

THIRD DIVISION

[G.R. No. 199162, July 04, 2018]

PHIL-MAN MARINE AGENCY, INC., AND DOHLE (10M) LIMITED, PETITIONERS, VS. ANIANO P. DEDACE, JR., SUBSTITUTED BY HIS SPOUSE LUCENA CAJES DEDACE, FOR AND IN BEHALF OF THEIR THREE [3] CHILDREN, NAMELY, ANGELICA, ANGELO AND STEVE MAC, ALL SURNAMED DEDACE, RESPONDENT.

D E C I S I O N

MARTIRES, J.:

This is a petition for review on certiorari seeking to reverse and set aside the 11 May 2011 Decision^[1] and 24 October 2011 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 102527, which set aside the 6 March 2007^[3] and 22 October 2007^[4] Resolutions of the National Labor Relations Commission (NLRC) in NLRC-NCR CA No. 046726-05 which, in turn, affirmed the 12 October 2005 Decision^[5] of the Labor Arbiter (LA) in NLRC-NCR Case No. OFW(M)-04-07-07888-00, a claim for permanent and total disability benefits by a seafarer.

THE FACTS

On 18 June 2003, petitioner Phil-Man Marine Agency, Inc. (*PhilMan*), a domestic corporation, engaged the services of respondent Aniano P. Dedace, Jr. (*Dedace*) to work on board the vessel *M/V APL Shanghai* for and on behalf of its principal, the petitioner Dohle (IOM) Limited (*Dohle*), under the following terms and conditions:

Duration of the Contract	: Nine Months
Position	: Able Seaman
Basic Monthly Salary	: USD 465.00/mo.
Hours of Work	: 48 hrs./Week
Overtime	: USD 2.79/hr.
Vacation Leave with Pay	: USD 78.00/mo. ^[6]

On 26 July 2003, Dedace boarded *M/V APL Shanghai* and performed his tasks thereon as an Able Seaman.^[7]

Sometime in January 2004, Dedace started feeling frequent intermittent pains on his lower right abdomen and left groin. On 20 February 2004, he was admitted to the Gleneagles Maritime Medical Centre (*GMMC*) in Singapore where he was examined

and attended to by Dr. Lee Choi Kheong (*Dr. CK Lee*),^[8] whose initial diagnosis was as follows:

Multiple (3) Right Liver Nodules Suspected Haemangiomata need to establish definitive diagnosis.

Right Kidney Cyst benign and need not be operated.

He is sent for CT Scan of the Abdomen this morning and tomorrow we will know more about his condition. At the moment there is no need for any operation and further tests will be performed.^[9]

After undergoing further tests and Computed Tomography (CT) Scan, Dr. CK Lee diagnosed Dedace to be suffering from Disseminated Sepsis with Multiple Liver Abscesses. In his Medical Report, Dr. CK Lee elaborated:

This is the reason of the toxic and recurring attacks of fever and abdominal pain which fail to resolved [sic] with previous simple medication given before we managed him. Although at this stage we could not absolutely and conclusively exclude the possibility of Malignancy, there are [sic] strong evidence that he is improving with antibiotics therapy started. on admission. The three lesions detected at first by Ultrasound of the liver. has reduced to two meaning one has [been] resolved completely and the sizes of the lesions have [been] reduced from 2.21 cm to 1.7 cm.

We will need to continue the present treatment until 1st March 2003 by intravenous medication and thereafter his medication can be changed to oral route. On that day he can be discharged with medication to take with him for further treatment at home.^[10]

Consequently, Dedace was repatriated to the Philippines on 1 March 2004,^[11] and was referred to Dr. Nicomedes G. Cruz (*Dr. Cruz*). On 27 March 2004, the radiologist, Dr. Cesar S. Co, performed Magnetic Resonance Imaging (MRI) on Dedace, which revealed the following findings:

Two lesions are noted in the right lobe of the liver measuring 1.7 x 1.6 cm and 1.3 x 1.0 cm. It is hypointense on T1 and hyperintense on T2 sequences and shows enhancement after contrast infusions.

Gallbladder, ducts, pancreas and spleen are unremarkable.

A 1.3 x 1 cm lesion is seen in the mid-portion of the right kidney, which did not enhance on contrast study.^[12]

It appeared that Phil-Man inquired from Dr. Cruz on whether. Dedace's illness was work-related. In his Reply, dated 20 May 2004, Dr. Cruz stated that their gastroenterologist was of the opinion that Dedace's illness is not work-related, to wit:

This is the response of our gastroenterologist further to your inquiry regarding Mr. Dedace, Jr.

1) Question: Is the illness of Mr. Dedace work-related or not and the specific basis thereof.

Answer: Mr. Dedace has two benign nodules in the liver which were noted by CT scan and fine needle aspiration biopsy. Our gastroenterologist opined that these lesions are not work[-]related.

DIAGNOSIS:

Disseminated sepsis with multiple liver abscess.

Liver nodules, benign.^[13]

On 7 June 2004, Phil-Man, through its President/General Manager, Captain Manolo T. Gacutan wrote a letter to Dedace informing him that his illness is not work-related and therefore not compensable. Dedace was further informed that all payments and treatment will be stopped and any further claims with regard to his condition shall likewise be denied.^[14]

This denial prompted Dedace to file his claims before the NLRC.

The LA Ruling

In its decision, the LA ruled that Dedace's illness was not work related. It observed that Dedace failed to prove that his Disseminated Sepsis with Multiple Liver Abscesses is among the compensable occupational diseases listed under Section 32-A of the 2000 Philippine Overseas Employment Administration-Standard Employment Contract for Filipino Seafarers (*POEA-SEC*). As such, there is neither factual nor legal basis for the claim of total and permanent disability benefits.

