815 Phil. 480

FIRST DIVISION

[G.R. No. 191049, August 07, 2017]

TOMAS P. ATIENZA, PETITIONER, V. OROPHIL SHIPPING INTERNATIONAL CO., INC., ENGINEER TOMAS N. OROLA AND/OR HAKUHO KISEN CO., LTD., RESPONDENTS.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated September 30, 2009 and the Resolution[3] dated January 22, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 106186, which affirmed the Decision[4] dated April 22, 2008 and the Resolution[5] dated August 26, 2008 of the National Labor Relations Commission in NLRC NCR OFW M-06-03-01004-00 / NLRC NCR CA No. 052872-07, dismissing petitioner Tomas P. Atienza's (petitioner) complaint for disability benefits.

The Facts

Petitioner was employed as an Able Seaman by respondent Orophil Shipping International Co., Inc. (Orophil) on behalf of its principal, respondent Hakuho Kisen Co., Ltd. (Hakuho), and was assigned at the M/V Cape Apricot.[6] In the course of his employment contract, petitioner complained of severe headaches, nausea, and double vision which the foreign port doctors diagnosed to be right cavernous sinus inflammation or Tolosa Hunt Syndrome (THS).[7] As a result, petitioner was repatriated on February 4, 2005 and referred to a company-designated physician, Doctor Nicomedes G. Cruz (Dr. Cruz), who confirmed the findings and advised him to continue the medication prescribed by the foreign doctors.[8] On June 28, 2005, Dr. Cruz issued a certification[9] declaring petitioner fit to resume work.[10] Dissatisfied, petitioner consulted an independent physician, Dr. Paul Matthew D. Pasco (Dr. Pasco), who, on the other hand, assessed his illness as a Grade IV disability and declared him unfit for sea duty.[11] Consequently, petitioner filed a complaint[12] against Orophil, Engineer Tomas N. Orola, and Hakuho (respondents) before the NLRC for payment of disability benefits, reimbursement of medical expenses, damages, and attorney's fees, docketed as NLRC NCR OFW M-06-03-01004-00.

For their part, respondents opposed the claim for disability benefits, asserting that petitioner was declared fit to work by the company-designated physician and that his illness is not work-related, adding too that he maliciously concealed the fact that he had previously suffered from THS that effectively barred him from claiming disability benefits under the 2000 Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC).[13] They likewise contended that

petitioner had been paid his sickness allowance, while the claims for damages and benefits are without basis.[14]

The Labor Arbiter's Ruling

In a Decision[15] dated April 30, 2007, the Labor Arbiter (LA) ordered respondents to pay petitioner the amount equivalent to US$34,330.00 for his Grade IV disability and ten percent (10%) attorney's fees, while the rest of the claims were denied for lack of basis.[16] The LA found petitioner's illness to be work-related and that he cannot be faulted for not declaring his previous treatment for the same illness given that it had occurred way back in 1996 and has not recurred despite several contracts.[17] The LA did not give merit to the company-designated physician's finding of fitness to work, noting that petitioner was subsequently declared unfit for sea duty in a medical certificate dated March 14, 2006.[18] Dissatisfied, both parties appealed the case to the NLRC.[19]

The NLRC Ruling

In a Decision[20] dated April 22, 2008, the NLRC set aside the LA's Decision and dismissed the complaint for petitioner's failure to establish that his illness is work-related.[21] In so ruling, it did not give credence to the certificate issued by Dr. Pasco as the finding of petitioner's unfitness to resume work was not supported by any explanation.[22]

His motion for reconsideration[23] having been denied by the NLRC in a Resolution[24] dated August 26, 2008, petitioner elevated his case to the CA via a petition for *certiorari*, docketed as CA-G.R. SP No. 106186.[25]

The CA Ruling

In a Decision[26] dated September 30, 2009, the CA affirmed the NLRC, finding no grave abuse of discretion on the latter's part in dismissing petitioner's complaint for disability benefits, allowances, and damages. It held that petitioner failed to prove that his illness was caused or aggravated by his employment conditions.[27] Further, the CA pointed out that petitioner was also declared fit to work by the company-designated physician and that while his independent physician found otherwise, the said assessment was made after the lapse of a considerable period of time.[28]

Aggrieved, petitioner filed a motion for reconsideration, which was, however, denied in a Resolution[29] dated January 22, 2010; hence, this petition.

