

MAGSAYSAY MARITIME CORPORATION, PETITIONER, VS. DENNIS D. GARCIA, RESPONDENT.

Ponente: LIBREA-LEAGOGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/69515939c9b5/>

LIBREA-LEAGOGO, J.:

Before this Court is a Petition for Review with urgent prayer for issuance of a temporary restraining order and/or writ of preliminary injunction[1] dated 04 August 2014 under Rule 43 of the Rules of Court, assailing the Decision[2] dated 11 April 2014 and Resolution[3] dated 03 July 2014 of the Panel of Voluntary Arbitrators ("VA Panel, for brevity) composed of AVA Arnel Z. Dolendo (Chairman), AVA Luisito M. Lantin (Member) and AVA Gregorio C. Biares, Jr. (Member), Office of the Voluntary Arbitrator (National Capital Region), National Conciliation and Mediation Board, Department of Labor and Employment in AC-686-NCMB-NCR-42-07-06-13, which declared respondent to be permanently and totally disabled and ordered petitioner to pay him disability benefits in the amount of US\$60,000.00, sickness allowance in the amount of US\$2,196.00, plus 10% attorney's fees based on the total award, and denied the Motion for Reconsideration for lack of merit, respectively.

Respondent filed his Comment[4] dated 29 September 2014, to which petitioner filed its Reply[5] dated 07 October 2014. Thus, the third paragraph of the Resolution[6] dated 08 August 2014 is reiterated, and the Petition is submitted for decision.

FACTUAL ANTECEDENTS

Complainant Dennis D. Garcia filed a Notice to Arbitrate[7] dated 14 February 2013 before the National Conciliation and Mediation Board-National Capital Region ("NCMB-NCR," for brevity) against respondent Marlon R. Roño/ Magsaysay Maritime Corporation ("company," for brevity). He sought sickness allowance, medical reimbursement and disability benefit as provided under the Collective Bargaining Agreement ("CBA," for brevity), attorney's fees and other damages.

In his Position Paper[8] dated 27 August 2013, complainant alleged, inter alia, that: he was engaged by the company for and in behalf of its foreign principal Princess Cruise Lines, Limited as stateroom steward in the latter's vessel M/V Sapphire per Contract of Employment dated 22 August 2012 which was his fifteenth (15[th]) and last contract; his employment was covered by a CBA; as in his previous engagements, he underwent and passed the Pre-Employment Medical Examination ("PEME," for brevity) conducted by the company-designated physician; in his last deployment, he was declared fit to work by the company-designated physician; as stateroom steward, he was responsible for the daily servicing and cleaning of guest staterooms; he performed on board strenuous tasks such as lifting, carrying, pulling, pushing or moving provisions and materials; in the performance of his duties, he was constantly exposed to inhalation and direct contact to fumes, gas, dust and various, injurious and harmful chemicals; his work is not confined to the regular eight-to-five schedule but stretched up to long hours of the day or night as he is responsible for various tasks; his frequent overtime works had inevitably caused him tremendous strain and overfatigue; such adverse conditions of work attended by his exposure to varying temperatures of extreme hot and cold as the vessel crossed ocean and geographical boundaries amidst harsh sea weather conditions have made his life on board the moving workplace physically and mentally stressful; he was