Nevertheless, the LA awarded Dedace sickness allowance equivalent to thirty (30) days of pay. It reasoned that while there was no basis for total and permanent disability benefits, it is undisputed that Dedace suffered from some illness, for which Phil-Man even paid him sickness allowance in an amount equivalent to ninety (90) days of his salary. Thus, considering that Section 20(B), paragraph 3 of the POEA-SEC allows payment equivalent to an amount not exceeding one hundred and twenty (120) days of salary, the LA deemed it proper to award Dedace an amount equivalent to the remaining thirty (30) days of his salary. The dispositive portion of the decision states:

WHEREFORE, respondents are hereby ordered to pay complainant the amount of US\$465.00 as sickness allowance plus attorney's fees equivalent to US\$46.50 or its equivalent in Philippine peso at the time of payment.

The other money claims are hereby DENIED for lack of merit.^[15]

Unsatisfied, Dedace appealed before the NLRC.

The NLRC Ruling

In its 6 March 2007 resolution, the NLRC affirmed the decision of the LA. It observed that while Dedace's illness was disputably presumed to be work-related under

Section 20(B), paragraph 4 of the POEA-SEC, such disputable presumption was overcome when Dr. Cruz declared said illness was not work-related. The NLRC further stated that Phil-Man's payment of Dedace's sickness allowance and medical expenses did not amount to recognition that his illness was work-related. The decretal portion of the resolution reads:

WHEREFORE, premises considered complainant's appeal is hereby dismissed for lack of merit and the Decision appealed from [is] **AFFIRMED** in toto.^[16]

Dedace moved for reconsideration, but the same was denied by the NLRC in its 22 October 2007 resolution.

Aggrieved, Dedace filed a petition for certiorari before the CA.

The CA Ruling

In its assailed decision, the CA granted Dedace's petition. The CA opined that the petitioners failed to overcome the disputable presumption that Dedace's illness was work-related. It held that Dr. Cruz neither explained nor specified how he arrived at his conclusion that Dedace's illness was not work-related. Thus, it held that the NLRC gravely abused its discretion when it grossly misapprehended the facts of the case. The *fallo* states:

IN VIEW OF THE FOREGOING, the petition is **GRANTED**. The challenged Resolutions of respondent NLRC are NULLIFIED in so far as they denied petitioner's prayer for permanent disability benefits.

Accordingly, private respondents are held jointly and severally liable to pay petitioner: a) permanent total disability benefits of US\$60,000.00 at its peso equivalent at the time of actual payment; b) sickness allowance equivalent to thirty (30) days or one (1) month amounting to Four Hundred Sixty Five U.S. Dollars (U.S.\$465.00); and c) attorney's fees often percent (10%) of the total monetary award at its peso equivalent at the time of actual payment.^[17]

The petitioners moved for reconsideration, but the same was denied by the CA in its 24 October 2011 resolution.

Hence, this petition for review alleging the following:

ISSUES

I.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED PATENT AND REVERSIBLE ERROR IN REVERSING BOTH THE FINDINGS OF THE NATIONAL LABOR RELATIONS COMMISSION AND THE LABOR ARBITER AND IN AWARDING RESPONDENT ANIANO P. DEDACE, JR. TOTAL PERMANENT DISABILITY BENEFITS.

II.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED PATENT AND REVERSIBLE ERROR IN RULING THAT ANIANO P. DEDACE, JR. IS ENTITLED TO ATTORNEY'S FEES.^[18]

The petitioners assail the CA's decision for being erroneous. They argue that since Dedace's illness, *Sepsis*, is neither listed as a disability under Section 32 of the 2000 POEA-SEC nor listed as an occupational disease under Section 32-A of the same rule, the burden is upon Dedace to present substantial evidence which would show that there is causal connection between his illness and the nature of his employment. The petitioners aver that Dedace failed to discharge this burden. They point out that the records show Dedace did not, by way of a contrary medical finding, contest the medical assessment made by the company-designated physician. The petitioners invoked the case of *Magsaysay Maritime Corporation v. NLRC*^[19] to support their stand.

The petitioners further argue that the CA erred when it awarded attorney's fees in favor of Dedace as the same lacks legal basis. They posit that attorney's fees cannot be recovered as part of damages because of the policy that no premium should be placed on the right to litigate.

In his Comment,^[20] dated 2 April 2012, Dedace maintained that the CA did not commit any error. He pointed out that the CA resolved the case in his favor because the company-designated physician failed to explain his assessment that his illness was not work-related. Dedace also contended that the CA properly awarded attorney's fees as he was forced to retain the services of a counsel in order to protect his rights which the petitioners refused to recognize.

With the submissions by the parties, the Court is essentially tasked to resolve the following issues: (i) whether the CA erred when it ruled that Dedace's illness was work-related and therefore compensable; and (ii) whether the CA erred when it awarded Dedace attorney's fees.

OUR RULING

The petition lacks merit.

Dedace's illness is work-related; The company-designated physician failed to make an assessment within the 120-day period.

Every employment contract between a Filipino seafarer and his employer is governed, not only by their mutual agreements, but also by the provisions of the POEA-SEC, as provided under Department Order No. 4, series of 2000 of the Department of Labor and Employment, which contains the Standard Terms and Conditions Governing The Employment of Filipino Seafarers On-Board Ocean-Going Vessels. The provisions of the POEA-SEC are mandated to be integrated in every Filipino seafarer's contract.^[21]

In this regard, Section 20(B) of the 2000 POEA-SEC requires an employer to compensate his employee who suffers from work-related disease or injury during the term of his employment contract, to quote: