

SANTIAGO L. MAKABENTA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION), AND MAUNLAD TRANS, INC. AND/ OR CARNIVAL CRUISE LINES, INC. AND RONALDO MANALIGOD, R...

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the Petition For Certiorari[1] filed by Santiago L. Makabenta (“petitioner Makabenta”), imputing grave abuse of discretion on the part of the National Labor Relations Commission, Third Division (“NLRC”) for issuing the Resolutions dated 24 January 2012,[2] and 7 March 2012[3] (“assailed Resolutions”).

The facts are as follows: In 2009, private respondent Maunlad Corporation hired petitioner Makabenta to work as a waiter on board the M/S Carnival Paradise. The Certificate of Fitness for Work dated 7 April 2009[4] was issued, finding petitioner Makabenta fit for sea duties. Petitioner Makabenta and private respondent Maunlad Corporation, through its Operations Manager Jose Dax Dennis C. Castro, executed the Contract of Employment dated 2 June 2009[5] (under the following relevant provisions: petitioner Makabenta would work for Seachest Associates/private respondent Carnival Corporation on the vessel M/S Carnival Paradise for six (6) months, and forty-eight (48) hours a week, as the team head waiter; basic monthly salary was \$45.00, with a guaranteed monthly pay of \$1,200.00). On 15 June 2009, petitioner Makabenta began working as team headwaiter on board the MS Carnival Destiny.[6] On 26 October 2009, while onboard the MS Carnival Destiny, petitioner Makabenta experienced severe right upper abdominal pain, as reported in the Crew Illness Log.[7] On 27 October 2009, while on board the MS Carnival Destiny, petitioner Makabenta was diagnosed with “Pain RUQ-lateral chest-pleuritic Occult hematuria.”[8] Petitioner Makabenta received medical attention when the ship docked in Miami, Florida, U.S.A., Dr. R. Nieves, a company-designated physician, with specialty as a general surgeon, executed Medical Shoreside Attendance Form dated 7 November 2009,[9] indicating the findings of the medical treatment (i.e., petitioner Makabenta experienced low back pain/ right flank pain; petitioner Makabenta needed medical care, but was fit to travel; and specified limitations on the lifting, pulling, or pushing activities of petitioner Makabenta; a lumbar spine MRI was requested). On 12 November 2009, petitioner Makabenta was repatriated to the Philippines for further medical tests and treatment. The tests done on petitioner Makabenta were as follows: Computed Tomography Scan dated 16 November 2009[10] (findings: “GRADE I ANTERIOR LISTHESIS OF L5 OVER S1, EVIDENCE OF SAME LEVEL DISC DISEASE WITH TRACTION HERNIATION. SECONDARY MODERATE CANAL AND BILATERAL NEURAL FORAMINAL COMPROMISE EVIDENT”); X-Ray Report dated 16 November 2009[11] (findings: “LUMBO SACRAL SPINE: Osteophytes are seen along the anterior and lateral margins of the lumbar vertebral bodies; slight compression deformity of L5; forward displacement of L5 over S1. The rest of the vertebral height, pedicles and disc spaces are intact; IMPRESSION: DEGENERATIVE HYPERTROPHIC CHANGES, LUMBAR SPINE. MILD COMPRESSION DEFORMITY, L5. GRADE I SPONDYLOLISTHESIS, L5 OVER S1”); the MRI of the Lumbar Spine dated 18 November 2009[12] (findings: Impression: 1. Grade II L5-S1 anterolisthesis secondary to chronic bilateral L5 spondylolysis, causing severe right-sided and mild to moderate left-sided foraminal

narrowing. 2. Mild L2-3, L3-4, and L4-5 disc bulges”); X-Ray Report dated 8 January 2010[13] (findings: IMPRESSION: GRADE I SPONDYLOLISTHESIS. DEGENERATIVE CHANGES, LUMBAR SPINE. MILD COMPRESSION DEFORMITY. L5 VERTEBRAL BODY.”). The Discharge Summary/ Hospital Abstract[14] prepared by Dr. Robert D. Lim and Dr. Mylene Cruz-Balbon, company-designated physicians, stated: petitioner Makabenta was confined at the Metropolitan Medical Center from 16 January 2010 to 1 February 2010, and diagnosed with “umbilical hernia; s/p umbilical herniorrhaphy with mesh; Grade II L5-S1 anterolisthesis with mild to severe foraminal narrowing; s/p posterior decompression, instrumentation and fusion with posterolateral bone grafting;” petitioner Makabenta was prescribed various medicines and was advised to undergo therapy. (N.B. None of the documents executed by the company-designated physicians stated petitioner Makabenta was suffering from a permanent disability). Private respondents did not re-hire petitioner Makabenta after his medical repatriation to the Philippines.

Petitioner Makabenta filed the Complaint[15] for permanent total disability benefits against the private respondent Maunlad Corporation, the private respondent Carnival Corporation, and Ronaldo Manaligod, before the Labor Arbiter, docketed as NLRC OFW Case No. (M) 04-05135-10.

In the Decision dated 28 September 2010,[16] the Labor Arbiter ruled in favor of petitioner Makabenta. The dispositive portion of the Labor Arbiter's Decision read:

WHEREFORE, premises considered, judgment is hereby rendered ordering the respondents Maunlad Trans, Inc./ Carnival Cruise Lines, Inc./ Ronaldo Manaligod to pay complainant Santiago L. Makabenta the amount of SIXTY SIX THOUSAND US DOLLARS (US\$66,000.00) or its equivalent in Philippine Peso at the prevailing rate of exchange at the time of actual payment representing his disability benefits and attorney's fees.

All other claims are DISMISSED for lack of merit.

SO ORDERED.

The Labor Arbiter found that: on 26 October 2009, petitioner Makabenta suffered severe low back pain/ right flank pain while on board the vessel and during the effectivity of his employment contract; petitioner Makabenta received medical treatment and was repatriated to the Philippines on 12 November 2009; due to the injury sustained by petitioner Makabenta while on board the vessel, he was not able to work for more than 120 days, thus, he was permanently disabled and was entitled to full coverage under the POEA approved employment contracts.

The private respondents filed an appeal. In the assailed Resolution promulgated 24 January 2012,[17] the NLRC set aside the ruling of the Labor Arbiter, and dismissed the Complaint for lack of merit. The dispositive portion of the assailed Resolution read:

WHEREFORE, premises considered, respondents-appellants' appeal is GRANTED. The Decision dated September 28, 2011 is VACATED and SET ASIDE and a new one is entered dismissing the complaint for lack of merit.

On 7 March 2012, the NLRC issued the assailed Resolution,[18] denying the motion for reconsideration filed by petitioner Makabenta.

Thus, this Petition for Certiorari, making the following assignment of errors:

I

THERE IS PRIMA FACIE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION ON THE PART OF PUBLIC RESPONDENT NLRC IN RULING THAT PETITIONER'S LUMBAR INJURY IS NOT WORK-RELATED.

II

THERE IS PRIMA FACIE ABUSE OF DISCRETION ON THE PART OF THE HONORABLE PUBLIC RESPONDENT IN DECLARING THAT PETITIONER IS NOT ENTITLED TO DISABILITY COMPENSATION DESPITE THE CLEAR SHOWING THAT HE SUSTAINED LUMBAR INJURY WHILE WORKING ON BOARD THE VESSEL OF RESPONDENTS.

III

THERE IS PRIMA FACIE ABUSE OF DISCRETION ON THE PART OF THE HONORABLE PUBLIC RESPONDENT WHEN IT UNREASONABLY IGNORED THE OVERWHELMING EVIDENCE IN SUPPORT OF PETITIONER'S ENTITLEMENT TO MAXIMUM DISABILITY BENEFITS IN THE AMOUNT OF US\$60,000.00.

(A) PETITIONER IS TOTALLY AND PERMANENTLY DISABLED CONSIDERING THAT HE COULD NO LONGER RETURN TO WORK AS A SEAFARER, THE JOB HE WAS ACCUSTOMED TO PERFORM.

(B) CONTRARY TO THE FINDINGS OF THE COMPANY-DESIGNATED DOCTOR, PETITIONER'S ILLNESS IS CLEARLY WORK-RELATED. AS A MATTER OF FACT, EVEN BEFORE PETITIONER BOARDED THE VESSEL HE WAS SUBJECTED TO A PRE-EMPLOYMENT MEDICAL EXAMINATION, WHERE THE COMPANY DOCTORS DECLARED HIM FIT TO WORK.

(C) PETITIONER IS SUFFERING FROM TOTAL AND PERMANENT DISABILITY SINCE HE REMAINS INCAPACITATED FOR A PERIOD OF MORE THAN 240 DAYS.

IV

THERE IS PRIMA FACIE ABUSE OF DISCRETION ON THE PART OF THE HONORABLE PUBLIC RESPONDENT IN DISMISSING PETITIONER'S CLAIM FOR PAYMENT OF MORAL AND EXEMPLARY DAMAGES AS WELL AS ATTORNEY'S FEES DESPITE RESPONDENTS' BRAZEN DISREGARD TO COMPLY WITH THEIR CONTRACTUAL OBLIGATIONS.

V

THE DECISION OF THE HONORABLE PUBLIC RESPONDENT CONTAINS SERIOUS ERRORS IN ITS FINDINGS OF FACTS AND LAW WHICH, IF NOT CORRECTED, WOULD CAUSE GRAVE OR IRREPARABLE DAMAGE OR INJURY TO PETITIONER.

The issues are: 1) whether the NLRC committed grave abuse of discretion in ruling that petitioner Makabenta is not entitled to permanent disability benefits; 2) whether petitioner Makabenta is entitled to sickness allowance; and 3) whether petitioner Makabenta is entitled to moral and exemplary damages, and attorney's fees, with legal interest.

PETITION FOR CERTIORARI[19]

As to the first issue, the Petition answers in the affirmative. The NLRC committed grave abuse of discretion in ruling that petitioner Makabenta is not entitled to permanent disability benefits.

The Petition[20] thrusts: petitioner Makabenta's lumbar injury or back injury could not have been caused by hernia, as ruled by the NLRC; the medical results show that petitioner Makabenta is incapacitated to perform his usual tasks as a seaman because of the injury he sustained while on board the vessel of private respondents, and during the performance of his duties; the gravity of petitioner Makabenta's injury is undisputed, i.e., the medical records show petitioner Makabenta suffered a total and permanent injury; permanent total disability means disablement of an employee to earn wages in the same kind of work or work of a similar nature that he was trained for or accustomed to perform; petitioner Makabenta can no longer go back to active sea duties because of the injury he suffered; petitioner Makabenta has not been able to get any meaningful employment since his repatriation; petitioner Makabenta is entitled to the maximum disability benefits in the amount of \$60,000.00, in accordance with the Philippines Overseas Employment Agency ("POEA") Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean Going Vessels or the POEA Standard Employment Contract, because petitioner Makabenta could not anymore be declared fit to work for sea duties; petitioner Makabenta's illness lasted for more than 120 days; under the Labor Code of the Philippines, if by reason of the injury or sickness he sustained, the employee is unable to perform his customary job for a continuous period exceeding 120 days, then the said employee suffers from a permanent total disability, hence, petitioner Makabenta is entitled to permanent disability benefits.

Regarding the second issue, the Petition answers in the affirmative. Petitioner Makabenta is entitled to sickness allowance.