also exposed to different adjustments to different time zones which was overly stressful; being away from home likewise caused emotional strain; on 30 September 2012, he experienced epigastric pain while on board the ship working as a cabin staff; he was seen by a ship nurse and was given unrecalled liquid medication; he was later seen by the ship doctor; he was subsequently confined at the California Pacific Medical Center on 03 October 2012; his ECG showed acute inferior myocardial infarction; his troponin level was elevated compatible with acute myocardial infarct; he underwent immediate coronary angiography which revealed total occlusion of the right coronary artery; he underwent coronary angioplasty with stenting of the right coronary artery; he was repatriated on 15 October 2012 and had subsequent check-up at the Metropolitan Medical Center; he underwent various laboratory exams including ECG, chest x-ray, 2D echo and stress test; he was maintained on antiplatelets, ace inhibitor, beta blocker and lipid lowering medicines; on 17 October 2012, he was informed that the company will not anymore shoulder his medical expenses on the ground that his illness is allegedly hereditary in nature and not work-related; on 27 November 2012, he wrote to the company pleading to grant him his much needed further treatment; he wrote again on 14 December 2012 stating therein that since his request for further treatment was not favorably acted upon, he was constrained to seek treatment and second opinion from an independent doctor; he was examined and treated by Dr. Efren R. Vicaldo ("Dr. Vicaldo," for brevity) of the Philippine Heart Center, a cardiologist; Dr. Vicaldo diagnosed his illness and assessed his disability as hypertensive cardiovascular disease, coronary artery disease, inferior myocardial infarction, S/P percutaneous coronary intervention on the RCA, impediment Grade 1; Dr. Vicaldo also declared that he is permanently unfit to resume work as a seaman in any capacity and his illness is considered work-related/aggravated; he sought payment of disability benefits from the respondents; since his demands proved futile as the latter refused to acknowledge their contractual obligation, he filed a complaint; during the mandatory conciliation conference, respondents offered the amount of US\$20,900.00 which is equivalent to a Grade 7 disability for the early settlement of the case; he turned down the said offer for settlement since he has a valid claim for disability benefits; he expressed his willingness to settle the case amicably in the amount of US\$55,000.00; and they failed to reach an amicable settlement.

Complainant alleged that: he is entitled to disability benefits and related claims; he was declared fit for sea duty by the company-designated physician before he was deployed to work at the M/V Sapphire; he contracted his illness in the course of and by reason of his employment; two days after he was repatriated, the company already terminated his treatment on the ground that his ailment is allegedly not work-related and hereditary in nature; his illness disabled him from performing his former work as a seaman; he consulted Dr. Vicaldo, an independent cardiologist, who declared him permanently unfit to resume work as a seaman in any capacity and who stated that his illness is work-related and aggravated with an assessment that he has a Grade 1 disability; he is entitled to disability benefits and illness allowance; from the time that he was repatriated, he had been unable to work as stateroom steward in any ocean-going vessel; when an employee is unable to work for more than 120 days as a result of an injury or illness, his condition constitutes permanent total disability which entitles him to the maximum compensation equivalent to grade 1 disability compensation or US\$60,000.00; and he is also entitled to moral and exemplary damages as well as attorney's fees.

In its Position Paper[9] dated 11 September 2013, respondent company alleged, inter alia, that: complainant was previously employed by the company for and in behalf of its principal Princess Cruise Lines, Limited as stateroom steward; he signed a nine-month POEA approved term contract of employment dated 22 April 2012; after being declared fit to work during the usual routine PEME, he joined his vessel of assignment and commenced his duties as stateroom steward; while on board, he complained of upper mid abdominal pain on 29 September 2012; he was seen by the ship doctor and was given medications which afforded slight relief of symptom; he was brought to the California Pacific Medical Center for admission; cardiac catheterization and percutaneous coronary intervention (angioplasty/stenting) were done; he was discharged on stable condition and

repatriated for further medical care; upon arrival in Manila, the seafarer was immediately referred to the company-designated doctor at Marine Medical Services, Metropolitan Medical Center and was diagnosed to have 2 Vessel Coronary Artery disease s/p percutaneous transluminal coronary angioplasty stenting; the specialist confirmed that his condition is not work-related; he was informed that all his future medical expenses would be at his own expense; the company shouldered all the expenses for procedures already done; while he was given a Grade 1 disability by his personal doctor, he was assessed only with a Grade 7 disability by the company doctor; he did not agree to be referred to a third doctor; his claims were denied; and the company sincerely believed that he is not entitled to his claim for total and permanent disability benefits, medical expenses, sickness allowance, damages and attorney's fees.

