

SECOND DIVISION

[G.R. No. 206178, August 09, 2017]

PEDRO C. PEREA, PETITIONER, VS. ELBURG SHIPMANAGEMENT PHILIPPINES, INC., AUGUSTEA ATLANTICA SRL/ITALY, AND CAPTAIN ANTONIO S. NOMBRADO, RESPONDENTS.

DECISION

LEONEN, J.:

The physician who has personal knowledge of a seafarer's actual medical condition after closely monitoring and regularly treating that seafarer is more credible than another physician who only saw such seafarer once.

This resolves the Petition for Review^[1] filed by petitioner Pedro C. Perea (Perea), assailing the Resolutions dated October 16, 2012^[2] and March 5, 2013^[3] of the Court of Appeals in CA-G.R. SP No. 123515. The Court of Appeals affirmed the Decision of the National Labor Relations Commission, which in turn affirmed the Decision of the Labor Arbiter.

This Court restates the facts as found by the lower courts.

On October 28, 2009, Perea entered into a Contract of Employment^[4] with Elburg Shipmanagement Philippines, Inc. (Elburg) under its principal Augustea Atlantica SRL/Italy. Perea was hired as a fitter for a period of nine (9) months with a basic monthly salary of US\$698.00. On October 31, 2009, Perea was deployed to work aboard MV Lemno.^[5]

On May 15, 2010, Perea had difficulty breathing while repairing a pipe. The following day, he had chest pains with palpitations. He was seen by a doctor that same afternoon and was advised to take medication and to rest for three (3) consecutive days. However, he did not feel any better even after resting and taking medications; thus, he asked to be repatriated.^[6]

A few days later, Perea was welding when the oxygen and acetylene torch he was holding exploded. He hit his left shoulder and twisted his fingers in trying to avoid the explosion. He took a pain reliever to ease the pain but three (3) days later, he found that two (2) of his fingers had grown numb.^[7]

On May 27, 2010, Perea was sent to a medical facility in Tuzla, Turkey because of continued chest pains. He was pronounced to have soft tissue trauma and was told to rest, avoid exertion, and avoid using his right arm. The following day, he was transferred to SEMA Hospital where he was declared to be suffering from "[C]ubital [T]unnel Syndrome (mainly due to swelling and bleeding), soft, tissue injury of the right elbow."^[8] The treatment proposed was to put his right arm in a sling and to

rest for recovery for 10 days.^[9] He was soon repatriated to the Philippines.^[10]

On June 3, 2010, after conducting laboratory examinations and other medical procedures on Perea, company-designated physicians Dr. Karen Hao-Quan (Dr. Hao-Quan) and Dr. Robert D. Lim (Dr. Lim) gave an initial impression, "To Consider Cubital Tunnel Syndrome, Right; Hypertension; Rule Out Ischemic Heart Disease"^[11] and recommended that a Dipyridamole Thallium Scan be conducted.^[12]

On July 31, 2010, in a letter^[13] to Elburg, Dr. Hao-Quan stated that the cause of hypertension was not work-related and opined that Perea's estimated length of treatment would be approximately three (3) to four (4) months.

On September 28, 2010, Perea filed a complaint^[14] for underpayment of his sick leave pay, permanent disability benefits, compensatory, moral and exemplary damages, and attorney's fees.

On October 21, 2010, Perea consulted Dr. Antonio C. Pascual (Dr. Pascual), an internist, cardiologist, and echocardiographer,^[15] who diagnosed him with "Uncontrolled Hypertension [and] Coronary Artery Disease."^[16] Dr. Pascual found Perea to be medically unfit to work as a seafarer. Portions of Dr. Pascual's medical certificate read:

Remarks:

....

