

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

KENNEDY R. QUINES,

Petitioner,

G.R. No. 248774

Present:

- versus -

PERLAS-BERNABE, S.A.J.,
Chairperson,

LAZARO-JAVIER,

LOPEZ, M.,

ROSARIO, *and*

LOPEZ, J.,* *JJ.*

**UNITED PHILIPPINE LINES INC.
AND/OR SHELL
INTERNATIONAL TRADING AND
SHIPPING CO.,**

Respondents.

Promulgated:

MAY 12 2021

X-----X

DECISION

LAZARO-JAVIER, J.:

The Case

This Petition for Review on *Certiorari*¹ assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 158565, viz.:

1) Decision² dated April 24, 2019 reversing the grant of total and permanent disability benefits to petitioner Kennedy R. Quines (petitioner); and

* Designated as additional member per Special Order No. 2822 dated April 7, 2021.

¹ *Rollo*, pp. 12-48.

² Penned by Associate Justice Celia C. Librea-Leagogo with the concurrence of Associate Justices Samuel H. Gaerlan (now a member of this Court) and Pablito A. Perez, *id.* at 83-105.

2) Resolution³ dated August 9, 2019 denying petitioner's motion for reconsideration.

Antecedents

Petitioner filed a Notice to Arbitrate dated January 13, 2017 against respondents United Philippine Lines, Inc. (UPLI) and/or Shell International Trading and Shipping Co. (Shell Shipping Co.) for total and permanent disability benefits, medical reimbursement, moral and exemplary damages, and attorney's fees.⁴

Petitioner's Version

He had been working as a seafarer for respondent UPLI since 2002. After his first deployment in 2002, UPLI, each time merely advised him of his next deployment without need for him to re-apply.⁵ Whenever he got assigned to board a vessel, he was always declared fit for sea duties.⁶

On March 18, 2015, he signed a contract of employment with UPLI for and on behalf of its foreign principal Shell Shipping Co.⁷ As an "Able Seaman," his work with respondents involved stressful and strenuous duties, *i.e.*, (a) rigging and unrigging of pilot ladder; (b) crane operation and maintenance; (c) opening and closing heavy-duty hatches; (d) assisting all departments in lifting and carrying heavy ship provisions, loads, stores, and spares on board; (e) mooring and unmooring operations; (f) chipping and painting of vessel; (g) dropping of anchor; (h) blocking drain holes or scupper pipe on deck; (i) handling the ship helm when steering the ship in and out of port and narrow waterways; and (j) other duties as instructed by his superior.⁸

On July 22, 2015, while performing his usual duties, he experienced headache, nausea, muscle cramp, and pain in his stomach. When he reported his condition to the Captain, he was given paracetamol and other medicines. Still, he did not feel relieved. On July 25, 2015, the Captain sent him to Corpus Cristi Medical Center in Texas, USA. After examination, he was diagnosed with hypertension, neuropathy in the hands and feet, and nausea. He was medically repatriated the same day.⁹

Upon arrival in the Philippines, UPLI referred him to its company-designated physician. After a series of medical examinations and medications, he was declared "fit to work" and immediately advised to line up again for deployment.¹⁰

³ *Id.* at 53-54.

⁴ *Id.* at 84.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 180-181.

⁹ *Id.* at 181.

¹⁰ *Id.*

On September 15, 2015, he was sent to Halycon Marine Healthcare Systems, Inc. for pre-employment medical examination (PEME). During the examination, he disclosed that he was previously repatriated due to hypertension and was under maintenance medications. After a series of tests, the company doctor still declared him fit for sea duties.¹¹

On December 10, 2015, he again signed up for employment with UPLI as Able Seaman on board Silver Ebuna for a period of six (6) months. His contract was covered by Shell Shipping Co.'s collective bargaining agreement between Associated Marine Officers' and Seamen's Union of the Philippines (AMOSUP) and International Maritime Employees Council (IMEC).¹² Prior to embarkation, he was required to execute a Crew Medication Declaration stating that he brought with him on board his maintenance medicines for hypertension.¹³