Respondent company averred that: complainant is not entitled to any contractual benefits such as disability benefits, sickness allowance, and reimbursement of alleged medical expenses; there is absolutely no evidence on record to show that his coronary heart disease is a work-related ailment; research shows that coronary artery disease or coronary heart disease is a common term for the buildup of plaque in the heart's arteries that could lead to heart attack; per the company doctor's report, coronary artery disease is due to deposition of fats, fibrin, clots in the coronary artery occurring slowly after several years and that its etiology (diabetes mellitus, age, sex, hypertension, elevated cholesterol and smoking) are not considered work-related; the complainant's doctor, Dr. Vicaldo, only stated that his illness is considered work-related/aggravated without explaining how or why he made the said conclusion; without any evidence to establish work-relation, his claim for total and permanent disability benefits must necessarily be denied; under Section 20 (A) of the POEA Contract, only occupational diseases or work-related illnesses are compensable; an employer assumes liability for illness or injury acquired during the term of the contract of employment provided the same is also established as work-related; the evidence demonstrates that he has not suffered any grave impediment which would justify his exaggerated claim for total and permanent disability benefits; assuming that he is disabled, the worst is that he is suffering from a Grade 7 disability which is equivalent to US\$20,900.00; the findings of the company-designated physician should be given credence and great weight; he is not entitled to moral and exemplary damages as well as attorney's fees; the denial of his claims is premised on factual and legal bases and cannot be imputed with bad faith or malice which would warrant an award of damages and attorney's fees; and the complaint against Marlon Roño should be dropped as there is no employer-employee relationship between him and the complainant.

Respondents filed their Reply[10] dated 30 October 2013. It appears that complainant filed a Rejoinder on 15 November 2013.[11]

On 11 April 2014, the VA Panel rendered the assailed Decision,[12] the dispositive portion of which reads:

"WHEREFORE, PREMISES CONSIDERED, decision is hereby rendered declaring DENNIS D. GARCIA to be permanently and totally disabled and ORDERING Magsaysay Maritime Corporation to pay Dennis D. Garcia his disability benefits under the POAE-SEC (sic) in the amount of US\$60,000.00 and sickness allowance in the amount of US\$2,196.00 and to also pay 10% attorney's fees computed based on the total award, all at their peso equivalent at the time of actual payment.

All other claims are dismissed for lack of merit.

SO ORDERED."[13]

Respondent company filed a Motion for Reconsideration[14] dated 20 June 2014, to which complainant filed his Opposition[15] dated 04 July 2014. On 03 July 2014, the VA Panel issued the assailed Resolution,[16] denying the Motion for Reconsideration for lack of merit.

Hence, this Petition for Review.

R U L I N G

Petitioner raises the following arguments in support of its Petition, viz:

"1. Respondent seafarer is not entitled to any contractual benefits (i.e. disability benefits, sickness allowance, reimbursement of alleged medical expenses).

x x x x

2. Respondent seafarer is not entitled to attorney's fees. Petitioner's denial of the claims is premised on factual and legal basis (sic) and as such, cannot be imputed with bad faith or malice which would warrant an award of attorney's fees." [17]

Petitioner contends, inter alia, that: there is absolutely no evidence on record to show that the respondent's supposed coronary heart disease is a work-related ailment; the comment of respondent's doctor Dr. Vicaldo, that his illness is work-related/aggravated, is mere conjecture for there is no explanation as to how he arrived at the said conclusion; respondent's illness was not incorporated in the POEA Schedule of Disabilities, as amended in 2010; under Section 20 (A) of the POEA Contract, only occupational diseases or work-related illnesses are compensable; none of the conditions set forth under Section 32-A No. 11 of the POEA Contract was met to make respondent's heart condition compensable; it remained incumbent upon the respondent to discharge the required quantum of proof of compensability; in the absence of any substantial evidence to prove work-relation, the claim must necessarily be denied; the evidence shows that the respondent has not suffered any grave impediment which would justify his exaggerated claim for total and permanent disability benefits; assuming he is disabled, his condition is only equivalent to a Grade 7 disability; the company-designated physicians, after treating the respondent for several months before he abandoned his treatment, assessed him as having a Grade 7 or partial disability; the findings of the company-designated physicians should be given credence and great weight; there was no bad faith or malice on the part of petitioner when it denied respondent's claims as the same is based on express contractual provisions; and the VA Panel should not have awarded respondent with attorney's fees in the same way that the claim for damages were denied. Petitioner further stated its allegations in support of its application for the issuance of a TRO and/or writ of preliminary injunction.

