

EDGARDO M. MIRASOL, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION), JEBSENS MARITIME, INC., AND/OR STAR CLIPPERS, LTD., AND/OR MARIA THERESA LUNZAGA, RESPO...

Ponente: LIBREA-LEAGOGO, J.

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LIBREA-LEAGOGO, J.:

Before this Court is a Petition for Certiorari,[1] under Rule 65 of the Rules of Court, seeking to annul the Resolutions dated 28 June 2013[2] and 30 September 2013[3] issued by the National Labor Relations Commission (Third Division) in the case entitled “Edgardo Malate Mirasol v. Jebsens Maritime Inc., Star Clippers Ltd. and Maria Theresa Lunzaga,” docketed as NLRC NCR Case No. OFW (M) 11-16383-12; NLRC LAC No. (OFW-M) 03-000279-13. The dispositive portion of the first assailed Resolution reads:

“WHEREFORE, premises considered, the appeal is PARTLY GRANTED and the Decision dated 31 January 2013 is hereby MODIFIED ordering respondents-appellants who are solidarily held liable to pay complainant-appellee disability compensation in the amount of US\$7,465 corresponding to the Grade II Schedule of Disability under Section 32 of the POEA Standard Contract.

The Labor Arbiter's award of sickness allowance and attorney's fees to complainant-appellee is AFFIRMED.

SO ORDERED.”[4]

The second assailed Resolution denied the petitioner's Motion for Reconsideration.

Private respondents filed their Comment[5] dated 19 February 2014. Per JRD verification,[6] no reply was filed as per CMIS entry. Thus, the third paragraph of the Resolution[7] dated 05 February 2014 is reiterated, and the Petition is submitted for decision.

FACTUAL ANTECEDENTS

A Complaint[8] dated 08 November 2012 was filed by complainant Edgardo Malate Mirasol against respondents Jebsens Maritime, Inc., Star Clippers Ltd., and/or Maria Theresa Lunzaga for total and permanent disability benefits, moral and exemplary damages, four months basic wages, and attorney's fees.

In his Position Paper[9] dated 17 December 2012, complainant alleged, inter alia, that: he is entitled to total permanent disability benefits of US\$60,000.00 under the POEA Standard Employment Contract; his illness is work-related as it was sustained in the course of his duty; said illness was not pre-existing since he underwent the mandatory pre-employment medical examination before he was employed by the respondents, and was found to be fit and given a clean bill of health; the law does not require that a seafarer be totally paralyzed in order to claim total permanent disability benefits; he is entitled to moral and exemplary damages, and attorney's fees; respondents must be ordered to pay moral damages in the amount of Php500,000.00; in addition to his sickness/loss of right testicle, he also suffered serious anxiety, sleepless nights, wounded feelings and loss of

appetite; respondents must likewise be ordered to pay him exemplary damages of Php500,000.00; and since it was respondents' act of refusing to pay his disability benefits which forced him to litigate, they must likewise be ordered to pay attorney's fees of ten percent (10%) of the total award in his favor.

Complainant also filed an Addendum Supplement[10] dated 27 December 2012, wherein it was alleged that respondents are legally mandated to provide sickness allowance equivalent to 120 days salaries; and that their refusal to pay sickness allowance is a manifest sign of bad faith which makes them liable for damages.

Respondents filed their Position Paper[11] dated 05 December 2012, and averred, inter alia, that: complainant is not entitled to disability compensation under the POEA Standard Employment Contract because his testicular cancer is not work-related; Section 32 of the POEA Standard Employment Contract states that epididymitis and testicular cancer are not considered as occupational diseases; Section 32-A of the POEA Standard Employment Contract provides that for an occupational disease and the resulting disability or death to be compensable, four conditions must be satisfied; none of these conditions have been met; his work did not involve the risks inherent in acquiring epididymitis and testicular cancer; none of his duties as a First Cook was a contributing factor in the development of epididymitis which is an illness pertaining to the male reproductive organ in relation to sexual intercourse; testicular cancer is a disease in which cells become malignant in one or both testicles; he has the burden of proving the reasonable connection between his ailments and his working conditions; he was onboard the Royal Clipper for ten days before he started complaining of pain in his right testicle; it is medically impossible for him to have developed his epididymitis and testicular cancer in such a short period of time; his epididymitis, which became testicular cancer, is not work-related, and not compensable; and he is not entitled to sickness allowance and reimbursement of medical expenses, damages and attorney's fees.

