

THIRD DIVISION

[G.R. No. 183646, September 18, 2009]

GREAT SOUTHERN MARITIME SERVICES CORP. AND IMC SHIPPING CO., PTE. LTD., PETITIONERS, VS. LEONILA SURIGAO FOR HERSELF AND IN BEHALF OF HER MINOR CHILDREN, PROMULGATED: NAMELY KAYE ANGELI AND MIRIAM, BOTH SURNAMED SURIGAO, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

Assailed in this petition for review on *certiorari* is the Decision^[1] of the Court of Appeals in CA-G.R. SP No. 100113 dated February 14, 2008, which reversed the Decision and Resolution of the National Labor Relations Commission (NLRC) for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction, and reinstated the Decision of the Labor Arbiter finding the death of Salvador M. Surigao as compensable. Also assailed is the Resolution^[2] dated July 8, 2008 denying the motion for reconsideration.

The facts as correctly summarized by the appellate court are as follows:

[Respondent Leonila Surigao's] husband, the late Salvador M. Surigao, was hired as Fitter by [petitioner] Great Southern Maritime Services Corporation, for and in behalf of [co-petitioner] IMC Shipping Co. Pte., Ltd. (Singapore) for a period of ten (10) months. In his pre-employment medical examination, he was found fit for sea duty. Thus, on April 29, 2001, he commenced his work aboard MV Selendang Nilam.

However, on August 22, 2001, as per Ship Master's advice, a doctor was sent on board the vessel to medically attend to Salvador due to complaints of extensive neuro dermatitis, neck region viral, aetiology, urticaria, maculo popular, rash extending to the face, chest and abdomen. After examination, Salvador was advised to take a blood test. His condition having worsened, he was confined at the Seven Hills Hospital. Not long thereafter, the Ship Master decided to sign him off from the vessel on August 25, 2001 for treatment in the hospital and for repatriation upon certification of the doctor that he was fit to travel.

Prior to his repatriation, though, or on August 26, 2001, at around seven o'clock in the morning, Salvador was found dead inside the bathroom of his hospital room. Later, his body was transferred to a government hospital, the Ling George Hospital Mortuary Hall, for post-mortem examination. The Post-Mortem Certificate issued by the Department of Forensic Medicine, Visakhapatnam City, stated that the cause of death of

Salvador was asphyxia due to hanging.

As an heir of the deceased seaman, petitioner, for in behalf of her minor children, filed for death compensation benefits under the terms of the standard employment contract, but her claims were denied by the [petitioners]. Since efforts to settle the case amicably proved futile, the Labor Arbiter directed the parties to submit their respective position papers. On October 28, 2003, the Labor Arbiter rendered his decision, the dispositive portion of which reads, thus:

"WHEREFORE, premises considered, judgment is hereby rendered, ordering the [petitioners] Great Southern Maritime Services Corporation and/or IMC Shipping Co., PTE LTD., Singapore to pay complainants Leonila S. Surigao, Miriam Surigao and Kaye Angeli Surigao the amount of SEVENTY ONE THOUSAND FIVE HUNDRED DOLLARS (\$71,500.00) or its equivalent in Philippine pesos at the prevailing rate of exchange at the time of actual payment representing the death benefits, burial expenses of the deceased Salvador M. Surigao and attorney's fees.

All other claims are DISMISSED for lack of merit.

SO ORDERED."

On appeal, the NLRC reversed and set aside the decision of the Labor Arbiter and declared [petitioners] not liable for death benefits. In lieu thereof, however, the commission directed the [petitioners] to grant financial assistance to the [respondent] in the amount of Five Thousand Dollars (\$5,000.00). The dispositive portion reads as follows:

"PREMISSES CONSIDERED, the Decision of October 28, 2003, is REVERSED and VACATED. [Petitioners] however, are directed to grant financial assistance to complainants in the amount of five thousand US dollars (US\$5,000.00) at the prevailing rate at the time of payment.

SO ORDERED."

[Respondent] moved for the reconsideration of the aforequoted decision, but the commission in a Resolution, dated May 24, 2007, denied the same. The dispositive portion reads, thus:

"ACCORDINGLY, the instant Motion for Reconsideration is hereby DENIED for lack of merit.

No further Motions for Reconsideration shall be entertained.

