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THIRD DIVISION

[G.R. No. 193468, January 28, 2015]

AL O. EYANA, PETITIONER, VS. PHILIPPINE TRANSMARINE CARRIERS, INC., ALAIN A. GARILLOS, CELEBRITY CRUISES, INC. (U.S.A.), RESPONDENTS.

D E C I S I O N

REYES, J.:

The instant petition for review on *certiorari*[1] assails the Decision[2] dated March 22, 2010 and Resolution[3] dated August 13, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 108483. The CA affirmed the Decision[4] of the National Labor Relations Commission (NLRC) dated November 28, 2008, which declared that Al O. Eyana (petitioner) is entitled to an award of disability compensation equivalent to Grade Eight under the Philippine Overseas Employment Agency (POEA) Standard Employment Contract (SEC). The NLRC reversed the labor arbiter's (LA) earlier decision,[5] which awarded to the petitioner US$80,000.00 as total and permanent disability benefits, and US$8,000.00 as attorney's fees.

Antecedents

Respondent Philippine Transmarine Carriers, Inc. (PTCI) is a local manning agency, with Alain A. Garillos (Garillos) as its crewing manager and official representative.

PTCI, for and on behalf of its foreign principal, Celebrity Cruises, Inc. (CCI), hired the petitioner to assume the position of a utility cleaner on board *M/V Century*. The petitioner then joined the ship on April 15, 2006. His contract covered a period of eight months and his basic monthly salary was US$267.00. His tasks were predominantly manual in nature, which involved lifting, carrying, loading, transporting and arranging food supplies, and floor cleaning.[6]

On August 2, 2006, the petitioner felt a sudden pain in his back after lifting a 30-kilo block of cheese from the freezer shelf. He was no longer able to carry the cheese to the kitchen. He reported the incident to his superior.[7]

The petitioner was confined in a hospital in Oslo, Norway from August 4 to 16, 2006. He was medically repatriated to the Philippines on August 17, 2006.[8]

PTCI immediately referred the petitioner to Dr. Natalio G. Alegre II (Dr. Alegre) for treatment. The initial consultation was on August 18, 2006. Dr. Alegre noted that the petitioner was (a) suffering from severe low back pains, (b) experiencing numbness and weakness in his right lower leg, and (c) having difficulty bending and sitting. The former was, thus, advised to undergo physical therapy thrice a week.[9]

The petitioner thereafter consulted Dr. Alegre eight more times from August 28, 2006 up to January 26, 2007. He continued with physical therapy and was prescribed medications.[10]

On October 23, 2006, Dr. Alegre reported that the Magnetic Resonance Imaging scan of the petitioner's lumbosacral spine showed "disk desiccation L4L5 and L5S1 with left posterolateral disk herniations and nerve root compression." Since the petitioner was hesitant to undergo surgery, Dr. Alegre recommended the administration of epidural steroid injection to decrease the pain and swelling, and the continuation of physical therapy.[11]

On January 20, 2007, Dr. Alegre informed PTCI that the petitioner still suffered from persistent back pains and restricted truncal mobility. Since the petitioner was still young, "conservative management with physical therapy" was recommended. The petitioner was then given a "Disability Grade of 8 (Chest-Trunk-Spine # 5, moderate rigidity or 2/3 loss of motion or lifting power of the trunk)."[12]

The petitioner's last consultation with Dr. Alegre was on January 26, 2007. The former manifested his preference for the continuation of physical therapy and once again refused the offer of surgical intervention.[13]

On June 6, 2007, the petitioner sought the opinion of Dr. Venancio P. Garduce, Jr. (Dr. Garduce), an orthopedic surgeon. The medical certificate signed by the latter indicated that the petitioner had (a) nerve root compression at L4-L5 and L5-S1; (b) numbness and sensory deficits of 40% with weakness of the left big toe extension; and (c) limited range of motion of the back. Dr. Garduce concluded that the petitioner had a Disability Grade of One and was thus unfit for sea duty.[14]

On June 7, 2007, the petitioner filed before the NLRC a complaint[15] for disability benefits, medical reimbursements, damages and attorney's fees against PTCI, Garillos and CCI (respondents).