Respondents filed their Reply[12] dated 09 January 2013. Complainant also filed his Reply[13] dated 15 January 2013 and Rejoinder[14] of even date. Respondents then filed their Rejoinder[15] dated 18 January 2013.

Labor Arbiter Rommel R. Veluz rendered a Decision^{xvi} dated 31 January 2013, the decretal portion of which reads:

“WHEREFORE, Respondents JEBSENS MARITIME, INC., and STAR CLIPPERS LTD. are solidarily held liable to pay the Complainant the amount of SIXTY THOUSAND U.S. DOLLARS (US\$60,000.00) representing his total and permanent disability benefits, TWO THOUSAND FIVE HUNDRED EIGHTY U.S. DOLLARS (US\$2,580.00) as his sickness allowance; and ten (10%) percent thereof, or SIX THOUSAND TWO HUNDRED FIFTY EIGHT U.S. DOLLARS (US\$6,258.00) as and for attorney's fees, or their peso equivalent at the time of payment.

All other claims are dismissed for lack of merit.

SO ORDERED.”[17] (Emphasis in the original)

Respondents appealed and filed their Memorandum of Appeal[18] dated 19 February 2013. Complainant filed his Answer to Respondents' Appeal[19] dated 18 March 2013.

In its first assailed Resolution[20] dated 28 June 2013, the NLRC (Third Division) partly granted respondents' appeal, modified the Labor Arbiter's Decision, and affirmed the Labor Arbiter's award of sickness allowance and attorney's fees to complainant, the fallo of which was earlier quoted.[21]

Complainant filed his Motion for Reconsideration[22] dated 05 August 2013 which was denied by the NLRC (Third Division) in the second assailed Resolution[23] dated 30 September 2013.

Hence, this Petition for Certiorari.

RULING

Petitioner raises a lone ground for allowance of his Petition, viz:

“RESPONDENT NLRC (3rd] DIVISION) COMMITTED GRAVE ABUSE OF DISCRETION, CONTRARY TO THE FACTS AND APPLICABLE LAWS AND JURISPRUDENCE, IN GRANTING IN PART THE APPEAL OF RESPONDENTS, THUS MODIFYING THE JUDGMENT OF THE HONORABLE LABOR ARBITER BY DECLARING THAT PETITIONER IS ENTITLED ONLY TO PARTIAL DISABILITY BENEFITS EQUIVALENT TO GRADE 11 RATING, INSTEAD OF TOTAL AND PERMANENT DISABILITY BENEFITS PURSUANT TO THE POEA STANDARD CONTRACT FOR SEAFARERS AS FOUND BY THE HON. LABOR ARBITER.”[24]

Petitioner contends, inter alia, that: he is rightfully entitled to the payment of total permanent disability benefits amounting to US\$60,000.00 plus sickwages of US\$2,580.00 pursuant to the POEA Standard Employment Contract and applicable jurisprudence; he remains incapacitated and unable to engage in his customary work as a seafarer beyond the 120 day-treatment period, as well as the 240 day-extension of the treatment period; the matter of petitioner no longer being capable of returning to his work was not denied by private respondents; the illnesses were sustained in the course of his employment; the illnesses are work-related since the same were sustained in the course of duty and in relation to the physically exacting nature of his duties; the illnesses were not pre-existing since he underwent the mandatory pre-employment medical examination before he was employed by private respondents, and was found to be fit and given a clean bill of health prior to his employment; the company doctor's declaration is not absolute; the Grade 11 declaration of the company-designated physician is not acceptable in light of jurisprudence, considering the actual facts of the instant case; and when serious doubt exists on the company-designated physician's declaration of the nature of a seaman's injury and its corresponding impediment grade, resort to prognosis of other competent medical professional should be made.

