

**JULIETA R. ALIBO, IN BEHALF OF DECEASED ANGELITO V. ALIBO,
AND HER MINOR CHILDREN JAMES PHILIP, MARK DANIEL,
ANGELITO LORENZO, AND JOHN VINCENT, ALL SURNAMED ALIBO,
PETITIONERS,...**

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Petitioners expostulate against the Decision[1] dated 30 July 2013 and Resolution[2] dated 22 October 2013 of the National Labor Relations Commission (NLRC) affirming the Decision[3] of the Labor Arbiter which dismissed their Complaint,[4] and denying the Motion for Reconsideration[5] thereof, respectively, in NLRC NCR Case No. (M)-08-12144-12.

The salient facts of the case are not in dispute.

Respondent Sea Cap Shipping, Inc. (Sea Cap), a local manning agent of co-respondent Sagana Shipping, Inc. (Sagana) hires seafarers for deployment to worldwide vessels. One of its vessels, M/T AS Orelia, was where Angelito Alibo (Angelito), husband of herein petitioner Julieta Alibo (Julieta), rendered services.

Sea Cap is represented by its President, respondent Vicente Miranda (Vicente). Capt. Fenolito Autajay (Capt. Autajay) is the Ship Master of the vessel and he was impleaded herein in his personal capacity for allegedly neglecting to render medical assistance to Angelito.

Julieta,[6] in behalf of her deceased husband Angelito, and her minor children, namely: James Philip;[7] Mark Daniel;[8] Angelito Lorenzo;[9] and John Vincent[10] (collectively, petitioners) filed a Complaint[11] for non-payment of death benefits, sickness allowance, reimbursement of medical expenses, burial allow-ance, moral and exemplary damages, and attorney's fees.

In their Complaint, petitioners averred that since 2007, Angelito was deployed as an able-bodied seaman on board the various vessels of Sea Cap. As standard procedure, Angelito was always required to subject himself to stringent medical examinations prior to employment and re-employment as he worked on board chemical tankers. On 9 August 2011 before deployment to M/T Orelia as a Bosun, he underwent routine medical examination and was cleared for employment.[12] As a Bosun, he discharged the following duties: (1) supervision of other seamen and deckhands engaged in the cleaning of deck cargo hold and lifeboats; (2) chipping, scrapping, brushing, including painting decks and superstructures; (3) examining cargo-handling gear and life-saving equipment; (4) supervising the crew engaged in repairing or replacing defective gear and equipment; and, (5) such other related tasks directed by the Captain or Chief Officer. In all, Angelito's work required him to exert physical manual labor. He was exposed to fumes emitted by the tanker thereby endangering his health.

Sometime in November 2011, Angelito felt increasing pain on his sides which affected his work. He asked Capt. Autajay to allow him to undergo medical check-up at the next convenient port. Arriving thereat, Angelito was surprised that the doctor merely took his vital signs and even certified him fit to resume his duties. He was forced

to continue working despite his condition. His health continued deteriorating and he began to lose weight. His stomach likewise appeared bloated. Nonetheless, he finished the term of his employment and disembarked M/T Orelia in April 2012.

Upon his arrival in the Philippines, Angelito was so weak that he could barely push his own cart and his legs appeared swollen. He was prompted to seek medical assistance from Sea Cap but to no avail as the office was closed for a few days in observance of the Lenten Season. He proceeded to the University of Santo Tomas (UST) Hospital where he was made to undergo a series of laboratory tests. When he returned on 12 April 2012 to the office of Sea Cap, he was refused post-employment medical examination.