Respondent ripostes, inter alia, that: his 2-vessel coronary artery disease is a work-related occupational disease, hence, compensable; coronary artery disease is a cardio-vascular disease which is an occupational illness listed under the POEA Standard Employment Contract; being an occupational disease, it is necessarily a work-related illness; all the conditions for the compensability of his coronary artery disease are present; his work as a stateroom steward on board petitioner's vessel has been physically, mentally and emotionally stressful; he has to contend with constantly changing weather conditions as the vessel crossed boundaries which was compounded by his being away from his loved ones; he has been working with petitioner since the year 2000 and had finished 15 consecutive contracts of employment; in his more than 10 years of employment with petitioner he was never diagnosed to be suffering from any coronary disease; when he underwent the usual PEME, he was always declared as fit to work by the company-designated physician; being a work-related illness, he is entitled to disability benefits and to an illness allowance; his disability is permanent and total; his condition now prevented him from going back to his usual work as a seaman and his earning capacity as a seafarer has already been impaired; he was correctly awarded his claim for attorney's fees since he was compelled to litigate in order to protect his interest.

Stripped of verbiage, the threshold issue in this Petition for Review is whether or not the VA Panel erred in declaring respondent as permanently and totally disabled and in ordering petitioner to pay him disability benefits under the POEA-SEC in the amount of US\$60,000.00, sickness allowance in the amount of US\$2,196.00 and 10% attorney's fees based on the total award, and in denying petitioner's Motion for Reconsideration for lack of

merit.

We find in the negative. Not being entitled to the reliefs demanded in its Petition, petitioner's prayer for injunctive relief must perforce fail.

Settled is the rule that the burden of proof rests upon the party who asserts the affirmative of an issue. In labor cases, the quantum of proof necessary is substantial evidence, or such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. In disability claims, as in the case at bar, the employee bears the onus to prove by substantial evidence his own positive assertions.[18]

In the instant case, We find that respondent was able to prove by substantial evidence that he is entitled to his claim for total and permanent disability benefits.

The POEA-SEC, as provided under Department Order No. 4, series of 2000 of the Department of Labor and Employment, which contains the Standard Terms and Conditions Governing The Employment of Filipino Seafarers On-Board Ocean-Going Vessels, (as amended by POEA Memorandum Circular No. 10-10) governs the employment contract between (respondent) and the (petitioner). POEA came out with it pursuant to its mandate under Executive Order (E.O.) No. 247 to 'secure the best terms and conditions of employment of Filipino contract workers and ensure compliance therewith' and to 'promote and protect the well-being of Filipino workers overseas.'[19]

Section 20 (A) of the 2010 POEA Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships ("2010 POEA-SEC," for brevity) provides:

"SECTION 20. Compensation and Benefits. —

A. 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 x

3. In addition to the above obligation of the employer to provide medical attention, the seafarer shall also receive sickness allowance from his employer in an amount equivalent to his basic wage computed from the time he signed off until he is declared fit to work or the degree of disability has been assessed by the company-designated physician. The period within which the seafarer shall be entitled to his sickness allowance shall not exceed 120 days. Payment of the sickness allowance shall be made on a regular basis, but not less than once a month.

The seafarer shall be entitled to reimbursement of the cost of medicines prescribed by the company-designated physician. x x x

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. In the course of the treatment, the seafarer shall also report regularly to the company-designated physician specifically on the dates as prescribed by the company-designated physician and agreed to by the seafarer. 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.

4. Those illnesses not listed in Section 32 of this Contract are disputably presumed as work-related.

x x x x

6. In case of permanent total or partial disability of the seafarer caused by either injury or illness the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 32 of his Contract. x x

x

x x x x."

Based on the above, an injury or illness is compensable when, first, it is work-related and, second, the injury or illness existed during the term of the seafarer's employment contract.[20] Both requisites obtain in this case. Respondent seafarer's illness arose during the period of his employment, and the same is work-related.