The Petition for Certiorari[21] thrusts: the POEA Contract provides that when the seafarer undergoes 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 days; petitioner Makabenta was earning a basic monthly salary of US\$45.00; petitioner Makabenta was repatriated to the Philippines for medical treatment; petitioner Makabenta was not employed by private respondents for more than 120 days since his repatriation, hence, petitioner Makabenta is entitled to sickness allowance in the amount of US\$ 180.00, for the 120 days he underwent medical treatment.

Anent the third issue, the Petition answers in the affirmative. Petitioner Makabenta is entitled to moral and exemplary damages, and attorney's fees, with legal interest.

The Petition for Certiorari[22] thrusts: petitioner Makabenta's permanent disability was the direct result of the demands of his employment; private respondents have acted in bad faith by refusing to pay the amounts due to petitioner Makabenta; the inability of petitioner Makabenta to work and collect the amounts due to him, caused petitioner Makabenta to have severe depression and anxiety, hence, private respondents are liable to pay petitioner Makabenta P50,000.00, as moral damages; private respondents are also liable to pay P50,000.00, as exemplary damages, to serve as an example and for the public good; private respondents are also liable to pay attorney's fees because petitioner Makabenta was forced to institute the case against private respondents, and hire an attorney to enforce and protect his rights; private respondents are liable to pay petitioner Makabenta attorney's fees equivalent to 10% of all his total monetary claims.

COMMENT (TO THE PETITION FOR CERTIORARI)[23]

As to the first issue, the private respondents answer in the negative. The NLRC did not commit grave abuse of discretion in ruling that petitioner Makabenta is not entitled to permanent disability benefits.

The Comment (to the Petition for Certiorari)[24] parries: petitioner Makabenta failed to prove that his illness is work-related, and mere allegations without substantial medical evidence cannot be the basis to conclude that the

illness is work-related; the basis of petitioner Makabenta in claiming disability payments is outdated, because the new rule now is that if the seafarer (like petitioner Makabenta) files a claim for disability benefits based on the provisions of the amended POEA Contract, his degree of disability should be classified based on the Schedule of Disability enumerated in Section 30 of the amended POEA Contract; Section 30 of the amended POEA Contract shows that only seafarers who are classified under Grade 1 shall be considered to have suffered total and permanent disability; jurisprudence provides that an illness which lasts for more than 120 days does not mean that the seafarer is suffering from a Grade 1 disability, and that the assessment of a doctor, company-designated or otherwise, is the measure of the degree of disability suffered by the seafarer; petitioner Makabenta did not submit any medical report which would substantiate his allegation that his injury is a Grade 1 disability; petitioner Makabenta is not entitled to permanent disability award because to be entitled to the maximum permanent disability benefit of US\$60,000.00, the petitioner Makabenta should prove that he is suffering from a Grade 1 disability, and petitioner Makabenta failed to present evidence to support his claim that he is suffering from a Grade 1 disability; the company-designated physician who treated petitioner Makabenta's injury after his repatriation, declared petitioner Makabenta fit to work after the medical treatment, and the assessment of the company-designated physician should be given more weight than the doctor who treated petitioner Makabenta only for one day (the physician who treated petitioner Makabenta only for one day, recommended a Grade 11 disability, and not the Grade 1 disability), hence petitioner Makabenta is not entitled to the US\$60,000.00 disability benefits.

Regarding the second issue, the private respondents answer in the negative. Petitioner Makabenta is not entitled to sickness allowance.

The Comment (to the Petition for Certiorari)[25] parries: private respondents have paid the sickness allowance, and the medical expenses of petitioner Makabenta; the medical treatment paid by the private respondents brought petitioner Makabenta back to health; petitioner Makabenta did not adduce evidence to support his claim for sickness allowance, hence, petitioner Makabenta is not entitled to sickness allowance.

Anent the third issue, the private respondents answer in the negative. Petitioner Makabenta is not entitled to moral and exemplary damages, and attorney's fees, with legal interest.

