

THIRD DIVISION

[G.R. No. 211454, February 11, 2015]

**MAUNLAD TRANS., INC./CARNIVAL CRUISE LINES, INC., AND
MR. AMADO L. CASTRO, JR., PETITIONERS, VS. RODOLFO M.
CAMORAL, RESPONDENT.**

RESOLUTION

REYES, J.:

On petition for review^[1] is the Decision^[2] dated November 13, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 122396 affirming the Decision dated July 27, 2011 and Resolution dated October 14, 2011 of the National Labor Relations Commission (NLRC) in NLRC NCR-OFW-02-01759-10. The NLRC sustained the Decision dated November 10, 2010 of the Labor Arbiter (LA) awarding to Rodolfo M. Camoral (Camoral) total disability benefits and attorney's fees.

Antecedent Facts

For 18 years since 1991, Camoral was continuously deployed overseas by Carnival Cruise Lines, Inc., a foreign shipping company, through its local agent, Maunlad Trans., Inc. (petitioners). In April 2009, they took him on board *M/S Carnival Sensation* as ice carver for a period of eight months, the company doctors having declared him "Fit for Sea Duty (Without Restriction)" after the requisite physical evaluations. As ice carver, Camoral's job required lifting and carrying heavy blocks of ice and using heavy equipment and tools, working for hours inside the freezer in sub-zero temperature. One day in September 2009 while at work, he suddenly felt excruciating pain in his neck. The pain quickly radiated to his shoulder, chest and hands. It became so intense that he dropped to the floor. Pain relievers could not relieve the pain, and the ship's doctor advised the Chief Chef that Camoral was unfit for further duty on board. On advice of the company doctor in Florida, United States of America, Dr. James E. Carter (Dr. Carter), a Magnetic Resonance Imaging scan was performed on Camoral's cervical spine on September 25, 2009, revealing the following:^[3]

IMPRESSION:

1. At C5-6, there is a moderately large, broad-based posterior disc herniation of the protrusion type with resultant obliteration of the subarachnoid space ventrally and severe right greater than left bilateral neural foraminal stenosis. There is probable compression of the exiting right greater than left C6 nerves bilaterally.
2. At C4-5, there is a small-to-moderate sized, diffuse, posterior broad-based disc herniation of the protrusion type. There is resultant

effacement of the subarachnoid space ventrally and a mild amount of right-sided neural foraminal stenosis.

3. There is slight reversal of the normal lordotic curvature of cervical spine consistent with muscle spasm.^[4]

In his medical report dated September 28, 2009, Dr. Carter found Camoral with "Cervical Disc Herniation and Radiculopathy" and declared him "unfit for duty". Camoral was repatriated on October 4, 2009, and on arrival in Manila he was referred to company doctors at the Marine Medical Services of the Metropolitan Medical Center. On October 26, 2009, he underwent a surgical procedure known as "Anterior C5 Discectomy Fusion with Pyramidal Cage and Mastergraft Putting, Plating." In the Operation Sheet, his pre-operative and post-operative diagnosis showed "Cervical Spondylotic Radiculopathy secondary to C4-C5, C5-C6 Disc Protrusion," while the portion on "Description of Organs" stated that he had a "compressed end at C4-5 to C5-6 level and thickened posterior ligaments." He underwent rigorous physical therapy, but after more than five months his condition barely improved, and the pain in his neck, chest and shoulder persisted. He then consulted Dr. Rogelio P. Catapang, Jr. (Dr. Catapang), a renowned Orthopaedic and Traumatology Surgeon, who after a thorough clinical and physical examination of Camoral issued a report on February 22, 2010.^[5] The report stated that:

Present physical examination revealed neck pain more on flexion; presence of a post operative scar anterior neck; neck movement is limited, sudden and strenuous activities may aggravate the condition. Mr. Camoral continues to complain and suffer from neck pain despite continuous therapy. The pain is made worse by neck rotation. He has lost his pre-injury capacity and is UNFIT to work back at his previous occupation as a seafarer.

x x x If a long term and more permanent result are [sic] desired however, he should refrain from activities producing torsional stress on the neck and those that require repetitive bending and lifting, things Mr. Camoral is expected to do as a Seafarer.

Some restriction must be placed on Mr. Camoral's work activities. This is in order to prevent the impending late sequelae of his current condition. He presently does not have the physical capacity to return to the type of work he was performing at the time of his injury. He is therefore UNFIT in any capacity for further sea duties.^[6]

Camoral failed to get further financial assistance from the petitioners for his subsequent treatment and medications, as well as total disability benefits. He was instead offered \$10,075.00 corresponding to Grade 10 disability the company gave him. With no income for more than 120 days and having been declared unfit to return to his previous job due to loss of his pre-injury capacity, he sued the petitioners before the LA for total disability benefits of US\$60,000.00, citing Philippine Overseas Employment Administration Standard Terms and Conditions Governing the Employment of Filipino Seafarers on board Ocean-going Vessels

(POEA SEC for brevity).^[7]