It is undisputed that respondent seafarer was fit to work prior to his 9-month POEA-approved Contract of Employment[21] dated 22 August 2012.[22] The same was respondent's 15[th] and last contract with petitioner.[23] As in his previous deployments, complainant underwent his PEME and was declared fit to work.[24] He boarded his vessel Sapphire Princess (Hotel Dept) as stateroom steward on 29 September 2012.[25] While on board the vessel, respondent seafarer complained of upper mid abdominal pain. He was seen by the ship doctor and was given medications which afforded slight relief.[26] He was brought to the California Pacific Medical Center for admission.[27] Per Cardiac Catheterization Report[28] dated 05 October 2012 of Dr. Gary Milechman of the California Pacific Medical Center, respondent seafarer underwent cardiac catheterization and percutaneous coronary intervention.[29] He was discharged from the hospital on 07 October 2012[30] and repatriated on 15 October 2012.[31] Per certification[32] dated 23 October 2012 issued by Assistant Medical Coordinator Dr. Karen Frances Hao-Quan ("Dr. Quan," for brevity), respondent seafarer has undergone medical/surgical evaluation treatment on 17 October 2012 at the Marine Medical Services, Metropolitan Medical Center due to 2 Vessel Coronary Artery Disease; S/P Percutaneous Transluminal Coronary Angioplasty/Stenting. Per medical report[33] dated 17 October 2012 issued by Dr. Quan and noted by Dr. Robert D. Lim ("Dr. Lim," for brevity) to Princess Cruise Lines, Inc., with a copy furnished to petitioner's Chief Operation Officer Alexander E. Querol, it was stated that respondent's Coronary Artery Disease is not work-related, viz:

"x x x x

Coronary Artery Disease is due to deposition of fats, fibrin, clots in the coronary artery occurring slowly for several years. Its etiology (Diabetes Mellitus, age, sex, Hypertension, elevated cholesterol and smoking) are not considered as related to work.

x x x x"[34]

Thus, respondent was informed that all of his future medical expenses will be at his own cost.[35] Respondent sent a letter[36] dated 27 November 2012 asking for medical assistance in connection with his 2D Echo and treadmill for his recovery, and sickness allowance. Since petitioner failed to act on his request, respondent sent another letter[37] dated 14 December 2012 reiterating his plea for medical assistance to be able to go back to work, and informing petitioner that he would be constrained to seek a second opinion from another doctor. On 21 February 2013, respondent was examined and treated by Dr. Vicaldo, a cardiologist of the Philippine Heart Center.[38] Per Medical Certificate[39] dated 21 February 2013, Dr. Vicaldo diagnosed respondent and assessed his disability, viz:

"Hypertensive cardiovascular disease
Coronary artery disease
Inferior myocardial infarction

S/P percutaneous coronary intervention on the RCA
Impediment Grade I (120.00%) "[40]

On the basis of Dr. Vicaldo's findings, respondent sought payment of disability benefits from petitioner but the same was denied. The parties failed to agree to consult a third doctor whose opinion shall be binding on them.[41]

The conflicting findings of the company's doctor and the seafarer's physician often stir suits for disability compensation. As an extrajudicial measure of settling their differences, the POEA-SEC gives the parties the option of agreeing jointly on a third doctor whose assessment shall break the impasse and shall be the final and binding diagnosis. While it has been held that failure to resort to a third doctor will render the company doctor's diagnosis controlling, it is not the absolute and automatic consequence in all cases. This is because resort to a third doctor remains a mere directory not a mandatory provision as can be gleaned from the tenor of Section 20 [(A) (3) of the], POEA-SEC itself. Further, the right of a seafarer to consult a physician of his choice can only be sensible when his findings are duly evaluated by the labor tribunals (or arbitrators and courts) in awarding disability claims. Hence, it has been held that if serious doubt exists on the company-designated physician's declaration of the nature of a seaman's injury, resort to prognosis of other competent medical professionals should be made. In doing so, a seaman should be given the opportunity to assert his claim after proving the nature of his injury. This proof will in turn be used to determine the benefits rightfully accruing to him.[42]

The VA Panel declared respondent as permanently and totally disabled and ordered petitioner to pay respondent disability benefits under the POEA-SEC in the amount of US\$60,000.00.

We agree.

(F)indings of fact of administrative agencies and quasi-judicial bodies which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only great respect but even finality,[43] and (binding) when supported by substantial evidence.[44]

Under the definition of terms under the 2010 POEA-SEC, work-related illness is defined as "any sickness as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied." Section 20 (A) (4) of the 2010 POEA-SEC states that "(t)hose illnesses not listed in Section 32 of this Contract are disputably presumed work-related." Respondent's Coronary Artery Disease may be considered as falling under Section 32-A (11) (c) of the 2010 POEA-SEC.

