767 Phil. 488

FIRST DIVISION

[G.R. No. 206032, August 19, 2015]

JOSE RUDY L. BAUTISTA, PETITIONER, VS. ELBURG SHIPMANAGEMENT PHILIPPINES, INC., AUGUSTEA SHIPMANAGEMENT ITALY, AND/OR CAPTAIN ANTONIO S. NOMBRADO,* 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 6, 2012 and the Resolution[3] dated February 19, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 117921, which reversed and set aside the Decision[4] dated September 20, 2010 and the Resolution[5] dated December 20, 2010 of the National Labor Relations Commission (NLRC) in NLRC NCR Case No. (M) 09-13249-09, and dismissed petitioner Jose Rudy L. Bautista's (petitioner) claim for total and permanent disability benefits.

The Facts

On August 7, 2008, petitioner entered into a nine (9)-month Contract of Employment with respondent Elburg Shipmanagement Philippines, Inc. (Elburg) on behalf of its foreign principal, respondent Augustea Shipmanagement Italy (Augustea), as Chief Cook on board the vessel "MV Lemno." Prior to his embarkation, petitioner underwent a Pre-Employment Medical Examination (PEME), and was certified as fit for sea duty by the company-designated physician. He then boarded the vessel on August 14, 2008.[6]

During petitioner's employment, he complained of breathing difficulty, weakness, severe fatigue, dizziness, and grogginess. Upon referral to a portside hospital, he was suspected to have "thoracic aneurysm," and thus, was recommended for medical repatriation. Following his repatriation on May 8, 2009, petitioner was referred to Elburg's designated physicians at the Metropolitan Medical Center (MMC) for further evaluation and medical treatment. After several tests, he was diagnosed with "Hypertensive Cardiovascular Disease" and "Diabetes Mellitus II," and thoracic aneurysm was eventually ruled out.[7] On September 4, 2009, the company-designated physician, Dr. Melissa Co Sia (Dr. Sia) issued a working impression that petitioner was suffering from "Hypertension", "Dyslipidemia", and "Chronic Obstructive Pulmonary Disease," with a declaration that he would be cleared to go back to his duties as a seafarer as soon as his blood pressure and lipid levels stabilize.[8]

On September 16, 2009, petitioner filed a complaint against respondents Augustea, Elburg, and the latter's President, Captain Antonio S. Nombrado (respondents),

seeking to recover disability benefits applicable to officers amounting to US$118,800.00[9] pursuant to their Collective Bargaining Agreement[10] (CBA), as well as damages, and attorney's fees, alleging that: (a) his illnesses were occupational diseases as they were developed, enhanced, and aggravated by the nature of his work, as well as the environment at the jobsite; and (b) he was unable to return to work within 120 days, thereby rendering his disability permanent and total.[11]

For their part,[12] respondents maintained that petitioner's Diabetes Mellitus II was familial or genetic in nature, and thus, not work-connected. Additionally, they averred that his Hypertensive Cardiovascular Disease was a mere complication thereof, and as such, is also not work-related.[13]

Thereafter, petitioner submitted the medical certificate and evaluation dated January 6, 2010 of his own physician, Dr. Efren R. Vicaldo (Dr. Vicaldo), who opined that his illnesses - *i.e.*, "Hypertensive atherosclerotic cardiovascular disease" and "Diabetes mellitus" - rendered him unfit to work as seaman in any capacity, and were considered work-related/ aggravated.[14] The said documents were only attached by petitioner in his reply during the proceedings before the Labor Arbiter (LA).[15]

The LA Ruling

In a Decision[16] dated February 19, 2010, the LA ordered respondents, jointly and severally, to pay petitioner US$89,100.00 representing total and permanent disability benefits under the CBA, plus ten percent (10%) thereof as attorney's fees.

The LA ruled that petitioner's condition was undoubtedly contracted during the term of his contract when he experienced the symptoms of his ailment, considering that he was declared fit for sea duty in his PEME. The LA also lent more credence to the medical certificate issued by Dr. Vicaldo, as being more reflective of petitioner's actual condition. Moreover, while the LA conceded that Diabetes Mellitus II was not a compensable ailment, since petitioner was likewise diagnosed with Hypertensive Cardiovascular Disease, an occupational disease, by no less than the company-designated doctor, his illness remained compensable. Finally, the LA upheld the presumption of incapacity in favor of petitioner considering that his ailment subsisted for more than 120 days.[17]

Aggrieved, respondents appealed to the NLRC.[18]

The NLRC Ruling

In a Decision[19] dated September 20, 2010, the NLRC dismissed respondents' appeal and affirmed the LA's findings. It ruled that while it is true that Diabetes Mellitus II is not an occupational disease, still, the medical diagnosis of petitioner included a finding of Hypertensive Cardiovascular Disease which is listed under Section 32-A of the Philippine Overseas Employment Administration - Standard Employment Contract (POEA-SEC). It further noted that petitioner's medical reports did not state that he suffered from Diabetes Mellitus II *with* Hypertensive Cardiovascular Disease which would have implied that the latter ailment was a mere necessary complication thereof. Aside from echoing the findings of Dr. Viealdo that

petitioner's illnesses were work-related, the NLRC ruled that absent any showing that his illnesses were pre-existing, the reasonable presumption is that he obtained them during the period of his employment, and that they were aggravated by the nature of his work as Chief Cook.[20]

Respondents moved for reconsideration[21] which the NLRC denied in a Resolution[22] dated December 20, 2010. Undeterred, they filed a petition for *certiorari* before the Court of Appeals (CA).

