

## SECOND DIVISION

[ G.R. No. 228470, April 23, 2018 ]

**LOADSTAR INTERNATIONAL SHIPPING, INC., PETITIONER, VS. ERNESTO AWITEN YAMSON, SUBSTITUTED BY HIS HEIRS GEORGIA M. YAMSON AND THEIR CHILDREN, NAMELY: JENNIE ANN MEDINA YAMSON, KIMBERLY SHEEN MEDINA YAMSON, JOSHUA MEDINA YAMSON AND ANGEL LOUISE MEDINA YAMSON, RESPONDENTS.**

### DECISION

**PERALTA, J.:**

Assailed in the present petition for review on *certiorari* under Rule 45 of the Rules of Court are the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> of the Court of Appeals (CA), promulgated on June 9, 2016 and December 1, 2016, respectively, in CA-G.R. SP Nos. 142663 and 142689. The assailed CA Decision reversed and set aside the June 25, 2015 Decision<sup>[3]</sup> and August 17, 2015 Resolution<sup>[4]</sup> of the National Labor Relations Commission (NLRC), in NLRC LAC No. 10-000876-14, which affirmed, with modification, the September 8, 2014 Decision<sup>[5]</sup> of the Labor Arbiter (LA) in NLRC Case No. NCR (M) 03-03096-14. The Decision of the LA dismissed herein respondent's complaint for recovery of total and permanent disability benefits, sickness allowance, medical and transportation reimbursements, moral and exemplary damages, and attorney's fees.

The factual and procedural antecedents are as follows:

Herein petitioner is a domestic corporation engaged in the shipping business. On May 7, 2012, petitioner employed the services of herein respondent Ernesto Yamson (*Ernesto*) as Third Mate aboard the vessel "M/V Foxhound" for a period of twelve (12) months, with a basic monthly salary of US\$582.00, as evidenced by his Employment Contract.<sup>[6]</sup> On May 9, 2012 Ernesto commenced his employment on board "M/V Foxhound". His contract was subsequently extended.

On November 15, 2013, the vessel anchored at Paia Inlet, Papua New Guinea and started to load logs. On November 19, 2013, Ernesto, while performing his regular tasks on an extremely hot day, felt dizzy. In the evening of the same day, Ernesto started to feel the left side of his body getting numb. Around 9 o'clock of the following morning, Ernesto already felt very weak while performing his duties. He requested that his blood pressure be checked and that his condition be reported to the ship captain. Thereafter, he was ordered to rest in his cabin. However, his condition deteriorated as he could no longer move the left side of his body in the evening of the same day. His predicament worsened when he suffered from LBM the next day forcing him to request that he be brought to the hospital. Ernesto was, thus, brought to the Pacific International Hospital in Papua New Guinea where he was confined and was diagnosed to have suffered from cerebrovascular disease:

"left cerebellar infarct" and hypertension, Stage 2. The attending physician ordered him to cease from working for a period of two (2) weeks.<sup>[7]</sup> Subsequently, on December 1, 2013, Ernesto was repatriated to the Philippines. Upon arrival in Manila, he was immediately brought to the Philippine General Hospital where he underwent medical check-up. Finding that he was in a stable condition, the examining doctor sent him home as he was classified as an "out-patient." However, Ernesto continued to experience headache and numbness of the entire left side of his body even after arriving home. This prompted his wife to insist that he be admitted in a private hospital. Thus, on December 4, 2013, Ernesto was admitted at the Manila Doctor's Hospital where he underwent CT scans of the head and heart. In his letter addressed to petitioner, the company-designated physician reported that the result of the CT scan conducted on Ernesto' showed, among others, that he has an "old infarct in the left superior aspect of the left cerebellum."<sup>[8]</sup> On December 13, 2013, Ernesto was discharged from the hospital. Subsequently, he consulted another physician who diagnosed him to be suffering from Hypertensive Atherosclerotic Cardiovascular Disease and Cerebrovascular Disease and was advised to cease from working as a seaman due to his neurologic deficits.<sup>[9]</sup>

On the basis of the findings of his own doctor, Ernesto, on March 14, 2014, filed the above-mentioned complaint praying that he be awarded the following: US\$60,000.00 as total and permanent disability benefits; sickness allowance equivalent to 120 days; medical and transportation expenses in the amount of P62,514.64; P100,000.00 as moral damages; P100,000.00 as exemplary damages; and, 10% of the total judgment award as attorney's fees.<sup>[10]</sup>

Thereafter, the parties filed their respective Position Papers<sup>[11]</sup> and Replies.<sup>[12]</sup>

On September 8, 2014, the LA rendered a Decision in petitioner's favor by dismissing the complaint for lack of merit.