'The list of illnesses/diseases in Section 32-A does not preclude other illnesses/diseases not so listed from being compensable. The POEA-SEC cannot be presumed to contain all the possible injuries that render a seafarer unfit for further sea duties.' Just the same, in several cases, cardiovascular disease, coronary artery disease, as well as other heart ailments were held to be compensable.[45]

In this case, petitioner failed to controvert respondent seafarer's averments in his Position Paper that as stateroom steward, he was responsible for the daily servicing and cleaning of guest staterooms and that he "xxx performed strenuous tasks such as lifting, carrying, pulling, pushing or moving provisions and materials. In the performance of his duties, he was constantly exposed to inhalation and direct contact to fumes, gas, dust and various injurious and harmful chemicals. His work was not confined to the regular eight-to-five schedule but stretched up to long hours of the day or night as he is responsible for the various tasks xxx. His frequent overtime works had inevitably caused him tremendous strains and over fatigue. Such adverse conditions of work attended by his exposure to varying temperatures of extreme hot and cold as the vessel crossed ocean and geographical boundaries amidst harsh sea weather conditions, have made his life on board the moving workplace physically and mentally stressful. Complainant was also exposed to frequent adjustment to different time zones which was overly stressful. Being away from home likewise did him enormous emotional strains." [46] It does not require

much imagination to realize or conclude that these tasks could very well cause the illness (of) respondent xxx.[47] His constant exposure to hazards such as chemicals and the varying temperature, like the heat xxx in the vessel and the coldness outside, coupled by stressful tasks in his employment caused, or at least aggravated, his illness. It is already recognized that any kind of work or labor produces stress and strain normally resulting in wear and tear of the human body.[48]

Notably, it is 'a matter of judicial notice that an overseas worker, having to ward off homesickness by reason of being physically separated from his family for the entire duration of his contract, bears a great degree of emotional strain while making an effort to perform his work well. The strain is even greater in the case of a seaman who is constantly subjected to the perils of the sea while at work abroad and away from his family.'[49]

Furthermore, respondent seafarer had been repeatedly and consistently employed by petitioner under 15 contracts, from 2000 up to 2012.[50] Per Certification[51] dated 22 November 2012 issued by petitioner's Fleet Director Gary M. Castillo, respondent seafarer was engaged by petitioner on behalf of its foreign principal Princess Cruise Lines, Limited since 22 August 2000 to 03 October 2012 to work as utility cleaner, accommodation attendant and stateroom steward. It is undisputed that prior to his last embarkation, respondent seafarer underwent a PEME and was declared fit to work.[52] As respondent was consistently hired and rehired by petitioner over the years, he was found fit-to-work. Thus, respondent's Coronary Artery Disease was not pre-existing and, considering the nature of his work and his working conditions on board, his ailment developed during his 12-year employment with petitioner.

(Respondent) has shown a reasonable causation between his working condition and his (Coronary Artery Disease) contracted during his employment warranting the recovery of compensation. Settled is the rule that for illness to be compensable, it is not necessary that the nature of the employment be the sole and only reason for the illness suffered by the seafarer. It is sufficient that there is a reasonable linkage between the disease suffered by the employee and his work to lead a rational mind to conclude that his work may have contributed to the establishment or, at the very least, aggravation of any pre-existing condition he might have had.[53] Here, there is reasonable proof of work-causation.

Regarding the issue of compensability, it has been the (Supreme) Court's consistent ruling that in disability compensation, 'it is not the injury which is compensated, but rather it is the incapacity to work resulting in the impairment of one's earning capacity.'[54] 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, or any kind of work which a person of his mentality and attainment can do.'[55] It bears emphasis that Dr. Vicaldo stated in his Justification for Impediment Grade I (120%) of Seaman Dennis D. Garcia that respondent seafarer is "xxx permanently unfit to resume work as seaman in any capacity. His illness is considered work related/aggravated. xxx He is not expected to land a gainful employment given his medical background."[56] Ergo, this Court finds that respondent's disability is permanent and total because the severity of his ailment rendered him incapable of performing the work of a seafarer.[57]