His duties and responsibilities on board Silver Ebuna involved the same strenuous duties at his previous vessel Tonna (FPMC). Sometime during the first week of March 2016, he experienced chest pains, shivering legs and arms, dizziness, headaches, and tightness and shortness of breath.¹⁴ He immediately reported it to the Captain and Chief Mate. His blood pressure was too high. Despite his worsening condition, his superiors simply directed him to continue with his medication and return to work. But the same symptoms persisted. When his blood pressure was checked again, it was 170/100 mmHg.¹⁵ The Captain thus immediately repatriated him for urgent treatment.

When he arrived in the Philippines on **April 1, 2016**, he reported to UPLI's office. UPLI referred him to the company-designated physician at Marine Medical Services for evaluation and treatment. There, he informed the company-designated physician that he was still experiencing chest pains, shivering legs and arms, tightness and shortness of breath, dizziness, headaches, and nausea.¹⁶

On May 24, 2016, UPLI referred him to cardiologist Dr. Melissa Co Sia (Dr. Sia) of Marine Medical Services for further examination and medical treatment.¹⁷

On June 10, 2016, he experienced severe chest pain and tightness and shortness of breathing again. He immediately went to AMOSUP Seamen's Hospital. After examination, Dr. Jacqueline V. Clemeña¹⁸ diagnosed him with *Coronary Heart Disease* for which he was prescribed maintenance

¹¹ *Id.*

¹² *Id.* at 182 and 188.

¹³ *Id.* at 181.

¹⁴ *Id.* at 182.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 182 and 282.

medicine.¹⁹ He then informed UPLI of AMOSUP's diagnosis.²⁰ UPLI directed him to go back to Dr. Sia and continue his medical treatment with her.²¹

On November 15, 2016, Dr. Sia prescribed four (4) new maintenance medications for his hypertension, chest pains, dizziness, and nausea, *i.e.*, *Amlodipine, Pantoprazole, Alprazolam, and Polynerve E with Lecithin.*²²

On **December 6, 2016**, he informed Dr. Sia that his condition had not improved at all. Dr. Sia, in turn, informed him that UPLI stopped his treatment because he already reached the maximum allowable treatment for him. Dr. Sia, though, did not issue any final medical assessment on him despite his request.²³

On December 7, 2016, he was constrained to consult another cardiologist, Dr. Antonio C. Pascual (Dr. Pascual). After medical examination, Dr. Pascual diagnosed him with *Ischemic Heart Disease* and *Hypertension Stage 2*. Dr. Pascual issued a medical report stating he was "MEDICALLY UNFIT TO WORK AS A SEAMAN."²⁴ Dr. Pascual also prescribed him five (5) maintenance medicines specifically for hypertension alone, *i.e.*, *Amlodipine, Losartan, Keltican, Arcoxia, and Myonal.*²⁵

Due to his worsening condition and lack of any employment contract offer from respondents for more than two hundred forty (240) days, he asked for a grievance meeting with UPLI through letter dated December 8, 2016. But UPLI did not heed his request.²⁶

Despite medications and a lifestyle change, his hypertension persisted and even aggravated by physical and emotional stress, strain at work caused by hard manual labor, and extreme weather temperatures on board respondents' vessel.²⁷

Respondents' Version

Respondents riposted that on December 10, 2015, petitioner signed up for a six (6)-month employment contract with Shell Shipping Co. through its local manning agent, UPLI. The contract adopted the terms and conditions of the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC) for Filipino Seafarers. He was hired as Able Seaman on board the vessel Silver Ebuna.²⁸ He underwent PEME, during which, he

¹⁹ *Id.*

²⁰ *Id.* at 182.

²¹ *Id.* at 85.