The Comment (to the Petition for Certiorari)[26] parries: petitioner Makabenta failed to discuss why he was entitled to moral and exemplary damages, and attorney's fees; the private respondents never denied petitioner Makabenta proper treatment, hence, petitioner Makabenta is not entitled to moral and exemplary damages, and attorney's fees, with legal interest.

Petitioner Makabenta filed Reply (to Respondents' Comment),[27] reiterating the arguments in the Petition for Certiorari.[28]

THE COURT'S RULING

As to the first issue, the Court rules in the affirmative. The NLRC committed grave abuse of discretion in ruling that petitioner Makabenta is not entitled to permanent disability benefits.

The Labor Arbiter found that petitioner Makabenta suffered an injury (as stated in the 18 November 2009 Lumbar MRI: GRADE II L5-S1 ANTEROLISTHESIS SECONDARY TO CHRONIC BILATERAL L5 SPONDYLOLISTHESIS, CAUSING SEVERE RIGHT SIDED AND MILD TO MODERATE LEFT SIDED FORAMINAL NARROWING. MILD L2-3, L3-4, AND L4-5 DISC BULGES. LUMBO SCARAL SPINE XRAY REPORT: GRADE 1 SPONDYLOLISTHESIS. DEGENERATIVE CHANGES LUMBAR SPINE. MILD COMPRESSION DEFORMITY, L5 VERTEBRAL BODY.)

According to the Labor Arbiter, due to the injury, petitioner Makabenta was not able to work for more than 120 days. The Labor Arbiter declared petitioner Makabenta “permanently disabled,” hence entitled to benefits for permanent total disability.

On the other hand, the NLRC found that petitioner Makabenta was not entitled to disability compensation because: petitioner Makabenta's lumbar pain was caused by hernia, which was resolved after surgery; there is no proof that petitioner Makabenta suffered incapacity due to illness which resulted in his medical sign-off from the MS Carnival Destiny.

A review of the evidence consisting of medical reports regarding petitioner Makabenta's condition, shows that petitioner Makabenta was entitled to permanent disability benefits.

Entitlement of seamen on overseas work to disability benefits is a matter governed, not only by medical findings, but by law and contract. The material statutory provisions are Articles 191 to 193 under Chapter VI (Disability Benefits) of the Labor Code, in relation to Rule X of the Rules and Regulations Implementing Book IV of the Labor Code.[29]

Article 192 (c) of the Labor Code is relevant. It reads:

ARTICLE. 192. Permanent total disability. –

xxx

(c) The following disabilities shall be deemed total and permanent:

- (1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided in the Rules;
- (2) Complete loss of sight of both eyes;
- (3) Loss of two limbs at or above the ankle or wrist;
- (4) Permanent complete paralysis of two limbs;
- (5) Brain injury resulting in incurable imbecility or insanity; and
- (6) Such cases as determined by the Medical Director of the System and approved by the Commission.

Petitioner Makabenta's disability was permanent because he was unable to work from 12 November 2009 (the date of his repatriation to the Philippines), and the private respondents did not re-hire him. Petitioner Makabenta's disability, which lasted for more than 120 days, was “total and permanent,” as provided in Article 192 (c) (1) above quoted.

Further, the Supreme Court has ruled that disability is intimately related to one's earning capacity. The test to determine its granting is the impairment or loss of one's capacity to earn and not its mere medical significance. Permanent total disability means disablement of an employee to earn wages in the same kind of work, or work of similar nature that he was trained for or accustomed to perform, or any kind of work which a person of his mentality and attainment could do. It does not mean absolute helplessness but an inability to do substantially all material acts necessary to the prosecution of a gainful occupation without serious discomfort or pain and without material injury or danger to life.[30]

In this case, petitioner Makabenta's medical tests (i.e., Metropolitan Medical Center Computed Tomography Report dated 16 November 2009 - “Grade I Anterior Listhesis of L5 over S1, Evidence of Same Level Disc Disease with Traction Herniation. Secondary Moderate Canal and Bilateral Neural Foraminal Compromise

