

FIRST DIVISION

[G.R. No. 168716, April 16, 2009]

**HFS PHILIPPINES, INC., RUBEN T. DEL ROSARIO AND IUM
SHIPMANAGEMENT AS, PETITIONERS, VS. RONALDO R. PILAR,
RESPONDENT.**

D E C I S I O N

CORONA, J.:

This petition^[1] seeks to reverse and set aside the November 22, 2004 decision^[2] and June 22, 2005 resolution^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 85197.

On October 4, 2001, respondent Ronaldo R. Pilar was engaged by petitioners IUM Shipmanagement AS and its Philippine manning agent, HFS Philippines, Inc. (HFS), as a crew member of the Norwegian vessel M/V Hual Triumph under the following terms and conditions:

Duration of the contract	:	9 months
Basic monthly salary	:	Electrician
Position	:	US \$981 per month
Hours of work	:	44 hours per week
Overtime	:	US \$646 per month
Vacation leave with pay	:	8 days per month
Point of hire	:	Manila ^[4]

Respondent boarded the vessel on October 27, 2001.^[5]

In March 2002 or roughly four months after he boarded M/V Hual Triumph, respondent complained of loss of appetite, nausea, vomiting and severe nervousness. Despite being given medical treatment, his condition did not improve.

When the vessel reached Nagoya, Japan on April 3, 2002, respondent was brought to the Komatsu Hospital where he was diagnosed with depression and gastric ulcer.^[6] The attending physician declared him unfit for work and recommended his hospitalization and repatriation.^[7] Respondent returned to Manila on the same day.

Upon reaching Manila, respondent was met by a representative of HFS who immediately brought him to the Medical Center Manila. HFS-designated physician Dr. Nicomedes G. Cruz confirmed that respondent was suffering from major depression. Thus, he placed respondent under continuous medical treatment for several months.^[8]

On September 19, 2003, respondent was declared fit to work.^[9]

Meanwhile, respondent likewise sought the opinion of other physicians.

Dr. Anselmo T. Tronco of the Philippine General Hospital^[10] and Dr. Raymond Jude L. Changco of the Mary Chiles Hospital^[11] opined that respondent continued to suffer from major depression.

Dr. Arlito C. Veneracion of the Mary Chiles Hospital, on the other hand, evaluated the results of respondent's ultrasound and endoscopy. He revealed that respondent was suffering "cholecystolithiasis, mild fatty liver and chronic gastritis."^[12] Thus, Dr. Veneracion declared respondent unfit to work.^[13]

On November 27, 2002, respondent filed a complaint for underpayment of disability and medical benefits and for moral and exemplary damages in the National Labor Relations Commission (NLRC).^[14] Because respondent was a registered member of the Associated Marine Officers and Seaman's Union of the Philippines (AMOSUP), the NLRC referred the complaint to the National Conciliation and Mediation Board (NCMB) on May 6, 2003.^[15]

In his position paper, respondent claimed that, while sleeping during his rest hours on March 9, 2002, he was suddenly awakened by his officer who hit him on the head. He was so traumatized by the incident that thereafter, he lost his appetite, vomited incessantly and experienced severe nervousness. He claimed to be entitled to disability compensation under Article 12 of the Collective Bargaining Agreement (CBA) between AMOSUP and the Norwegian Shipowner's Association which provides:

ARTICLE 12 DISABILITY COMPENSATION

If a seafarer due to no fault of his own, suffers injury as a result of an accident while serving on board or while traveling to or from the vessel on the company's business or due to marine peril, **and as a result his ability to work is permanently reduced, totally or partially, the Company shall pay him a disability compensation** which including the amounts stipulated by the [Philippine Overseas Employment Agency's] rules and regulation shall be maximum:

Radio officers, chief stewards, electricians, electro technicians	US \$90,000
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Ratings	US \$70,000
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The disability compensation shall be calculated on the basis of the POEA's schedule of disability or impediment for injuries at a percentage recommended by a doctor authorized by the Norwegian authorities for the medical examination of seafarers.