Moreover, petitioner's company-designated specialist Dr. Melissa Co Sia ("Dr. Sia," for brevity) of the Metropolitan Medical Center stated in her medical report[58] dated 25 April 2013 that "xxx it is recommended for patient not to resume seafarer duties due to the inherent risk of late stent thrombosis and restenosis. xxx"[59] but downgraded respondent's disability to Grade 7. Drs. Quan and Lim stated in their Medical Report[60] dated 17 October 2012 that the etiology of respondent's ailment is not considered as related to work. However, as aptly pointed out by the VA Panel in its assailed Decision, Dr. Quan (Assistant Medical Coordinator) and Dr. Lim (Medical Coordinator) are not the attending physicians of respondent, but mere coordinators who lack personal knowledge and expertise on the true medical condition of respondent.[61] Also, it is not unexpected for Drs. (Sia,

Quan) and Lim to downplay the (ailment of respondent). The Court is not naive of such interplay of force between the seafarer, the company and the latter's accredited physicians. As the specialist and medical coordinators of the hospital (who) represent the company in the conduct of medical evaluations, they are accustomed to do so in order to underrate the compensation the company must pay to the seafarer-claimant. This is precisely one of the reasons why the seafarer is given the option by the POEA-SEC to seek a second opinion from his preferred physician.[62]

In determining the work-causation of a seafarer's illness, the diagnosis of the company-designated physician bears vital significance. xxx Nevertheless, the company-designated physician's assessment does not evince irrefutable and conclusive weight in assessing the compensability of an illness as the seafarer has the right to seek a second opinion from his preferred physician.[63] Concededly, this does not mean that the assessment of said physician is final, binding or conclusive on the claimant, the labor tribunal or the courts. Should he be so minded, the seafarer has the prerogative to request a second opinion and to consult a physician of his choice regarding his ailment or injury, in which case the medical report issued by the latter shall be evaluated by the labor tribunal and the court, based on its inherent merit.[64]

It cannot be denied that on account of his heart ailment, respondent has already lost his capacity to obtain further sea employment and opportunity to earn an income as a seafarer. In labor laws, disability need not render the seafarer absolutely helpless or feeble to be compensable. It is enough that it incapacitates (him) to perform his customary work.[65] Section 32 (of the 2010 POEA-SEC) states that a disability allowance of US\$60,000.00 (US\$50,000.00 x 120%) is granted for an impediment considered as total and permanent, such as that adjudged to have befallen the (respondent).[66] The said disability allowance, pursuant to the aforesaid Section 32, must be paid in Philippine Currency equivalent at the exchange rate prevailing during the time of payment.

Anent the award of sickness allowance in the amount of US\$2,196.00, We find no cogent reason to disturb the same. Under [Section 20 (A) (3) of the 2010 POEA-SEC], 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.[67] To recall, respondent seafarer was repatriated on 15 October 2012 and his disability was assessed by Dr. Sia only on 25 April 2013, which is more than 120 days. Hence, respondent is entitled to the maximum sickness allowance equivalent to his basic wage for 120 days. Per his Contract of Employment, his basic wage is US\$549.00 per month.[68] Respondent is thus entitled to the total amount of US\$2,196.00 as sickness allowance. We find nothing in the rollo to indicate that the petitioner had already paid respondent's sickness allowance. It is not for an employee to prove non-payment of benefits to which he is entitled by law. Rather, it is on the employer that the burden of proving payment of these claims rests.[69]

Respondent seafarer was correctly awarded 10% attorney's fees of the total award. (W)hile petitioner ha(s) not been shown to act in gross and evident bad faith in refusing to satisfy respondent's demands, it is nonetheless true that as a matter of law and it has been held in the past that where an employee is forced to litigate and incur expenses to protect his right and interest, he is entitled to an award of attorney's fees equivalent to ten percent (10%) of the total award at the time of actual payment.[70]

WHEREFORE, premises considered, the Petition is DENIED. Costs against petitioner.

SO ORDERED.

Diamante, and Sadang, JJ., concur.