²² *Id.* at 285.

²³ *Id.* at 183.

²⁴ *Id.* at 286-287

²⁵ *Id.* at 291.

²⁶ *Id.* at 183, 292.

²⁷ *Id.* at 86.

²⁸ *Id.* at 183.

disclosed that he had a pre-existing hypertension and was taking maintenance medications therefore.²⁹

On **April 1, 2016**, he was medically repatriated.³⁰ He was then examined by the company-designated cardiologist at Marine Medical Services. The company-designated cardiologist noted that back in 2011, a private doctor in General Santos City had previously diagnosed petitioner with hypertension, insomnia, headache, and dizziness.³¹

On April 5, 2016, after undergoing several tests, Dr. Sia found petitioner to have an elevated blood pressure of 140/90 mmHg.³² He was advised to undergo a 24-hour heart holter monitoring and given medications.³³

Thereafter, on May 3, 2016, petitioner complained of episodes of high blood pressure and dizziness at night. Dr. Sia observed though that petitioner's blood pressure was normal at 110/80 mmHg. The company-designated neurologist, on the other hand, opined that petitioner's dizziness was not neurologic since he had normal cranial magnetic resonance imaging (MRI) findings. He was again advised to continue with his medications.³⁴

On May 24, 2016, petitioner went back to the company-designated doctors due to sudden nape discomfort with recurrence of dizziness and cold hands. His blood pressure was, however, controlled at 110/70 mmHg. During his subsequent check-up, he again complained of dizziness. His blood pressure, however, remained within the normal range.³⁵

On October 25, 2016, the company-designated doctors declared that the cardiac and neurologic work-ups on petitioner showed normal findings on his brain and cardiovascular system, except for his hypertension which was controlled. The neurologist opined that petitioner's dizziness and chest pain were most likely psychiatric in nature.³⁶

Thus, on **November 18, 2016**, the company-designated doctors separately issued two (2) medical reports stating that petitioner was cleared from both cardiac and neurologic standpoint.³⁷ His blood pressure was well-controlled and there was no absolute cardiovascular contraindication against resuming his work. As for his dizziness and chest pain, they were only due to hyperventilation syndrome and anxiety which he experienced on board. In fine, the company-designated doctors declared petitioner as "***not permanently unfit for sea duties.***"³⁸

²⁹ *Id.*

³⁰ *Id.* at 184

³¹ *Id.*

³² *Id.* at 86, 316.

³³ *Id.* at 184, 316.

³⁴ *Id.* at 184.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* at 94, 325-326.

³⁸ *Id.* at 184-185, 326.

Ruling of the NCMB – Panel of Voluntary Arbitrators

By Decision³⁹ dated December 1, 2017, the Panel of Voluntary Arbitrators (PVA) ruled that petitioner was entitled to total and permanent disability benefits.

The PVA found that there was a reasonable connection between petitioner's job and his illness.⁴⁰ While petitioner's hypertension was controlled through maintenance medicines and he was asymptomatic prior to embarkation, he started to suffer dizziness, chest pains, and muscle cramps while discharging his duties on board Silver Ebuna.⁴¹ The stress caused by his job actively contributed to the progression of his illness. His symptoms worsened while he was performing his job which eventually caused his repatriation.

The PVA gave weight to the findings of the independent doctors who diagnosed petitioner with *Coronary Heart Disease or Ischemic Heart Disease*. The PVA found that hypertension was a risk factor to the development of *Coronary Heart Disease or Ischemic Heart Disease* and its symptoms included chest pain caused by insufficiency of blood flow to the heart muscle.⁴²

On the other hand, the PVA did not give credence to respondents' claim that petitioner's dizziness and chest pains were caused by anxiety. The PVA noted that in the Medical Report dated November 18, 2016, the company-designated doctors recommended that petitioner be subjected to psychiatric evaluation and management and evaluation for possible disability grading for his current symptoms. Respondents, however, did not act on this recommendation.⁴³ There was no medical report or assessment showing that tests or psychiatric evaluation were even conducted on petitioner to determine his mental state.⁴⁴