The company shall take out the necessary insurance to cover the benefits mentioned above. Coverage arranged with P & I Club recognized by the

Norwegian authorities will meet these requirements. (emphasis supplied)

Petitioners, on the other hand, asserted that in the absence of proof his depression was caused by an accident, respondent was not entitled to disability and medical benefits under Article 12 of the CBA. Instead, he was only entitled to the 120-day sick pay provided under Article 10 of the CBA which provides:

ARTICLE 10 SICKNESS AND INJURY

During the period of employment and at the time of signing off, the officer shall submit to a medical examination when requested by the company or its representative, at the company's expense.

While serving on board, a sick or injured officer is entitled to treatment at the company's expense. The company is not responsible for conservative denial treatment. If the officer is sick or injured at the termination of the service period, he has the same entitlement for a maximum period of one hundred and twenty (120) days from the date of signing off. In accordance with Part II, Section C of the [Philippine Overseas Employment Agency's (POEA)] rules and regulations, the officer must submit to a post-employment medical examination within three (3) working days after his return to the Philippines to obtain these benefits. If he should be unable by reason of physical incapacity to do so, a written notice to the agency within the same period is deemed as compliance provided the incapacity is certified by the Master or an authorized physician.

In the event of sickness or injury necessitating signing-off, the officer is entitled to travel to Manila at the company's expense.

The officer is entitled to sick pay (at the same rate as basic wage) for up to 120 days after signing off, provided the sickness or the injury is verified by written statement from an authorized physician. The sick pay will be in addition to the vacation leave compensation mentioned in Art. 8 but not in the addition to the termination pay compensation mentioned in Art. 5 points a to c.

It is understood that an officer who is signed off by reason of sickness or injury must return to the Philippines within the usual period of travel from the date and place of disembarkation indicated in homeward bound ticket. On arrival in the Philippines, he shall report to the company's designated physician within three (3) working days from the time of arrival for post employment medical examination, otherwise, the employer's liability shall be deemed terminated. In case however, of failure to report due to officers' physical incapacity, a written notice to the company within three (3) working days from arrival is deemed as compliance provided the incapacity is certified by the Master or an authorized physician. (emphasis supplied)^[16]

Pursuant to this provision, Section 20(B) of the Standard Employment Contract of the POEA between respondent and petitioners (employment contract) stated:

B. COMPENSATION AND BENEFITS FOR ILLNESS AND INJURY

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

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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 of 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.

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits. (emphasis supplied)

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The NCMB held that the nature of respondent's occupation significantly contributed to the deterioration of his psychological condition. Respondent's depression was therefore a compensable sickness since it arose out of his employment. In view of the principle of social justice (that those who have less in life should have more in the law), the NCMB awarded disability compensation to him:^[17]

WHEREFORE, judgment is hereby rendered in favor of [respondent]. [Petitioners], jointly and severally, are hereby ordered to pay disability benefits claimed by [respondent] in accordance with the [AMOSUP]-CBA in the amount of US\$90,000 and attorney's fees equivalent to 10% of the total amount awarded.

SO ORDERED.

Aggrieved, petitioners assailed the NCMB decision in the CA via petition for certiorari^[18] asserting that it committed grave abuse of discretion in awarding disability compensation to respondent. The NCMB erred in applying Article 12 of the CBA since the respondent's depression and gastric ulcer were not due to an accident.

In a decision dated November 22, 2004, the CA held that Article 12 of the CBA applies when a seafarer suffers an injury (1) as a consequence of an accident that took place on board the vessel or (2) while traveling to and from the vessel on company business or (3) due to a marine peril. Since respondent's illnesses were not the result of any of the said circumstances, he was not entitled to disability compensation granted by the CBA. Nonetheless, because he proved that his