

FIRST DIVISION

[G.R. No. 199977, January 25, 2017]

**SCANMAR MARITIME SERVICES, INC., CROWN
SHIPMANAGEMENT INC., AND VICTORIO Q. ESTA, PETITIONERS,
VS. WILFREDO T. DE LEON, RESPONDENT.**

D E C I S I O N

SERENO, C.J.:

We resolve the Petition for Review on Certiorari^[1] filed by petitioners Scanmar Maritime Services, Inc., Crown Shipmanagement Inc., and Victorio Q. Esta, assailing the Decision and the Resolution of the Court of Appeals (CA).^[2] The CA affirmed the rulings of the National Labor Relations Commission (NLRC)^[3] and the Labor Arbiter (LA)^[4] finding respondent entitled to disability benefits and attorney's fees.

The antecedent facts are as follows:

Respondent Wilfredo T. de Leon worked for petitioner Scanmar Maritime Services, Inc. (Scanmar) as a seafarer aboard the vessels of its principal, Crown Shipmanagement, Inc. He was repatriated on 13 September 2005 after completing his nine-month Philippine Overseas Employment Administration-Standard Employment Contract (POEA Contract).^[5] For 22 years in the service, there was no account of any ailment he had contracted.

Prior to his next deployment, De Leon reported to Scanmar's office on 17 November 2005 for a pre-employment medical examination. Noticing that respondent dragged his right leg, the company physician referred him to a neurologist for consultation, management, and clearance. In the meantime, the status of respondent in his Medical Examination Certificate^[6] was marked "pending."

Thereafter, Scanmar no longer heard from De Leon. Two years later, in December 2007, it received a letter from him asking for disability benefits amounting to USD60,000. It did not reply to the letter, prompting him to file a Complaint with the LA for disability benefits and attorney's fees.

Before the LA, respondent alleged that on his last duty as a Third Mate on board *M/V Thuleland*, he began feeling that something was wrong with his body, and that he experienced lower abdominal pain and saw blood in his stool. He also claimed that after he disembarked in the Philippines on 13 September 2005, he underwent a series of medical check-ups with his private doctors, which revealed that he was suffering from L5-S1 radiculopathy.

As proof of his ailment, respondent submitted before the LA (1) an Electrodiagnostic Laboratory Report dated 5 October 2005 from Dr. Ofelia Reyes stating the

impression that there was an electrophysiologic evidence of chronic right L5-S1 radiculopathies in acute exacerbation;^[7] (2) a Medical Certification dated 21 November 2005 from Dr. Angel Luna of Seamen's Hospital signifying that respondent was unfit for work, and that the latter's illness was work-related;^[8] (3) a Magnetic Resonance Imaging of the Lumbosacral Spine dated 7 December 2005, signed by Dr. Melodia B. Geslani of De Los Santos Medical Center, stating the impression that respondent had a mild central canal stenosis at L5-S1 secondary to a small posterocentral disc protrusion;^[9] and (4) a Medical Certification dated 6 October 2006 from Dr. Ricardo Guevara of the Plaridel Country Hospital indicating that respondent was unfit for sea service.^[10]

In response, petitioners raised three main contentions. First, they belied the claim of respondent that he experienced an illness aboard *M/V Thuleland*, given the absence of any such entry in the vessel's logbook. Second, petitioners highlighted the fact that when he disembarked, De Leon did not complain of any illness, request medical assistance, or submit himself to a post-employment medical examination within three days from his disembarkation, as required by his POEA Contract. Third, petitioners asserted that he had failed to address his "pending" status and to follow the company physician's advice for him to consult a neurologist.

The LA ruled in favor of De Leon, awarding him USD 60,000 disability benefits and attorney's fees. The former held that, absent any recorded incident after the disembarkation, the causative circumstances leading to the permanent disability of respondent must have transpired during the 22 years of the latter's employment. The LA declared that the three-day post-employment medical examination requirement did not apply, as respondent had not been medically repatriated. The LA also awarded attorney's fees to respondent.

