's signing of a *pro-forma* Certificate of Fitness to Work did not negate his non-deployment by petitioners. According to the NLRC, respondent's lingering hypertensive cardiovascular disease and the fact that an artificial device is attached to his coronary system entitled him to permanent and total disability benefits in the amount of US\$ 60,000.00 and 10% thereof as attorney's fees.^[13]

Petitioners' motion for reconsideration was denied by the NLRC in its February 11, 2011 Resolution.^[14]

Ruling of the CA:

The appellate court dismissed the Petition for **Certiorari** filed by the petitioners and affirmed the ruling of the NLRC granting permanent and total disability benefits to Jaicten. It ruled that respondent's medical condition bars him from returning to his job as a seafarer. The CA held that petitioners' failure to redeploy Jaicten despite having been declared as fit to work by the company-designated doctors meant that his disability was permanent and total.^[15]

The appellate court gave more weight to the findings of Dr. Vicaldo. It found the medical opinion of the company-designated doctors biased and questionable. While respondent's non-deployment did not mean disability on his part, his waiting time for such a long period of 11 months from repatriation, puts in doubt petitioners' claim that he was fit to work.^[16]

Moreover, the CA held that the Certificate of Fitness to Work signed by Jaicten himself did not controvert the fact that he was suffering from hypertensive cardiovascular condition which diminished or impaired his earning capacity as he could no longer work as a seafarer. The records show that Jaicten was never rehired by petitioners nor by any other employer.^[17]

Petitioners' bid for reconsideration proved futile when it was denied by the appellate court in its August 30, 2013 Resolution.

Hence, this Petition.

Issue

Whether or not Jaicten is entitled to permanent total disability benefits and attorney's fees.

Our Ruling

We find the Petition meritorious.

Section 20[B] of the 2000 Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC) which incorporated the 2000 Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels provides:

Section 20 [B]. Compensation and Benefits for Injury or Illness. -

x x x x

2. x x x

However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time as he is declared fit or the degree of his disability has been established by the company-designated physician.

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of his permanent disability has been assessed by the company-designated physician, but in no case shall this period exceed one hundred twenty (120) days.

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the employer and the seafarer. The third doctor's decision shall be final and binding on both parties.

Settled is the rule that the company-designated physician is tasked with assessing the seafarer's disability, whether total or partial, due to either injury or illness, during the term of the latter's employment.^[18] However, his or her assessment is not automatically final, binding or conclusive on the claimant, the labor tribunal or the courts^[19] as its inherent merits would still be weighed and duly considered. Moreover, the seafarer has the right to dispute such assessment by consulting his own doctor. In addition, in case of disagreement between the findings of the company-designated physician and the seafarer's doctor of choice, both parties may agree to jointly refer the matter to a third doctor whose decision shall be final and binding on them.