[1] Rollo, pp. 3-37

- [2] Id. at 38-52
- [3] Id. at 53-54
- [4] Id. at 223-246
- [5] Id. at 296-311
- [6] Id. at 218
- [7] Id. at 55
- [8] Id. at 87-99
- [9] Id. at 56-78
- [10] Id. at 149-159
- [11] Id. at 38
- [12] Id. at 38-52
- [13] Id. at 52
- [14] Id. at 160-179
- [15] Id. at 193-217
- [16] Id. at 53-54
- [17] Id. at 12, 23
- [18] Cf. *Barko International, Inc., etc. v. Eberly S. Alcayno*, G.R. No. 188190, 21 April 2014
- [19] Cf. *Magsaysay Maritime Services, et al. v. Earlwin Meinrad Antero F. Laurel*, G.R. No. 195518, 20 March 2013
- [20] Cf. *Vetyard Terminals & Shipping Services, Inc., etc. v. Bernardino D. Suarez*, G.R. No. 199344, 05 March 2014
- [21] Rollo, pp. 79, 100
- [22] Id. at 10, 57, 88
- [23] Id. at 88, 101
- [24] Id. at 88
- [25] Id. at 101
- [26] Id. at 10, 57
- [27] Id. at 57
- [28] Id. at 80-82; 132-134, 140-142
- [29] Id. at 80, 132, 140
- [30] Id. at 135

- [31] Id. at 90
- [32] Id. at 138-139
- [33] Id. at 83-84
- [34] Id. at 84
- [35] Id. at 10
- [36] Id. at 143
- [37] Id. at 144
- [38] Id. at 145
- [39] Id.
- [40] Id.
- [41] Id. at 10, 58
- [42] Maersk Filipinas Crewing, Inc., etc. v. Nelson E. Mesina, G.R. No. 200837, 05 June 2013
- [43] Colegio De San Juan De Letran-Calamba v. Belen P. Villas, G.R. No. 137795, 26 March 2003, 399 SCRA 550, 557
- [44] Lepanto Ceramics, Inc. v. Lepanto Ceramics Employees Association, G.R. No. 180866, 02 March 2010
- [45] Cf. Fil-Pride Shipping Company, Inc., etc. v. Edgar A. Balasta, G.R. No. 193047, 03 March 2014
- [46] Rollo, pp. 89-90
- [47] Cf. Fil-Pride Shipping Company, Inc., etc. v. Edgar A. Balasta, *supra*
- [48] Id., citing Magsaysay Maritime Services v. Laurel, G.R. No. 195518, 20 March 2013, 694 SCRA 225, 241-242
- [49] Cf. Fil-Pride Shipping Company, Inc., etc. v. Edgar A. Balasta, *supra*
- [50] Rollo, p. 101
- [51] Id.
- [52] Id. at 10, 57, 88
- [53] Cf. Magsaysay Maritime Services, et al. v. Earlwin Meinrad Antero F. Laurel, *supra*
- [54] Cf. Fil-Pride Shipping Company, Inc., etc. v. Edgar A. Balasta, *supra*
- [55] Barko International, Inc., etc. v. Eberly S. Alcayno, *supra*
- [56] Rollo, pp. 146-147
- [57] Micronesia Resources, et al. v. Fabiolo Cantomayor, G.R. No. 156573, 19 June 2007
- [58] Rollo, p. 86
- [59] Id.

[60] Id. at 83-84

[61] Id. at 48

[62] Camilo A. Esguerra v. United Philippines Lines, Inc., et al., G.R. No. 199932, 03 July 2013

[63] Maersk Filipinas Crewing Inc, et al. v. Nelson E. Mesina, supra

[64] Cf. Loadstar International Shipping, Inc. v. The Heirs of the Late Enrique C. Calawigan, etc., G.R. No. 187337, 05 December 2012

[65] Camilo A. Esguerra v. United Philippines Lines, Inc., et al., supra

[66] Id.

[67] Id.

[68] Rollo, p. 79

[69] Cf. Abduljuahid R. Pigcaulan v. Security and Credit Investigation, Inc., etc., G.R. No. 173648, 16 January 2012

[70] Fil-Pride Shipping Company, Inc., et al. v. Edgar A. Balasta, supra

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.