Private respondents riposte, inter alia, that: public respondent did not commit grave abuse of discretion in ruling that the petitioner's testicular cancer is not work-related; he is not entitled to attorney's fees; there is no reason to disturb the factual findings of the labor tribunals, as the issue of whether or not his testicular cancer is work-related was already resolved at length by public respondent; Dr. Soriano merely narrated his medical history, as culled from the numerous medical reports issued by the company-designated physicians and did not conduct any diagnostic test to confirm his prognosis; despite having no personal knowledge of his actual condition and working environment on board the vessel Royal Clipper, Dr. Soriano sweepingly declared that petitioner is not fit to work as a seaman allegedly because of rigorous physical activities done; the assessment of the company-designated physicians who provided extensive medical treatment is binding; his testicular cancer is not compensable since it is medically impossible for him to have developed such illness in such a short period of ten days; that his disability lasted for more than 240 days does not automatically entitle him to permanent total disability benefits considering that his testicular cancer is evidently not work-related; he is not entitled to any disability benefits under the POEA-SEC; public respondent's finding that his illness is not work-related is supported by substantial evidence; private respondents acted in good faith and in accordance with their obligations under the POEA-SEC; and despite his illness being not work-related, private respondents provided substantial care and medical treatment to him.

The Petition is impressed with merit.

(I)n a special civil action for certiorari, the issues are confined to errors of jurisdiction or grave abuse of discretion. In exercising the expanded judicial review over labor cases, (this Court) can grant the petition if it finds that the NLRC committed grave abuse of discretion by capriciously, whimsically, or arbitrarily disregarding evidence which is material or decisive of the controversy which necessarily includes looking into the evidence

presented by the parties. In other words, (this Court) is empowered to evaluate the materiality and significance of the evidence which is alleged to have been capriciously, whimsically, or arbitrarily disregarded by the NLRC in relation to all other evidence on record. (This Court) can grant a petition when the factual findings complained of are not supported by the evidence on record; when it is necessary to prevent a substantial wrong or to do substantial justice; when the findings of the NLRC contradict those of the LA; and when necessary to arrive at a just decision of the case.[25]

(W)hile the seafarer and his employer are governed by their mutual agreement, the POEA Rules and Regulations require that the POEA-SEC be integrated in every seafarer's contract.[26] The 2010 POEA-SEC defines "work-related illness" as "any sickness as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied." In interpreting the said definition, it has been held that for disability to be compensable under Section 20(B) of the (2010) POEA-SEC, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled; it must also be shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted. It has likewise been ruled that 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. This is in view of Section 20(B)(4) of the POEA-SEC which states that "[t]hose illnesses not listed in Section 32 of this Contract are disputably presumed as work-related." Concomitant with such presumption is the burden placed upon the claimant to present substantial evidence that his working conditions caused or at least increased the risk of contracting the disease. Substantial evidence consists of such relevant evidence which a reasonable mind might accept as adequate to justify a conclusion that there is a causal connection between the nature of his employment and his illness, or that the risk of contracting the illness was increased by his working conditions. Only a reasonable proof of work-connection, not direct causal relation is required to establish compensability of a non-occupational disease.[27]

Section 20(A) of the 2010 POEA-SEC 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

- 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. In case treatment of the seafarer is on an out-patient basis as determined by the company-designated physician, the company shall approve the appropriate mode of transportation and accommodation. The reasonable cost of actual traveling expenses and/or accommodation shall be paid subject to liquidation and submission of official receipts and/or proof of expenses.

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.

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

- In case a seafarer is disembarked from the ship for medical reasons, the employer shall bear the full cost of repatriation in the event the seafarer is declared (1) fit for repatriation; or (2) fit to work but the employer is unable to find employment for the seafarer on board his former ship or another ship of the employer.

