

## FIRST DIVISION

[ G.R. No. 198225, September 27, 2017 ]

**TSM SHIPPING (PHILS.), INC., AND MST MARINE SERVICES  
PHILS., INC., PETITIONERS, VS. SHIRLEY G. DE CHAVEZ,<sup>[1]</sup>  
RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

This Petition for Review on *Certiorari*<sup>[2]</sup> assails the January 31, 2011 Decision<sup>[3]</sup> and the August 8, 2011 Resolution<sup>[4]</sup> of the Court of Appeals (CA) in CA-GR SP No. 112898. The CA granted the Petition for *Certiorari* filed therewith and reversed and set aside the December 16, 2009 Decision<sup>[5]</sup> of the National Labor Relations Commission (NLRC) in NLRC LAC OFW (M) 09-000540-09, which affirmed the July 18, 2009 Decision<sup>[6]</sup> of the Labor Arbiter (LA) dismissing the complaint for payment of death benefits in NLRC-NCR OFW (M) 12-17395-08 for lack of merit.

#### ***Factual Antecedents***

On August 23, 2005, petitioners hired Ryan Pableo De Chavez<sup>[7]</sup> (Ryan) as chief cook on board the oil tanker vessel Haruna Express for period of nine months.<sup>[8]</sup> However, on February 26, 2006, Ryan was found dead inside his cabin bathroom hanging by the shower cord and covered with blood.<sup>[9]</sup> Thus, Ryan's surviving spouse, Shirley De Chavez (Shirley), filed complaint<sup>[10]</sup> for death benefits.

In her Position Paper,<sup>[11]</sup> Reply,<sup>[12]</sup> and Rejoinder,<sup>[13]</sup> Shirley alleged that Ryan did not commit suicide considering that Ryan even submitted himself to medical check up at hospital in Ulsan, Korea day prior to his death; that during their telephone conversation two days before his alleged suicide, Ryan informed her that the vessel would be discharging crude oil in Batangas and that they might see each other; that no suicide note was found; that Ryan died during the effectivity of his contract and while on board the vessel, hence, his heirs are entitled to death benefits; that petitioners did not clarify how Ryan could have committed suicide; that the presumption of regularity in the performance of duties is not accorded to foreign nationals, such as the Ulsan police authorities; that no evidence was adduced that the Ulsan Maritime Police indeed conducted an investigation into Ryan's death; that the imputation that Ryan took his own life because he was pressured by his mother to obtain a loan for new house flies in the face of the fact that Ryan was recently married and about to start family, that he had acquired new house and that he was recently promoted as chief cook; and, that the pictures taken when Ryan was found dead which tended to show that he was murdered was not at all explained in the Medical Certificate of Death issued by the Ulsan City Hospital of Korea.

On the other hand, petitioners claimed in their Position Paper,<sup>[14]</sup> Reply,<sup>[15]</sup> and Rejoinder<sup>[16]</sup> that Shirley is not entitled to death benefits under the Philippine Overseas Employment Administration-Standard Employment Contract (POEASEC) because the Medical Certificate of Death the written statements of the Chief Mate, the Ship Master, and Messman Benjamin Melendres (Messman Melendres), and the investigation report prepared by International Inspection and Testing Corporation (INTECO), uniformly found Ryan's cause of death as suicide; that the Personnel Manager of Thome Ship Management Pte. Ltd. (Thome Ltd.) submitted an Investigation Report indicating that the possible reason for the suicide was Ryan's loss of direction or overwhelming despair after his mother virtually pushed him to take huge loan to purchase house; that the Ulsan Maritime police who investigated the incident did not notice any foul play; that Messman Melendres, who was the first person to break into Ryan's locked room, likewise observed that there was nothing in Ryan's cabin to suggest that there had been fight or struggle; that the examination of Ryan's corpse revealed no signs of trauma; and, that Shirley could not testify on how Ryan died because she was not on board the vessel when the incident transpired.