Evident;”[31] Metropolitan Medical Center X-ray Report dated 16 November 2009 - “Impression Degenerative Hypertrophic Changes, Lumbar Spine. Mild Compression Deformity, L5. Grade 1 Spondylolisthesis, L5 over S1;”[32] Cardinal MRI Center Certification dated 18 November 2009 - “Impression: 1) Grade II L5-S1 anterolisthesis secondary to chronic bilateral L5 spondylosis, causing severe right-sided and mild to moderate left-sided foraminal narrowing. 2) Mild L2-3, L3-4, and L4-5 disc bulges;”[33] Metropolitan Medical Center X-Ray Report dated 8 January 2010 - “Impression: Grade 1 Spondylolisthesis. Degenerative Changes, Lumbar Spine. Mild Compression Deformity, L5 Vertebral Body”)[34] show he was entitled to permanent disability benefits. The medical tests consistently indicate that he suffered from degenerative lumbar spine spondylolisthesis.

Clearly, petitioner Makabenta suffered from a permanent total disability, which entitled him to permanent disability benefits in the amount of US\$ 60,000.00, pursuant to Section 32 of the 2010 POEA Standard Employment Contracts.[35]

Regarding the second issue, the Court rules in the affirmative. Petitioner Makabenta is entitled to sickness allowance.

Applicable is Section 20 A of the 2010 POEA Standard Employment Contracts, as amended. The provision reads:

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 his 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.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the Employer and the seafarer. The third doctor's decision shall be final and binding on both parties.

As above quoted, the seafarer is entitled to sickness allowance equivalent to his basic wage computed from the date of signing off from the ship for medical treatment, until he is declared fit to work, or until a company-designated physician has declared him to be permanently disabled, at the rate of, but not more than 120 days (or 4 months).

In this case, petitioner Makabenta was medically repatriated during the effectivity of his employment contract, and he obtained medical attention in the Philippines. Petitioner Makabenta used his personal funds to pay for his medical tests and treatment. The private respondents did not present receipts or any competent proof that they have paid the sickness allowance of petitioner Makabenta. This leads the Court to conclude that petitioner Makabenta has not received his sickness allowance from private respondents.

Petitioner Makabenta's basic wage is \$45.00 a month. Hence, petitioner Makabenta is entitled to the sickness allowance for the maximum 4 months period, or the total amount of \$180.00.

Anent the third issue, the Court rules in the negative. Petitioner Makabenta is not entitled to moral and exemplary damages. However, petitioner Makabenta is entitled to attorney's fees.

In order that an award of moral damages can be aptly justified, the claimant must be able to satisfactorily prove that he has suffered such damages and that the injury causing it has sprung from any of the cases listed in Articles 2219[36] and 2220[37] of the New Civil Code. Then, too, the damages must be shown to be the proximate result

of a wrongful act or omission. The claimant must establish the factual basis of the damages and its causal tie with the acts of the defendant.[38]

In this case, petitioner Makabenta has not established the factual basis of the damages he suffered and its causal tie with the acts of the private respondents. Hence, there is no basis to award moral damages. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.[39] There is no basis to award exemplary damages in this case because petitioner Makabenta has failed to present evidence to justify the award of exemplary damages.

There is basis to award attorney's fees in the amount of 10% of the total award. Under Article 2208 (2) of the New Civil Code,[40] petitioner Makabenta is entitled to attorney's fees because the acts of private respondents have compelled petitioner Makabenta to litigate and incur expenses to protect his interest.

