



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 2, 2020** which reads as follows:*

**“G.R. No. 253210 – (KNUTSEN PHILIPPINES, INC. AND KNOT MANAGEMENT AS, petitioners v. LEONARD VALENZUELA JEMINA, respondent).** – This resolves the Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court filed by petitioners Knutsen Philippines, Inc. and Knot Management AS praying for the reversal of the September 13, 2019 Decision<sup>2</sup> and the July 8, 2020 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 159833. The CA affirmed the January 16, 2019 Decision and the February 26, 2019 Resolution of the Panel of Voluntary Arbitrators (VA), which awarded total and permanent disability benefits and attorney's fees in favor of respondent Leonard Valenzuela Jemina (respondent).

**Antecedents**

Respondent was employed by petitioners as a fitter on board the vessel MT Gerd Knutsen under a six-month contract. The employment contract was covered by a Collective Bargaining Agreement (CBA).<sup>4</sup>

Respondent underwent the standard pre-employment medical examination and was declared fit for sea duty.

On February 27, 2017, respondent reported pain and swelling in his lower right abdomen. Thus, on March 11, 2017, he sought medical

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<sup>1</sup> *Rollo*, pp. 3-27.

<sup>2</sup> *Id.* at 38-48; penned by Justice Marlene B. Gonzales-Sison, with Justices Pedro B. Corales and Walter S. Ong, concurring.

<sup>3</sup> *Id.* at 49-50.

<sup>4</sup> *Id.* at 39.

consultation at a foreign port. He was diagnosed with a possible inguinal hernia. He was declared fit for restrictive work, and was advised to refrain from lifting objects weighing more than 10 pounds.<sup>5</sup>

Subsequently, he was repatriated on March 27, 2017. He was referred for consultation at NGC Medical Specialist Clinic. The company-designated physician confirmed the diagnosis of inguinal hernia.<sup>6</sup>

Thereafter, respondent underwent an operation. After which, he continued to receive medications. On August 8, 2017, the company-designated physician declared that respondent was fit to resume his duties as a seafarer.<sup>7</sup>

However, respondent's pain persisted. Thus, he sought consultation with an independent physician. The physician opined that respondent's return to work was jeopardized and prolonged due to the presence of complications such as healing and infection. The physician advised treatment until November.<sup>8</sup>

On August 29, 2017, respondent wrote to petitioners advising them of the independent physician's opinion, and likewise seeking referral to a third doctor. However, he received no response. He filed a notice to arbitrate before the National Conciliation and Mediation Board on November 22, 2017.<sup>9</sup>

On June 5, 2018, the third doctor, Dr. Ana Melissa Hilvano-Cabungcal gave her opinion stating that "because of the patient's claim of disability pain during strenuous activities, the patient may be unfit to work at this time. The condition may resolve in the future."<sup>10</sup>

### **Ruling of the VA**

In a Decision dated January 16, 2019, the VA awarded total and permanent disability benefits pursuant to the CBA:

WHEREFORE, premises considered, the complaint is hereby GRANTED. Complainant is found to be totally and permanently disabled and Respondents are hereby held solidarily

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<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id. at 39-40.

<sup>10</sup> Id. at 40.

liable to pay Complainant the amount of USD 90,000.00 for total and permanent disability benefits and 10% of the total judgment award by way of attorney's fees.

SO ORDERED.<sup>11</sup>

Aggrieved, petitioners sought reconsideration, which was denied in the February 26, 2019 VA Resolution.

Petitioners filed a Petition for Review under Rule 43 of the Rules of Court with the CA.

### **Ruling of the CA**

On September 13, 2019, the CA rendered a Decision<sup>12</sup> affirming the VA's ruling. It opined that respondent suffered from inguinal hernia while working for petitioners. Likewise, it noted that respondent's incapacity to work lasted for more than 240 days after his repatriation. Under legal contemplation, respondent is totally and permanently disabled.<sup>13</sup> Moreover, the CA gave more credence to the findings of the independent physician who stated that respondent's post-operative region was still inflamed due to delayed healing.