The Issue Before the Court

The main issue in this case is whether or not petitioner is entitled to total and permanent disability benefits pursuant to the 2000 POEA-SEC.

The Court's Ruling

The petition has merit.

To justify the grant of the extraordinary remedy of *certiorari*, the petitioner must satisfactorily show that the court or quasi-judicial authority gravely abused the

discretion conferred upon it.

In labor disputes, grave abuse of discretion may be ascribed to the NLRC when, *inter alia*, its findings and conclusions are not supported by substantial evidence, or that amount of relevance evidence which a reasonable mind might accept as adequate to justify a conclusion.[30] Likewise, grave abuse of discretion arises when a lower court or tribunal patently violates the Constitution, the law or existing jurisprudence.[31]

Guided by the foregoing considerations, the Court finds that the CA committed reversible error in dismissing petitioner's *certiorari* petition since the NLRC gravely abused its discretion in holding that petitioner is not entitled to total and permanent disability benefits.

Under the 2000 POEA-SEC, "any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied" is deemed to be a "work-related illness."[32] On the other hand, Section 20 (B) (4) of the 2000 POEA-SEC declares that "[t]hose illnesses not listed in Section 32 of this Contract are disputably presumed as work related." The legal presumption of work-relatedness was borne out from the fact that the said list cannot account for all known and unknown illnesses/diseases that may be associated with, caused or aggravated by such working conditions, and that **the presumption is made in the law to signify that the non-inclusion in the list of occupational diseases does not translate to an absolute exclusion from disability benefits**.[33] Given the legal presumption in favor of the seafarer, he *may rely on and invoke such legal presumption to establish a fact in issue*. "The effect of a presumption upon the burden of proof is to create the need of presenting evidence to overcome the *prima facie* case created, thereby which, if no contrary proof is offered, will prevail."[34]

Thus, in *Racelis v. United Philippine Lines, Inc.*[35] and *David v. OSG Shipmanagement Manila, Inc.*,[36] the Court held that **the legal presumption of work-relatedness of a non-listed illness should be overturned only when the employer's refutation is found to be supported by substantial evidence**, which, as traditionally defined, is "such relevant evidence as a reasonable mind might accept as sufficient to support a conclusion."[37]

Nonetheless, the presumption provided under Section 20 (B) (4) is only limited to the "work-relatedness" of an illness. It **does not cover and extend to *compensability*. In this sense, there exists a fine line between the work-relatedness of an illness and the matter of compensability.** The former concept merely relates to the assumption that the seafarer's illness, albeit not listed as an occupational disease, may have been contracted during and in connection with one's work, whereas compensability pertains to the entitlement to receive compensation and benefits upon a showing that his work conditions caused or at least increased the risk of contracting the disease. This can be gathered from Section 32-A of the 2000 POEA-SEC which already qualifies the listed disease as an "occupational disease" (in other words, a "work-related disease"), but nevertheless, mentions certain conditions for said disease to be compensable:

> SECTION 32-A OCCUPATIONAL DISEASES

For an ***occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied***:

1. The seafarer's work must involve the risks described herein;
2. The disease was contracted as a result of the seafarer's exposure to the described risks;
3. The disease was contracted within a period of exposure and under such other factors necessary to contract it;
4. There was no notorious negligence on the part of the seafarer. (Emphasis and underscoring supplied)

As differentiated from the matter of work-relatedness, no legal presumption of compensability is accorded in favor of the seafarer. As such, he bears the burden of proving that these conditions are met.