- 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. Computation of his benefits arising from an illness or disease shall be governed by the rates and the rules of compensation applicable at the time the illness or disease was contracted.

The disability shall be based solely on the disability gradings provided under Section 32 of this Contract, and shall not be measured or determined by the number of days a seafarer is under treatment or the number of days in which sickness allowance is paid.

x x x x.”

In determining the work-causation of a seafarer's illness, the diagnosis of the company-designated physician bears vital significance. After all, it is before him that the seafarer must initially report to upon medical repatriation pursuant to above terms. Nevertheless, the company 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. 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(B)(3), 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 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.[28]

The 120-day period may be extended up to 240 days, under Rule X, Section 2 of the Amended Rules on Employees Compensation and pursuant to the pronouncement in Vergara v. Hammonia Maritime Services, Inc.[29] stating that a temporary total disability becomes permanent when so declared by the company-designated physician within the period allowed, or upon expiration of the maximum 240-day medical treatment period in

case of absence of a declaration of fitness or permanent disability. It is settled that the above provisions of the Labor Code and the Amended Rules on Employees Compensation on disabilities apply to seafarers; the POEA Standard Employment Contract, which respondent holds, is not the sole basis for determining their rights in the event of work-related injury, illness or death. It may likewise be true that under respondent's POEA Standard Employment Contract, only those injuries or disabilities that are classified as Grade 1 are considered total and permanent.[30]

However, if those injuries or disabilities with a disability grading from 2 to 14, hence, partial and permanent, would incapacitate a seafarer from performing his usual sea duties for a period of more than 120 or 240 days, depending on the need for further medical treatment, then he is, under legal contemplation, totally or permanently disabled. x x x Moreover, the company-designated physician is expected to arrive at a definite assessment of the seafarer's fitness to work or permanent disability within the period of 120 or 240 days. That should he fail to do so and the seafarer's medical condition remains unresolved, the seafarer shall be deemed totally or permanently disabled.[31]

Thus, from the above, it can be said that an employee's disability becomes permanent and total when so declared by the company-designated physician, or, in case of absence of such a declaration either of fitness or permanent total disability, upon the lapse of the 120 or 240-day treatment period, while the employee's disability continues and he is unable to engage in gainful employment during such period, and the company-designated physician fails to arrive at a definite assessment of the employee's fitness or disability. This is true "regardless of whether the employee loses the use of any part of his body." [32]

In the instant case, petitioner was repatriated on 04 August 2012. As stated in the Medical Report[33] dated 29 August 2012 of company-designated physicians Dr. Amado G. Regino and Dr. Nicomedes G. Cruz of the NGC Medical Specialist Clinic, Inc., petitioner underwent treatment for 23 days and was diagnosed with epididymitis (R), and solid mass in right testicle to consider malignancy and recommended for radical orchiectomy. Thereafter, petitioner was admitted at the Manila Doctors Hospital on 18 October 2012 where radical orchiectomy of his right testicle was performed on 19 October 2012, and he was discharged on 23 October 2012.[34] However, the company-designated physicians did not arrive at a definite assessment of petitioner's fitness to work or permanent disability.

Petitioner is entitled to permanent total disability of US\$60,000.00 pursuant to Section 32 of the 2010 POEA-SEC. In a medical certificate[35] dated 22 November 2012 issued by his personal physician Felisberto M. Soriano, Jr., M.D., FICS of the De Los Santos - STI Medical Center, it was stated that petitioner is advised not to work anymore as a seaman, to wit:

"This is to certify that MR. EDGARDO MALATE MIRASOL, 46 years old, Seaman, Filipino, x x x was seen today. The history of his condition started 4 months ago as right testicular pain and mass which was then treated and eventually referred to a urologist. A right radical orchiectomy was then performed. Histopathologic report showed an Adenomatoid tumor of the right testicle. Patient also underwent evacuation of hematoma after surgery. x x x He is at the moment recuperating after the October 19, 2012 surgery.