The dispositive portion of the CA ruling reads:

**WHEREFORE**, premises considered, the petition for review is **DENIED**. The January 16, 2019 Decision and February 26, 2019 Resolution of the Panel of Voluntary Arbitrators in MVA-100-RCMB-NCR-060-22-02-2018 is **AFFIRMED**.

**SO ORDERED.**<sup>14</sup>

Dissatisfied, petitioners filed a Motion for Reconsideration, which was denied in the July 8, 2020 CA Resolution.<sup>15</sup>

Undeterred, petitioners filed the instant Petition for Review on *Certiorari*.<sup>16</sup>

In praying for the reversal of the CA Decision, petitioners' claims that the CA erred in holding that the respondent is entitled to

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<sup>11</sup> Id. at 41.

<sup>12</sup> Id. at 38-48.

<sup>13</sup> Id. at 46.

<sup>14</sup> Id. at 47.

<sup>15</sup> Id. at 49-50.

<sup>16</sup> Id. at 3-27.

permanent and total disability benefits. It laments that respondent's allegations were merely self-serving and lacked medical evidence.<sup>17</sup> Moreover, petitioner urges that the award of attorney's fees lacked legal basis. It posits that the grant of attorney's fees is an exception, rather than the general rule. Purportedly, there are no exceptional circumstances in the instant case which warrant such award.<sup>18</sup>

### **Ruling of the Court**

#### ***The petition is denied.***

It is well-settled that the jurisdiction of the Court in a petition for review on *certiorari* under Rule 45 is limited only to reviewing errors of law, not of fact.<sup>19</sup> Respondent's entitlement to total and permanent disability benefits is factual in nature. It is not the Court's function to analyze or weigh the evidence which has been considered in the proceedings below.<sup>20</sup> Moreover, the Court finds no justification to deviate from the factual findings of the VA, which were further affirmed by the CA. Petitioners utterly failed to prove that the assailed findings are devoid of basis.

#### **Besides, the petition likewise fails on the merits.**

The Philippine Overseas Employment Agency Standard Employment Contract (POEA-SEC) was designed primarily for the protection and benefit of Filipino seafarers in the pursuit of their employment on board ocean-going vessels. To carry out its beneficent terms, its provisions must be construed and applied fairly, reasonably and liberally in favor of seafarers.<sup>21</sup>

Notably, in *Abundo v. Magsaysay Maritime Corporation, et al.*,<sup>22</sup> the Court cautioned that the POEA-SEC should never be read in isolation. Rather, it must be interpreted in conjunction with the Labor Code provisions on disability and the Amended Rules on Employees' Compensation (AREC). The POEA-SEC is not the only contract that governs the determination of disability compensation due to the

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<sup>17</sup> Id. at 11.

<sup>18</sup> Id. at 25.

<sup>19</sup> *Tenazas, et. al. v. R. Villegas Taxi Transport, et al.*, 731 Phil. 217, 228 (2014), citing "*J Marketing Corp. v. Taran*, 607 Phil. 414, 424-425 (2009).

<sup>20</sup> *Miro v. Vda. De Erederos, et al.*, 721 Phil. 772, 787 (2013).

<sup>21</sup> *Magsaysay Maritime Services, et a. v. Laurel*, 707 Phil. 210, 230 (2013), citing *Philippine Transmarine Carriers, Inc. v. NLRC*, 405 Phil. 487, 495 (2001), citing *Wallem Maritime Services, Inc. v. NLRC*, 376 Phil. 738,749 (1999).

<sup>22</sup> *Abundo v. Magsaysay Maritime Corporation, et al.*, G.R. No. 222348, November 20, 2019.

seafarer.<sup>23</sup>

In line with this, Article 198[192](c)(1) of the Labor Code defines a permanent and total disability as that which “[lasts] continuously for more than one hundred twenty days, except as otherwise provided for in the Rules.” Likewise, Section 2(b) of Rule VII of the AREC defines a disability as total and permanent “if as a result of the injury or sickness the employee is unable to perform any gainful occupation for a continuous period exceeding 120 days, except as otherwise provided for in Rule X of these Rules.”