SO ORDERED."^[3]

Respondent thereafter elevated the case to the appellate court which reversed the decision of the NLRC and reinstated that of the Labor Arbiter in its herein assailed February 14, 2008 Decision. The appellate court found that Salvador did not commit suicide; hence, respondents are entitled to receive death benefits. The dispositive portion of the Decision, reads:

WHEREFORE, in view of the foregoing, the assailed Decision and Resolution of the National Labor Relations Commission are, hereby, REVERSED and SET ASIDE for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction, while the Decision of the Labor Arbiter is hereby REINSTATED.

SO ORDERED.^[4]

Petitioners' Motion for Reconsideration was denied by the Court of Appeals in its Resolution dated July 8, 2008.

Hence, this petition raising the following issues:

1. WHETHER OR NOT PRIVATE RESPONDENT IS ENTITLED TO DEATH BENEFITS FOR THE DEATH OF HER HUSBAND UNDER THE POEA STANDARD EMPLOYMENT CONTRACT FOR SEAFARERS.
2. WHETHER OR NOT PRIVATE RESPONDENT IS ENTITLED TO DAMAGES AND ATTORNEY'S FEES.^[5]

The pertinent provisions of the *Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-Going Vessels*, or the *POEA Standard Employment Contract*, which Salvador and the petitioners incorporated into their contract, provide that:

SECTION 20. COMPENSATION AND BENEFITS

A. COMPENSATION AND BENEFITS FOR DEATH

1. In case of death of the seafarer during the term of his contract, the employer shall pay his beneficiaries the Philippine Currency equivalent to the amount of Fifty Thousand US dollars (US\$50,000) and an additional amount of Seven Thousand US dollars (US\$7,000) to each child under the age of twenty-one (21) but not exceeding four (4) children at the exchange rate prevailing during the time of payment.

D. No compensation and benefits shall be payable in respect of any injury, incapacity, disability or death of the seafarer resulting from his willful or criminal act or intentional breach of his duties, provided however, that the employer can prove that such injury, incapacity, disability or death is directly attributable to the seafarer.

The general rule is that the employer is liable to pay the heirs of the deceased seafarer for death benefits once it is established that he died during the effectivity of his employment contract. However, the employer may be exempted from liability if he can successfully prove that the seafarer's death was caused by an injury directly attributable to his deliberate or willful act.^[6] In sum, respondents' entitlement to any death benefits depends on whether the evidence of the petitioners suffices to prove that the deceased committed suicide; the burden of proof rests on his employer.^[7]

Petitioners insist that respondents are not entitled to death benefits because Salvador committed suicide. As proof, they presented the Death Certificate issued by Dr. Butchi Raju stating that Salvador was suspected to have committed suicide; the post-mortem examination results stating that *the deceased appeared to have died of "ASPHYXIA DUE TO HANGING"*; the Indian Police Inquest Report also stating that he *died due to hanging*; the affidavit of the nurse on duty of Seven Hills hospital, Ms. P. V. Ramanamma, wherein she stated that as *the entrance doors to the bathroom main room was bolted from the inside and no other person was in the near physical vicinity of the deceased, it was concluded that seafarer committed suicide*; as well as photos taken immediately after the discovery of the body with a belt around his neck. They contend that the appellate court erred in disregarding these pieces of evidence which convincingly rule out suspicions of foul play.

The petition is impressed with merit.

While it is settled that the Court is not a trier of facts and does not, as a rule, re-examine the evidence presented by the parties to a case, there are a number of recognized exceptions, such as when the judgment is based on a misapprehension of facts; when the findings of facts of lower courts are conflicting; or when the findings of facts are premised on the supposed absence of evidence but which are contradicted by the evidence on record.^[8]

In holding that Salvador did not commit suicide, the appellate court subscribed to the Labor Arbiter's findings that:

The findings of the employer that complainant's husband died of hanging is questionable and deserves no consideration at all for the following reasons: First, seaman Surigao was found lying on the floor with a belt around his neck. If he died hanging, why was he found lying on the floor? It is very unlikely for him to dislodge himself from being hang [sic] before his last breath. Second, the respondents failed to show the place where Surigao could have possibly hanged himself. What seems absurd is that the respondents took picture of the doors, locks and shower pipes but