Petitioners appealed to the NLRC, which affirmed the ruling of the LA *in toto*. Thereafter, they lodged an original action for certiorari before the CA, claiming that the NLRC had committed grave abuse of discretion by awarding disability benefits to respondent absent the following: (1) proof that the illness was suffered during the term of his employment; (2) compliance with the three-day post-employment medical examination requirement. Petitioners also questioned the award of attorney's fees.

The CA dismissed the action for certiorari. With respect to the first issue, it echoed the uniform analyses of the LA and the NLRC that the causative circumstances leading to De Leon's permanent disability must have transpired during the 22 years of his employment. The CA declared that seafarers may recover money claims even if their ailment appeared only after their repatriation.

In explaining respondent's injury, the CA referred to *MedicineNet.com* and explained that:^[11]

Medical websites do tend to suggest that the risk factors for the private respondent's illness, radiculopathy, are activities that place an excessive or repetitive load on the spine. Patients involved in heavy labor are more prone to develop radiculopathy than those with a more sedentary lifestyle. This partakes of a nerve irritation caused by damage to the discs between the vertebrae. Damage to the discs occurs because of

degeneration ("wear and tear") of the outer ring of the disc, traumatic injury, or both.

It should be noted that the private respondent worked his way from the bottom up, and only acquired Third Mate status in the last five of the twenty two years that he has been working with the company. In any event, it cannot be gainsaid that he was consistently engaged in stressful physical labor all throughout the duration of his employment with petitioner Scanmar.

Anent the second issue, the CA agreed with the LA and the NLRC that the three-day post-employment medical examination requirement did not apply to respondent as he had not been medically repatriated. As for the award of attorney's fees, the CA sustained its award in his favor. Petitioners moved for reconsideration, but to no avail.

Before this Court, petitioners contend that the ailment of De Leon was not proven to be a work-related injury contracted at sea. They maintain that, in any case, he is not entitled to permanent and total disability benefits, since he failed to report for a post-medical examination within three days from the time he disembarked, a requirement explicitly stated in the POEA Contract. Petitioners also assail the imposition of attorney's fees, allegedly granted to respondent without basis.

In his Comment,^[12] respondent did not explain why he failed to report for post-medical examination within three days from his disembarkation. He nonetheless insists that his various medical certificates prove that his radiculopathy is a work-related injury. Respondent asserts his entitlement to attorney's fees, claiming that petitioners acted in bad faith when they did not immediately treat his injury.

RULING OF THE COURT

To be entitled to disability benefits, this Court refers to the provisions of the POEA Contract, as it sets forth the minimum rights of a seafarer and the concomitant obligations of an employer.^[13] Under Section 20 (B) thereof, these are the requirements for compensability: (1) the seafarer must have submitted to a mandatory post-employment medical examination within three working days upon return; (2) the injury must have existed during the term of the seafarer's employment contract; and (3) the injury must be work-related.

De Leon reneged on his obligation to submit to a post-employment medical examination within three days from disembarkation.

It is not disputed that De Leon failed to submit to a post-employment medical examination by a company-designated physician within three working days from disembarkation. The LA, the NLRC, and the CA excused him from complying with this requirement, reasoning that he had not been medically repatriated.

This excuse does not hold water. In the past, we have consistently held that the three-day rule must be observed by all those claiming disability benefits, including seafarers who disembarked upon the completion of contract.^[14] In *InterOrient Maritime Enterprises, Inc. v. Creer III*^[15] the seafarer's repatriation was not due to

any medical reasons but because his employment contract had already expired. On that occasion, the Court applied the doctrine in *Wallem Maritime Services, Inc. v. Tanawan*,^[16] and held that:

The rationale for the rule [on mandatory post-employment medical examination within three days from repatriation by a company--designated physician] is that reporting the illness or injury within three days from repatriation fairly makes it easier for a physician to determine the cause of the illness or injury. Ascertaining the real cause of the illness or injury beyond the period may prove difficult. To ignore the rule might set a precedent with negative repercussions, like opening floodgate to a limitless number of seafarers claiming disability benefits, or causing unfairness to the employer who would have difficulty determining the cause of a claimant's illness because of the passage of time. The employer would then have no protection against unrelated disability claims.