The results of Angelito's medical examination done at the UST Hospital revealed that he was suffering from Ascites 2° portal HPN 2° Cirrhosis of the Liver with Hepacellular Carcinoma st. 4[13] which caused his weight loss and bloating stomach. Worse, he was told that he barely had three to six months to live. He was advised by his doctors to undergo medical treatment which would approximately cost him P200,000.00 in order to survive. For her part, Julieta sought help from Sea Cap but the latter refused her for the reason that medical assistance was only extended to seafarers who died while on board its vessel.[14]

Angelito did not live long enough and died on 9 July 2012. The antecedent cause of his death was Liver Cirrhosis.[15] Ensuingly, petitioners filed the instant Complaint praying that respondents Sea Cap, Sagana, Vicente, and Capt. Autajay be held jointly and solidarily liable for the payment of: 1) death benefits under the POEA SEC, 2) burial benefit, 3) death benefits due to Angelito's four minor children, 4) US\$156,000.00 as compensatory damages for loss of Angelito's future earnings, 5) P2,000,000.00 as moral and exemplary damages, and 6) 10% attorney's fees.[16]

For their part, Sea Cap, Sagana, and Vicente (collectively, private respondents), jointly averred that Angelito was hired under an approved Philippine Overseas Employment Association (POEA) Contract to work as a "Boatswain" for eight months on board M/T Orelia.[17] While on board, he complained of difficulty in breathing and pain in his right upper abdomen. When seen by the ship doctor, he was diagnosed to be suffering from gastritis and he was given the corresponding medical treatment. Posthaste, he was declared fit for work and was not recommended for repatriation.[18]

Angelito completed the eight-month duration of his Contract on 4 April 2012. He disembarked at the port of the Philippines without medical issue. Upon his arrival, he did not request for a post-employment medical examination and even signed a Quit and Release.[19] Private respondents did not hear from him and was surprised when petitioners lodged the Complaint claiming that they were entitled to death and burial benefits, among others.

Private respondents maintained that they had no obligation to pay petitioners any benefit on account of Angelito's death as his employment was terminated upon the end of his Contract and his arrival in the Philippines. Under the POEA Standard Employment Contract (SEC), the death of the seafarer is compensable only if it would occur during the term of the employment. In the case of Angelito, he passed away not during the time he was employed but after his Contract with respondents was terminated. Likewise, petitioners failed to demonstrate that Angelito had actually acquired the illness while he was on board the vessel.

Sifting through the divergent postures of the parties, the Labor Arbiter rendered the 3 December 2012 Decision dismissing petitioners' Complaint. Feeling aggrieved, they sought recourse[20] before the NLRC, which, in the assailed Decision, denied their entreaty for reversal. The Motion for Reconsideration[21] thereof was likewise denied in the challenged Resolution.

Via this Petition for Certiorari,[22] petitioners now claim that the NLRC committed grave abuse of discretion anchored on the following grounds:

ITHE HONORABLE PUBLIC RESPONDENT NLRC COMMIT-TED GROSS ERRORS IN THE FINDING OF FACT CONTRARY TO THE EVIDENCE ON RECORD, WHICH IS A GROSS ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION;

IITHE HONORABLE PUBLIC RESPONDENT NLRC ALSO COMMITTED GRAVE ERRORS IN LAW, PARTICULARLY BUT NOT LIMITED TO THE UNDUE WEIGHT AND APPRE-CIATION GIVEN TO ALLEGATIONS AND EVIDENCES IN CONTRAVENTION OF THE LAW, JURISPRUDENCE AND PUBLIC POLICY ON THE MATTER, IN GRAVE ABUSE OF DISCRETION, AMOUNTING TO A LOSS OF JURIS-DICTION.

The Petition is bereft of merit.

We are called upon to determine whether or not the death of Angelito due to Liver Cirrhosis is compensable.

Petitioners avow that Angelito's death due to Liver Cirrhosis is compensable notwithstanding that he died three months after disembarkation. During his employment, he was deployed to different vessels carrying chemicals which exposed him to hazardous elements that contributed to his disease. Petitioners cited several medical references found in the internet as their bases.

Petitioners' avowals do not inspire assent.

The compensability of a seafarer's death finds a textual hook in Section 20(B)(1) of the POEA SEC[23] which governs the employment of Filipino seafarers on board ocean-going vessels. The foregoing rule laid down two primary conditions which the seafarer must meet in order for him to claim benefits — that the illness is work-related and that it occurred during the term of the contract.[24]

Appositely, Section 18(A) of the POEA SEC[25] deems the employment of a seafarer as terminated when the seafarer completes his period of contract service aboard the ship, signs-off from the ship and arrives at the point of hire.