- Patient consulted at the clinic with complain[t]s of anterior, lateral and back pains associated with left arm pain.
- On examination, BP was 162/90 mm Hg and HR was 65 bpm. ECG tracing showed sinus rhythm and intraventricular conduction delay with right bundle branch block pattern. Coronary angiogram done on 29-Jul-10 showed a good sized, dominant right coronary artery with a 40-50% discrete stenosis at its mid vertical limb.
- Based on these findings, patient is MEDICALLY UNFIT TO WORK as a seaman,
- Patient was advised to continuously take his medications and have a regular medical check-up.^[17]

On November 5, 2010, after a series of examinations, Dr. Hao-Quan and Dr. Lim certified that Perea was cleared of the injuries that caused his repatriation.^[18]

The parties met for mediation proceedings and a possible compromise agreement but were unsuccessful. They were then directed to submit their respective position papers, together with their supporting evidence.^[19]

On February 28, 2011, the Labor Arbiter dismissed Perea's complaint for lack of merit.^[20]

The Labor Arbiter ruled that the Collective Bargaining Agreement could not apply to

Perea's claim for disability benefits because its effectivity period was only from March 28, 2008 to December 31, 2009. The Collective Bargaining Agreement had already lapsed by the time Perea was repatriated to the Philippines by late May 2010.^[21]

The Labor Arbiter held that the Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-Going Vessels of the Philippine Overseas Employment Agency (POEA Contract) and the Department of Labor and Employment Order No. 4, Series of 2000 were the governing provisions.^[22]

The Labor Arbiter emphasized that Elburg followed the POEA Contract when it paid Perea's wages during the time he was indisposed while on board the vessel. He was also given medical treatment at a foreign port at Elburg's expense. The Labor Arbiter also underscored that after Perea's repatriation, he was subjected to a series of medical tests and procedures, including a computed tomography (CT) scan and a coronary angiogram, all at Elburg's expense.^[23]

The Labor Arbiter ruled that while Section 32-A of the POEA Contract provided that hypertension may be compensable, this was applicable only if it caused "impairment of function[s] of body organs like kidneys, heart and brain, resulting in permanent disability."^[24] The Labor Arbiter held that Perea's hypertension did not impair the functions of his organs, as evidenced by Dr. Hao-Quan and Dr. Lim's medical reports.^[25]

Between the findings of Dr. Hao-Quan and Dr. Lim and those of Dr. Pascual, the Labor Arbiter gave more weight to the findings of the company-designated physicians who concluded that Perea was not suffering from coronary disease based on the results of a coronary angiogram.^[26]

Perea appealed^[27] the Labor Arbiter Decision.

On October 14, 2011, the National Labor Relations Commission^[28] dismissed Perea's appeal and affirmed the Labor Arbiter's Decision *in toto*.^[29]

The National Labor Relations Commission ruled that Perea's failure to disclose his pre-existing condition of a "fractured/dislocated right elbow" on his pre-employment medical examination "would bar him from claiming compensation/disability benefits," even if the cause of his repatriation had no connection with his pre-existing condition.^[30]

The National Labor Relations Commission likewise upheld Dr. Hao-Quan and Dr. Lim's assessment on Perea's physical fitness, finding it to be more credible than Dr. Pascual's:

As to the two assessments, We find the company[-]designated physician[s'] assessment clearing complainant from the cause of his medical repatriation more credible. Said clearance was based on medical/laboratory examinations made on complainant like dipyridamole thallium scan done on July 1, 2010, coronary showed angiogram done on

July 29, 2010 which showed normal vessels. On the other hand, the findings of complainant's physician declaring complainant medically "unfit to work as seaman" due to "uncontrollable hypertension" and "coronary artery disease" was not supported by any medical/laboratory examination.^[31]

On December 19, 2011, the National Labor Relations Commission^[32] denied Perea's Motion for Reconsideration of its October 14, 2011 Decision.^[33]

Perea filed a Petition for Review with the Court of Appeals but it was dismissed in the Court of Appeals Resolution^[34] dated October 16, 2012.

