

MAERSK-FILIPINAS CREWING, INC., A.P. MOLLER A/S AND/OR MARYCIEL TAGAL, PETITIONERS, VS. MARCELINO DE JESUS AND NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

At the maelstrom of this Petition for Certiorari[1] are the Decision[2] and Resolution[3] dated 31 July 2012 and 28 September 2012 of the National Labor Relations Commission (NLRC), respectively, in LAC No. (OFWL) 04-000348-12.

The precursor facts are uncomplicated.

Private respondent Marcelino De Jesus was employed by petitioner Maersk Filipinas Crewing, Inc., in behalf of A.P. Moller A.S., as Crane Operator/Driver for a period of four months. On 4 September 2009, he left Manila on board the vessel MV Clara Maersk, and returned on 30 January 2010 after completing his contract. Posthaste, he applied anew for re-employment with the same company and underwent a medical examination. However, his pre-medical examination revealed that he was suffering from Left Atrial Enlargement, Old Anterior Wall Myocardial Infarction and Lateral Wall Ischemia and Dilated Left Ventricular Hypertrophy with Mitisegmental Wall Motion Abnormality with Depressed Systolic Function. Inevitably, the company-designated physician declared him "unfit to work". He sought another medical examination with a private doctor who likewise declared him not fit to work.

After one year and nine months, private respondent instituted a Complaint[4] against petitioners Maersk and/or A. P. Moller A/S and Maryciel Tagal for the payment of permanent disability benefits, sickness allowance, reimbursement of medical expenses, damages and attorney's fees. In his Complaint, he averred that his illness was acquired while he was employed as Crane Operator. His job was so strenuous and stressful as it required him to maintain a high level of alertness in operating the crane. He was exposed to harmful and toxic fumes, chemicals, and other substances as well as to the different climates and perils of the sea. While on board the vessel, he experienced chest pain, dizziness and difficulty in breathing. He reported the matter to the master of the vessel but he was not accorded appropriate medical attention. It was only on 25 February 2010 that he was examined by the company-designated physician. Notwithstanding his condition, petitioners refused to extend him his permanent disability benefits.

Au contraire, petitioners avowed that private respondent was not entitled to disability benefits as he completed his contract without any injury or medical illness. Private respondent was repatriated to Manila upon the expiration of his contract. He did not suffer any injury during the effectivity of the contract and while on board the vessel. In actual fact, private respondent did not undergo the three-day mandatory post-employment examination upon his return to Manila.

After weighing the diverse postures of the parties, the Labor Arbiter rendered a Decision dated 24 January 2012 dismissing private respondent's Complaint. The Labor Arbiter explicated that the ailment of private respondent

was not acquired during the term of his employment contract, viz:

"Complainant's allegation that he experienced chest pains, dizziness and difficulty in breathing while on board the vessel cannot be sustained for want of evidence to substantiate the same. x x x

x x x x x

In short, it is clear that complainant disembarked the vessel in good and perfect condition. Otherwise, if he was suffering from an illness, he would have reported the same to the captain or to herein respondents during the period of his employment contract and the latter would have referred him to a doctor for treatment.

Given the basic rule that disability compensation is payable only to illnesses suffered on board the vessel, it is quite evident that the present claim for disability benefits is baseless as the illness upon which complainant anchors his cause of action was not suffered on board the vessel of respondents.

x x x x x

In synthesis, the present claim for disability benefits should be dismissed on the ground that the illness upon which the complaint is based was not suffered during the period of employment.

The fact that complainant was found unfit for employment while applying for a new employment with the respondents does not render such finding as enough basis to grant his claims. On the contrary, complainant's act in applying for a new employment with the respondent manning agency is an indication that he did not suffer any illness on board 'Clara Maersk'. Besides, if complainant truly believed that he is entitled to his claimed permanent total disability benefits, he would not have waited for one year and nine months to lapse from the date of his repatriation before filing the instant case for disability benefits."[5] (Emphases supplied)

The NLRC, on appeal, reversed the foregoing disposition of the Labor Arbiter. In the challenged Decision, the labor tribunal ratiocinated that the illness of private respondent was contracted during the course of his employment on board the vessel, i.e., his disease developed gradually.

Petitioners moved for reconsideration thereof but failed to attain favorable relief in the assailed Resolution.

Nonplussed, petitioners are now before Us asseverating that the NLRC committed grave abuse of discretion—

I

IN REVERSING THE DECISION OF THE HONORABLE LABOR ARBITER WHICH WAS FULLY IN CONSONANCE WITH THE POEA STANDARD EMPLOYMENT CONTRACT AND PREVAILING JURISPRUDENCE.

