

MAGSAYSAY MARITIME CORP., CRUISE SHIPS CATERING AND SERVICES INTERNATIONAL NV AND MARLON R. ROÑO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION – 4TH DIVISION AND FILIPIN...

Ponente: CARANDANG, J.

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CARANDANG, J.:

This shall treat petitioners' Motion for Reconsideration and private respondent's Motion for Partial Reconsideration.

In their Motion for Reconsideration, petitioners allege that the absence of a cause of action at the time of filing of the complaint cannot be cured by subsequent events during the proceedings. Thus, the procedure taken by private respondent is fatally flawed for he should have waited for the company doctor's final assessment before she filed the complaint. Further, petitioners insist that the Grade 12 assessment of the company doctor carries more weight than the medical report of Dr. Jacinto declaring private respondent unfit to go back to work. Disability should be based solely on the disability gradings provided under Section 32 of the POEA-SEC and not to be determined or measured by the number of days a seafarer is under treatment or the number of days in which sickness allowance is paid.

On the other hand, private respondent claims in her Motion that the Decisions of the Labor Arbiter and the NLRC should be affirmed or that which awarded her the amount US\$80,000.00 pursuant to the provisions of the CBA, and not the provisions of the POEA-SEC. She likewise contends that this case is already fully terminated considering that petitioners had in fact delivered the payment and voluntarily settled the monetary award. Private respondent avers that this petition for certiorari is already mooted by the full settlement of the claims.

We DENY both motions.

We are not persuaded by petitioners' assertions. While it is true that private respondent had no cause of action for permanent and total disability compensation at the time she filed the complaint, it is very clear from the records that even after the maximum 240-day period, there was no declaration of either fitness to work or degree of disability from the company-designated physician, who only made an assessment on March 10, 2012 or on the 274th day from private respondent's repatriation. Contrary to petitioners' insinuation, this Court did not use as basis the medical report of Dr. Jacinto in declaring private respondent's disability as permanent and total. Considering that there was no declaration of either fitness or disability on the part of the company-designated physician within the maximum 240-day medical treatment period, the temporary total disability of private respondent became permanent. This is still the prevailing ruling, as guided by a catena of cases on the matter.

Indeed, We cannot just simply dismiss this case on the ground of prematurity when it is clearly evident from the established facts that private respondent is entitled to permanent and total disability benefits. As We have stated in the assailed Decision, and We again reiterate:

“Further, records reveal that despite being under the care of an Orthopedic Surgeon and Physiatrist and notwithstanding continuous work-ups, rehabilitation and medications, private respondent did not totally recover from his condition even after the lapse of the 240-day period. This is evinced by the February 16, 2012 Medical Report of the company-designated physician, which is already outside the 240-day period, wherein private respondent was advised to continue physical therapy and medications and to return on March 8, 2012 for re-evaluation. This is another strong indication that private respondent is suffering from permanent and total disability.

In sum, for failure of the company-designated physician to make a declaration as to private respondent's fitness to work before the expiration of the 240-day period and the fact that there is no significant improvement on the physical condition of private respondent sufficed to entitle the latter to total and permanent disability benefits.

It would be the height of injustice if We will just dismiss this complaint on the ground of prematurity when it is evident that private respondent is entitled to total and permanent disability benefits. The liberality of the law in favor of the working man and woman still prevails, and the constitutional guarantee of social justice adopting a liberal attitude in favor of the employee in deciding claims for compensation remains primordial.”

Anent private respondent's Motion for Partial Reconsideration, We reiterate our ruling that the CBA of December 2010 awarding US\$80,000.00 for permanent and total disability does not apply to her considering that the disability referred in said CBA pertains to disability sustained after an accident. That is not the case of private respondent. What should, therefore, apply is the 2010 POEA-SEC entitling her to the maximum compensation benefit of US\$60,000.00 for permanent and total disability.

This petition is not rendered moot and academic by the payment of the judgment award by petitioners to private respondent during the pre-execution proceedings. A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value.^[1] The issue as to private respondent's entitlement to permanent and total disability benefits as raised in this petition is not mooted by the payment of the judgment award. Besides, private respondent failed to present the agreement of their settlement so this Court could have been fully guided.

Tendering no new matters of substance which would convince this Court to reconsider Our earlier Decision, the Motion for Reconsideration filed by petitioner and Motion for Partial reconsideration filed by private respondent are hereby DENIED for lack of merit. Our Decision dated August 29, 2014 stands.

SO ORDERED.

Gonzales-Sison and Sorongon, JJ., concur.

[1] Deutsche Bank AG vs. Court of Appeals, G.R. No. 193065, February 27, 2012.

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