Respondent appealed the Decision of the LA to the NLRC.

On June 25, 2015, the NLRC promulgated its Decision and disposed as follows:

WHEREFORE, the instant appeal is PARTLY GRANTED. The assailed Decision dated September 8, 2014 is hereby AFFIRMED with MODIFICATION in that respondent Loadstar International Shipping Inc. is ordered to pay complainant the following:

1. Sickness allowance in the amount of US\$2,328.00
2. Medical and transportation expenses in the amount of P31,738.18.

All other claims are DISMISSED for lack of merit.

SO ORDERED.<sup>[13]</sup>

Feeling aggrieved, both petitioner and Ernesto filed with the CA separate special civil actions for *certiorari* under Rule 65 of the Rules of Court questioning the above Decision of the NLRC.

On June 9, 2016, the CA rendered its assailed Decision with the following dispositive portion:

**WHEREFORE**, premises considered, the petition of Loadstar International Shipping Inc. in CA-G.R. S.P. No. 142689 is **DENIED** for lack of merit. The petition of Yamson in CA-GR SP No. 142663 is **GRANTED**. The Decision dated 25 June 2015 and Resolution dated 17 August 2015 of the NLRC are **REVERSED** and **SET ASIDE**.

We order Loadstar International Shipping Inc. to pay Ernesto Awiten Yamson total and permanent disability benefits in the amount of US\$60,000.00 plus ten percent (10%) thereof as attorney's fees, in Philippine currency, at the prevailing rate of exchange at the time of payment.

**SO ORDERED.**<sup>[14]</sup>

Petitioner filed a Motion for Reconsideration, but the CA denied it *via* its Resolution of December 1, 2016.

Hence, the present petition for review on *certiorari* based on the following grounds:

I

THE COURT OF APPEALS RESOLVED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORDANCE WITH LAW AND APPLICABLE DECISIONS OF THIS HONORABLE COURT IN GRANTING THE PETITION FOR CERTIORARI FILED BY RESPONDENT YAMSON AND IN THE PROCESS AWARDED US\$60,000.00 REPRESENTING TOTAL AND PERMANENT DISABILITY BENEFITS CONSIDERING THAT:

A. YAMSON DID NOT SUFFER A ISCHEMIC NOR HEMORRHAGIC STROKE WHILE IN THE EMPLOY OF LOADSTAR INTERNATIONAL SHIPPING, INC.

THE WEAKNESS IN THE LEFT SIDE OF YAMSON'S BODY FOR WHICH HE WAS REPATRIATED WAS CAUSED BY ISCHEMIA OR REDUCED BLOOD FLOW TO THE BRAIN AND THIS ISCHEMIA WAS CAUSED BY HIS ATHEROMATOUS BASAL VESSEL DISEASE OR A NARROWING OF HIS ARTERIES.

THIS IS CONFIRMED BY THE CT SCANS CONDUCTED BOTH BY THE PACIFIC INTERNATIONAL HOSPITAL IN PORT MORESBY, PAPUA NEW GUINEA AND THE MANILA DOCTOR'S HOSPITAL IN MANILA.

B. THE HONORABLE COURT OF APPEALS ENGAGED IN SPECULATIONS WHEN IT RULED THAT "IT IS POSSIBLE THAT THE INFARCT WAS CAUSED BY THE CEREBRAL ACCIDENT ON NOVEMBER 13, 2013".

THE CT SCAN CLEARLY PROVED THAT THERE WAS NO

CEREBRAL EVENT OR ACCIDENT ON THE SAID DATE.

THE USE OF THE PHRASE "IT IS POSSIBLE" IS A CLEAR INDICATION OF "SPECULATION".

- C. THE QUESTION OF WHETHER YAMSON SUFFERED A STROKE OR NOT WHILE WORKING ON BOARD THE VESSEL OF PETITIONER, IS A QUESTION OF FACT WHICH IS NOT THE PROPER SUBJECT OF A PETITION FOR CERTIORARI BEFORE THE COURT OF APPEALS.
- D. REALITIES ON BOARD M/V FOXHOUND MILITATES AGAINST THE HONORABLE COURT OF APPEALS' FINDINGS THAT THE NATURE OF YAMSON'S EMPLOYMENT AS A THIRD OFFICER HAS REGULARLY EXPOSED HIM TO STRESS, LACK OF SLEEP AND OTHER SIMILAR HAZARDS WHICH LED HIM TO HAVE A STROKE THAT THE CT SCAN SHOWED YAMSON DID NOT HAVE A SCHEMIC STROKE NOR HEMORRHAGIC STROKE ON NOVEMBER 13, 2013.
- E. YAMSON COMMITTED FRAUDULENT MISREPRESENTATION ABOUT HIS PAST MEDICAL CONDITION IN HIS PEME WHEN HE DID NOT DISCLOSE AND IN FACT CONCEALED FROM THE PETITIONER THAT HE HAD ALREADY INCURRED A CEREBRAL EVENT LONG BEFORE HIS PEME BEFORE BEING EMPLOYED BY LISI.
- F. THE HONORABLE COURT OF APPEALS FAULTED DR. TEVES, THE COMPANY-DESIGNATED PHYSICIAN FOR HIS ALLEGED FAILURE TO MAKE A COMPLETE ASSESSMENT OF YAMSON'S HEALTH.