More, the fact that respondents themselves did not give petitioner another contract after his repatriation which lasted for more than a year was enough to conclude that petitioner was already incapacitated to work as an Able Seaman. Petitioner, therefore, was deemed by law to have been totally and permanently disabled.⁴⁵ Petitioner's claim for medical reimbursement and damages was nonetheless denied for lack of basis. The PVA decreed, thus:

WHEREFORE, premises considered, decision is hereby rendered declaring Kennedy R. Quines to have suffered total and permanent disability. Respondents [are] ordered to pay him the amount of **US\$98,848.00** under the IBF-AMOSUP/ IMEC TCCC Collective

³⁹ *Id.* at 180-195.

⁴⁰ *Id.* at 191, 193.

⁴¹ *Id.* at 193.

⁴² *Id.* at 191.

⁴³ *Id.* at 190.

⁴⁴ *Id.* at 190-191.

⁴⁵ *Id.* at 193.

Bargaining Agreement for 2015-2017. Respondents are also ordered to pay 10% attorney[']s fees based on the total award, all at their peso equivalent at the time of the actual payment.

Other claims are dismissed for lack of merit.

SO ORDERED.⁴⁶

Respondents moved for reconsideration but it was denied through Resolution⁴⁷ dated November 19, 2018.

Proceedings before the Court of Appeals

On petition for review, respondents argued that petitioner failed to prove by substantial evidence that he was suffering from *Coronary Heart Disease* or *Ischemic Heart Disease*. The Medical Certificate from AMOSUP Seamen's Hospital dated July 1, 2016 did not contain a definitive diagnosis of petitioner's heart disease. Dr. Pascual's report, too, indicated that petitioner was only suffering from *Hypertension Stage 2* and not *Ischemic Heart Disease*. Thus, petitioner did not suffer from any cardiovascular disease which would entitle him to any disability benefits.⁴⁸

Petitioner, on the other hand, echoed the arguments he raised before the PVA. He was deemed by law to have been totally and permanently disabled in the absence of a final and definitive assessment within 120/240 days from his medical repatriation on April 1, 2016. The Medical Reports both dated November 18, 2016 issued by the company-designated doctors were not final and definitive since they did not indicate with certainty the degree of his disability, *nay*, his supposed fitness at the time of their issuance.⁴⁹

The Ruling of the Court of Appeals

Under its assailed Decision⁵⁰ dated April 24, 2019, the Court of Appeals **reversed**. It found that there was neither a definitive nor final diagnosis showing petitioner was suffering from any *Coronary Heart Disease* or *Ischemic Heart Disease*. While it was clear that petitioner had hypertension, being merely hypertensive though did not signify that petitioner was already permanently unfit to resume his seafaring duties.⁵¹

The appellate court, however, did not make a ruling on petitioner's claim that respondents failed to give a final and definitive medical assessment on him within the required 120/240-day period. It only concluded that petitioner was not entitled to total and permanent disability benefits for failure to prove he was "permanently unfit for sea duties."⁵² Considering, however,

⁴⁶ *Id.* at 195.

⁴⁷ *Id.* at 165-166.

⁴⁸ *Id.* at 89.

⁴⁹ *Id.* at 90.

⁵⁰ *Id.* at 83-105.

⁵¹ *Id.* at 99.