Patient at the moment is fairly nourished, fairly developed and ambulating freely with a clear breath sounds and stable vital signs. The rest of the physical examination is uneventful except for the absence of the right testicle and an inguinal scar from surgery.

Because of the circumstances of his condition it is in my opinion that he is advised not to work anymore as a seaman due to the rigorous physical activities done.

x x x x." [36]

In submitting himself to examination by the company-designated physician, a claimant does not automatically bind himself to the medical report issued by the company-designated physician; neither are the labor tribunals and the courts bound by said medical report. Its inherent merit will be weighed and duly considered. Moreover, the claimant may dispute the medical report issued by the company-designated physician by seasonably consulting another physician. The medical report issued by said physician will also be evaluated by the labor tribunal and the court based on its inherent merits.[37]

Petitioner's illness is work-related and aggravated by his employment with private respondents. What the law requires is a reasonable work connection and not a direct causal relation.[38] Orchiectomy means "removal of a testicle." In most cases, the indication will be for a presumed diagnosis of testicular cancer, and is consequently referred to as a radical orchiectomy. In this operation, the testicle and the majority of the spermatic cord through an incision in the groin or "hernia" region (are removed).[39] Here, petitioner underwent a radical orchiectomy of his right testicle on 19 October 2012,[40] and evacuation of hematoma and excretion of PD on 20 October 2012.[41] Under Section 32 of the POEA-SEC pertaining to urinary and generative organs, a total loss of one testicle has an impediment grade of Grade 11 which amounts to US\$50,000.00 x 14.93%.

However, a perusal of the medical reports[42] of the company-designated physicians shows that petitioner was diagnosed with epididymitis – right and solid mass – right testicle, without any statement therein whether petitioner's illness is work-related and what the impediment grade is. Epididymitis is an inflammation of the epididymis. In a majority of cases there are negative cultures, a history of 'holding' one's urine for prolonged periods of time, and vigorous physical labor or activity antedating the initiation of symptoms. Common causes: x x x Many cases are thought to represent an inflammatory response to sterile urine, refluxed through the ejaculatory ducts and vas deferens into the epididymis. Vigorous physical activity, straining, trauma, and instrumentation can predispose to such reflux.[43] In the instant case, nowhere do we find any medical report issued by the company-designated physician declaring a definite assessment on the petitioner's fitness to work or permanent disability, during the period of 120 or 240 days.

As First Cook on board the vessel Royal Clipper,[44] petitioner's work required physical activities. As stated in his Position Paper, he was hospitalized after experiencing severe right testicular pain caused by strenuous lifting of heavy provisions which were boarded to the vessel for use in its kitchen and dining regimen; he was on continuous duty for more than two weeks; his duty consisted of physically carrying provisions for the vessel which he had to stack-up in the vicinity of the beverage and food provisions store; and the provisions include, among others, numerous and heavy cases of mineral water, beer and other drinks, and packed cuts of meats and grocery items.[45]

(E)ven assuming that the seaman's ailment as argued by the employers was pre-existing, i.e., contracted prior to his employment on board the vessel, (it) was not a drawback to the compensability of the disease. (It) is not required that the employment be the sole factor in the growth, development or acceleration of the illness to entitle the claimant to the benefits provided therefor. It is enough that the employment had contributed, even in a small degree, to the development of the disease.[46] Strict proof of causation is not required.[47] Here, petitioner underwent the private respondents' pre-employment medical examination, and he was found to be in good health condition and fit for duty.[48] Petitioner's short period of work on board the vessel Royal Clipper cannot be taken against him, because it is enough that his employment as First Cook contributed, even in a small degree, to the development of his illness. Moreover, (a)lthough the employer is not the insurer of the health of his employees, he takes them as he finds them and assumes the risk of liability.[49]

