

FIRST DIVISION

[G.R. No. 201072, April 02, 2014]

**UNITED PHILIPPINE LINES, INC. AND HOLLAND AMERICA LINE,
PETITIONERS, VS. GENEROSO E. SIBUG, RESPONDENT.**

D E C I S I O N

VILLARAMA, JR., J.:

Before the Court is a petition for review on certiorari assailing the Decision^[1] dated July 29, 2011 and Resolution^[2] dated February 14, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 110757. The CA ruled that respondent seaman Generoso E. Sibug is twice entitled to permanent and total disability benefits.

The antecedent facts follow:

Petitioners United Philippine Lines, Inc. and Holland America Line hired Sibug as waste handler on board the vessel M/S Volendam. On August 5, 2005, Sibug fell from a ladder while cleaning the silo sensor at a garbage room of the Volendam and injured his knee. He was repatriated and had anterior cruciate ligament (ACL) reconstruction surgery at the Manila Doctors Hospital. On January 19, 2006, he was declared fit to return to work from an orthopedic point of view.^[3]

Sibug sought reemployment, passed the pre-employment medical examination, and was re-hired by petitioners in the same capacity for the vessel M/S Ryndam. On board Ryndam, Sibug met another accident while driving a forklift and injured his right hand and wrist. He was repatriated. He arrived in the Philippines on January 15, 2007,^[4] and had surgery for his Ryndam injury.^[5] On September 7, 2007, the company-designated doctor issued a medical report^[6] that Sibug has a permanent but incomplete disability.^[7] In an email^[8] dated September 28, 2007, the company-designated doctor classified Sibug's disability from his Ryndam injury as a grade 10 disability.^[9]

Sibug filed two complaints for disability benefits, illness allowance, damages and attorney's fees against petitioners, docketed as follows: (1) NLRC NCR OFW (M)-08-08711-07, which was anchored on his Volendam injury, and NLRC NCR OFW (M)-08-08708-07, which was anchored on his Ryndam injury.

In her Decision^[10] dated May 14, 2008, the Labor Arbiter dismissed the Volendam case on the ground that Sibug was declared fit to work after his ACL reconstruction surgery. He also passed the pre-employment medical examination when he sought reemployment, was reemployed and was able to work again in Ryndam. As regards the Ryndam case, the Labor Arbiter awarded to Sibug US\$10,075 which is the equivalent award for the grade 10 disability rating issued by the company-

designated doctor. The fallo of the Labor Arbiter's Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered dismissing the claims in NLRC Case No. (M) NCR-08-08711-07. As regards the claims in NLRC NCR Case No. 08-08708-07, this Office holds that the complainant [Sibug] is entitled to disability benefits in the amount of US\$10,075 which is the equivalent of the grade "10" disability issued by the company-designated physician.

SO ORDERED.^[11]

The National Labor Relations Commission (NLRC) reversed the Labor Arbiter's Decision. It ruled that Sibug is entitled to permanent and total disability benefit of US\$60,000 for his Volendam injury and another US\$60,000 for his Ryndam injury. It also awarded attorney's fees to Sibug. The *fallo* of the NLRC Decision^[12] dated December 8, 2008 reads:

WHEREFORE, prescinding from the foregoing considerations the appeal is given due course. Accordingly, the Decision appealed from is **REVERSED** and **SET ASIDE** and a **NEW ONE ENTERED** –

1. For NLRC NCR Case (M) No. 08-08711-07 – The appellees [petitioners] are hereby ordered jointly and [severally] to pay complainant-appellant [Sibug] his total disability benefits (knee injury) amounting to US\$60,000.00; and

2. For NLRC NCR Case (M) No. 08-08708-07 – The appellees [petitioners] are hereby ordered jointly and severally to pay the complainant-appellant [Sibug] his total disability benefit (right hand injury) amounting to US\$60,000.00

3. Attorney's fees of 10% of the total monetary awards;

or an aggregate amount of US\$132,000.00 or its Philippine Peso equivalent at the time of actual payment.

SO ORDERED.^[13]

On reconsideration, the NLRC issued a Decision^[14] dated May 29, 2009 which set aside its December 8, 2008 Decision and reinstated the Labor Arbiter's Decision, to wit:

WHEREFORE, in the light of the foregoing, our Decision dated 8 December 2008 is hereby, SET ASIDE and the decision of the Labor Arbiter dated 14 May 2008 is hereby, REINSTATED, granting disability benefits in the amount of US\$10,075.00 which is equivalent to grade "10" disability issued by the company designated physician.

SO ORDERED.^[15]

Later, the NLRC denied Sibug's motion for reconsideration in its Resolution^[16] dated July 31, 2009.

The CA set aside the NLRC Decision dated May 29, 2009 and reinstated the NLRC Decision dated December 8, 2008. The fallo of the assailed CA Decision reads:

WHEREFORE, premises considered, the instant petition is hereby **GRANTED** and the Decision dated May 29, 2009 is hereby **ANNULLED** and **SET ASIDE**. As prayed for, the NLRC Decision dated December 8, 2008 is hereby **REINSTATED**.

SO ORDERED.^[17]

The CA ruled that Sibug was unable to perform his customary work for more than 120 days on account of his Volendam and Ryndam injuries. Thus, he is entitled to permanent and total disability benefit for both injuries.

On February 14, 2012, the CA denied petitioners' motion for reconsideration.

Hence, this petition.

Essentially, the issues for our resolution are as follows: (1) whether Sibug is entitled to permanent and total disability benefits for his Volendam and Ryndam injuries and (2) whether he is entitled to attorney's fees.

Petitioners argue that the CA erred in awarding disability benefit to Sibug by reason of his previous knee injury as he was already declared fit to work after recovery from said injury. Sibug was even able to regain employment and board their vessel Ryndam. They also argue that the CA erred in awarding maximum disability benefit to Sibug in the amount of US\$60,000 for his hand injury as he was only assessed with a grade 10 disability equivalent to US\$10,075 under the terms and conditions of the Philippine Overseas Employment Administration standard employment contract (POEA-SEC).^[18]

In his comment, Sibug says that the assailed CA decision is correct and prays that the instant petition be denied for lack of merit.^[19]

After our own review of the case, we find the petition partly meritorious. We rule that Sibug is not entitled to permanent and total disability benefit for his Volendam injury. But he is entitled to permanent and total disability benefit for his Ryndam injury and to attorney's fees.

Sibug is not entitled to permanent and total disability benefit for his Volendam injury since he became already fit to work again as a seaman. He even admitted in his position paper that he was declared fit to work.^[20] He was also declared fit for sea