### ***Ruling of the Labor Arbiter***

In Decision dated July 18, 2009,<sup>[17]</sup> the LA dismissed the complaint on the ground that the evidence convincingly showed that Ryan's death was authored by Ryan himself, viz.:

A careful perusal of [INTECO's Investigation Report] and [the] medical certificate reveals that the direct cause of [Ryan's death,] based on the autopsy findings of the Ulsan City Hospital, showed that the cause of death x x x was 'excessive bleeding from [Ryan's] cut wrist apparently by scissors', [even] the Medical Certificate of Death issued by the Ulsan City Hospital certified that the cause of death of the deceased was by 'Hanging, strangulation and suffocation'.<sup>[18]</sup>

### ***Ruling of the National Labor Relations Commission***

In its Resolution dated September 30, 2009,<sup>[19]</sup> the NLRC initially dismissed Shirley's appeal for failure to submit certificate of non-forum shopping. However, on reconsideration the NLRC granted and reinstated her appeal.

On December 16, 2009,<sup>[20]</sup> the NLRC rendered its Decision denying Shirley's appeal and affirming the LA's ruling that petitioners succeeded in proving that Ryan died at his own hands, thus:

A careful and thorough reading of the appeal would show that the same is based more on assumptions and speculations rather than on facts. The fact that [Ryan] has x x x a new wife, [a] new home and recently was promoted as Chief Cook does not mean that he could not have committed suicide anymore [sic]. The fact that the medical certificate and the result of the autopsy appears to be contradictory to each other on the causes of death as detailed by [Shirley] does not mean that [Ryan] was murdered and did not commit suicide. And the fact that the

comfort room has not been built for possible self suspension does not mean that [Ryan] was murdered.[21]

### ***Ruling of the Court of Appeals***

Shirley instituted before the appellate court Petition for *Certiorari*, [22] contending that petitioners had not presented substantial evidence to support the conclusion that Ryan indeed committed suicide and insisting that his death was compensable.

In its assailed January 31, 2011 Decision, [23] the CA reversed the NLRC and disposed as follows:

WHEREFORE, in view of all the foregoing, the petition is GRANTED. The assailed Decision, dated December 16, 2009, and Resolution, dated September 30, 2009, in NLRC LAC OFW (M) 09 000540-09 (NLRC-NCR OFW (M) 12-17395-08) are hereby ANNULLED and SET ASIDE. The records of this case are remanded to the National Labor Relations Commission for the computation of the death benefits to be awarded to [respondent] Shirley De Chavez in behalf of [her] deceased husband Ryan Pableo De Chavez.

SO ORDERED. [24]

The CA found no sufficient evidence that Ryan took his own life, hence it declared Shirley entitled to death benefits. The CA held that the cause of Ryan's death as stated in the Medical Certificate of Death issued by the Ulsan City Hospital was different from that set forth in the INTECO Report. It stressed that there was nothing in the records to show that INTECO had the authority to investigate into Ryan's death and to issue official findings at the conclusion of its investigation. We quote pertinent portions from the CA's disquisition:

A perusal of the record of this case shows that the basis of the ruling of the Labor Arbiter and [the] NLRC was Medical Certificate of Death, prepared by certain Dr. Sung Yeoul Hung of the Ulsan City Hospital, and an Investigation Report of the International Inspections and Testing Corp. However, an examination x x x of the aforesaid evidence fails to conclusively convince the Court that the death of the [Shirley's] husband was due to his own hand.

First, the findings under the said Medical Certificate and the said Investigation Report appear to be contradictory with one another. Under the Medical Certificate the cause of death [was] hanging by strangulation, thus:

'Cause of death

1. Direct Cause of Death.

INTENTIONAL SELF-HARM BY [HANGING], STRANGULATION  
AND SUFFOCATION

2. Intermedicate Predisposing Cause of Death.

### 3. Predisposing Cause of Death.

BLOOD LOSS' (emphasis supplied)

However, Under the Investigation Report the cause of death was found to be due to excessive bleeding from the cuts from the seafarer's wrist, thus:

'Autopsy on the Corpse of [Ryan] Investigation by Ulsan Maritime Police:

The autopsy on the corpse of [Ryan] was performed at the Ulsan City Hospital x x x [witnessed by] all parties concerned including us Mr. Leow Ai Hin, Senior Shipping Executive of Thome Ship Management Pte. Ltd., Singapore x x x and x x x the cause of death of [Ryan] was excessive bleeding from the cut wrist of [Ryan] apparently by scissors. The Ulsan Maritime Police requested handwritten statements of all remaining crews of "HARUNA EXPRESS" in the evening hours of Feb. 27<sup>th</sup> which were prepared submitted to the Police in the morning hours of Feb. 28 and then "HARUNA EXPRESS" sailed off Ulsan Port at 12:30 hrs. of Feb. 28th. (Emphasis supplied)