Hence, given that respondent had inexplicably breached this requirement, the CA should have barred his claim for disability benefits.

De Leon did not prove that he had suffered his injury during the term of his contract.

In the recital of their rulings, none of the tribunals *a quo* discussed any particular sickness that De Leon suffered while at sea, which was a factual question that should have been for the labor tribunals to resolve.^[17] As they have failed to do so, this Court must sift through and reexamine the credibility and probative value of the evidence on record so as to ultimately decide whether or not it would be just to award disability benefits to the seafarer.^[18]

Claimants for disability benefits must first discharge the burden of proving, with substantial evidence, that their ailment was acquired during the term of their contract.^[19] They must show that they experienced health problems while at sea, the circumstances under which they developed the illness,^[20] as well as the symptoms associated with it.^[21]

In this case, respondent adduced insufficient proof that he experienced his injury or its symptoms during the term of his contract.

In his Position Paper before the LA, De Leon allegedly felt something wrong with his body, experienced lower abdominal pain, and saw blood in his stool. To support his claim, he attached several laboratory reports, as well as the medical certifications of Drs. Reyes, Luna, Geslani, and Guevara, indicating that he had been injured and was unfit for sea service.

These pieces of documentary evidence, however, bear dates well past the disembarkation of respondent. Hence, none of the attachments he has adduced prove the symptoms of the radiculopathy he allegedly experienced during the term of his contract.

Furthermore, this Court observes that the narration of De Leon that he felt that

something was wrong with his body is too general to be worthy of adjudicative attention. In addition, his claims lack material corroboration.

In contrast, petitioners submitted a Checklist/Interview Sheet for Disembarked Crew^[22] indicating that De Leon had no medical check-up in foreign ports; did not report any illness or injury to the master of the vessel or the ship doctor; and did not request a post-medical examination after disembarkation. Also, based on the records, there is no documentation that De Leon had bouts of sickness, injury, or illness associated with radiculopathy in his 22 years at sea. Hence, based on the evidence, it cannot be reasonably concluded that respondent contracted radiculopathy during the term of his contract.

De Leon failed to show that his injury was work-related.

There must be a reasonable causal connection between the ailment of seafarers and the work for which they have been contracted.

The second hurdle for seafarers claiming disability benefits is to prove the positive proposition^[23] that there is a reasonable causal connection between their ailment and the work for which they have been contracted.^[24] Logically, the labor courts must determine their actual work, the nature of their ailment, and other factors that may lead to the conclusion that they contracted a work-related injury.^[25]

To illustrate, in *NYK-Fil Ship Management Inc. v. Talavera*,^[26] the labor tribunals first determined the nature of the seafarer's employment based on the established facts of the case:^[27]

Complainant Talavera as Fitter performed repair and maintenance works, like hydraulic line return and other supply lines of the vessel; he did all the welding works and assist[ed] the First and Second Engineer during overhauling works of generators, engines and others [sic] engineering works as directed by lifting, carrying, pushing, pulling and moving heavy equipment and materials and constantly performed overtime works because the ship was old and always repair jobs are almost anywhere inside the vessel. He found himself with very few hours rest period. (Corrections in the original)

Then, the tribunals relied upon the medical certificates on record to characterize the particular radiculopathy of the seafarer:^[28]

Through degeneration, wear and tear or trauma, the annulus fibrosus containing the soft disc material (nucleus pulposus) may tear. This results in protrusion of the disc or even extrusion of disc material into the spinal canal or neural foramen. In addition, the nerve fibers of the affected root are also compressed and this situation leads to radiculopathy in the appropriate muscles. When the nerve roots become compressed, the herniated disc becomes significant. The most common complaint in patients with a herniated disc is that of severe low back pain developing immediately or within a few hours after an injury.

Only after making such assessments did those tribunals find a reasonable connection between the injuries and the seafarer's job. This Court affirmed in that