⁵² *Id.* at 100.

that petitioner had been in service of respondents since 2002, the Court of Appeals deemed it proper to award US\$3,000.00 as financial assistance to him. Petitioner was thus ordered to **return** to respondents the award of ₱5,544,937.87 less the peso equivalent of US\$3,000.00 as financial assistance, *viz.*:

WHEREFORE, premises considered, the Petition is **GRANTED**. The Decision dated 01 December 2017 and Resolution dated 19 November 2018 of the Panel of Voluntary Arbitrators in *MVA-090-RCMB-NCR-081-13-03-2017* are **REVERSED** and **SET ASIDE**. The case docketed as *MVA-090-RCMB-NCR-081-13-03-2017* is **DISMISSED**. Respondent Kennedy R. Quines is required to **RETURN** to petitioners the executed award in the amount of Php5,544,937.87, less the peso equivalent of US\$3,000.00 as financial assistance to him, upon finality of this Decision, in accordance with Section 18, Rule XI of the 2011 NLRC Rules of Procedure, as amended by NLRC *En Banc* Resolution No. 005-14. No pronouncement as to costs.

SO ORDERED.⁵³

Petitioner's motion for reconsideration was denied under Resolution⁵⁴ dated August 9, 2019.

The Present Petition

Petitioner now invokes the Court's discretionary appellate jurisdiction *via* Rule 45 of the Rules of Court to review and reverse the assailed dispositions of the Court of Appeals.⁵⁵

Petitioner essentially claims that although he had pre-existing hypertension, his condition was aggravated by the stress brought about by his duties as an Able Seaman. His dizziness and chest pains are due to *Coronary Heart Disease or Ischemic Heart Disease* and not because of mere anxiety. Further, because respondents terminated his medical treatment, he was compelled to seek out his own doctor. Lastly, since the company-designated doctors failed to make a final medical assessment within the prescribed 120/240-day window, he is already deemed to be totally and permanently disabled.⁵⁶

On the other hand, respondents maintain that petitioner's claim of having *Coronary Heart Disease or Ischemic Heart Disease* was not supported by substantial evidence. It cannot therefore be the basis for his claim for total and permanent disability benefits. Also, the assessment of the company-designated doctors that petitioner's dizziness and chest pains were only due to anxiety should be upheld since they were more qualified to evaluate his medical condition.⁵⁷

⁵³ *Id.* at 102.

⁵⁴ *Supra* note 3.

⁵⁵ *Supra* note 1.

⁵⁶ *Id.*

⁵⁷ Comment dated February 27, 2020, *rollo*, pp. 383-403.

Core Issue

Is petitioner entitled to total and permanent disability benefits?

Ruling

We reverse.

As a rule, only questions of law may be raised and resolved by this Court *via* a Rule 45 petition because the Court, not being a trier of facts, is not duty bound to re-examine and calibrate the evidence on record.⁵⁸ There are, however, recognized exceptions to this rule,⁵⁹ where the findings of the Court of Appeals are contrary to those of the PVA, as in this case.

In *More Maritime Agencies, Inc. v. NLRC*,⁶⁰ the Court held that compensability of an illness or injury does not depend on whether the injury or disease was pre-existing at the time of employment but rather on whether the injury or illness is “work-related” or “has aggravated the seafarer’s condition,” thus:

But even assuming that the ailment of Homicillada was contracted prior to his employment with the *MV Rhine*, this fact would not exculpate petitioners from liability. Compensability of an ailment does not depend on whatever the injury or disease was pre-existing at the time of the employment but rather if the disease or injury is work-related or aggravated his condition. It is indeed safe to presume that, at the very least, the arduous nature of Homicillada’s employment had contributed to the aggravation of his injury, if indeed it was pre-existing at the time of his employment. Therefore, it is but just that he be duly compensated for it. It is not necessary, in order for an employee to recover compensation, that he must have been in perfect condition or health at the time he received the injury, or that he be free from disease. Every workman brings with him to his employment certain infirmities, and while the employer is not the insurer of the health of his employees, he takes them as he finds them, and assumes the risk of having a weakened condition aggravated by some injury which might not hurt or bother a perfectly normal, healthy person. If the injury is the proximate cause of his death or disability for which compensation is sought, the previous physical condition of the employee is unimportant and recovery may be had for injury independent of any pre-existing weakness or disease. (Emphasis supplied)

⁵⁸ See *Leoncio v. MST Marine Services (Phils.), Inc.*, 822 Phil. 494, 504 (2017).