(I)n resolving disputes on disability benefits, the fundamental consideration has been that the POEA-SEC was designed primarily for the protection and benefit of Filipino seamen in the pursuit of their employment on board

ocean-going vessels. As such, its provisions must be construed and applied fairly, reasonably and liberally in their favor because only then can its beneficent provisions be fully carried into effect.[50] The POEA formulated the standard employment contract for seafarers pursuant to its mandate under Executive Order No. 247, Series of 1995, 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." [51]

(A)n award of sickness allowance to (petitioner) would be germane to the purpose of the benefit, which is to help the seafarer in making ends meet at the time when he is unable to work.[52] The law looks tenderly on laborers. Where the evidence may be reasonably interpreted in two divergent ways, one prejudicial and the other favorable to them, the balance must be tilted in their favor consistent with the principle of social justice.[53] The Court has applied the Labor Code concept of disability to Filipino seafarers in keeping with the avowed policy of the State to give maximum aid and full protection to labor, it holding that the notion of disability is intimately related to the worker's capacity to earn, what is compensated being not his injury or illness but his inability to work resulting in the impairment of his earning capacity, hence, disability should be understood less on its medical significance but more on the loss of earning capacity. To be sure, the POEA-SEC for Seamen was designed primarily for the protection and benefit of Filipino seamen in the pursuit of their employment on board ocean-going vessels. Its provisions must be construed and applied fairly, reasonably and liberally in their favor. Only then can its beneficent provisions be fully carried into effect.[54]

With respect to attorney's fees, it is clear that (petitioner) was compelled to litigate due to (private respondents') failure to satisfy his valid claim. Where an employee is forced to litigate and incur expenses to protect his rights 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.[55] Hence, the Labor Arbiter was correct in awarding attorney's fees in petitioner's favor.

As aptly found by Labor Abiter Veluz, viz:

"In support of the aforesaid finding, this Office deems it worthy to note that the Complainant was only deployed after passing the very rigorous and extensive PEME and being declared fit for sea duties by no less than the company-designated physicians. In short, the Complainant boarded his assigned vessel without any illness.

Having said thus, this Office only finds it logical to conclude that the Complainant's illness was acquired while on-board (sic) the vessel and brought about, or at least aggravated, even to a slightest degree, by the conditions surrounding his work as a seaman.

Further, considering that there is no doubt that the Complainant was definitely subjected to enormous stress in the performance of his work considering the fact that as a seafarer, he is constantly exposed to dusts, chemical irritants and/or natural elements such as harsh sea weather, it can safely be inferred that the Complainant's illness was work-related. x x x

Moreover, in declaring that the Complainant's illness was work-related, this Office was also reminded of the principle that it is not required that the employment be the sole factor of the illness, 'It is enough that the work has contributed, even in a small degree, to the development of the disease x x x.

x x x x

This Office finds that the Complainant is entitled to total and permanent disability benefits in the amount of US\$60,000.00 because the Complainant's disability is truly total and permanent considering that he has loss (sic) his earning capacity for no employer would dare hire him in view of his condition. x x x

x x x x

Considering that the Complainant's illness is compensable for it was work-related, the Complainant is also entitled to 120 days sickness allowance in the total amount of TWO THOUSAND FIVE HUNDRED EIGHTY U.S. DOLLARS (US\$2,580.00) since there is no evidence on Record that the same has already been paid.

The Complainant is also entitled ten percent (10%) of the total monetary award as and for attorney's fees considering that he was forced to litigate and was ably represented by counsel.”[56]

WHEREFORE, premises considered, the Petition is GRANTED. The Resolutions dated 28 June 2013 and 30 September 2013 of the National Labor Relations Commission (Third Division) in NLRC NCR Case No. OFW (M) 11-16383-12; NLRC LAC No. (OFW-M) 03-000279-13 are NULLIFIED. The Decision dated 31 January 2013 of Labor Arbiter Rommel R. Veluz is REINSTATED. No pronouncement as to costs.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Diamante and Sadang, JJ., concur.

