

SECOND DIVISION

[G.R. No. 193047, March 03, 2014]

FIL-PRIDE SHIPPING COMPANY, INC., CAPTAIN NICOLAS T. DOLLOLASA AND OCEAN EAGLE SHIPMANAGEMENT COMPANY, PTE. LTD., PETITIONERS, VS. EDGAR A. BALASTA, RESPONDENT.

DECISION

DEL CASTILLO, J.:

The company-designated physician must arrive at a definite assessment of the seafarer's fitness to work or permanent disability within the period of 120 or 240 days,^[1] pursuant to Article 192 (c)(1) of the Labor Code and Rule X, Section 2 of the Amended Rules on Employees Compensation (AREC). If he fails to do so and the seafarer's medical condition remains unresolved, the latter shall be deemed totally and permanently disabled. On the other hand, an employee's disability becomes permanent and total even before the lapse of the statutory 240-day treatment period, when it becomes evident that the employee's disability continues and he is unable to engage in gainful employment during such period because, for instance, he underwent surgery and it evidently appears that he could not recover therefrom within the statutory period.

This Petition for Review on *Certiorari*^[2] assails the April 20, 2010 Decision^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 107330 and its July 21, 2010 Resolution^[4] denying reconsideration thereof.

Factual Antecedents

Respondent Edgar A. Balasta was hired by petitioner Fil-Pride Shipping Company, Inc. (Fil-Pride) for its foreign principal, petitioner Ocean Eagle Ship Management Company, PTE. Ltd. (Ocean Eagle). Respondent was assigned as Able Seaman onboard M/V Eagle Pioneer. His Employment Contract^[5] states the following terms and conditions:

Duration of Contract	:	TWELVE MONTHS	
Position	:	ABLE SEAMAN	
Basic Monthly Salary	:	US\$390.00	
Hours of Work	:	48 HRS/WEEK	
Overtime	:	FIXED US\$156.00	
		(CONTAINER	ALLOW.
		US\$39.00)	
Vacation leave with pay	:	US\$52.00	
Point of hire	:	MANILA/PHILS	

Respondent was declared fit to work after undergoing the mandatory Pre-

Employment Medical Examination (PEME). He commenced his duties as Able Seaman aboard M/V Eagle Pioneer on February 23, 2005. Among respondent's duties as Able Seaman are the following:

- a. Watch standers and may be required to supervise day work of junior rating;
- b. Stands watch at bow or on wing of bridge to look for obstructions in path of vessel;
- c. Measures depth of water in shallow or unfamiliar waters, using lead line, and telephones or shouts information to bridge;
- d. Steers ship by automatic/remote control or manual control and/or uses emergency steering apparatus to steer vessel as directed by navigating officer, chief mate or the ship captain;
- e. Breaks out rigs, overhauls and stows cargo handling gears, stationary rigging, and running gears;
- f. Overhauls lifeboats, winch and falls;
- g. Paints and chips rust on deck and superstructure of ship;
- h. May be concerned only with one phase of duties such as:
 1. Maintenance of ships' gears and decks or watch duties;
 2. May be known as skilled deckhand on various repairs and maintenance works on deck;
 3. Performs other deck works as required by superior officers.^[6]

Sometime in August and September 2005, while aboard M/V Eagle Pioneer, respondent experienced chest pains, fatigue, and shortness of breath. He was examined by a physician in Gangyou Hospital in Tianjin, China, and was diagnosed as having myocardial ischemia and coronary heart disease. He was declared unfit for duty and was recommended for repatriation.^[7]

Respondent was thus repatriated on September 18, 2005 and was immediately referred to the company-designated physician, Dr. Nicomedes G. Cruz (Dr. Cruz). He was subjected to laboratory, X-ray, 2D echo, and electrocardiogram tests, as well as 24-hour Holter monitoring. In Dr. Cruz's September 18, 2005 medical report,^[8] respondent was diagnosed with hypertension and myocardial ischemia.

Respondent was further examined by Dr. Cruz on September 21, 23 and 30, 2005; October 6, 2005; February 2, 13 and 17, 2006; March 6 and 20, 2006; and on April 19, 2006.^[9] From the February 2, 2006 medical report onward, it may be seen that respondent was diagnosed with severe 3-vessel coronary artery disease, and was scheduled for coronary artery bypass surgery on February 24, 2006.

On his own initiative, respondent underwent coronary angiogram at the St. Luke's Medical Center (St. Luke's) on October 14, 2005. In a medical report^[10] of even date signed by St. Luke's Cardiac Catheterization Laboratory Interventional Cardiologist Paterno F. Dizon, Jr., respondent was diagnosed with coronary artery atherosclerosis and severe three-vessel coronary artery disease.

On February 16, 2006, respondent consulted and was examined by an independent

physician, Dr. Efren R. Vicaldo (Dr. Vicaldo), who issued a medical certificate^[11] containing the following diagnosis:

February 16, 2006

TO WHOM IT MAY CONCERN:

This is to certify that, Edgar A. Balasta, 48 years of age, of Imus, Cavite was examined and treated as out[-]patient/confined in this hospital on/from February 16, 2006 with the following findings and/or diagnosis/diagnoses:

Hypertensive cardiovascular disease
Coronary artery disease, 3[-]vessel involvement
Stable angina pectoris
Impediment Grade 1 (120%)

(signed)
EFREN R. VICALDO, M.D.