⁵⁹ The general rule for petitions filed under Rule 45 admits exceptions, to wit: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) **The findings of the Court of Appeals are contrary to those of the trial court;** (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner’s main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record. (See *Sps. Miano v. Manila Electric Co.*, 800 Phil. 118, 123 (2016)).

⁶⁰ 366 Phil. 646, 654-655 (1999).

Here, it cannot be denied that petitioner's illness was work-related or work-aggravated and, therefore, compensable.⁶¹ For it is undisputed that petitioner had continuously worked for respondent UPLI for a total of thirteen (13) years since 2002 until his last assignment in 2015. He underwent PEME whenever he got assigned to board a vessel and was found fit to work each time. During his last engagement in 2015, he, again, was declared fit to work after undergoing the usual PEME. He was permitted to board the vessel Silver Ebuna under a POEA-approved employment contract which he signed on December 10, 2015. Prior to embarkation, he was also required to execute a Crew Medication Declaration that he brought with him on board his maintenance medicines for hypertension. Although a PEME is not expected to be an in-depth examination of a seafarer's health, still, it must fulfill its purpose of ascertaining a prospective seafarer's capacity for safely performing tasks at sea. Thus, if it concludes that a seafarer, even one with an existing medical condition, is "*fit for sea duty*," it must, on its face, be taken to mean that the seafarer is well in a position to engage in employment aboard a sea vessel without danger to his health.

As it turned out though, while discharging his duties on board during his last engagement, petitioner suffered chest pains, shivering legs and arms, dizziness, headaches, and difficulty in breathing.⁶² His blood pressure was 170/100 mmHg.⁶³ These all happened during the first week of March 2016 or three (3) months after he went on board Silver Ebuna. Thus, he was medically repatriated for urgent treatment. On April 1, 2016, he arrived in the Philippines and immediately went to the company-designated doctors at Marine Medical Services for medical treatment.⁶⁴

After a series of tests and medications, on **November 18, 2016**, the company-designated doctors issued two (2) separate medical reports. In the first medical report, one (1) of the two (2) company-designated physicians stated:

x x x x Patient's blood pressure is well controlled. There is no absolute cardiovascular contraindication to resumption of seafaring duties.

Patient still has episodes of dizziness and chest pain which the specialists give (sic) are more likely due to Hyperventilation Syndrome and Anxiety that can also cause subsequent blood pressure surges. Thus, patient was recommended for psychiatric evaluation and management as well as the evaluation of possible disability grading for his current symptoms.⁶⁵

On the other hand, the second medical report of even date (November 18, 2016) issued by the other company-designated doctor also stated:

⁶¹ See *Sestoso v. United Philippine Lines, Inc.*, G.R. No. 237063, July 24, 2019.

⁶² *Rollo*, p. 182.

⁶³ *Id.*

⁶⁴ *Id.* at 181-182.

⁶⁵ *Id.* at 325.

x x x x [N]ot permanently unfit for sea duties because it may improve over time and provided that he overcome his anxiety symptoms.⁶⁶

Indeed, there was no categorical statement whether petitioner is fit or unfit to resume his work as a seafarer. Too, no final and definite disability rating was issued on him. The **first medical report** indicated that: a) there is no absolute cardiovascular indication to petitioner's resumption of seafaring duties; b) petitioner still has episodes of dizziness and chest pain; and c) petitioner was recommended for psychiatric evaluation and management as well as the evaluation of possible disability grading for his current symptoms. On the other hand, the **second medical report** merely stated petitioner was not permanently unfit for sea duties because it may improve over time and provided that he overcome his anxiety symptoms. Clearly, these assessments are hardly the final assessments required by law. They are incomplete, *nay*, inconclusive.