Second, who is this 'International Inspection and Testing Corporation' that performed the autopsy and prepared the Investigation Report? Is this corporation trained to perform an autopsy? More importantly, are its findings officially recognized? The Court has scoured the record and it could not see one iota of description, aside [from the fact] that it is 'foreign corporation', that would tend to lend credence to itself as an investigative body and to its findings. As it is, the said investigation report woefully pales in comparison as to what real autopsy report should look like. An autopsy report should give an accurate account of the various marks found on the body such as ligature marks, cuts, the precise locations thereof, and other tell-tale signs that would lead an investigator to conclusively conclude as to the cause of death but the so[-]called investigation report only gives vague account at best.

Third, why was there no official autopsy done on the body of the deceased seafarer by the Ulsan Maritime Police? And if there ever was an autopsy done by the Ulsan Maritime Police, where is the autopsy report of the police? The Court would think that the shipping company, understandably interested in avoiding paying any compensation, would prefer an autopsy done by the police rather than private corporation. After all, the findings of the police are accorded respect and regularity by the courts but, curiously enough in this case, the shipping company decided to have the body examined instead by private corporation whose credentials to perform an autopsy have not even been verified.<sup>[25]</sup>

In its August 8, 2011 Resolution,<sup>[26]</sup> the CA likewise denied petitioners' motion for reconsideration.

Hence, the instant Petition raising the following issue:

The Honorable Court of Appeals committed serious error of law in awarding [to Shirley] death compensation benefits under Section 20 (A) of the POEA contract despite undisputed evidence which clearly show that the seafarer died by his own hand. The award is not unjustified [sic] under the facts and evidence of the case, the same is likewise plainly contrary to Section 20 (D) of the governing POEA contract.<sup>[27]</sup>

### ***Petitioners' Arguments***

In their Petition,<sup>[28]</sup> Reply,<sup>[29]</sup> and Memorandum,<sup>[30]</sup> petitioners contend that under the governing POEA-SEC, seafarer's death during the term of his contract is not automatically compensable particularly if the same was due to his willful act; that the LA's findings of fact, which were upheld by the NLRC, should not have been disregarded by the CA because Shirley herself, whose duty was to establish her entitlement to the death benefits, has utterly failed to adduce any evidence to substantiate her bare allegation that Ryan was not responsible for his own death; that apart from her absolutely empty and hollow claim, Shirley presented no proof that Ryan was victim of foul play; that the purported contradictory information about the cause of Ryan's death, whether he chose to hang himself or slash his wrist with scissors, did not negate the fact that his death was self-inflicted; that the Medical Certificate of Death<sup>[31]</sup> prepared by Dr. Sung Yeoul Hung of the Ulsan City Hospital, which listed "Intentional Self Harm by [Hanging], Strangulation and Suffocation" as the direct cause of death, and the INTECO's Report<sup>[32]</sup> which declared Ryan's death as "suicide," effectively meant the same thing; that although no official autopsy report was issued by the Ulsan Maritime Police, the latter allowed the vessel to sail on February 28, 2006 only after they had verified and were satisfied that there was no foul play in Ryan's death; that *Lapid v. National Labor Relations Commission*<sup>[33]</sup> is not applicable because the coroner's report therein was incomplete, whereas the Medical Certificate of Death of the Ulsan City Hospital and INTECO Report, gave detailed account that Ryan was found hanging by rope or cord while sitting on the toilet bowl with his wrist slashed and pair of scissors nearby; that incumbent upon the Supreme Court to resolve this case because the CA's findings are not only diametrically opposed to the findings of both the LA and the NLRC, but the CA's findings are grounded entirely on speculation, surmises or conjectures; that it was Shirley's duty to prove by substantial evidence her entitlement to death benefits; that the CA erred in not giving credence to INTECO's Report as well as the Medical Certificate of Death issued by the Ulsan City Hospital; and that they have proven by substantial evidence that Ryan's death was self-inflicted, thus Shirley is not entitled to death compensation benefits pursuant Section 20(D) of the governing POEA-SEC.

### ***Respondent Arguments***

Shirley counters that re-assessment of the propriety of the award of death compensation benefits involves an examination of the evidence, which is not proper in Rule 45 petition; that petitioners failed to prove that Ryan committed suicide; that INTECO's Report has no credence at all; that Ryan's death should not be presumed to be self-inflicted and that compensability attaches by the mere fact that