Meanwhile, the NLRC issued an entry of judgment in the case, constraining respondents to settle the full judgment award.[23]

The CA Ruling

In a Decision[24] dated September 6, 2012, the CA granted respondents' *certiorari* petition and thereby dismissed petitioner's complaint for disability benefits. It ruled that petitioner failed to prove, through substantial evidence, that his Hypertension and Cardiovascular Disease were suffered during the effectivity of his employment, and that they were connected to his work as Chief Cook. It did not give probative weight to the medical evaluation issued by Dr. Viealdo as he attended to petitioner only *once* and never conducted any medical tests on him, and in fact, merely limited himself to a medical history review and physical examination of petitioner, noting too that petitioner only sought Dr. Viealdo's medical opinion four months *after* he filed his complaint. Finally, the CA concluded that the "120-day rule" is not absolute but is dependent on the circumstances of each case, and that petitioner's mere failure to return to his work after 120 days does not *ipso facto* entitle him to maximum disability benefits.[25]

Undaunted, petitioner sought reconsideration, which was, however, denied in a Resolution[26] dated February 19, 2013; hence, this petition.

The Issue Before the Court

The core issue in this case is whether or not the the CA correctly ruled that the NLRC committed grave abuse of discretion in granting petitioner's claim for total and permanent disability benefits.

The Court's Ruling

The petition is meritorious.

The entitlement of overseas seafarers to disability benefits is a matter governed, not only by medical findings, but also by law and contract.[27] The pertinent statutory provisions are Articles 197 to 199[28] (formerly Articles 191 to 193) of the Labor Code in relation to Section 2,[29] Rule X of the Rules implementing Title II, Book IV of the said Code;[30] while the relevant contracts are: (*a*) the POEA-SEC, which is a standard set of provisions that is deemed incorporated in every seafarer's contract of employment; (*b*) the CBA, if any; and (*c*) the employment agreement between the seafarer and his employer.[31]

In this case, petitioner executed his employment contract with respondents on August 7, 2008. Accordingly, the provisions of the 2000 POEA-SEC are applicable and should govern their relations. Sec. 20 (B) (6), of the 2000 POEA-SEC provides:

> SECTION 20. COMPENSATION AND BENEFITS
>
> x x x x
>
> 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:
>
> x x x x
>
> 6. In case of **permanent total or partial disability of the seafarer caused by either injury or illness** the seafarer shall be compensated in accordance with the schedule of benefits arising from an illness or disease shall be governed by the rates and the rules of compensation applicable at the time the illness or disease was contracted. (Emphasis supplied.)

Pursuant to the afore-quoted provision, two (2) elements must concur for an injury or illness to be compensable: *first,* that the injury or illness must be work-related; and *second,* that the work-related injury or illness must have existed during the term of the seafarers employment contract.[32]

The 2000 POEA-SEC defines "work-related injury" as "injury(ies)" resulting in disability or death arising out of and in the course of employment" and "work-related illness" as "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," *viz*.:

> 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; and
> 4. There was no notorious negligence on the part of the seafarer.

Section 32-A (11) of the 2000 POEA-SEC expressly considers Cardiovascular Disease (CVD) as an occupational disease if it was contracted under **any** of the following instances, to wit:

> (a) If the heart disease was known to have been present during employment, there must be proof that an acute exacerbation was clearly precipitated by the unusual strain by reasons of the nature of his work.

(b) The strain of work that brings about an acute attack must be sufficient

severity and must be followed within 24 hours by the clinical signs of cardiac insult to constitute causal relationship.

(c) **If a person who was apparently asymptomatic before being subjected to strain at work showed signs and symptoms of cardiac injury during the performance of his work and such symptoms and signs persisted, it is reasonable to claim a causal relationship**. (Emphasis supplied)

Consequently, for CVD to constitute as an occupational disease for which the seafarer may claim compensation, it is incumbent upon said seafarer to show that he developed the same under any of the three conditions identified above.[33]

Records reveal that sometime during the performance of his duties as Chief Cook on board MV Lemno, petitioner complained of breathing difficulty, weakness, severe fatigue, dizziness, and grogginess, necessitating portside medical intervention and consequent medical repatriation, albeit, on the basis of suspected "thoracic aneurysm." Shortly after repatriation, he was diagnosed, *inter alia*, with Hypertensive Cardiovascular Disease, also known as **hypertensive heart disease**, which refers to a heart condition caused by high blood pressure.[34]

Petitioner's condition was apparently asymptomatic[35] since he manifested no signs and symptoms of any cardiac injury prior to his deployment onboard MV Lemno and was, in fact, declared fit for sea duty following his PEME. Notably, petitioner's physical discomforts on-board the vessel already bore the hallmarks of CVD for which he was eventually diagnosed upon his repatriation. The said diagnosis was recognized by both the company-designated doctors and petitioner's own doctor, and was well-documented. Thus, absent any showing that petitioner had a pre-existing cardiovascular ailment prior to his embarkation, the reasonable presumption is that he acquired his hypertensive cardiovascular disease **in the course of his employment** pursuant to Section 32-A (11) (c) of the 2000 POEA-SEC, which recognizes a "causal relationship" between a seafarer's CVD and his job, and qualifies his CVD as an occupational disease. In effect, the said provision of law establishes in favor of a seafarer the presumption of compensability of his disease.

A party in whose favor the legal presumption exists may rely on and invoke such legal presumption to establish a fact in issue.[36] 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.[37] However, other than their bare and self-serving assertion that petitioner's Hypertensive Cardiovascular Disease was a mere complication of his Diabetes Mellitus II, respondents failed to introduce countervailing evidence that would otherwise overcome the disputable presumption of compensability of the said disease.

Verily, it is not required that the employment of petitioner as Chief Cook should be