For instance, the phrases "*there is no absolute cardiovascular indication to petitioner's resumption of seafaring duties,*" "*patient still has episodes of dizziness and chest pain*" and "*not permanently unfit for sea duties*" are too equivocal as they are contradictory at the same time. They do not give a clear picture of the state of petitioner's health nor present a thorough insight into petitioner's fitness or unfitness to resume his duties as a seafarer.⁶⁷ Do they mean that petitioner is already fit to resume his work? Or do they mean that he is unfit to resume his work, albeit only temporary? If he is not permanently unfit, then when can he resume his work as a seafarer? No one knows.

More, the company-designated physicians themselves recommended that petitioner be subjected to psychiatric evaluation and management and that his symptoms be evaluated for disability grading. But as the PVA aptly found, nothing on record shows that respondents acted on this recommendation.⁶⁸

Evidently, the Medical Reports both dated November 18, 2016 are not complete and final, therefore, the same are inconclusive as to petitioner's real health status. *Ampo-on v. Reinier Pacific International Shipping, Inc.*⁶⁹ explains:

The responsibility of the company-designated physician to arrive at a definite assessment within the prescribed periods necessitates that the perceived disability rating has been properly established and inscribed in a valid and timely medical report. To be conclusive and to give proper disability benefits to the seafarer, this assessment must be **complete and definite**; otherwise, the medical report shall be set aside and the disability grading contained therein shall be ignored. As case law holds, a final and definite disability assessment is necessary in order to truly reflect the true extent of the sickness or injuries of the seafarer and his or her capacity to resume work as such.

⁶⁶ *Id.* at 326.

⁶⁷ See *Lemoncito v. BSM Crew Service Centre Phils., Inc.*, G.R. No. 247409, February 3, 2020.

⁶⁸ *Rollo*, p. 190.

⁶⁹ G.R. No. 240614, June 10, 2019.

Failure of the company-designated physician to arrive at a definite assessment of the seafarer's fitness to work or permanent disability within the prescribed periods and if the seafarer's medical condition remains unresolved, the law steps in to consider the latter's disability as total and permanent. (Emphasis supplied)

What is definitive though was that petitioner remains incapacitated beyond the 240-day period. Despite the four (4) new maintenance medications Dr. Sia prescribed on November 15, 2016 for petitioner's hypertension, *i.e.*, *Amlodipine, Pantoprazole, Alprazolam, and Polynerve E with Lecithin*,⁷⁰ petitioner still experienced chest pains, dizziness, and nausea. But since his medical treatment was cut-off by respondents, petitioner was constrained to consult another cardiologist, Dr. Pascual, on December 7, 2016. Dr. Pascual then prescribed him five (5) maintenance medicines also for hypertension, *i.e.*, *Amlodipine, Losartan, Keltican, Arcoxia, and Myonal*.⁷¹

In this regard, we reckon with Department of Health Administrative Order No. 2007-0025 or the Revised Guidelines for Conducting Medical Fitness Examination for Seafarers, which provides that a seafarer **taking more than two (2) maintenance oral medicines could no longer be declared fit for sea duties**, *viz.*:

G. CONDITIONS OF THE CARDIOVASCULAR SYSTEM

There shall be no acute or chronic cardiovascular condition limiting physical activity required for sea duties, **requiring more than two (2) maintenance oral medicines** and close monitoring, or causing significant disability.

x x x x

- Hypertension – Uncontrolled Hypertension, 140/90 and above
 - **Hypertension requiring three (3) or more drugs**

Surely, the fact that petitioner is taking five (5) maintenance medications for his hypertension alone, already permanently incapacitates him from securing gainful employment as a seafarer. Too, there is no showing that he had been re-employed by respondents or engaged as a seaman by any other company ever since he got repatriated in 2016. Verily, his continuous unemployment until this very day indicates his total and permanent disability.