In their answer, the petitioners argued that Camoral was not entitled to total and permanent disability benefits since he was not assessed by the company doctors with a Grade 1 disability; that Dr. Robert Lim (Dr. Lim), one of the company doctors, noted in his medical report dated December 11, 2009 that after surgery and rehabilitation Camoral was recovering well, and that in his follow-up report dated January 8, 2010, X-Ray examination showed good alignment and fusion, and he advised Camoral to continue medications and rehabilitation; that on January 29, 2010, Dr. Lim noted that Camoral's muscle strength in both upper extremities were graded 5/5, indicating improvement, and on March 5, 2010, Dr. Lim noted that he had reached maximum medical cure; that Dr. Ibet Marie Y. Sih (Dr. Sih), a company neuro and spine surgeon, assessed him with Grade 10 disability with moderate stiffness or one-third limitation of motion of the neck, not Grade 1 disability; that petitioners paid all of his sickness allowance and medical expenses.^[8]

Rulings of the LA and the NLRC

On November 10, 2010, the LA rendered judgment, the pertinent portion of which reads:

Section 20 B of the Standard Terms and Conditions Governing the Employment of Seafarers On-Board Ocean Going Vessels, provides:

B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

1. The employer shall continue to pay the seafarer his wages during the time he is on board the vessel;
2. If the injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment as well as board and lodging until the seafarer is declared fit to work to be repatriated. However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the company-designated physician.
3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.

x x x x

Under the Section 20B of Standard Contract, an injury or illness to be compensate [sic] must be work-related and has occurred during the

effectivity of the contract.

These conditions are met in the instant case x x x.

x x x x

This Office rules in favor of the complainant [finding him] entitled to total disability. This finds support in the [string] of Supreme Court decisions that the inability of the seafarer to return to the same kind of work he was trained to render him permanently disabled.

x x x x

There is no disagreement between the findings of the company-designated physician and complainant's private doctor because both declared that complainant is not fit to go back to work. x x x.

Considering that complainant's position is (sic) an Ice Carver, it is required that he should have full movement of his neck in the performance of his function and the pain and the limitation of his neck movement effectively prevents him from engaging in the same kind of work he was trained for.

The Grade 10 disability made by the company physician is not binding to this Office as it is clear that complainant can no longer return to work.

x x x x

Complainant's claim for damages cannot be granted for lack of basis. But as complainant availed of the services of a lawyer, he is entitled to an award of attorney's fees.

WHEREFORE, a Decision is hereby rendered ordering Respondents jointly and solidarily to pay complainant US\$60,000.00 plus ten (10%) percent thereof as and by way of attorney's fees.

SO ORDERED.^[9]

The petitioners appealed to the NLRC, which however denied the same in its Decision dated July 27, 2011, the pertinent portion of which reads:

Indeed, it is not disputed that the conditions for compensability of an incapacity resulting from work-connected illness/injury during the term of the contract, have been met in this case.

x x x x

Perusal of the respondents' submitted medical report and disability assessment fails to show how the partial permanent disability assessment was arrived at, as it simply states that complainant is

suffering from impediment Grade 10 disability, without any evidence that indeed only 1/3 limitation of motion of the neck or moderate stiffness had affected the complainant.

On the other hand, as shown by the certification issued by Dr. Catapang on February 22, 2010 complainant's disability is permanent and prevents him from further sea duties. The medical opinion also categorically declares that complainant continues "to suffer from neck pain despite continuous therapy" and that "he should refrain from activities producing torsional stress on the neck and those that require repetitive bending and lifting; things that Mr. Camoral is expected to do as a Seafarer."

x x x x

x x x The test to determine its gravity is the impairment or loss of one's capacity to earn and not its mere significance. Permanent total disability means disablement of the employee to earn wages in the same kind of work or work of similar nature that he was trained for or accustomed to perform or any kind of work which a person of his mentality and attainment can do.

x x x x

Accordingly, We find the medical opinion of complainant's own doctor to be more credible, and sustain the assessment as to complainant's permanent incapacity that has rendered him unfit to work as seafarer, thus entitling him to [sic] awarded disability compensation.

We sustain the award of attorney's fees of ten (10%) percent as the complainant had sought legal representation pursuing his valid contractual claims.

WHEREFORE, respondents' appeal is DISMISSED for lack of merit. The Decision dated November 10, 2010 stands AFFIRMED.

SO ORDERED.^[10]

The petitioners' Motion for Reconsideration was denied in the Resolution dated October 14, 2011 of the NLRC.

Ruling of the CA

On petition for *certiorari* to the CA, citing Section 20B(6) of the POEA SEC, the petitioners insisted that regardless of whether the disability is total or partial, any compensation should be based on the grading provided in the POEA SEC, which in this case is Grade 10 disability as assessed by the company doctors.^[11]

But the appellate court upheld the NLRC, ruling that *firstly*, Section 20 of POEA SEC, which is deemed written into the seafarer's contract, provides for the minimum requirements acceptable to the government before it approves the deployment of Filipino seafarers on foreign ocean-going vessels, and that *secondly*, the two