II

IN AWARDING ATTORNEY'S FEES TO PRIVATE RESPONDENT.

The Petition is meritorious.

We rule and so hold that the NLRC gravely abused its discretion when it granted payment of permanent disability benefits to private respondent.

Paragraphs (1) and (3), Section 20(B) of the POEA Standard Contract are explicit and unequivocal—

B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

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

“x x x

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 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.”

From the foregoing, it is clear that the employer is liable only when the seafarer suffers from a work-related injury or illness during the term of his employment. Primarily, for an injury or illness to be duly compensated under POEA-SEC, it must be shown that such injury/illness occurred or was suffered during the effectivity of employment of contract.[6]

In the case at bench, not a tinge of proof was adduced by private respondent to establish his claim that he indeed contracted his illness while on board the vessel and during the period of his employment. It is primal that one who makes an allegation has the burden of proving it. A party alleging a critical fact must support his allegation with substantial evidence. Any decision based on unsubstantiated allegation cannot stand as it will offend due process.[7] Moreover, self-serving and unsubstantiated declarations are insufficient to establish a case before quasi-judicial bodies where the quantum of evidence required to establish a fact is substantial evidence. The oft-repeated rule is that whoever claims entitlement to the benefits provided by law should establish his or her right thereto by substantial evidence.[8]

By the same token, private respondent proffered no convincing evidence that he complied with the mandatory three-day post employment examination.

Section 20 (3) of the POEA Standard Contract categorically provides that it is mandatory for a seaman to submit himself to a post-employment medical examination within three working days from his arrival in the Philippines. The unexplained omission of this requirement will bar the filing of a claim for disability benefits.[9] Here, the records are bereft of any proof to fortify his claim that he reported to petitioners' office for such mandatory reportorial requirement, or, if he were physically incapacitated to comply, he informed the latter through a written notice about his alleged condition. Private respondent's failure to abide by the established procedure deprived petitioners of the opportunity to assess and evaluate his condition (whether the illness/injury sustained was work-related or the conditions increased the risk contracting the ailment), and eventually issue a disability grading.

While We commiserate with private respondent's plight, We cannot accord judicial imprimatur to his claims for disability compensation and other benefits absent of proof of compliance with Paragraph 3, Section 20(B) of the POEA Standard Contract. To disregard this rule would set a precedent with negative repercussion because it would open the floodgates to a limitless number of seafarers claiming disability benefits.[10] Admittedly, strict rules of evidence are not applicable in claims for compensation and disability benefits, but the Court cannot altogether disregard the mandatory provisions of the law.[11]

A final note. The NLRC's reliance on the case of *Nisda v. Sea Serve Maritime Agency*[12] is misplaced. The claimant therein was repatriated for medical reasons and he was able to establish that he reported to the manning agency for post-employment examination. In the case at bench, as earlier adumbrated, private respondent disembarked from the vessel due to completion of contract, and failed to show that he had complied with the mandatory reportorial requirement upon his arrival in the Philippines.

WHEREFORE, the Petition is hereby GRANTED. The Decision dated 31 July 2012 and Resolution dated 28 September 2012 of the National Labor Relations Commission in NLRC LAC No. (OFW-L) 04-000348-12, are REVERSED and SET ASIDE. Accordingly, the Labor Arbiter's Decision dated 24 January 2012, in NLRC NCR CASE NO. (M) 08-11895-11, is REINSTATED.

SO ORDERED.

Ybañez, and Bueser,* JJ., concur.

* Vice Justice Carmelita S. Manahan, per Office Order No. 123-14-ABR dated 2 April 2014.

[1] Rollo, pp. 3-25.

[2] *Id.*, pp. 139-148.

[3] *Id.*, pp. 160-162.

[4] Rollo, pp. 85-86.

[5] Rollo, pp. 101-103.

[6] See *Cootauco v. MMS Phil. Maritime Services, Inc.*, 615 SCRA 529, 542-543 (15 March 2010), citing *Nisda v. Sea Serve Maritime Agency*, 593 SCRA 688, 689 (23 July 2009).

[7] See *UST Faculty Union v. University of Santo Tomas*, 584 SCRA 648, 656 (7 April 2009).

[8] *Cootauco v. MMS Phil. Maritime Services, Inc.*, 615 SCRA 529, 545 (15 March 2010).

[9] See *Maunlad Transport, Inc. v. Manigo, Jr.*, 554 SCRA 446, 459 (13 June 2008).

[10] See *Jebsens Maritime, Inc. v. Undag*, 662 SCRA 670, 681 (14 December 2011).

[11] *Id.*, pp. 546-547.

[12] 593 SCRA 688, 689 (23 July 2009).

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