The Court rules as follows:

- 1) GRANTS the Petition for Certiorari filed by Santiago L. Makabenta;
- 2) SETS ASIDE the NLRC's Resolution dated 24 January 2012 and the Resolution dated 7 March 2012;
- 3) ORDERS the Maunlad Trans, Inc., and/or Carnival Cruise Lines, Inc., and Ronaldo Manaligod, jointly and severally, to pay Santiago L. Makabenta, the following sums:
 - a) US\$ 60,000.00 or its Peso equivalent (as permanent disability benefits);
 - b) US\$ 180.00 or its Peso equivalent (as sickness allowance);
 - c) US\$ 6,018.00 or its Peso equivalent (as attorney's fees), subject to 6% interest per year, computed from finality of this Decision until fully paid (pursuant to the ruling in *Nacar v. Gallery Frames and Bordey, Jr.*).[41]

IT IS SO ORDERED.

Veloso (Chairperson) and Lantion, JJ., concur.

[1] C.A. Rollo, p. 3.

[2] C.A. Rollo, p. 40.

[3] C.A. Rollo, p. 63.

[4] C.A. Rollo, p. 149.

[5] C.A. Rollo, p. 145.

[6] C.A. Rollo, p. 65.

[7] C.A. Rollo, p. 86.

[8] Ibid.

[9] C.A. Rollo, p. 84.

[10] C.A. Rollo, p. 88.

[11] C.A. Rollo, p. 89.

[12] C.A. Rollo, p. 90.

- [13] C.A. Rollo, p. 91.
- [14] C.A. Rollo, p. 106.
- [15] C.A. Rollo, p. 65.
- [16] C.A. Rollo, p. 48.
- [17] C.A. Rollo, p. 40.
- [18] C.A. Rollo, p. 63.
- [19] C.A. Rollo, p. 3.
- [20] Ibid.
- [21] Ibid.
- [22] Ibid.
- [23] C.A. Rollo, p. 239.
- [24] Ibid.
- [25] Ibid.
- [26] Ibid.
- [27] C.A. Rollo, p. 273.
- [28] C.A. Rollo, p. 3.
- [29] Magsaysay Maritime Corp., et. al. v. NLRC, et. al., G.R. No. 186180, 22 March 2010.
- [30] Seagull Maritime Corp., et. al. v. Jaycee Dee et. al., G.R. No. 165156, 2 April 2007, citing Bejerano v. Employees' Compensation Commission, G.R. No. 84777, 30 January 1992, 205 SCRA 598.
- [31] Supra note 10.
- [32] Supra note 11.
- [33] Supra note 12.
- [34] Supra note 13.

[35] SCHEDULE OF DISABILITY ALLOWANCES

Impediment Grade

Payment

Impediment

1 US\$50,000

x

120.00%

2 "

x

88.81%

3 "

x

78.36%

4 "

x

68.66%

5 "

x

58.96%

6 "

x

50.00%

7 "

x

41.80%

8 "

x

33.59%

9 "

x

26.12

10 "

x

20.15

11 "

x

14.93

12 "

x

10.45

13 "

x

6.72

14 "

x

3.74

To be paid in Philippine currency equivalent at the exchange rate prevailing during the time of payment

[36] Article 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;
- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in Article 309;
- (10) Acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brother and sisters may bring the action mentioned in No. 9 of this article, in the order named.

[37] Article 2220. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. The same rule applies to breaches of contract where the defendant acted fraudulently or in bad faith.

[38] B.F. Metal (Corporation) v. Spouses Lomotan, G.R. No. 170813, 16 April 2008, citing Philippine Telegraph & Telephone Corporation v. Court of Appeals, G.R. No. 139268, 3 September 2002.

[39] NEW CIVIL CODE OF THE PHILIPPINES (1950), Article 2229.

[40] Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid,

just and demandable claim;

(6) In actions for legal support;

(7) In actions for the recovery of wages of household helpers, laborers and skilled workers;

(8) In actions for indemnity under workmen's compensation and employer's liability laws;

(9) In a separate civil action to recover civil liability arising from a crime;

(10) When at least double judicial costs are awarded;

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.”

[41] *Nacar v. Gallery Frames and Bordey, Jr.*, G.R. No. 189871, 13 August 2013.

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