Ruling of the LA

On December 17, 2007, the LA rendered a Decision[16] awarding to the petitioner the amounts of US$80,000.00 as total and permanent disability benefits, and US$8,000.00 as attorney's fees. The LA ruled that the provisions of the FIT-CISL-ITF CBA (CBA) which adopted Article 12 of the ITF Cruise Ship Model Agreement covering the petitioner's vessel of employment were applicable.[17] The said article, in part, provides that:

> Regardless of the degree of disability[,] an injury or illness which results in loss of profession will entitle the Seafarer to the full amount of compensation, USD eighty thousand (80,000) for ratings, (Groups B, C, & D) x x x. For the purposes of this Article, loss of profession means when the physical condition of the Seafarer prevents a return to sea service, under applicable national and international standards or when it is otherwise clear that the Seafarer's condition will adversely prevent the Seafarer's future of comparable employment on board ships.[18]

The LA found Dr. Garduce's opinion as credible. The LA likewise declared that even if the Disability Grade of Eight assessed by Dr. Alegre would be considered instead, it cannot alter the fact that the petitioner's medical condition was permanent thereby resulting in the loss of his profession as a seaman. Further, the petitioner was unable to perform his customary job for more than 120 days, hence, under the law, he should be considered as permanently and totally disabled.[19]

Ruling of the NLRC

The respondents assailed the LA decision before the NLRC. The dispositive portion of the NLRC Decision[20] dated November 28, 2008 reads as follows:

> WHEREFORE, premises considered, the decision under review is hereby, REVERSED and SET ASIDE, and another entered, DISMISSING the cause of action for payment of higher disability benefits.
>
> According[ly], [the petitioner] is declared entitled to an award of disability compensation equivalent to GRADE EIGHT (8) under the [POEA-SEC].
>
> SO ORDERED.[21]

The NLRC explained that:

> Records show that [Dr. Alegre] personally examined the [petitioner] starting August 18, 2006. From said date until January 26, 2007, [the petitioner] underwent medical examination for no less than eight (8) times x x x. Notably, on two occasions, Dr. Alegre suggested that [the petitioner] undergo operation. [The petitioner] himself refused but instead opted for epidural steroid injection and physical therapy x x x. Having failed to receive a higher disability rating, [the petitioner] waited [for] over four (4) months before he sought a second opinion which was based on a mere single consultation that, in turn, produced a mere handwritten diagnosis. From these established facts, even granting that the disability assessment should have been as what [the petitioner's] private physician had determined, his conduct is considered as a supervening cause that could account for such disability, noting further that the second medical opinion was obtained several months after the company-designated physician had issued a disability rating. These circumstances warrant according to the medical opinion of [the petitioner's] private physician with such nil significance.
>
> Attendant facts not only render an inherent weakness in [the petitioner's] evidence. They fail to overcome the corresponding probative weight and credence being ascribed to the declaration of the company-designated physician which had been issued pursuant to the conditions stated in the [POEA SEC]. Thusly, and as ruled in the case of Cadornigara v. Amethyst Shipping Co., Inc., et al., G.R. No. 158073, November 23, 2007, while

> the certification of the company physician may be contested, the seafarer must indicate facts or evidence on record to contradict such finding. x x x [The petitioner] having entirely missed pointing to any circumstance that would have reasonably established fraud or misrepresentation on the part of the company-designated physician, We are therefore without any other recourse but to render due adherence to his findings and conclusions.[22]

On February 13, 2009, the NLRC denied the respondents' motion for reconsideration.[23]

Ruling of the CA

The respondents thereafter filed a Petition for *Certiorari*,[24] which the CA dismissed through the herein assailed decision and resolution. The CA declared that:

> The Court notes that Section 20(B) of the employment contract states that it is the company-designated physician who determines a seafarer's fitness to work or his degree of disability. Nonetheless, a claimant may dispute the company-designated physician's report by seasonably consulting another doctor. In such a case, the medical report issued by the latter shall be evaluated by the labor tribunal and the court, based on its inherent merit.
>
> It is noted that petitioner took four (4) months before disputing the finding of Dr. Alegre by consulting a second opinion of his physician of choice, whose only consultation with him is recorded by a handwritten diagnosis dated June 6, 2007, a day before he filed a complaint for disability benefits. x x x.
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> x x x x
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> As the Supreme Court observed in *Sarocam v. Interorient Maritime Ent. Inc.*, it makes no sense to compare the certification of a company-designated physician with that of an employee-appointed physician if the former is dated seven to eight months earlier than the latter -- there would be no basis for comparison at all.
>
> In ***Maunlad Transport, Inc. vs. Manigo***, where the Supreme Court took note of the doctrines laid down in ***Cadornigara v. NLRC and Sarocam v. Interorient Maritime Ent., Inc.***, which We hold to be the more applicable rule in the instant case, wherein the Court held that an assessment of a private doctor consulted by the claimant six (6) months after he was declared "fit to work" by the company-designated physician in ***Cadornigara*** and seven (7) to eight (8) months in ***Sarocam***, has no evidentiary value, for the claimant's health condition may have drastically changed in the interregnum.
>
> Following the foregoing analyses in ***Cadornigara*** and ***Sarocam***, the necessary conclusion in this case would have to be that Dr. Alegre's (the

company physician) diagnosis and recommendation has more evidentiary weight and should therefore prevail over that of Dr. Garduce. In the absence of bad faith, Dr. Alegre's findings were binding on the petitioner, such findings being based on the petitioner's extensive and actual medical history and treatment.

Moreover, the records lack competent showing of the extent of the medical treatment that the private doctor gave to the petitioner. In contrast, Dr. Alegre's extensive medical treatment that enabled him to make a final diagnosis on the degree of the petitioner's disability was amply demonstrated. Thus, between the certification issued by the company[-]designated physician and the certification issued by the private doctor, We would lend more credence to the certification issued by the company[-]designated physician because it was done in the regular performance of his duties as company physician and who consistently examined complainant's health condition. We cannot simply brush aside said certification in the absence of solid proof that it was issued with grave abuse of authority of the company physician. This was what respondent NLRC precisely considered in coming out with its reversal decision. In doing so, it may not be said that it gravely abused its discretion.

While the Court may agree with the petitioner that the [POEA SEC] for Seamen is designed primarily for the protection and benefit of Filipino seamen in the pursuit of the employment on board ocean-going vessels and its provisions must, therefore be construed and applied fairly, reasonably and liberally in their favor, We must also emphasize that the constitutional policy to provide full protection to labor is not meant to be a sword to oppress employers, nor a means to prevent the court from sustaining the employer when it is in the right.[25] (Citations omitted)

Issues

This Court is now called upon to resolve the issues of whether or not the CA and the NLRC erred in not considering the following:

(a) provisions of the CBA which provide full compensation for loss of profession regardless of the degree of disability;[26] and

(b) settled jurisprudence on seafarers' claims declaring that entitlement to full disability compensation is based on the loss of earning capacity and not on medical significance.[27]

The petitioner claims that while the respondents never controverted the existence of the CBA, which was an addendum to the POEA SEC executed between the parties in this case, the NLRC and the CA failed to discuss the provisions therein in their respective decisions. Further, Article 12 of the CBA provides that regardless of the disability grading given to the petitioner, he should be entitled to a compensation of US$80,000.00 as a result of the loss of his profession. The petitioner also points out that from his repatriation on August 18, 2006 up to the time the instant petition was