The Court of Appeals stated that hypertension may be compensable under Section 32-A of the POEA Contract only if it caused the dysfunction of body organs, which must be substantiated with the following documents:

"(a) chest x-ray report, (b) ECG report, (c) blood chemistry report, (d) funduscopy report, and (e) [CT] scan."^[35]

The Court of Appeals declared that while Dr. Pascual certified that Perea was suffering from uncontrolled hypertension, his certification was not supported by the required procedures and laboratory exams. Thus, his medical opinion, which was rendered after a single consultation, could not be considered over that of the company-designated physicians, who monitored Perea's progress and subjected him to extensive examination.^[36]

The Court of Appeals agreed with Perea that the National Labor Relations Commission erred when it went beyond the issues elevated on appeal, specifically Perea's concealment of a pre-existing illness, an issue that was never raised by the parties. Nonetheless, the Court of Appeals ruled that such was merely an error in judgment and not grave abuse of discretion.^[37]

The Court of Appeals further held that the finding on concealment was merely in addition to the National Labor Relations Commission's main ground for the dismissal of the appeal—the lack of substantial evidence to support Dr. Pascual's declaration of Perea's unfitness to work as a seaman.^[38]

The Court of Appeals found that Elburg strictly and faithfully observed the terms and conditions of the POEA Contract by paying his wages and sickness allowance and providing medical treatment in a foreign port and upon disembarking.^[39] Finally, the Court of Appeals denied the prayer for moral damages and attorney's fees.^[40]

On March 5, 2013, the Court of Appeals denied^[41] Perea's Motion for Reconsideration of its October 16, 2012 Resolution.^[42]

On March 27, 2013, Perea filed this Petition for Review^[43] where he continues to assert his lack of fitness to work as a seafarer due to uncontrolled hypertension and

coronary artery disease.^[44] Petitioner claims that the Court of Appeals erred in according weight to the self-serving findings of the company-designated physicians and in disregarding the findings of the independent cardiologist.^[45]

Petitioner likewise claims that the Court of Appeals erred when it affirmed the National Labor Relations Commission's dismissal of his complaint due to concealment of pre-existing injury, since it was never put into issue, not having been raised by any of the parties.^[46] Finally, petitioner avers that he was only given US\$1,396.20 or two (2) months equivalent of his 130-day sickness allowance, leaving a balance of US\$1,628.90.^[47]

On June 10, 2013, Capt. Antonio S. Nombrado (Capt. Nombrado), Elburg, and its principal Augustea Atlantica SRL/Italy (collectively, respondents) were directed to comment on the petition,^[48] which they complied with on July 30, 2013.

In their Comment,^[49] respondents, citing *Vergara v. Hammonia Maritime Services, Inc.*, contend that entitlement to disability benefits is governed by law, contract, and medical findings.^[50] Respondents maintain that petitioner was monitored by their company-designated physicians and was subjected to laboratory examinations and procedures such as coronary angiography, CT scan, magnetic resonance imaging (MRI), and Dipyridamole Thallium Scan. Dr. Hao-Quan and Dr. Lim's resulting diagnosis of Perea's fitness to work was supported by a barrage of tests; thus, Perea's claim that he was suffering from coronary artery disease was sufficiently debunked.^[51]

On November 22, 2013, petitioner filed his Reply^[52] to respondents' comment, in compliance with this Court's Resolution^[53] dated September 11, 2013.

In his Reply, petitioner proclaims that the Labor Code provisions regarding the entitlement of a seafarer to disability benefits should be read hand-in-hand with the POEA Contract.^[54]

Petitioner also contests the "fit to work" assessment of the company-designated physicians since it goes against the recommendation of "Optimal Medical Management" and "Aggressive Risk Factor Modification" issued in his coronary angiography result.^[55]

Petitioner claims that he has been unable to earn wages as a seafarer for a period of more than 240 days, making him permanently unfit to work as a seafarer in whatever capacity.^[56]

On March 5, 2014, this Court gave due course to the petition and directed^[57] the parties to submit their respective memoranda.

On April 28, 2014, respondents filed their memorandum.^[58] Petitioner did not file his memorandum.

In their Memorandum, respondents continue to argue that upon his repatriation, petitioner was diagnosed with simple high blood pressure, which did not impair the