Notably, in *Magadia v. Elbert Shipmanagement Philippines, Inc., et al.*,<sup>24</sup> it was stressed that “in disability compensation, it is not the injury which is compensated but rather it is the incapacity to work resulting in the impairments of one’s earning capacity.”<sup>25</sup> It was recognized that the seafarer’s condition effectively disabled him from earning wages in the same kind of work or similar nature for which he was trained. Accordingly, said disability which resulted in his loss of earning capacity entitles him to permanent and total disability benefits.<sup>26</sup>

A similar pronouncement was rendered in *Tamin v. Magsaysay Maritime Corporation, et al.*,<sup>27</sup> where it was declared that despite the lapse of the extended 240-day period, the seafarer was still incapacitated to perform his sea duties. Due to the injury he sustained, he could no longer perform his usual tasks in any vessel, which thus, resulted in his unemployment until this very day. This clearly indicates petitioner’s total and permanent disability.<sup>28</sup>

As applied to the instant case, the CA was correct in holding that respondent is entitled to permanent total disability benefits since his incapacity to work lasted for more than 240 days from his repatriation. Particularly, when respondent filed a notice to arbitrate on November 22, 2017, he was not actually engaged as a fitter for more than 240 days since his repatriation on March 24, 2017.<sup>29</sup>

Moreover, respondent’s post-operative region was said to be “still inflamed due to delayed healing probably secondary to possible

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<sup>23</sup> Id.

<sup>24</sup> G.R. 246497, December 5, 2019.

<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> 794 Phil. 286 (2016).

<sup>28</sup> Id. at 302.

<sup>29</sup> *Rollo*, p. 46.

infection,” and was advised to refrain from performing moderate to severe physical activities and from sitting down in a squat position. Respondent’s work as a fitter entails carrying heavy loads and involves repetitive bending.<sup>30</sup>

It is further noted that respondent informed the petitioners of the findings of his physician of choice. Respondent likewise requested a consultation with a third doctor. However, the petitioners neglected to promptly respond to his request. In fact, the referral belatedly took place while the case was already pending with the VA.<sup>31</sup>

Furthermore, the CA was correct in declaring that the findings of the third doctor were indefinite and inconclusive. The third doctor merely stated that the respondent may be unfit to work at the time of the examination, but his condition may resolve in the future. The doctor failed to give a categorical assessment on the respondent’s disability.<sup>32</sup>

In addition, the Court affirms the award of attorney’s fees equivalent to ten percent (10%) of the total monetary award, considering that respondent was compelled to litigate to satisfy his claim for disability benefits.<sup>33</sup>

Finally, an award of six percent (6%) *per annum* on the total monetary award shall be imposed, reckoned from the finality of the Voluntary Arbitrator’s Decision until full payment.<sup>34</sup>

**WHEREFORE**, the Court **AFFIRMS with modification** the September 13, 2019 Decision of the Court of Appeals in CA-G.R. SP No. 159833 by imposing a legal interest of six percent (6%) *per annum* on the total monetary award to be reckoned from the finality of the Decision of the Voluntary Arbitrator until full satisfaction.

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<sup>30</sup> Id.

<sup>31</sup> Id.

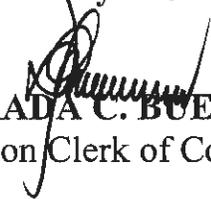
<sup>32</sup> Id. at 46-47.

<sup>33</sup> *De Leon v. Maunlad Trans, Inc., et al.*, 805 Phil. 531, 543 (2017); CIVL CODE, Article 2208(2).

<sup>34</sup> *Guagua National Colleges v. Court of Appeals*, G.R. No. 188492, August 28, 2018; *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013).

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *m/v*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**220-C**

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