Here, Angelito admittedly completed his Contract of eight months with respondents and arrived in the Philippines in April 2012.[26] Subsequently, he was diagnosed to be suffering from Cirrhosis of the Liver with Hepacellular Carcinoma and later on died due to Liver Cirrhosis. Given that he died after the termination of his contract, the next query looms— Was his death due to Liver Cirrhosis compensable?

Claimants or heirs of the seafarer may still be entitled to compensation for the death of the seafarer which occurred after the termination of the employment contract on account of a work-related illness. But for death to be compensable, the claimants must prove the following that: (1) he was ill during the term of his contract; (2) his illness was work-related, as his work involves considerable exposure to the risks of contracting his illness; and, (3) his contracted illness caused his death.[27]

After a painstaking scrutiny of the record, We are convinced that petitioners were not able to establish that Angelito contracted a work-related illness during the term of his employment. We consider the following telling facts:

One. Petitioners failed to demonstrate that Angelito's work as a Bosun exposed him to harmful chemicals which placed him at a high risk of contracting Liver Cirrhosis. The mere fact that Angelito was assigned to M/T Orelia, a chemical tanker, is not conclusive that his working environment made him more susceptible to harmful chemicals.

Two. Petitioners did not adduce any proof that Angelito was suffering from illness at the time he was on board

M/T Orelia or that there was any indication that he was ill which aggravated and led to his Liver Cirrhosis. The record only bears out that his known illness was gastritis which cannot be directly associated with Liver Cirrhosis. Absent proof that Angelito suffered from an illness while he was on board M/T Orelia, causal-connection cannot be presumed.

Three. While petitioners' internet research purports to establish a causal-connection between long exposure to certain chemicals and development of an illness which can lead to Liver Cirrhosis, said medical references do not conclusively prove that the same would hold true in the case of Angelito. The records are devoid of proof that medical tests were done on Angelito to show that he was indeed exposed to certain chemicals which were proven to have a direct link to his illness.

Four. Petitioners failed to demonstrate instances when other seafarers holding a similar position to that of Angelito had indeed contracted Liver Cirrhosis as a result of their employment.

Plain as day, petitioner's claim for death benefits lacks factual and legal mooring. The fact that Angelito died a few months after his disembarkation from M/T Orelia which was in close proximity to the termination of his Contract did not render his illness compensable. Petitioners have failed to adduce substantial evidence to show that Angelito suffered from a work-related illness that is compensable even after the termination of his contract. Substantial evidence is more than a mere scintilla but that level of relevant evidence as a reasonable mind might accept as sufficient to support a conclusion.[28]

Along this vein, We hew to the line drawn by the NLRC which enunciated in this wise—

"Records however have established the irrefutable fact that the deceased seafarer Angelito died not even immediately after, but three months subsequent to his disembarkation from the vessel MT AS Orelia. While appellant insists that Angelito tried to report to company doctors for post employment medical examination, this allegation has not been proven by any evidence whatsoever. Even if it were true that upon his disembarkation, it was already Holy Week and the company accredited clinics were closed, there is no record of Angelito writing to appellees that he tried to approach a specific clinic but found it closed. Neither was proof offered that they had sought assistance but were turned away. No particulars were provided by appellants as to the date they tried to request for post employment medical examination or assistance, the staff they talked to, his or her position, and the reason for the refusal to heed the request for post employment examination. Since appellant insists that they tried to report to the office within the three (3) day period upon Angelito's disembarkation and that when he reported he was not referred for post medical examination, it is they who have the burden of proving that indeed, such events transpired. Well-settled is the rule that bare allegations which are not supported by any other evidence, documentary or otherwise, sufficient to support a claim, fall short to satisfy of the degree of proof needed.

Moreover, the records support the Labor Arbiter a quo's finding that no proof was adduced by appellants that the deceased seafarer Angelito contracted his disease during the life of his contract with appellees. The gastritis episode he contracted on November 21, 2011, while he was still onboard the vessel was also not shown to have been the start of, or aggravated the condition of liver cirrhosis that Angelito eventually died of. While internet based research was extensively quoted by appellants, this cannot be a substitute for a medical opinion duly certified by a physician who examined Angelito during his lifetime and could have attested that the cause of his illness was due to work conditions onboard the chemical tanker vessel he was deployed to. Absent such a medical certification or opinion, we cannot subscribe to appellants' argument that the illness he suffered while onboard and before he finished his contract with appellees was a precursor or aggravated the illness he died from. No evidence have established the causal connection between Angelito's illness and his work, which would warrant the grant of death benefits to his beneficiaries." [29]

By parity of reasoning, petitioners are not entitled to burial benefits, loss of future earnings, damages and

attorney's fees since their entitlement to these benefits spring from the grant of death benefits, to which they have already been denied.

A final cadence. While We commiserate with petitioners' plight, We are bound by the clear mandate of the law. They, however, are not left without recourse. Section 20(B)(3) of the POEA SEC[30] explicitly enunciates that the seafarer may be entitled to other benefits under Social Security System, Over-seas Workers Welfare Administration, Employee's Compensation Commission, Philippine Health Insurance Corporation and Home Development Mutual Fund (Pag-IBIG Fund). Therewithal, they may claim benefits from these agencies, subject to compelling proof of their entitlement thereto.

WHEREFORE, the Petition is hereby DISMISSED.

SO ORDERED.

Ybañez, and Manahan, JJ., concur.

[1] Rollo, pp. 49-58.

[2] Id., pp. 61-62.

[3] Id., pp. 40-46.

[4] For non-payment of death benefits, sickness allowance, reimbursement of medical expenses, burial allowance, moral and exemplary damages and attorney's fees; Id., pp. 37-38.

[5] Id., pp. 180-195.

[6] See Marriage Contract; Rollo, p. 92.

[7] See Certificate of Live Birth; Id., p. 93.

[8] See Id., p. 94.

[9] See Id., p. 95.

[10] See Id., p. 96.

[11] Id., pp. 37-38.

[12] Medical Certificate dated 9 August 2011; Id., p. 97.

[13] See Medical Abstract, Rollo, p. 98.

[14] See Complaint; Id., p. 72.

[15] See Death Certificate; Id., p. 101.

[16] See Rollo, p. 89.

[17] See POEA Contract of Employment dated 9 August 2011; Id., p. 129.

[18] See Seaman's Medical Report dated 21 November 2011; Id., p. 130.

[19] Id., p. 131.

[20] See Notice of Appeal with Memorandum of Appeal; Rollo, pp. 154-179.

[21] Id., pp. 180-195.

[22] Id., pp. 3-33.

[23] 1. In case of work-related death of the seafarer, during the term of his contract, the employer shall pay his beneficiaries the Philippine currency equivalent to the amount of Fifty Thousand US dollars (US\$50,000) and an additional amount of Seven Thousand US dollars (US\$7,000) to each child under the age of twenty-one but not exceeding four (4) children, at the exchange rate prevailing during the time of payment.

[24] See *Philman Marine Agency, Inc. (now DOHLE-PHILMAN Manning Agency, Inc.) v. Cabanban*, 702 SCRA 467, 484-485 (29 July 2013).

[25] A. The employment of the seafarer shall cease when the seafarer completes his period of contractual service aboard the ship, signs-off from the ship and arrives at the point of hire.

[26] See Complainant's Position Paper; Rollo, p. 71

[27] See *Sea Power Shipping Enterprises, Inc. v. Salazar*, 704 SCRA 233, 246-247 (28 August 2013).

[28] See *Sea Power Shipping Enterprises, Inc. v. Salazar*, 704 SCRA 233, 246 (28 August 2013).

[29] Rollo, pp. 56-57.

[30] 3. It is understood and agreed that the benefits mentioned above shall be separate and distinct from, and will be in addition to whatever benefits which the seafarer is entitled to under Philippine laws from the Social Security System, Overseas Workers Welfare Administration, Employee's Compensation Commission, Philippine Health Insurance Corporation and Home Development Mutual Fund (Pag- IBIG Fund).

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