ON RECORD, IT WAS YAMSON WHO FAILED TO COMPLETE HIS POST MEDICAL EXAMINATION AFTER HIS REPATRIATION PURSUANT TO SEC. 20(A), No. 3 OF THE 2010 POEA STANDARD EMPLOYMENT CONTRACT. THIS IS MEDICAL ABANDONMENT.

THE COURT COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT DISREGARDED THE FINDINGS OF THE COMPANY-DESIGNATED PHYSICIAN WHO EXAMINED YAMSON FOR NINE (9) DAYS IN FAVOR OF THE MEDICAL OPINION OF THE PRIVATE PHYSICIAN OF YAMSON WHO EXAMINED HIM ONLY FOR ONE (1) DAY ON MARCH 8, 2014.

THE COURT OF APPEALS WRONGLY CONCLUDED THAT THE ASSESSMENT MADE BY YAMSON'S PHYSICIAN MATCHED THAT OF DR. KHINE OF PACIFIC INTERNATIONAL HOSPITAL.

THE FINDINGS OF THE PRIVATE PHYSICIAN WAS DISCARDED BY THE NLRC.

G. YAMSON COMMITTED A FATAL ERROR WHEN HE PREMATURELY FILED HIS COMPLAINT WITHOUT FIRST SEEKING THE OPINION OF A THIRD PARTY DOCTOR WHICH VIOLATED THE MANDATORY CONFLICT RESOLUTION PROVISION OF SECTION 20 (3) OF THE 2010 POEA-SEC.

## II

THE COURT OF APPEALS RESOLVED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORDANCE WITH LAW AND APPLICABLE DECISIONS OF THIS HONORABLE COURT IN DENYING THE PETITION FOR CERTIORARI FILED BY PETITIONER AND IN THE PROCESS ALSO AFFIRMED THE AWARD OF SICKNESS ALLOWANCE IN THE AMOUNT OF US\$2,328.00 AND MEDICAL AND TRANSPORTATION EXPENSES IN THE AMOUNT OF P31,738.18 IN ADDITION TO THE US\$60,000.00 TOTAL AND PERMANENT TOTAL DISABILITY BENEFITS CONSIDERING THAT:

A. YAMSON FAILED TO COMPLETE HIS POST MEDICAL EXAMINATION AFTER HIS REPATRIATION PURSUANT TO SEC. 20(A), No. 3 OF THE 2010 POEA STANDARD EMPLOYMENT CONTRACT.

B. PETITIONER LOADSTAR INTERNATIONAL SHIPPING CO., INC. CANNOT BE MADE LIABLE FOR REFUND OF RESPONDENT YAMSON'S MEDICAL EXPENSES BECAUSE THE EXPENSES DO NOT REFER TO COST OF MEDICINES PRESCRIBED BY THE COMPANY-DESIGNATED PHYSICIAN.<sup>[15]</sup>

On October, 30, 2017, Ernesto's counsel filed a "Manifestation of the Death of Respondent and Motion to Substitute the Deceased Respondent with his Surviving Spouse and Children."

In a Resolution<sup>[16]</sup> dated January 24, 2018, this Court noted the above Manifestation and granted the Motion to Substitute.

At the outset, it bears to point out that the merits of the present case should be resolved by taking into consideration the parties' contract as well as the prevailing law and rules at the time that Ernesto was employed. In this regard, it is settled that while the seafarer and his employer are governed by their mutual agreement, the POEA Rules and Regulations require that the POEA-Standard Employment Contract (*POEA-SEC*) be integrated with every seafarer's contract.<sup>[17]</sup> In the instant case, since petitioner's employment contract was executed on May 7, 2012, it is governed by the Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships,<sup>[18]</sup> which was amended in 2010, pertinent portions of which read as follows: