

## **SOLPIA MARINE AND SHIP MANAGEMENT, INC., AND MARINE KOREA, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, AND FREDERICK I. ANTONIO, RESPONDENTS.**

Ponente: ANTONIO-VALENZUELA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c6c984321f66/>

---

### **ANTONIO-VALENZUELA, J.:**

This is the Petition for Certiorari under Rule 65,[1] filed by Solpia Marine and Ship Management, Inc., (“petitioner Solpia”) and Marine Korea (“petitioner Marine”), imputing grave abuse of discretion on the part of the National Labor Relations Commission, Sixth Division (“NLRC”) for issuing: 1) the Decision dated 6 June 2011[2] (“assailed Decision”) which affirmed the Decision issued by Labor Arbiter Gaudencio P. Demaisip, Jr. dated 27 January 2011;[3] and the Resolution dated 28 December 2011[4] (“assailed Resolution”) which denied petitioners' Motion for Reconsideration.[5]

The undisputed facts are as follows: on 6 July 2009, petitioner Solpia, a local manning agency, hired Frederick I. Antonio (“private respondent Antonio”) as Bosun for the vessel M/V World Dynasty, owned by the principal, petitioner Marine. Private respondent Antonio's Contract of Employment[6] was for a period of 9 months, with a basic salary of US\$ 680.00 per month excluding overtime and other benefits. Private respondent Antonio joined the M/V World Dynasty on 19 July 2009.

Private respondent Antonio alleged that on 14 October 2009, while performing his work duties, he suffered an accident which resulted to injury to his spinal column, and back pain. Private respondent Antonio reported his condition to the ship's Master. A day after the accident, or on 15 October 2009, private respondent Antonio was examined in Anyer, Indonesia, where he was diagnosed with “LBP e.c. Spondylosis of Lumbar Spine; Multiple Gall Bladder Stone; Fatty Liver.”[7]

Due to private respondent Antonio's injury, he was repatriated and he arrived in the Philippines on 19 October 2009. Upon arrival, private respondent Antonio had several medical examinations and treatment (i.e., x-ray examination on 20 October 2009 at Manila Doctor's Hospital;[8] medical examination on 9 November 2009 by Dr. Alvin Amador [“Dr. Amador”] at Nazarenus College Foundation Hospital;[9] medical examination on 2 December 2009 by Dr. Amador at Nazarenus College Foundation Hospital;[10] medical examination on 3 December 2009 by Dr. George Y. Hernandez [“Dr. Hernandez”] at Ippokratis Diagnostic Services Center Inc.;[11] medical examination on 14 December 2009 by Dr. Amador at Nazarenus College Foundation Hospital;[12] medical examination on 29 June 2010 by Dr. Manuel C. Jacinto Jr., [“Dr. Jacinto”] at Sta. Teresita General Hospital).[13]

On 11 December 2009, private respondent Antonio executed the Receipt and Release[14] in which he acknowledged receipt of Php 50,107.52 as full and final settlement of his illness allowance.

On 13 May 2010, private respondent Antonio filed the Complaint[15] with the Labor Arbiter against petitioners Solpia, Marine, and individual respondent Arturo J. Delgado Jr. The Complaint prayed for: permanent disability benefits, sick wages for 25 days, moral and exemplary damages, attorney's fees, and other benefits provided by

law.

Private respondent Antonio alleged in his Position Paper[16] before the Labor Arbiter: private respondent Antonio is entitled to permanent disability benefits because he became permanently unfit for work due to the severe injury in his spinal column, and his disability lasted for more than 120 days; based on the 15 October 2009 medical report (re: the medical treatment he received in Indonesia), private respondent Antonio has “LBP e.c. Spondylosis of Lumbar Spine; Multiple Gall Bladder Stone; Fatty Liver;” the 20 October 2009 X-ray results of private respondent Antonio show that he was diagnosed with “Lumbar spondylosis, Schmorl's nodes, Inferior L4 and L5 End Plates;” private respondent Antonio's medical record from the Nazareus College Foundation Hospital reveals that he is suffering from “Lumbar Spondylosis; R/O HNP L4, L5, L5-S1;” conformably to the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC), private respondent Antonio is entitled to permanent disability benefits of US\$ 60,000.00 and a maximum of 120 days sickness allowance equivalent to his basic wage; petitioner Solpia discontinued private respondent Antonio's medical expenses and treatment for a period of 25 days thus private Antonio is entitled to the balance of his sickness allowance for 25 days; due to the bad faith of petitioners in refusing to give private respondent Antonio's benefits under the law, petitioners are liable for moral and exemplary damages and attorney's fees.

Petitioners alleged in their Position Paper[17] before the Labor Arbiter: individual respondent Arturo J. Delgado Jr. is no longer connected with petitioners Solpia and Marine; private respondent Antonio is not entitled to permanent disability benefits because he was twice declared to be fit to work by Dr. Amador and Dr. Hernandez within 120 days from his repatriation; under the POEA rules, private respondent Antonio should first prove that he suffered from an occupational disease to be compensable, however private respondent Antonio has not proved that “lumbar spondylosis” was work-related; petitioners Solpia and Marine already settled their obligation to private respondent Antonio when they reimbursed him of his medical expenses worth Php 54,807.52; petitioners' medical reimbursement to private respondent Antonio covered the period of 46 days from his repatriation to Manila until he was declared to be fit to work, thus private respondent Antonio is no longer entitled to balance of 25 days of his sick wages; private respondent Antonio executed the Receipt and Release and acknowledged that he received Php 50,107.52 as full and final settlement of his sickness allowance.

Private respondent Antonio alleged in the Reply[18] before the Labor Arbiter: private respondent Antonio became permanently unfit to work as a seafarer because his spinal injury was not cured, and it worsened despite medical treatment of Dr. Amador and private respondent Antonio's independent medical orthopedic specialist, Dr. Jacinto; the diagnosis made on 3 December 2009 by the company-designated physician Dr. Hernandez, that private respondent Antonio was fit to work, was belied by the more recent 14 December 2009 diagnosis by Dr. Amador; private respondent Antonio's medical certificate dated 14 December 2009 executed by Dr. Amador, showed that he was suffering from “disability due to low back pain;” Dr. Hernandez, as the company-designated physician, could not be expected to be a neutral and fair assessor of private respondent Antonio's medical condition.

Petitioners alleged in the Reply[19] before the Labor Arbiter: private respondent Antonio's own physician found that private respondent Antonio was fit to work; under the POEA-SEC, if a physician appointed by the seafarer disagrees with the company-designated physician's assessment, the employer and the seafarer may agree to appoint a third physician, whose decision shall be final and binding on both parties; private respondent Antonio did not request for the appointment of a third physician.

Private respondent Antonio alleged in the Rejoinder[20] before the Labor Arbiter: the medical assessments by Dr. Amador and Dr. Jacinto, both confirmed that private respondent Antonio became permanently unfit to perform his seafaring duties; the POEA-SEC does not exclusively provide that only the company-designated doctor could assess and treat the injured seafarer.

Petitioners alleged in the Rejoinder[21] before the Labor Arbiter: private respondent Antonio lied when he alleged that Dr. Amador is the company-designated physician, because in his affidavit, private respondent Antonio admitted that he went to Dr. Amador on his own.

Petitioners also filed the Surrejoinder[22] which reiterated their arguments in the previous pleadings.

On 27 January 2011, the Labor Arbiter issued the Decision.[23] Its dispositive portion read:

IN VIEW OF THE FOREGOING, respondent agency is directed to pay the complainant of his disability benefit of SIXTY THOUSAND US DOLLARS (\$60,000.00). The rest of the claims are DISMISSED.

SO ORDERED.

The Decision of the Labor Arbiter ruled: private respondent Antonio's injury was compensable because the same was incurred on 14 October 2009 while he was in the performance of his duties; Dr. Jacinto's diagnosis that private respondent Antonio became permanently unfit, was more credible than the findings of the company-designated physician, Dr. Hernandez; petitioners paid private respondent Antonio his sickness allowance (i.e., consultation fees, laboratory examinations, medicines, etc.) as evidenced by the Receipt and Release; the Receipt and Release did not include permanent disability benefits, thus petitioners are still liable to pay private respondent Antonio US\$ 60,000.

Petitioners appealed to the NLRC.

Petitioners filed Memorandum of Appeal[24] before the public respondent NLRC. Private respondent Antonio filed Opposition to Notice of Appeal (Motion to Dismiss Appeal).[25]

On 6 June 2011, the NLRC issued the assailed Decision.[26] The dispositive portion read:

WHEREFORE, premises considered, judgment is hereby rendered DENYING the appeal for lack of merit. The Decision dated January 27, 2011 rendered by Labor Arbiter Gaudencio P. Demaisip, Jr. is AFFIRMED.

SO ORDERED.

The assailed Decision affirmed the Labor Arbiter's findings that private respondent Antonio's sickness was work-related and thus compensable, and that the medical diagnosis of Dr. Jacinto was more accurate and reliable than the diagnosis of the company-designated physician, Dr. Hernandez.

Petitioners filed the Motion for Reconsideration[27] before the NLRC. Private respondent Antonio filed Opposition (To Respondent's Motion for Reconsideration).[28] On 30 December 2011, the NLRC issued the assailed Resolution which denied petitioners' Motion for Reconsideration.

Thus, this Petition for Certiorari under Rule 65, petitioners making the following assignment of errors:

I. THE DECISION IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

II. THE DECISION IS CONTRARY TO LAW.

The pivotal issue is whether the NLRC committed grave abuse of discretion when it affirmed the Labor Arbiter's findings that petitioners are liable for permanent disability benefits to private respondent Antonio.

### **THE PETITIONERS' ARGUMENTS**

Petitioners answer in the affirmative. The NLRC committed grave abuse of discretion in affirming the award of private respondent Antonio's permanent disability benefits.

The Petition for Certiorari under Rule 65[29] thrusts private respondent Antonio's evidence does not show that he is entitled to permanent disability benefits. Private respondent Antonio's physician Dr. Jacinto, and the company-designated physician Dr. Hernandez both certified that private respondent Antonio was fit to work within 120 days from private respondent Antonio's repatriation. Private respondent Antonio did not follow POEA-SEC and jurisprudence which provides that (a) only the company-designated physician can declare whether a seafarer is fit to work, or the degree of his disability; (b) the finding of the company-designated physician takes precedence over the seafarer's physician; (c) if the seafarer's physician disagrees with the finding of the Company physician, he should request for the appointment of a third physician whose ruling shall be final. The NLRC's exclusive reliance on the medical findings of Dr. Jacinto was erroneous because Dr. Jacinto was private respondent Antonio's personal physician, and is neither an independent physician, nor the company-designated physician.

Petitioners filed Memorandum[30] reiterating the arguments in the Petition.

### **THE PRIVATE RESPONDENT'S ARGUMENTS**

Private respondent Antonio answers in the negative. The NLRC did not commit grave abuse of discretion in affirming the award of permanent disability benefits in favor of private respondent Antonio.

The Comment (To Petitioners' Petition for Certiorari)[31] parries: petitioners have not presented new evidence or arguments that would justify the reversal or modification of the findings of both the Labor Arbiter and the NLRC; the findings and assessment of Dr. Hernandez, the company-designated physician are biased and self-serving; the findings of Dr. Jacinto takes precedence because he is credible, independent, and a neutral assessor of private respondent Antonio's medical condition; the POEA-SEC does not exclusively provide that only the company-designated physician could assess and treat the seafarers; the law and jurisprudence recognize the right of the seafarer to choose his own physician; in compensation cases, what is being compensated under the law is not the gravity of the illness or injury, but the loss of the seafarer's capacity to obtain further sea employment and the opportunity loss to earn income.

Private respondent Antonio filed Memorandum[32] reiterating the arguments in the Comment.

### **THE COURT'S RULING**

We dismiss the Petition. The NLRC did not commit grave abuse of discretion in awarding permanent disability benefits to private respondent Antonio.

Where a petition for certiorari under Rule 65 of the Rules of Court alleges grave abuse of discretion, the petitioner should establish that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction.[33]

In this case, petitioners failed to substantiate their imputation of grave abuse of discretion on the part the NLRC in issuing the assailed Decision and Resolution.

Notably, both the NLRC and the Labor Arbiter ruled that private respondent Antonio was entitled to permanent disability benefits due to private respondent Antonio's injury ("spondylosis of lumbar spine") which he acquired in the performance of his work duties to petitioners. Findings of fact made by Labor Arbiters and affirmed by the NLRC are not only entitled to great respect, but even finality, and are considered binding if the same are supported by substantial evidence.[34]

A careful review of the evidence, particularly the several medical reports and assessments of private respondent

Antonio's condition, shows that private respondent Antonio 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 by contract. The material statutory provisions are Articles 191 to 193 under Chapter VI (Disability Benefits) of the Labor Code, in relation with Rule X of the Rules and Regulations Implementing Book IV of the Labor Code.[35]

Article 192 (c) of the Labor Code provides disabilities that are considered total and permanent:

(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 for 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.

We note that private respondent Antonio's disability was permanent because he has been unable to work since 19 October 2009 to the present or for more than 120 days. Thus, private respondent Antonio's disability which lasted more than 120 days was considered total and permanent under Article 192 (c) 1.

Further, the Supreme Court has consistently ruled that disability is intimately related to one's earning capacity. The test to determine its gravity 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 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. It does not mean state of absolute helplessness but 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.[36] Permanent total disability does not mean a state of absolute helplessness, but 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 any work which a person of similar mentality and attainment could do.[37] In disability compensation, it is not the injury per se which is compensated but the incapacity to work.[38]

In this case, private respondent Antonio's medical reports establish that he was entitled to permanent disability benefits. The medical reports concerning private respondent Antonio, consistently indicate that he suffers from "lumbar spondylosis." Private respondent Antonio's personal physician Dr. Jacinto a specialist in Orthopedic Surgery and Traumatology, particularly, diseases of the bones and joints, characterized private respondent Antonio's disability as "total permanent." [39] Thus, between the findings made by Dr. Hernandez who is a general practitioner, and Dr. Jacinto who is a specialist, we hold that the findings of Dr. Jacinto are more credible. Thus, the NLRC did not commit grave abuse of discretion in giving more evidentiary weight to the findings of Dr. Jacinto.

In view of the consistent findings that private respondent Antonio suffers from back injuries which greatly restrict his seafarer duties (i.e., bending, reaching, lifting heavy objects), we agree that private respondent Antonio is entitled to permanent disability benefits.

Private respondent Antonio manifests in his Comment that petitioners already fully satisfied public respondent

NLRC's award. Thus, we hold that petitioners' payment to private respondent Antonio of US\$ 60,000.00 is proper. We DISMISS the Petition for Certiorari.

**IT IS SO ORDERED.**

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

- 
- [1] C.A. Rollo, pp. 3-202.
- [2] Annex A to the Petition, C.A. Rollo, pp. 18-26.
- [3] Annex J to the Petition, C.A. Rollo, pp. 117-123.
- [4] Annex B to the Petition, C.A. Rollo, pp. 28-29.
- [5] Annex M to the Petition, C.A. Rollo, pp. 185-192.
- [6] Annex A of Private respondent Antonio's Position Paper, C.A. Rollo, p. 53.
- [7] Annex C of Private Respondent Antonio's Position Paper, C.A. Rollo, p. 55.
- [8] Annex D of Private Respondent Antonio's Position Paper, C.A. Rollo, p. 56.
- [9] Annex E of Private Respondent Antonio's Position Paper, C.A. Rollo, p. 57.
- [10] Annex 1 of Petitioners' Position Paper, C.A. Rollo, p. 67.
- [11] Annex 2 of Petitioners' Position Paper, C.A. Rollo, p. 68.
- [12] Annex E-1 of Private Respondent Antonio's Position Paper, C.A. Rollo, p. 58.
- [13] Annex A of Private Respondent Antonio's Rejoinder, C.A. Rollo, p. 110.
- [14] Annex 5 of Petitioners' Position Paper, C.A. Rollo, p. 71.
- [15] Annex C of the Petition, C.A. Rollo, pp. 31-32.
- [16] Annex C-1 of the Petition, C.A. Rollo, pp. 35-58.
- [17] Annex D to the Petition, C.A. Rollo, pp. 59-71.
- [18] Annex E to the Petition, C.A. Rollo, pp. 72-89.
- [19] Annex F to the Petition, C.A. Rollo, pp. 90-93.
- [20] Annex G to the Petition, C.A. Rollo, pp. 94-110.
- [21] Annex H to the Petition, C.A. Rollo, pp. 111-116.
- [22] Annex I to the Petition, C.A. Rollo, pp. 124-126.
- [23] Supra note 3.
- [24] Annex K to the Petition, C.A. Rollo, pp. 127-168.
- [25] Annex L to the Petition, C.A. Rollo, pp. 169-184.
- [26] Supra note 2.

[27] Supra note 5.

[28] Annex N to the Petition, C.A. Rollo, pp. 193-199.

[29] Supra note 1.

[30] C.A. Rollo, pp. 275-289.

[31] C.A. Rollo, pp. 242-272.

[32] C.A. Rollo, pp. 291-305.

[33] Malayang Manggagawa ng Stayfast Phils., Inc., v. NLRC et al., G.R. No. 155306, 28 August 2013 citing Abedes v. Court of Appeals, 562 Phil. 262, 276 (2007).

[34] Ibid., citing Spouses Santos v. National Labor Relations Commission, 354 Phil. 918, 931 (1998).

[35] Magsaysay Maritime Corp., et al., v. NLRC et al., G.R. No. 186180, 22 March 2010.

[36] 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.

[37] GSIS v. Cadiz, G.R. No. 154093, 8 July 2003.

[38] Supra note 36.

[39] Supra note 13.

**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.