Thus, in *Tagle v. Anglo-Eastern Crew Management, Phils., Inc.*,[38] the Court ruled that while work-relatedness is indeed presumed, "**the legal presumption in Section 20 (B) (4) of the [2000] POEA-SEC should be read together with the requirements specified by Section 32-A of the same contract**."[39]

Similarly, in *Licayan v. Seacrest Maritime Management, Inc.*,[40] it was explicated that the disputable presumption does not signify an automatic grant of compensation and/or benefits claim, and that while the law disputably presumes an illness not found in Section 32-A to be also work-related, the seafarer/claimant nonetheless is burdened to present substantial evidence that his *work conditions caused or at least increased the risk of contracting the disease* and only a reasonable proof of work-connection, not direct causal relation is required **to establish its compensability**. The proof of work conditions referred thereto effectively equates with the conditions for compensability imposed under Section 32-A of the 2000 POEA-SEC.

In *Jebsen Maritime, Inc. v. Ravena*[42] it was likewise elucidated that there is a need to satisfactorily show the four (4) conditions under Section 32-A of the 2000 POEA-SEC in order for the disputably presumed disease resulting in disability to be compensable.[43]

To note, while Section 32-A of the 2000 POEA-SEC refers to conditions for compensability of an occupational disease and the resulting disability or death, it should be pointed out that the conditions stated therein **should also apply to non-listed illnesses** given that: (***a***) the legal presumption under Section 20 (B) (4) accorded to the latter is limited only to "work-relatedness"; and (***b***) for its compensability, a reasonable connection between the nature of work on board the vessel and the illness contracted or aggravated must be shown.[44]

The absurdity of not requiring the seafarer to prove compliance with compensability for non-listed illnesses, when proof of compliance is required for listed illnesses, was pointed out by the Court in *Casomo v. Career Philippines Shipmanagement, Inc.*,[45] to wit:

> A quick perusal of Section 32 of the [2000 POEA-SEC], in particular the Schedule of Disability or Impediment for Injuries Suffered and Diseases including Occupational Diseases or Illnesses Contracted, and the List of Occupational Diseases, easily reveals the serious and grave nature of the

injuries, diseases and/or illnesses contemplated therein, which are clearly specified and identified.

We are hard pressed to adhere to Casomo's position as it would result in a preposterous situation where a seafarer, claiming an illness not listed under Section 32 of the [2000 POEA-SEC] which is then disputably presumed as work-related and is ostensibly not of a serious or grave nature, need not satisfy the conditions mentioned in Section 32-A of the [2000 POEA-SEC]. In stark contrast, a seafarer suffering from an occupational disease would still have to satisfy four (4) conditions before his or her disease may be compensable.

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Government Service Insurance System (GSIS) v. Cuntapay [576 Phil. 482, 492 (2008)] iterates that the burden of proving the causal link between a claimant's work and the ailment suffered rests on a claimant's shoulder:

> The claimant must show, at least, by substantial evidence that the development of the disease was brought about largely by the conditions present in the nature of the job. What the law requires is a reasonable work connection and not a direct causal relation. It is enough that the hypothesis on which the workmen's claim is based is probable. Probability, not the ultimate degree of certainty, is the test of proof in compensation proceedings. And probability must be reasonable; hence it should, at least, be anchored on credible information. Moreover, a mere possibility will not suffice; a claim will fail if there is only a possibility that the employment caused the disease.[46] (Emphasis supplied)

Therefore, it is apparent that for both listed occupational disease and a non-listed illness and their resulting injury to be compensable, the seafarer must sufficiently show by substantial evidence compliance with the conditions for compensability.

At this juncture, it is significant to point out that the delineation between work-relatedness and compensability in relation to the legal presumption under Section 20 (B) (4) has been often overlooked in our jurisprudence. **This gave rise to the confusion that despite the presumption of work-relatedness already accorded by law, certain cases confound that the seafarer still has the burden of proof to show that his illness, as well as the resulting disability is work-related.**

Among these cases is *Quizora v. Denholm Crew Management (Phils.), Inc.*,[47] wherein this Court failed to discern that the presumption of work-relatedness *did not extend or equate to presumption of compensability*, and concomitantly, that the burden of proof required from the seafarer was to establish its compensability not the work-relatedness of the illness:

> At any rate, granting that the provision of the 2000 POEA-SEC apply, the disputable presumption provision in Section 20 (B) does not allow him to just sit down and wait for respondent company to present evidence to