Further, without a valid final and definitive assessments from the company-designated doctors within the 120/240-day period, as in this case, the law already steps in to consider a seafarer's disability as total and permanent. By operation of law, therefore, petitioner is already deemed to be totally and permanently disabled.⁷²

⁷⁰ *Rollo*, p. 182.

⁷¹ *Id.* at 183.

⁷² See *Lemoncito v. BSM Crew Service Centre Philippines, Inc.*, *supra*.

Anent petitioner's claim for medical reimbursement, we affirm the PVA's finding that petitioner failed to present substantiating evidence therefore.⁷³ We also affirm the denial of the claim for moral and exemplary damages since nothing on record shows that respondents acted in bad faith when they disapproved petitioner's claim for total and permanent disability benefits.⁷⁴ On the other hand, we sustain the award of ten percent (10%) attorney's fees considering that petitioner was forced to litigate and incur expenses to protect his rights.⁷⁵

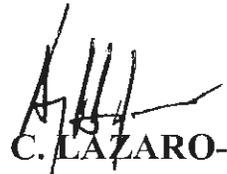
Lastly, pursuant to *C.F. Sharp Crew Management, Inc. v. Santos*⁷⁶ and *Nacar v. Gallery Frames*,⁷⁷ the Court imposes on the total monetary awards six percent (6%) legal interest *per annum* from finality of this Decision until full payment.

ACCORDINGLY, the petition is **GRANTED**. The Decision dated April 24, 2019 and Resolution dated August 9, 2019 of the Court of Appeals in CA-G.R. SP No. 158565 are **REVERSED** and **SET ASIDE**. The Decision dated December 1, 2017 and Resolution dated November 19, 2018 of the National Conciliation and Mediation Board - Panel of Voluntary Arbitrators in MVA-090-RCMB-NCR-081-13-03-2017 are **REINSTATED**.

Respondents **United Philippine Lines, Inc. and/or Shell International Trading and Shipping Co.** are **ORDERED** to *jointly and severally* pay petitioner **Kennedy R. Quines** the following amounts:

- 1) total and permanent disability benefits of **US\$98,848.00** or its peso equivalent at the time of payment, in accordance with the IBF-AMOSUP/IMEC TCCC Collective Bargaining Agreement for 2015-2017, less whatever amount that had already been paid to petitioner by way of financial assistance;
- 2) ten percent (10%) of the total monetary award as attorney's fees; and
- 3) six percent (6%) legal interest *per annum* of the total monetary amount from finality of this Decision until full payment.

SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

⁷³ *Rollo*, p. 194.

⁷⁴ See *Maersk-Filipinas Crewing, Inc. v. Malicse*, 820 Phil. 941, 955 (2017).

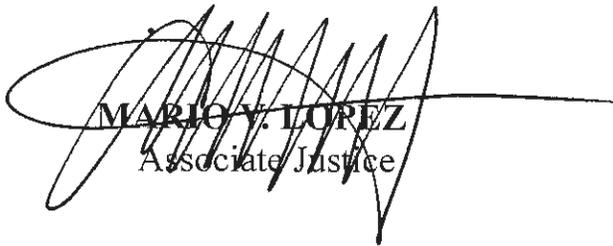
⁷⁵ See *Sestoso v. United Philippine Lines, Inc.*, *supra*.

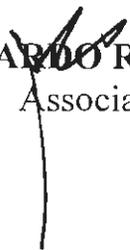
⁷⁶ 838 Phil. 82, 101 (2018).

⁷⁷ 716 Phil. 267, 283 (2013).

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


MARIO Y. LOPEZ
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

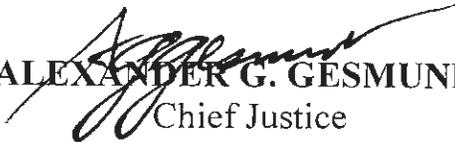
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

1

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the above Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