JUSTIFICATION OF IMPEDIMENT GRADE 1 (120%)
FOR SEAMAN EDGAR A. BALASTA

- This patient/seaman presented with a history of chest pain, easy fatigue and shortness of breath noted [in] August 2005 after some strenuous activity while working on board ship. He was seen in consult in Mainland China where he underwent chest Xray and ECG. He was diagnosed as [sic] coronary artery disease.
- He was repatriated on September 18, 2005 and was admitted for 1 week at Manila Medical Center. He underwent laboratory exams which included Chest Xray, ECG, 2D echo and 24 hour Holter monitoring. He consequently underwent coronary angiography at St. Luke's Medical Center on October 14, 2005 which revealed severe 3 vessel disease involving the proximal LAD, first diagonal and proximal and distal LCx.
- When seen at the clinic, his blood pressure was elevated at 140/90 mmHg; the rest of the PE findings were unremarkable.
- He is now unfit to resume work as seaman in any capacity.
- His illness is considered work aggravated/related.
- He requires maintenance medication to maintain normal blood pressure and low cholesterol to prevent worsening of his coronary artery disease and other cardiovascular complications such as stroke and renal insufficiency.
- He requires immediate coronary artery bypass graft surgery to alleviated (sic) his symptom of angina and prevent the occurrence of possible acute myocardial infarction.
- He has to modify his lifestyle to include low salt, low fat diet, regular exercise and nicotine abstinence.

- He is not expected to land a gainful employment given his medical background.

Thank you.

(signed)

Efren R. Vicaldo, M.D.^[12]

Respondent filed a claim for permanent disability benefits with petitioners, but the latter denied the same.

On February 10, 2006, respondent filed against the petitioners a Complaint^[13] for the recovery of disability benefits, illness allowance, reimbursement of medical expenses, damages and attorney's fees.

It appears from the record that on February 24, 2006, respondent underwent coronary artery bypass graft surgery. He then continued his treatment with Dr. Cruz, who for his part continued to diagnose respondent with severe coronary artery disease.

In his Position Paper^[14] and Reply,^[15] respondent stated and argued that in the performance of his duties as Able Seaman, he inhaled, was exposed to, and came into direct contact with various injurious and harmful chemicals, dust, fumes/emissions, and other irritant agents; that he performed strenuous tasks such as lifting, pulling, pushing and/or moving equipment and materials on board the ship; that he was constantly exposed to varying temperatures of extreme hot and cold as the ship crossed ocean boundaries; that he was exposed as well to harsh weather conditions; that in most instances, he was required to perform overtime work; that the work of an Able Seaman is both physically and mentally stressful; and that as a result, he contracted his illness which required him to undergo bypass surgery. He added that despite being examined by the company-designated physician, he continued to suffer episodes of severe chest pain, difficulty in breathing and other discomforts related to his illness; that his health has not improved, and was instead deteriorating, which thus led him to consult an independent physician (Dr. Vicaldo); that Dr. Vicaldo declared him unfit to work as seaman in any capacity and that his illness was work-related; that despite the lapse of more than six months, the company-designated physician has failed to make a finding regarding his condition, which thus entitles him to permanent total disability benefits; that his just claim for disability benefits was denied by petitioners, which forced him to file the labor complaint; and that he should thus be paid US\$60,000.00 disability benefits with interest, 120 days illness allowance based on his salary of US\$390.00 or the amount of US\$1,560.00 with interest, P500,000.00 damages, and attorney's fees of 10% of the recoverable amount.

Petitioners, on the other hand, stated and argued in their Position Paper^[16] and Reply^[17] that respondent filed a labor complaint even before the company-designated physician, Dr. Cruz, could complete his examination and treatment of respondent's condition, which thus prompted them to deny his claim for disability benefits; that the independent physician Dr. Vicaldo examined respondent only once

on February 16, 2006, and thus could not have arrived at a competent diagnosis of respondent's condition; that in the absence of a competent diagnosis and substantial evidence, respondent's claim for benefits cannot stand; that respondent's illness is not work-related, and that his lifestyle caused, or was a contributing factor to, his illness; that contrary to respondent's claim, the latter has been paid his illness allowance in full; that respondent's medical expenses are being shouldered by them; and that respondent is not entitled to damages and attorney's fees as a result of prematurely filing the labor case. Petitioners thus prayed that the labor case be dismissed.

Ruling of the Labor Arbiter

On April 30, 2007, a Decision^[18] was rendered by the Labor Arbiter which decreed as follows:

WHEREFORE, judgment is hereby rendered ordering respondents to pay, jointly and severally, the complainant the following amount[s]:

(1) US\$60,000.00 or its peso equivalent at the time of payment as disability benefit; and (2) US\$6,000.00 or its peso equivalent at the time of payment as attorney's fees.

All other claims are Dismissed for lack of merit.

SO ORDERED.^[19]

The Labor Arbiter held essentially that respondent contracted his illness while serving out his employment contract with petitioners; that his illness was work-related/aggravated; that while respondent was under the care of Dr. Cruz from September 18, 2005 until April 19, 2006, the latter could have come up with a declaration of fitness or disability, yet he did not; that respondent's illness rendered him unfit for duty and required bypass surgery to treat the same; and that respondent's condition constituted permanent total disability as the same is equivalent to Impediment Grade 1 (120%) as assessed by Dr. Vicaldo, which thus entitles respondent to the maximum disability compensation of US\$60,000.00. For lack of basis, however, respondent's claim for damages and reimbursement of medical expenses was denied.

Ruling of the National Labor Relations Commission

Petitioners appealed to the National Labor Relations Commission (NLRC).

On September 22, 2008, the NLRC rendered its Decision^[20] granting petitioners' appeal and reversing the Labor Arbiter's April 30, 2007 Decision, thus:

WHEREFORE, the appeal is GRANTED. The Labor Arbiter's Decision dated April 30, 2007 is hereby SET ASIDE.

SO ORDERED.^[21]