[1] Rollo, pp. 3-34

[2] Id. at 44-50

[3] Id. at 52-53

[4] Id. at 50

[5] Id. at 238-262

[6] Id. at 237 (dorsal side)

[7] Id. at 237

[8] Id. at 55

[9] Id. at 56-74

[10] Id. at 83-86

[11] Id. at 87-105

[12] Id. at 118-130

[13] Id. at 112-117

[14] Id. at 131-135

[15] Id. at 136-147

[16] Id. at 36-43

[17] Id. at 43

[18] Id. at 148-172

- [19] Id. at 187-195
- [20] Id. at 44-50
- [21] Supra, note 4
- [22] Rollo, pp. 227-234
- [23] Id. at 52-53
- [24] Id. at 18-19
- [25] Univac Development, Inc. v. William M. Soriano, G.R. No. 182072, 28 June 2013
- [26] Inter-Orient Maritime, Incorporated, et al. v. Cristina Candava, G.R. No. 201251, 26 June 2013
- [27] Maersk Filipinas Crewing, Inc., et al. v. Nelson E. Mesina, G.R. No. 200837, 05 June 2013
- [28] Id.
- [29] G.R. No. 172933, 06 October 2008, 567 SCRA 610, 628
- [30.] Alpha Ship Management Corporation/Junel M. Chan, et al. v. Eleosis V. Calo, G.R. No. 192034, 13 January 2014 (SC E-Library)
- [31] Id., citing Kestrel Shipping Co., Inc. v. Munar, G.R. No. 198501, 30 January 2013, 689 SCRA 795, 809-814
- [32] Alpha Ship Management Corporation/Junel M. Chan, et al. v. Eleosis V. Calo, supra
- [33] Rollo, p. 111
- [34] Id. at 81
- [35] Id. at 82
- [36] Id.
- [37] Ramon G. Nazareno v. Maersk Filipinas Crewing Inc., et al., G.R. No. 168703, 26 February 2013, citing Maunlad Transport, Inc. v. Manigo, Jr., G.R. No. 161416, 13 June 2008, 554 SCRA 446, 459
- [38] Cf. Damaso R. Casomo v. Career Philippines Shipmanagement, Inc., et al., G.R. No. 191606, 01 August 2012 (citation omitted)
- [39] <https://www.deltamedix.com/urology/orchiectomy.php> (last viewed on 04 April 2014)
- [40] Rollo, p. 81
- [41] Id. at 79
- [42] Id. at 109-111
- [43] <https://www.clinicalkey.com/topics/urology/epididymitis.html> (last viewed on 04 April 2014)
- [44] Rollo, p. 106
- [45] Id. at 59-60
- [46] Cirila Manota, etc., et al. v. Avantgarde Shipping Corporation, et al., G.R. No. 179607, 24 July 2013
- [47] Cf. Joel B. De Jesus v. National Labor Relations Commission, et al., G.R. No. 151158, 17 August 2007,

citing OSM Shipping Philippines, Inc. v. Dela Cruz, G.R. No. 159146, 28 January 2005, 449 SCRA 525

[48] Rollo, p. 59

[49] Magsaysay Maritime Services, et al. v. Earlwin Meinrad Antero F. Laurel, G.R. No. 195518, 20 March 2013

[50] Maersk Filipinas Crewing Inc./Maersk Services Ltd., et al. v. Nelson E. Mesina, *supra*

[51] Transocean Ship Management (Phils.), Inc., et al. v. Inocencio B. Vedad, G.R. Nos. 194490-91 and 194518 & 194524, 20 March 2013

[52] *Id.*, citing Crystal Shipping. Inc. v. Natividad, G.R. No. 154798, 20 October 2005, 473 SCRA 559, 568

[53] Transocean Ship Management (Phils.), Inc., et al. v. Inocencio B. Vedad, *supra*

[54] Ramon G. Nazareno v. Maersk Filipinas Crewing Inc., et al., *supra*

[55] Alpha Ship Management Corporation/Junel M. Chan, et al. v. Eleosis V. Calo, *supra*

[56] Rollo, pp. 39-42

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